

1 BEFORE THE CONCORD TOWNSHIP ZONING COMMISSION
2 LAKE COUNTY, OHIO
3 PUBLIC HEARING AND MEETING
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9 August 4, 2009

10
11 Concord Town Hall
12 7229 Ravenna Road
13 Concord, Ohio 44077
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15 7:00 p.m.
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21 **TRANSCRIPT OF PROCEEDINGS**
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27 Zoning Commission members present:
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29 Larry Wentz, Chairman
30 Andrew Lingenfelter, Vice Chairman
31 Frank Schindler
32 George Norman
33 Mortan McIntosh
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35 Also present:
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37 Kathy Mitchell, Zoning Commission Secretary,
38 Zoning Inspector
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40 Michael Lucas, Esq., Legal Counsel
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50 **King & Melton Court Reporters**

51 11668 Girdled Road
52 Concord, Ohio 44077
53 (440) 946-1350

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3 CHAIRMAN WENTZ: Good evening. I would like to call
4 this meeting of the Concord Township Zoning Commission to order
5 for Tuesday, August 4th. The agenda tonight consists of a
6 public hearing for Zoning Text Amendment requested by the
7 trustees to amend Section 13.35 of the Conditional Use Permit
8 Chapter in the Zoning Resolution pertaining to controlling
9 noise levels in "outside dining" areas.

10 The second item is a public hearing on Zoning
11 Amendment Application Number 0609-131 and preliminary plan for
12 a proposed Residential Conservation Development by Barrington
13 Consulting Group on behalf of Eye-Will Development.

14 The third item is a site plan review for Application
15 Number 012 by Ryan Sommers for Prescott Mill. This has again
16 been requested to be tabled. We will not be discussing it.

17 The fourth item is a discussion of gas wells and
18 consideration of proposed distances.

19 The last items are correspondence report and approval
20 of minutes.

21 The first item, public hearing for Zoning Text
22 Amendment requested by the Board of Trustees to amend Section
23 13.35 of the Conditional Use Permit Chapter of the Zoning
24 Resolution, and pertaining to the controlling noise levels in
25 "outside dining" areas. We have a statement by the Lake County
26 Planning Commission that says that the commission undertook —
27 took under consideration zoning text changes to Section 13.35
28 at their July 23rd, 2009, meeting. They are recommending the
29 text changes with the additional language that states a set
30 decibel level for acceptable noise, signed Jason W. Boyd,
31 director.

1 The changes that we are discussing are to the 13.35,
2 Letters G and H. It has been provided to all of us on the
3 Commission. The one comment I would make with regard to the
4 Planning Commission is, when we actually discussed this
5 previously, we were not inclined to set strict decibel levels
6 and to leave that to a discussion of the BZA when they would
7 meet relative to these sorts of issues because what might be
8 appropriate for one area might not be appropriate for another.

9 That being the case, I will open it up to our
10 discussion for the public. Any comments, or should I proceed
11 with any public comments?

12 MR. NORMAN: Why don't you go ahead and proceed.

13 CHAIRMAN WENTZ: All right. I am going to ask for
14 any public comments relative to this matter and I will start
15 with my right, your left. And this will — Any comments you
16 might have, please come forward to the microphone, state your
17 name and address, and you will be sworn in if you choose to
18 comment. First row? Second row? Third row? Okay.

19 MR. CREWS: My name is Denny Crews. I live at
20 7291 Mountain Quail. I am a board member with the Quail Hollow
21 Homeowners Association and I represent them, that group, here.

22 CHAIRMAN WENTZ: Do you swear to tell the truth and
23 nothing but the truth?

24 MR. CREWS: I promise. Let's say I appreciate — Let
25 my start by saying I appreciate the fact that this noise issue
26 has come up when it wasn't there before. However, I am
27 concerned about the text, the use of the wordage "excessive
28 noise." I think that's very arbitrary and there might be
29 problems down the road if someone thinks somebody is excessive,
30 someone doesn't.

1 I did a little research on the internet and I found
2 that the decibel levels, in terms of land use, are pretty well
3 documented and there is acceptable levels for residential
4 versus commercial, and quite a few of the communities have such
5 levels. So, I guess, it looks like this is going to get voted
6 on tonight. Maybe we're a little late, I don't know. But I
7 would urge to consider the decibel factor and the noise
8 situation. I think that it would, it could be a lot more
9 clear-cut and, again, you would not get into an arbitrary
10 situation where someone thinks it noisy and someone doesn't.

11 CHAIRMAN WENTZ: Do you have any recommendations?

12 MR. CREWS: I don't but I could. If this were to be
13 voted on at a later date, I could look into that. It was
14 readily available on the internet, just a wide variety of
15 decibels in different communities and what they viewed as
16 acceptable for residential and for industrial, for this type of
17 situation. Again, I appreciate the fact that this has been
18 addressed and we certainly want to be good neighbors. The last
19 thing we want to do is hinder someone's opportunity to be in
20 business and be successful; but, at the same time, I think that
21 this could be a little bit arbitrary.

22 Maybe a little more time would be needed look at it.
23 I would be happy to do some research and get back with the
24 Commission on that.

25 CHAIRMAN WENTZ: Thank you.

26 MR. CREWS: Okay. Thank you.

27 CHAIRMAN WENTZ: Same side, fourth row? Fifth?
28 Sixth? Other side, second row? Third? Fourth? Fifth?
29 Sixth? Thank you.

30 Gentlemen, is there any comment? Discussion?

1 MR. SCHINDLER: I know there is levels that have
2 always been set, especially from the state, that indicates what
3 kind of levels are acceptable based on before you start harming
4 yourself. But if you set that particular level with someone
5 who, unfortunately, might be deaf, it doesn't make any
6 difference. And depending on barriers, for example, it doesn't
7 make any difference either because that blocks out noise. But
8 to try to set a level, again, you know, when you set it for a
9 full community —

10 CHAIRMAN WENTZ: Damage levels would be so high
11 before an objection is — much before that.

12 MR. NORMAN: Well, absolutely. I think there is some
13 issues, not to take fault with what you are suggesting, sir,
14 but my concern would not be just setting the levels because I
15 think that's doable. My concern is, where do you measure the
16 levels? Do you measure them inside the buffer zone that we're
17 indicating we want? Do you measure them outside? Do you
18 measure them at your house, which maybe 100 yards or 200 or 300
19 yards away, or do I measure them in somebody else's yard that
20 may be either farther or closer?

21 I don't know that that's very easily discernable, if
22 you know what I mean. I think your point about decibel levels
23 and dB levels are very poignant. And if you are any kind of a
24 boater, like I am, when they check the decibel levels in boats,
25 they identify the dB's based on speed, water conditions, where
26 they're measured, and how the boat is performing in the water,
27 and number of people, number of gallons of fuel, number of
28 gallons of water and through the whole thing, so everyone gets
29 an understanding of what's really being measured.

30 I don't know that we're in a position to do that

1 here. I guess that's my concern. And to put dB levels on that
2 would be, perhaps, arbitrary might be even more unfriendly, if
3 I can use that term, than we currently are now. I just, I'm
4 not sure. That's my personal concern. And I take — Your
5 interest is worthwhile. I don't know how to fix that. That's
6 my problem.

7 MR. LINGENFELTER: I think, if I recall, when we were
8 discussing this earlier, some of these issues before, it was
9 also a fact of enforcement, you know. This is hard to compare
10 our abilities with a city that has a police force and
11 equipment. Obviously, you have to have the equipment to
12 measure the decibels. You have to have people that have the
13 ability to go and enforce these issues. You know, we don't
14 staff people here at Town Hall 24/7. Obviously, those types of
15 issues are probably going to take place after regular business
16 hours. Who is going to go, who is going to report to the
17 complaint? You know, you call the Lake County sheriff. Are
18 they going to be willing to come in with a decibel meter and
19 measure decibels?

20 Those are issues that we're confronted with as a
21 township. It is a lot different for a township to be able to
22 enforce those types of strict guidelines than it is a city that
23 has available staff and equipment to do those things. So that
24 was one of the considerations, I think, we bantered about and
25 we looked at those types of things.

26 I agree, "excessive noise" is a rather arbitrary
27 term. I mean, excessive to one person could be minimal to
28 another so, obviously, I think that leaves some issues for
29 discussion. But as far as, you know, pinning it down to
30 specific dB levels, I think, it would be very difficult for us

1 to us enforce. And then the question would be, whose
2 responsibility for enforcement does that fall on? Do we have
3 the staff and the mechanism to be able to enforce it? And then
4 if there are, if we have violations, then what would the
5 appropriate course of action be for violations?

6 So that opens up a whole other issue for us, so I
7 think making an attempt to keep these things in mind with
8 regards to abutting properties is important, but where do we
9 draw the line for what's excessive, what's not excessive,
10 what's acceptable?

11 MR. NORMAN: I would also submit, Mr. Chairman, that
12 the county kindly put some words in here that I think are very
13 meaningful: "In order to minimise any effects of the above,
14 the Board of Zoning Appeals may impose additional noise
15 reduction measures, including mounding, landscaping, and sound
16 barriers, to assure that the level of noise is less than or the
17 same as the prevailing noise levels of the permitted uses in
18 the district."

19 What they're suggesting is that if a tavern or
20 restaurant has an outdoor dining area and they have a rock band
21 out there — I hope the young teenagers don't take exception
22 with my definition of rock band — but if they have that out
23 there and that's pounding too much into Quail Hollow, well,
24 that's in excess of what you would expect to hear, obviously,
25 so a complaint would be forthcoming. And we would have to,
26 somebody would have to deal with that, probably the sheriff's
27 department.

28 If the noise says within the existing noise level
29 during the day over there, that's a reasonable thing to do, I
30 think, and I don't think anybody over there would complain.

1 That's just my feeling. And I am glad to see the county took
2 the interest to do that, by the way. I think that's very
3 poignant.

4 CHAIRMAN WENTZ: Any other comments?

5 MR. SCHINDLER: I agree with George. I think they
6 put verbiage together in such way that I think, in general, it
7 probably would be able to be enforced, for one thing, and I
8 think it covers probably 90 percent of the issues we would
9 probably get in the township regarding noise levels.

10 I mean, the state has already tried, for example,
11 with their barriers along the interstates. Now, the residents
12 who are right up against that, that barrier helps. But noise
13 levels travel in a straight line, they don't go up, they don't
14 go down. But there are nights in my home — and I live miles
15 away from the interstate — because I am elevated, at night
16 when the wind is blowing from the south, warm nights, it is
17 loud and those barriers aren't helping me at all, so I have to
18 keep the windows closed in order to sleep.

19 I am just bringing up the point of one issue. So,
20 right now, the state, of course, says they already have laws
21 that state from dusk to dawn for any type of activities that
22 take place, and if it becomes to a point level that it's
23 bothersome, all you do is have to call the sheriff's department
24 because, at that point, he doesn't have to come out with a
25 meter and have to have a certification to take those readings.
26 He can just come out and say, you know, "It's after hours, it's
27 dark. Could you please keep the noise levels down?" And 90
28 percent of the time, the people will do that.

29 I think that's basically what this piece of
30 legislation verbiage could address 90 percent of the time. We

1 have to do something because if you take a look at the fast
2 foods that are coming into many communities, during the day,
3 you hear — you are going to put your order in when you drive
4 in. People, during the day, it doesn't seem to bother them.
5 It is not even noticeable. But at night when the sun goes down
6 and it's quiet and you hear one of those squawk boxes, you can
7 hear it miles away, somebody, "May I take your order?" and
8 people are screaming and yelling.

9 That's why we set levels here in the township for the
10 McDonald's, for example. After certain hours, they can't use
11 that because we know how that can really be disruptive, but
12 during the day, nobody really cares because you are going on
13 with your daily activities, no one actually, basically, hears
14 it but, at night, it's extremely much different. And with this
15 kind of verbiage, I think we can address those issues. We have
16 to start somewhere and do something because if you try to set
17 dB levels for everything, I mean, we would probably have 10,000
18 pages here trying to cover every possible issue that's out
19 there. That's my comment.

20 CHAIRMAN WENTZ: Any other comments?

21 MR. McINTOSH: I would agree. I think, starting off
22 with this seems appropriate. And maybe if we get into issues,
23 we can always revisit it and take a look at specific issues if
24 we have problems with noise from a particular source or
25 something like that. It seems reasonable.

26 MR. SCHINDLER: That's what the BZA would do.

27 CHAIRMAN WENTZ: Is there a motion relative to this
28 issue?

29 MR. SCHINDLER: First, we have to close the public —

30 CHAIRMAN WENTZ: Ah, yes. Since there are no other

1 comments, we will close the public hearing and go on to the
2 Zoning Commission business and I will now ask, is there a
3 motion relative to this issue?

4 MR. SCHINDLER: Mr. Chairman, I so make a motion to
5 accept this piece of legislation as the verbiage directed in
6 this communication from the commission.

7 CHAIRMAN WENTZ: All right. Is there a second to
8 that, reminding folks that motions must be in the affirmative.

9 MR. NORMAN: I'll second the motion.

10 CHAIRMAN WENTZ: Motion has been made and seconded.

11 Kathy, would you call the roll, please?

12 MS. MITCHELL: Mr. Lingenfelter?

13 MR. LINGENFELTER: Yes.

14 MS. MITCHELL: Mr. Norman?

15 MR. NORMAN: Yes.

16 MS. MITCHELL: Mr. McIntosh?

17 MR. McINTOSH: Yes.

18 MS. MITCHELL: Mr. Schindler?

19 MR. SCHINDLER: Yes.

20 MS. MITCHELL: Mr. Wentz?

21 CHAIRMAN WENTZ: Yes. Very well, that is passed.

22 We can go on to the second piece of business. This
23 is a public hearing for Zoning Amendment Application Number
24 0609-131 and preliminary plan for a proposed Residential
25 Conservation Development (R-2 RCD District) by Barrington
26 Consulting Group, on behalf of Eye-Will Development. The
27 proposed development is located on a 54-acre parcel on Girdled
28 Road just east of Ravenna (Permanent Parcel Number
29 08A-004-0-00-017-0). The site is currently zoned R-4
30 Residential.

1 We will proceed on this by first asking a
2 representative of the people who are planning this development
3 to comment and explain. I will then put into the record
4 comments which we received from the Planning Commission and
5 others who have not been able to be here and then I will open
6 it up to public comment. So I would like now to ask for the
7 people representing to please come up and introduce yourself at
8 the mike and be sworn in.

9 MR. NOVAK: Good evening. My name is Dave Novak,
10 from Barrington Consulting Group. I am here representing
11 Eye-Will Development.

12 CHAIRMAN WENTZ: Do you swear to tell the truth and
13 nothing but the truth?

14 MR. NOVAK: I do.

15 CHAIRMAN WENTZ: Thank you.

16 MR. NOVAK: As you mentioned, we are looking to
17 rezone this piece of property that is currently zoned R-4 to
18 the RCD zoning, which is part of the zoning text in Concord.
19 And a couple things that, I guess, that — or where I would
20 like to start off is, this zoning text that Concord adopted, I
21 am not exactly sure, I think it's been 2002, 2003, I think,
22 when its initial conception or resolution or however it got
23 passed here in Concord. And I'm sure, at that time, either
24 this Board or the residents of Concord or somehow there was an
25 initiative started that said conservation zoning is something
26 that Concord wants. And I think it's very evident by the rules
27 and so forth that you guys put together, that were put
28 together, really demonstrates that, that you guys used a lot of
29 forethought and so forth.

30 If you look at the zoning text, Section 16.19, it

1 talks about that, what the purpose of the — or why you would
2 grant this rezoning. And it talks about — Well, maybe I
3 should read it: "The primary objective of Residential
4 Conservation Development District zoning is to promote the
5 health and safety of the community through the application of
6 flexible land development techniques in the arrangement and
7 construction of dwelling units and roads, such as provided
8 under Ohio Revised Code 519.021 for planned unit developments.
9 Such flexibility is intended to maximize the conservation of
10 open space while accepting the development and retaining for
11 the property owner the development rights, the number of
12 residential dwelling units that are permitted under the
13 existing conventional zoning for the property."

14 And it goes on to talk about that some of the reasons
15 that you want to do this is to preserve the natural features of
16 the property, have open space and so forth. If you go down
17 through the text, it also talks about that you get what's
18 called the bonus density, meaning that if you go through this
19 process — and I would assume that the reason going through
20 this process, it's more costly, it takes more time — and it's
21 also something that something Concord wants, that because
22 you're willing to go through the extra steps, go through the
23 additional process, meet in front of this board, go to the Lake
24 County Planning Commission, go through all the review boards
25 and all that other stuff, the long meetings and so forth is
26 because this is something that Concord wants. And so as a
27 reward, you give us what's called a density bonus.

28 And so the plan that you have before you tonight is
29 doing all those things. It's conserving the land, it's taking
30 into account the natural features of the property as far as the

1 streams, the topography, and it's doing everything that your
2 text asks us to do because, again, that's something that
3 Concord wants or you wouldn't have this conservation zoning
4 within your, within your regulations.

5 So I think it's, to me, it's an easy answer because
6 we're doing exactly what Concord wants. We're not violating
7 any rules or any of that sort. We're doing what the people,
8 the residents, the zoning boards, the trustees all want
9 developers like Eye-Will to do.

10 Again, it is a 54-acre parcel. Under the current
11 zoning, we could develop the property with 47 lots. We
12 wouldn't need to be in front of this Board. We would just go
13 through the standard subdivision regulations that — through
14 the Lake County Planning Commission, but we choose this path
15 because we think it's the right path, but going through the
16 this zoning we get 52 lots instead of the 47. So it's five
17 lots, that's all we're talking about as far as the density.

18 I think that's something that's very important to
19 think about is the density because everybody talks about lot
20 size, you know. Is it a quarter acre lot? Is it a half acre
21 lot? Is it one acre? The real way to conserve property is to
22 really look — what you really need to look at is the density
23 per unit that you're allowing to be put on this property. And
24 if you look at the density, currently, if we zoned it under the
25 R-4 zoning, we would be allowed, or based on our yield plan, we
26 will be able to get .87 units per acre, or dwelling units.
27 Under our proposal here, we're going to have .96 units per
28 acre. That's only a .09 increase per acre. It's very minimal.

29 And, again, we're doing a lot, we're saving trees,
30 we're a conscientious company. We want to save trees. Again,

1 it goes with your text. So, again, I don't want to go through
2 all the history. I know some of you folks have been here
3 before and some, I am sure, some of the people here in the
4 audience this evening were here to listen, but we want to
5 conserve acreage.

6 Some of the other things that I would like you to, at
7 least, take under advisement is, this is not the first
8 development in Concord to be under this zoning. A similar one
9 is Summerwood but that was a PUD but — and the restrictions
10 are even a little bit more restrictive in the amount of land
11 that needs to be preserved, I believe it's 50 percent in order
12 to get some of the your density bonuses versus the 40 percent
13 that we're required.

14 I would like to pass out to the Board here, this is
15 just an aerial view from the Lake County GIS website, and it
16 shows the development and it also shows how much of that land
17 was actually preserved. I think it's very easy to see that if
18 you would have developed this property at the one-acre lots
19 that you would have taken all that land, there wouldn't be any
20 preservation, so let me pass this out.

21 And there is another development called Orchard
22 Springs which is not, has not yet been, the construction of it
23 has not been started but it was also approved by this Board.
24 It was approved by the Lake County Planning Commission. Plans
25 are almost, my understanding, the plans are almost through the
26 approval process, so that's another development. But, again,
27 it's not, the plat hasn't been filed, so I really couldn't give
28 you a good understanding of what that site would look like.

29 And then, here, I have a copy of our site which,
30 again, I've depicted it in the green here. And this is the —

1 The green area is the area that, also, we're going to be
2 conserving as part of our — And I can put this plan up here so
3 everybody can see it. So you can see, again, we're conserving
4 nearly, you know, over 40 percent of the property. We're
5 keeping it in its natural state. Most of the lots within the
6 development back up against the green space, so it gives the
7 residents of this community that buffer. It gives them the
8 feel of having a one-acre lot. It also protects and buffers
9 our neighbors — we want to be good neighbors — and so it
10 protects both us and them from that, you know, from a
11 development standpoint. It gives that buffer that's going to
12 remain undisturbed.

13 So I think that kind of summarizes it, what we're
14 trying to do. And I think that the two big points that I see
15 is that I believe this is something that somebody, in their
16 wisdom, whether it was this Board or whoever was on the Board
17 at that time, saw that the conservation zoning is a good
18 thing. And I assume, I have to assume that that was developed
19 through what you heard from your residents, that we want to
20 conserve our community, and this is the perfect way to do that.

21 And the other thing, I think, is, again, when you
22 talk about the density per acre, we're only looking at .09
23 density increase. It's very small, very minor. It's five
24 lots. It's — And a lot of, most of, a lot of this information
25 when I talk about the density and so forth is actually part of
26 a document that your zoning department puts together. I am
27 assuming you guys all have this, I don't know if the audience
28 has this, but it's the Residential Conservation Development
29 Review Checklist. This was developed by the zoning department
30 and it states all these things. Okay? They reviewed the plan,

1 they review our yield plan, and they put this document
2 together. This is not a document that I put together or my —
3 the developer puts together. This is a document that is put
4 together by Concord.

5 So I will have a seat and let you continue on your
6 hearing unless you have some questions.

7 CHAIRMAN WENTZ: Before you leave, with regard to
8 that document you just mentioned, there are comments made by
9 the zoning staff here and, I guess, I would like to know if you
10 have any difficulty with regard to their comments at the bottom
11 of that first page and the top of the next page.

12 MR. NOVAK: Well, the first comment is the minimum
13 10-foot side yard and 30-foot rear yard setbacks are required
14 for the proposed lots. We have no problem with that.

15 Identify any easements or drives necessary for the
16 maintenance and the accesses to gas wells, we don't have an
17 issue with that.

18 There is an existing house and two accessory
19 structures on the plans, shown on the plans. One of the
20 accessory structures and house are shown within the open space
21 of Lot B shall be removed. Yes, we understand that.

22 Open space behind Sublots 22 and 23, we have no
23 problem with that. Let's see, if anybody is questioning what
24 that is, is that, under the rules and regulations, it talks
25 about that in order to use an area for your open space it has
26 to have a minimum dimension of 50 feet. If you look at our
27 plan when you go through, you will see that we're actually
28 conserving more than the 40 percent that we're required but
29 then we deducted out those areas that don't comply, so that
30 we're still within that minimum 40 percent.

1 And then they're also suggesting that we do some
2 landscaping around the wells and storage tanks and separators
3 that is compatible with the natural site features, again,
4 that's not a problem. So we would be more than willing to do
5 those items.

6 CHAIRMAN WENTZ: Okay.

7 MR. NOVAK: I guess, one other thing that I would
8 like to mention is that — I am trying to remember the date but
9 we did actually go before the Lake County Planning Commission
10 and they reviewed the plan on behalf of Concord and they did
11 give us their approval or their suggestion that they would —
12 they agree that this would be a good zoning change for this
13 piece of property.

14 CHAIRMAN WENTZ: Yes, I am going to read that into
15 the record.

16 MR. NOVAK: Okay.

17 CHAIRMAN WENTZ: I have a few other comments to read
18 into the record and we may want to ask you some more questions
19 after we hear public comment. Is there anything right at this
20 point that we want to ask before we go on?

21 MR. NORMAN: Are you aware of all the comments that
22 came back from Lake County, both the Planning Commission staff
23 and the engineer's office? That's a question. I mean —

24 MR. NOVAK: I'm not sure that — I do have some of
25 them. I know that I was in the zoning office maybe about a
26 week or two ago and Kathy had given me a copy of some of them.
27 Whether there is more, I'm not aware.

28 MS. MITCHELL: Same ones.

29 MR. NORMAN: Same ones, okay. That's fine. That was
30 my question. I just want to make sure, when the questions are

1 flying, you got the same information we have.

2 CHAIRMAN WENTZ: Okay. We will probably be back to
3 you shortly.

4 MR. NOVAK: All right. Let's hope.

5 CHAIRMAN WENTZ: At this point, I would like to read
6 a couple of things into the record. The first is from Jason W.
7 Boyd, director of Lake County Planning Commission. "The Lake
8 County Planning Commission took under consideration the zoning
9 district change from R-4 to R-2 RCD of 54.1618 acres in Concord
10 Township at their July 23rd, 2009, meeting. They are
11 recommending the district change with the following
12 suggestions: Location of the gas/oil lines from the well leads
13 to the separator and tank should be given. Lines should be
14 located in order not to affect the building envelopes of
15 sublots, location of the utilities and roadway, and the lines
16 should not disturb the open space.

17 "Actual location of the waste pits from the gas well
18 drilling should be located by surveyor. The land that the pit
19 is located on should be landscaped with vegetation that is
20 compatible with the natural characteristics of the site.

21 "We recommend testing of the waste material in the
22 pits to ensure the safety future residents.

23 "And, finally, a wetlands delineation should be
24 performed to note any wetlands and additional lineal feet of
25 stream. The stream should be taken into consideration in
26 determining the locations of the sublots and roads."

27 The second item I would like to read into the record
28 is addressed to the Zoning Board members by e-mail from David
29 Schwartz. "Dear Zoning Board Members: I am writing to you
30 today because I will not be attending tonight's Zoning Board

1 meeting and I want to relay my continued concern relating to
2 the Zoning Amendment Application Number 0609-131 and
3 preliminary plan for the proposed Residential Conservation
4 Development by Barrington Consulting Group. My concern is the
5 yield plan that was submitted is not reasonable, 'reasonable
6 and marketable,' as it states it should be in the Zoning
7 Resolution. Just because it's does not violate any laws it
8 does not mean it conforms to the standard. The result of the
9 Board accepting this yield plan and adding a density bonus of
10 additional 11 percent will not make this development density
11 neutral or fit the semi-rural nature of Concord. The
12 acceptable of this plans will have the homes 20 feet from each
13 other for the entire subdivision. Semi-rural conservation...I
14 think not.

15 "I would hope this property would be developed in the
16 true spirit of Residential Conservation Development, not as a
17 means to increase profit by adding additional units to the
18 development. Since that is not going to happen, I hope the
19 residents of Concord Township will see this plan for what it
20 really is and force the developer to conform to the current
21 zoning requirements. Yours truly, David Schwartz," name and
22 address. "P.S. I don't know if the yield plan I have is
23 current but the one I have does not take into consideration the
24 gas well that have been drilled on the property."

25 I have no other additional input at this time. I do
26 want to open it up to public comment and start on my right,
27 your left. Those people who want to speak in, first, in favor
28 of this proposal in row one? Row two? Row three? Row four?
29 Row five? On my left, your right, row two? Three? Four?
30 Five? Six? Did I get a different number of rows on each

1 side? Okay.

2 So we will now open it up to those people who want to
3 speak opposed to it, and I would ask that each of you come up
4 to the mike. I need your name and address. You will be sworn
5 in. I also ask that if you agree with a previous speaker and
6 you want to say so, please do so. However, I would ask that
7 you don't simply repeat what the previous speaker has said,
8 simply saying you agree is sufficient. We will understand.
9 Okay.

10 Those who wish to spoke opposed to it on my right,
11 your left — somebody's left — row two, please come up, name
12 and address.

13 MR. COGAR: Hi, Craig Cogar, 7702 Keystone Drive.

14 CHAIRMAN WENTZ: Do you swear to tell the truth and
15 nothing but the truth?

16 MR. COGAR: I do. My only comment is, I don't have
17 no problem with the development, I just don't want it connected
18 to Keystone. That's all I want to say. That will help me.

19 CHAIRMAN WENTZ: Okay. Anybody else in that row?
20 The next row, which is actually row four, speaking opposed to
21 this development? Row five? The last row? Your name and
22 address?

23 MR. RUBENSTEIN: Good evening. Russ Rubenstein. I
24 live on JoAnn Drive, right next to the proposed cut-through.
25 And where we live, we also don't want the cut-through.

26 CHAIRMAN WENTZ: Do you swear to tell the truth and
27 nothing but the truth?

28 MR. RUBENSTEIN: Yeah, I do. We also — I think I
29 speak for most of our residents — don't want the road cut
30 through to our section either. And I would like to ask if the

1 fire department is part of the consultation for this and where
2 they want the most efficient road to be put.

3 MR. NORMAN: Yes.

4 MR. LINGENFELTER: Yes, there is a comment, actually,
5 to be honest with you, from Chief Warner. Have you got it?

6 MR. McINTOSH: I do.

7 MR. LINGENFELTER: Why don't you read it out loud.

8 MR. McINTOSH: The comments from our fire chief, Mike
9 Warner, in an e-mail to Kathy Mitchell, "I have read and
10 reviewed the plans for the new development on Girdled Road
11 called Stone Ridge Estates. I reviewed two maps. I prefer the
12 development that ties all subdivisions together. Jamie Drive,
13 Keystone, and JoAnn Drive would provide two avenues for public
14 safety vehicles in all subdivisions in question."

15 MR. RUBENSTEIN: Okay. Thank you.

16 CHAIRMAN WENTZ: Anyone else in that last row? On my
17 left, your right, in the second row, people who wish to speak
18 in opposition? Your name and address, sir?

19 MR. MANFRONI: John Manfroni, I live on JoAnn Drive.

20 CHAIRMAN WENTZ: Do you swear to tell the truth and
21 nothing but the truth?

22 MR. MANFRONI: I do. My concern, the gentleman that
23 represented Barrington mentioned several times that this is
24 what Concord wants. I believe this was on a ballot and this is
25 what Concord does not want. It was voted on, it was turned
26 down.

27 My other concern is the cut-through on JoAnn and why
28 the secondary access isn't through Noble Ridge because there is
29 only one access point currently through Noble Ridge. That's
30 it.

1 MR. LINGENFELTER: Would you like the answer to that?

2 MR. MANFRONI: Please.

3 CHAIRMAN WENTZ: Go ahead.

4 MR. LINGENFELTER: Well, when we looked at the
5 cut-throughs, one of the problems that we ran into in
6 addressing those, because there were, myself included, I am in
7 favor of connections to all developments: Noble Ridge, Cali
8 Woods, and Keystone. And my concerns are primarily focused on
9 safety issues, egress and ingress for the safety forces to be
10 able to get in and out and have two entrances and exits for the
11 safety and fire services to get in.

12 The problem that we run into is that the property
13 that attaches Jamie Drive to this proposed subdivision, some of
14 the property has already been sold. They platted part of it,
15 they did not plat all of it, and until they plat those last
16 parcels that would involve the connection to this proposed
17 subdivision, basically, they have no compulsion to do that
18 because that would be in the finalization of that development.
19 And they're pretty much done anyway, so they don't have to ever
20 plat those pieces of property to be able to make that
21 connection.

22 So the issue becomes, if we make them put a drive in
23 the proposed subdivision, that it will just be a road that will
24 go nowhere and will be a stub street that will never be
25 connected because there is going to be some significant cost
26 involved in the new or the existing development in Noble Ridge
27 to put that, to finish the road, probably to the tune of a lot
28 of money. And we don't think that there will be any real
29 motivation from the existing property owner to, developer, to
30 do that.

1 So, basically, even if we compel the Barrington Ridge
2 development to put a stub street within their subdivision to
3 connect to Jamie Drive within Noble Ridge, it just will, it
4 will never get done. It will just sit there forever and ever
5 and ever. So we felt that, in the best interest in putting the
6 development together and getting the maximum use out of the
7 property, we felt that it would be best to not have that
8 connection.

9 Obviously, Chief Warner is in favor of putting that
10 stub street in there, as well as making the connection to Nancy
11 Ann drive and also the connection to Keystone. With the
12 existing development the way it sits, those connections can be
13 made; but the connection with Jamie Drive probably will never
14 happen, so it really didn't make a whole lot of sense to put
15 that in there. That was kind of the thinking that went behind
16 that.

17 MR. MANFRONI: Is an emergency access road on JoAnn
18 an option to eliminate some of the traffic?

19 MR. LINGENFELTER: We had talked about that, if I am
20 not mistaken. I think we talked about either, like, a gated,
21 you know, connection or something to that effect but I don't
22 think we really came to any hard and fast decision on what we
23 would consider, but I know we did discuss that, putting some
24 sort of limited access so that emergency vehicles —

25 MR. MANFRONI: That would solve a variety of problems
26 and issues.

27 MR. LINGENFELTER: — right, could make that access.
28 I think, really, when you look at it, the real factor is
29 community safety. You know, when you have — We already have
30 too many developments within Concord Township that have a

1 single access and that are basically cul-de-sac streets. And
2 the big concern is there is, in the event of some disaster, a
3 lightning strike, a tree falling down, a wind storm, a flood
4 that would isolate those people in that area, then the
5 emergency services would have a huge challenge to be able to
6 get back to those residents that would be in need of those
7 emergency services. That's really the real motivating factor
8 here.

9 I know, believe me, I understand the concern in
10 connecting those roads. I appreciate the issue because the
11 people that have lived on those roads and these streets now for
12 so long they have grown use to the fact that it is almost a
13 cul-de-sac type of an environment, and I am very sensitive to
14 that and I know what that means to the residents. But I also
15 understand and take into consideration the safety from the
16 community, and those things, to me, kind of push me in the
17 direction of wanting to see those connection made.

18 You know, that's just a personal thing, and I am sure
19 there is a lot of people that would — especially the ones that
20 live on those streets and have those lots would disagree with
21 that, and I understand that. But my real concern is that if a
22 tree would fall down or if something would happen, a power line
23 would go down and block access into that road and, you know,
24 heaven forbid, somebody would be in an emergency situation, how
25 do we extract those people from that area? And by having those
26 extra —

27 MR. MANFRONI: An emergency access road would
28 eliminate all problems and probably keep everybody happy.

29 MR. LINGENFELTER: Well, like I said, we did discuss
30 that, so that issue is not off the table, by any stretch of the

1 imagination.

2 MR. MANFRONI: Okay.

3 MR. LINGENFELTER: But that gives you, kind of, the
4 had idea or, at least, the understanding of how we came to
5 discuss that whole scenario and put that together. It wasn't
6 an arbitrary decision that we made.

7 MR. MANFRONI: How would we proceed to looking
8 further into an emergency access only road?

9 MR. LINGENFELTER: Through the process of working
10 with the developer and working with the Commission here as part
11 of an amendment to the proposed development.

12 MR. NORMAN: I think once we get through this, the
13 next logical hurdle for this situation, this whole development,
14 is to the trustees.

15 MR. LINGENFELTER: Right. And that's another point,
16 too. Like George said, we're not the final.

17 MR. NORMAN: We are not the final. We make
18 recommendations to the trustees. And, believe me, since they
19 changed the Ohio Revised Code, our recommendations aren't
20 always agreed to.

21 CHAIRMAN WENTZ: Things have been known to come back
22 down.

23 MR. NORMAN: Come back at us or just, flat, forget
24 it. So I would submit to you that I think we, on the Board,
25 really thought seriously about that emergency access only, but
26 I think a better thought might be to make that a gated kind of
27 arrangement and make it a hard drive, because I agree with Andy
28 about the safety forces but my really concern is that if, for
29 example, the people in Keystone, there is a big tree that falls
30 across that entrance up at the head of the road and there is

1 issues with the weather or whatever, not only can they not get
2 in but the people can't get out, which is very serious. Then
3 going the other way, you have got the same situation.

4 Now, is that a good answer? I'm not sure, but it
5 certainly has been talked about. Okay? And what that solution
6 might be, I think, the developer is interested in getting this
7 thing approved; otherwise, he wouldn't be back here again. So
8 maybe if some of the residents got together with a
9 representative of the developer and/or the trustees and/or
10 someone in the Planning Commission, maybe that could, that
11 could happen. I am not saying it's not impossible because it
12 has been on the table and it's not off.

13 CHAIRMAN WENTZ: My understanding is that the
14 property at the end of what would be the Jamie Drive connection
15 is for sale as a piece of property, which would make it
16 impossible to make a connection.

17 Anybody else in that row? The next row? The fourth
18 row? Your name?

19 MR. WEIGAND: Good evening. Bill Weigand, 11895
20 Girdled Road.

21 CHAIRMAN WENTZ: Do you swear to tell the truth and
22 nothing but the truth?

23 MR. WEIGAND: I swear to tell the truth. The
24 President has his teleprompters, I have my notes.

25 CHAIRMAN WENTZ: Yours won't fall over.

26 MR. WEIGAND: Pardon me?

27 THE COURT: Your teleprompter won't fall over.

28 MR. WEIGAND: No. I know, at some point, this land
29 is going to be developed. The developers didn't buy this land
30 just to sit on 54 acres of green space. It's going to be

1 developed. When I received the pamphlet in the mail from the
2 zoning, the thing that hit me right off the bat was the
3 relocation of the storage tanks and the separator. They're
4 back there now where the only people that see them are the ones
5 that know they're there and they look out there and they can
6 see them. I see them every day because I'm up high enough, I
7 can see them. And they've been gonna landscape them. It
8 hasn't happen.

9 And I talked with Norbert Lowder last March and he
10 said, well, because of the frost and things, it will get done.
11 Well, then I talked again with him in May of last year and he
12 said — and I reminded him that the frost is probably gone, go
13 ahead and landscape them. I don't want to see those tanks.
14 It's a year and two months later, we still don't have a
15 daffodil back there. Nothing is back there.

16 MR. NORMAN: Is he the property owner where the wells
17 are drilled?

18 MR. WEIGAND: Pardon me?

19 MR. NORMAN: What is his status out there, Norbert's
20 status?

21 MR. WEIGAND: He is with the Ohio Department of
22 Natural Resources.

23 MR. NORMAN: That explains that.

24 MR. WEIGAND: He is the inspector for this area.
25 There is a new man that took place the first of this month, his
26 name is Steven Oaks, and I have been in touch with him. He's
27 too new in the area to have any comment right now but he will
28 study the issue and he will look at it.

29 I know that this meeting is for the development of
30 the housing but, to me, I don't think for the developer, or for

1 me, there could be a worst place for those tanks right out
2 front. They say they are going to landscape them so you don't
3 see them. I don't know how that's going to happen unless you
4 get full-grown trees and put out there.

5 And as a developer, I wouldn't want that at my main
6 entrance. That's going to be the main entrance. You can see
7 here where the main entrance is. Here is the tanks going to
8 be, here, and it's right next to the gas line, the water line,
9 the proposed sewer line, and there is also a fire hydrant
10 there. And they're going to landscape that.

11 And we sleep with our windows open. The winds are
12 prevailing from west to east. Right now, the tanks are back
13 here. They've been moved once because they were too close to
14 our property and now they're going to be even closer, and
15 that's my main concern. I know that this proposal is going to
16 go through at one time and it's — if there is a way of
17 handling that — I notice in the development at Nature's
18 Preserve, those tanks are hidden in the development. And there
19 is enough land there that they could hide those somewhere
20 else. There is plenty of pipe available. They could hide
21 those somewhere else without having them up front.

22 MR. NORMAN: Have you taken a ride over on the west
23 side of Girdled Road going over beyond 44 before it gets to
24 Hermitage Road? There is a oil or — I think it's a gas well,
25 not on Mr. Patterson's property but there is a gas well right
26 within 50, 75 feet of the road that whoever put that thing in
27 did a nice job. It is totally hidden.

28 MR. WEIGAND: That's probably privately done. I
29 don't know.

30 MR. NORMAN: I don't know either, I just wondered if

1 you've taken a ride over there.

2 MR. WEIGAND: I have seen that and that is not bad
3 coming from the east. Coming from the west, you see the
4 separator out there. But I don't want to be looking at
5 something like that for the rest of my days.

6 MR. NORMAN: I understand that. I just wondered if
7 you've taken a ride over there.

8 MR. WEIGAND: I have seen that. I've been around
9 quite a few of them. I have talked to quite a few people.

10 The other thing, I talked with the county engineer
11 about the proposed sewer line. It's going to be from this
12 point to this point. And I asked him about the possibility of
13 tying on that if I ever needed to and he said no, that I would
14 have to, on my dime, I would have to put this sewer line in
15 complete frontage. And I said, well, what about this one?
16 This one doesn't go the complete way, it stops at the
17 entrance. And he looked at it and he said that's an
18 oversight. It will be taken care of. I don't know if it was
19 or not. He is the engineer. But I want the thing, if it's, if
20 it has to be for one, it has to be for the other.

21 There was an article in the *Plain Dealer* on August
22 the 15th, written by Rhoda Rita, she's an executive director of
23 the Ohio Oil and Gas Company educational program. And she was
24 stating all of the safety positions that this development, this
25 oil and gas has done, not only the safety but what it has added
26 to the economy: 14,400 jobs; 57 — \$500 million in taxes; \$202
27 million in royalty payments; and \$84 million in free gas. And
28 I think they'll find out that most of that free gas, they're
29 going to get a 1099. That's earned income.

30 Not one word has been said about the negative side,

1 and anyone who is unlucky enough to live next to one of these
2 gas wells knows nothing about the activity that goes on there.
3 Now, they have been, I think they've probably been as good as
4 they can be but — I don't know if all wells — I am only
5 speaking of the one that I know of, the one that I am concerned
6 of. There is daily inspections of that — I don't know what
7 goes on back there. I've never gone back to see it — but
8 there is daily inspections of all of those tanks and the
9 separator, and sometimes a couple. And, also, there is the
10 hauling away of the sludge.

11 And another article in the paper said that that
12 sludge is sold to roofing companies. They use it somehow in
13 the manufacture of roofing.

14 And I think that if this development goes on that
15 somehow they ought to move those tanks within the development.
16 Right now, these people all face each other. They face each
17 other. That's all they see. I am facing the tanks. My
18 neighbors across the street are facing the tanks. We see them
19 every day. The people in this other development, Woodcrest,
20 they'll see it once or twice a day. I see it every day, so do
21 my neighbors, and we don't like it.

22 There was an article in the *News Herald* published
23 July 14th, written by Tom — or it was written by David Gleason
24 and, in it, Thomas Stewart, is an executive vice president of
25 the Ohio Gas and Oil Association, states that he is an advocate
26 for the gas and oil companies and he intends to win. That's
27 quite a statement. He makes no apology for that. There is no
28 apparent regard for the fact that there would be — that the
29 wells are being drilled in heavily populated areas, and this is
30 going to be even a more populated area. We're going to have

1 traffic when both of these hospitals open and all these
2 developments open up, if the economy picks up, we're going to
3 have lots of things going on.

4 And this, this Thomas Stewart is pressing about the
5 safety, that there is not much going on. But last fall, I had
6 replacement windows put in my house, and one of the crew lived
7 four or five houses from the one house in Bainbridge that blew
8 up and blew off its foundation. He wants out of there. He put
9 it up for sale shortly after the incident and, to date, he
10 hasn't had anybody look at it. There hasn't been one soul, and
11 I don't blame them.

12 I think, if anything, if I go to sell my house,
13 they're going to pull in, they're going to see that well, and
14 they're going to lose interest. The same thing goes with
15 prospective buyers in this allotment. Anybody that's going to
16 buy a lot in there, when they pull in and see this
17 conglomeration here, they're going to think twice. I think, on
18 their own interest, they ought to reconsider about where that
19 location for those storage tanks.

20 I talked with an appraiser, an insurance appraiser
21 and real estate insurance, real estate appraiser, and he said
22 that along with these permits there is requirements. I am no
23 builder. I have built three homes and I have done remodeling,
24 and I know that for everything that you build, you've got to
25 have a permit and there is a lot of, there is a lot of
26 inspections that go on. You either pass the inspection or you
27 stop work. It keeps going on.

28 I don't know whether, when they get these gas
29 permits, whether anybody is following up on these or not. They
30 should be. They should be. Now, one of the conditions, when I

1 first became aware of this situation when it was going to be my
2 neighbor when I first got into this, I tried to follow up on
3 the, on the — What did I try to follow up on? I tried to —
4 What was I talking about? Anybody listening?

5 MR. NORMAN: Yes. You're talking about when you
6 first moved in your house.

7 MR. SCHINDLER: When ou first moved in your house.

8 MR. NORMAN: Permits, permits that preceded moving
9 into the house.

10 MR. WEIGAND: Permits, thank you. When I first moved
11 in, I asked about the permits. They said, yes, we will follow
12 those through, and as soon as the weather breaks, you will have
13 a fence around there and you will have landscaping, so this is
14 not going to be objectionable. And had that been me building,
15 I wouldn't have been any further than the basement because you
16 don't go any further than the permits allow you. But they
17 have, they have some clout, and Thomas Stewart, of the Oil and
18 Gas, said that he intends to win and he probably does.

19 Page 3. I talked with Norbert Lowder, of the
20 Department of Natural Resources, on May the 20th and reminded
21 him again that nothing had been done. Seven days later, two
22 dozers showed up and they did get rid of the tailings from the
23 roadway. They had put in the roadway and it was just left
24 there and I've been after them on that. After I had talked
25 with Norbert, I also talked with the zoning here and they did
26 get it done. They level it out pretty good. I have no
27 objection with that.

28 But if that tank gets moved — and that's all part of
29 this proposal — it's not acceptable in my eyes. I have to
30 live next to it. And, you know, these writers, this gal that

1 wrote from the Gas and Oil, and this other fellow that wrote
2 and the developers, all of them, I don't know how much concern
3 they have, whether they're living next to a situation like this
4 or not. I don't know if they have to contend with something
5 like that. We don't sleep with our windows open anymore
6 because you can see, if the atmosphere is right, there is a
7 fume that comes out of that tank. Now, I've been told it's a
8 heater, but I have seen it when it doesn't need heating, in my
9 estimation. That's only my estimation. Maybe there is
10 something going on. I don't understand the gas and oil
11 business at all.

12 But this proposal before us tonight — Well, I
13 already covered that about the homes looking at each other.
14 But I am not in agreement with this zoning change from R-4 to
15 the RCD. I am just not in agreement with that, the way that it
16 is written up right now. I have my real druthers about it, and
17 especially Item 6 in the general notice, it says that the open
18 space will be controlled by homeowners association. And it's
19 open space now, it's been open space for four or five years. I
20 am not too sure. It's called green space now. In my
21 estimation, it's a hay field. That's what I've been looking at
22 for four or five years. I am trying to maintain a law using
23 weed killers and fertilizers and the hay field can produce
24 whatever they want to and it comes over on mine.

25 Now, the developers have a perfect right, it's an
26 honorable thing to do to develop this and to make some money
27 but I am coming out losing. I don't know what that's going to
28 do to my property value. I have absolutely no idea what that's
29 going to be.

30 I know that, one day, I am going to look out and I am

1 going to see a bunch of rooftops there but I hope that one
2 thing that I don't see is that well. I am not going to stop
3 progress. You just don't stop progress. I am old enough to
4 know that. But these gas things, they're going to make the
5 profit off of the development. They're already making profit
6 off of the gas well. I have no idea how that produces or
7 anything. But when is enough enough? They're asking for five
8 more spots in here.

9 We had one development come in here with 30-some, or
10 one plan to produce 30-some homes and I thought it was pretty
11 good with the exception that it didn't have the interconnects
12 and I think the interconnects are a good idea. I go along a
13 hundred percent with what the chief, fire chief, says, that
14 those interconnects should be there.

15 I know the people on Woodcrest think that it's going
16 to be abused by the people of this development. I see it just
17 the opposite way. If you've been down Woodcrest and come up
18 that hill, that's a terrible exit there. I see those people
19 using this allotment to get out on Girdled Road and head to
20 wherever they're going. So I think the interconnects are a
21 good thing to have, and I really hope they reconsider that well
22 and the tanks.

23 I know the well is where it's going to be. This
24 Rhonda said that the normal gas well and its tanks and
25 everything are the size of a normal dining room. Well, if
26 that's the size of a normal dining room, I checked with the EPA
27 and they said that when a permit is issued, they have
28 permission also to use that as a storage yard. If they want to
29 park some of their equipment there, that can be parked there,
30 also.

1 So whether anybody is going to govern this or not, I
2 don't know. Look at Geauga County, look at Ashtabula County
3 where these wells have been in effect for a while. They're
4 rusted, they're dilapidated, they've quit producing, and the
5 gas people are gone, they could care less, but the people that
6 live around it are stuck with it, and that's what I would like
7 to stop before it starts.

8 I got a hold of Senator Grendell's office early on
9 when I saw where they had originally put those tanks, and I
10 walked back there and I said, "What's going on?" They said,
11 "We're finishing up the tanks." I said, "You're right on my
12 property line. You're very close to my property line. That
13 can't possibly be." And I talked to Ohio Department of Natural
14 Resources — He put me in touch with them — and they were
15 moved. The next day, they were moved. Now, this is going to
16 be the third move for those tanks and I don't want — they're
17 coming closer now and they're going to come closer. And I
18 would like to end my days in that home. That's been our home
19 for 45 years. I would like to end my days there but I don't
20 want that thing in my front area.

21 Good evening. And I wish you luck with this noise
22 abatement. That's going to be as bad as the gas. Thank you.

23 MR. NORMAN: Thank you.

24 CHAIRMAN WENTZ: Okay. The next row?

25 MR. CARY: Hi. I'm Jim Cary. I live at 7782
26 Keystone Drive in Concord. I just wanted —

27 CHAIRMAN WENTZ: Do you swear to tell the truth and
28 nothing but the truth?

29 MR. CARY: Yes, I certainly do. I just wanted to go
30 on record and say that I am against this new development. I

1 sort of disagree with the other gentleman. I don't think that
2 it's a given that you have to develop every open space in
3 Concord. I know this is a zoning commission, not a planning
4 commission, but I would be interested in hearing what the long-
5 range plans are for schools and traffic. I mean, that blinking
6 lot at Girdled is already backed up every morning. And, you
7 know, I don't hear anything or see anything positive that comes
8 out of this development. It is going to be more police, more
9 pollution, more cars.

10 I just wanted to go on record and say that I am
11 vehemently against it and I hope you guys, at some point,
12 realize that that sign of Concord that looks so great is going
13 to be a fossil if you keep allowing this unfettered development
14 to continue. Okay?

15 CHAIRMAN WENTZ: Okay. Anyone else in that row?

16 MS. BECKWITH: Christie Beckwith, 7776 Keystone
17 Drive.

18 CHAIRMAN WENTZ: Do you swear to tell the truth and
19 nothing but the truth?

20 MS. BECKWITH: I do. My big thing, also, is when
21 they did the whole oil well, I thought it was 20 acres that
22 they had to be to have that. How can you now split that up and
23 put these other parcels in? That doesn't make sense to us.

24 CHAIRMAN WENTZ: You can have multiple owners.

25 MS. BECKWITH: So it doesn't matter that — So then
26 why can you drill though? I thought you needed 20 acres to
27 drill.

28 MR. NORMAN: No, no, no.

29 MS. BECKWITH: Once you have 20 acres, you drill, you
30 can go ahead and split up your land?

1 MR. NORMAN: The state as said to, ODNR has said to
2 the these folks, if you can package 20 acres, in other words,
3 get owners of 20 acres, 20 acres around a focal point where
4 they want to drill, go drill to your heart's content, so that's
5 what they're doing. They're doing what they call bundling in
6 the business.

7 CHAIRMAN WENTZ: It's a 20-acre unit.

8 MR. NORMAN: Yeah, it's a unit of land.

9 CHAIRMAN WENTZ: It can be composed of varying
10 properties.

11 MR. NORMAN: So the unfortunate thing for all of us
12 is that this has become very unregulated, and I don't disagree
13 with what anybody is saying here. Oil and natural gas drilling
14 in the state of Ohio has gone to the birds — the dogs, make
15 it. I like dogs. I am not going to do that. But it really
16 has become out of control and it's done — this is a personal
17 opinion — it's done for the bucks. The oil and natural gas
18 industry is making a fortune right now.

19 CHAIRMAN WENTZ: Anyway that's the —

20 MS. BECKWITH: Okay. Well, that was one of my
21 things. And then the other thing is connecting our street. We
22 have an HOA, obviously, and so we're concerned, you have half-
23 acre lots, we have acre lots, different frontage, different
24 square footage. How do you regulation that? Because someone
25 coming down Woodcrest is not going to know that they're not
26 part of us, and so we have certain deed restrictions and things
27 that our residents have to follow, and I don't think it's fair
28 that you can have another lot that looks like it's part of us
29 that isn't having to follow, like, as far as putting up other
30 structures like sheds and things like that. Everything has to

1 go through our HOA. I don't believe that if you add them on,
2 how do you regulate what those individuals are doing if they're
3 a whole separate development?

4 That's another concern of ours, that we have strict
5 guidelines that we have to follow, we pay money into this, so I
6 feel that there has to be some way to distinguish the
7 difference.

8 And they're asking, on Cali Woods, about putting just
9 an emergency exit. That's what we can do, too. We really
10 don't want to tie in. If you do something like that even.
11 Again, our concern is, we have regulations.

12 The other thing is, if you're putting in half-acre
13 lots, you're putting in more homes. Right now, we moved in
14 there, we couldn't even be in the school district that we
15 should be because of overcrowding. That's another concern I
16 have, that you add in all these more homes. Where are all
17 these, all the kids going to go? Most likely, developments
18 have children that are going to go to schools. Right now, we
19 have a fight to get into where you go. We're supposed to go to
20 Buckeye Elementary. We had to go to Leroy. And I know when I
21 signed them up at Leroy, they said that they were getting
22 overcrowded there, they were going to ship our kids to Madison
23 Avenue.

24 So where are you going to put these kids? Buckeye
25 has trailers. That is another concern, there is not enough
26 schools in Concord alone. Now you are adding on all these more
27 houses. Where are our kids going to go to school, and kind of
28 quality of school? That was one thing, we moved into this, we
29 thought Painesville Township schools were a good school system
30 and now, come to find out, we're juggling where they're going

1 and what's going to happen? That's another concern. We pay
2 taxes and I feel that my kids are not getting what we're
3 paying, that Painesville City schools are getting new schools
4 and bigger schools and we're taking their trailers, and I don't
5 understand that either, so that was another one of my concerns.

6 So, I guess, other than thing, also, is if you had
7 through streets, we live at the top of the hill. We have kids.
8 Already, we have just residents alone, people speeding down the
9 hill. If you add that access street, we are going to have more
10 increased traffic and, obviously, more speeding and things like
11 that and we want to try to eliminate that as much as possible.

12 Thank you very much.

13 CHAIRMAN WENTZ: Anyone else in that row?

14 MS. FERUS: Hi. Leslie Ferus, 7692 Keystone.

15 CHAIRMAN WENTZ: Do you swear to tell the truth and
16 nothing but the truth?

17 MS. FERUS: I do. I am, along with my neighbors,
18 concerned about the schools and the property but also very
19 concerned about the through street because I live in that
20 cul-de-sac and, you know, our kids are out there all the time
21 because there is no parks in the area, there is no sidewalks.
22 And understanding that there is a code, the fire code that says
23 any development exceeding 30 dwellings needs to have two access
24 roads, our development only has 22 houses, with a max of 24, so
25 we are clearly under the 30, 30 dwelling restriction or
26 whatever.

27 And Noble Ridge, who has 30 homes and can have up to
28 40, you're saying, is getting a bye because it's too
29 expensive. I don't really understand the logic of that when
30 it's code, according to the Ohio Fire Code requires this. How

1 do they get away, because it's a little too expensive, when we
2 have to —

3 MR. LINGENFELTER: It's not too expensive, it's a
4 matter of economics.

5 MR. NORMAN: It's economics. What they've got is so
6 for down the road, they've gotten so far down the road, they've
7 put themselves in a position where the county is not able to
8 enforce what you're talking about. And, in reality, we had the
9 county at one of our meetings, it was just a while ago, and the
10 county stood up and said that's right. They have since, I
11 think — Vanessa Pesec can tell you, she is chairman of the
12 Planning Commission now — I think the county has now changed
13 the rules for development and platting and doing all the right
14 things with those things so that now they no longer can string
15 these things out indefinitely. Okay? Before, they could do
16 that.

17 MS. FERUS: Because, like, in other plats that have
18 been put together for this type of residential area, you've had
19 streets going to Noble Ridge and then you took them out, so
20 there was an access point. You guys did have it before or
21 these people did have it.

22 MR. NORMAN: Yes.

23 MS. FERUS: So it's just, again, expressing the
24 concern of having a through street in a small, tiny
25 subdivision.

26 MR. McINTOSH: If I understand correctly, to add on
27 what George said about Noble Ridge, they were given a variance
28 under the understanding that connector road would be done. But
29 what he was saying is that they were given the variance that
30 allows them to use that one lot. They can use that one lot as

1 a sellable lot. The idea was, at one point, they would maybe
2 come back. What's happened is we've gone down the road and now
3 we're not in a position to enforce that. It's not that we're
4 giving them a pass per se, it's that they were given a variance
5 under the idea that they would do that eventually and now we're
6 down the road and we don't have any way to enforce that, nor
7 does the Lake County Planning Commission, so we are sort of
8 stuck with that issue. It's not that we're just dismissing it.

9 MS. FERUS: Okay.

10 MR. NORMAN: Thank you, by the way. Appreciate your
11 comments.

12 CHAIRMAN WENTZ: Anyone else in that row?

13 MR. FERUS: Whatever she said.

14 CHAIRMAN WENTZ: We will record that as "whatever she
15 said."

16 MR. FERUS: Thank you.

17 CHAIRMAN WENTZ: Last row?

18 MR. SELLENY: Good evening. My name is Tom Selleny.
19 I live at 7686 Keystone. That's the property just adjacent to
20 the 54-acre parcel off Girdled.

21 CHAIRMAN WENTZ: Do you swear to tell the truth and
22 nothing but the truth?

23 MR. SELLENY: I do. I wanted to approach the group
24 this evening with my concerns, and I guess first I want to
25 start with an acknowledgment to Mr. Novak. I think, from the
26 standpoint of the planning from this development, the
27 development of the green space, I wholeheartedly support and I
28 think, from the March 27th meeting when the plans were proposed
29 with full lot coverage throughout the acreage, the proposal has
30 improved dramatically.

1 What I am violently opposed to is, obviously, the
2 through street on Keystone Drive. We talked a lot this evening
3 about public safety and I wholeheartedly agree with the
4 position on public safety. We don't have above ground power
5 lines in the subdivision, so that's not a concern with power
6 lines falling. What does concern me is, we have more than 35
7 children in that subdivision. We have two cul-de-sacs in that
8 subdivision, Keystone Drive and Easthill Way. And on any given
9 day, any given weekend, there are dozens of children out in the
10 cul-de-sac playing.

11 My concern is that we already have heavy traffic
12 coming up and down that hill at fairly high speeds through that
13 subdivision. My concern is that if the traffic patterns open
14 up, the through street opens up and connects to JoAnn Drive,
15 that's only going to give drivers more encouragement to speed
16 through the subdivision and I don't think we can afford that.
17 From a community safety perspective, children's safety is too
18 much of a risk here.

19 And the proposal I would like to approach with is one
20 that I tried to craft out. You know, the drawing is a little
21 bit rough. I didn't bring a copy for everyone here but I will
22 try and explain it, if I could. And the proposal that I made
23 here is that, right now, there is a unit lot density of
24 approximately .96, I believe, 52 lots on 54 acres. And what I
25 am proposing here, just so everyone understands, this area of
26 the development would encompass 6 lots with a through street at
27 Keystone Drive. What I have proposed here is that two lots
28 would come off this plan and the lots would be turned sideways
29 back to back, eliminating the connection to Keystone Drive.

30 Understandably, there is a gas well at that end of

1 the property. What I am asking is for is, instead of a through
2 street access, we would essentially have an easement, similar
3 to what we have now, so that those, that gas well could be
4 accessed for utility purposes, repair purposes, maintenance
5 purposes, and also from the standpoint of emergency vehicles,
6 that would be a critical piece.

7 Also on that plat that I handed to you, there is a
8 wider lot there labeled Lot D. And, obviously, one of those
9 lots could be structured wider with a transportation easement
10 or an emergency vehicle easement so that if those gas wells
11 need to be accessed from a different direction they could do
12 that.

13 So the proposal that I would like to make, or the
14 counter proposal here to this development, the way it's laid
15 out, is that the homeowners association of Woodcrest continue
16 to work with the developer, Mr. Dawson, as well as the
17 architectural firms to really redraw the map associated with
18 this development so we do not have a permanent road off of
19 Keystone Drive through that subdivision but rather those lots
20 would really encompass JoAnn Drive as an option.

21 And, certainly, that could apply to the other
22 gentleman's proposal of emergency access there as well. But I
23 think from the standpoint of children's safety, that has to be
24 considered in the vote of this proposal that you have on the
25 table this evening.

26 CHAIRMAN WENTZ: Okay.

27 MR. SELLENY: Thank you very much.

28 MR. RYAN: Hi, David Ryan, 7689 Keystone.

29 CHAIRMAN WENTZ: Do swear to tell the truth and
30 nothing but the truth?

1 MR. RYAN: Sure. I have the pleasure of living right
2 across the street from Tom. One of the good things about being
3 last is, pretty much, everybody said everything you wanted to
4 say before I had to come here. But I have been there just
5 about a year. And me, like everybody else, buys a house for
6 four reasons: Location, location, location, and price, right?
7 And so I am coming here from Minnesota, looking around, I have
8 no idea what the heck is going on, and I find this street,
9 peaceful, quiet. The only cars that come down are coming to my
10 house, Tom's, or they're lost. And so my kids are the kids
11 that are playing in the cul-de-sac that he is talking about.

12 And my biggest issue, again, that's been touched
13 upon, more than probably enough times for you guys, is this
14 pass-through. And the other issue that I have is, I was also
15 lucky, moving here about a year ago, I am one of the lucky
16 people able to sell at a decent price and buy at a better one.
17 And now I am look at a huge development coming in next to me.
18 You talk about green space. My green space goes from here all
19 the way as far as this things going. That's gone.

20 So some of the reasons I bought the house go away.
21 And also, I think, part of that is the value. The value of my
22 house is because of these three location things that I
23 purchased it for. And if this things happens, especially the
24 pass-through, I could lose potentially — I am no real estate
25 expert but I am smart — and I think that putting that in can
26 affect my property values.

27 So all the rest of this stuff has been said but I did
28 want to touch upon some of those issues, too. Thank you.

29 CHAIRMAN WENTZ: Okay.

30 MS. PESEC: Vanessa Pesec, 11705 Cali Court.

1 CHAIRMAN WENTZ: Do you swear to tell the truth?

2 MS. PESEC: Always. I support the concept of
3 conservation development fully but I do have some concerns
4 regarding this specific development. The first is just the
5 layout itself. This just shows the green space. There is a
6 better contour map that, I think, that you all have. When you
7 look at the way the road is configuring like this, it actually
8 touches upon some of the streams and the riparian setbacks.
9 And looking at it, if you would curve it the other way, you
10 would, you would actually not disturb the more important area
11 of a stream and the riparian setback but rather a flatter area,
12 like he said, hay field or something like that.

13 So I would ask that you look at that in terms of the
14 configuration so that, when you have a development that's a
15 conservation development, you're protecting the most important,
16 most sensitive areas, so if you would consider that, that
17 would, be great.

18 David Radachy, from the Planning Commission, did take
19 a look at the plan that you have and he did think that at least
20 one, maybe even two of the termination points of the stream
21 were actually further than what's shown on here, and so I would
22 ask that you definitely get soil and water involved now, while
23 you're thinking about the plan in general, to make sure that
24 the purpose of the conservation development is fully realized.
25 So that would be my first point.

26 The other comments really are about the gas wells and
27 the area of the development. I wanted to bring some points
28 your attention first. The wells that were drilled, they're
29 drilled down deep and then there is fracking chemicals. There
30 are chemicals that are put in there, and it's a mixture of

1 water, sand, and hazardous, potentially toxic chemicals that
2 get injected into the well under high pressure that actually
3 break up the rocks and that's what allows the gas, the methane
4 gas, to escape.

5 And this slurry mixture is then extracted back out of
6 the well, or at least a good portion of it, back out of the
7 well and, in this case, was put into open pits, meaning there
8 was a hole dug in the ground and there was a piece of plastic
9 put there and then these chemicals were stuck in there. And,
10 again, it has, they call it brine but it's not just salt water,
11 in fact, there is a lot of other things that could be there.

12 And, currently, on this property, this area was then,
13 it was bulldozed over. It was just buried. This is a buried
14 pit. And there was no testing to determine the kinds of
15 chemicals that can very well be present that could be toxic or
16 other kinds of problem chemicals.

17 And as Mr. Brotzman, who is on the Planning
18 Commission, he is a nurseryman in Madison Township, he says
19 that the vegetation is very difficult to grow in this area
20 where there is a brine pit because of the high concentration of
21 salt and so forth, and he was concerned that calling this area
22 open space was not in the spirit of conservation development.

23 So I would ask that you take a look at this issue
24 carefully, that you request that the soil be tested to make
25 sure that there is not toxic chemicals. And there is also a
26 naturally occurring radon that comes up from the ground that
27 contaminates this area. And I would ask that you have all of
28 this area tested so that if it is radioactive and if it has
29 toxic chemicals, it can either be disposed of or it can just be
30 cordoned off and not used as open space because when you think

1 of open someplace, a lot of times, it's a common property and
2 people put walking paths and kids play on the areas and that
3 sort of thing. I am sure you wouldn't want that to happen.
4 But if the soil was tested by an independent lab and found to
5 be safe then considering it open space, I think, would be
6 reasonable.

7 The close proximity of the proposed homes to the gas
8 well is also troubling, and I know that you're looking at
9 enacting legislation. It is actually on the agenda tonight —
10 it may or may not be covered — and it is something that, you
11 know, we can discuss but, nevertheless, I do want to bring it
12 up right now to say to please take a look at where the homes
13 are going to be placed next to the wells and try and get as
14 much space as possible from them to keep everybody, to keep
15 everybody safe.

16 Another concern is that the gas pipe of the gas
17 pipeline placement from the well head to the storage tank,
18 there is two well heads. And the storage tank, as Mr. Weigand
19 said, is going to be now relocated to Girdled Road, so there
20 are pipelines that have to be put in place, and I know the Lake
21 County Planning Commission made some recommendations that you
22 look closely at that.

23 One of the reasons is that the gas that comes out of
24 the well head is called "wet gas" and it has many other
25 possible hydrocarbons, toluene, benzene, hydrogen sulphide and
26 that sort of thing. And the gas pipe, they can be corrosive
27 and can explode if not careful, so you want to be really
28 careful where and how you put these pipelines that are going to
29 go to the storage tanks. So if you consider that as well, that
30 would be, I think, that would be very important.

1 So for safety of the development, you need to
2 seriously question these items. And I know that it's unusual
3 to have to ask these kinds of technical questions that don't
4 seem to be related to zoning in terms of, you know, toxic
5 chemicals and drilling and that sort of thing, but what we have
6 here is an inherently dangerous industrial process that's,
7 right now, in the middle of a residential, potential
8 residential development.

9 And my most important concern I saved for the end —
10 and I will be short — is that the surface owner — this kind
11 of answers a question that somebody had. If the surface owner
12 signed over the mineral rights of the property to the energy
13 company or the driller — and they did that in this case,
14 that's how they had their 20 acres. They didn't need to
15 aggregate at this point because it was all under one property
16 owner.

17 So now these people, when they buy those homes, are
18 only buying the surface rights, they're not buying the mineral
19 rights because they've already been given away. So they're
20 only buying the surface rights, so that's how they were able to
21 get the 50 acres and they were able to drill the two wells.

22 But if the energy company has those mineral rights
23 then the contract dictates every aspect. And in all the
24 contracts that I have seen, the energy company reserves the
25 right to go back on the property to make new roads, to redrill
26 deeper or horizontally, to lay new gas pipelines, to cut down
27 trees, and can even destroy the surface habitat in order to
28 further their mineral rights and the surface property owner has
29 no say in that.

30 And I wanted to read, two days ago, NEOGAP, which is

1 an organization that I belong to, just got something from
2 somebody. I won't say his name. He lives in southwest Summit
3 County, Ohio, a town called New Franklin. And here are his
4 comments: "My house sits on about 22 acres, 20 of which are
5 planned — planted with soybeans every year. In the center of
6 a field sits a large holding tank. It has been there since
7 1993 when I bought the property. I have a lease agreement with
8 Dominion East Ohio Gas. I thought I knew what I was getting —
9 I knew — I thought I knew what I was getting in 1993 as far as
10 the holding tank in the center of the field aesthetically. Six
11 months ago, I learned Dominion would be installing an 8.4 mile
12 pipeline that ran through my property adjacent to the existing
13 line. I was fine with that. Next to the Dominion — Next, the
14 Dominion rep told me they needed to cut down some large trees
15 that were in the way. I was fine with that.

16 "Next, about two weeks ago, the rep told me that they
17 were planning on installing a generator and a 55-foot telephone
18 pole in the center of the field. What can I do to stop them?"

19 And our answer is, unfortunately, he signed a lease
20 and there is nothing. But this goes to show you that depending
21 on what the lease is that the surface property owner has with
22 the mineral rights property, it can be very different. So my
23 big point is that if the contract that the surface owner has
24 with the energy company and it reads in a way like this
25 gentleman's contract read then I see no reason that the
26 township should grant a density bonus of homes when the open
27 space isn't guaranteed to remain pristine. Thank you.

28 MR. NORMAN: I guess, thank you, Vanessa.

29 CHAIRMAN WENTZ: Anyone else who missed an
30 opportunity? All right. I am not going to close this portion

1 of the session just yet as we may have some additional
2 questions to ask people as we begin to discuss this.

3 Gentlemen, I guess, our first order here is, are
4 there any questions to be addressed to any people in the
5 audience, particularly to the people representing the
6 developer, in light of the comments that were made? Yeah. I
7 have a question. This issue that has been raised with regard
8 to the rights of the people with the mineral rights to disturb
9 the surface which may be included in the open space and, by our
10 regulations, should remain undisturbed, can you address that?

11 MR. NOVAK: I have not read the lease, so I really
12 couldn't comment on that.

13 CHAIRMAN WENTZ: Okay. Fair enough.

14 MR. SCHINDLER: So the lease has already been — it's
15 a done deal because the wells are already on there, so the
16 lease was already signed with the previous owners.

17 MR. NOVAK: I really don't know what the agreement
18 is. I would assume there is some type of a lease. I believe
19 that the developer himself is part owner of that well, of the
20 wells on the property. So, again, I can't — I haven't read
21 the lease, so I don't know that I could, you know, say what
22 Vanessa has said is correct or not correct. I mean, I know
23 that, you know, before those gas wells were drilled, I know
24 that, obviously, the developer knew that this piece of property
25 was going to be — or that he owned it for the purpose of
26 development. He's a smart individual. He hired me, so he has
27 to be pretty smart, but —

28 MS. MITCHELL: (Laugh.)

29 MR. NOVAK: Thank you, Kathy.

30 MS. MITCHELL: I'm sorry.

1 MR. NOVAK: And I also know that the well — the
2 drilling company also knew that this piece of property was
3 going to be developed, so I would hope that there were some
4 provisions in there or some considerations or understanding
5 that those things were going to take place.

6 MR. SCHINDLER: The biggest thing that the homeowners
7 are going to find out if you start developing this property is
8 that if they're not told or know what could possibly take place
9 in the future — me, say, for example, I was coming from
10 another state to buy property, like these gentlemen did, and
11 then, all of the sudden, one day, with these rights that have
12 been agreed upon by the developer, they're subject to this and
13 they don't know that, one day, they can wake up and find the
14 oil company is in their back yard doing whatever they want to
15 do to go over the things that they have the right to do and the
16 homeowner has no clue and has no rights to be able to stop that
17 from happening. That's the first thing.

18 And, a lot of times, developers don't tell people
19 this when they sell the land off to them or decide to build a
20 house there. One of the things I've learned over the years
21 that I got involved in when we started developing, years ago,
22 our own zoning gas well regulations — that, of course, now, we
23 have no control over in the township — is that if you don't
24 have agreements in writing with the gas developers and put
25 stipulations to take care of things like, what happens if the
26 well finally goes dry? Will them come in restore the land?
27 When will they come and take these tanks down? When will they
28 come in and remove the gas lines if they go bad? If you don't
29 have stuff like this in writing, already, you're in deep do-do.

30 And the problem is, many people move into our

1 developments or, I should say, our township not knowing of this
2 stuff. We have tried to take steps in the past to be able to
3 stop things like this happening, but so much has happened with
4 the state and they've taken so much away from the township to
5 have control over, we, of course, now our hands are tied. And
6 when people like yourself, your hands are going to be tied
7 because if you don't know what can possibly happen down the
8 road as you start developing this, and if you don't tell the
9 people who are going to buy those properties to build on, this
10 possible thing of happening, you can see why, right now, it
11 performs a hardship on so many people, not only the township
12 but the people who are going to buy this property to build on
13 and when they find out in the future they have no rights.

14 So I think, right now, it behooves you, especially
15 since there is already two wells on the property already, find
16 out what the, what your strengths are, what kind of things you
17 have to back you up, because if you don't know what that is,
18 you are going to start selling off property and, unfortunately,
19 the people down the road that are going to be buying this to
20 build on will find out they have no course of action to take.
21 That's the biggest thing I find right now.

22 And this is the thing I am trying to encourage for
23 people who own property, especially, anywhere, if you're
24 considering to sell your property off to the gas companies, you
25 better well, well educate yourself to know. When those people
26 come to your door and they're going to be offering you all this
27 money for the rights to drill here and they tell you, oh,
28 you're going to get all this kind of revenue coming back,
29 please be advised that if you don't have any contract written
30 to protect you, you are going to be in deep do-do once you sign

1 on the dotted line because those gas and oil well people don't
2 care about you, they care about the revenue.

3 AUDIENCE MEMBER: Amen.

4 MR. SCHINDLER: All right? And I've been trying to
5 fight this for years. When we get in a situation like this, I
6 have nothing — I would love to have this development under
7 Conservation Development, but there is already two issues here
8 I already feel real concerned about. And since you can't
9 answer the questions already to my satisfaction, at least, all
10 I am saying is you better go back and find out all about this
11 before you start selling off the property to these people who
12 are going to come in and want to build on this.

13 MR. NOVAK: Again, I just want to clarify one thing,
14 that I don't know what the lease says.

15 MR. SCHINDLER: I understand.

16 MR. NOVAK: I am sure that the developer, Eye-Will
17 Development, has read the lease, if there is a lease, or
18 whatever the agreement is.

19 MR. SCHINDLER: Right.

20 MR. NOVAK: Okay? So I can't stand here tonight and
21 tell you that all the concerns that Vanessa brought up are
22 addressed. I can tell you that, for other customers of mine, I
23 have read through the leases, okay, and we have taken out
24 language that is for those reasons only, as you mentioned. So
25 we have done some of these things. But I haven't,
26 particularly, I haven't read this particular lease.

27 The other thing is that when it, when a piece of
28 property does transfer, okay, all the easements, the rights and
29 so forth and all that information, when a title search is done,
30 should come to light. And, at minimum, it would probably — a

1 title search would say that there is a — Let's assume there is
2 a lease on the property — that it would state that there is a
3 lease, it's recorded at the county, and that lease would be
4 available. Okay? It's going to tell you what property rights
5 or what type of — what is actually transferring. Is it just
6 the surface rights or is it the mineral rights and so forth?

7 And when you talk about, you know, again, with my
8 knowledge of these leases, again, you are correct, some of the
9 leases talk about removing the old equipment, the old lines,
10 and so forth once a well has come to be not productive for the
11 gas company. But also, on the other side of that, what and I
12 have talked — and I have talked with a lot of people — what I
13 find is, I was out in Geauga County about two, three weeks ago
14 and I noticed this tank that was rusted, it looked like it had
15 been there for 100 years, falling apart, and the fence was
16 falling down and so forth. And I happen to know somebody that
17 lives in the neighborhood and asked him, why is that?

18 And they said because, within their contract, the oil
19 company was going to come in and remove all that equipment
20 but — the gas well was not productive enough for the gas
21 company but there still was enough gas to be produced to supply
22 the gas to the house, so that particular homeowner said, Well,
23 for me to get free gas, I am willing to look at this eyesore
24 for maybe another 10 years or 15 years, however long that well
25 would produce enough gas for his house. Then that owner would
26 have to take the pipes and so forth out at their expense.

27 So it's very easy to stand back and say, oh, those
28 things look terrible. The gas company didn't do what they were
29 supposed to. I am not saying that there aren't times when the
30 gas company doesn't do what they're supposed to, but you need

1 to get the full story and there is the other side sometimes to
2 the coin that maybe you don't hear at these types of meetings
3 and so forth.

4 And I think it's, you know, just like with, again,
5 what Vanessa brought up about the lease, I can't sit here and
6 tell you what's in that lease because I haven't read that
7 lease. I mean, I think they're valid questions. But to
8 automatically assume that that lease is written the way Vanessa
9 portrayed it — and I don't think she intended it to be that
10 way — but that this lease is that that way, I think, is doing
11 an unjust to this development.

12 MR. SCHINDLER: I understand.

13 CHAIRMAN WENTZ: Well, I think we need some more
14 answers, to be fair. I mean, I am not terribly upset about
15 landscaping around the wells. I accept the fact that that can
16 be done. I even believe that the access issues can be handled
17 one way or another, whether they're emergency only or some
18 method that is mutually agreeable to people. I think those
19 things are all within the realm of sorting their way through.
20 The services of water and sewer to the area are pluses. The
21 open space, I think, is a plus. I favor this versus
22 conventional development.

23 But if the open space is what is used to justify the
24 layout that we have, and if that open space can be breached,
25 then I have a problem. I think I need the answer to whether
26 the open space can be breached because our regulations say it
27 can't be for you to have this kind of development.

28 MR. McINTOSH: I would agree with what Larry just
29 said. I mean, we had a conversation just a bit ago about
30 getting into a situation with intended access and what we had,

1 you know, some variances granted years back about the intention
2 of somebody to do something that, for the public safety, is the
3 right thing to do. And now we're kind of in a box and we're
4 back at it with this project, looking at it and saying, well,
5 there is really nothing we can do about that and we're kind of
6 locked up.

7 So hearing what I've heard this evening from the
8 residents, I think that's a very valid point, that we have
9 heard a lot of people say, you know, fine, develop the open
10 space. We have a comprehensive plan in Concord that calls for
11 maintaining that open space feeling in the township, and then
12 to go ahead and do it with the impression that it's going to
13 stay that way and then turn around so many years from now and
14 have this Board have to answer to the fact that, well, we
15 weren't aware of conditions in the lease when we granted this
16 rezoning, you know, where does that leave the township? That's
17 not the best bet for the community.

18 And I think having that unaddressed is going to be an
19 issue as far as moving this project forward, as far as having
20 this on the ballot again eventually. I would say that you've
21 got a good showing here of people that are rightfully concerned
22 about some of this stuff, and not answering it is not going to
23 help move it forward.

24 CHAIRMAN WENTZ: Gentlemen, I would like to continue
25 the public hearing to get the answers to some open issues.

26 MR. SCHINDLER: We can recess.

27 MR. NORMAN: I would ask that you do a couple things
28 for us. I am not going to sit down and try to read that oil
29 and gas lease because, I will tell what you, I will guarantee
30 the oil companies are throwing it 15 ways from Sunday at all of

1 us, but I would trust the people that are brighter than I am to
2 do that.

3 What I would ask you to do in good faith is to talk
4 to some of the residents, either the ones at Keystone or some
5 of the other places, that are interested and trying to tailor
6 the egress so that we have emergency vehicles only kind of a
7 thing would certainly get — you know, if we're going to extend
8 the public hearing anyway, I don't think it would hurt to take
9 another few days or few weeks to make that communication so
10 everybody understands the limitations. Okay?

11 To the gentleman's point who handed us — He put some
12 time in to do a document, which I will share but because I know
13 he didn't have a copy for you. He put some time and effort in
14 to do this and I think we ought to give him the right to get
15 that reviewed. I mean, I am not trying to squeeze you.

16 MR. NOVAK: No, and I don't think that you are, but I
17 think one of the things that — I know that some of the Board
18 members were here when we came through with this proposal last
19 time. Okay?

20 MR. NORMAN: Oh, yeah.

21 MR. NOVAK: And I know some of the residents were
22 here last time.

23 MR. NORMAN: They were also here.

24 MR. NOVAK: And I will first talk about the
25 interconnects. Okay? If you understand the process, and I
26 mean more so for the audience, not the Board, because I am sure
27 that you guys understand the process better than I do, but what
28 you have is you have — I am not quite sure what the actual
29 term is but there is a preliminary meeting or discussion that
30 we had and that happened on June 2nd or 10th, something like

1 that, June 2nd, and I came before this Board. And it wasn't a
2 public hearing, so that's why the folks in the audience and the
3 residents of Concord were not invited.

4 What the purpose of that meeting was was to discuss
5 the plan. And it's really kind of funny because the plan that
6 that gentlemen put in front of you, when he was walking back to
7 his seat, I said, "Here is a plan that we had that didn't have
8 the interconnects over to Woodcrest." Okay? And I know that
9 if I said it once, I said it probably four or five times, my
10 reason for coming to the preliminary discussion with this Board
11 was to say, "Tell me what you want. Do we want interconnects,
12 don't want interconnects? The developer is more than willing
13 to do, have interconnect to Girdled, to Cali Woods, to Noble
14 Ridge, to Woodcrest, or eliminate — you can't eliminate them
15 all. We have to have at least one connection to something to
16 be able to get access.

17 And I can tell you that I didn't walk away with a
18 clear picture, and I understand that that was a preliminary
19 discussion and it was — you guys could have told me to put
20 them all in and then I could have come to this meeting and
21 said, "We don't want any of them," and I understand that,
22 because the nature, again, that it's a tool, it's to open up
23 the communication, the lines of communication between the Board
24 and the developer to say, This is what we think we want based
25 on the information that you have presented to us. And we did
26 that and that's how we came up with the plan that you see
27 before you.

28 And, again, I have no problem of discussing with the
29 residents the interconnects, no interconnects, emergency
30 driveways, no emergency driveways. We're open to that. But

1 with those discussions, part of the issue that you also have to
2 understand is that this Board does not have the final say—so.
3 There is the Lake County Planning Commission, okay, and that's
4 another body. And if you read the text, okay, they have —
5 they're really the controlling body who determines whether
6 there are interconnects or no interconnects. They can surely
7 make a recommendation to that Board.

8 MR. NORMAN: Yes.

9 MR. NOVAK: And last time when we went through this
10 process, what we did is we tried to do them together, Lake
11 County Planning Commission and Concord, and we fought back and
12 forth and changed plans and redid them and went back to this
13 Board, asked for variances and all that other stuff. And what
14 we — When we sat down and we said, well, we think it's time to
15 sit down and revisit this because we do want to develop this
16 property and we, again, we believe the RCD zoning is — the
17 text and this map agree very well.

18 And so what we wanted to do this time, which was what
19 we didn't do last time, was get the approval from Concord to
20 say, "We don't want any interconnects" or "We want an emergency
21 driveway only" or "We're going to put helicopter pads on every
22 house," I don't know. But we're going to do, we wanted to get
23 the approval from this Board because, ultimately, when we went
24 through the process last time, I stood in front of the Lake
25 County Planning Commission and says, "We don't want to do
26 this." They said, "You've got to put the interconnects in."

27 I came back here and I stood in front of the people
28 and said, "We have to put those interconnects in because the
29 Lake County Planning Commission is telling us that we have to
30 do it," and we had a big fight, okay, if you want to call it

1 that or —

2 MR. NORMAN: It was certainly a discussion.

3 CHAIRMAN WENTZ: A brouhaha.

4 MR. NOVAK: Discussion, a brouhaha, whatever you want
5 to call it. But when it finally came down to it, what the end
6 result was was the plan that Concord approved and the Lake
7 County Planning Commission approved was only with the
8 connection to Cali Woods and to Girdled Road, so it is almost
9 like I stood up here and I lied to the folks of Concord saying,
10 "We have to have this because the Lake County Planning
11 Commission is telling me I have to do it."

12 Well, what they did is the Lake County Planning
13 Commission looked at it and said, This is a piece of property
14 within Concord. The Zoning Board thought the best plan was not
15 to have the interconnection to Woodcrest and to Noble Ridge.
16 We went back to the Lake County Planning Commission, we asked
17 for the variances and we got them, but it was a long fight
18 back — I keep using the word "fight" and that's probably not
19 the best word but there was a lot of discussion back and forth
20 to figure out, what is the plan? What do we want to present to
21 the Lake County Planning Commission?

22 And what I don't want to do is go back to Lake County
23 Planning Commission and say, "Well, I think this is what they
24 want." And then I've got to come back two weeks later or, I
25 should say, a month later or two months later and now ask them
26 for the variances that I didn't think I needed then. So we're
27 trying to get a consensus here in Concord to say, what do we
28 do? Because, again, I said it at the last meeting and I am
29 saying it again here tonight that we will put the interconnects
30 in or we won't put them in. And the plan that we had before

1 you in June only showed the connection at Girdled Road and at
2 Cali Woods.

3 So I am here again almost in the same situation I was
4 back in June, and probably a new wrinkle is the issue about the
5 gas well. And I don't have — I will surely have the
6 discussion with the owner about the lease. I can tell you that
7 I probably wouldn't feel comfortable myself discussing the
8 merits of that lease.

9 CHAIRMAN WENTZ: Sure.

10 MR. NOVAK: I would probably defer to either him or
11 possibly his attorney. Maybe he would come or maybe he could
12 write some type of a synopsis or summary of what his opinion
13 is, or maybe even your legal counsel might be able to take a
14 look at it and give some general terms. But it's, again, I
15 just, I don't know enough about that and I am not an attorney
16 and I wouldn't want to misspeak and mislead you folks or
17 mislead the people here in Concord.

18 CHAIRMAN WENTZ: I think what would be useful is the
19 fact it could be reviewed by counsel prior to our next meeting.

20 MR. NOVAK: Again, that's something I need to discuss
21 with the owner. I mean, there may be things in here maybe we
22 will have to take a big black magic marker and say, you know —

23 CHAIRMAN WENTZ: That's fine, redact.

24 MR. NOVAK: — I am making a million dollars, I don't
25 want anybody to know that, or I am making 5 cents. Again, I
26 have no clue. I don't know if they're well producing wells or
27 bad producing wells. I know they're there because I can see
28 them. I am assuming gas comes out of them.

29 MR. NORMAN: I think you are asking this Board to do
30 something that I don't believe — this my personal feeling —

1 you're going to get the kind of answer in concrete that you are
2 looking for unless we can keep this communication going and
3 improve it with the residents. I know you don't have any
4 problem with that, but I am responding to the — You're looking
5 for some direction from this Board. If you recall the June
6 meeting —

7 MR. NOVAK: Yes.

8 MR. NORMAN: I hate to say it. You walked out of
9 here and I didn't have a comfort feeling you knew what you were
10 going to do.

11 MR. NOVAK: I didn't, and I admitted that. And I
12 believe if you — and so I don't have a problem with trying to
13 set up a meeting with these folks and trying to come up with
14 some options. I think they need to be understanding in the
15 fact that those options are — we could come up with a plan
16 that, I would hope we could come up with a plan that could
17 satisfy the folks in this room.

18 CHAIRMAN WENTZ: I think there is grounds for saying
19 there is a likelihood that you can solve the interconnect
20 problem that both sides are going to be relatively comfortable
21 with.

22 MR. NORMAN: Or uncomfortable.

23 CHAIRMAN WENTZ: Or relative uncomfortable but
24 acceptable.

25 MR. McINTOSH: I think, you know, going back to the
26 June meeting and you were asking the same question again, what
27 do we want? And you said back and forth between here and the
28 Planning Commission kind of guessing. You have feedback and
29 you have citizens here that are willing to sit down. I think a
30 little facilitation there is going to eliminate a lot of that

1 guesswork.

2 MR. NOVAK: And I am more than —

3 MR. McINTOSH: Because the plan that you did present
4 here addressed some of the substantive conversation that we had
5 in June or that took place in June and I view it as a positive
6 step forward. It seems like there are still a few lingering
7 things and, I think, some good feedback here this evening.

8 MR. NOVAK: And, again, I will, you know, be in
9 contact with the zoning department and, hopefully, they can
10 help facilitate that meeting. I'm more than willing to discuss
11 these options and explain to them what I know as the rules and
12 regulations of not only this Board but of the Lake County
13 Planning Commission.

14 The only thing that I would ask is that if you
15 have — if you're suggesting that meeting and you're suggesting
16 that we have some type of review, either by our legal counsel
17 or your legal counsel, of the lease, I would ask that maybe if
18 you could put something in a correspondence to me so that I can
19 say, okay, here is what they're looking for, Mr. Developer.
20 This is, you know — some direction, realizing that we've not
21 come to the final conclusion yet but, at least, it's giving me
22 a little more substance to go back to the developer and say,
23 This is what we are looking for.

24 CHAIRMAN WENTZ: I don't think we want to come to the
25 next meeting and have the lease terms for the first time before
26 us in the gigantic legalese of most leases.

27 MR. NOVAK: No. Again, if this means that I have to
28 come to the next meeting and say, "Well, we're not there yet.
29 Let's table it for the next meeting," I don't have a problem
30 with that and I don't believe the developer has a problem with

1 it, but we will do —

2 CHAIRMAN WENTZ: I don't think there is a lot of room
3 to cover here, I really don't.

4 MR. NOVAK: The lease, again, it may be very simple.
5 It may just say this, this, or that, and it could be very
6 easy. It could be, oh, wow.

7 MR. NORMAN: Can I ask a question of counsel? Mike,
8 do we have — Let me put it, is it within our authority to get
9 into things like the lease and the wording of the lease when
10 the mineral rights have been let out to a piece of property
11 like this and how it may or may not affect what we're going
12 forward with the development?

13 MR. LUCAS: Well, under the review process, you're
14 allowed to ask for any other information you consider relevant.

15 MR. NORMAN: Okay.

16 MR. LUCAS: So it's, certainly, perhaps an
17 understatement that Mr. Schindler feels that's relevant.

18 CHAIRMAN WENTZ: That, in itself, is an
19 understatement.

20 MR. LUCAS: Right.

21 MR. NORMAN: Thank you, Mike.

22 CHAIRMAN WENTZ: Are we relatively clear on —

23 MR. LUCAS: You know what? I should add as well, I
24 agree with what David is suggesting in terms of, let's make
25 sure we're all on the same page of what we're specifically
26 asking for and that, as best as we're able, it's all inclusive,
27 so that if he comes back next month, all of the sudden, oh, by
28 the way, what about this?

29 MR. NORMAN: Yeah, we don't want to throw surprises
30 at him next time.

1 MR. LUCAS: It is not even a question of throwing
2 surprises. I think it's trying to use efficiently the time
3 before the next meeting because it seems evident that we're
4 going to be in recess as to the public hearing. If there is
5 anything else that any of the members of the Commission want
6 him to, at least, broach with his client then we should address
7 it right now.

8 MR. SCHINDLER: I am going to make a request. Based
9 on what I said and what we heard tonight, I think we're all in
10 favor, and I've always been in favor of conservation
11 development. That's a given. We worked many years to do this
12 and I sure would like to see you develop it this way.

13 But in regards to this particular parcel and what we
14 have discussed tonight, I know we have to have access. We have
15 to have the access for the fire department and safety, and I
16 will bring up an instance why. Where I have lived for the last
17 37 years, we've had so far two 100-year rains. Down at the end
18 of my development is a creek. Now, if they wouldn't have put
19 the road Brenel Drive, where I live, all the way through to
20 Hoose, when we had those two big floods, we would have had a
21 street, Heidi, that was — not Heidi, I'm sorry. A senior
22 moment — that wouldn't have had access and those people would
23 have been marooned there until the flood waters went down, and
24 it took two and a half days for it to go down. If they would
25 have had an emergency, they wouldn't have been able to get to
26 them.

27 So in regards to this, I know the residents don't
28 want the traffic to go through because I can speak to that too
29 because now I have traffic running through from Hoose Road
30 using it to a cut-off and many times people fly down that

1 street, so it was a double-edged sword. But to try to
2 eliminate the double-edge sword in this case, I would say that
3 I know the county requires you to have access and I want to
4 have access for the fire safety. Put the access there in such
5 a way that, if they put a fence across there, only they would
6 have access in case of an emergency if they had to get in
7 there, which we did bring up before and we discussed that as a
8 possibility. Right now, me, to try to vote favorably on this,
9 I would like to see this. That being one.

10 Second, what we talked about tonight about the rights
11 for this well, I would like to find out what that agreement is
12 and what kind of requirements or what kind of protection the
13 residents would have in this if it comes to the soil and gas
14 company would have the rights to come back. I would want the
15 residents to know, if they start buying into here, what they
16 could expect, possibly, in the future. The only way we're
17 going find that out is knowing what the agreements were with
18 the gas companies.

19 If you can get those two things for me and let me
20 know what it is to give me a comfort level, then I know I would
21 have a means to vote on this, possibly, favorably. But this is
22 what I am requesting. I don't know what the rest of the
23 members want. But, this way, you at least know now what
24 direction Frank Schindler wants as a member of the Zoning
25 Commission. Okay?

26 MR. NOVAK: And I will make every attempt to do those
27 things.

28 MR. SCHINDLER: Fine.

29 MR. NOVAK: One question I would want to — or task,
30 maybe, I will give back to you.

1 MR. SCHINDLER: Yes.

2 MR. NOVAK: Would be, I would also like to hear the
3 comment back from the fire chief of putting in this emergency
4 drive with a gate and so forth because I can see some inherent
5 problems with that.

6 MR. NORMAN: So can I.

7 MR. NOVAK: You put a gate, it's not maintained, it's
8 not plowed in the wintertime, or a tree falls down, whose
9 responsibility is it? Again, I want everybody here to realize
10 that. Interconnects, no interconnects, emergency driveway, so
11 forth and so on, we're willing to go whatever path we need to
12 go. But, again, I would hate to see us get down that path —
13 and I am just saying we need to open all the doors and ask all
14 the people. Okay? We're asking these folks, we're asking
15 these folks. I think we also need to talk to the fire chief
16 because, again, he is one of the people who commented about
17 that. And when he was at the last meeting, he was very
18 concerned and, I think, even his comment that he sent back to
19 the Board, saying — somebody quoted it in the audience — if
20 you have more than 30 lots, you've got to have this and that
21 and so forth. But even when you talk about that stuff, we have
22 more than 30 lots and we have two connections. It's really not
23 us that is in violation of those two connections. It's because
24 we're doing this development and those connecting developments
25 were supposed to interconnect eventually in the future and now
26 the future is here is what the fire chief is actually looking
27 at and saying, "Hey, I signed off on this as a temporary
28 cul-de-sac because I knew or, at least, it was my understanding
29 that this road was going to come through some time in the
30 future, and now the future is here."

1 MR. LINGENFELTER: That's right.

2 MR. NOVAK: And so if we go and we say we're going to
3 put in an emergency driveway, you know, who is going to
4 maintain it? Who is going to care of it? Who is going to have
5 the key? Who is going to have all these things?

6 MR. SCHINDLER: That's the thing. When he was here
7 and he mentioned that, we would know that he, the fire
8 department, would have to have a key for it, depending on what
9 kind of access you put in, in the first place.

10 MR. NOVAK: Right.

11 MR. SCHINDLER: Whether it's an automatic thing like
12 they have on the turnpike for the Highway Patrol, they just
13 push a button and they have access to get on. That's the form
14 that they use. But you guys would have to come in agreement
15 whether it was something like that or a key.

16 You have to understand, too, once the development
17 gets completed, now it becomes a dedicated road for the
18 township. It would become the township's responsibility.
19 Correct me if I am wrong. When they do the plowing, they would
20 have the key.

21 MR. NOVAK: I don't know if that's — again, I go to
22 that emergency driveway and I am not quite sure. Is that a
23 full width pavement?

24 MR. SCHINDLER: You are right.

25 MR. NOVAK: Is it a gravel driveway? Is it a — In
26 some instances, what we have done for access where it's a
27 limited access area, they put down either these brick pavers
28 with holes in them that allows the grass to grow up so that it
29 looks like it's grass but it's not so you can drive a fire
30 truck across it. I mean, there are a lot of options. All I'm

1 saying is, if we're having that discussion, I don't want to go
2 and say, okay, all these folks here say emergency drive,
3 emergency drive, emergency drive, and then the fire chief gets
4 wind of it and goes, "Man, I don't like that."

5 MR. NORMAN: He may well say that anyway.

6 MR. NOVAK: He may. He may.

7 MR. NORMAN: The thing that we all forget is that he
8 is going to have to put a garage door opener in every one of
9 his fire trucks. Can't you see them coming down the road with
10 his garage door opener, "Come on, open up, you sucker." I can
11 hear that now.

12 MR. SCHINDLER: All I am saying is, you are right.
13 Find out if there is a way that this can be addressed.

14 MR. NOVAK: And we're more than willing to do that.

15 MR. SCHINDLER: Good. Because then you'll come back
16 and say, "This is how we're going to do it, Frank," right?

17 MR. NOVAK: I think we need to have the fire chief
18 and maybe the sheriff's department and —

19 MR. SCHINDLER: Exactly.

20 MR. NOVAK: There is a lot of people.

21 MS. LUHTA: Service director.

22 MR. SCHINDLER: Absolutely. But you said tonight you
23 wanted some direction and I am giving you a direction.

24 MR. NOVAK: All right.

25 MR. SCHINDLER: Okay?

26 MR. NOVAK: Yes.

27 MR. SCHINDLER: Now you know what it is. You don't
28 have to walk away and say, "I don't know what these guys want."
29 You know right now what Frank wants —

30 MR. NOVAK: Okay. Yes, I do.

1 MR. SCHINDLER: — if you expect Frank's vote.

2 MR. NOVAK: And I do.

3 MR. SCHINDLER: Okay.

4 MR. NORMAN: Frank, Frank, don't be so violent.

5 MR. SCHINDLER: I am just saying, I get tired of
6 sitting on this Board sometimes and we get chastised by saying
7 we don't give people direction or we're not looking out for the
8 community. Well, tonight, my chairman blood is up. He said he
9 wanted something. I am giving it, not only to him but to the
10 residents, all right, so you people know that I am here too
11 looking out for your best interest. And I don't want to hear
12 or read in the paper or get a phone call from somebody that
13 said that Frank doesn't give a darn, all right, because Frank
14 does give a darn. That's why I've been on this Board for over
15 29 years, because I give a darn.

16 MR. LUCAS: All right.

17 CHAIRMAN WENTZ: We'll quote you on that.

18 MR. SCHINDLER: All right.

19 (Applause.)

20 CHAIRMAN WENTZ: Any other areas we think are hot
21 buttons?

22 MR. NOVAK: No. As far as I know, it's the two: We
23 have to have a discussion about interconnects, how we are going
24 to address that, and some communication back to the Board as to
25 the language within the lease.

26 MR. NORMAN: I think in your, for yourself and for
27 your client, you have every right to request a correspondence
28 from us. That's my humble opinion.

29 MR. LINGENFELTER: Well, you know what? I would like
30 to ask something, too, and this is totally unrelated to all

1 these other things because I don't — you know, mineral rights
2 and all that other good stuff, I think that's why they have
3 attorneys to do real estate transactions and title searches,
4 and all that should be addressed when a person buys a piece of
5 property. They should be made aware of that stuff. I don't
6 think that's really for this Board to control or be concerned
7 about.

8 What does concern me is on these wells and their
9 infringement on the open space, that does bother me. And if we
10 have a certain amount of space that is being infringed upon in
11 the open space by these wells then I would bring into question
12 whether they truly should count as open space, whether that
13 should be eliminated from the open space calculation. Now, I
14 don't know how much of an effect —

15 MR. NOVAK: Just — I don't mean to cut you off
16 short.

17 MR. LINGENFELTER: No, go ahead, cut me off. I am
18 used to it.

19 MR. NOVAK: Our plan, as it is shown, there is, like,
20 a box around the two well heads and there is a box shown on the
21 plan that is around where the separators and tanks are going to
22 be. That has already been eliminated. As part of the
23 calculation that we did, that area has been eliminated from the
24 open space calculations for the requirement for the RCD zoning
25 and the bonus density.

26 MR. NORMAN: Now, let me take that one step farther
27 though. When you move the tanks and the separator and the rest
28 of them, now, you're repiping a lot of that, aren't you?

29 MR. NOVAK: Yes.

30 MR. NORMAN: Now, that now becomes an interesting

1 easement issue. And, by that, I mean now the open space has an
2 easement through it by the utility — I am going to call them a
3 utility now — by the utility through the open space where they
4 can go in and do whatever they want with it, right?

5 MR. NOVAK: Yes, you could. But it is our intention,
6 because we would then have a public right-of-way, that those
7 gas lines, as there are gas lines through most public right of
8 ways, these gas lines, we've had conversations with the
9 Planning Commission and it was my understanding that we could
10 route these gas lines from the well heads to the separator and
11 so forth through the public right-of-way.

12 MR. NORMAN: Through the public right-of-way, not
13 cutting —

14 MR. NOVAK: Yes, not through, right, we are not going
15 to cut through our lots or through the open space and so forth.

16 CHAIRMAN WENTZ: The question is whether the utility
17 has rights to enter that open space for some other reason.

18 MR. NORMAN: Well, that is all lease driven. I have
19 no idea and nobody else does.

20 CHAIRMAN WENTZ: Right, we don't know.

21 MR. NOVAK: That would all be within that, I am
22 assuming, would be within that lease document.

23 MR. NORMAN: Yes.

24 MR. LINGENFELTER: I am just concerned, well,
25 specifically, the one on the front that's up near Girdled Road,
26 I am not as concerned with because that one is close to the
27 road. You can see it. That's easily accessed from Girdled
28 Road. There could be a driveway or whatever to those, to that
29 one. It's the one in the back that really kind of puzzles me
30 because it's kind of locked in between a couple of lots. It's

1 partially — and I don't know if this is to scale and actually
2 accurate but it looks like the part is on the back of the one
3 lot.

4 MR. NOVAK: What you're missing there is the only —
5 currently, there is a well, there is a well head between
6 Sublot 2 and Sublot 3, and what you are referring to is the
7 tanks that are actually on the Sublot 3. What our proposal is
8 is to take the tanks and the separator from this gas well down
9 by Sublot Number 2, those would be moved up onto Girdled Road.
10 Also, the one, the well that is currently between Sublot 28 and
11 Sublot 27, its gas well or its tanks and separators are on
12 Sublot 25 and 24. Those also would be moved up so that there
13 would only be — all you would have within the development are
14 the two well heads, and the tanks and the separators for both
15 well heads would now be out on that square out on Girdled Road.

16 So the, again, from a maintenance standpoint —
17 again, I am not a gas well expert, by any stretch of the
18 imagination. I know it's a hole and gas comes out and so forth
19 and so on. But the maintenance and so forth on the gas well is
20 very limited as compared to the separator and the tanks. So
21 all of the equipment, all the ancillary equipment would be out
22 in that one block out on Girdled Road. Just the well head
23 would be — and they're both in relative close proximity to the
24 proposed road.

25 MR. LINGENFELTER: Right.

26 MR. NOVAK: So that would give them, you know, they
27 could pull their trucks up, right up to the, you know, stay on
28 the pavement, go do whatever they have to do to the well and
29 move on.

30 MR. LINGENFELTER: And you're saying that the

1 infringement of those two wells on the open space has been
2 deducted from your —

3 MR. NOVAK: That area has been deducted from the
4 total calculation. Also, the area up on Girdled Road where the
5 separator and the tanks are now located or proposed to be
6 located, those areas have been excluded. I mean, we could call
7 them Block A and B and not call them — or A, B, C, each well
8 and the tanks and not call them open space, if that's a
9 confusion here but it's —

10 MR. LINGENFELTER: I think it wouldn't hurt from some
11 sort of designation of that.

12 MR. NOVAK: I mean, we could outline it on the table,
13 we can — I thought we had actually put some acreages on there
14 but maybe we didn't, but we could label the acreage so that,
15 again, it would be a little bit more definitive for this Board
16 to review.

17 MR. LINGENFELTER: Either eliminate it from at the —
18 In the appearance of the drawing, it looks like it's included
19 in the open space, so if you could either designate it with a
20 different color —

21 MR. NOVAK: I was thinking about that because, again,
22 one of the things is — for instance, there is that little
23 strip of land that goes along Sublot 8 because it's less than
24 50 feet.

25 MR. LINGENFELTER: Right.

26 MR. NOVAK: So what I can surely do is, all those
27 areas that are excluded, I could make orange or something so
28 that —

29 MR. LINGENFELTER: Yeah, just designate them so —

30 MR. NOVAK: So that you know that those are not part

1 of the area calculation for the open space.

2 MR. LINGENFELTER: Okay, that would be helpful.

3 MR. NORMAN: Just for my own edification, why do you
4 have that little strip? Why didn't you give that to a lot?

5 MR. NOVAK: Do you want the honest answer?

6 MR. NORMAN: Yeah, I really do.

7 MR. NOVAK: I don't know if I actually want to say
8 this, you know, in a public forum.

9 MR. NORMAN: Well, you're hooked now.

10 MR. NOVAK: Because I was too lazy, I will be quite
11 honest with you, because what I should have done is I should
12 have just squashed all those lots next to it and added a foot
13 to all the lots and then we would have eliminated it, and I
14 think it makes sense to eliminate that.

15 MR. NORMAN: I think so, too. It's crazy.

16 MR. NOVAK: I agree. I agree. But I was under the
17 guide to spend as little time as I can, which equates to money,
18 so on and so on, so I took a shortcut and I probably shouldn't.

19 MR. NORMAN: I am not criticizing.

20 MR. NOVAK: You are not the first one to ask that
21 question.

22 MR. NORMAN: Well, now I am disappointed.

23 CHAIRMAN WENTZ: Okay.

24 MR. LINGENFELTER: Mr. Chairman, I make a motion that
25 we recess this public hearing.

26 MR. NORMAN: I'll second.

27 CHAIRMAN WENTZ: Motion made and seconded. All in
28 favor, please say "aye."

29 (Five aye votes.)

30 CHAIRMAN WENTZ: Opposed?

1 (No nay votes.)

2 MR. NORMAN: Now, before we go away, Kathy, can you
3 generate a draft letter because I don't want to do this —
4 would you review the letter to make sure it is not off base?

5 MR. LUCAS: I would be more than delighted to assist.

6 MR. NORMAN: Thank you.

7 CHAIRMAN WENTZ: Okay.

8 MR. NORMAN: Could you do that?

9 MS. MITCHELL: Write a letter to the developer asking
10 what the request are.

11 MR. NORMAN: Yes.

12 CHAIRMAN WENTZ: All right.

13 MR. LINGENFELTER: Why don't we give them —

14 CHAIRMAN WENTZ: We will give you a few minutes for
15 those people who don't want to say for the rest of the show.

16 MR. LINGENFELTER: We will take a break.

17 (Short break.)

18 CHAIRMAN WENTZ: Okay, guys. Let's get ready to
19 start again. Okay. The third item on the agenda is the issue
20 with regard to the tabled one and we're not going to be doing
21 that, so the last item is the discussion of gas wells and
22 consideration of proposed distances for new construction.
23 Kathy was good enough to put together the package that we asked
24 for last time which shows the existing regulations in other
25 townships in the area, and I believe she also has some details
26 besides just the distances.

27 So, I guess, my first question is, have we all had an
28 opportunity to look at this? When I looked at it, it seems to
29 me that there is a certain consistency among these townships.

30 MR. LINGENFELTER: I think it's summed up pretty

1 succinctly in the e-mail from Steve O'Prince, a geologist from
2 the Ohio Department of Natural Resources, and he says the
3 state's space rules do not allow wells to be drilled closer
4 than 100 feet to an existing dwelling. While we don't regulate
5 placement of buildings to existing wells, we generally suggest
6 that distance has a guideline for new construction. And if you
7 look at a lot of the examples, there are several that use the
8 100-foot buffer.

9 CHAIRMAN WENTZ: Right.

10 MR. LINGENFELTER: So I think that's a pretty — I
11 think that would be a good spot to start as far as a distance
12 is concerned.

13 CHAIRMAN WENTZ: That would be my opinion, too, that
14 if we're going to stake out some area here that we think we
15 should have the regulation on, that's a good place to start
16 from.

17 MR. LINGENFELTER: I think so. And that was in an
18 e-mail to the Department of Natural Resources from Bruce
19 Bullard and that was his reply back to Bruce, for the record.

20 CHAIRMAN WENTZ: Right.

21 MR. SCHINDLER: I see they do have a standard though
22 of increasing it to 300 feet when there is a drinking well.

23 MR. NORMAN: Yeah, when it's near a drinking well,
24 absolutely.

25 MR. SCHINDLER: Is there a way we can put that in, to
26 incorporate that?

27 CHAIRMAN WENTZ: Is it, is that a requirement or is
28 that testing is required at 300 feet?

29 MR. NORMAN: Where did I see it?

30 MR. SCHINDLER: State testing is required when

1 drilling is proposed within 300 feet of a drinking well,
2 drinking water well.

3 CHAIRMAN WENTZ: It doesn't prohibit.

4 MR. SCHINDLER: We do have a lot of wells, especially
5 in the eastern part of the township. And, you know, there has
6 been articles and instances that we've read about over the
7 years about people's well that got contaminated because of gas
8 wells.

9 CHAIRMAN WENTZ: So you are saying that maybe our
10 regulations should require that if you are going to build a
11 house within 300 feet, you need to have your water tested prior
12 to? How are you going to do that though? You have to drill a
13 well.

14 MR. NORMAN: Yes. And the down side of that, guys,
15 the way they drill wells, they fracture the soil. With the
16 fluids that they use, that gas flows right through and goes out
17 this way. It's not brought into the well then.

18 MR. SCHINDLER: If a person, for example, has a well
19 and it's already on his property, would we put in there a
20 stipulation that it is required that they can't drill a well
21 within 300 feet of said person's well? No? Because you're
22 right. I met this past week with Dan Conley, from Ohio Water
23 Service, to discuss the topography of the township, and it
24 varies throughout the township as far as subsoils. It goes
25 from 10, some areas 15, some 8. It's greater the farther away
26 from the lake that you get as far as subsoils. And that's the
27 only, he says, we regulate, is that once you get down to the
28 bedrock, of course, then they drill for thousands of feet
29 sometimes.
30 Sometimes they drill thousands of feet.

1 Now, unless the gas well company takes, makes sure
2 they take steps to, when they're drilling, to start putting the
3 jackets down, of course, and maintaining the pressures and
4 everything within the jacket, the liners of the — for the well
5 and capture that — Then, of course, then they put the concrete
6 down there after, as the drilling is done to make sure it stays
7 within that concrete area — you have no idea where it comes
8 up. It might eventually funnel out over time. And that's why
9 I was thinking about the distance for drinking water, for one
10 thing. Maybe the distance for a person's well, we should put
11 that distance greater to minimize this possibility of
12 contaminating a person's well because once it's contaminated,
13 that's it.

14 CHAIRMAN WENTZ: But we're only going to be
15 regulating placement of a house next to a well.

16 MR. SCHINDLER: Yeah.

17 CHAIRMAN WENTZ: So there is no — an oil well, so
18 there is no water well.

19 MR. SCHINDLER: No.

20 CHAIRMAN WENTZ: It's where they choose to put it.
21 The question is, do we want to regulate where they choose to
22 put their water well?

23 MR. SCHINDLER: I was just bringing it up for
24 discussion. Is there a way we can address that, possibly, that
25 issue, trying to minimize if something happens to a person's
26 well. Of course, if you already have the utilities and sewers
27 and stuff already, it's not an issue. You already get that
28 taken care of. But if someone's livelihood is a well, how can
29 we, what can we do, if anything, to try to minimize that as a
30 possibility of being contaminated?

1 CHAIRMAN WENTZ: That is a tough one.

2 MR. SCHINDLER: Yes. And the drilling distance from
3 an occupied residence, for example, we're looking at the 100
4 feet. I mean, every person's life, to me, of course, is very
5 important but, as you know, there has been talk about drilling
6 a gas well right by St. Gabe's where now we have hundreds of
7 school children. Is 100 feet adequate? I am not saying it
8 because it's my parish, I'm saying it because I am concerned
9 about school children that come from all over Concord that are
10 going to be there. And they have several buildings. As you
11 know, they have the main school, they have the church, and they
12 also have an area for prekindergarten school, too. Where the
13 food bank is, there is another, that's another right there,
14 also, a dwelling that would be subject, you know, to being
15 close to the well.

16 MR. LINGENFELTER: We have our legislatures and
17 everybody else, regulators, to thank for this mess. I think,
18 at some point, you have to stop worrying about what you can't
19 control and worry about what you can control.

20 MR. SCHINDLER: Yeah.

21 CHAIRMAN WENTZ: I am pretty comfortable with putting
22 at least one stake in the ground for 100 feet for new
23 construction, recognizing we can reassess this at some point in
24 time when there is more information.

25 MR. SCHINDLER: I understand.

26 CHAIRMAN WENTZ: But we have a window of opportunity
27 for having some legislation.

28 MR. SCHINDLER: Yes.

29 MR. LINGENFELTER: I mean, bottom line, my position
30 is that people build houses next to freeways, people build

1 houses next to railroad tracks, you know, people build houses
2 next to chemical facilities, they build houses wherever they
3 want and they buy them willingly and nobody is holding a gun to
4 their head to do it, and I think the same should hold true with
5 gas wells. If you want to put your house next to a gas well, I
6 think that's your decision. And if the builder can't sell the
7 lot then that's his problem for putting it in a place where
8 nobody wants to buy it.

9 I think, as long as people have the freedom do chose
10 where they want to live and where they want to build a house,
11 far be it from me to say you can't do it. I mean, that's just
12 my opinion on it. I really think we made a big issue out of
13 something that really — Like I said, are you going to tell
14 people they can't build a house next to a freeway because a
15 truck could crash and toxic chemicals could get spilled and
16 they'll have to leave their home?

17 We just had a whole trail derail down in Painesville
18 Township whre hundreds of residents had to be moved because
19 they built their house next to a railroad track. I mean, at
20 some point in time, you can't legislate common sense. And if
21 you want to build your house on top of a gas well, that's your
22 business, not mine. You can blow yourself to Kingdom come. I
23 guess that's your problem, you know? Why do you want —
24 I mean, nobody forced that person to build the house there, you
25 know? I mean, that's just, to me, you put your house where you
26 want to put it, you pay the money, you live with the risks,
27 and that's why your house is cheaper than everybody else's.

28 I get carried away with this stuff and — I don't
29 know — to me, sometimes it's not worth all the deliberation.

30 CHAIRMAN WENTZ: Kathy, I would like to see a

1 proposed piece of regulation for the 100 foot and we can vote
2 on it.

3 MS. MITCHELL: Well, as simple as or as elaborate as
4 some of these? I mean, do you want to talk about some of the
5 options? Do you want it as straightforward as a statement that
6 says, "All new buildings shall be erected no closer than 100
7 feet from any existing well"?

8 MR. LINGENFELTER: I like Bath Township.

9 CHAIRMAN WENTZ: I don't remember that one.

10 MR. LINGENFELTER: It's short and sweet and to the
11 point.

12 MR. SCHINDLER: I like it short and simple.

13 MR. LINGENFELTER: Look at Bath Township, I mean,
14 it's pretty straight forth.

15 MR. NORMAN: It's toward the end.

16 MR. McINTOSH: This one.

17 MR. LINGENFELTER: Yeah. It's a couple of
18 paragraphs. Even Olmsted Township is pretty good, too. Just
19 keep it, I think we ought to keep it as short and simple and to
20 the point as we can.

21 MR. SCHINDLER: It can just be one simple sentence,
22 as far as I can concern, then there will be no confusion.

23 MS. MITCHELL: Well, I have a question then for
24 Mike. One of the statements that one of the sample texts put
25 in their resolution was that any distance requirements shall
26 not apply to platted allotments with existing oil and gas wells
27 approved by their county planning commission prior to the
28 adoption of the amendment. You know, talking about the obvious
29 here, we have so many wells. And we start putting in these
30 distance requirements, we're going to have some people upset

1 because they put in wells without having these distance
2 requirements. Is this something we should consider as a
3 township or is that not appropriate?

4 MR. LUCAS: Well, you are talking about plats that
5 have already been filed and recorded?

6 MS. MITCHELL: Correct. I mean, that's the language
7 that they have but, I mean, if we put this regulation in and we
8 have 35-plus wells, that applies then to any new construction
9 from those existing wells or does that apply to future wells?

10 MR. LUCAS: It would apply to existing wells and
11 vacant areas and that. But the better question is, does it
12 apply to recorded plats that don't have anything built upon
13 them yet?

14 MS. MITCHELL: We have some of those.

15 MR. LUCAS: I know we do. That's why I think we
16 should — I have to think on that but my initial impression is
17 I think we should make an exception for recorded plats that
18 were done in reliance upon the Zoning Resolution in the absence
19 of any restriction at the time that they were recorded. Put in
20 some exclusionary, exclusive language on that — exclusion, I
21 should say, language on that. But other than that, I mean, if
22 you've got a well, you've got a well. The restrictions apply.
23 I will look at that, Kathy, on the initial draft before we
24 bring it back to the Zoning Commission. Okay?

25 MS. MITCHELL: Okay.

26 CHAIRMAN WENTZ: Okay. Correspondence report, Frank?

27 MR. SCHINDLER: The only correspondence we got was
28 that e-mail from Dave.

29 CHAIRMAN WENTZ: Yes.

30 MR. SCHINDLER: That was the only correspondence that

1 I got.

2 CHAIRMAN WENTZ: George?

3 MR. NORMAN: No, because I didn't read my e-mail
4 yet. I haven't been home enough to read it. I will read it
5 tonight.

6 CHAIRMAN WENTZ: I had the same. Andy?

7 MR. LINGENFELTER: As of yesterday, I didn't have
8 anything, like you say, except that e-mail in my in box.

9 CHAIRMAN WENTZ: Morgan?

10 MR. McINTOSH: Just the e-mail from Mr. Schwartz.

11 CHAIRMAN WENTZ: Now the approval of the minutes from
12 July 7th.

13 MR. LINGENFELTER: Mr. Chairman, I make a motion we
14 accept the minutes as presented.

15 CHAIRMAN WENTZ: Second?

16 MR. NORMAN: I second, Mr. Chairman.

17 CHAIRMAN WENTZ: Made and seconded. Those in favor,
18 say "aye."

19 (Five aye votes.)

20 CHAIRMAN WENTZ: Opposed?

21 (No nay votes.)

22 CHAIRMAN WENTZ: They're approved. Next meeting
23 is — We've got a calendar here.

24 MR. LINGENFELTER: September 1st.

25 MS. MITCHELL: September 1st.

26 CHAIRMAN WENTZ: September 1st.

27 MR. LINGENFELTER: The year is flying by.

28 MR. NORMAN: You did read this when you put it
29 together?

30 CHAIRMAN WENTZ: There being no other business, this

1 meeting is adjourned.

2 (The meeting was adjourned at 9:49 p.m.)

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

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 August 2009.
24
25
26
27

28 _____
29 Melinda A. Melton
30 Registered Professional Reporter

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

34 My Commission Expires:
35 February 4, 2013
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