

Scioto Township Trustees
Public Hearing of "Agape Manor"
January 11, 2008

Sandra Stults called the Public Hearing meeting on Apage Manor to order at 7:05 p.m.

All joined in the Pledge of Allegiance.

Sandra Stults stated this meeting was to consider the application by resident Lloyd Hagerty to change his zoning from FR-1 to PCD. I would like to start our meeting with Assistant Prosecutor, Chris Betts.

Chris Betts from the County Prosecutor Attorney's Office. I am here tonight to represent the Scioto Township Trustees to advise the board on legal advice and procedures.

This will be entirely a board decision. The Prosecutor's Office can not advise the board on any decision and we can only advise on procedures or legal advice they might need.

An interesting hearing, as Trustee Stults stated we are here to consider the application on the property of Lloyd Hagerty approximately 18 acres to Zone FR-1 to Planned Commercial District for the purpose of developing a luxury resort or retreat "Agape Manor.

Mr. David Dye, the Attorney who is representing Mr. Hagerty.

The project went before Regional Planning on to the Zoning Commission, which was heard December 10, 2007.

Mr. Dye will explain the recommendations made by the Zoning Commission on December 20, 2007.

Mr. Betts stated the board had three -3- choices tonight –accept – deny – or modify. That is all the board can do. To accept or deny you get one chance at the motion. Only one yes vote to accept this certification. If you accept or deny you are doing exactly what is written in this Certification paper. If the motion to accept this Certification is made and only one trustee votes to accept. The motion will pass – you only need one vote. To deny the Certification you must have a unanimous vote, also a unanimous vote to modify the Certificate.

Mr. Betts introduced Janice L. Hitzeman as an Assistant Prosecuting Attorney, who is a liaison to the township to assist the trustees.

I am now turning this meeting over to the board.

Sandra Stults, Chairperson explained how the meeting would be conducted.

Mr. Betts stated he had one more item and that was the trustees could table this Certification with the consent of the applicant.

Sandra Stults stated she was turning the floor over to David L. Dye, attorney representing the Hagertys. After the presentation is complete the audience will have a turn to speak. You will have three (3) minutes to present your information. If it gets out of control I will ask you to stop so we can continue our meeting. We will then close the floor and the board will have their discussion and make their decision.

Mr. David L. Dye who represents the Applicant will explain the overall plans of Agape. We have sent to the trustees on January 7, 2008, that there will be no cell tower permitted on this property, and a landscape buffer shall be created along the subject tract's east property line. Specifically, Applicant shall construct an eastern landscaped mound approximately five feet (5') in height within the twenty five foot (25') setback line along the property's eastern boundary, extending from the southeast corner of the site to a point approximately 1,300 north of said corner. Said mound shall be planted with grass, and at or near the top of the mound Applicant shall plant a combination of boxwoods and/or evergreen bushes of such species as will grow to not less than three feet (3') in height at maturity, planted approximately three feet (3') on center, so as to create a visual barrier of at least 90% opacity from the adjacent property to the east when combined with existing deciduous trees existing along the said property line.

There will be a bridge constructed to go over Blues Creek. We understand there are some design issues and EPA approvals we need to require from the Army Corp of Engineers that we will need to have approved, knowing the bridge will be crossing over Blues Creek and going through the 100 year flood plain area. We are aware this is required. It is not a part of your decision making, nor was it a part of the Zoning Commissions. This is a technical engineering issue on our part.

Mr. Dye explained the five feet (5') seeded earth mound along the east side of the property with plants on top to give 90% plus opacity along this entire range along with the trees along the property lines.

We are purposing a Five Star Retreat – a Corporate and couples retreat. The main building will have the Five Star Restaurant, Corporate Offices and General Manager Suite. There are five (5) guest suites, total housing of thirty five (35) per suite. A spa and pool facility and the parking lot for one hundred thirty two (132).

The Gate Entrance drawing was presented tonight.

The Restaurant use will be by reservation only, it will be open to the public upon reservation.

Also spoke to Mr. Hagerty about use of some adjacent property for nature walking trails.

There will be an on site water waste collection treatment and disposal system. EPA has approved.

We are also planning on putting sewer taps in place for when there is a sewer system and they can hook into the sewer plant.

We are contemplating construction date would be mid 2008 to early 2009. We are working with the water company and electric company.

The entrance will be on Fontanelle Road.

We are here to ask you to approve the recommendations from zoning FR-1 to PCD – Planned Commercial Office for this specific use. We understand the planned district and the fact the Planned Commercial and Office zoning district is in your code will allow a variety of other entity uses, because this is a planned district we are designing the uses that are permitted will not be able to convert this sight to a multi-family residence. We can not take the restaurant and make it a fast food drive-thru. For any change to the development plan the Applicant would return to the Zoning Commission.

We believe we have followed your Comprehensive Plan utilizing the beauty of the rural character of Scioto Township and I am requesting your approval.

Mr. Dye turned the floor over to the Architect, Antonio Colosimo for other comments.

Mr. Luke stated the gate was very attractive and my question is, is it tall enough for the fire trucks, other emergency equipment and delivery trucks.

Mr. Colosimo stated it is fourteen feet (14') by eight feet (8') high. We will have the fire department involved to make sure that their equipment has easy access.

Sandra Stults stated the floor is open for audience participation for questions and comments.

Craig Williams of 3400 Ostrander Road on the east side. I bought my property in 1975 and have two homes on the property at this time, but was planning to build on the third lot. The third house I want to build is only 150 feet from the parking lot.

My Attorney, Mr. Mike Shade could not be here tonight since this meeting is being held on a Friday night. Anyway, there are enough days in the week that this should be during the week not on a Friday night.

I had a Realtor from King Thompson come out and look at my property. I was told it would severely lower the value of his property. The houses I build do not belong next to a Wal- Mart parking lot.

The appraisal on my first house which is 27 years old is \$625,000. It would be impacted moderately. Realtor said I basically could not build the third house back there. I was going to build an eight car garage. I have 7 cars, 1 John Deere tractor, machinery that does set out, woodworking equipment, I wanted a nice pole barn next to the house and to put an elevator in it and have a nice office and build another pond.

I am really not against this project, it is not a junk yard, but I have been through this for 35 years, and The Meadows of Millcreek is already in receivership in bankruptcy and Delaware County Bank will get it back. Brian Stanfill, from Delaware County Bank is working on this. My theory and the Realtors theory is if this thing does not fly my houses are more impacted. The Regional Planning Commission said I would be impacted severely.

One reason for my notes is my Attorney stated I have to bring up certain points. What we intend to do if passed, we will have an appeal. If it lowers the value of my lots when I will sue Scioto Township and the County. My point is:

Sandra Stults, you are almost at your three (3) minutes.

Craig Williams: 1. Spot zoning, 2. Road frontage, 3. Sewer access, 4. One way in and one way out, 5. Emergency access, 6. Del Co Water – 8 inch pipe limited flow, 7. effluent water flow into Blues Creek, and 8. Not adequate buffering at line of site, eight (8) ft not high enough. I provided a line of sight drawing and not sure exactly where it is at this time. This is no different that the last time.

Mr. Dye: The actual buffer line of site is text 90% - 3 ft on top of 5 ft is 8 ft and that is minimum. We have to enhance up to 90% and when trees are full you will not be able to see. As for Blues Creek this was addressed by the EPA and sight is appropriate for this project. Use of land to the west will be walking trails – we are negotiating a long term lease with Mr. Hagerty for these walking trails. Del Co Water did not say there would not be enough pressure for emergency equipment. It would be limited. Agape would have to enhance for water pressure to a holding tank or what ever. We have to and are subject to passing Fire Inspection. Del Co will provide the water and we provide additional pressure that is necessary.

One way in and one way out not being enough is according to whom? If 100 single family homes can be put in a single subdivision with one access point, certainly the 35 units on a temporary use will not require a second entrance/access. Rezoning land use should be approved or not approved based on the suggestions that is might fail would prevent any rezoning other than residential zoning ever to take place or might also prevent some residential zoning taking place.

This is not a 150 space parking lot – this is not a Wal-Mart parking lot, Mr. Williams. The lot is 132 and will rarely be used in full.

As for the Realtor hear say what the impact will be on the property owners. We certainly do not see anything that suggest the determent to the value of the property with the buffer and set backs and the Five Star Restaurant facility.

Bill Cox, 1580 Burnt Pond Road, if you people are foolish enough to pass that, I would recommend you make it a conditional use on this road instead of commercial. That way they can use this for commercial and I have a sneaky feeling in the back of my mind since this is in the middle of Hagerty's field, it will be developed on both sides. They will come back to the board and request commercial; don't know what we will have here. I strongly think you should table this Certification. I brought up on December 10, 2007 at the meeting you should try to get access on Rt 36 from Rob Leeds. It was never discussed. The Ostrander Road and Fontanelle Road is a death trap. I recommend that the board ask these people to do an independent study on this intersection at their cost. If it needs to be revised or alternations they should pay these costs of redoing this intersection so it is safe for the people in this area.

This is from a soil survey of Delaware County, Ohio. This soil test shows this land is Morley-Blount soil and Morley soil is deep, light colored, and in most places moderately well drained. They are the steepest soils in the association. Blount soils are deep, light colored, and somewhat poorly drained. The minor soils include the very poorly drained Pewamo and the well-drained Fox. Most of this association is used for cultivated crops. The main limitations to farming are erosion on the Morley soils and seasonal wetness on the Blount. Many nonfarm uses are limited by the restricted internal drainage of the dominant soil.

Spot zoning involves an unlawful departure from a community's zoning ordinance. The Ohio Supreme Court defines spot zoning as the "singling out of a lot or small area for discriminatory or different treatment from that accorded surrounding land which is similar in character." An allegation of spot zoning is generally the result of a request to zone a parcel of land to a more intense land use classification. To sustain a piecemeal change from the zoning ordinance the challenger must argue that a rational relation exists between the proposed zoning ordinance or amendments and the public health, safety, morals, and general welfare. The rezoning of any single parcel, like the rezoning of numerous parcels at the same time, is only justified when it is done in furtherance of a general plan properly adopted for and designed to serve the best interests of the community as a whole, not for the benefit or a particular individual or group.

Sandra Stults asked Chris Betts to respond to the Spot Zoning.

Chris Betts stated Spot Zoning is an unconstitutional favoring or disfavoring of a specific piece of property. Rezoned at the expense of surrounding properties. According special treatment to a specific piece of property as compared to others. Primary consideration is whether the zoning is consistent with the Comprehensive Plan. You know your Comprehensive Plan and you know what it says about this particular area. It is up to this board to determine if this particular request for zoning is consistent with the Comprehensive Plan or whether it is not consistent with the Comprehensive Plan. This is a board decision. If it goes beyond the Comprehensive Plan there certainly has to be a good reason, something benefits the surrounding properties and community.

Mr. Dye: This is a planned zoning district with a portion of the sight is actually being zoned into the Planned Commercial District (PCD) and is for the use of proposed

driveway. We will have no other use for that area other than a driveway. I would not be standing before you tonight if we were proposing the Wal-Mart that was referred to, having to do with resale on this sight. What we are talking about is people coming in at night and spending time on a retreat basis. Which is normal residential type of activities which are enhanced by the facility, frankly anyone with a swimming pool on the property, tennis court, or large dining room on their property. The emphasis I would like to point out to the board to understand on the Spot Zoning is unconstitutional favoring. This is a transitional piece and look at the use that is likely to take place on the rest of 36 this is not going to be situated on a long term against all agricultural or all business uses. To the south we will have infiltration and this is going to provide one of the buffers as you move north to conservation preservation of the residential life style in this particular area.

Access from Route 36 would be beneficial in some ways but we do not have it. We do not control that land, we have provided an access to show how it is going to work and how it will work safely. We join in the efforts of anyone in this community who say this land needs to be enhanced and studies, improved. It is not up to one owner of 17 + acres to bare the cost of a complete burden of doing all of that study. Your Plan by definition already says the intentional use and does not require a warrant to require anyone to conduct a traffic study.

This soil use has to be taken into consideration with the EPA and Board of Soil and Water. The EPA study was completed and approved. They know what is there. They approved the sight is good for an on site system and we are planning in the future of not using this system.

Bill Cox: I have talked to the Board of Elections and was told it takes 45 days before a referendum can be put on. There is no way they could move forward on this project if the referendum is placed on the 30 day limit and filing dead line would be August 21, 2008 at 4:00 p.m. There is no rush, give yourselves a lot more time to think this through rather than rushing through it. Seems to me this has been on the fast track since day one. Thank you.

Tom Faurote, 2027 Burnt Pond Road. My major concern over the whole thing is the corner of Fontanelle and Ostrander Roads. That is my main concern. I drive it everyday of my life to work and back, three or four times a day, it is a dangerous intersection. Now, they say it is going to be light traffic. When talking about the folks staying there, you also have workers coming in and leaving every night. I think the trustees need to take a serious look at this corner and there needs to be a change, if this goes in there has to be a change on Fontanelle Road in my opinion. It is dangerous and I have nearly slid out on Ostrander Road in the winter time. I would just caution you, warn you that if something is not done whether it is a hill taken out on the right side of the road, with the folks living down the road they have to turn left on to Ostrander Road it is not an easy thing to do. So I am concerned about the corner and if this is put in there better be some changes or I think you will get yourselves in a lot of trouble. The residents will be affected by this.

Sheryl Hagerty, 8571 Fontanelle Road I share everyone's concern about the intersection. I have already presented a letter to the trustees at their last meeting to contact the County Engineer to assist on the safety of that intersection. I also E-mailed a copy of the letter to the County Engineers Office regarding that intersection. I told the neighbors to join me with letters sent to them also. This intersection is dangerous to everyone, regardless if it is Zoned Commercial or Residential. This is a separate issue whether or not this development being proposed here tonight. We, as land owners are in total agreement that something needs to happen about the intersection and we are trying to work this out.

In general, I feel it would be a good opportunity for this community to have PCd in the community. It will not have that much of an increase of traffic; it is not like a lot of houses to put a burden on the school. It will provide employment opportunities for the local people and an opportunity for us to show case the many resources that we have around us and we take for granted. Thank you.

Sandra Stults stated she has a question for Fire Chief McIntire to look at the drawing of the gates. Marvin asks how tall the gate was. Mr. Dye stated 16' 8" in the center and 12' wide. Marvin's concern was the height for a ladder truck. Mr. Dye asked Marvin the height of the ladder truck. Marvin stated we did not have one at this time.

Thomas R. Brown stated our fire doors are 16' in height.

Rodger C. Finks asked Mr. Dye what is the capability of the fire equipment using the driveway.

Mr. Dye responded that it is a twenty-four foot (24') driveway.

Chris Betts suggested to the board that the items being provided to you be made as exhibits of this hearing. With Exhibit A being the Certification of Amendments from the Zoning Commission. Exhibit B Master Plan for Agape. Exhibit C Diagram of the Gate entrance. Exhibit D Mr. William's Line of Site Drawing from his property.

Sandra Stults asked if there were any other statements from the floor.

Mr. Dye stated there would be a tax benefit to the community as well as employment opportunities.

Lloyd Hagerty 8571 Fontanelle Road For anyone wanting an update on our effort for the improvement of the Fontanelle and Ostrander Road intersection my E-mail is Hagerty@midohio.com. Contact us if you want copies of what has been sent to the County Engineer's Office or to the township.

Mr. Dye: After having the opportunity to look at the Line of Site drawing from Mr. Williams, I would encourage the Board of Trustees to recognize that the 5 ft mound plus the 3 ft drawing by Mr. Williams is about the same as the 2 ft elevation on 942 and 944. We could make it 8' which is twice as high assuming that his scale is incorrect. He would have to lower the Line of Site; there is nothing in here that takes in the account of

fact that there are 18' and taller existing trees on that property line – currently. We would certainly entertain the adding of another foot or so to add to the height of the bushes.

Mr. Williams: In my two story house I can still see the property with the 3 ft deciduous trees.

Calvin Finks: 3451 Russell Road, How tall is the fence row around your property now?

Sandra Stults stated they were tall trees no leaves (deciduous) full grown and probably 35'. Mr. Williams agreed.

Sandra Stults stated the floor was closed and the trustees will be talking and asking questions of you. I do want to let the trustees know a few things. Things we can not make our decision on the following; transportation, intersection, stream, change of water flow, we can not say no because of the soil type, drainage and septic system at that is Delaware County Health Department and Ohio EPA. As for Spot Zoning, we received information from the County Prosecutor, and in their opinion this does not meet the specifications for spot zoning. We are in consistent with the Comprehensive Plan and this is the general area we are looking at to build commercial.

Chris Betts; Traffic – can not deny – not a primary reason. We are looking primarily at Zoning. Traffic is secondary matter.

Spot Zoning – we provided a definition to the board and will make the determination as to it is consistent or not consistent with the Comprehensive Plan. This is the Board decision and not the Prosecutor's to make the decision.

Marvin McIntire: Asked if the Fire Inspector would be involved in this project.

Mr. Dye: Yes, the Inspector would be involved.

Theodore Luke: I would like to know if lighting of the gates will affect the neighbors in anyway.

Mr. Colosimo: The lights are facing the signs which are 60' from the south of Fontanelle Road, leaving room for 3 or 4 cars from road to gate to be able to see the entrance. The lights are facing the sign from the back of the pillars. These a low level lights.

Theodore Luke: Has liquor license has anyone brought up the question?

Mr. Dye: Not to our knowledge, but we understand that to serve alcohol beverages we will need to apply for a license. With a Five Star Restaurant we most definitely will need a license.

Rodger C. Finks: Mr. Betts, the amendments sent to us were approved by the Zoning Commission; if there is a split vote tonight do those agreements still continue to be enforced?

Mr. Dye: These amendments were in reply to the Zoning Commission on the change they stated upon being the cell tower and landscape buffer.

Mr. Betts: The letter of January 7, 2008, was a letter intended to be an amendment to the application. There were items raised in addition by the Zoning Commission. At the Zoning Commission meeting the applicant agreed to provide to the trustees a scaled and detailed drawing of the proposed gate that is to be installed at the project's entrance.

Rodger C. Finks: Each of the five units have 7 suites available – total of 35 occupants. Are there any suites in the main building?

Mr. Dye: There is an office and the General Manager's suite. No other guest will be staying in the main building.

Rodger C. Finks: At present time this property belongs to Mr. Hagerty. Is this property going to be leased from Mr. Hagerty or is it going to be purchased upon a rezone?

Mr. Dye: The ultimate answer to that question is 100 % decided by an offer or counter offer on an ultimate form, where currently there is a 99 year lease.

Rodger C. Finks: Sand filtering line is it outside of the line of property?

Mr. Colosimo: Entirely on sight. He showed the trustees on the map.

Rodger C. Finks: Going back to a previous comment on walking trails, are they outside the confine area?

Mr. Colosimo: Correct, We will be working with Mr. Hagerty for use of another portion of land adjacent to this area for the walking trails through the woods.

Rodger C. Finks: Question to Mr. Williams, trying to reconcile your line of sight, in the packet here we have elevation of sight at 946 on the drawing 944. I do not find 944 on the site. This and yours shows is Exhibit D. Mr. Williams came forward to explain his drawing to the Trustees and Mr. Colosimo.

Rodger C. Finks: At this time I have to agree with Mr. Williams the buffer needs to be increased in height. If you would go 10 feet, that would help. A 5 foot mound and go from 3 foot trees to 5 foot trees. Evergreens grow fast and within a couple of years the buffer would be full.

Rodger C. Finks: On Spot Zoning, I can not make up my mind. When I look at the Comprehensive Plan and see that it is in Zone 3 to further the economical growth of the township. In our Zoning Plan it is zone 3 and does not actually face 500 feet corridor down Route 36 for commercial.

Mr. Dye: Over all the big picture concept of zoning. It is really a product of transition; you are not expecting to have a Five Star facility usage on Route 36. You will have most intense commercial zoning. For this to transition to single family which is on both sides

of Fontanelle Road there is going to have to be an aggression of uses. This particular use is being almost residential in its own character being an over night stay and basically with having a low density use with people staying over night. Only thing less than residential and still have to be in a different zoning classification is some type condominium use, a park is considered more density. The concept is Spot Zoning would be favoring a use that is entirely inconsistent with the residential surroundings. Acknowledge at the same time residents surrounding are letter on a map. This is agriculture ground. There are houses that Mr. Williams owns that are 150 feet and 800 feet off the sight. There are no houses that are truly immediately adjacent. It is completely farming. As 36 develops, you will have more intense use commercial use and there will be a transition zone. This probably is in the transition zone. Nothing in your Comprehensive Plan that says that Zone 3 is to remain entirely residential. With this lot size and really preserving what happens with Blues Creek. We are not asking for any type of special favorable consideration to get out from under what your Comprehensive Plan otherwise calls for. This is kind of a benchmark for spot zoning, and is being treated specially so that you are not subject to what the plan would otherwise calls for. A transition of progressive use from commercial along 36 to large lot residential use here.

Rodger C. Finks. Hypothetical – if a manufacturing plant would want to come in on Mr. Leeds property – Mr. Williams is going to be upset, but I am sure your facility would be upset, based on what we have planned. A manufacturing plant on Mr. Leeds property outside the flood plain is consistent with our Comprehensive Plan.

Sandra Stults: Manufacturing is different, that is more industrial.

Rodger C. Finks: Yeah

Mr. Dye: It would be more like a Wal-Mart I do not think this would be object able on the basis of spot zoning. Residents yes, they would probably object.

Rodger C. Finks: If you are within the 500 feet I can honestly say I do not have a problem. What I do have a problem with is seeing, as far as the trustees, is the intersection at Fontanelle Road. Having that addressed hopefully the County will do something.

Sandra Stults: My concern is the water ways in Scioto Township. I am on the Upper Scioto Water Shed committee and I work with the Health Department and Soil and Water Conservation. I like the fact there will be a buffer there to help the streams. I am trying my best to keep green areas. They are very important to Scioto Township and why they are in our Comprehensive Plan. This would help to keep a green area there.

Theodore Luke: Up stream from this project we have a major blockage on Blues Creek. A dam made of fallen trees and we want to clear that out in the near future. How will this affect your water flow?

Mr. Hagerty 8571 Fontanelle Road Burnt Pond Road is below the flood level.

Rodger C. Finks: Blues Creek its self is obstructed all the way down to Millcreek. There are several dams that need to be cleared. I do not believe this is going to affect the water flow. Water will stay in channel areas.

Mr. Dye: May affect the high water locations, but I would be very surprised if it would have any affect on this project.

Mr. Dye: Comment on tree height, this would also increase growth. Statement on my amendatory letter that the trees be not less than 3 feet and planted approximately 3 feet on center. That 3 foot on center distance is going to be affected. (due to coughing could not get the complete sentence)

Chris Betts: I feel this meeting is about to close. I would like to remind everybody where the perimeters are. It can be approved – modified – or denied. A modified or denied, as I mentioned before has to be unanimous. This could be tabled if you got permission from the applicant. This would be for gathering more information. I would also suggest you appoint a board member to put together something like a Certification to the Zoning Commission Board. This is what we found and why . I encourage the board to do the Certification.

Rodger C. Finks: Mr. Betts –for the letter of January 7, 2008, with the modification concerning the cell tower and gates, does that need to be included.

Chris Betts: As my understanding that the January 7, 2008, letter is an amendment to the Zoning Application and becomes part of the application. What you are looking to do is approve, modify or deny tonight is verbatim, as for what the Zoning Commission did, nothing more or nothing less.

Sandra Stults: 5 foot trees and 5 feet center.

Mr. Dye: We are amiable to that to that becoming part of the application.

Theodore Luke: I am ready to make a motion.

Mr. Williams: I want to read what Mrs. Swartz said in the Public Hearing, It is just a narrative of the landscape plan? Because I haven't really seen a whole lot of particulars pictorials other than—in there an elevation?

Mr. Dye replay at the Public Hearing: We will agree to enhance what is there, so we've provided to submit an enhanced drawing as well.

Mr. Williams: I do not feel there are enough changes on showing 3 trees and not staggered. This does not look natural. My point is what you are going to rule on is what Mrs. Swartz's talked about; they never did meet what they said they would do. They are showing 3 trees, 3 feet tall-talking about 5 feet trees – 5 feet apart does not look like anything they are doing over there. I think anyone here would agree that if you had a 5 foot tree – 5 foot high and 5 feet apart on top of a mound it would not look natural.

Mr. Dye: What I think Mr. Williams is referring to is the profile view where you see 3 bushes. In depth these are staggered and some are closer to his property line and some closer to the building and some are more centered. You can see the staggered appearance as there are 4 here and 3 here staggered along the mound all the way through the drawing which are revisions from the last time showing, you aware of, familiar with and intent to meet the concept of Mr. Williams's acknowledgement. Larger boxwood trees and evergreen combinations.

Mr. Williams. If you are going to approve this I want you, or would like you to talk more about a staggered situation so they are closer and you won't be able to see straight through.

Mr. Dye: Our intention is to stagger; it is not possible to show every bush on the drawings.

Sandra Stults: With building a mound, are you changing the drainage patterns?

Mr. Williams: They can not change my water way or my pond will go dry. I have a plate under my driveway and your water would run off your parking lot to fill my pond. Am I still going to get this water for my pond?

Mr. Colosmio: Would you prefer a pipe through there?

Mr. Williams: I don't know what I prefer now; I won't have water for my pond. My point is they have to drain their parking lot and if it is a problem for me, then I am not getting enough water, is it possible to get water to my pond?

Mr. Colosimo: Put a culvert so to speak and drain it down thru their property to yours. Is that acceptable to you?

Mr. Williams: Well yeah, if it will work. I need the water flow.

Mr. Williams: I want to make one last point. If you have these trees here and you put them 5 feet apart that puts them 10 feet apart.

Sandra Stults: We understand.

Mr. Williams: Then don't, when you guys do this, say what you want say so, what you want to say and don't come back and change the line like you did before.

Sandra Stults: How was it changed?

Mr. Williams: Last time it was line of sight not 3 foot.

Theodore Luke: I'll make a resolution that the Scioto Township Trustees approve the recommendations of the Scioto Township Zoning Commission as presented in their certification to the Board of Trustees for approval of the proposal presented by Mr.

Hagerty for the Agape Manor to rezone the lands identified 17 acres + or minus from Farm/Residential District (FR1) to Planned Commercial and Office District. (PCD).

Sandra Stults seconded the resolution.

Discussion followed:

Rodger C. Finks: I would like to amend and stipulate to Mr. Dye' assertion that there will be no cell tower, and that a landscape buffer shall be created along the subject tract's east property line. Specifically, Applicant shall construct an earthen landscaped mound approximately five feet (5') in height within the twenty-five foot (25') setback line along the property's eastern boundary, extending from the southeast corner of the site to a point approximately 1,300 north of said corner. Said mound shall be planted with grass, and at or near the top of the mound Applicant shall plant a combination of boxwoods and/or evergreen bushes of such species as will grow to not less than five feet (5') in height at maturity, planted approximately five (5') on center, so as to create a visual barrier of at least 90% opacity from the adjacent property to the east when combined with existing deciduous trees existing along the said property line.

Sandra Stults seconded the motion with the above amendments.

Vote:

Sandra Stults Yes

Theodore Luke Yes

Rodger C. Finks Yes

Motion passed.

Sandra Stults: It will benefit the community

Rodger C. Finks: I make a motion that Sandra Stults write up the reasons for the approval.

Sandra Stults: I will be happy to.

Theodore Luke: I second the motion.

Vote: Unanimous.

Rodger C. Finks: You have 30-45 days to file a referendum. You need 90 votes

Theodore Luke moved to adjourn

Rodger C. Finks seconded the motion to adjourn.

Vote: Unanimous.

Public Hearing adjourned at 9:00 p.m.