

March 9, 2011  
Public Hearing and Regular Township Meeting

Chas Kaiser called the meeting to order at 6:02 p.m., March 9, 2011 of the Board of Scioto Township Trustees.

All joined in the Pledge of Allegiance.

Roll Call was answered by Sandra Stults, Rodger C. Finks, and Chas Kaiser.

Others in attendance: Susan Olson, Alesha Showman, Sharon Showman, Colleen Stephan, Julie Andrews, Alec Andrews, Andy Zarins, James C. Blaney, Aletha M. Blaney, Karen Eddy, D. Eddy, Tim Wals, Linnet Knight, Andy Knight, Shane Dawson, Mike Kelley, Gil Bundy, Kris Bundy, Julie Mrozek, Matt Mrozek, Chris Baker, Calvin Finks, Bill Swaney, Bruce Stayner, Matt Stayner, Mike Knapp, Jeff Kasburg, Brenda Jervis and Kim Tebo.

Chas: We will be going right into the Public Hearing scheduled for 6:00 p.m. to the re-zoned application FR1 to Planned Commercial. The first thing I would like to do with the help of the Board and Zoning Inspector is to describe the definition of Planned Commercial, Article XIV – Section 14.01

Purpose: The Township recognizing that with increased urbanization and population growth comes increased demand for well organized commercial areas to provide employment, goods, and services to area residents as well as Commercial and Office District, intending hereby to promote the variety and flexibility of land development for commercial purposes that are necessary to meet this demand while still preserving and enhancing the health, safety and general welfare of the inhabitants of Scioto Township.

Chas: Further we have a development plan in some very pursuance criteria for the Planned Commercial. Tom, would you like to elaborate a little more on # 3, the exception and modification section page 63.

Tom, Yes, and I will retreat to my office. The 2008 printing of the Resolution does not have exactly the same language as the current Resolution reads.

#### Extension or Modification of Final Development

- 1, Plan may be granted by the Scioto Township Zoning Commission provided they find that such extension is not in conflict with the public interest.
2. A request for minor changes to the Final Development Plan may be approved by the Scioto Township Zoning Commission. Requests for minor changes shall initially be made to the Scioto Township Zoning Commission, which shall determine if the change is minor. In approving requests, the Scioto Township Zoning Commission may impose

conditions, safeguards and restrictions in order to carry out the purpose and intent of this district. If it is determined that the change is major.

3. In the case of a request for a modification or amendment to the Final Development Plan that represents a substantial (major) departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of approval as the original application. The following shall be considered substantial (major) departures from the original application:

- i) A change in the use or character of the development;
- ii) An increase in overall coverage of structures;
- iii) An increase in the density or overall number of dwelling units;
- iv) An increase in the problems of traffic circulations or public utilities;
- v) A reduction in approved open (green) space;
- vi) A reduction of off-street parking and loading space;
- vii) A reduction in required pavement widths;
- viii) A reduction of the acreage in the PC.

In approving such requests, the Scioto Township Trustees may impose such conditions, safeguards, and restrictions in order to carry out the purpose and intent of this district.

These are all examples of major departures from the intent of the original proposal. The Township has an interest in the re-zoning on the planned action and has a duty to identify the intended use and you could measure the change or changes in use. So a good job in identifying the use that is attached to the Planned Commercial Zoning is in particular so we have something going forward. Regardless of the ownership or if this parcel changes hands the zoning is in place and the next owners or operator of the next business of that Planned Commercial district would be or have the same responsibilities. That part of that explanation may be highlighted to point out how this similar to a conditional use application. A conditional use application if it were applicable which I don't think it is would be very specific in its requests and then would be measured against that original request and I think this Planned Commercial is very similar in that you really declare and name your intended use and then measure from going forward from that action.

Chas: Good, appreciate it. Board to do you have anything?

Sandra: I have nothing.

Rodger: Nothing at this point.

Chas: Audience.

? Speaking

Sandra: You must come up front and state you name and address and use the microphone so we can hear.

Karen Eddy: 2920 Burnt Pond Road. A couple questions about your document. What you are saying does that mean that if approved as is and they sell it, can the new owner have the antique and coffee shop, or does it revert back to residential?

Tom: No, that property enjoys the zoning not the owners.

Karen: It's the property not the owners?

Tom: Property enjoys the classification.

Karen: Second question: I have it, if this was granted and they put this facility in who would police it? If they change something along the line is it up to us as individuals to file a law suit against them or someone or is it part of what the Board does and makes sure they don't change what they said they were originally going to do?

Tom: I think that a complaint of a change would come to the Zoning Office. The Zoning Office is required within 30 days of the complaint to investigate and report his or her findings to the Township Trustees.

Karen: What kind of power does the Township Trustees have?

Tom: I'll go a little further in saying for example and I did an investigation and said there were no apparent violations. That was my report to the Trustees. Either the Trustees or the person making the complaint didn't think that I overlooked something or made an error in my investigation. You appeal my decision to the Scioto Township Appeals Board. They would have an opportunity to review the case. That's almost a Judicial Hearing and looks at my investigation and look at the recommendations or lack of. They choose to, they have all the powers of my office and could they have me in issue A violation or demand of compliance.

Karen: So it ---

Tom: But the informant part of that even is still not, I don't think is at the Township level. I think it would take maybe an action of the Trustees with the help of the Prosecuting Attorney. They wouldn't send the Sheriff out there to arrest me.

Karen: Well, likely no, we wouldn't expect that. But if they are found in violation this Board would take some type of action against them. Because as you would be aware an average person couldn't have a lawyer to fight something like this.

Tom: Right.

Karen: That's something we want to be in position where that's the only thing we can do about it.

Tom: If the Appeals Board, if you don't get satisfaction from, first the Zoning Office who is responsible to investigate those allegations you didn't get any satisfaction you would certainly let your Trustees know. The Trustees or you would follow up and maybe allege that I had made an error and it goes to the Appeals Board.

Karen: Do we go ahead and make our comments at this point or are there other questions?

Chas: I think we need the applicant first. If you would please.

Karen: Okay.

Alex Andrews: Good evening ladies and gentlemen. I see some familiar faces here. Chairman and Board, I am Alex Andrews her with my wife Julie and we are the applicant to request re-zone 9716 Fontanelle Road, the Felkner-Anderson House. I'm not sure how many people in the room have actually read our proposed plan. Could I have a show of hands who has actually read the documents? Not too many. I could spend an hour on what the plan is, what our own self imposed restrictions are on the type of business and operations we will have there but will answer your questions at a later time.

If I can I'm going to try to keep this short. This Board has heard me before on this issue and this project. But I want to follow up on a couple of things that have been said here tonight, perhaps clarify. What we just heard a minute ago was the restrictions that are imposed by Planned Commercial. What really is, we were here before neighborhood commercial and you could have any old business and you can change over night without having to go to anyone else.

Planned Commercial, what happens you submit a plan, a very detailed plan. Like a conditional use application and it sets the perimeter of what you can do or what you can't do, very detailed about 30 pages. If it's approved that's what you get, that's all you get. You can't change, you can't start another business, you can't expand, you can't put on an addition, and you can't increase the signage. You're limited as to what you can do. That's why we submitted an application under Planned Commercial because when we came here before to apply for a Neighborhood Commercial, we heard the concerns of the people in the neighborhood. The concerns were: what happens if Mr. Andrews get hit by a bus? What happens to that Property? If zoned under the Neighborhood Commercial someone could come in and instead of an Antique Store they put in a Liquor Store or whatever. We heard that okay. We heard the concerns from other people in the neighborhood and still wanting to go forward on this project. We have tried to find something better to address the neighborhood concerns and that was limited options in the Zoning. Planned Commercial is as close and I think Tom said it was as close to a Commercial use as you are going to get. He mentioned the modifications. What's that all about? Well, if somebody has a Planned Commercial operation in Zoning on their property and they do want to expand their parking lot, add a building or lights. They have to come back and go through the process all over again. Zoning Board, Appeals Board and Board of Trustees' to get that approved. It's an opportunity if somebody

wants to expand and Planned Commercial. For the public, the neighborhood, citizens of the Township to come and object and raise their objections and their concerns to any kind of substantial modifications. But if you want to move a bush on the property, that's okay. But any kind of expansion or changes in the use has to be re-approved by the Boards. Everybody gets a chance to have their say. That's what Planned Commercial is all about. You can't get any closer in this Township under our Zoning Resolution on conditional use. You heard at the last meeting, why couldn't this be a conditional use? Well, it can't because commercial use doesn't permit this type resale establishment. But Planned Commercial is as close as you can get. That's why we are back under Planned Commercial to really respond to the concerns we heard at the last meeting. We've also taken steps to try and get the news out about this. We had an open house back in January and invited those people who we could find that had expressed concerns at the last meeting so they could see the property and see the project and talk about what we planned to do. We didn't find you.

Julie Andrews: You weren't in the phone book.

??? Might have been Karen, speaking from the back and they couldn't be heard on the recorder.

Julie: I tried.

Alex: Well, we couldn't get everybody, but we did get a lot of people. Our immediate neighbors, the Knights, a number of people came and we had a good candid discussion. I know Mr. Knight and Linnet's concerns and were very vocal at the last meeting. We have tried to figure out how to address those. Mr. Knight asked if we would put up trees and bushes in the already existing tree line to help create a greater visible barrier between our two houses, especially during the winter. I'd be more than happy to do that to address his concern. We are trying to be a little bit pro-active with the thoughts and concerns of the community.

Let me talk a little bit about Regional Planning. How many of you have been to a Regional Planning Meeting? Okay, there are a couple of people. What is Regional Planning? They meet over there in the License Bureau Building on Route 23 and meet once a month. About 25 representatives from every township and municipalities in Delaware County. They are mostly Zoning Officials. They deal with zoning all the time. That's what they do. The Regional Planning Commission, their job is to review every Zoning change application that comes through whether it is a big sub-division down in southern Delaware County, a shopping center east of 71. Whatever it might be, they look at all. Tom Brown sits on the Regional Planning Commission. They see it all. They review every application and make recommendations to the local Zoning Commission here in Scioto Township for every application that comes in from out Township. This is what they said in their report on this Planned Commercial Proposal. They had 3 criteria's for approval. If the proposed development is assisting in all respects with the purpose in intent and general standard of this Zoning Resolution, our Zoning Resolution. Answer: Yes.

Second: Is the proposed development in form with the Comprehensive Plan or portions there of as it may apply. Answer: Yes.

Third: If the proposed development advances the general welfare of the Township in the immediate vicinity. Their answer generally: Yes.

This low impact we will be appreciate for viewing content of the indicate vicinity and potentially add to the Township non-residential. These guys are professionals at reviewing buildings and that's why all Zoning Applications within the County go to them for review. What else did they say? One of the goals of the plan is to retain and preserve historic and agriculture structures. This proposal meets that goal as long as the other standards of the Zoning Resolution are closely followed. If you read the 30 pages that we submitted to the Zoning Commission you could see our application could not follow the resolution requirements anymore closer. There are 14-20 development standards that you have to meet and we met every one of them. There is a copy of the resolution at the Library.

They also commented and this is perhaps as important to point out. Here is one of their comments from their report. Historical Building, this is a 150 some year old building we are talking about. Historic buildings are typically difficult to maintain and re-develop and leaving some to fall in disrepair. So any effort to do so on economically feasible way should be commended. For them to say that effort here should be commended to me says something. I just want to make a few points about change. Some would have you believe that the request would be a big change. It doesn't, in fact just the contrary. There is no change, because what our application says is we are going to use this property as it is today. Without change as an Antique Store and a little Coffee Café. And that's the way it is going to be. That's the way it is going to stay. What you see today is what is going to be there in 5 years – 10 years however long this Antique Store can stand on its feet. So, if it's about change there isn't any! You are not going to see change. What we are going to see is status quo. Preserve the home the way it is. As far as our community historical ancestors lived. Some would have you believe that granting this application will open the flood gates to commercial development on Fontanelle Road. Don't think so. Ladies and gentlemen, those of you who came to Scioto Township because you wanted the nature, trees, coyotes, deer and raccoons, give us a chance to turn this old home into an Antique Store. We aren't going to have a McDonalds, Wal-Greens, Wal-Marts or Best Buy next door. Why? Because there are a couple of things that we in this township lack. We lack sewer, which is necessary for any real commercial development and we lack people. 2500 souls there about in this Township. Not enough for a franchise like McDonalds wanting to open up on 36 and Ostrander Road.

There are others who would say, gees we should have a little commercial. It's about jobs and it is about jobs. How many jobs have we created in Scioto Township? This is the kind of jobs are what we need. We've got a lot of work in this Township. We'll have some jobs. Jobs are important for our tax base, important to all of us. How many people work outside of Scioto Township? Some of us commute several miles to report to work.

That's not good for the economy or ecology, nice to have a little business that can employ people locally and not sending them off to downtown Columbus, Delaware, Marysville, or where ever it is.

Finally there were concerns about what it's going to do to property value. That is a concern. I have brought a letter with me from a Real Estate Professional, Sarah Eagleson. She did a market evaluation for us on the old brick house about whether this proposal would change property value. Ms. Eagleson's quote: "Based on what I understand to be the proposed use of the property, and given my long experience selling residential properties, I don't see why this should adversely affect the values of properties in the neighborhood. It seems to me that the intended use, which will highlight the historic aspects of the property, will play to one of the neighborhood's strengths.

So again we are trying to address the concerns of neighbors, of our community, even our neighbors who are remote to us up and down Burnt Pond Road, who have expressed concerns. I think I'll sit down. I would ask for 5 minutes of rebuttal after the remaining public comments. I think my lovely wife would like to say a few words.

Julie: I'd just like to add not all things fit into Route 36. I can't move my house to 36. We wouldn't want it there.

One of my favorite places growing up as a kid outside Philadelphia was an old Inn when visiting my family to do antiquing and lunch. It's perfect next to the park. We've been here for 20 years and we only want to do good things. After our last experience, our last tenants and thousands of dollars it cost us, we decided to go forward with this. This is something I have always wanted to do. I just didn't just dream it up. I thought there would be a time when enough people would come out here and it would be used. I hope you will be supportive of us this time. We are trying to do a good thing for this community.

Alec: I also handed out to the Board members a letter from one of our neighbors on Fontanelle Road. Diana Nicklas who couldn't be here due to the flu. Her letter reads: "Ladies and Gentleman" My name is Diana Nicklas and I live at 9360 Fontanelle Road. I am Alex and Julie's neighbor and I would like to voice support for their endeavor. My grandparents lived on Burnt Pond Road for 30 years and I have grown up in this area. I have loved the Felkner-Anderson house for years, admiring its beautiful historic façade and happy that it hasn't been torn down for something newer. I am thrilled that the Andrews would like to preserve this home and give an arts home to our community. I, personally am a music teacher, and feel the arts are an important part of our culture. This café and antique store would bring some of the arts into our local community and a lovely, historic home would be preserved in the manner that it should be. Please consider the Andrews request this evening as a positive and I look forward to the opening of this venture. Sincerely, Diana Nicklas.

Chas: Thank you. Who would like to speak? Andy, go ahead.

Andy Zarins: 5565 Marysville Road. For this meeting I sketched up a letter kind of quick like and I'd like to give people here a copy, a letter to the Township Trustees. You can read it. I'd like to read into the records.

Chas: This has to do with this Zoning? Correct?

Andy: Oh, yes. I have some extra copies, you can pass them out if you'd like. Scioto Township Trustees, Re: Alex Andrews' Rezoning Application (5.001 acres, 9716 Fontanelle Rd., FR-1 to PC) Alex Andrews is the Vice-Chairperson of the Scioto Township Zoning Commission (STZC). Thus, he has considerable influence over the STZCC. The STZC recommendation to approve the zoning change request should be rejected due to the "poisoned" nature of the material. The Scioto Township Trustees (STT) has an obligation to appoint an impartial STZC or have a STZC elected or use another totally impartial Township Zoning Board to review the application.

In general, the minutes of the STZC are very inaccurate and seem to be written with great prejudice. I strongly recommend that the present STZC members be terminated. I fail to find any value generated from their prejudicial bureaucratic rambling. Also, I do not find any display of proper education or technical knowledge within the STZC members.

Also, some of the members of the STZC have displayed actions that appear to be overt and at least covert racism. Ed Roberts, Chairperson of the STZC, seems to practice racial discrimination against those that do not seem to have his implied English royalty blood line and do not have his proper upbringing. Also, he has suggested that I hire him at \$200/hour to determine zoning regulations, which again appears to be a major conflict of interest.

Chas: You know Andy, reading thru the rest of this letter it has nothing to do with this Zoning.

Andy: Oh, yes it does.

Chas: No it doesn't, IT DOES NOT! I'm going to have to stop you right there. The rest of this has nothing to do with it. Board Sit down!

Rodger: I'll have to agree with the Chairman. This first couple of paragraphs are fine. But the rest has nothing to do with the Andrews property.

Andy: Okay. You got a letter. I expect a response on the last paragraph.

Chas: Anybody else? Karen is going to speak.

Karen Eddy: Burnt Pond Road. I am going to speak on the objective on this. In our area we are residential. I don't know what will take place going forward. Even if this commercial property stays as is, does that open the door for everyone else to put a commercial property in the area? I'll say, I was somewhat comfortable when they were

talking about getting zoning so that if they sold the property it would revert back to residential. But as it is now that is not what is going to happen, so they can sell the property 2 days after they get this done. It would still be a Coffee Shop and Antique Store. However I don't really feel this is adding something to our community that is valuable. The property was up for sale as residential for a couple of years and was not sold. I think it is more in a personal nature that if it is turned into a business it would make it easier to sell for one and if not sold it could be used as a tax deduction. So, I don't really think this is the best interest for our community.

Andy Knight: 9650 Fontanelle Road. I am the closest in proximity to my neighbor. I have had some gracious opportunities to spend time with them. They were most delightful at their open house. I'm wondering if you spent more time with us than anyone else, because you are aware where we are in our thoughts.

Alex: Could be.

Andy: I also had the pleasure of having a couple of Heinekens with Alex the night after the Zoning Commission meeting. I was an emotional blubbering idiot that night, I do believe. Because my emotions got all riled up of the idea of a small business. I was in a lot of anger. Tonight I am just thinking about of where my wife and I stand on this. We are greatly concerned about our property value. I appreciate Alex doing the work he has done to speak to the person he did about the impact on my property. I feel I might be the most impact because I am right there. I've spoken with people as well, but I don't have the letter for you but they told me just the opposite.

I'm an educator and I can say that every topic in education that comes up, we have the expert who thinks one way about it and we have the experts who think in opposition. So it doesn't surprise me that's what I'm faced with. I'm faced with two different types of opinions without the impact on my property value. That's my biggest concern.

As I spoke with Alec that night, I told him, you know, you are an amazing speaker. If I needed somebody on my side tonight that's who I'm thinking I would go too. Because it's a person who is thorough, thoughtful about their presentation. But most importantly about the knowledge they bring to it. I admire that. The offer of doing some planting between our two properties, which was another generous offer he made. I thought that was delightful and I thought what would that impact be? That impact for me would be that I would be able to tell a proposed buyer down the road. I did confess, I'm not here forever.

My neighbors, some of them, tell me they are going to bury themselves in their yards. That might be a zoning issue, so I didn't bring that up. We are not here forever. We got careers and with the hairs you can see, might be coming to an end at one day. We've off to other places. So I have this mind set up, I want to be able to sell my biggest financial assets for the most that I can. I have a fear that this might have a negative impact on me. I also want to say I appreciate you are listening because when I was at the Zoning Commission meeting I did feel a little lest where there were really people sitting behind

at the table, and I really appreciate that. To the Zoning request, because Alec and I have talked about, if I could just, it's me, if I could just have that word commercial off of it, my fears and hanks would be so heavily alleviated and done with. So I really appreciate your interpretation of Planned Commercial development and how it's the closest thing. I remember Alec saying to me if I could come up with a way to do something more with that cause I know that's a buckaroo for you, for no better word. He's been rapping his head around it, I know he has been. I rely on the expert to help me understand that, the best we can do. So even with the planting offer and the even with the best zoning that can be in place, I thing I just shucken my voice, you share my concerns about the future of my property. Thank you so much for listening. I keep thinking about our residents. Could you imagine with the people who are here and we all got together about something, we all agree in what could happen. It's a pleasure being part of the community. Thanks.

Chas: Thank you.

Thank you. My name is Susan Olson 3625 Burnt Pond Road. I would really look forward to having something like this in our community. I understand the views about property values and I don't, if that's the property, but it doesn't look like you are right on top of them.

The thing is I would love to have someplace not in Columbus, not in Marysville, not in Delaware where I can meet with my friends and make use of the park. I think it's one of the best parks in the County, I think it is gorgeous. Walk across the street go shopping, have a cup of tea. I can't imagine any reason not being an asset to this community. It's going to bring jobs; it's going to bring atax base. I think because community business is more in demand and people beginning to understand what Ostrander is, where we are situated it can do nothing but increase our property value. It's supply and demand. There is only just so much here. So that's my concern.

I also have a question, only because it's completely different issue. We tried to have a neighbor Christmas Party a few years ago. Who put this on my mail box? Was someone passing these out on my mail box? Okay, what's your name?

William Cox.

Colleen: Okay, Mr. Cox, I got in real trouble for doing this. Just a heads up. I'd rather have you go door to door. Future reference if you talked to the Postmaster? We put out invitations one time and got cited.

William Cox: Did you find that on your mail box?

Colleen: Yes.

William Cox: A lot of others did too.

Colleen: Okay, I just wanted to know.

????That's a postal regulation, to put unposted mail without a stamp and attach to the mail boxes.

Chas: Thank You.

My name is Linnet Knight at 9650 Fontanelle Road. I'm not quite as elegant as my husband at speaking. I speak to 8<sup>th</sup> graders every day, it's a little different. I am against Commercial Zoning. Alec may think my fear is unfounded and crazy but it's my fear. I just think besides the value of my house, and then I'm afraid it will bring down the value. I am also afraid of the precedence that it is setting. If this passes this will be the second commercial property within a mile of our home passed in the past few years. I am concerned about, ugh, but I'm not afraid of a McDonalds coming next door. But I am afraid of what could come down the road. You know, as far as changes, I don't like changes. I see, you know, traffic and you know, Alec said he doesn't see much traffic. If you don't expect much traffic why would you have a business? So I'm afraid of what precedence this will have on Fontanelle Road. I think most people came out here to be in this area to be in the country and not to be around commercial business. We expect to be around farm animals not stores. There is a beautiful preserve across the street. If you want to meet with your friends there is a nice little gazebo to meet with your friends. Joan Fiterris, was our Real Estate Agent from Keller Williams, and she did say, she's the one who sold us our house. "She said to us when we said this was happening, "I'm sorry". There is no way to determine the decrease in value but it is certainly going to affect the value. Just one more thing, Diana Nichlas's letter, just want you guys to know that after the February 14<sup>th</sup> meeting a week and a half after that meeting she put her house up for sale. I don't hold a whole lot of merit into her opinion cause she isn't going to be living on that road for long. That's all I've got to say. Thank you.

I'm Sharon Showman: 9500 Fontanelle Road. I live on the other side of the side of the Knight's and kind of across the road from the Dawson's. I have to say it is not going to create a lot of traffic. It's not like a lot of people going up and down my road and creating a lot of commercialese. It's going to be a special breed of people that's going to do this to see the art or to come out and have the tea or coffee in the shop that they want to have, Property value, I'm not sure what it will do to my property value. I don't really think it will go down. I don't think it will hurt it. I can see that house from where I live. I am very close to it also. I am in support of it. I don't see anything wrong with it and I don't think it will hurt our road traffic that much.

I'm KimTebo: 7543 Fontanelle Road, haven't heard of this project for very long. So I apologize I haven't be able to be at the presentations. I do have some concerns about bringing this to the country. I'm in the country and planning to stay here for quite some time. I like the area, like the quietness of it. I do have concerns regarding traffic on the roads. The road is a one lane road. Two cars passing on it, you are off onto the side. I don't think it's the 2400 people that live in the community that you are looking to come to your property. You are looking for outsiders as well. It's not just the people walking

from their homes. It's going to be additional traffic. The idea of a Coffee House in the area, I like the idea. Mike you are on 36 and you've got the road structure for it. In a different location I think would be a nice idea.

Julie: I can't move my house.

Kim: I understand that.

Chas: Anyone else? Mr. Cox.

William Cox: 1580 Burnt Pond Road I'm quite upset about this and strongly opposed to it. I am reading from the Ohio Planning and Zoning Law by Stuart Mandox and Kenneth Perland the 2010 edition.

A re-zoning of any single parcel like re-zoning of numerous parcels at the same time is only justified when done in future of a general plan. Property adopted for a designed to serve the best interest of the community as a whole. Not for the benefit of a particular individual or group. Now to make, pick out there certain spots and re-zone them is a bad precedence. I'd like to read in this issue of Zoning Process, not sure where I picked it up. I've got lots of papers here. But Spot Zoning involves an unlawful departure form a community zoning ordinance. Ohio Supreme Court defines Spot Zoning as a singling out of a lot or small area discriminatory or different treatment from that surrounding land which is similar in character. There is more to it, but that is the base of it. What I'm concerned about is all this Spot Zoning. We've got Agape Manor that hasn't broken ground yet, preceded in development of that. It's Zoned Commercial. We'll have that. If you people approve it Zoned Commercial, now everybody has been telling me here in this Township that you cannot make a conditional use out of this. But what I've found it is interesting when I've talked to Scott Saunders, Director of the Delaware Regional Planning Commission; he says otherwise, it can take some tweaking. Now I'm not concerned about, I'm an old guy. I'm not going to be around much longer. I don't care if they put a- anything on that road or on Burnt Pond Road in my life time. That's not the way this Board or these people here should be looking at this. We should be looking at the betterment of the community, not just what satisfies getting more money into the treasurer. Now like this fellow here mentioned Dean Holben. He was asking for plans for industrial. Even the Delaware Regional Planning Commission voted no on that 12 to 4. I'm sorry if you talk about it doesn't bring in the revenue you wanted but they flatly turned it down. Mr. Edwards was for it. He's at all these zoning changes. But I'm sorry it doesn't help the community. Most people move out here to get away from the planned industrial projects and all this noise. Route 36 US highway according to your own plan is costing us tens of thousands of dollars to develop. Comprehensive Plan, it states all on 36 where he has his business, that's fine, it's the law and not to pull into the residential area. I found it interesting that Scott Saunders said it could be done as a conditional use. I like that. I did because it stops whenever the land is transferred or the owner dies. You can't move it or because if you make it commercial it will stay that way and it will go with the land. It doesn't stop when he sells it. Now as far as the Café and Antique Shop, I personally don't have any problem with that at all and I haven't heard anyone say

anything against it. If the zoning is making this commercial is what the big problem is and when I found out from Delaware County Regional Planning Commission it could still be done by as a conditional use that way he brought up we would still have the revenue that would be coming into the community. Everybody that has land would be protected, residents that is, I just don't understand, I mean I know, Mr. Finks and Mrs. Stults both shook their heads when I mentioned Spot Zoning. Technically this is just what this is. The part of the question with one parcel is with many ought to be whether the ordinance is reasonable and in accordance with the Comprehensive Plan. Our Comprehensive Plan does not show any. The one you have, or the one I looked at now if it does, speak up, if I'm wrong on that. If it is not it may be left to the plan and officials which is up to you folks. This often resolves in the dreaded Spot Zoning. So I feel what we are doing is picking out parcels of land just to satisfy the Andrews. If the Andrews accept the conditional use they could still have everything they wanted all the neighbors would be totally happy and we wouldn't have to worry about the future. We're not going, we are all going to be dead, I mean when we went through the Dean Holben fiasco, as I call it, to try to get planned industrial on Burnt Pond Road. Two of the Trustees are dead and we are all going to die. My number will be up sooner than most of you people sitting there. It doesn't come back to the people down the road. He had a fine business on Rt 36. That's at US highway and that's where it belongs and I'm happy and I hope he is successful and I hope everything works good for him. But when you start moving away from your own Comprehensive Plan to try to bring in a little more revenue I think it's strictly a no, no. Even Duncan Whitney, County Prosecutor, at that time, when Dean Holben was trying to locate on Burnt Pond Road, Mr. Whitney told me Mr. Cox that's a no, no, it's Spot Zoning. That's the most least likely place to put it. We have certain people in this community that supported it. He was one of them. It's fine to have that business, but the location, we all talked about location, the location, the location. This location is what we are all concerned about down the road. Because it's I guess that's all I have there. What I read was from the Ohio Planning and Zoning Law and ugh, I just can't see it at all. I'm strongly against this in every way. I know you want to bring in more revenue, so do I. If you bring in more revenue off of 36 businesses that would reduce my taxes, possibly. I'd have no problem with that. Thank you.

Chas: Calvin.

Calvin Finks: 3451 Russell Road. I've known these people for approximately 20 years. They have built a nice home behind this. They are not going to have an eye sore in front of them. This Comprehensive Plan he is talking about is not in concrete. We better be junking it. People paying taxes should have some right to do something with their property without somebody telling them they can't all the time. Thank you.

Chas: Anybody else before Alex: So ahead Andy.

Andy Zarins: 5565 Marysville Road, I have a question. Tom Brown made a statement that within 30 days he would check out a complaint about zoning. I'd like to have an explanation on dealing with Lake Hill Private Hunt Club.

Chas: ANDY!

Andy: Just a minute.

Chas: NO!

Andy: I want to ask a question.

Chas: NO. SIT DOWN SIT DOWN It has nothing to do with what we are talking about.

Andy: Yes, it does.

Chas :No, it doesn't Sit down.

Andy: I have a question.

Chas: SIT DOWN.

Andy: Alright.

See attachment: Letter from Mr. Zairians.

Chas: Anybody else on this issue?

James Blaney: I don't live on Burnt Pond Road or Fontanelle Road. We need more neighbors like these people. We have houses in Ostrander that people don't take care of. Just wish we had people like that in Ostrander. I've been there because the boys painted. The middle boy is a painter. Painted the whole house and the grandson did a lot of the woodwork in there. They have really fixed this place up. So actually that property is going to raise value. When I went out there to deliver some tools, as far as traffic if you aren't hunting for Antique Store you are going to go right by it. My wife came out to pick me up and she drove right by. I had to go out and flag her back. My point is, if you are looking for the Antiques Store you will be looking for it. Otherwise, you are going to drive right on by as you usually do. The point about the place being fixed up. I got there before they had the open house. I just wish we had more people around that would fix their properties up and take care of them like that. That's all I got to say.

Chas: Alec's in conclusion.

Alex: Thank you. First, let me thank everybody for the pros and cons for coming and being here. You've shared your concerns and support and opposition. Karen the house is not for sale.

Julie: Has never been for sale. We've lived there 20 years.

Karen: She is in the back of the room and can't hear her response.

Alex: It's never been for sale. You said something about it being for sale for 2 years. Mr. Cox, I appreciate your comments on Spot Zoning. In deed I have the book you quoted. If you read through the whole article you were referring to, it's the Willett case where they tried to re-zone property and the neighbors argued it was Spot Zoning. Well, the Supreme Court decided no it is not. I'd be willing to give copies of the Willett case from the Supreme Court to the members of the Board. One of the comments from the Supreme Court is deciding in this particular request was not Spot Zoning was that the Board of Trustees as thought in the case. From the Zoning Commission and Regional Planning that's the case here. I'd also like to say, I wasn't there when you talked to Mr. Sanders. But I do know what Mr. Saunders said in the Public Hearing at the Regional Planning Commission. His words were "this was not Spot Zoning it was conditional use." What he may have said, "If you change the Zoning Resolution and put something in the conditional use prevision then, they, after that change, then someone could come in and apply for a conditional use. But first you'd have to change the whole conditional use.

William Cox: The word that he was the work "tweak"

Alec: Tweak - abandoned?

William Cox: I've never heard that it worked out. But the County level,

Alec: It's not County level. We've heard some fears expressed, we've heard some speculations expressed, we've heard some conjecture expressed, but really we have to decide this application on the merits and facts of that before this Board. Not on hear say or conjecture. I would just say briefly we are not out of town developers to flip a profit and vanish off into the night. We've lived here 20 years and God willing we will be here another 20 or 30 more. I am one of those people to be buried in my back yard, at least my ashes spread back there. It's not like we are going anywhere. We live here too. We live next door to this proposed project. Would we live here next door to this project that was going to decrease the value of our own home? I don't think so.

Diana Nicklas does have a for sale on her property. She has found a house in the neighborhood.

Julie: Not in the neighborhood. It's a conditional contract. She has to sell her home.

Alec: Diana, God love her, I hope she gets a quick sale. If not, she knows how hard it is to sell property. To say she is out of there and doesn't care, I would disagree. So with all that ladies and gentlemen, members of the Board my wife would like to say one last thing.

Julie: I just think if we put all our efforts into building a business we should be able to leave it to our children, sell it, we see a better vision for the Felkner-Anderson House being missed than what we have done in the past when somebody gets a hold of that

house we can't evict them. So we are trying to do something really good for the community here.

Alec: Thank you very much.

Chas: Board, if you'd like to discuss, now is the time.

Rodger: I have one question and it was brought up by Mr. Cox. Do you have any idea what your tax increase will be?

Alec: No, I don't. What we pay in taxes now was on the application.

Rodger: I didn't know if you were under CAUV. Since you lotted it off as it was. Hang in to your hat.

Alec: I understand. I'll be in for a rude awaking on this one.

Rodger: The only other thing I have, and it was mentioned several times in the notes here is the set back. You know if this were approved by the Board tonight we would have to make note that the set back being 77 feet instead of 80 feet. That's the only question I have.

Chas: Sandra

Sandra: Personally, I think people should be able to do what they want on their own property. That's just the way I've always felt. I understand we are part of the community and everyone is able to talk about how it would affect them. All I can see it's a good idea. Can we have a book club?

Julie: Absolutely! Absolutely!

Chas: I think the only other thing which was coming from the staff of Delaware County Regional Planning was the drive way issue. Your intent to address that if need be?

Alec: Right, I believe we talked about this last time we were here. Currently, I believe its 13, although after the winter and all the snow I think I'm not up to 14 going up and down. The last 20 years been sufficient to get vehicles up and down there. But if we start having problems we will widen to whatever to accommodate emergency vehicles, and trucks. I don't see many semi coming in for delivery. Smaller box trucks and that kind of thing. I don't have a problem.

Chas: Is the Board ready to vote?

Rodger: I guess I have one more comment on Spot Zoning. I believe the article says Spot Zoning if preferential treatment. I don't feel that preferential treatment applies here.

The other part of it was it is reasonable for the surrounding area. That does apply here. So I think spot zoning is not an issue. So, I guess we have to have a motion first.

I will make a motion to approve the proposed Zoning change of the Felkner-Anderson Property from FR1 to Planned Commercial noting the circumstances of the set back being 77 feet on the primary structure where the development standard is 80 feet and the Andrews agree to address the driveway if the issue is necessary.

Sandra: I will second the motion.

Fiscal Officer: Can I have a vote please: Sandra Stults, Yes, Rodger Finks, Yes. Chas Kaiser, Yes. Felkner-Anderson Property rezoning approved

Alec: Thank you very much.

Sandra: I would like to thank everyone who came out to speak your mind. But what the community has to say is very, very important to us. We don't try to be arbitrary compression. We really don't, we care what everybody thinks. I'm just glad we live somewhere we have a venue where everyone can speak their mind.

Chas: I would like to thank everybody involved. I think we done a fine job addressing the concerns of the community at first. The Andrews defiantly did their homework. I asked Tom Brown to try to define the definition for us so we could understand what everybody was talking about here. I think it's a positive attribute to the community. A Planned Commercial is preference to the use of the application. According to the Delaware County Regional Planning to which we all referred too, they are in favor of it also. I think it's the community doing the community right.

Do you want to make a motion or do you have anything else to say?

Rodger: Well, you guys have pretty much said it all. I make a motion to adjourn from the Public Hearing.

Chas: I will second the motion.

Vote: Unanimous.

Chas: We'll have a 5 minute break.

Adjourned at 7:20 p.m.

