



## Zoning Commission

50 Ms. Radcliffe: Yes, but they will probably mostly park down here and then it will be pavement to go walk  
51 and get it but if you need to, there's enough radius for you to turn around there.

52  
53 Ms. Trebellas: So the postman will probably turn around and get back out that way.

54  
55 Ms. Radcliffe: Yes. I don't know if it's best to go one by one through the comments we have from the  
56 August letter.

57  
58 Mr. McNulty: I was pleased when I saw the traffic report; I almost expected something else from them  
59 rather than saying there were no traffic issues for this very, very busy intersection.

60  
61 Ms. Radcliffe: it was a preliminary memo; I think the full traffic study will come down the road. But we  
62 do have this memo from them at this point that everything will be fine.

63  
64 Mr. McNulty: And everybody has signed off on the water and retention ponds?

65  
66 Ms. Radcliffe: Yes, and we've added an additional pond. I know that was a concern of yours from the  
67 corner, so by reducing the lots, we've added another pond and some more shrubs along that, not that that  
68 was needed for the purpose of the actual engineering aspect for collecting more water, but it doesn't hurt  
69 and it adds to the concern of having more buffer on that corner. Along with drainage, there was a sump  
70 easement with the adjacent property owner to the west that we had put in the letter, and we have talked  
71 with him since this letter went out about the relocation. It is on our property but for the benefit of them  
72 and they have been cooperative, and we have a meeting with them tomorrow to discuss further.  
73 According to the sump easement itself, we have the right to relocate it as long as everyone signs off on it,  
74 the grantor and the grantee.

75  
76 Mr. Duell: Can you explain the ownership concept you have here; it looks like it's a mixture of blended...

77  
78 Ms. Radcliffe: Are you referring to the condominiumize?

79  
80 Mr. Duell: Yes.

81  
82 Ms. Radcliffe: Dave Fisher has a lot of experience with this, especially when it comes to the Delaware  
83 County Engineer and satisfying his requirements, so I will let him explain the background and history as  
84 to why it needs to be done the way we've proposed.

85  
86 David Fisher, 207 N. Fourth Street, Columbus, Ohio, Kephart Fisher, Delaware County is one of the only  
87 jurisdictions left in Central Ohio that will not allow you to do subdivided lots with a private street. I can  
88 cite a lot of jurisdictions around Central Ohio, Franklin County, Union County, most municipalities in  
89 Central Ohio that will allow you to do subdivided lots, sell single family homes on those lots and have  
90 them all located on a private street. I have had several conversations with Mr. Bauserman and his staff  
91 about this. We had another zoning recently that I discussed the matter with him. His concern is that by  
92 allowing private streets with subdivided lots that sometime in the future the property owners will come to  
93 him and say our street needs to be repaired or plowed and we want the County to take over maintenance  
94 of that street for us. It's not an invalid concern of his, it's just other jurisdictions, have accepted the fact  
95 that if you have a Homeowner's Association that has committed to take care of private streets just like  
96 they take care of open spaces or other community improvements that they have a legal obligation to do  
97 so. I just think Mr. Bauserman has had some bad experience in this regard, so what he requires, he will  
98 allow us, just as we have proposed here, to do subdivided lots with fee simple ownership. However,  
99 whenever there's a vertical improvement that comes out of the ground, he requires all that to be placed in  
100 a condominium so that the condominium regime then controls all, for purposes of condominium statute

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101 are called common elements, so the street becomes a common element, the open spaces are a common  
102 element, and then the Condominium Association law requires certain reserves to be placed aside to have  
103 money to repair the streets in the future, so it's purely a political and legal decision made by Mr.  
104 Bauserman that controls in all unincorporated areas of Delaware County. Mr. Bauserman has clearly  
105 said, if you want me to sign the plat, which he has jurisdiction over platting for the County, then you've  
106 got to do it my way.

107  
108 Mr. McCarthy: Just for information for the Commission, Delaware County has had issues with this; sub-  
109 standard streets and then people wanting us to assume them. To date, the Township has declined all such  
110 offers unless those streets are brought up to current standards.

111  
112 Mr. Fisher: Technically, I don't think he's wrong; Chapter 711 of the Ohio Revised Code supports his  
113 position. To Mr. McCarthy's point, he also controls the construction of streets, be them public or private,  
114 and he now makes you build private streets to a public standard, but that doesn't mean that in the future,  
115 we all know streets deteriorate over time and sometime in the future those streets are going to need  
116 repaved or milled, and all those things you have to do, so it is purely a decision that he controls and he  
117 says if you want me to sign your plat, you've got to do it my way.

118  
119 Mr. McCarthy: When Mr. Hray was the Zoning Inspector, we had a development along 71 and I don't  
120 remember what the application was about, but he looked at it and took it to be a platted subdivision, and  
121 on that basis he came to certain conclusions. When we looked at the Recorder's Office, we realized they  
122 had formed a condominium, and, as I think you are, as each house sold, they added it as a condominium.

123  
124 Mr. Fisher: An expandable condominium.

125  
126 Mr. McCarthy: Yes, and ultimately they all sold and everybody was in a condominium. Is that the  
127 procedure?

128  
129 Mr. Fisher: Yes. Under the condominium statute, once you're in a condo, you can't get out; you can't  
130 extract yourself from a condo. All the owners would have to agree.

131  
132 Mr. McCarthy: I don't think the plan right now, the text or the drawings have a limit on the use of these  
133 platted lots prior to their going into the condominium.

134  
135 Mr. Fisher: The development text expressly states the use is governed by zoning and the use is limited to  
136 residential housing units.

137  
138 Mr. McCarthy: But is there anything that says you don't get to use your lot for residential purposes until  
139 you transfer into the condo?

140  
141 Mr. Fisher: It's sort of a chicken and egg thing that you've got to build the building to create the condo.

142  
143 Mr. McCarthy: Would we be able to say that there shall be no residential use of any lot prior to it being  
144 placed in the condominium?

145  
146 Mr. Fisher: That's fine; that's the fact of what's going to happen here.

147  
148 Mr. McCarthy: That's what I was thinking but I was also thinking we don't have anything addressing it.

149  
150 Mr. Pychewicz: So under what is being proposed, these individual lots will be cared for by the  
151 homeowner?

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152 Mr. Fisher: There's some unique defined terms in condominium law in Ohio. There's the unit, which in  
153 this case would be the house. There's the limited common element which would be the lot around the  
154 house and under the Condominium Statute, the limited common element is the area exclusively reserved  
155 for the owner of the condo, so it's typically a patio, deck or something like that. In this case it would be  
156 the whole lot. And there's the common element which would be the road and open space, so under this  
157 condominium regime, the homeowner would take care of his unit home and his limited common home,  
158 and would contribute into a reserve fund to take care of the road, open space, mail kiosk, those sorts of  
159 things.

160  
161 Mr. Pychewicz: So any landscaping or anything the owner wants to do goes through the Association and  
162 needs approval?

163  
164 Mr. Fisher: The Condominium Association acts like a Homeowner's Association, so if I want to add  
165 some improvement to my house, I've got to get the approval of the Association just like I would go to a  
166 Homeowner's Association.

167  
168 Ms. Trebellas: Say I'm moving and want to lease my house. Is that allowed? Some Condo Associations  
169 allow them, some do not, some limit how many units can be leased.

170  
171 Mr. Fisher: This is a condo by necessity, not a condo by choice, so I don't see any sort of restrictions like  
172 that on this one. Like an HOA, they have by-laws, and the owners could vote to say we want to limit that  
173 not all the houses can be leased or something like that, just like any HOA could do on any zoning that you  
174 approve in the Township. Like I said, this is a condo by necessity, not by choice.

175  
176 Mr. McNulty: Is the development group going to maintain a seat for some number of years or a specified  
177 time on that association?

178  
179 Mr. Fisher: The Condominium Statute requires turnover, so the Condominium Statute allows the  
180 developer to have control of the Association for a period of time, until such time as the Statute requires  
181 turnover to the homeowners, and there's a specified period of time length for that. Once again, a condo by  
182 necessity, not by choice; this developer doesn't care. However, keep in mind the Condominium Statute  
183 requires the developer to contribute to reserves and maintenance until such time an appropriate number of  
184 units have been sold, so the condo owners have brought forth enough reserves, enough money that they  
185 can afford to plow the streets, mow grass, etc. So the Condominium Statute is more structured in terms of  
186 economic protection for owners than an HOA would be.

187  
188 Ms. Trebellas: In the past we have required some HOA's or Condo Associations to slowly transfer  
189 ownership or control of the group to the property owners. In the past there have been issues where the  
190 developer sort of upped and left, and there wasn't a clear, coherent train of....

191  
192 Mr. Fisher: I've seen those deals and I've worked on working out those deals. 19 homes here, not the  
193 typical condo with a developer who is trying to profit from the condominium itself.

194  
195 Ms. Trebellas: We have just required that in the past because there was a concern the developer ups; you  
196 are correct, with 19 homes it's not as big of an issue as if there were 150-200 homes.

197  
198 Mr. Fisher: And connected units. This is where we are with condos now, they're more single family  
199 homes but when we all think of condos, we think of attached dwelling units, more like apartment projects,  
200 and there were some bad projects done. I worked on some and I had one a few years ago where they had  
201 private streets and they weren't built to a higher standard, they weren't built to a County specification and  
202 over time, they had problems and the developer wasn't around. These are all good points you're making.

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203 Mr. McNulty: Are these already laws that are written as a statute as to when the developer comes out?  
204

205 Mr. Fisher: Yes. You do not have to worry about it; it's a statute. The other thing the condo statute does  
206 that an HOA doesn't do is makes the developer liable and responsible for these things until turnover  
207 occurs so it's a stronger mechanism of protection for the owners than you have with an HOA.  
208

209 Mr. McCarthy: Do you recall what the percentage of sales is or when they're mandated turnover?  
210

211 Mr. Fisher: I think it's 75%.  
212

213 Mr. McCarthy: One of the benchmarks used by this Commission has been 75%.  
214

215 Mr. Fisher: And it turns over over time, so seats occur and turns over at 75%, but this developer has no  
216 interest in maintaining control like a developer that had a profit motive with how many units in this 50  
217 unit condo building I sell.  
218

219 Ms. Trebellas: One reason we ask this question is that we understand this developer might not behave like  
220 that but things change, economies change. If this developer is not able to finish this project, it's going to  
221 be zoned and someone else can pick it up with what we zoned.  
222

223 Mr. Fisher: The good news on that again is it's a stronger development tool for you than an HOA is. I've  
224 got one of these in Dublin where the original developer did walk away, and my client stepped in, he's got  
225 to step into the developer's shoes. He said I'm going to step in and take care of the streets, take care of  
226 turnover, keep the residents happy, comply with the Condominium Statute; it's a much stronger, powerful  
227 tool for everyone involved than a standard subdivision HOA. A condo is what's known as a horizontal  
228 property that all have a common property element to them where the owners control to a much larger  
229 extent than an HOA. HOA's can be pretty loosey goosey. The State of Ohio passed a community law 6-8  
230 years ago that made them much stronger than what they used to be and if you follow the statute this way  
231 for an HOA, you do have a lot of power against people who don't do what they say they're going to.  
232

233 Mr. Duell: With regard to the ponds, that's a new feature even since the last time I looked at an engineer's  
234 letter; I don't know if you've got a new engineer's letter. Has there been any discussion about the  
235 sufficiency of the ponds, are they going to be wet, dry, and the last question will be the pond is up on a  
236 busy corner. Is there any concern about that pond being so close to a major intersection?  
237

238 Ms. Radcliffe: I will have Shafi touch on the engineering components of those ponds. I know we were  
239 good with just the one.  
240

241 Mr. Alam: The increase of water between pre- and post- is 1/2 cfs, so the reason we put that pond there is  
242 to keep you guys happy because I know the reason that is there is mostly architecture, we can make it a  
243 dry pond; we'll have one to detain and one to release, so it's not a 10' deep pond or that sort of thing.  
244 Since we are losing a lot, that makes everybody happy and we considered let's put another pond and then  
245 also give you the buffer.  
246

247 Ms. Trebellas: I understand nobody really wants to live at that busy intersection, so a pond perhaps is a  
248 good idea. However, we've had issues in the past in the Township that if ponds are too close to a busy  
249 intersection, there have been accidents and cars have ended up in those ponds, but I forget exactly what  
250 the distance needs to be from a busy road...  
251

252 Mr. McCarthy: It's 25' from all public right-of-way; that's one of the points in the resolution.  
253

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254 Mr. Alam: We have a driveway and 20' easement and another 25', so we're 150' from the road.

255

256 Mr. McCarthy: That's an issue I think everyone needs to resolve here. That's one reason we put the  
257 resolution out. There is a 20' easement; it's denominated a highway easement.

258

259 Mr. Alam: And then there's another 25'.

260

261 Mr. McCarthy: You don't; at least when I scaled it you didn't.

262

263 Ms. Radcliffe: And we have trees surrounding most of it. Again, it's kind of an architectural feature and  
264 we can mix and mold it because it's not for the purpose of retention. I don't think that that should be too  
265 much of a concern.

266

267 Ms. Trebellas: If it is, it depends on whether that cement becomes a road or does not become a road.

268

269 Ms. Radcliffe: We'll be outside of that regardless.

270

271 Mr. McCarthy: There was a deed take, there was an easement granted, and then there was a 20' easement  
272 on top of that granted; it kind of stacked on what went before, and you can eye ball it and see neither pond  
273 is 25' from the highway easement which is the last layer on the cake that the County has built up there.  
274 Do you regard that highway easement, which is for highway purposes, as a public right-of-way or no?

275

276 Ms. Radcliffe: I know there are some discrepancies in your measurements and our engineer's measure-  
277 ments, we made sure in worst case scenario that we are outside of that.

278

279 Mr. McCarthy: In terms of the setbacks, absolutely. All of the improvements are outside of that 20'  
280 highway easement. While all the lots are outside of that 20' highway easement; I still think you're going  
281 to hear from the County about you just made the bump out bigger, or they did, but as far as the distance  
282 from the edge of that highway easement to the ponds along Old State, there is not a distance of 25' which  
283 is the standard.

284

285 Mr. Alam: 25' from the right-of-way but 50' from the easement.

286

287 Mr. McCarthy: That's what we're talking about.

288

289 Mr. Fisher: We can move the pond 25' from the right-of-way.

290

291 Mr. Alam: 15' from the easement, 25' from the right-of-way.

292

293 Mr. McCarthy: No, it's just a flat 25' and 50'. Other places have other rules but that's what ours are.

294

295 Ms. Trebellas: That way, if something does happen to that easement, you're still within the safety zone.  
296 And since it's an architectural feature, has any thought been given to benches, paths, etc. for the  
297 residents?

298

299 Ms. Radcliffe: We can definitely consider that.

300

301 Mr. Fisher: It is not going to be what we call a wet pond.

302

303 Ms. Trebellas: So it's going to be dry? I think the only thing we've asked for if it's a wet pond is make  
304 sure the mosquitoes don't get too bad; usually we have them treated or aerated.

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305 Mr. Fisher: We'll stipulate that it will be 25' from the right-of-way.

306

307 Ms. Trebellas: We were just discussing how this is going to be a Condo Association, the person will own  
308 the house, they will have a limited element around the house...

309

310 Mr. Fisher: It's more complicated than that. The personal loan, their house and their lot; the lot will be a  
311 part of the condo because it's a fee simple lot.

312

313 Mr. McCarthy: Except for the exterior. The two notes you added to the one plan, Note A and Note B, kind  
314 of laid out what was going to belong to who.

315

316 Mr. Fisher: You can condominiumize just about anything in Ohio, so we've been looking at this with the  
317 offsetting fees and the thing was condominiumizing the lot, so we had the lot with everything on it as part  
318 of my condo that I would take care of.

319

320 Ms. Trebellas: At one point it sounded like the Condo Association was taking care of the lawn.

321

322 Mr. Fisher: No.

323

324 Ms. Trebellas: But they're taking care of...

325

326 M. Fisher: It's just like an HOA. That's the new thing today is maintenance free lifestyle, someone's  
327 going to mow your grass, do your fertilization, your irrigation, your mulching and shovel your driveway,  
328 so it's going to be maintenance free. It's the whole empty nester; that's what this will be. But the good  
329 news is, you don't have to take care of the roads.

330

331 Ms. Trebellas: The wellness center, in your text you said and I understand from the depiction, the plans,  
332 it's like an office, bathrooms, lounge area, but you also said in the text that it could be used for any other  
333 accessory use authorized for single family zoning districts under the Township's Zoning Resolution shall  
334 be permitted, and that made me a little nervous. It seemed a little open ended.

335

336 Ms. Radcliffe: I think we probably pulled that from another zoning text in the Township; we can just  
337 eliminate that.

338

339 Ms. Trebellas: I would rather that you state exactly what it's going to be used for and not have this sort of  
340 circular open area where someone says incidental to the use is....I'm trying to think of some horrific thing  
341 that could happen. But if it's clearly like the Condo Association's offices, clubhouse, I have no issues  
342 with that. I'm just concerned that if you leave it open ended, someone will put a bar in there or something.

343

344 Ms. Radcliffe: We have everything specifically listed in there up until the word "only".

345

346 Ms. Trebellas: Up until "for any other accessory use"; everything before that is perfect for me.

347

348 Ms. Radcliffe: We'll delete that.

349

350 Mr. McCarthy: The comments that are in Attachment B to the one motion are just comments that either I  
351 thought needed to be brought forward or I thought you were bringing forward or I didn't know what the  
352 status was. There was a request that they wanted to have a detailed explanation of what the offices are to  
353 be used for, not just say they're going to be used for offices. It's kind of the same thing.

354

355 Mr. Fisher: They are offices for the Condo Association.

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356 Ms. Trebellas: I think we want to make sure that no one is going to lease the space and have a business.

357

358 Ms. Boni: Would it be a sales office?

359

360 Ms. Radcliffe: I think it said that in a previous version, but no sales office. I can make the offices more  
361 specific.

362

363 Ms. Boni: We received two email statements from Orange Township residents sharing their concerns and  
364 comments on the project that I provided to each of the Board members.

365

366

### PUBLIC COMMENT

367

368 Tim Soards, 7200 S. Old State, Lewis Center, Retention Pond #2, I think that's kind of the high spot of  
369 the property, so I'm curious how the grading works to get that there without building up the area. I live to  
370 the north; I really don't want increased drainage. And I noticed the letter from the Delaware County  
371 Engineer asking for a 60' access easement along the north edge of the project. Did you ask them the  
372 purpose for that?

373

374 Mr. McCarthy: I haven't spoken to them about that but we have other situations like this. I don't think  
375 there's any desire or intent to affect you; I think it's kind of a looking forward thing as far as the access. I  
376 don't know what the ultimate plan is but they have made a request like that before with the idea some-  
377 times it comes to be, sometimes it doesn't but they maintain the option that if they need to, they don't  
378 want any more curb cuts on Old State than they have to have and that may be where they're coming from.  
379 Again, I haven't spoken to them about it but I've seen them do it in other cases.

380

381 Mr. Soards: I know you mentioned before about the catch basin that's right there pretty much at your  
382 main entrance how that would affect drainage because my driveway has been 3' under water now since  
383 the roadwork has been done, so I'm very sensitive to any blocking off the catch basin or shrinking it's  
384 natural extending up the roadway for depth; it's going to top me over more quickly.

385

386 Peter DeGaia, 6976 S. Old State Road, Lewis Center, I live north of the property as well on Old State, on  
387 the west side of the street. I didn't understand where the sewer system was coming in and going to on the  
388 drawings. Is there any kind of hook up potential for all of us along Old State if there was ever a  
389 requirement in the future to have sewer that this be put in so that we can have access to the sewer because  
390 right now we're completely cut off and if somebody would require anyone of us to hook up, it would cost  
391 tens of thousands of dollars per house to do that because we all set back from the road on Old State. I  
392 don't know if that's an option that could be worked into that because this is the original farmhouse that  
393 owned all of our properties going north so as the owner sold off lots, which became our properties and  
394 we're all several acres deep, we're all on septic, we're all cut off from the subdivisions around us. Part of  
395 that's a nice thing, part of that in the potential for the future could be a bad thing depending on where you  
396 guys decide to go with stuff. I just want to know if there's options for us going forward or are we limiting  
397 our options going forward by approving this type of plan?

398

399 Mr. Alam: We have the storm line with an easement that the County wants to connect to.

400

401 Mr. DeGaia: So would there be a potential for a sewer connection going forward?

402

403 Mr. Alam: Yes, so they have an easement and if they want to do anything, they can.

404

405 Mr. Fisher: It would still cost you a lot of money if they put a sewer there.

406

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407 Mr. DeGaia: I didn't quite understand the whole discussion about the right-of-way, so I just wanted some  
408 clarity, so from the centerline of Old State, what's the right-of-way over to the edge?

409

410 Mr. McCarthy: They backed all of their improvements out of the area you're concerned about, with the  
411 exception of the pond but that's being moved too.

412

413 Mr. DeGaia: What is that distance from the centerline of Old State?

414

415 Mr. McCarthy: I'd have to scale it.

416

417 Mr. Alam: It's 100 and some feet.

418

419 Mr. DeGaia: I know a portion of this has already been widened based on the work that was just done over  
420 the last few years.

421

422 Mr. Alam: That's the centerline, this is 70' and then another 25', so 100 plus whatever this is.

423

424 Mr. Fisher: You can be assured as you're going north, the same is going to happen to everybody; they're  
425 going to keep taking property.

426

427 Mr. DeGaia: So going southbound on Old State at the new intersection, I believe there's one lane that's  
428 straight and a right turn lane, then there's one that's straight and a dedicated left turn lane as you're going  
429 southbound on Old State right next to the intersection but as you're crossing Orange Road, there's an  
430 additional lane that suddenly appears which seems to me like there should have been another lane built  
431 along Old State then there'd be a straight shot into that instead of dividing this lane into two going  
432 forward. Is that in the plans because traffic is backing up all the way to my house and I'm a third of a mile  
433 from this intersection. It just looks like the plan wants to bend, we're going to put two southbound lanes  
434 but only one of them was fully built, the other one's a little short piece.

435

436 Mr. Soards: I thought eventually when they sold that land off there they were going to take the land and  
437 with all the streets there and make that another lane for when they sold that property so at that point you  
438 would actually have two lanes going down Old State. If they go with the way it is now, it'll never be able  
439 to be widened. So they've got one shot now to get it done.

440

441 Matt Basendall, Summerfield Village HOA, I actually worked for Woolpert, a professional engineer, and  
442 there's S. Old State Phase 2 that's intending to connect the existing roadway that you see that's been built  
443 on S. Old State from Polaris Parkway up to Orange that ends at that taper at Abbey Knoll where right now  
444 it's a striped taper, and the intention of Phase 2 is to connect Lewis Center Road and around for the  
445 eventual Big Walnut/ODOT Interchange going in. That's a 2026 design project I believe. I don't work for  
446 Woolpert any more so I'm not sure of the development aspect of S. Old State Phase 2, but it was intended  
447 to essentially keep the corridor characteristics we now see being constructed and run north all the way to  
448 Lewis Center Road ergo that would include a right turn lane where this pond is and it also would have  
449 included a 10' shared use path on the west side of the highway as part of the MORPC Central Ohio  
450 bikeways development project. It also would have connected at Orange Road to the MORPC bikeway that  
451 is currently unpaved that runs through Summerfield and connects where the lights are. So in terms of  
452 future development where this pond is located, to be quite candid, you essentially ruined the drainage  
453 characteristics of the parcel with the way it is currently designed should you go with the existing drainage  
454 and site layout and eliminate the opportunity to add those turn lanes and those improvements for  
455 pedestrian bikeways, etc. It also precludes Summerfield from ever connecting our sidewalk to the S. Old  
456 State and Orange intersection which we can't right now. We have a sidewalk that dead ends; it does not  
457 connect and if you look at the Orange Road corridor project that's going to go in, when you go in from 23

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458 to Green Meadows, it turns into a 5 lane road as well and it was intended to run the whole way through  
459 but it couldn't handle it with the railroad, so it was intended to run a 10' shared use path with the bikeway  
460 with MORPC and if the way it's laid out here is correct with the pond layouts, you prevent the future  
461 development of this corridor which was intended as part of the traffic study that was done for the Big  
462 Walnut Interchange that was supposed to go in to funnel vehicles in for the design year 2026 through  
463 design year 2030. That's the biggest issue from a planning point of view, you take away that. And it's not  
464 just the right turn on to Orange, it's the right turn on Orange Road itself; you take this corner out with the  
465 way it's designed because you've got a dedicated right-of-way that tapers in before Summerfield, so  
466 that's a significant concern of the current landowner. Orange Road is one of the most backed up roads in  
467 the Township.

468  
469 Mr. DeGaia: It's never going to get any better and we've only got down two lanes north and south all the  
470 way up to Orange and you say it was only two lanes all the way up to Lewis Center, people are driving  
471 down 23 from Lewis Center coming across Orange. If we get to a point we've got them locked down, we  
472 can put an extra lane heading south on Old State to make the right onto Orange Road, then this goes in  
473 and that's going to be congestion forever. It's congested right now. I come out in the morning and make a  
474 left from Abbey Knoll and it's a suicide turn. And I don't know what you're going to do unless you have  
475 a light.

476  
477 Mr. Basendall: That was part of the plan for Phase 2 but it may have changed since I saw the initial phase  
478 of the development, but right now Abbey Knoll has full width paved that kind of chops over to 90 and out  
479 and the intention for that is to continue going northbound. Now Abbey Knoll's turnout is so close to the  
480 light that there's consideration at that point already with the drive access there and they're saying the  
481 lights can't be that close together, so Abbey Knoll would have a right-in/right-out at that location and then  
482 the other thing you're going to have here with the way it's set up, their main entrance is going to be a  
483 right-in/right-out because there's going to be a raised median or a 5' turn lane; this is future of course, it's  
484 not final. But the way it's set up right now, especially with the access on the south end where I believe  
485 that's supposed to be the emergency access for the vehicles on the very south end between the two ponds,  
486 that will all be turn lane and shared use path if you actually want to build this. So your choice is  
487 essentially between doing this plan as is and never improve that intersection or do we say we want this  
488 intersection because as Orange Township and Lewis Center continue to grow, this corner is only going to  
489 get more crowded if there's another exit off of 71 that people are going southbound on. That's of  
490 significant concern, that pond location. And in Summerfield Village, we pulled a car out of the pond with  
491 a body in it four years ago, so that pond location to me is important, but that's just personal.

492  
493 Mr. DeGaia: You've got to think about how much traffic goes down that road right now. You've got 200  
494 or 300 cars that come out of Abbey Knoll every day, you've got a new development coming in, and  
495 probably 75-80% are heading south, and it's getting out of there and there's consideration for having a  
496 second lane there heading south.

497  
498 Mr. Duell: We can go by what the County Engineer has told us, and the County Engineer has signed off  
499 and the development is outside of all the existing right-of-ways, easements requested by the County  
500 Engineer that the County Engineer has identified.

501  
502 Ms. Trebellas: So we assume the County Engineer knows what's going on in the future and he's aware of  
503 these plans and that's why they have requested not only a potential right-of-way dedication but also an  
504 additional 20' easement, and that's also why we're requesting a 25' buffer between that easement and the  
505 ponds. That is what we can do based on zoning and based on the County Engineer. It's not that we don't  
506 understand your concerns....

507

## Zoning Commission

508 Mr. McNulty: But all those road concerns are with Delaware County; Delaware County sees all of this  
509 and there isn't anything that happens here that they don't have to sign off in an absolute....  
510

511 Mr. DeGaia: I understand that but I want to make sure future homeowners don't get eminent domain  
512 out. That's why I'm asking how far in that right-of-way is, is that plan in existence for that extra lane  
513 coming through here because it sure looks like it's southbound after this intersection.  
514

515 Mr. Duell: I just know there's a dedication of property, there's an easement, there's buffers, this is all  
516 pretty well set back.  
517

518 Mr. Soards: It will be entertaining to see anyone trying to come out of there and head north.  
519

520 Ms. Trebellas: I agree that is a concern.  
521

522 Mr. DeGaia: Just turning left out of here crossing two lanes of solid cars. There's no way to even turn left  
523 into here because those two lanes of traffic are completely backed up. I realize it's only 19 houses, so it  
524 shouldn't be too bad.  
525

526 Ms. Trebellas: It's basically going to be impossible to do a left-in/left-out of that locale. We have  
527 discussed that as a Commission but based on the traffic study, they did not deem that...  
528

529 Mr. DeGaia: A major concern.  
530

531 Mr. McNulty: No.  
532

533 Mr. DeGaia: Is there trash service provided here by the Condo Association?  
534

535 Mr. Alam: Yes.  
536

537 Mr. DeGaia: Where does that truck turn around because it's a pretty big truck? Is there enough room in  
538 the wellness center parking lot where you have the mailboxes to turn the trash truck around?  
539

540 Mr. Alam: Yes.  
541

542 Mr. Soards: Wonder if there's a car in the parking lot?  
543

544 Ms. Radcliffe: There's no parking lot.  
545

546 Mr. DeGaia: That's just a turnaround section.  
547

548 Mr. Soards: Then he's a good driver then, especially if there's snow in the street.  
549

550 Ms. Radcliffe: They'll turn around in the turnaround section.  
551

552 Mr. Soards: Where's he going to push snow?  
553

554 Bud Abraham, 6205 Storm Haven Court, in the Shores, I've got concern of how the service vehicles are  
555 going to access that corner as they come around Lot 1 and 19 down at the bottom by the pond. How is a  
556 FedEx truck going to be able to turn around especially with snow pushed up in that area and garbage?  
557

558 Mr. Alam: That is all green space; there's nothing else around.

## Zoning Commission

559 Mr. Abraham: Assuming the Condo Association is paying for snow removal, good luck on that. I feel  
560 there's going to be an issue with gaining access into that entrance without some kind of slow down lane  
561 or an entrance lane. I realize there's some wide aprons in there, but without having a slow down lane, can  
562 you imagine in the summer time with the way this intersection is now and you've got people slowing  
563 down to gain entrance into that lot or turning out of that lot to go south and you've got motor homes,  
564 boats, motorcycles, construction vehicles and everything going south on S. Old State, and someone's  
565 going to be pulling out of there. I realize the County Engineer has already blessed this but I feel for a  
566 person pulling out of there or trying to pull in.

567  
568 Mr. Basendall: Just out of curiosity, who did the traffic study?

569  
570 Mr. Alam: EMH&T.

571  
572 Mr. DeGaia: Can you walk me thru the storm water elements?

573  
574 Mr. Abraham: Has the Township questioned the County Engineer on that and I really would consider that  
575 from a safety perspective? Someone is going to get seriously hurt there.

576  
577 Mr. Duell: If you've got specific questions about physical demands of the property, you may want to take  
578 it up with them after.

579  
580 Mr. DeGaia: Why is access off of Old State and not Orange on this plan?

581  
582 Mr. Duell: Because I believe that's what the County Engineer requested.

583  
584 Mr. DeGaia: Was it originally the homeowners and the County Engineer requested it?

585  
586 Mr. Duell: It was always requested by the County Engineer.

587  
588 Mr. Basendall It's the only place that's offset from the intersection as far north as possible and you  
589 probably couldn't move that 50' south or it wouldn't be the right standard spacing. That's my  
590 assumption.

591  
592 Mr. DeGaia: I'm on the north edge of all of these houses from the original farm that was here and we've  
593 had Estates of Glen Oak and Glen Oak Subdivisions built next to us, and we've had a tremendous amount  
594 of flooding after those were both built, and it's not getting any less; only worse. So I can sympathize with  
595 the owner directly to the north here. In fact, when they put in the retention ponds in for them, they failed  
596 and overflowed and flooded our property just from the retention pond alone, so that's why I'm asking  
597 about storm water. Where's this thing draining out to if that thing starts to overflow, where's that pipe  
598 going?

599  
600 Mr. Alam: The storm water is not increasing; any increase in water is going to be retained in that pond.  
601 That's what the pond is for and the pond will take care of the 2 and 10 year storm.

602  
603 Mr. DeGaia: So there's no overflow pipe coming out of there?

604  
605 Mr. Basendall: There's no hundred year emergency overflow access?

606  
607 Mr. Alam: Those are taken care of. The County is not going to let any design that is not adequate.

608  
609 Mr. Basendall: They haven't approved any drainage report at this point?

## Zoning Commission

610 Mr. Alam: We have worked with them; we are done with that.

611

612 Mr. Basendall: So the County approved the drainage report?

613

614 Mr. Fisher: We didn't have to have the drainage for the zoning hearing.

615

616 Mr. Basendall: I understand that but we're putting the drainage so close to the roadway here and that was  
617 my big concern at the last meeting. When he talked about the pre- and post, he was correct; you have to  
618 account for the change in the impervious area, so my thought process is that looking at the pond area, my  
619 struggle is seeing the one in the corner actually working as a dry pond. My experience with that much  
620 impervious pavement, I don't see how that thing is dry just based on what you see as impervious area  
621 going into a currently grassed area. I'm just saying that the bottom pond typically would also be wet

622

623 Mr. Alam: It is a wet pond.

624

625 Mr. Basendall: You said it was a dry pond and that's my concern with the drainage.

626

627 Mr. Fisher: Safi, he's talking about the southern pond.

628

629 Mr. Basendall: I think they will both be wet from my experience. We were told earlier the bottom one  
630 was going to be dry; I just don't see how that stays dry. That's my biggest concern on that side. And by  
631 this design where the water is on the corner and if that bottom one is in fact wet, we don't have our 100  
632 year emergency water overflow which means it goes into the road which is a critical aspect of the pond.  
633 That was my biggest concern at the last meeting because we've already seen it with the neighborhoods to  
634 the north flowing, so if we're only able to put the pond in that corner, there's a certain capacity that we  
635 just aren't meeting and then you have to have an overflow. I've been involved in projects where we had to  
636 alter the entire project based on not having a 100 year emergency overflow because otherwise it just flows  
637 into the road and everyone hydroplanes.

638

639 Mr. Alam: You don't understand the County's not going to sign off on this if it's not....

640

641 Mr. Basendall: It's going to significantly change the design of the neighborhood as it's laid out if they  
642 don't approve of this.

643

644 Mr. Fisher: And if they shouldn't, then we come back. That's how this process works. So I think the  
645 County Engineer controls this drainage issue, we understand this gentleman's concerns, we also  
646 understand the zoning process is based on preliminary engineering because engineering is a very  
647 expensive exercise to undertake, so the process works as you go through zoning, if this project is zoned  
648 and we go to full engineering which the County Engineer signs off on and by State law we cannot change  
649 drainage flow from what it is right now, increase off site, including on the roadway. If that results in us  
650 having to come back with an amended plan, we come back to this process with you as either a major or  
651 minor amendment to accommodate these issues. Is everyone in agreement that that's how this works?

652

653 Mr. Duell/Ms. Trebellas: Yes.

654

655 Ms. Trebellas: Like we said, we are beholden onto the County Engineer when it comes to the traffic, and  
656 we assume that they took account of the road changes that will occur in the future. We assume they will  
657 also make sure that the ponds work because that's their area of expertise. But we understand your  
658 concerns. We live in the area; trust us. We drive down that road every day.

659

## Zoning Commission

660 Mr. Basendall: Did we ever resolve the acreage? It shows 11.2 on here and last time it was 9.4 or  
661 something?

662  
663 Mr. McCarthy: The acreage has been resolved and I'm not sure where the issue stands on the part of the  
664 property owner. Originally the acreage that was reflected included a couple of areas that were transferred  
665 to the County by warranty deed. We're at 9.683 acres now.

666  
667 Mr. Basendall: And that's with the green space calculations and everything?

668  
669 Mr. Fisher: The density and green space is based on that.

670  
671 Mr. DeGaia: Looking at the boundaries with landscaping, I know you guys mentioned possibly your  
672 neighbors to the north and west; obviously I see a lot of trees in there. With that 60' easement, there are  
673 some existing mature trees that probably fall in that. Is it your intention to go in and clear that? Do you  
674 have to clear that for that easement?

675  
676 Mr. Alam: No, the easement, we're not touching it.

677  
678 Mr. Basendall: I think I can tell you why it's there. If people try and buy the green space, they're trying to  
679 find a way to get access, so if the County buys it, they can say no you're not getting that.

680  
681 Jason Bacher, 7403 Summerfield Drive, the property just to the west. Shafi, I'll be walking through with  
682 you tomorrow to get a better understanding of where the sump easement is located so I can figure that out.  
683 My question on the property line there, because I think I'll have about six houses right next to me, so the  
684 trees already in the backyard and I'm still not clear are the homeowners responsible for the tree trimming  
685 and all that stuff or...

686  
687 Mr. Fisher: On your lot, yes. Trees on your lot are your responsibility.

688  
689 Mr. Bacher: So they can't take those trees down if they choose to? I'm just trying to find out if I'm going  
690 to have houses right next to my house or if there'll be trees.

691  
692 Mr. Fisher: They don't want it any more than you do.

693  
694 Mr. Bacher: I was asking if there's going to be a fence line through and he said the thought process was  
695 just kind of leaving everything open, the yards being open.

696  
697 Ms. Boni: I would say that if the owner doesn't comply with the landscaping that we approve, then  
698 they're going to have to reinstall those trees.

699  
700 Mr. Fisher: We just go by the Township tree policy.

701  
702 Ms. Boni: We don't have a specific tree policy, but we see the trees and what they've done...

703  
704 Mr. Fisher: She's right; we have a zoning plan that shows trees on it, and if someone takes the trees off,  
705 they're in violation of the zoning plan.

706  
707 Mr. Bacher: Earlier there was a question about the sewer line. There was a sewer line installed in our  
708 front yard before we purchased the property and it has sunk several times, so we've had standing water in  
709 the front yard. Jack Brickner was part of the team that sold the property and he said they installed that

## Zoning Commission

710 line to market that property and that line is only usable for two lots. But you said you're going to use that  
711 line.

712

713 Mr. Fisher: Again, the County Engineer determines what the capacity is of the line.

714

715 Mr. Bacher: I couldn't quite see how you were going to use that line.

716

717 Mr. Alam showed where lines were going to be.

718

719 Mr. Bacher: I'm sure you can understand I'm just wondering if my yard is going to be torn up during this  
720 process.

721

722 Mr. Alam: No.

723

724 Ms. Radcliffe: We can only touch our property.

725

726 Mr. Bacher: I can get a better understanding tomorrow during the walk-thru.

727

728 Mr. Duell called for a 5 minute recess.

729

730 Mr. Duell called the meeting back to order. Mr. McCarthy, if you would like to go through the list of  
731 stipulations.

732

733 Dan Newman, 2004 Violet Court, Summerfield Village, the lot size and unit size, I know there was some  
734 question from the last meeting that things were fairly irregular.

735

736 Mr. Duell: We have standard lot sizes that meet the Code and they have unit sizes in the submittal. If you  
737 have specific questions about those, I would urge you to talk to them after this.

738

739 Mr. Newman: At the first meeting there was a four page memo that was read that was issued by the  
740 Regional Planning Commission that had a number of issues. Have those all been addressed and has  
741 Regional Planning weighed back in on this?

742

743 Mr. Duell: Regional Planning does not weigh back. We are duty bound to consider their recom-  
744 mendations but we are not bound by them. I think they have been considered.

745

746 Mr. McCarthy: These are issues that are still surviving and outside of the sanitary sewer line, I thought  
747 that one was pretty big, but beyond that, it's simply what you folks want. I think we have now an  
748 indication from the Sanitary Engineer that capacity is available, so I think that part falls off. Does anyone  
749 want to see telephone and telecommunication services?

750

751 Mr. Duell: No.

752

753 Mr. McCarthy: Details as to permitted uses of the offices, probably a little tweaking of that language.  
754 Does anyone not care about it to the degree that you want to carry it forward?

755

756 Ms. Trebellas: We discussed it, they're going to include the language; I'm fine.

757

758 Mr. McCarthy: Should it be a stipulation?

759

760 Mr. Duell: As discussed.

## Zoning Commission

761 Ms. Boni: Which was to delete that last section in that paragraph and then be more specific with the office  
762 use.

763  
764 Ms. Trebellas: The understanding was to delete the circular language involving accessory uses and that  
765 they would define the offices as offices for the Condo Association specifically.

766  
767 Mr. McCarthy: We still need to change Planning Commission to Zoning Commission in two places. In  
768 the submittal to the Trustees, state in the development text that parking will not be allowed on the  
769 emergency access drive. We have parking on the non-hydrant side of the interior road but it did not  
770 address the emergency access drive and it looks like we're good with not parking on it from what was  
771 said earlier, so we'll leave that one. In the submittal to the Trustees, provide confirmation of the size of  
772 the pond. Did we work the pond enough or what's your pleasure?

773  
774 Mr. Duell: We've said what we can say about the pond.

775  
776 Mr. McCarthy: The Engineer's Office said it appears feasible and that they'll have to meet County  
777 Standards. So strike it?

778  
779 Mr. Duell: Yes.

780  
781 Mr. McCarthy: In the submittal to the Trustees, the development text shall be modified to state no final  
782 Certificate of Compliance will be issued for a structure until all required residential landscaping is  
783 completed and approved. The timeline for the completion of landscaping was a period of six months and I  
784 don't know that you want to just not have something in there as kind of an encouragement to go forward  
785 and put the landscaping in if someone decides not to. In the interim, Ms. Boni would have to work with  
786 them on Temporary Certificates of Compliance.

787  
788 Ms. Boni: Which are valid for six months.

789  
790 Mr. Duell: Just do that.

791  
792 Mr. McCarthy: In the submittal, the text be modified to state the timing of the installation of the  
793 landscape buffers that is not stated in the plan; I strongly suggest you put in there if you want to see  
794 landscape buffers. I suggest a final Certificate of Compliance for a structure adjacent to a buffer area not  
795 be issued until landscaping buffers are completed and approved.

796  
797 Mr. Duell: That's fine.

798  
799 Mr. McCarthy: The word "proposed" was in there twice; anyone have an issue as that stands?

800  
801 Ms. Radcliffe: I believe I went through and made sure there was no "proposed", "estimated",  
802 "approximate". If it's in here, that's from the County Engineer word for word, so we had to keep that in.  
803 If it was anywhere else, it should be removed. We will take one final look thru.

804  
805 Mr. Duell: You haven't identified where the word proposed is? Here it just says in the development text.

806  
807 Mr. McCarthy: It's in 10.06 b)5) and 10.06 b)6) on Page 1015. We'll leave proposed in. I think we have it  
808 resolved now that the highway easement is right-of-way; just label right-of-way at that point. The current  
809 70' indication along Old State is actually 50' from the right-of-way. As Ms. Radcliffe indicated, the lots  
810 and the improvements that would have structures are all located outside of that 70' area, so I would just  
811 say move that line 20'. Some relic references to R-PUD are in there. There's a label up above this

## Zoning Commission

812 property on this plan that just says “White” and used to have the wrong acreage and then it said R-PUD;  
813 same thing over on Summerfield. They have R-PUD. That is not the zoning reference. A provision shall  
814 be added to the text requiring the mounted lighting shall be designed, baffled or shielded so as to be  
815 downlighting. I tried to find your maximum light. What I did see is there is an exception for residential  
816 style fixtures and those appear to be like the ones you put on a post in your front yard. Some of those are  
817 just incandescent bulbs; from a commercial sense, a lot more of than are going to LED. Do you know  
818 what your intentions are with the lighting? The fixtures going on your sign; I’m just trying to figure out  
819 what the nature of those fixtures were. They could be commercial and a lot larger than what we see for a  
820 residence.

821  
822 Ms. Radcliffe: There are some dimensions on the main entry sign on Exhibit J. There are maximum  
823 lighting numbers; is there something more specific that you want?

824  
825 Ms. Trebellas: I assumed that was the fixture but there’s not a cut sheet that goes with that fixture to  
826 explain what it is.

827  
828 Mr. McCarthy: There’s a requirement that it be downlighting.

829  
830 Ms. Radcliffe: In the text we did say it would be downlighting.

831  
832 Mr. McCarthy: You said it would be downlighting but then you’re showing a fixture that does not appear  
833 to necessarily be downlighting, and I don’t know if they have a baffle on that or what they can do.

834  
835 Mr. Alam: We’ll clarify that.

836  
837 Mr. McCarthy: In the submittal to the Trustees, all perimeter bearings and distances shown on the plans  
838 should be the same as the Legal Description. Over the years I have seen many that were not and they’re  
839 real close, maybe off a degree or a few feet here and there. At times, the Commission has just said no,  
840 they’ve got to match.

841  
842 Ms. Radcliffe: We’ll go back and make sure they all match.

843  
844 Mr. McCarthy: In the submittal to the Trustees, evidence that the sump easement has been vacated.  
845 You’ve seen the easement, you heard the gentleman say they’re meeting tomorrow; is that adequate or do  
846 you want more? Easement says that it can be relocated subject to the consent of the property owner.

847  
848 Mr. Duell: That’s fine.

849  
850 Mr. McCarthy: In the disclaimer there was a word off in there, so it’s just a cut and paste. We talked  
851 about control of the units and the owner’s association; are you satisfied with that discussion or do you  
852 want more?

853  
854 Mr. Duell: No, it was statutory.

855  
856 Mr. McCarthy: We have two Sheet 2B’s; one is supposed to be 2A; it’s just clerical. In the submittal to  
857 the Trustees, present a letter from the County Engineer stating his consent to a locked gate to the  
858 emergency access as being within the highway easement. It is and I don’t know what you want to do  
859 about it, if anything. It almost has to be with the way it’s laid out. The only other thing you could do is  
860 choke off the access past the turnaround.

861

## Zoning Commission

862 Mr. Fisher: Don't you consider that a final platting development issue? If the County Engineer comes  
863 back and says we have to meet that, we'll have to do it.

864  
865 Mr. McCarthy: We've talked to the Engineer over the years and when we have issues like this we usually  
866 bring them up for discussion. I believe Mr. Piccin's letter addressed...

867  
868 Mr. Alam: That's still right-of-way, not easement.

869  
870 Mr. McCarthy: You're on the other side of the easement I think.

871  
872 Mr. Alam: Yes, it's the apron that's the right-of-way.

873  
874 Mr. McCarthy: The easement is arguably right-of-way too but; I see what you're saying, you're saying  
875 it's within the 20' of the easement which I think we established in fact is right-of-way. I don't know what  
876 the answer is but I think if it's not there, you're almost going to have to block off the turnaround to the  
877 residents. The gate would have to extend across that area just about where the sidewalk comes out.

878  
879 Ms. Trebellas: I think the Engineer can look out after himself; I'm more concerned about the fire  
880 department.

881  
882 Mr. McCarthy: When we had everything in there, I think it was more significant.

883  
884 Ms. Trebellas: If they need to take an easement, then they're going to have to relocate it.

885  
886 Mr. McCarthy: There is an easement already.

887  
888 Mr. Duell: If they have to use it for anything.

889  
890 Mr. McCarthy: The thing is, we're leaving it to the Engineer, correct?

891  
892 Mr. Duell: Yes.

893  
894 Mr. McCarthy: Check Lots 5 and 16 to make sure they have a 35' rear yard. They were a little bit shy on  
895 the scale anyway. You are now indicating that Pond 2 is going to be dry.

896  
897 Mr. Fisher: Is the southern pond dry, Shafi?

898  
899 Mr. Alam: Our development does not need that pond; we just added it to satisfy you, so it doesn't matter  
900 if it's wet or dry.

901  
902 Ms. Radcliffe: We'll make sure it has at least that 25' setback.

903  
904 Ms. Trebellas: For me, as long as it has that 25' setback, the concern being that if it's wet, cars have  
905 ended up in them before.

906  
907 Ms. Ault: Instead of a pond, maybe it could be like a dry basin.

908  
909 Ms. Trebellas: For me, I think a lot of that is going to depend upon final engineering as to what that pond  
910 has to be.

911

## Zoning Commission

912 Mr. McNulty: My concern was that it could just take care of the whole water situation on Old State; that's  
913 what I viewed this whole development as being a plus with respect to just having the ponds there. So  
914 whatever it is that the Engineer decides, I'm good.

915  
916 Ms. Boni: And it's 25' from the 20' easement.

917  
918 Ms. Trebellas: So change it from the public right-of-way to the 20' easement.

919  
920 Mr. McCarthy: It is the right-of-way. The right-of-way is where you can put the road; you can put it in a  
921 highway easement. Sheets 3, 7A and 7B reflect that the total residential lots are 20, not 19.

922  
923 Ms. Radcliffe: We need to revise that. I think that was when we were including the wellness center as one  
924 of the lots. We'll make it 19.

925  
926 Mr. Fisher: What you're referring to is residential lots. Remember we're doing a subdivision plat, so  
927 we've got to call the wellness center something.

928  
929 Ms. Trebellas: Just call it the wellness center.

930  
931 Mr. Fisher: We could call it a reserve where the wellness center is. Is that okay?

932  
933 Mr. McCarthy: It doesn't bother me.

934  
935 Mr. Fisher: That's what we typically do with open space.

936  
937 Mr. McCarthy: So we'll go to 19. Location of the entry sign, they keep measuring from the edge of  
938 pavement; we don't do that. Your sign actually is 15' from the outside of that 20' easement, so you're  
939 good to go there. If we could just get that back to 15' from all right-of-way, including the highway  
940 easement. Sheet 5, the scale of the detail is stated at 1:20 and when I scaled it, it was 1:40. As far as the  
941 wellness center on Sheet 5, I suggest you think about not making that to scale because I think it's going to  
942 be more trouble than it's worth looking at a scaled drawing.

943  
944 Mr. Fisher: We're in agreement with all of the modifications.

945  
946 Mr. McCarthy: The last thing we need to do then if we're going to try and pass this this evening is come  
947 up with language if you want to ,about the use of a platted lot prior to its being joined into the  
948 condominium. That's probably going to take some research.

949  
950 Mr. Duell: Do you want to try and do that on the fly or wait?

951  
952 Mr. McCarthy: I think I would like more time, especially, have you ever had to deal with that issue where  
953 you're looking at having a development that was basically going to start in the field, the case I was talking  
954 about that was never platted but what they were doing essentially was taking about a lot's worth of dirt  
955 and as the house built, they rolled that land into a condominium. So it's not truly the same thing; yours  
956 you actually create a lot and then later as they build out, flip the lots.

957  
958 Mr. Fisher: I think the difference is, you're talking about expandable condominiums where you have to  
959 define what you're going to expand. Here we can only define this 19 lot area and its open space, so we  
960 can't do more things than that.

961  
962 Mr. McCarthy: The question that's in my mind, say I go in and buy Lot 7 and what can I do with it?

## Zoning Commission

963 Mr. Fisher: You don't buy Lot 7 until you have a contract to build a house on Lot 7. So all you can do is  
964 what is zoned only for this development. Remember it's a planned development, so the text is the law. All  
965 you can do is what the text allows.

966  
967 Mr. McCarthy: Residential purposes are a permitted use in this development.

968  
969 Mr. Fisher: Right, but in this development, that text limits you to a single family residential lot.

970  
971 Ms. Radcliffe: So the text is already the law of what you can do there. I'm not sure we need to fill in....

972  
973 Mr. McCarthy: Once it becomes part of the condo, I would agree. That's the question I've got because we  
974 are starting off fee simple

975  
976 Ms. Boni: How would Zoning be able to approve something that's not otherwise a residential case.

977  
978 Mr. Fisher: I'm trying to understand why that is any different than if we just had platted lots without a  
979 condo. If we just had platted lots without a condo, zoning would control; all you could build is a single  
980 family home that falls within the requirements of the zoning. So I don't think adding the condominium  
981 component to it changes or expands the uses in any way.

982  
983 Ms. Trebellas: Because in the text it says you can put 19 single family homes, you cannot put in cluster  
984 homes, a church, school or any of those other uses that we allow in single family districts. Is that enough  
985 protection, Mike, because I assumed it was enough just by them stating that it's not permitted to put in a  
986 church or any of those other uses.

987  
988 Mr. McCarthy: I'm still wondering, if I buy Lot 7 and acquire the easement to get to Old State, have I  
989 violated anything?

990  
991 Mr. Fisher: By buying a lot, you're buying a condominium.

992  
993 Mr. McCarthy: No, you're buying a lot.

994  
995 Mr. Fisher: But the condominiumization goes along with the lot. In fact, what I think I'm probably going  
996 to do is condominiumize the lot so I can buy the lot. The lot is a lot of a condominium.

997  
998 Mr. McCarthy: If we could somehow put that in the text, I think that may be a way through this.

999  
1000 Ms. Trebellas: And that would then solve our tree problem if someone chops down a tree. It would be  
1001 clear that the tree belongs to the condo and therefore the Condo Association would have to replace that  
1002 tree if it was not allowed to be chopped down.

1003  
1004 Mr. Fisher: Selfishly I want to do it that way because you know the Condominium Statute you have to  
1005 condominiumize the house, you've got to file full architectural drawings on each house, so I'm trying to  
1006 avoid having to do that, so that's why I'm trying to condominiumize the lot.

1007  
1008 Ms. Trebellas: So you're trying to avoid the condo documents.

1009  
1010 Mr. Fisher: Right.

1011  
1012 Mr. McCarthy: The restriction on conveyance, they're not favored but I don't know what else you can do.

1013

## Zoning Commission

1014 Mr. Duell: Mr. McCarthy would like to have one more meeting to vote.

1015

1016 Mr. McCarthy: Just to get it all down on paper.

1017

1018 Mr. Duell: He can get his papers arranged correctly because right now it's kind of haphazard.

1019

1020 Ms. Trebellas: I know we've removed some stuff and there's things to clean up and I think there's two  
1021 additional stipulations you were working on; is that your concern?

1022

1023 Mr. McCarthy: My concern is right now I don't have a document that's in a final form for a vote.

1024

1025 Mr. Duell: How long will it take you to create it?

1026

1027 Mr. McCarthy: Until Thursday.

1028

1029 Mr. Duell: Let's have one more meeting to do the vote so he can get his papers.

1030

1031 Ms. Radcliffe: Do you need a resubmittal?

1032

1033 Mr. Duell: No.

1034

1035 Mr. Duell: The next submittal will be for the Trustees, and you'll be following those instructions. He  
1036 doesn't have them written in a final form yet because we've made changes on the fly here.

1037

1038 Mr. Fisher: Can we see that ahead of the meeting?

1039

1040 Mr. McCarthy: Absolutely.

1041

1042 Ms. Trebellas: And that way you can agree or disagree, so we don't have to make that decision.

1043

1044 Mr. Duell: Because regardless of whether this is up or down, it still goes to the Trustees and it's still  
1045 going to go with the instructions.

1046

1047 Ms. Trebellas: And the Trustees are the final say.

1048

1049 Mr. Duell: It won't take long to have that meeting.

1050

1051 Ms. Radcliffe: Do we all need to be present.

1052

1053 Mr. Duell: Someone needs to be here to nod yes to all the documents.

1054

1055 **MOTION TO RECESS APPLICATION #ZON-19-01**

1056

1057 Mr. Pychewicz made a motion to recess Rezoning Application #ZON-19-01, Porshi Development  
1058 LLC, until Tuesday, October 15, 2019 at 7:00 p.m. at the Orange Township Hall; seconded by Ms.  
1059 Trebellas.

1060

1061 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Mr. McNulty-yes, Mr. Pychewicz-yes, Ms. Ault-yes

1062

1063 Motion carried

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## Zoning Commission

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Meeting adjourned at 9:00 p.m.

Minutes prepared by Cindy Davis, Zoning Secretary

- Line 121 should read: “When we looked at the Recorder’s Office, we realized they....”
- Lines 794-795 should read: “I suggest a final Certificate of Compliance for a structure adjacent to a buffer area not be issued until landscaping buffers are completed and approved.”
- Line 899 should read: “...our development does not need that pond....”
- Line 937: the word “center” should read “edge”

Seconded by Mr. Pychewicz

Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Mr. Pychewicz-yes, Mr. McNulty-yes, Mr. Doherty-abstain

Motion carried