

RECORD OF PROCEEDINGS

Minutes of the Public Hearing of the Trustees of Sycamore Township Sycamore Township, Hamilton County, Ohio

March 16, 2021

NOTE: Due to the COVID-19 pandemic and the issuance of guidelines to limit public gatherings to ten people or less by Governor DeWine and the Director of the Ohio Department of Health, and due to enabling legislation (House Bill 404) which extended the ability of local governments in Ohio to meet remotely during this time, this hearing was held remotely via Zoom. Members of the public were given the opportunity to participate live in the meeting remotely via Zoom. Video of the meeting was live streamed to the public on the internet.

The foregoing transcript of the March 16, 2021 Public Hearing for Zoning Case 2020-07Z is hereby accepted as the official record of the hearing.

/s/ Thomas C. James, Jr.
Thomas C. James, Jr., Chairman

/s/ Jim LaBarbara
Jim LaBarbara, Vice Chairman

/s/ Thomas J. Weidman
Thomas J. Weidman, Trustee

/s/ Robert C. Porter III
Robert C. Porter III, Fiscal Officer
Public Hearing 03/16/2021

1 SYCAMORE TOWNSHIP ZONING COMMISSION

2 Township Administration Building

3 8540 Kenwood Road

4 Tuesday, March 16, 2021

5 6:00 p.m.

6 Remote Meeting

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8 Tom James, Chairman

9 Tom Weidman

10 Jim LaBarbara

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1 CHAIRMAN JAMES: It is 6:00 p.m. I'll
2 call this public hearing to order. This is on
3 Zoning Case 2020-07Z. I hear an echo. Someone
4 has audio going I think running the live stream
5 with their microphone open. We'll get going
6 with the hearing here.

7 First of all, we've called it to order.
8 If there's anyone who is planning to testify in
9 this hearing, I'd like to swear you in, first
10 of all. If you could appear on camera briefly
11 and raise your right hand if you're able. Even
12 if you don't appear on camera, please raise
13 your right hand if you'll be testifying for
14 each of you.

15 (A sworn oath was administered.)

16 CHAIRMAN JAMES: We'll consider you all
17 sworn. Thank you very much. Let's go ahead
18 and begin with a staff report, first of all.
19 Skylor Miller is here for that. Mr. Miller,
20 what do you have for us?

21 MR. MILLER: Let me get my screen up real
22 fast.

23 CHAIRMAN JAMES: And you are difficult to
24 hear.

25 MR. MILLER: Can you hear me better now?

1 CHAIRMAN JAMES: That's better.

2 MR. MILLER: So the case that I have
3 before you tonight is Case Number 2020-07Z.
4 Applicant is Grand Communities LLC. The
5 request tonight is zone change to B
6 multi-family residential. This location of
7 property is 8760 Montgomery Road. The total
8 acreage of the site is 2.4731 acres with
9 approximately 185 feet of right-of-way.
10 Topography is hillside with sloping. It's at
11 the high point on the north side of the
12 property and it's generally sloping south to
13 southeast.

14 Again, applicant is proposing a zone
15 change from B single-family residential to D
16 multi-family for the purposes of constructing a
17 multi-family development but of townhouses.
18 Ideally, I think, it's even been in the
19 application as attached single family. This
20 isn't rental properties.

21 So surrounding zoning for this site to the
22 north is the same side of the street is Double
23 00 planned office district. To the south is E
24 Retail District. There's a strip center and
25 parking garage that are situated on this lot.

1 To the west we have planned retail district.
2 This is the Mercedes Benz dealership. And then
3 to the east we have A single-family residential
4 district. So we do have -- we have a
5 subdivision here and then larger acreage lots
6 back here to the east and to the south.

7 So I'm going to give you a little history
8 on the land use of this site. We're looking
9 right here with this gold and green. This is
10 actually the 2002 Sycamore Township Land Use
11 Plan and this site was originally proposed
12 along with the corridor to the north as
13 transitional residents. And then the slope,
14 the steeper piece of this lot was slotted for
15 open space. In 2008 there was a land use
16 update so we're looking at the same site here
17 in blue. And you can see this is the two
18 retail districts that I was talking about
19 earlier. This is that corridor.

20 The land use plan changed to transitional
21 use with office. Unfortunately, what was left
22 out of that 2008 process were new definitions.
23 The 2008 was an update to the 2002. There
24 wasn't a new document that superceded, it was
25 just amendments to the 2002 plan.

1 So what we have are -- I'm going to give
2 you a couple of pertinent, possibly pertinent
3 definitions from 2002 to try and determine what
4 transitional use with office means and that's
5 kind of the question tonight in front of the
6 board. Since we don't have a clear cut
7 definition of this, I'm asking the trustees
8 tonight to make a decision based on their
9 interpretation of the land use plan.

10 So we have transitional residents that's
11 low density detached or attached housing and
12 related compatible uses. That does exclude
13 office retail and industrial. Provides that
14 transition between single-family homes and
15 other types of development.

16 So then we also have mixed use
17 transitional which is detached or attached
18 housing, low intensity office, such as
19 conversion of a single-family residence and
20 related compatible uses that provide a
21 transition between residential uses and other
22 types of development. And then we have office.
23 So office because this new category says with
24 office, I put this in here. Office uses and
25 related compatible uses and intensities consist

1 of the surrounding development.

2 I'm going to come back to our site plan
3 here. There is a long history of proposals on
4 this site. The parcel has historically been
5 zoned single-family residence B. There is
6 actually a single-family home on that site. In
7 2005 there was a request for a zone change and
8 PUD approval from B residents to Double 00
9 planned units for the construction of a 26,600
10 square foot two-story office including an
11 underground parking garage and service parking.
12 The applicant at that time requested a
13 continuation and that case was never heard. So
14 that kind of fell off our radar and was not
15 determined or there was no true outcome of
16 that.

17 As far as the D multi-family residential
18 district, there is density criteria. The
19 applicant will discuss their PUD plan that went
20 through zoning commission back in December.
21 That case was tabled until such a time as there
22 was an outcome on the decision of the zone
23 change that we're hearing tonight. So with
24 that, once the zone change is in effect,
25 there's different tiers of development

1 categories based on density.

2 So the first density category is low
3 density and that has a max of 7.26 dwelling
4 units per acre. If the applicant were to
5 propose a development on this site that met
6 that density, it would be permitted as of right
7 and it would be just an administrative review
8 by my office. If they proposed a density with
9 a maximum of 9.7 dwelling units per acre, that
10 would require a PUD1 and, again, they do have a
11 case pending on the zoning commission's agenda.
12 And then finally, this district does also allow
13 for high density with a maximum density of
14 14.5. That does, however, require a PUD2.

15 So on December 14th of last year, the
16 zoning commission did consider the applicant's
17 proposal for the zone change and they did not
18 feel that the transitional use with office
19 category was consistent with the proposal and
20 they are recommending, it was an unanimous
21 decision, I believe, and they are recommending
22 denial to the board of trustees. And I'm
23 available if you have any questions for me.

24 MR. WEIDMAN: Skylor, was that vote on by
25 the planning of zoning, was it unanimous?

1 MR. MILLER: It was unanimous to deny.

2 CHAIRMAN JAMES: Does anyone have any
3 questions for Mr. Miller?

4 Mr. Miller, you said if their rezoning
5 were granted to D, there would be 7 point, I
6 forget how many residents allowed per acre.
7 What does that translate to as of right if they
8 were D zoning on this site approximately?

9 MR. MILLER: So we would do density
10 calculation based on the net acreage, so we
11 would remove the right-of-way. So that takes
12 us down to a little over 2.2 acres. So we
13 would be looking at a maximum of approximately
14 16 units on this property.

15 CHAIRMAN JAMES: Okay. The land use plan
16 that you described and showed them, that is our
17 current existing plan, correct?

18 MR. MILLER: Yes, sir.

19 CHAIRMAN JAMES: Does anyone else have any
20 questions for Mr. Miller before we move onto
21 the applicant making any further presentation
22 they may have? If not, does the applicant wish
23 to make a presentation at this time?

24 MR. WISNIEWSKI: Yes. Mr. Chairman, this
25 is Jason Wisniewski with Grand Communities. I

1 have some slides I would like to present on my
2 screen if that's acceptable and maybe just take
3 about 10 minutes to walk through a few things.

4 CHAIRMAN JAMES: Okay. Skylor, can you
5 enable that for him, please?

6 MR. MILLER: It's already set.

7 CHAIRMAN JAMES: It is. Thank you.

8 MR. WISNIEWSKI: So, first of all, thank
9 you everybody for your time tonight. I have
10 some slides here that I just wanted to walk
11 through. And Mr. James, you'll recognize most
12 of this from -- and some of the residents that
13 are on line, will recognize this from a meeting
14 we had a few weeks ago in which we kind of went
15 through some revised, a revised proposal at
16 least from what was previously submitted. So
17 bear with me if this sounds familiar because a
18 lot of it will be although there's some
19 additional information. So previously we were
20 proposing 22 units on this site. It's a mix of
21 front-entry townhomes and rear-entry townhomes.
22 Front-entry townhomes are on the north property
23 line. Rear-entry townhomes on the southern or
24 towards the southern part of the site. And we
25 have revised that or at least -- I know the

1 development plan isn't what's at issue here
2 tonight, I'm trying to outline why we want the
3 rezoning. But our current path forward and
4 what we think is kind of a reasonable solution
5 is coming down to 16 units, eight front-entry
6 units on the north, eight rear-entry units on
7 the south, gives it a density of 6.4 units per
8 acre. And, Skylor, I'll leave it to you to
9 discuss what that does to the rezoning, but
10 this is our current plan or desire. And it
11 resulted from a few things.

12 One, is after we went to the planning or
13 the zoning commission and got a unanimous
14 recommendation to deny, we heard some things.
15 We met with residents. We tried to address
16 four key things: Building height, building
17 massing, increase separation from adjacent
18 properties, and preservation of additional
19 wooded areas. And those things kind of move
20 and shift together, and I'm going to walk
21 through a couple of slides here that show how
22 those things kind of move and shift. But
23 overall, and density was a key one, obviously,
24 and we've reduced that by six units or, I
25 believe, by 30 percent of an additional -- yes,

1 out of 22, so 30 percent reduction in overall
2 density.

3 Increased building separation. So this
4 red, there's a yellow line here, that used to
5 be the building where the building was
6 originally proposed to come towards the
7 property line so we were about --

8 CHAIRMAN JAMES: Jason, excuse me, if you
9 are trying to share slides right now we're not
10 seeing them.

11 MR. WISNIEWSKI: Oh, you're not.

12 CHAIRMAN JAMES: No.

13 MR. WISNIEWSKI: There we go. Is that
14 better?

15 CHAIRMAN JAMES: Yes, thank you.

16 MR. WISNIEWSKI: So here's our current
17 plan. I'm sorry, so again 16 units, eight
18 front-entry units on the north end of the
19 property. Eight rear-entry units on the
20 southern end of the property. Again, for
21 orientation, Montgomery Road over here to the
22 left-hand corner of the page. So 16 total
23 units, a density of 6.4 units per acre. We've
24 increased the building separation this yellow
25 line right here is where the buildings were

1 previously proposed. Again, when we had 22
2 units on this plan you can see how close they
3 came to the property line here. Most
4 importantly, we were about 115 feet off the
5 nearest point of the existing home, closest to
6 the property. We've now pushed that back to
7 157 feet. And, again, you can increase the
8 amount of wooded area that is preserved along
9 that property line.

10 Drawing a cross section here. So this is
11 the existing home that I pointed out. These
12 are proposed units here. So this cross section
13 we're looking at is through that home to our
14 units. And, again, you can see the amount of
15 separation. These buildings are higher and
16 this building height was an issue that was
17 brought up. I'll show you some elevations.
18 We're showing here kind of a more classic style
19 of architecture that has gables and roof lines
20 that are higher. We are able to lower that.
21 These buildings right now are about between 40
22 and 45 feet from grade to the top of this gable
23 here. But we do have options to lower that
24 building height and, again, address some of the
25 resident's concern, but it was just drawn that

1 way.

2 Another cross section that we were asked
3 to do through the residents is the medical
4 office here on the right-hand side of the page
5 versus the townhomes over here on the left and
6 how much taller we would be. And, once again,
7 with our peaked roofs, we would be about 5 feet
8 taller than the existing medical office
9 building that's just north of the proposed
10 development. But if we were to do something
11 that would be more of like an industrial or
12 modern industrial style of building, these
13 roofs become flat and they would be much closer
14 if not lower than a finished height of the
15 medical office.

16 So not only did the buildings get pushed
17 to the west, the roadways, these yellow areas
18 indicate the roads that came and how close they
19 came to the property line. So there's a
20 considerable amount of pullback. We actually
21 had a turnaround in here that was oriented, it
22 actually came to the north, which encroached a
23 little bit more towards the property line. We
24 reoriented that to turn around towards the
25 south, again, to increase this area for

1 landscaping and tree preservation to screen
2 these existing residents to the east.

3 Increased tree preservation. So the
4 existing tree canopy is this blue line here.
5 That's where the trees are today. Our previous
6 proposal had this red line so we were basically
7 clearing all the way back to the property line
8 that eastern property line and considerably in
9 the southern corner here. And what you see in
10 this darker green area is what would be
11 preserved. So by moving the buildings as far
12 west as we can, by reducing that density, we've
13 increased significantly the amount of wooded
14 area that would be preserved and act as a
15 screen from the existing homes.

16 One last cross section. This would be the
17 cross section through Concord Drive, through
18 the Schoeny's residence back towards our house.
19 Again, you can see down here. Our buildings
20 will be higher. There's no doubt. Their
21 finished elevation relative to the existing
22 residence. However, there will be a
23 significant buffer in here, about a football
24 field if not a little bit longer than a
25 football field. And that existing vegetation

1 that occurs in here you can see it through the
2 sight line right here, that's what we're
3 looking at. You see this existing vegetation
4 that is and will be preserved by this revised
5 development plan.

6 The rear-entry townhomes, again, these are
7 what we're proposing in terms of building
8 massing was an issue. I think before we had
9 like six-unit buildings, five -- or six-unit
10 buildings. We've done everything in two
11 four-unit configurations. So two four-unit
12 buildings of the rear entry, two unit -- four
13 unit buildings of the front entry. To bring
14 down that mass to minimize the mass of the
15 building and, again, this has that more
16 traditional architecture to it, which you would
17 see. Again, this was the rendering that we've
18 shown a few times now. That was kind of the
19 style of architecture. We can reduce that by
20 doing something that's more -- has a more
21 modern feel. Again, still high quality
22 materials, brick, and architectural features
23 such as bay windows -- but it's a different
24 style. But it does, you can see right here
25 reduces that building height.

1 Once again the same thing with the
2 front-entry townhomes. These are the rear or
3 the front entry with the garage in front. Once
4 again, that kind of traditional style of
5 architecture versus something that's a little
6 bit more modern, different kind of doors. But,
7 again, lowering that overall building height is
8 something that we can and would consider soon
9 after rezoning is approved and we get to the
10 development plan stage.

11 Just a couple samples of the interiors.
12 Again, these are modern interiors with spacious
13 living areas really geared towards young
14 professionals, empty nesters. You know, I'm
15 not saying that there will not be children that
16 live at Hill Point, but that's not the target
17 market. That's not the demographic that we're
18 after and I'll talk about that a little bit
19 more in a minute. But, again, just spacious
20 interiors, high quality finishes, that's what
21 that buyer expects. They do have owner suites
22 with on-suite bathrooms to appeal to that kind
23 of higher-end buyer that these price points are
24 designed to hit.

25 So, again, just real quick and then I'm

1 finished and I'll turn it back over to
2 questions or comments. But our target market
3 here again is young professionals and empty
4 nesters. These are typically people who don't
5 need a lot of amenities on site. The amenities
6 are the -- the area around it, Kenwood Town
7 Center, the shopping, the restaurants that kind
8 of thing that they're looking for. Low
9 maintenance life style in terms of not having a
10 lot of yard to mow or things to take care of.
11 They want to get out and do things that are not
12 in the home, but away from the home. And these
13 are still discerning buyers. These are people
14 that have disposable income that want some of
15 the finer things in life especially the empty
16 nesters. They're at that point in life where
17 they want those finer things and those finer
18 finishes and that's what these homes provide.

19 So with that, I'll be quiet and answer any
20 questions or take any comments that anybody
21 might want to have or offer. And, again, thank
22 you everybody for your time.

23 MR. WEIDMAN: Jason?

24 MR. WISNIEWSKI: Yes.

25 MR. WEIDMAN: How many square feet are

1 these units?

2 MR. WISNIEWSKI: They range, the rear
3 entry are a minimum of just under 1,900 square
4 feet. The front entry are just over 2,000
5 square feet.

6 MR. WEIDMAN: And what's the price point?

7 MR. WISNIEWSKI: Every one of them has a
8 two-car garage, integral two-car garage as well
9 whether that's from the front or the back.

10 MR. WEIDMAN: What's the price point on
11 these?

12 MR. WISNIEWSKI: We're expecting them to
13 start in the mid five's. And, again, they'll
14 go up from there depending on the finishes that
15 people -- the options that people choose.

16 CHAIRMAN JAMES: We'll have an opportunity
17 for other comments in a moment. Does anyone
18 have any questions though for Mr. Wisniewski
19 following Mr. Weidman's questions there?

20 MR. MILLER: I got one clarification. I
21 know that height was brought up during the
22 informal meeting of the residents. Just so
23 everyone knows in the B district, the principal
24 buildings are allowed to be a maximum height of
25 3.5 (INAUDIBLE) to 45 feet, in other words,

1 (INAUDIBLE) so the original would be without
2 bearing any sort of -- any special --

3 MR. WEIDMAN: Skylor, can you say that
4 again, please?

5 CHAIRMAN JAMES: It's difficult to hear
6 you, again. You might need to be closer to the
7 microphone.

8 MR. LaBARBARA: Skylor, you said 45 feet,
9 are they going to come down lower than 40 feet
10 for this?

11 MR. MILLER: Well, these -- if this goes
12 back to --

13 MR. WISNIEWSKI: We're expecting them to
14 start in the mid -- Mr. James and Skylor, I'm
15 having a hard time hearing. But if I'm
16 correct, I believe that the existing B2
17 district allows an average or a maximum height
18 of 35 feet and somebody wave the red flag if
19 that's incorrect or --

20 CHAIRMAN JAMES: Skylor is signaling
21 differently here.

22 MR. WISNIEWSKI: -- two and a half stories
23 whichever is less -- oh, okay.

24 CHAIRMAN JAMES: Skylor, could you try
25 again? What is the height?

1 MR. MILLER: So within the B District, I
2 know this came up during the informal meeting
3 with the residents, but to clarify the B
4 District allows for a maximum of 3.5 stories or
5 45 feet whichever is less. From the original
6 elevations that were proposed would be
7 permissible with the proposal.

8 CHAIRMAN JAMES: So three and a half
9 stories or 45 feet?

10 MR. MILLER: Correct.

11 MR. WISNIEWSKI: I just wanted to make one
12 clarification. Skylor, it is -- the current
13 zoning district though is B2, correct?

14 MR. MILLER: Yeah, B.

15 MR. WISNIEWSKI: I'm sorry, yes, B. So
16 it's two and a half stories or 35 feet. So the
17 one thing that I wanted to point out is that
18 the (INAUDIBLE) --

19 CHAIRMAN JAMES: Jason, you're breaking up
20 now and your video is frozen, I believe.

21 MR. WISNIEWSKI: Can everybody see this
22 building now?

23 MR. MILLER: Yes.

24 CHAIRMAN JAMES: Yes.

25 MR. WISNIEWSKI: So this building right

1 here is -- when you get into from like here
2 from the garage to the peak of this roof,
3 (indicating) is about 45 feet. However, in
4 this elevation from the garage to the top of
5 this is 35 feet. So we could do this style of
6 elevation under the existing -- I guess what I
7 want to say is we're not necessarily asking to
8 build a (INAUDIBLE), I believe here or a taller
9 building than we would currently be allowed on
10 that site. It would just be a trade off of is
11 this a more desirable architecture or is that a
12 more desirable architecture.

13 So we have -- I guess what I'm saying is
14 we have elevations in our repertoire that would
15 make the -- would meet -- at least would meet
16 the existing --

17 CHAIRMAN JAMES: We lost you again there.
18 "Would meet the existing" and we lost you.

19 MR. WISNIEWSKI: So I just wanted to make
20 one clarification.

21 MR. LaBARBARA: So he could go to --

22 MR. WISNIEWSKI: Skylor, it is -- the
23 current zoning district though is B2, correct?
24 It's two and a half stories of 35 feet. So the
25 one thing I wanted to point out is that the --

1 this building, can everybody see this building?

2 MR. LaBARBARA: No, we can't see it.

3 CHAIRMAN JAMES: I think we just lost him.

4 Give it a moment here.

5 MR. LaBARBARA: Skylor, while we're
6 waiting for him, it's hard to hear you.

7 MR. MILLER: Can you guys hear me now?

8 CHAIRMAN JAMES: Yes, we can hear you,
9 Jason.

10 MR. WISNIEWSKI: I think that was somebody
11 else talking.

12 CHAIRMAN JAMES: Oh, sorry.

13 MR. WISNIEWSKI: Mr. LaBarbara was
14 speaking and that's when I cut out. I didn't
15 hear his question, I'm sorry.

16 MR. LaBARBARA: I was questioning at 45
17 feet and you said you can do it at 35 feet.
18 That was my question and you answered --

19 MR. WISNIEWSKI: Yes. Yes, we could.

20 CHAIRMAN JAMES: Mr. Wisniewski, did you
21 have anything else to add?

22 MR. WISNIEWSKI: No, not at this time.

23 CHAIRMAN JAMES: Any other questions for
24 him from anyone gathered here before we move
25 onto comments?

1 MR. WORDEMAN: Jason, sorry, I must have
2 missed this. So is there no retaining wall
3 anymore?

4 MR. WISNIEWSKI: There would be. Right
5 now we have a retaining wall planned along the
6 southern end of the property, but not along the
7 eastern end of the property.

8 MR. WORDEMAN: I didn't see that in the
9 drawing, but I was more looking at the eastern
10 portion.

11 MR. WISNIEWSKI: And, again, that's a
12 development plan. We could get to that level
13 of detail, but right now, no, we do not have
14 one planned for the eastern side.

15 CHAIRMAN JAMES: Any other questions for
16 the developer from anyone?

17 MR. GINN: I had a question. I guess
18 really Skylor could maybe answer it. Is the
19 35 feet calculated to the top of the peak or is
20 it like the garage, the detached garages and
21 it's halfway up the peak?

22 MR. MILLER: It's the mean of the peak.

23 MR. GINN: So really 40 feet -- the
24 35 feet would be perhaps halfway up that peak;
25 is that not correct?

1 MR. MILLER: Yeah. Take the total height
2 of that peak and then half, that's your mean.

3 MR. GINN: And then that would make them
4 be as of right, if they complied with that, at
5 35 at mid peak; is that true?

6 MR. MILLER: Quite possibly. What I can
7 see from the construction drawing, but it's
8 close.

9 CHAIRMAN JAMES: Any other questions for
10 the applicant? I'm sorry, Mr. Janus, has a
11 question. Were you raising your hand?

12 MR. JANUS: Yes. Can you hear me?

13 CHAIRMAN JAMES: Yes. Go ahead.

14 MR. JANUS: I apologize because many of
15 you were freezing and I had to boot in and out
16 so this might have already been asked.

17 On this new revised plan, apparently there
18 is only one main driveway to get in and out to
19 the main road; am I correct?

20 MR. MILLER: Well, we're not reviewing the
21 PUD tonight. We're looking at the zone change
22 in and of itself.

23 CHAIRMAN JAMES: Did you have a question
24 about that, Mr. Janus?

25 MR. JANUS: He faded out on me. I'm

1 sorry, I couldn't hear what he was saying.

2 CHAIRMAN JAMES: Mr. Miller said we're not
3 reviewing the proposed PUD at this point.
4 We're reviewing the proposed zone change from B
5 to D.

6 MR. JANUS: Okay, then I'll hold on my
7 additional questions. Thank you for allowing
8 me to speak.

9 CHAIRMAN JAMES: Thank you, sir. I did
10 have a question for the developer here if you
11 could address this and it goes to a comment you
12 just made here.

13 We are reviewing not the PUD or the
14 precise plan necessarily, but a proposed change
15 from residential to multi family D. And these
16 are beautiful plans that have been shown to
17 everyone here in the meeting. Nice renderings.
18 We understand the developer has tried to work
19 with the community to change the scale and the
20 layout as to some of this. But the question
21 remains before the board, should we deviate
22 from what appears to be in our land use plan
23 and make that change?

24 Is there anything the applicant would like
25 to speak to as to why that change should be

1 made as opposed to this is a nice project? Is
2 there anything you wanted to add to that?

3 MR. WISNIEWSKI: There's something -- Tom,
4 is Tom Tepe on the line as well?

5 CHAIRMAN JAMES: He was. Appears to be
6 somewhere. There we go.

7 MR. WISNIEWSKI: I didn't know if Tom
8 wanted to answer that question or if he wants
9 to answer it, otherwise, I'll answer it. Not
10 hearing anything.

11 CHAIRMAN JAMES: Tom, you're muted
12 somehow. We can't hear you. Zoom does not
13 show that it's muted, but maybe your microphone
14 on your computer is. Still can't hear you.
15 No. Well, we can come back to you to address
16 that later if you're able to resolve the
17 microphone question or Jason.

18 MR. WISNIEWSKI: Well, I guess what I
19 would say, Mr. James, to answer that question
20 and Tom might add some color or some additional
21 comments to it. But I guess what I would say
22 at this point is: If you're talking about a
23 transitional use, we're talking about a
24 transitional use from detached, single-family
25 homes on the east to a Mercedes Benz dealership

1 on the other side just on the west side of
2 Montgomery Road, a strip center just to our
3 south. Obviously, there's a medical office
4 building to the -- or new medical office
5 building to the north. Allowing it as a B
6 residential, a detached single-family
7 residential is not transition at least not in
8 our opinion is not transition. And detached
9 single family really is not a viable use in
10 that location. Now, I know we had
11 conversations in our earlier meetings about
12 what about additional office or retail and
13 that's not something that Fischer Homes or
14 Grand Communities does.

15 So I guess what we would say is these
16 townhomes or the proposed plan, the 16
17 townhomes that were presenting, that really in
18 our opinion, fits the transitional use and
19 leaves the green space per the land use plan or
20 along that eastern boundary. The changes that
21 we've made in density have really increased
22 that space to meet that land use plan. So the
23 argument we would make is this -- what we're
24 proposing really is a transitional use between
25 that detached single family on the east and the

1 more intense commercial uses along Montgomery
2 Road. This is the transitional use and we hope
3 the trustees consider our proposal as that as a
4 good transitional use.

5 CHAIRMAN JAMES: Thank you, sir. Mr.
6 Tepe, we still can't hear you. Sorry. We'll
7 move on if you're able to join in with audio
8 through phone or something. Maybe we can get
9 your comments in a moment. Let me ask first,
10 we're going to move onto public comments as to
11 this.

12 First, is there anyone from the public who
13 wishes to speak in favor from the proposed
14 rezoning from B to D on this site? Anyone
15 there? Mr. Mallow has signaled he would like
16 to speak. Mr. Mallow, please go ahead.

17 MR. MALLOW: Good afternoon, everybody.
18 Thank you to the board, Mr. James, for letting
19 me speak.

20 I just like to make one comment. I don't
21 know if it's necessarily in favor or not, but I
22 guess it probably would be taken that way so
23 that's why I said I'd speak now. And that is I
24 was on the land use committee in 2008 as well
25 as the current land use committee and we did

1 recognize back in 2008 and currently, though
2 the current work is not complete yet, that
3 single-family detached housing is not the
4 future of this particular corridor and
5 property. And the conversations were and had
6 been that something of more modern intensity is
7 the future. What that specific use was in the
8 vision was office residential of the like
9 simply recognizing that we can't quite predict
10 what the highest and best use would be, other
11 than the single family isn't going to survive
12 along that corridor. And that's basically
13 where we stopped with some conversation the
14 most recently around recognizing that it's
15 Montgomery, the City of Montgomery finishes
16 their work with Ronald Reagan Highway and down
17 to the south. There's going to be increased
18 pressures and more particular attention should
19 be spent along this corridor.

20 So I just wanted to make the comment that
21 the proposed use is from my recollection as
22 being on the land use committee back in 2008
23 and now, a viable and acceptable use to that
24 committee. Whether or not the wording from
25 2008 got updated or corrected is similar to

1 currently. I don't actually recollect the
2 trustees taking formal action on the 2008 plan.
3 I could be quite wrong on that because we kind
4 of petered out due to some other pressures as
5 well meeting as a land use committee back.
6 I'll be quiet and I thank you all for your time
7 tonight.

8 CHAIRMAN JAMES: Thanks, Mr. Mallow. Is
9 there anyone else who wishes to speak from the
10 public in favor of the proposal? Hearing no
11 one we'll move onto then is there public
12 comment opposed to the proposal. I understand
13 some residents have retained an attorney.
14 Mr. Tom Breidenstein who wishes to speak. So
15 we'll start with you if that's okay, sir.

16 MR. BREIDENSTEIN: It is okay. Thank you.
17 Can you hear me okay?

18 CHAIRMAN JAMES: Yes.

19 MR. BREIDENSTEIN: Very good. Thank you,
20 Mr. Chairman. My name is Tom Breidenstein with
21 Breidenstein Legal Services. I am an attorney
22 for neighboring property owners Ann and John
23 Schoeny that reside at 8594 Concord Hill Circle
24 there in Sycamore Township. Of course, they're
25 here with us on the call. My relationship, of

1 course, is with the Schoeny's, but I know that
2 they've been in constant communication with
3 their neighbors and I know that these folks are
4 in locked step with our position here tonight.

5 By way of further personal introduction,
6 the Schoeny's did hire me strictly to be their
7 attorney. I'm also a certified land use
8 planner. I have a degree in urban and regional
9 planning from Miami University. I earned my
10 professional planning certification from the
11 American Institute of Certified Planners back
12 in 1992 when I was working as the zoning
13 enforcement officer for the Boone County
14 Planning Commission.

15 More recently I've had the privilege of
16 serving as the chairman of the planning and
17 historic conversation here in Glendale where I
18 live. And I'm also on the board of trustees of
19 the Ohio chapter of the American Planning
20 Association. As you can imagine, I try to
21 focus my practice as much as possible in this
22 area of law.

23 Mr. Chairman, I know that you received my
24 opposition statement. Our opposition is
25 outlined in some detail in that statement. I'm

1 going to use that sort of as a guideline as
2 framework. In fact, the framework for zone
3 changes is found within that outline. Section
4 16-4 of your zoning resolution sets forth eight
5 factors for approval that you need to review
6 when considering zoning map amendments.
7 Remember that's nothing to do with PUD's or
8 development plans. This is just the zoning map
9 amendment.

10 The first factor is the recommendation of
11 your professional staff and of the zoning
12 commission. You need to consider those. Your
13 professional staff has chosen to avoid making a
14 recommendation of any sort. That maybe your
15 practice, but I think to be fair to make a
16 positive recommendation -- recommendation in
17 favor of this proposal is damming. More
18 importantly, your zoning commission as you've
19 already heard, voted unanimously to recommend
20 denial. I want to refer you to the
21 recommendation document. I hope that's in your
22 packet or in the record and I want to quote
23 from that.

24 Your zoning commission stated that the
25 requested zone change, quote, will seriously

1 affect the general health, safety, and morals
2 of the township and the adjoining property
3 owners and the proposed density is not
4 consistent with the surrounding area.

5 Second factor from that framework straight
6 out of your zoning resolution, Mr. Chairman.
7 You need to consider the reports of other
8 governmental agencies. There are a number of
9 glaring deficiencies in that analysis from the
10 applicant. First, if you've read the staff
11 report, they say and the applicant contends
12 that they received an access permit for this
13 development from ODOT back in September of last
14 year. However, if I can refer you to Exhibit A
15 of my opposition statement, Mr. Chairman,
16 you'll see that ODOT states very clearly that
17 no permit has been issued. No review has been
18 performed. I'm not quite sure why the
19 applicant has made this false statement on the
20 issuance of a very important issue, the
21 issuance of an access permit for ODOT. It may
22 very well be that they're entitled to an access
23 permit, but for them to say that an access
24 permit has been issued is quite alarming to me
25 honestly.

1 The staff report says that there were no
2 issues that were noted by your fire department
3 there at the township. At a minimum one would
4 hope that on this very important issue, the
5 applicant would have provided something in
6 writing, some certification from your fire
7 department that the site was probably designed
8 with very basic life safety elements in mind.
9 I think if you look at the planning, the
10 original planning of the revised plan with 16
11 units, it's quite evident from a common sense
12 review of that plan it will be very difficult
13 for one of your large fire trucks to maneuver
14 safely into and out of that property. Of
15 course, that threatens not only the safety of
16 this development, but of the entire community.

17 There are no comments received from the
18 Hamilton County Regional Planning Commission.
19 I believe that's not your practice to refer
20 these matters to the regional planning
21 commission, but, in fact, your zoning
22 resolution at 16-5.3 requires referrals and
23 comments from the planning commission. No
24 comments are received by the school district.
25 This application wasn't referred to your own

1 township's parks and recreation department.
2 And I think that's significant because and even
3 though they claim that this is going to be
4 marketed towards empty nesters and to young
5 professionals without kids, there might be a
6 family or two who sneaks in. I think that's
7 sort of disingenuous. And I say that because
8 we all know that empty nesters don't want to
9 climb stairs. They don't want to go from the
10 basement garage up to the third floor of where
11 the bedrooms are located. This property and
12 this product is being -- will be used by
13 families with children and that's especially
14 driven home by the fact that this is in the
15 Indian Hill District.

16 There are no recreational facilities on
17 this property. The kids who live there, I
18 suspect, will find their way down the steep
19 slope, over the retaining wall, into the creek
20 bed, which, of course, takes those kids above
21 and beyond and out, further out into the
22 neighborhood. Onto my neighbor's property, or
23 excuse me, onto my client's property, onto
24 their neighbor's property, honestly, that's a
25 trespass and it opens up liability issues.

1 In addition in staying on the theme of
2 recreation. There are no sidewalks on
3 Montgomery Road and none are proposed for this
4 project that I've seen. So the kids who will
5 be living here will be forced to either cross
6 Montgomery Road or walk along Montgomery Road
7 in a very unsafe manner. This is a busy
8 highway. You all know that better than I do.
9 It is simply not an appropriate location for a
10 development that will cater to families with
11 children.

12 Back to the framework from your zoning
13 resolution, Mr. Chairman, you need to consider
14 public comments about the proposed amendment.
15 If you've seen the zoning commission hearing,
16 read the transcript, you'll know that there are
17 virtually no positive comments from the public.
18 And, in fact, I suspect there won't be many
19 positives today. You heard from Mr. Mallow he
20 was sort of on the fence of whether he's in
21 favor of it. Everybody who speaks behind me
22 I'm quite certain will speak in opposition.

23 Keep in mind, when I talk about the
24 public, we're talking about citizens of
25 Sycamore Township. This project will be

1 developed by a developer who's from Kentucky.
2 They're going to walk away from this project
3 once the last unit is sold or they might even
4 flip the development to another developer.
5 Skylor, might want to expand upon this. Now,
6 that they are reducing or proposing reduction
7 to 16 units, that kicks this project out of the
8 PUD. That just means there's a straight zoning
9 of D that they're requesting. No PUD controls.
10 No give and take. No negotiations on
11 architecture, landscaping, other designs that
12 are typical of a PUD. This is straight D
13 zoning. Three and a half stories tall, 45 feet
14 high. Setbacks that are not -- would be
15 conforming with zoning but wouldn't be flexible
16 in a PUD.

17 So you're going to hear from those
18 neighbors and you're going to hear their
19 legitimate concerns about degradation of their
20 quality of life. Loss of property values. The
21 visual impacts, the noise and light impacts
22 from a residential development of this and
23 higher elevations. Environmental concerns from
24 runoff, loss of trees, erosion and, of course,
25 safety and traffic are a concern of everybody

1 living in the community.

2 Speaking of which, the next factor is the
3 relationship to the public health, safety,
4 morals, and general welfare. In a vacuum,
5 Mr. Chairman, there's nothing wrong with
6 multi-family homes. But on this site, it just
7 doesn't fit. There's nothing about these
8 units, whatever configuration we've seen, prior
9 at the zoning commission here tonight that
10 meets this factor. And, in fact, this factor,
11 none of these factors honestly have been
12 addressed by the applicant. And in particular
13 this factor has not been addressed by the
14 applicant. Once again, those sidewalks, kids
15 who live here will be walking to All Saints and
16 to Moeller High School. No recreation. Again,
17 creating a safety issue and these kids will be
18 trespassing into the creek of my client and of
19 their neighbors.

20 The property values. You'll hear members
21 of the public speaking of possible impacts on
22 their property, property values. These are all
23 legitimate concerns. Traffic and safety
24 concerns. There was no traffic study that was
25 submitted with this application. We were told

1 at the zoning commission that 22 units is just
2 a drop in the bucket for this project on this
3 stretch of Montgomery Road. Well, that might
4 be true, but that doesn't address the real life
5 safety issues that are lived day in and day out
6 by you as trustees and certainly by my clients
7 and their neighbors.

8 And I want to mention once again that your
9 own zoning commission concluded, and I'm going
10 to quote again, this zone change will, quote,
11 seriously affect the general health, safety,
12 and morals of the township and the adjoining
13 property owners.

14 The fifth factor, Mr. Chairman, again,
15 from your zoning resolution talks about
16 compatibility with the township's plan. You
17 all know that the plan is the community's
18 vision for itself. And conformity with the
19 land use plan is upmost importance in the law
20 and just in planning as well. Conformity is
21 required in order to avoid a reasonable,
22 arbitrary, capricious land use decisions. Here
23 I can submit the project comes no where close
24 to compatibility with any part of the adopted
25 land use plan. This means the letter of the

1 plan doesn't meet the intent of the plan.

2 You've already seen, Mr. Chairman, the
3 2008 future land use map designation calls for
4 this property to be transitional use with
5 office. Of course, as you've heard that's not
6 defined. Somebody on the committee and I think
7 your staff might even opine that this includes
8 a blended -- the ability to have blended land
9 uses within that traditional, transitional use
10 with office. But that interpretation is
11 inconsistent and really is not reasonable. And
12 I say that because you have a series of
13 transitional and mixed used land use
14 designations right there in your land use plan.
15 As you've seen, you have transitional
16 residential which is defined B attached or
17 detached homes only, specifically excluding any
18 office uses.

19 You do then as you continue down the
20 spectrum have two mixed use or blended
21 designations. The first as you've seen is a
22 mixed-use transitional. And, again, that is
23 defined to include housing and office uses.
24 Beyond that and I don't think it was on your
25 slide from Skylor earlier, you have a mixed use

1 with retail. And that allows detached and
2 attached housing and office uses and retail.
3 So by any reasonable interpretation when you
4 take all that into context, transitional use
5 with office must include office only and must
6 exclude residential.

7 Again, you already have two land use
8 designations that allow the blending of
9 residential and office uses, the mixed used
10 transitional and the mixed use with retail.
11 And this property was not designated with
12 either one of those classifications.

13 In other words, what I'm saying is that if
14 the township leaders had envisioned a mix of
15 residential and office along this part of
16 Montgomery Road, they would have labeled these
17 properties on the map that we've already seen,
18 mixed-use transitional or mixed use with
19 retail. Instead they purposely labeled these
20 properties as transitional use with office.
21 So, therefore, office is the only use that was
22 envisioned in this plan.

23 In this interpretation of the term,
24 "transitional use with office" is consistent,
25 Mr. Chairman, with the actual land use patterns

1 and trends that have been established along the
2 eastern side of this portion of Montgomery
3 Road. As I think Skylor pointed out, well, if
4 driving north along Montgomery Road coming off
5 of Miami Road, you first come to the Montgomery
6 Point Plaza and that's where the old Willie's
7 is located. It's retail and office mix. It's
8 mostly retail. Traveling north on Montgomery
9 from there, of course, the next site is the
10 subject property. North of that is property
11 under construction for the dental office.
12 Beyond that further to the north is additional
13 office uses. A financial adviser, a law
14 office, a learning center. Every one of those
15 properties north of the Montgomery Point Retail
16 Plaza is designated on your plan as
17 transitional use with office. Every one of
18 those office uses has been developed under the
19 2008 plan for transitional use with office.

20 Of course, just north of that learning
21 center is the first instance of any residential
22 on this side of Montgomery Road, that's the
23 Bayard Court Condos, which I'll get to in just
24 a minute. You got to keep in mind that the
25 2002 land use map that Skylor shared with you

1 earlier, designated this property for -- mostly
2 for open space with buffer. That's because of
3 the steep slopes and the creek that goes
4 through there. But there's also a smaller
5 portion that had transitional residential on
6 it. That, of course, was changed in 2008 when
7 this property and the neighboring property were
8 all changed to transitional use with office.
9 And that, again, indicates a policy removal
10 away from residential. It was already
11 designated for residential before. So the
12 policy now of the township is to allow office
13 use only in that transitional zone.

14 Furthermore, shifting away just a bit from
15 the land use maps in the plan, there's nothing
16 in the text of the land use plan itself that
17 supports this project. I'll refer to you,
18 Mr. Chairman, to Exhibit C of my handout. I
19 won't read those to you here today. As you
20 skim through those and you see the highlighted
21 text, you'll see that the theme is the plan
22 calls for the protection and preservation of
23 residential areas of the southern part of the
24 township, and only allowing high density
25 development in designated areas. Well, this

1 area is designated for office and the plan
2 calls for the protection of the existing
3 residential areas including my clients,
4 including their neighbors.

5 At the bottom of Exhibit C, too, you also
6 see a quote from the portion of the plan
7 dealing with the Montgomery Road corridor. It
8 says that that plan on Page 4-2 of the plan is
9 to provide an official position that property
10 owners can count on. And you'll hear from the
11 neighbors today that they count upon the plan.
12 They count upon zoning making their life-long
13 investments in their properties to the east.

14 So in short, Mr. Chairman, there's nothing
15 in the township's plan that supports this
16 application and none have been brought forward
17 by the applicant.

18 Sixth factor. Back to the framework. Is
19 the economic viability of the proposed
20 district. The applicant has provided no
21 evidence or testimony on the economic viability
22 of this proposed project or of the unviability
23 of the development under B, current B zoning or
24 of the proposed office uses for this area.
25 Their attitude as you've already heard this

1 evening is just trust me it will work. We
2 wouldn't make this investment if we didn't
3 think it would work. Well, you need to ask
4 yourself in connection with this factor from
5 the framework is what if the property turns out
6 to be not economically viable. Will these
7 units be converted to rental apartments.
8 That's certainly a permitted use in the D
9 district. Would air BNB's be permitted here.
10 Will this whole project be flipped to another
11 developer altogether.

12 The seventh factor, Mr. Chairman, from
13 your framework is the capability of the
14 proposed use with the character of the area.
15 And I think you can gather the trend here.
16 I'll tell you now this is wholly out of
17 character and incompatible with the existing
18 pattern and trends in the area. Again, along
19 this part of Montgomery Road, this is a
20 commercial and office corridor. There are some
21 attached residential developments to the north
22 of this area, but they are low level, low
23 density uses that are not at all like what are
24 proposed here tonight. In fact, if you would
25 refer to Exhibit D from my handout, I've

1 provided an analysis of the density of those
2 units. Bayard Court which is on the east side
3 of this project, just north of the transitional
4 use with office, small condominium complex that
5 has five units. Their density is 4.31 dwelling
6 units per acre.

7 Across the street, Wellington Glen, those
8 condominiums have a density of 5.16 dwelling
9 units per acre. Next to Wellington is the Pine
10 Hurst Lane Condominiums with a density of 4.6
11 dwelling units per acre. Compare that with
12 what's proposed here. At 22 units the density
13 is 9.68 dwelling units per acre. And even with
14 16 dwelling units as we've heard talked about
15 tonight, the density is 7.04 acres. I think
16 Mr. Wisniewski talked about a density of
17 somewhat less than 7.04 in the 6 range, but I
18 believe his math is incorrect. The proposed
19 density as it says here tonight is 7.04
20 dwelling units per acre. And you can see,
21 those are grossly out of step with the few
22 condominium complexes that exist in this
23 general area. And that's not even to mention
24 that those units the three that I just
25 mentioned, those condos, their units do not

1 exceed two stories in height when you compare
2 to three stories here. And, in fact, these
3 units can be as high as three and a half
4 stories.

5 The heights of the commercial and office
6 uses in the area aren't even over two stories
7 tall. You'll hear, again, you've heard it
8 before, this is 10 pounds of potatoes in a
9 5-pound sack in addition to it being the wrong
10 kind of use. And, of course, just to complete
11 this, the character of the area immediately to
12 the east is strictly low density detached
13 single-family residential. So this whole
14 multi-family attached housing is entirely out
15 of character with every surrounding property.

16 The eighth and final factor, Mr. Chairman,
17 from that framework is consideration of the
18 existing and proposed site features on the
19 property. Right now this property in its
20 natural state, very nearly in its natural
21 state, was a single-family house built
22 naturally into the lay of the land. By
23 contrast, I know we don't have a full
24 development plan here, but you got to realize
25 that this development will raise the height of

1 the property. They'll be significant grading
2 which requires retaining walls, at least one,
3 probably more, based on the previous plan that
4 we've all seen. All to the natural -- the
5 detriment of the natural lay of the land. In
6 the application itself, the applicant said that
7 40 percent of the site is preserved as open
8 space. And you saw a lot of pretty green
9 pictures here today. But keep in mind, if 40
10 percent is preserved that means 60 percent of
11 this site is going to be denuded and they'll be
12 a wholesale degradation of the natural lay of
13 the land. And you've also seen from those
14 pretty pictures that and from the topography,
15 that there's really no way that this property
16 can be adequately screened because of the
17 slopes. Instead the applicant I think has very
18 honestly showed that they're relying upon
19 existing trees on the neighbor's properties to
20 help screen this property.

21 Let me switch gears here just a bit,
22 Mr. Chairman, I'm almost done. I need you to
23 be aware that I consider this to be spot
24 zoning. That's addressed in my outline as
25 well. But the supreme court as you're probably

1 are aware says that spot zoning is the singling
2 out of a lot or small area of discriminatory or
3 different treatment from that accorded
4 surrounding land which is similar in character.
5 There's an even better quote from what I call
6 the Bible in Ohio zoning law and I'm sure that
7 Skylor has a copy in his office. And that is,
8 "The rezoning of any single parcel is only
9 justified when it is done in furtherance of a
10 general plan, properly adopted for, and
11 designed to serve the best interest of the
12 community as a whole and not for the benefit of
13 a particular individual or crew."

14 Mr. Chairman, I submit to you that, in
15 addition to the fact this doesn't conform with
16 the factors for a zone change from your zoning
17 resolution, this would constitute spot zoning.
18 It introduces the high density residential on a
19 property that is surrounded by commercial and
20 office uses to the north, south, and west and
21 by incompatible low density residential uses to
22 these all for the sole benefit of this
23 developer with no regard to the neighbors or to
24 the community as a whole. And, of course, as
25 you probably know also, spot zoning is not only

1 lawful, it is unconstitutional.

2 In conclusion, Mr. Chairman, this is the
3 wrong development in the wrong place. The
4 master plan calls for office uses and this is a
5 proposed for a high density attached
6 residential that does not conform to the area.
7 It's way to dense for this area. The height of
8 these buildings are way to high for the area.
9 The scale of massing these buildings are out of
10 character for this area and I submit that
11 approval would be arbitrary, capricious, and
12 unreasonable abuse of the township's
13 discretion. We, therefore, Mr. Chairman,
14 request that you support the recommendation,
15 the unanimous recommendation of your zoning
16 commission and deny this zone change. Thank
17 you, sir. That concludes my comments.

18 CHAIRMAN JAMES: Thank you, sir. Before
19 we move on with questions and comments, I have
20 a question about our meeting schedule. This is
21 a logistics question. It is just after
22 7:00 p.m. We scheduled this hearing for
23 6:00 p.m. and we'll continue until we're done
24 here. We would ordinarily have out trustee
25 meeting beginning at 7:00 p.m. When we were

1 all in the same room it wasn't a big deal for
2 the public to figure out something else was
3 happening. But right now we have different
4 Zoom and live streams scheduled, I believe, for
5 these meetings.

6 Let me ask Mr. Rob Eble if he's out there
7 listening in. Is there a notice up for anyone
8 who might be trying to join the other meeting
9 that it will start shortly?

10 MR. EBLE: There is not.

11 CHAIRMAN JAMES: Is there anything we can
12 do about that?

13 MR. EBLE: No, because I'm using this
14 channel. Zoom will only allow you to run one
15 channel at a time. The next meeting is set up
16 under this e-mail address.

17 CHAIRMAN JAMES: If someone goes to the
18 video screen for the other meeting what will
19 they see right now?

20 MR. EBLE: They'll just see the graphic
21 that the meeting hasn't started yet.

22 CHAIRMAN JAMES: Okay. Thank you. And
23 sorry to interrupt the flow of all of this with
24 that, but I do want to make sure we don't have
25 someone hanging out there.

1 MR. MILLER: If I can on the township
2 website, you can see the meeting will be
3 delayed.

4 CHAIRMAN JAMES: Do any of my fellow
5 trustees have any questions for Mr.
6 Breidenstein?

7 MR. WEIDMAN: I don't.

8 MR. LaBARBARA: I do not.

9 CHAIRMAN JAMES: Mr. Miller, did you have
10 any questions for him also from a zoning
11 perspective?

12 MR. MILLER: One minor point. I realized
13 how the other departments from the township are
14 noted in the staff report. I believe
15 originally it was in contract as to say no
16 comments. We did change that to no issues
17 noted. Just to clarify. I did have a
18 conversation with fire department staff and had
19 discussed this with maintenance as well. So
20 there has been internal discussion. There were
21 no concerns of note to put on here. The
22 turnaround for -- this goes back to the PUD.
23 But the turnaround was considered if there was
24 a safety consideration there. Those
25 conversations did happen.

1 CHAIRMAN JAMES: Very good. Did the
2 applicant have any questions for Mr.
3 Breidenstein regarding any of the issues he's
4 raised?

5 MR. WISNIEWSKI: I don't have any
6 questions at this time.

7 CHAIRMAN JAMES: Thank you. Mr. Schoeny,
8 you're talking, did you have something to add?
9 No. Just wanted to make sure. In that case I
10 think we'll move onto the next comments.

11 Who else from the public would like to
12 speak? Mr. Zilch, I saw you raise your hand.

13 MR. ZILCH: Yeah. Hopefully you can hear
14 me here and I appreciate everyone listening.
15 What I'm hearing actually as I listened to Mr.
16 Breidenstein talk, it just doesn't seem to me
17 that the proper due diligence has been done.
18 To arbitrarily or not arbitrarily but to make a
19 decision to go to a zone change to go to D, I
20 think opens up really even more discussions
21 potentially in the future if this development
22 does not go. So I think that needs to have
23 consideration as well.

24 The idea that a comment I think Mr. Mallow
25 said, single-family residential would not work

1 here. We just had a house sell in our
2 neighborhood for \$600,000 that's being raised
3 and a new house is being built. Just as the
4 economics have changed that make it feasible to
5 put a multi-family development there, I would
6 say this market today would lend itself
7 feasibility for detached housing in that
8 location. I think when it was added back in, I
9 guess, 2008 to go to office, medical office,
10 obviously that's a general trend. That mark is
11 definitely viable in that corridor. It makes a
12 lot of sense for that corridor. And so to
13 basically just ignore that, I don't think you
14 can. I think a lot of discussion was had. I'd
15 like to go back actually look back through some
16 of the discussions that are on record as to the
17 land use planning because I think a lot of
18 those things were discussed. And I think the
19 fact that they did add the office in there was
20 acknowledgment that that is a viable use in the
21 same trend line as the rest of the medical
22 offices that have been constructed, whether
23 it's medical offices, whether it's insurance
24 companies, whatever, maybe I think is very
25 viable for that location.

1 I think to go into the multi-family use,
2 it's really I think we've said it time and time
3 again here that it's really a detriment to all
4 the neighbors on the other side of creek. You
5 can talk all day long about not being an
6 impact, but I can guarantee the way noise
7 travels through those woods, it is
8 definitely -- the noise pollution is going to
9 be a big issue. If you go there now and look
10 with all the foliage gone, whatever, direct
11 visual into that development, regardless of
12 what you talk about the tree buffers, well,
13 those tree buffers don't do a whole lot during
14 the wintertime.

15 And so I think, again, it's a detriment to
16 the people that are living there now. And I
17 don't know why -- I don't know what the plus
18 side is for Sycamore Township, I really don't
19 care about what's happening in Montgomery. I
20 don't care about what's happening in Sycamore,
21 and I would just like to hear why. Why make
22 the zone change? How is it a benefit to
23 Sycamore Township? Listening to all these
24 discussions I just do not see it and I'll just
25 leave it at that.

1 CHAIRMAN JAMES: One question if you
2 would, you may have done this at the outset and
3 I missed it, but would you please state your
4 name and residence for the record here also?

5 MR. ZILCH: My name is Brian Zilch. I'm
6 8598 Concord Hill Circle. I'm adjacent owner
7 to the Dauns who are part of the 200 foot --
8 actually my visual from second, actually my
9 first floor, looks directly into this
10 development. Wasn't part of the 200-foot group
11 that would have received formal notification,
12 but I'm adjacent to them and I look, again,
13 directly into this development.

14 CHAIRMAN JAMES: Thank you very much. And
15 I would ask anyone else who speaks if you would
16 please identify yourself for the record and
17 state where you live also. Mr. Wordeman, I
18 think you had contacted me through chat saying
19 you had a comment you wanted to make so we'll
20 go to you next.

21 MR. WORDEMAN: Yeah. My name is Joe
22 Wordeman. I live at 8801 Lyncris an adjacent
23 property to the proposed development. And, you
24 know, I grew up in this house. After 35 years,
25 my wife and I bought it from my father and to

1 me that's the kind of community we have here.
2 I want to live here. I want to send our kids
3 to Indian Hill. I had the same experience
4 growing up. But over my shoulder, to Mr.
5 Zilch's point, you can see the current house
6 there. That's the vegetation that they're
7 planning on keeping and actually removing some.
8 And I do appreciate that we went from 22 to 16
9 units. But, I mean, during the winter for six
10 plus months, those closed units they'll be able
11 to look in when we're eating dinner and sitting
12 at my kitchen table. The way that the house is
13 developed over time, our bathroom window
14 actually faces that as well. It doesn't change
15 the fact, but it's just as you get closer
16 property (INAUDIBLE) the way the vegetation --
17 worse, it just makes -- so Mr. Breidenstein
18 touched on of the most of the things.

19 CHAIRMAN JAMES: Joe, we're losing you and
20 lost the last sentence or two.

21 MR. WORDEMAN: Sorry, is that better?

22 CHAIRMAN JAMES: A little better. We lost
23 the last few seconds of what you said also.

24 MR. WORDEMAN: I'll just -- Mr.
25 Breidenstein covered most of it, so I won't

1 continue to repeat. But one thing that Jason
2 did say is that the transitional is definitely
3 meant for multi family. And for me, I don't
4 disagree with that point, but the key is that
5 everything else surrounding this area is
6 typically 9:00 to 5:00 or 8:00 to 8:00 type
7 businesses and really doesn't impede on the
8 noise pollution. If I want to be out on my
9 deck at night or anything that happens with
10 that. So it is a difference in what the
11 outcome is. It's not so much about heights and
12 density and those things, it's about the real
13 life living with it.

14 It really -- the dentist office, I said it
15 in the zoning commission meeting, it literally
16 and like the only year where all we could do is
17 sit outside on the deck and enjoy our property,
18 they were grinding and cutting and everything
19 because they're allowed to sun up to sundown
20 and that's 9:00 in the middle of summer. So I
21 couldn't sit out there and listen to Reds games
22 or do anything else because of that and it's
23 just another note of what these types of large
24 developments come with for those of us that
25 live right next door. It's something I know

1 we're on the land use plan of 2008 so it's kind
2 of a moot point. But if you look back at the
3 2002, they divided the property into two
4 sections basically they had a buffer and they
5 had the useable land. And part of that in my
6 opinion I'm not a developer or anything else,
7 but in my opinion is because the real
8 developable land of that is what is sort of not
9 in the steep grades and the other things that
10 are going to have to be cut off by retaining
11 walls. And so really, yeah, the math works out
12 to density because of the size of the property.
13 But it's really if you go and you look at the
14 actual property and what's able to be developed
15 you're kind of getting a technicality there in
16 my opinion.

17 And the last thing that I'd say is not
18 that we don't want empty nesters and not that
19 we don't want young professionals in the
20 community, and honestly 16 units isn't going to
21 slight it. But I think we all know there's a
22 vote in May for a levy and those types of
23 things aren't passed typically by empty nesters
24 and young professionals. It's just not
25 something that they're interested in. They're

1 not interested in this would cost everybody a
2 hundred dollars a month if these units were in
3 there. And depending on how long that process
4 gets delayed, they may get a chance to vote on
5 it.

6 It's just too much, too much, too much,
7 too much, and it's constant with this property.
8 And, unfortunately, all the other properties
9 have found viable uses and viable returns on
10 investments of things that the community
11 relatively has not fought along the line.

12 CHAIRMAN JAMES: Thank you, sir. Any
13 questions for Mr. Wordeman from anyone? Would
14 anyone else like to speak? Mr. Daun?

15 MR. DAUN: Thank you. My name is Michael
16 Daun. I live at 8596 Concord Hill Circle
17 adjacent to the proposed property.

18 I would just like to state that my wife
19 and I are opposed to this rezoning for the
20 reasons that have been stated. The properties
21 on both sides of this proposed property are
22 retail and commercial offices and it's not
23 consistent to put in family homes there or
24 multi-family homes and we do not feel that it
25 would be beneficial to our property or to our

1 way of life, to our enjoyment of our property
2 for that to be there and just wanted to give
3 you our opinion and our thoughts on it and
4 thank you for your time and your consideration.
5 Thank you.

6 CHAIRMAN JAMES: Thank you, sir. Anyone
7 have questions for him? Would anyone else like
8 to speak?

9 MR. MARTIN: I'll speak. Can you hear me?

10 CHAIRMAN JAMES: Yes, we can hear you.

11 MR. MARTIN: Okay. My name is Matt
12 Martin. I'll be very brief. I live at 8850
13 Lyncris Drive. And I'm just speaking to go on
14 record. I think Mr. Breidenstein did a really
15 nice job thoroughly outlining the reasons this
16 zoning change is incompatible with our
17 community and I just want to make sure that I'm
18 on record as being in opposition of it.
19 Thanks.

20 CHAIRMAN JAMES: Thank you, sir. Does
21 anyone else wish to speak? Public comment
22 going once, going twice, very good. We shall
23 move on here.

24 Did the applicant have any additional
25 information that you'd like to provide?

1 MR. TEPE: Am I able to be heard now?

2 CHAIRMAN JAMES: Yes, we can hear you now.
3 Speak up just a little and, I'm sorry, my dog
4 is speaking so I'm going to mute my microphone.

5 MR. TEPE: Not a problem. I apologize for
6 the technical delay. My name is Tom Tepe. I'm
7 an attorney for the applicant.

8 I just want to kind of restate the
9 narrative here. You heard a lot of the
10 discussion from Mr. Breidenstein about all the
11 reasons why this doesn't comply. I think he
12 did a really good job with the scare tactic
13 using every superlative that probably is known
14 to man including the threat of children. My,
15 God, children in Sycamore Township. What a
16 horrible thing that would be.

17 You as trustees are very smart. You're
18 elected to make decisions for the benefit of
19 the entire township. And I would just like to
20 pose this one scenario to you, which is
21 everybody's pointing to the land use plan. The
22 land use plan is simply a guide. It is not
23 gospel. Mind you, it is 13 years old. Oh,
24 what transitions have taken place in 13 years
25 in Sycamore Township. There's been a

1 tremendous amount. But one thing has been made
2 abundantly clear, no matter how you want to
3 read this land use plan is that the existing
4 zoning is completely in defensible. It's
5 completely arbitrary and it's completely out of
6 place. So the questions that you have to ask
7 yourself as trustees is should it be rezoned
8 and do you like this project. There's a lot of
9 detail that will have to come forward later,
10 but just don't throw common sense out the door.
11 The existing single family residential zoning
12 is arbitrary by your own land use code. You
13 want to live by the sword you better die by the
14 sword as well. So if you're pointing to -- the
15 opposition is pointing to a land use plan as
16 basis for why it should be denied, it's also
17 serving very good support as to why the
18 existing zoning must be changed. That's all I
19 have to say and I thank you for your time.

20 CHAIRMAN JAMES: Does anyone have any
21 questions for Mr. Tepe? I suppose I do have
22 one. I'm sorry, did someone else have one?

23 MR. WISNIEWSKI: It's Jason Wisniewski.
24 Go ahead, Mr. James, you can ask the question,
25 please.

1 CHAIRMAN JAMES: Tom, based on your
2 comment there you said there are two questions
3 should it be rezoned and do you like this
4 project. Is there an argument legally that
5 you're contending that if the trustees, in
6 fact, think the current zoning isn't suitable
7 that it must then be changed to the D zoning
8 the applicant is seeking?

9 MR. TEPE: Look, right now the trustees
10 have the ability to control in there, right?
11 If the existing zoning is found to be somehow
12 not reasonably related to the fancy legal words
13 that we used to use to get health, safety, and
14 morals, then control will slip through the
15 fingers of the township. Here you know what
16 you're getting, right? Is it perfect for
17 everybody. Well, obviously it's not. You have
18 to make a decision for the entire township.
19 What's the best interest of the township and
20 all of its citizens. So, look, the single
21 family -- Pete Mallow is a very, very wise man.
22 He serves on the regional planning commission,
23 right, and we've dealt with Pete over the
24 years. And he was part of the land use plan.
25 He said, "This is something that was

1 envisioned." This property abuts a high
2 density retail development with a parking
3 garage and a major auto dealership. Single
4 family does not work here. We all have to
5 agree on that. Now, the question is would you
6 like to know exactly what you're getting or do
7 you throw cautions to the fates and see what
8 happens.

9 You have to make that decision, Mr. James,
10 I'm only simply giving you some information the
11 reason why I think this rezoning should be
12 granted.

13 MR. BREIDENSTEIN: Mr. James, if I might
14 comment on that.

15 CHAIRMAN JAMES: Yes.

16 MR. BREIDENSTEIN: It may be true a court
17 might find that the current zoning is not
18 defensible, to use Mr. Tepe's terms, but that
19 doesn't mean you have to approve this D zoning.
20 The D zoning whatever zoning replaces the B has
21 to still be appropriate. And I think that the
22 more recent history even more recent than the
23 2008 plan, the recent development of this area
24 demonstrates that office type uses are
25 reasonable for this area. The three or four

1 properties that I mentioned just north of this
2 site have developed in recent years as office
3 under office zoning.

4 So, again, the court might strike down the
5 B zoning if it comes to that, but I seriously
6 doubt that they would require the D zoning to
7 replace it. They might instead opt, according
8 to the plan, that office zoning would be more
9 appropriate.

10 CHAIRMAN JAMES: Thank you, sir. Does
11 anyone else have anything to add from the
12 applicant or in rebuttal to the applicant that
13 we haven't covered? Any of my fellow trustees
14 have any questions?

15 MR. WISNIEWSKI: Mr. James, if I might.
16 It's Jason Wisniewski. There are a couple of
17 things.

18 Look, I think Mr. Breidenstein has done a
19 very good job of laying out at least his case
20 and his client's case and the information that
21 he has submitted. He's done a very thorough
22 job and kudos to him for that. I guess what I
23 would say is some of the issues that he raised
24 and some of the issues that have been brought
25 up tonight, just as we are not voting on the

1 development plan, some of those issues,
2 sidewalks, landscaping, some of those issues
3 are development plan issues and they're not
4 necessarily, that level of detail is not in the
5 presentation that we're working through here
6 tonight.

7 I think the question that we're looking at
8 here -- and some of the comments about getting
9 governmental issues approved, and he has some
10 e-mails in here about whether our traffic
11 permits are approved. I've read the documents.
12 I'm not sure that we're asking the right
13 questions in the right way to the right people,
14 but neither here nor there. We have been
15 reaching out to the agencies to keep health,
16 safety, and welfare in our minds and in our
17 designs throughout this process. The fire
18 department, maybe the comment that they gave
19 was not exactly what someone wanted to hear but
20 they have seen these plans. It was submitted
21 through Skylor. It went through the township's
22 process. The agencies that were supposed to be
23 notified or required to be notified have been
24 notified.

25 But all of that said, I guess what I would

1 say is, what's the highest and best use of this
2 property. And, look, they're going to ask a
3 bunch of people and they're all going to have a
4 different opinion on it. But you can do
5 single-family detached homes on this site. And
6 some of the things that we are proposing or we
7 want to do providing buffers up against the
8 eastern and southern property lines, some of
9 those things don't necessarily need to be done
10 in that -- under the existing zoning and
11 wouldn't necessarily benefit the adjacent
12 property owners and wouldn't necessarily
13 benefit the township. They may or may not.
14 Again, it's an opinion. We believe this is the
15 highest and best use of this property. It
16 generates -- these are 16 beautiful homes that
17 have low impact on schools. They have a low
18 traffic impact. And, again, we can argue that,
19 but ODOT has already told us you don't need to
20 do a traffic study. It doesn't generate enough
21 traffic to warrant any kind of study. It's a
22 low impact development. High upside in terms
23 of tax dollars. There's not a lot of
24 infrastructure there that goes to -- that goes
25 into the need for taxpayers to fund. The

1 streets are private. So we believe it's the
2 highest and best use. We believe there are
3 high quality units for good families or
4 individuals that want to live in Sycamore
5 Township. They transition well between what's
6 on the east, the single family, and what's on
7 the west, the commercial. And the higher use,
8 more intense uses along Montgomery Road and it
9 generates a good amount of tax dollars.

10 And Mr. Breidenstien's comment, look, air
11 BNB, rentals, those kinds of things. Fischer
12 Homes does not rent homes. These are "for
13 sale" units, for sale attached single-family
14 homes and we do not rent them. That doesn't
15 stop or doesn't mean that when we sell it to
16 somebody, they have rights as an individual to
17 their home. Just as they would whether it's a
18 real home or a townhome, or whether it's a
19 single-family home, they can still do that.
20 Unless the township has regulations that would
21 guide that and then they would fall under
22 those.

23 So some of those things I might back off
24 what Mr. Tepe said a little bit, but some of
25 those things are scare tactics or they're

1 rights that an individual would have, that's
2 how I'd say it is. They're rights an
3 individual would have whether it's
4 single-family detached or single-family
5 attached. And I don't want that to get lost in
6 the conversation here, but, again, I think the
7 argument we would make is it's a great
8 transitional use. It's the highest and best
9 use that generates good tax dollars for the
10 township with a very low impact in terms of
11 traffic, schools and other infrastructure. So
12 with that, I'm done unless somebody has a
13 question.

14 CHAIRMAN JAMES: All right. Does anyone
15 have any questions for Mr. Wisniewski?

16 MR. MISALI: I do.

17 CHAIRMAN JAMES: Mr. Misale, would you
18 please identify yourself for the record and
19 then go ahead?

20 MR. MISALI: Yes, my name is John Misali.
21 I live at 8829 Lyncris Drive. I just have a
22 question maybe Skylor can answer it or
23 whatever. If this zoning change were to go
24 through, is the developer not free to go ahead
25 and put 16 units up as long as he meets the

1 setbacks and conditions in the D zoning or, in
2 other words, do we lose control by not having
3 it be done as a PUD?

4 MR. MILLER: Well, we lose a level of
5 control. Anything below the 7.26 dwelling
6 units per acre, that can be developed as of
7 right. That still doesn't mean that they can
8 put whatever in there however they want. Our
9 zoning resolution does provide for development
10 criteria for multi family. There will be
11 setbacks. There are height requirements. So,
12 but it is certainly less restrictive than a
13 PUD.

14 MR. MISALI: Then my comment to the
15 trustees are that I am not in favor of this
16 zone change. I would much rather fight through
17 the PUD process so that more control and more
18 limitations could be placed assuming you want
19 it to go forward. Thank you.

20 MR. LaBARBARA: Skylor, can I jump in
21 here? If we were to do that, 16 homes, they
22 wanted 22 originally, how many could they then
23 build: 18, 22, 20?

24 MR. MILLER: Probably 16. I don't know if
25 you can get a 17th in there with the density.

1 There would have to be a final calculation on
2 that.

3 MR. LaBARBARA: Thank you.

4 CHAIRMAN JAMES: Anything else from
5 anyone? Very good. We'll close the input from
6 the public then and applicant redirect to a
7 close and prepare to close the hearing.

8 I want to thank everyone, first of all,
9 for their input here from both sides of this
10 matter and thank the applicant for working with
11 the residents here in making some changes to
12 the plan as originally submitted also. It's
13 always good to see dialogue whether it comes
14 out the way someone wants on one side or the
15 other here or not. It's good people are here
16 to talk and try to come to some resolution when
17 possible. I believe our usual practice is to
18 hold the deliberations until our regular
19 trustee meeting.

20 Do my fellow trustees have any input on
21 that?

22 MR. LaBARBARA: I don't.

23 MR. WEIDMAN: That would be appropriate.

24 CHAIRMAN JAMES: I'm sorry, Mr. Weidman, I
25 missed that.

1 MR. WEIDMAN: That would be appropriate.

2 CHAIRMAN JAMES: That would be
3 appropriate, yes, I agree. So we're going to
4 close this hearing out and move into our
5 regular meeting.

6 Is there a motion to adjourn this public
7 hearing?

8 MR. LaBARBARA: I'll make a motion to
9 adjourn this meeting.

10 MR. WEIDMAN: Second.

11 CHAIRMAN JAMES: All those in favor?

12 MR. WEIDMAN: Aye.

13 CHAIRMAN JAMES: Aye. Mr. LaBarbara, did
14 you vote?

15 MR. LaBARBARA: I voted aye. And can we
16 take a 10-minute break before we go into the
17 next meeting.

18 CHAIRMAN JAMES: Yes. Let me just note
19 for the record it is 7:27 p.m. and we will
20 start our trustee meeting at 7:40 p.m. So thank
21 you very much for your participation. The
22 trustee hearing is at a different video link if
23 you'll be watching. If anyone has signed up to
24 speak you should have signed up and gotten a
25 Zoom link for that also. But we'll be bailing

1 out of this meeting and moving into that one
2 beginning at 7:40 p.m.

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1 C E R T I F I C A T E

2 STATE OF OHIO :
3 : SS.
4 COUNTY OF HAMILTON :

5 I, La Cartha J. Pate, the undersigned, a duly
6 qualified notary public within and for the State of
7 Ohio, do hereby certify that the above pages were
8 transcribed by means of computer under my
9 supervision; that I am neither a relative of any of
10 the parties or any of their counsel and have no
11 interest in the result of this action.

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 and official seal of office at Cincinnati, Ohio,
14 this 5th day of April, 2021.

15 
16 _____
La Cartha J. Pate-Notary Public
State of Ohio

17 My Commission expires:
18 June 18, 2022.
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22
23
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25