VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
MARCH 10, 2011
7:30 P.M.

1. ROLL CALL: **Sutliff, Brett, DiMichele, Flaiz**

2. MINUTES: 6-16-2010 **approved**

3. AGENDA:

   1. Discuss internet cafes/online gambling; info. enclosed
   For next meeting: Define it
   -Ondrey will monitor Chardon's progress & regs. He's working on Middlefield's regs now.
   -Hocevar & Ondrey will discuss approaching this from a conditional use perspective, or putting it under an existing condition & use regulation.

   2. Discuss campers parked on residential properties; info. enclosed **Between now & next meeting, PC to review ordinances from other communities & plan to draft something at next PC meeting**

4. OLD BUSINESS: **Bow Wow called; still wants to open in SR.**

5. NEW BUSINESS: **NEXT MEETING: APRIL 14, 2011 AT 7:30 P.M.**
   Burnt Wood Tavern may come back & ask about having a patio in the back

6. ADJOURN: **8:10 p.m.**

Source of revenue seen from 'sweepstakes' cafe

By SALI McSHERRY

A preliminary proposal for a cyber cafe in Orange could be on the table, Mayor Kathy U. Mulcahy said Monday.

Community Cyber Cafe, an Internet "sweepstakes" marketing company, is considering a move to the former Saturn auto dealership at 27100 Chagrin Blvd. An automobile collision-repair shop also has been proposed for the site.

Ms. Mulcahy said customers of cyber cafes buy prepaid phone cards or access time on the Internet. They receive entries in "sweepstakes" games they play online and can win prizes.

The company was founded by Jay Black, of Toledo, and Eric Small, of Shaker Heights, according to information provided to the village's planning and zoning commission.

Ms. Mulcahy, with Orange Police Chief Christopher Kostura and Building Commissioner Louis Hovancsek, visited three cyber cafes, two in Bedford and one in Northfield, for informational purposes, she said. The next step is for planning and zoning members to visit them and review research materials they were given by the mayor.

Ms. Mulcahy said she is learning about what cyber cafes are but has not formed an opinion about the proposal. More research needs to be done, she said. "It's potentially a very large revenue source for the village's general fund and every alternate-additional source helps keep the burden off residents."

Mr. Kostura said, from a safety standpoint, he isn't concerned. He said he spoke to several police chiefs in Northeast Ohio where cyber cafes are located, and was told there were "no problems," meaning no calls for service. Cyber cafes are opening up everywhere, he said.

According to the cyber cafe company, in addition to video "sweepstakes" entertainment, it enables customers to access their Internet accounts and communicate through their e-mail providers. Types of sweepstakes games would include reel games, Keno and cards, according to the company.

The company could make a formal application, Ms. Mulcahy said. Or the village could revise the zoning code to allow the cafes or take action to disallow them by a moratorium. She said council also could allow for one by passing legislation declaring it "similar and harmonious," as it did with the automobile collision-repair company. That scenario would give the village more control over the operations, she said.

In December, council approved a special-use permit to the automobile body shop with conditions. In that case, while automobile dealerships are permitted in the U-7 commercial zoning district, there was no language in the code for body shops that are not attached to dealerships.



Cancer took my dad Michael Landon's life when I was only 8. *Today we know a lot about preventing this disease. If you smoke, quit. Eat more vegetables, fruits, and vegetarian meals.* ***These steps are powerful*** *— for you and your whole family.*

— Jennifer Landon

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The Cancer Survivor's Guide: Foods that Help You Fight Back,
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Cancer robbed my family. Please protect yours.

THE CANCER PROJECT

S.R. PC discussed internet cafes on 3-10-11 NO ACTION

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PLANNING COMMISSION
RECORD OF PROCEEDINGS
MARCH 10, 2011
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Janice DiMichele, Jim Flaiz

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor

ABSENT: Ike Tripp, Ned Foley, Engineer

GUESTS: none

Sutliff called the meeting to order at 7:30 p.m. The minutes from 6-16-2010 were approved.

Discuss internet cafes/online gambling. Info. about these provided by Solicitor Ondrey.

Ondrey explains what an internet café is. You buy a phone card. That entitles you to so many minutes on the internet. They will set up a number of computer terminals. You go on the internet & they hope you will go on the gaming sites that they are connected with. You can win prizes on those internet sites. That's where the issue comes in whether it's gambling or not.

Ondrey, "The actual legal position of internet cafes is still mysterious. There have been 5 decisions, all muni. court. Two of them said they are not gambling. Two of them said they are gambling. The most recent one out of Columbus said it was gambling. When you read the decision, the defendants didn't really present a case. They didn't put on any evidence. It's still up in the air what ultimately will happen. Will the legislature come in & affect this?"

Ondrey refers to the materials he provided. They show what other communities are doing regarding these cafes. Ondrey, "The good news is nobody has actually applied in South Russell Village for a permit for an internet café. The reality is they are proliferating like crazy, especially on the east side. So a lot of communities are unprepared. That is why Council passed a moratorium to buy us some time to figure out what to do about this."

Ondrey, "I don't think South Russell has to do something. Some communities are prohibiting them out right. They either concluded it was gambling or it would be a nuisance."

Ondrey, "What I'm hearing is that it is a 40 to 65 year old woman who is participating in these places. They aren't drawing bad crowds or criminals. You can win prizes on the internet sites. That's where the issue becomes of whether it's gambling or not. Some people say, look it's like buying a lottery ticket; strictly odds. You aren't doing any skill. It depends on the timing of when you press the button. The prizes may be a couple hundred dollars up to a couple thousand dollars."

Ondrey, "You can also use your phone card to go on the internet to check your E-mails, do research. The principle function is to buy time to go on gaming sites. One of the ways the operators make money is that people don't use up all the time in their phone cards. These operators can buy them at a huge discounted rate. The phone card, I gather, has a time limit; maybe one or two weeks. If you don't use it up, time has been paid for, but never used."

Ondrey, "What's happening in communities that are not hostile to them, which I would say is the majority so far, through licensing & income taxes, you can make some money. I went to a seminar in Columbus last week. During lunch we discussed internet cafes. I was under the impression you were aggressive if you asked for a $5,000. licensing fee for any single operator, plus a cost per month, per computer terminal. I was told $5,000. is low. We should be asking $7,500. or $10,000 for licensing fees & you can still get these computer terminals. These folks are not being discouraged by these kinds of numbers & will still make money somehow."

Ondrey highlights issues: communities don't want them near schools, churches, they want a close regulation of the prize money, they want minors to be restricted from getting in.

Ondrey, "Eastlake is allowing them. On the east side of Cleveland, there are at least a dozen in operation. Middlefield got several applications. Chardon got four. Chardon & Middlefield are writing their regulations now. What I've learned is for the PC to just focus on what would be the zoning issue. Where would you allow them? What zones would you allow them in? What would your parking requirements be? Setback issues, distances from churches, schools. The rest of it will be regulated by Council as a business regulation; licensing, fees & other types of reporting requirements which you see in some of these examples that I sent you."

Ondrey, "You ought to make a decision whether or not there is any regulation necessary? Do you want them prohibited under any zoning category? That is risky. We have the ability to prohibit uses. They are usually in the nature of a nuisance, like asphalt plants; things that might offend neighbors & drive people away. This is trickier. You've got to be making a judgment that this is some kind of gambling. The courts are mixed on that. It's not a course that I would recommend. But, I think you could get away with it."

Ondrey to Hocevar, "Is anybody interested in South Russell? We do have areas that they might be interested in; across the street or down at the old Milbar place. Our limited commercial areas might present some opportunities & if we have no regulations then we'll face some challenges." Hocevar, "The only place to put that is down on East Washington. If they aren't regulated, what would stop them from going to the BP? I went into one of them in Middlefield, about 4 years ago. That was all money, income tax."

Brett, "I think it's wise to take some action on it. When I heard about t, I had the same reaction. What is it? How do I know if I'm against it? It's online gambling & then you apply a similar standard. How would you feel about a gambling facility in South Russell? I do think it makes sense that we do something."

Sutliff, "Does the state law permit online gambling?" Ondrey, "Not online gambling, but internet cafes. There are antigambling provisions in the statutes. The controversy is whether these things constitute gambling or not. Some courts have said the state prohibits this. Some courts said, no it doesn't."

Ondrey, "If it's a really popular site, you could have parking issues. Some of the good sites can draw hundreds of people."

Issues: need to define an internet café, refer to materials Ondrey provided & can draw from those communities who have defined it. Ondrey said Summit Counties' regs were challenged by operators in Springfield Township. "The court upheld the regulations. It was weird. You got the feeling that if the operators had put on any decent evidence, the judge might have ruled the other way."

DiMichele, "Do we want to narrow it down to operating only in a retail district?" Ondrey, "Yes. You have to make a decision. Where do you want them? I talked to Jim Gillette, who is about to present to Chardon's Council his proposed regulations which will be mimicked off these other ones. We may want to sit back & let him finish it up & I could present them to you. They are not going to prohibit them. I suspect in a few months, Chardon will have one maybe two."

Brett, "If this is going to happen, make it tougher & the cost (to the operators) will benefit the Village. Your advice is, the licensing is Council based & PC is to define it & say things like not within 500' of a school or a park." Ondrey, "Yes & you may want to make them conditional uses. So that if someone came in & wanted to get one, they'd at least have to go in front of the PC; get reviewed, find out who they are, what the operation is going to be before they got a permit."

Brett, "Council did a moratorium a month ago for 6 months." Ondrey will call Jim Gillette & see where they are with Chardon's regs. "It's close because they have 4 applications." SR timing: PC makes a recommendation, it goes to Council, there has to be a public hearing & 3 readings. Brett, "We don't want to wait too long. We don't want the moratorium to expire." Ondrey, "Between now & the next regular meeting, David (Hocevar) & I could come up with a recommended zoning change."

Hocevar, "We could just put this under an existing condition & use regulations. Put in under the area that we want. We want it on East Washington. We want to keep it in the B-1, I-1 district & see if the rest of the requirements fit in." Ondrey agrees.

DiMichele asks if it is really successful & helps the restaurants around there, should we be fighting it? Brett, "Maybe we don't completely fight it, but we want to make sure that we have some controls on it. The concerns about gaming facilities are often times various types of crime can follow that; whether it pertains to the ownership, people they bring in. I'd be concerned about that. It could have some positive effects, but it could also be negative. Instead of helping those restaurants, it could crush them."

DiMichele, "How can this be distinguished from another enterprise, say a coffee shop?" Ondrey, "Some of these regulations prohibit operating one of these as solely a coffee shop. They do purport to be something of an internet coffee shop kind of thing. But they really aren't. That's not what their goal is. DiMichele, "If you've got wifi at McDonalds, you can do online gambling at McDonalds." Brett, "McDonalds isn't profiting from the winnings."

Flaiz encourages PC to decide whether to prohibit it completely or limit it to the zoning district. Flaiz, "If PC doesn't prohibit it, I would be advocating to Council that we have licensing & those types of regulations. If you talk about 500' away from a school or a park & you go down East Washington, there is a park, there is a preschool & then there's a church & a school. Where are you going to put it?" I don't know if I'm in favor of prohibiting them, but if you think about parking & there is a preschool down there." Sutliff, "It's risky if you say, it's not allowed." Ondrey, "I think it's risky. I'm not sure in little South Russell if anyone is going to challenge it. They've got too many places to go. I think you could get away with it if you prohibit them.

Brett, "You could put up items that make it more difficult. If you do that, then you might have a higher probability that it's a legitimate business or better controls in it." Flaiz refers to today's Chagrin Valley Times. Orange appears excited to get one of these. It will go in the former Saturn dealership on Chagrin Blvd. The Mayor was very excited about the opportunity for the village to make money. Ondrey, "Middlefield had the same reaction. Let's get one here & make some money off it. They weren't very negative in Chardon either.

Brett, "I probably wouldn't be in favor of prohibiting it. If this board agrees with that, then let's see what occurs with Chardon & look to use that as a benchmark of what we do. Sutliff agrees. Ondrey, "The other gossip is as the casinos get closer to opening in Ohio, there is speculation that the Ohio Legislature will close down these operations so there is not a competition against what they can make a lot more money off of."

For the next meeting: Ondrey, "I'll monitor it (Chardon) & I'm working on Middlefield's regulations. We'll piggy back off those." Additionally, before the next meeting, Hocevar & Ondrey will discuss approaching this from a conditional use perspective.

Discuss campers parked on residential properties. Copy of Chagrin Falls regs. provided by Hocevar

Brett explains that there is a situation on Maple Hill. Brett, "It's a trailer, not a motor home. It needs to be towed. It's probably 27'. It's big. It's parked in the backyard. It's covered with a tarp. They've got electric hooked up & water. Their claim is that they are keeping their dogs in there. If you are a neighbor, you see it from quite a ways away."

Sutliff, "There are no ordinances in so far as recreational vehicles, boats?" Hocevar, "It has to be behind the front setback. This thing fits behind the house & meets all the side yard, rear yard requirements. That's why we got together these ordinances from Chagrin &other places because we don't have anything."

Sutliff, "How was the car problem resolved in Bellwood?" Flaiz, "Some would say it has not been resolved." Ondrey, "We cut it back, but we didn't eliminate it." Brett, "You can have 3 cars parked on a hard surface indefinitely. If you are over 3, then they have to move them everyday."

Brett, "This RV or camper conforms in many ways to our zoning. There are a lot of properties in the Village that have campers or boats. I bet 50. They are pretty well screened. This is sitting right out in the backyard. The lines are hooked up. It's almost like an accessory living structure."

Sutliff, "Couldn't you stop them with, in fact, it is an accessory structure?" Hocevar, "It's under 500 square feet & it fits into the side yard requirements. It fits into the height requirements. I've heard numerous complaints. They agreed to move it out, but he has no place to put it. He said he'd move it in the spring." Ondrey, "If it's considered a structure, which it is, you're saying it would fit within our accessory structure definition?" Hocevar, "Yes. I think the Village ought to look at some kind of ordinance specifically for that one. Part of the CF ordinance would fit perfectly."

Flaiz, "Couldn't we attach it to they couldn't have utilities hooked up to something? That's what bothers me. It looks terrible. It shouldn't be allowed." Sutliff, "I agree." Brett, "I agree with that. But I've known people who come & visit in a motor home. They pull into the driveway & they are there for a week. I don't have an issue with that."

Brett, "I think having a requirement for screening makes a lot of sense. The second thing is hooking up to the utilities for an extended period of time --no matter what the use is- you are scurrying around zoning. There is a reason for zoning: from a safety perspective, from an aesthetics perspective. I think this is an issue."

Between now & the next meeting, Brett encourages PC to review the ordinances from other communities & plan to draft something at the next PC meeting. Ondrey said it's a possibility that the property in question would be grandfathered. "We'd have to think through how it would impact an existing use." Flaiz, "Can Council do an ordinance under police powers at least for the utilities part?" Ondrey, "Yes we may be able to attack this; not from zoning."

OLD BUSINESS:

Hocevar got another call from Bow Wow. They wanted to know if the Village changed its mind. They are still interested in SR.

Snap Fitness & the yoga studio are doing great. The numbers for the preschool are down a little. Owners think it's because of the economy.

NEW BUSINESS: **Next meeting: 4-14-2011 at 7:30 P.M.**

Hocevar, "Burnt Wood Tavern might come back before PC. They want to do something with a pretty good size outdoor patio, off the back. I think they are going to have to take away some of their parking, which they have an issue with already. They might need to go to ZBA for this. They want to put an outdoor fireplace & complete patio out back." He thinks they are parking their cars at St. Joan of Arc Church.

There was no further business. The meeting adjourned at 8:10 p.m.

Walter Sutliff, Chairman

Maggie Tomaro, secretary

PC 3-10-V

CF=1-3

Chagrin Falls

1125.08 SUPPLEMENTAL PARKING REGULATIONS.

In addition to the applicable parking regulations of Chapter 1141, the following parking regulations shall apply in all R1 and R2F Districts.

(a) Exceptions. Vehicles temporarily on the premises of a dwelling for the purposes of deliveries, repairs, construction, landscaping, maintenance, garbage removal or service calls to and from the dwelling are exempt from the requirements of this section.

(b) Overnight Parking. Overnight parking of vehicles in front and side yards is prohibited with the following exceptions:

(1) The occupants of the premises and their guests may park a passenger vehicle that is not considered a Large Vehicle in a driveway provided that no part of any vehicle may extend over any public sidewalk or other right of way.

(2) A single vehicle having truck license plates and with a capacity rating of one (1) ton or less may be parked in a driveway provided that no part of any vehicle may extend over any public sidewalk or other right of way and that such truck is used solely by the occupant of the dwelling.

(3) A single recreational vehicle when authorized under Section 1125.08(d)(5) or Section 1125.08(d)(6).

(c) Prohibited Activity. The rebuilding, overhauling or dismantling of an automotive vehicle or recreational vehicle or the storage of motor or body parts in an open yard is prohibited.

(d) Recreational Vehicles. The outside parking and storage of recreational vehicles shall conform to the following:

(1) When not authorized under Section 1125.08(d)(5) or 1125.08(d)(6), a single recreational vehicle twenty-four (24) feet or less in overall length or eight (8) feet or less in width or twelve (12) feet or less in height, inclusive of any rooftop mechanical equipment may be parked or stored on the premises provided that the following requirements are satisfied:

A. The vehicle shall be located only in a rear yard, a minimum distance of three feet from any lot line plus the width of required screening. On a corner lot the vehicle may be parked no closer to the street than five feet plus the setback for the main building plus the width of required screening.

B. The Administrator may require an increase in setbacks if necessary for the installation of adequate screening.

C. The vehicle shall be screened as required under Section 1125.08(f) so as to obscure it from adjacent parcels and public streets when viewed from adjacent parcels and public streets by a person standing at ground level. The Administrator may exclude from the screening requirement an area of sufficient width to serve as an approach drive for the vehicle.

D. All parking areas and access drives to accommodate the vehicle shall comply with the requirements of Section 1125.04(b) and shall be paved or otherwise improved. The Administrator shall approve such method of improvement.

(2) Recreational vehicles parked or stored shall not have fixed connections for electricity, water, gas or sanitary sewer facilities, and at no time shall a recreational vehicle be used for dwelling, business, or commercial purposes or for any accessory uses.

(3) The wheels or any similar devices of any recreational vehicle shall not be removed except for repairs, nor shall such vehicle be otherwise permanently fixed to the ground in a manner that would prevent ready removal.

(4) No recreational vehicle shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(5) The permanent residents of the premises may park a recreational vehicle in the driveway for loading and unloading, for a period of forty-eight (48) consecutive hours as long as the location does not obstruct the view of vehicular and pedestrian traffic.

(6) A recreational vehicle that is not owned by a resident person may be parked in the driveway of a lot for not more than five (5) consecutive days. Within a calendar year, there shall be a maximum of two permissible periods that any such vehicle is so parked. The Administrator may allow an extension of the five (5) day period for an emergency.

(7) All recreational vehicles, when required by law, will have current legal license tags and/or plates.

(e) Large Vehicles and Trailers.

(1) Vehicles exceeding nineteen (19) feet in length or seven (7) feet in width, or eight (8) feet in height are considered large vehicles for the purpose of these parking regulations. Unless otherwise permitted in this section, a large vehicle shall be stored in a garage and used solely by the occupant of the dwelling. No large vehicle shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(2) When not considered a large vehicle, the outside parking and storage of trailers shall conform to the following:

A. The trailer shall be located only in a rear yard, a minimum distance of three feet from any lot line plus the width of required screening. On a corner lot, the trailer may be parked no closer to the street than five feet plus the setback for the main building plus the width of required screening.

B. The Administrator may require an increase in setbacks if necessary for the installation of adequate screening.

C. The trailer shall be screened as required under Section 1125.08(f) so as to obscure it from adjacent parcels and public streets when viewed from adjacent parcels and public streets by a person standing at ground level. The Administrator may exclude from the screening requirement an area of sufficient width to serve as an approach for the trailer.

D. The wheels or any similar devices of any trailer shall not be removed except for repairs, nor shall such trailer be otherwise permanently fixed to the ground in a manner that would prevent ready removal.

E. No trailer shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(f) Screening. Screening shall consist of a planted area that provides a year-round, continuous, visual screen to an initial height of at least eight feet and an initial depth of at least ten feet. At a minimum, such planted area shall consist of two staggered rows of evergreen (non-deciduous) vegetation. Landscaped earth mounts and fencing may supplement the planted screen in order to achieve the required screen density and height. The Administrator shall determine the effectiveness of the selected screening. The screening requirement shall not apply where natural or man-made barriers exist which provide screening generally equivalent to that required. Screening shall be maintained in good condition at all times.

(Ord. 2007-06. Passed 2-12-07.)

1107.161 RECREATIONAL VEHICLES AND TRAILERS.

(a) "Recreational vehicle" means a vehicle or portable structure designed and constructed to be used for travel, recreational or vacation uses, including but not limited to the following:

(1) Travel trailers, motor homes, truck campers, fifth-wheel trailers, buses or fold out camping trailers that may be self-propelled or nonself-propelled with facilities enabling them to be used as a temporary dwelling; or

(2) Watercraft, including boats, floats, rafts, wet bikes, jet skis or other vehicles designed or used for transporting persons or property on the water and the normal equipment to transport same; or

(3) Off-road vehicles, including all-terrain vehicles, snowmobiles, trail bikes or other vehicles designed or used for transporting persons or property on nonimproved surfaces and the normal equipment to transport same.

(b) "Trailer" means any form of device, equipment or machinery on wheels, or a single wheel that is designed to be towed, whether or not attached to a motor vehicle. This shall include every vehicle, regardless of size, designed for the purpose of transporting materials, equipment or animals. (Ord. 2007-06. Passed 2-12-07.)

1373.06 OPEN STORING; SCREENING.

(a) No person shall openly store a **recreational vehicle**, as defined in Section 1373.01(i), unless the Board of Appeals has granted a variance, proper screening is installed as required by the Architectural Review Board and a permit is issued by the Building Department for the installation of such screening.

(b) The criteria to be followed by the Board of Appeals and the Architectural Review Board in determining screening requirements shall include the following:

(1) Location of screened area to adjacent building or adjoining lots.

(2) Size and condition of the **recreational vehicle**.

(3) View of the screened areas from the street and adjoining lots.

(4) Quality and quantity of screening material.

(Ord. 75-28. Passed 10-28-75.)

A. A travel trailer, means a non self-propelled **recreational vehicle**, portable structure built on a chassis designed to be used as a temporary dwelling for travel, **recreational** and vacation use, and permanently identified "travel trailer" by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer as defined in Ohio R.C. 4517.01;

B. A pickup camper, i.e., a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, **recreational** and vacation use;

C. A motor home means a portable dwelling designed and constructed as an integral part of a self-propelled **vehicle**, and designed for travel, **recreational** and vacation use and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

D. A folding tent trailer, i.e., a canvas folding structure, mounted on wheels and designed for travel, **recreational** and vacation use; and,

E. Boats and boat trailers, including boats, canoes, floats and rafts, snowmobiles, all-terrain **vehicles**, plus the normal equipment to transport the same on a street or highway;

F. "Park Trailer" means a **vehicle** that is commonly known as a park model **recreational vehicle**, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold- storage, cooking and consuming of food, and for sleeping;

G. "Truck Camper" means a nonself-propelled **recreational vehicle** that does not have wheels for road use and is designed to be placed upon and attached to a motor **vehicle**. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(b) **Parking of Recreational Vehicles.**

(1) Any **recreational vehicle** may be parked or stored in a residential area subject to the regulations contained herein.

A. No **recreational vehicle** shall be parked or stored unless it is titled to or leased and used exclusively by one of the permanent occupants of the residence where the **recreational vehicle** is located.

B. A **recreational vehicle** shall not have connections to water electricity, gas or sanitary sewers.

C. A **recreational vehicle** shall not be used for living, housekeeping or similar purposes.

D. A **recreational vehicle** parked or stored outside a garage or enclosed structure shall not be parked or stored in the front yard of the lot and shall be stored or parked at least ten feet from the side and rear lot lines of the lot and ten feet from the enclosed structure or garage. If the residence has a rear entry garage, then the **recreational vehicle** may be parked behind the entrance to the garage.

E. A **recreational vehicle** parked outside of a garage or enclosed structure shall be licensed pursuant to State law.

F. A **recreational vehicle** may be parked on any premises for loading or unloading purposes for a period of not more than forty-eight (48) hours so long as such **parking** does not obstruct pedestrian or vehicular traffic of adjoining or abutting properties.

G. No person, being the owner or operator of a **recreational vehicle**, shall park or store such **vehicle** in a residential area of the city in violation of any of the regulations set forth in this section.

H. No person, being the owner and/or occupant of or having possession of real property in a residential area of the City, shall permit a **recreational vehicle** to be parked or stored thereon in violation of any of the regulations set forth in this section.

I. No more than one **recreational vehicle** per premise may so be parked.

PC 3-10-11

Willoughby

Parking or Storage of **Recreational**, Commercial and Other **Vehicles**. In addition to the area, coverage, and locational requirements of Schedules 1131.11 (a) and 1131.11 (c), the **parking** or storage of a **recreational vehicle**, camper, or boat, on or off wheels, truck or commercial **vehicle**, shall comply with the following regulations.

(1) All **recreational vehicles** shall be either stored wholly within a garage or outdoors in compliance with the following:

A. Not more than one **recreational** or commercial **vehicle** shall be stored outdoors.

B. Outdoor storage shall be permitted only in the rear yard on a paved or gravel surface, with the exception that when permanent obstacles prevent the maneuvering of a **recreational vehicle** into the rear yard, the **recreational vehicle** may be stored in the side yard on a paved or gravel surface.

(2) The outdoor **parking** of a commercial **vehicle** shall not be permitted on a lot in a One-family Residential District except that an occupant shall be permitted to park one truck not exceeding three-quarter ton rated capacity that is used in connection with said occupant's livelihood.

(3) **Recreational** and commercial **vehicle** shall not be used as a dwelling, office, or other business structure, or for storage of any material, and shall have no connections to any electric, telephone, water, sewer, gas, or fuel source.

(4) A **recreational** or commercial **vehicle** may be parked in a driveway for loading or unloading purposes for a period not to exceed forty-eight hours in any seven day period.

(5) **Recreational** and commercial **vehicles** must be licensed by the state.

1367.01 LIMITATIONS ON STORAGE; RECREATIONAL VEHICLES; SCREENING; USE FOR SLEEPING OR EATING PROHIBITED.

No **vehicle** shall be stored upon any premises in a residential use district within Hunting Valley except passenger automobiles, light-weight vans, horse trailers and pickup trucks used customarily as personal **vehicles**. Private mobile **recreational** facilities, including motor homes, boats and **recreational** trailers, used solely for **recreational** purposes by the residents of the premises, and **vehicles** and equipment customarily incident to a permitted use or accessory use of the premises, may be stored on the premises in a garage or other accessory building; but if the same are stored outside, they should be adequately screened, if visible from any adjoining premises, and shall not be used for sleeping or eating purposes within the Village.

(Ord. 1992-101. Passed 1-14-92.)

PC 3-10-11
from D. Indy

ORDINANCE NO. 2010-160 **Late Filing**

SPONSOR Ms. Prentice

DATE May 10, 2010 COMMITTEE Rules

An amended Ordinance adopting and enacting Chapter 755 of the Codified Ordinances of the County of Summit, entitled, "Entertainment Device Arcades," for the County Council, and declaring an emergency.

WHEREAS, pursuant to the Ohio Revised Code and the Summit County Charter, this Council has authority to regulate businesses in the unincorporated areas of the County; and

WHEREAS, this Council has exercised its authority in the past to regulate certain businesses in the unincorporated areas of the County by adopting certain provisions in Part Seven of the Codified Ordinances of the County of Summit; and

WHEREAS, in several unincorporated areas within Summit County, certain businesses are operating gaming devices more commonly known as skill-based amusement machines or "games of skill," **internet café terminals and internet sweepstakes machines**;" and

WHEREAS, the State of Ohio currently permits the operation of games of skill pursuant to Chapter 2915 of the Ohio Revised Code, but also narrowly defines games of skill and strictly prohibits devices that are, in fact, games of chance; and

WHEREAS, outside of regulations governing sweepstakes in general, the State of Ohio currently does not regulate internet café terminals or internet sweepstakes machines; and

WHEREAS, throughout Summit County and the State of Ohio, several businesses claiming to operate **legal** games of skill**, internet café terminals and internet sweepstakes machines** have been investigated and closed by various public law enforcement entities for actually operating games of chance or otherwise violating **gambling and gaming provisions of** ~~the restrictions imposed upon them by~~ the Ohio Revised Code; and

WHEREAS, when a business unlawfully operates as a **gaming, gambling or** games of chance parlor, it often times will encourage other illegal activity and harm to the community; and

WHEREAS, several local municipalities have adopted legislation regulating the games of skill**, internet café terminals and internet sweepstakes machines** businesses to ensure that they are operating in a legal manner and in a manner that is not likely to lead to illegal activity and harm to the community; and

WHEREAS, as a result of regulation by local municipalities, several of the games of skill**, internet café terminals and internet sweepstakes machines** businesses have chosen to locate or relocate in the unincorporated areas of Summit County; and

(pp1)

WHEREAS, by adopting regulations on games of skill, **internet café terminals and internet sweepstakes machines** businesses, this Council will ensure that those businesses are operating lawfully and in a manner that is not likely to harm the community; and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the County to adopt regulations of skill based games, **internet café terminals and internet sweepstakes machines** businesses in the unincorporated areas of Summit County.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the County of Summit, State of Ohio, that:

SECTION 1

Chapter 755 of the Codified Ordinances of the County of Summit, entitled, "Entertainment Device Arcades," attached hereto as amended Exhibit A, and incorporated herein by referenced, is hereby adopted and enacted by this Council.

SECTION 2

This Ordinance is hereby declared an emergency in the interest of the health, safety and welfare of the citizens of the County of Summit, and for the further purpose of immediately allowing the regulation of games of skill, **internet café terminals and internet sweepstakes machines** businesses and immediately ensuring that those businesses are operating lawfully.

SECTION 3

Provided this Ordinance receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

SECTION 4

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

ORDINANCE NO. 2010-160
PAGE THREE

INTRODUCED March 29, 2010

SECOND READING April 26, 2010

ADOPTED May 10, 2010

Shirley F. Greer
CLERK OF COUNCIL

PRESIDENT OF COUNCIL

APPROVED May 11, 2010

EXECUTIVE

ENACTED EFFECTIVE May 11, 2010

On Voice Vote: 10-0-1 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras, Prentice, Rodgers, Schmidt, Shapiro, Smith ABSTAIN: Poda

(PP31)

AMENDED EXHIBIT A

CHAPTER 755
Entertainment Device Arcades

755.01 Applicability.
755.02 Definitions.
755.03 License application; requirements.
755.04 License fees; transfer and display; disposition of fees.
755.05 License revocation; hearing procedure.
755.06 Location.
755.07 Closing hours.
755.08 Miscellaneous operating requirements.
755.09 Severability.
755.99 Penalties.

SECTION 755.01 APPLICABILITY.

This Chapter shall be applicable only to townships located in the County of Summit, Ohio. This Chapter shall apply to the operation of entertainment devices that are lawfully operated pursuant to the Ohio Revised Code and does not legalize or license any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all entertainment device arcades that commence operations after the date of the enactment of this Chapter. All entertainment device arcades in operation at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment of this Chapter, unless otherwise stated herein.

SECTION 755.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) "Entertainment device arcade" means any business, establishment, room or place where four or more entertainment devices are kept for use by the public or by persons other than the owner of the devices, where persons give anything of value to access the use of the entertainment devices or the premises, and the person may be given anything of value by the operator, whether the giving occurs on or off the premise or at the same time or a later time.

(b) "Entertainment device" means any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. "Entertainment device" does not include any **vending machine,** juke box, audio book, video player or any device that gives anything of value where the only value given, directly or indirectly, is a video or audio transmission~~, or any device specifically exempted under Section 2915.01 of the Ohio Revised Code from that Section's definition of a skill-based amusement machine~~.

(c) "Anything of value" means cash, cash equivalents, tangible objects, credits to play, sweepstakes entry points and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.

(d) "Operator" means any person or organization that owns, controls, operates, promotes or maintains or knowingly engages in conduct that facilitates the operation of an entertainment device arcade or the entertainment devices in an entertainment device arcade.

(e) "Law enforcement agency" means the law enforcement agency responsible for policing a township, whether a township police department or the Summit County Sheriff's Office.

SECTION 755.03 LICENSE APPLICATION; REQUIREMENTS.

(a) No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade without first obtaining an annual license therefore from the Office of Consumer Affairs. The license shall first be obtained prior to the initial operation of the entertainment device arcade and annually thereafter, with the subsequent annual application and associated fee due prior to the 1st day of January of each calendar year.

(b) Every person, partnership, corporation, organization or other entity shall make an application in writing to the Office of Consumer Affairs, which application shall set forth:

(1) The name and federal tax identification number under which the business is to be conducted;

(2) The location where the business is conducted, with a description of the premises, including a scaled diagram;

(3) The name, ~~and~~ address, and government issued photo identification of any manager, supervisor, and all other employees;

(4) The name, ~~and~~ address, and government issued photo identification of the owner or owners of the entertainment devices; and

(5) The name, address, government issued photo identification and principal occupation of every person with an interest in the business. If the business is conducted by:

A. A sole proprietorship, the name, home address, government issued photo identification and principal occupation of that individual.

B. A firm, limited liability company or partnership, the names, home addresses, government issued photo identification and principal occupations of each member of the firm or partnership.

C. A corporation, the names, home addresses, government issued photo identifications and principal occupations of all officers and shareholders and the statutory agent;

(6) If a corporation or limited liability company, a certificate of good standing from the Ohio Secretary of State.

(7) A certificate of insurance indicating that the person, partnership, corporation, limited liability company, organization or other entity operating the entertainment device arcade has covered the premises with general liability insurance coverage of not less than $1,000,000.00 per occurrence.

(6~~8~~) The name, description, model number and serial number of each entertainment device on the premises and any other device on the premises that is necessary to the operation of the entertainment device;

(7~~9~~) A. A list of each separate prize that may be given out and each separate dollar amount that may be given; and

B. The odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in an entertainment device or participating in any other

activity or promotion in the entertainment device arcade, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location;

(~~8~~10) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the licensee's entertainment devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed; and

(11) A certificate or report, provided by an Authorized Independent Testing Laboratory, verifying that each entertainment device identified in 755.03(b)(8), above, and the software therein, complies with all provisions of the Ohio Revised Code and is not a game of chance, gambling device, gaming device, or other device that is prohibited from operation in the State of Ohio under any provision of the Ohio Revised Code. The Office of Consumer Affairs shall publish, within fourteen (14) days after the enactment of this ordinance a list of Authorized Independent Testing Laboratories, and shall keep said list updated and current at all times. Only certificates or reports from the entities listed by the Office of Consumer Affairs as Authorized Independent Testing Laboratories shall satisfy the requirements of this Section. Said certificate or report shall be provided to the Office of Consumer Affairs for each entertainment device prior to an operator placing the device into service.

The certificate or report for an Authorized Independent Testing Laboratory required herein shall be updated annually for each entertainment device and the updated certificate or report shall be provided at the time of each annual application. Said updated certificate or report shall verify that each entertainment device, and the software therein, continues to comply with all provisions of the Ohio Revised Code and is not a game of chance, gambling device, gaming device, or other device that is prohibited from operation in the State of Ohio under any provision of the Ohio Revised Code.

Any update to an entertainment device, or the software therein, during the course of the year shall be reviewed and inspected by an Authorized Independent Testing Laboratory, and a certificate or report from the Authorized Independent Testing Laboratory shall be filed with the Office of Consumer Affairs prior to the operator placing the device in service, which verifies that the entertainment device, and the software therein, continues to comply with all provisions of the Ohio Revised Code and is not a game of chance, gambling device, gaming device, or other device that is prohibited from operation in the State of Ohio under any provision of the Ohio Revised Code.

(c) Duty to keep information current. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the Office of Consumer Affairs as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade at any time unless the information on file with the Office of Consumer Affairs is current and accurately reports the licensing information at the time of operation.

(d) Rejection of application. If an application is not approved, the Office of Consumer Affairs shall notify the applicant in writing, with reasons for rejection.

(e) Prohibition as a result of conviction; fire inspection. The Office of Consumer Affairs shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been

convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the township's fire department to seek and obtain the approval of said department.

(f) Right of entry for inspection. The entertainment device arcade shall be open to inspection and viewing of operations by the Office of Consumer Affairs, law enforcement agency officers, ~~and~~ fire department personnel, and health department personnel at all times that the arcade is open for business. No operator shall fail to immediately permit entry to any such officials.

(g) Suspension or revocation of license. Failure to register or pay a license fee for an entertainment device shall be grounds for suspension or revocation of the license for the entertainment device arcade and said device shall be seized and forfeited to the County.

SECTION755.04 LICENSE FEES; TRANSFER AND DISPLAY; DISPOSITION OF FEES.

(a) License fees. The non-refundable annual license fee, payable to the Office of Consumer Affairs at the time of initial or annual application, shall be ~~$2,000.00~~ $1,000.00 for each entertainment device arcade location for each calendar year or any part thereof. Additionally, ~~a monthly~~ an semi-annual non-refundable license fee of $200.00 shall be paid to the Office of Consumer Affairs ~~no later than the 1st day of each month~~ for each entertainment device that will be located on the premises during **the following semi-annual period. ~~that month calendar year~~**. The ~~monthly~~ **semi-**annual license fee ~~shall be paid~~ for each entertainment device shall be paid at the time of initial or annual application **and no later than June 1st of each calendar year**, or, if the entertainment device is brought to the premises following the **payment of the semi-annual license fee ~~filing of the initial or annual application~~**, prior to such time as the entertainment device is brought to or operating on the premises ~~before the device is put into use for that month~~. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

(b) Non-transferability; display. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each entertainment device with serial number.

(c) Disposition of license fees. License fees received by the Office of Consumer Affairs shall be disposed of as follows:

(1) Special revenue fund. 75% of the license fees shall be deposited into a special revenue fund which shall be established for the benefit of those townships in which entertainment device arcades are located. The County of Summit shall pay each township on quarterly basis those fee amounts received during the previous quarter from entertainment device arcades located within the township and deposited into the special revenue fund.

(2) Office of Consumer Affairs. 25% of the license fees shall be deposited on behalf of and paid to the Office of Consumer Affairs to be used for the Office's operational expenses.

SECTION~~755.04~~ 755.05 LICENSE REVOCATION; HEARING PROCEDURE.

(a) Creation of commission. An Entertainment Device Arcade License Review Commission is hereby created to hear complaints concerning entertainment device arcade licenses. The Commission shall consist of the County Executive or their designee, the President of the County Council or their designee and the County Fiscal Officer or their designee.

(b) Revocation or suspension of license. A license may be suspended or revoked at any time by the Commission on satisfactory proof that violation of the laws of the State of Ohio, the Codified Ordinances of the County of Summit or this Chapter occurs at an entertainment device arcade. In addition to any license suspension, the Commission may assess the licensee a penalty fee of not less than $500.00 or more than $1000.00 for any violation of this Chapter. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees by the Commission is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other County, State of Ohio or federal laws. Penalty fees shall be disposed of in the same manner as license fees as set forth in Section 755.04(c).

(c) Submission of complaint; regular inspection. Any resident of a township may submit a written notice of complaint to the Office of Consumer Affairs concerning any entertainment device arcade located within the complainant's township. The notice of complaint will include the name, phone number and address of the resident, the address of the location, the OAC device number, if applicable, and the specific reasons why the resident is complaining. The Office of Consumer Affairs and/or the law enforcement agency responsible for policing the township shall regularly inspect the premises, the operation, the entertainment devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.

(d) Interview of complainant. The Office of Consumer Affairs shall interview ~~meet with~~ the complainant and inquire as to the specific reasons for the complaint. The Office of Consumer Affairs may dismiss the complaint if it is determined that:

(1) The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license; or

(2) There are not substantial credible facts to support the complaint by the township resident.

(e) No appeal from dismissal of complaint. No appeal shall lie from the decision of the Office of Consumer Affairs to dismiss a complaint.

(f) Fact-finding conference. If the complaint is not dismissed by the Office of Consumer Affairs, the Office will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Office of Consumer Affairs and the Office may request the assistance of the law enforcement agency to assist in the investigation. The Office and any assisting law enforcement agency officer shall have access to the entertainment device arcade and the records of the licensee during all times that the entertainment devices are available for play.

(g) Resolution of complaint. At the time of the conference, the resident, the licensee and the owner of the devices will meet and attempt to amicably resolve the situation. If the resident, licensee, and the owner can reach an amicable solution, the Office will issue a written notice directing the licensee to comply with the agreed resolution of the complaint.

(h) Referral to the Commission. If the parties cannot agree upon an amicable solution to the problem, the Office of Consumer Affairs will transmit the complaint, together with its recommendation thereon, to the Entertainment Device Arcade License Review Commission. The Office's recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

(i) Hearing. The Commission may accept, reject, or modify the recommendation of the Office of Consumer Affairs. The resident, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the

Commission is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint before the Commission shall be a public hearing which shall be held within 30 days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Commission shall enter its decision the day of hearing. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.

(j) Other enforcement actions. The complaint process set forth in this section is separate and distinct from any law enforcement action taken to enforce the laws of the State of Ohio or the Codified Ordinances of the County of Summit and this Chapter, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

SECTION 755.06 LOCATION.

(a) Limitation on location. No license shall be granted to an entertainment device arcade that will conduct its business at a location that is within 500 feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio.

(b) Exception; change in ownership. This section shall not apply to any entertainment device arcade locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed entertainment device arcade locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within 500 feet of said entertainment device arcade. However, any change in ownership of the entertainment device arcade or change in location will remove said entertainment device arcade from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than 50 percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, or public playground moves within five hundred feet of said entertainment device arcade.

SECTION 755.07 ~~CLOSING~~ HOURS OF OPERATION.

~~**No operator of an entertainment device arcade shall permit the same to be or remain open between the hours of 11:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any entertainment device between the hours of 11:00 p.m. and 10:00 a.m. of the next day.**~~

Entertainment device arcades shall operate only between the hours set forth below:

Sundays	**1:00pm to 12:00am Monday morning**
All Other Days	**10:00am to 12:00am of the following day**

No operator shall permit any person to operate any entertainment device during any time other than specified herein.

SECTION 755.08 MISCELLANEOUS OPERATING REQUIREMENTS.

(a) Supervision of entertainment devices. Any entertainment device arcade shall have an adult who is 21 years of age or over on the premises and supervising at all times the entertainment devices during all hours of operation.

(b) Square-footage. The interior of the entertainment device arcade shall provide a minimum area of 50 square feet per entertainment device in each room in which entertainment devices are located.

(c) No alcoholic beverages. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of an entertainment device arcade.

(d) Public peace. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

(e) No minors. No persons under the age of eighteen years shall be permitted on the premises of any entertainment device arcade.

(f) Photo identification. The operator shall require a photo identification of every person to whom anything of value is given in connection with the entertainment device arcade and shall record the person's name and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value of the thing given to a person is more than ten dollars, the operator shall include in the record a copy of the person's photo identification. By the second Tuesday of each month the operator shall cause to be delivered to the Office of Consumer Affairs a copy of the record of things given to persons together with the above required information given during the preceding month. If the records pertaining to photo identification contain social security numbers or drivers license numbers, the operator and the Office of Consumer Affairs shall not disclose those numbers to anyone except as required by the laws of the State of Ohio and the United States government.

(g) Posting. The operator shall post in a conspicuous place on the premises in the room where the entertainment devices are located in no less than twenty point type:

(1) Each separate prize that may be given and each separate dollar amount that might be given.

(2) The odds as stated in the filing with the Office of Consumer Affairs, as required in Section 755.03(b)(7).

(3) A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

(4) On each machine, a sticker, if issued by the Office of Consumer Affairs, indicating that it has been registered by the operator with the Office of Consumer Affairs, and bearing a unique identification number for that machine.

(h) Records. The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records more than 10 years old are exempt from this requirement.

(i) Correct information. No applicant shall make a false or incorrect statement in an application for an entertainment device arcade license and no operator shall fail to update the information supplied to the Office of Consumer Affairs to reflect existing operations as required in Section 755.03(b).

(j) Insurance. Each operator of an entertainment device arcade shall maintain general liability insurance covering the premises of the arcade in an amount of no less than $1,000,000.00 per occurrence.

(k) Reporting of Internet Time. Any entertainment device arcade that engages in the sale of internet time or computer usage time in exchange for anything of value shall provide to the Office of Consumer Affairs, no later than the 15th day of each month a report detailing the daily amount of time sold and the daily amount of time used or consumed in the preceding calendar month.

(j) Strict liability for violations. It is the intent of this Chapter that operators are strictly liable for any violations of this Chapter.

SECTION 755.09 SEVERABILITY.

In the event any provision of Sections 755.01-755.99 shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 755.99 PENALTIES.

(a) Minor misdemeanor. Whoever violates or fails to comply with any of the provisions of this Chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor and shall be fined not more than $100.00 for each offense, said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Failure to obtain or operating without a license. Whoever violates or fails to comply with the requirement to obtain a license for an entertainment device arcade or an entertainment device as provided in this Chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than $250.00, or imprisoned not more than 30 days or both, for each offense, provided said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

ORDINANCE NO. 80-2010

AN EMERGENCY ORDINANCE ENACTING A NEW CHAPTER 793 OF THE CODIFIED ORDINANCES OFTHE CITY OF MACEDONIA REGULATING COMPUTERIZED SWEEPSTAKES/INTERNET DEVICE CAFES

Adopted by Macedonia City Council
September 23, 2010

WHEREAS, the City of Macedonia may legitimately license and regulate the location and operation of certain businesses that are of such a nature that they possess unique characteristics in operation that they could potentially have negative secondary effects on neighboring properties; and

WHEREAS, Council has determined that it is in the best interests of the City of Macedonia and its residents to establish licensing and regulating requirements for such businesses that operate sweepstakes and/or internet café operations wherein the public is invited to the establishment for the purpose of purchasing telephone cards or some other item of value for an opportunity to be entered into a sweepstakes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Macedonia, Summit County, Ohio, not less than two-thirds of all the members thereof concurring, that:

Section 1. That a new Chapter 793 of the Codified Ordinances of the City of Macedonia, entitled "Sweepstakes/Internet Device Cafes" is hereby enacted, as set forth in "Exhibit A" attached hereto.

Section 2. That all present Codified Ordinances shall remain as presently drafted unless inconsistent with this Ordinance.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

WHEREFORE, this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Macedonia and the inhabitants thereof, for the reason that it provides for the daily operation of a municipal department, and provided it receives the affirmative vote of four (4) or more of the members elected or appointed to this Council, it shall take effect and be in force from and after the earliest period allowed by law.

EXHIBIT A

CHAPTER 793

Sweepstakes/Internet Device Cafes

793.01 PURPOSE AND APPLICABILITY.

A. Applicability. This Chapter shall apply to the operation of computerized sweepstakes terminals and internet cafes or establishments operating such terminals. This Chapter shall only apply to the operation of such terminals that are lawfully operating pursuant to the Ohio Revised Code and nothing in this Chapter shall be construed to legalize, license or authorize any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all devices, arcades and/or internet cafes that commence operation after the date of enactment of this Chapter. All arcades, internet cafes, or establishments in existence at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment unless otherwise stated herein.

B. Purpose. It is the purpose of this Chapter and the policy of the City of Macedonia to establish standards for licensing and regulation of computerized sweepstakes devices and arcades and/or internet cafes upon which they are located and operated. This Chapter is designed to prevent safety and fire hazards, prevent disturbances, preserve the peaceful enjoyment of neighboring establishments and residences, and preventing gambling and other criminal behavior in the City.

793.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Computerized Sweepstakes Device". Any computer, machine, game or apparatus which, upon the insertion of a coin, token, access number, magnetic card, or similar object, or upon the payment of anything of value, wherein a product or service is provided, and may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which is not gambling under state or local laws. Machines designated for use by the State Lottery Commission are not computerized sweepstakes devices for purposes of this Chapter 793.

"Operator". Any person or persons having authority to control the premises of an arcade and/or sweepstakes/internet café.

"Licensee". The person or persons who sign an application for a license hereunder and to whom such license is issued.

"Anything of value". Cash, cash equivalents, tangible objects, credits to play, and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.

"Owner". Any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent (25%) or more in a sweepstakes/internet café.

"Sweepstakes/Internet Café". Any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.

793.03 LICENSE APPLICATION AND REQUIREMENTS.

A. No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet café without first obtaining a license from the City. Every person, partnership, corporation, organization or other entity shall make an application in writing to the City, which application shall set forth:

1. The name under which the business is to be conducted;

2. The location where the business is conducted, with a description of the premises, including a scaled diagram;

3. The name, address, and date of birth of any manager, supervisor, and all other employees;

4. The name, address, and date of birth of the owner or owners of the entertainment devices; and

5. The name, address, date of birth, and principal occupation of every person with an interest in the business.

If the business is conducted by:

a. A sole proprietorship: the name, home address, date of birth and principal occupation of that individual.
b. A firm or partnership: the names, home addresses, dates of birth, and principal occupations of each member of the firm or partnership.
c. A corporation: the names, home addresses, dates of birth and principal occupations of all directors, officers and shareholders owning more than twenty-five percent (25%) of the outstanding shares.

6. The name, description, model number and serial number of each computerized sweepstakes device on the premises and any other device on the premises that is necessary to the operation of the computerized sweepstakes device.

7. A list of each separate prize that may be given out and each separate dollar amount that may be given; and the odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in a computerized sweepstakes device or participation in any other activity or promotion in the sweepstakes/internet café, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

8. The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the computerized sweepstakes devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.

9. The tax account number of the business from the City of Macedonia Income Tax Division.

10. The application is to include supporting documentation from a Certified Independent Regulatory Compliance Test Laboratory that the software performs in similar fashion as other permitted sweepstakes commercially offered to the public and that the entries are drawn from a pre-created finite static pool of entries with assigned values. To be certified, the Independent Regulatory Compliance Testing Laboratory must be authorized to test regulated gaming equipment by at least one state government gaming regulatory agency.

B. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the City as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet café at any time unless the information on file with the City is current and accurately reports the licensing information at the time of operation.

C. If an application is not approved, the City shall notify the applicant in writing, with reasons for rejection.

D. The City shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. All owners, employees and persons having an interest in the business, as set forth in Section 793.03(A)(5), shall consent to a criminal history check by the Macedonia Police Department.

E. As a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Fire Department and the premises must be in compliance with all applicable fire regulations. The sweepstakes/internet café shall be open to inspection and viewing of operations by law enforcement officers and fire department personnel at all times of operation. No operator shall fail to immediately permit entry to any such City officials.

F. Failure to register or pay a license fee for a computerized sweepstakes device shall be grounds for suspension or revocation of the license for the establishment and said device shall be seized and forfeited to the City.

793.04 LOCATION.

A. No license shall be granted to a sweepstakes/internet café that will conduct its business at a location that is within one thousand (1000) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, or religious institution, or within one thousand (1000) feet of any establishment that has been issued a liquor permit by the State of Ohio.

B. This section shall not apply to any sweepstakes/internet café locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed sweepstakes/internet café locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within one thousand (1000) feet of said sweepstakes/internet café. However, any change in ownership of the sweepstakes/internet café or change in location will remove said sweepstakes/internet café from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, church, religious institution or public playground moves within one thousand (1000) feet of said sweepstakes/internet café.

793.05 LICENSE FEE; TRANSFER AND DISPLAY.

A. The license fee, payable to the City at the time of application and annually thereafter, shall be Five Thousand Dollars ($5,000.00) for each business location per year or any part thereof ending on December 31 of each year. In the event that an application is denied under this Chapter, one-half (1/2) of the application fee shall be returned to the applicant. In the event that a license is revoked or suspended hereunder, no portion of the license fee shall be returned.

B. The fee for each computerized sweepstakes device shall be Five Hundred Dollars ($500.00) for each device on the premises for each year or any part thereof ending on the last day of the year.

C. The fees, which are paid at the time of application, are not refundable in any case. The license fee shall be paid for each device brought to the facility before the device is put into use. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

D. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each device with serial number.

E. Failure to register any computerized sweepstakes device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of One Hundred Fifty Dollars ($150.00) for each day the device is not registered, and said fine shall not be reduced or suspended.

793.06 REVOCATION; HEARING PROCEDURE.

A. The license may be suspended or revoked at any time by the City on satisfactory proof that violation of the laws of the state, ordinances of the City, or of this Chapter occur on the premises. In addition to any license suspension, the City may assess the licensee a penalty fee of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Five Hundred Dollars ($1,500.00) for any violation of this article. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other village, state or federal laws.

B. Any person may submit a written complaint to the City in regard to any sweepstakes/internet café location, which shall include the name and address of the complainant, the location of the sweepstakes/internet café, and the specific reasons why the resident is complaining. The designated City official or a designee from law enforcement shall regularly inspect the premises, the operation, the computerized sweepstakes devices and the licensee's records and may issue a complaint to the licensee for any violations.

C. The Mayor, or his/her designee from law enforcement, shall meet with the complainant and inquire as to the specific reasons for the complaint. The complaint may be dismissed if it is determined that:

1. The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license.

2. There are not substantial credible facts to support the complaint by the resident.

D. No appeal shall lie from the decision to dismiss a complaint.

E. If the complaint is not dismissed, the Mayor, or his/her designee, will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Mayor who may request the assistance of any person in law enforcement to assist in the investigation. The City and its designee and any law

enforcement officer shall have access to the premises and the records of the licensee during all times that the computerized sweepstakes devices are available for play.

F. At the time of the conference, the complainant, the licensee, the Mayor, or his/her designee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the complainant, licensee, Mayor, or his/her designee, and the owner of the devices can reach an amicable solution, the City will direct the licensee to comply with the solution in his notice of reconciliation.

G. If the parties cannot agree upon an amicable solution to the problem, the complaint shall be transmitted to the City Director of Law for consideration. The recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

H. Consideration of the complaint shall be a public hearing which shall be held within thirty days after said notice is given. The complainant, the licensee and the owner of the devices, as listed on the license application, shall be notified at least fifteen (15) days in advance of the hearing by certified mail; and they may, if they so choose, be present during consideration of the complaint. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses and introduce evidence. The Director of Law shall enter its decision the day of the hearing unless additional time is needed. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Ohio Revised Code Chapter 2506.

I. This complaint process is separate and distinct from any law enforcement action taken to enforce the laws of the State or the City and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

793.07 HOURS OF OPERATION.

No operator of a sweepstakes/internet café shall permit the same to be or remain open between the hours of 10:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any computerized sweepstakes device between the hours of 10:00 p.m. and 10:00 a.m. of the next day.

793.08 PROHIBITED CONDUCT.

No licensee of a sweepstakes/internet café by himself/herself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate or prevent the activities specified in this section from occurring on the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions or inactions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

(a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises;

(b) Permit the premises to become a gathering place for disorderly persons of any type;

(c) Permit the gambling in any form or the possession or use of gambling paraphernalia upon the premises;

(d) Permit intoxication or the possession or use of alcoholic beverages upon the premises;

(e) Permit the possession or use of any unlawful drug, narcotic or controlled substance;

(f) Permit the public streets, sidewalks, alleys or walkways adjacent to the premises to become littered;

(g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;

(h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;

(i) Permit any computerized sweepstakes device thereon to be operated at any time the premises is not open for business, or permit the entrance to be locked at any time that the premises are open for business;

(j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire, health or sanitation codes;

(k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operating condition;

(l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;

(m)Permit the operation of any unlicensed computerized sweepstakes device upon the premises;

(n) Permit any violation of any ordinance of the City or statute of the State to take place upon the premises.

793.09 MISCELLANEOUS.

A. Any sweepstakes/internet café shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the computerized sweepstakes devices during all hours of operation.
B. The interior of the sweepstakes/internet café shall provide a minimum area of forty (40) square feet per computerized sweepstakes device in each room in which such devices are located.

C. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of a sweepstake/internet café.

D. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

E. No persons under the age of twenty one (21) years shall be permitted on the premises of any sweepstakes/internet café.

F. The operator shall require a photo identification of every person to whom anything of value is given in connection with the sweepstakes/internet café and shall record the person's name, date of birth, and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value given for any single event for which there is a chance of winning, as calculated by the odds of winning provided to the City in Section 793.03, is Six Hundred Dollars ($600.00) or more the operator shall also include in the record a copy of the photo identification and record the person's social security number. By the second Tuesday of each month the operator shall cause to be delivered to the City Finance Director a copy of the record containing the information set forth above for the preceding month. The operator and the City Finance Director shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States government.

G. The operator shall post in a conspicuous place on the premises in the room where the computerized sweepstakes devices are located in no less than twenty point type:

1. Each separate prize that may be given and each separate dollar amount that might be given.

2. The odds as stated in the filing with the City, as required in Section 793.03(A)(7).

3. A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

H. The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records shall be maintained for ten (10) years.

I. No applicant shall make a false or incorrect statement in an application for a license and no operator shall fail to update the information supplied to the City to reflect existing operations as required in Section 793.03(B).

J. It is the intent of this Chapter that operators are strictly liable for any violations of this article.

K. No person shall be denied any license or the right to use a licensed computerized sweepstakes device under this Chapter in the City because of race, color, creed, sex, religious belief or natural origin.

793.10 NUISANCE.

A violation of this Chapter shall constitute a nuisance and is subject to civil proceedings, including an injunction, in addition to prosecution for criminal violations of the State of Ohio and Codified Ordinances of the City of Macedonia.

793.11 SEVERABILITY.

In the event any provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

793.12 PENALTY.

Whoever violates any provision of this Chapter for which a specific penalty is not otherwise stated shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the license for the sweepstakes/internet café shall be permanently revoked.

Emailed to Council 06/18/10
Distributed to Council 06/18/10

CITY OF TWINSBURG, OHIO

ORDINANCE 89-2010

AN ORDINANCE CREATING CHAPTER 765 OF THE CODIFIED ORDINANCES OF THE CITY OF TWINSBURG REGULATING ENTERTAINMENT DEVICE ARCADES

WHEREAS, the City of Twinsburg may legitimately license and regulate the location and operation of certain businesses that are of such a nature that they possess unique characteristics in operation that they could potential have negative secondary effects on neighboring properties; and

WHEREAS, Council has determined that it is in the best interests of the City of Twinsburg and its residents to establish a licensing and regulating requirements for such businesses that operate sweepstakes and/or internet café operations wherein the public is invited to the establishment for the purpose of purchasing telephone cards or some other item of value for an opportunity to be entered into a sweepstakes

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Twinsburg, County of Summit and State of Ohio:

SECTION I: That Section 765 of the Codified Ordinances of the City of Twinsburg is hereby created as follows:

CHAPTER 765
Entertainment Device Arcades

765.01 PURPOSE AND APPLICABILITY.

A. Applicability. This Chapter shall apply to the operation of computerized sweepstakes terminals and internet cafes or establishments operating such terminals. This Chapter shall only apply to the operation of such terminals that are lawfully operating pursuant to the Ohio Revised Code and nothing in this Chapter shall be construed to legalize, license or authorize any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all devices, arcades and/or internet cafes that commence operation after the date of enactment of this Chapter. All arcades, internet cafes, or establishments in existence at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment unless otherwise stated herein.

B. Purpose. It is the purpose of this Chapter and the policy of the City of Twinsburg to establish standards for licensing and regulation of computerized sweepstakes

devices and arcades and/or internet cafes upon which they are located and operated. This Chapter is designed to prevent safety and fire hazards, prevent disturbances, preserve the peaceful enjoyment of neighboring establishments and residences, and preventing gambling and other criminal behavior in the City.

765.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. "Computerized Sweepstakes Device". Any computer, machine, game or apparatus which, upon the insertion of a coin, token, magnetic card or similar object, or upon the payment of anything of value, wherein a product or service is provided, and may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which in no way tends to promote or encourage gambling.

2. "Operator". Any person or persons having authority to control the premises of an arcade and/or Sweepstakes/Internet Café.

3. "Licensee". The person or persons who sign an application for a license hereunder and to whom such license is issued.

4. "Anything of value." Cash, cash equivalents, tangible objects, credits to play, and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.

5. "Owner." Any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent (25%) or more in a Sweepstakes/Internet Café.

6. "Sweepstakes/Internet Café". Any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.

765.03 LICENSE APPLICATION AND REQUIREMENTS.

A. No person, partnership, corporation, or other entity shall operate or conduct a Sweepstakes/Internet Cafe without first obtaining a license from the City. Every person, partnership, corporation, organization or other entity shall make an application in writing to the City, which application shall set forth:

1. The name under which the business is to be conducted;

2. The location where the business is conducted, with a description of the premises, including a scaled diagram;

3. The name and address of any manager, supervisor, and all other employees;

4. The name and address of the owner or owners of the entertainment devices; and

5. The name, address, and principal occupation of every person with an interest in the business.

If the business is conducted by:

a. A sole proprietorship, the name, home address, and principal occupation of that individual.
b. A firm or partnership, the names, home addresses, and principal occupations of each member of the firm or partnership.
c. A corporation, the names, home addresses, and principal occupations of all officers and shareholders and the statutory agent.

6. The name, description, model number and serial number of each computerized sweepstakes device on the premises and any other device on the premises that is necessary to the operation of the computerized sweepstakes device.

7. A list of each separate prize that may be given out and each separate dollar amount that may be given; and the odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in a computerized sweepstakes device or participating in any other activity or promotion in the Sweepstakes/Internet Cafe, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

8. The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the computerized sweepstakes devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.

9. The tax account number and a certificate of registration from the City of Twinsburg Income Tax Division.

B. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the City as to changes in the information

required in this section. No person, partnership, corporation, or other entity shall operate or conduct a Sweepstakes/Internet Cafe at any time unless the information on file with the City is current and accurately reports the licensing information at the time of operation.

C. If an application is not approved, the City shall notify the applicant in writing, with reasons for rejection.

D. The City shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Fire Division to seek and obtain the approval of said agency.

E. The Sweepstakes/Internet Cafe shall be open to inspection and viewing of operations by law enforcement officers and fire department personnel at all times of operation. No operator shall fail to immediately permit entry to any such city officials.

F. Failure to register or pay a license fee for a computerized sweepstakes device shall be grounds for suspension or revocation of the license for the establishment and said device shall be seized and forfeited to the City.

765.04 LOCATION.

A. No license shall be granted to a Sweepstakes/Internet Cafe that will conduct its business at a location that is within five hundred (500) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, religious institution or any establishment that has been issued a liquor permit by the State of Ohio.

B. This section shall not apply to any Sweepstakes/Internet Cafe locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed Sweepstakes/Internet Cafe locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within five hundred (500) feet of said Sweepstakes/Internet Cafe. However, any change in ownership of the Sweepstakes/Internet Cafe or change in location will remove said Sweepstakes/Internet Cafe from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, church, religious institution or public playground moves within five hundred (500) feet of said Sweepstakes/Internet Cafe.

765.05 LICENSE FEE. TRANSFER AND DISPLAY.

A. The license fee, payable to the City at the time of application and annually thereafter, shall be Five Thousand Dollars ($5000.00) for each business location per year or any part thereof ending on December 31 of each year. In the event that an application is denied under this Chapter, one-half (1/2) of the application fee shall be returned to the applicant. In the event that a license is revoked or suspended hereunder, no portion of the license fee shall be returned.

B. The fee for each computerized sweepstake device shall be Five Hundred Dollars ($500.00) for each device on the premises for each year or any part thereof ending on the last day of each year.

C. The fees, which are paid at the time of application, are not refundable in any case. The license fee shall be paid for each device brought to the facility before the device is put into use. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

D. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each device with serial number.

E. Failure to register any computerized sweepstakes device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of One Hundred Fifty Dollars ($150.00) for each day the device is not registered, and said fine shall not be reduced or suspended.

765.06 REVOCATION. HEARING PROCEDURE.

A. The license may be suspended or revoked at any time by the City on satisfactory proof that violation of the laws of the state, ordinances of the city, or of this Chapter occur on the premises. In addition to any license suspension, the City may assess the licensee a penalty fee of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Five Hundred Dollars ($1500.00) for any violation of this article. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other city, state or federal laws.

B. Any resident of the city may submit a written notice of complaint to the City in regard to any Sweepstakes/Internet Cafe location. The notice of complaint will include the name and address of the resident, the address of the location, and the specific reasons why the resident is complaining. The designated City official or a designee from law enforcement shall regularly inspect the premises, the operation, the computerized

sweepstakes devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.

D. The designated City Official or its designee from law enforcement shall meet with the complainant and inquire as to the specific reasons for the complaint. The complaint may be dismissed if it is determined that:

1. The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license.

2. There are not substantial credible facts to support the complaint by the resident.

E. No appeal shall lie from the decision to dismiss a complaint.

F. If the complaint is not dismissed, the designated City Official will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the designated City Official who may request the assistance of any person in law enforcement to assist in the investigation. The City and its designee and any law enforcement officer shall have access to the premises and the records of the licensee during all times that the computerized sweepstakes devices are available for play.

G. At the time of the conference, the complainant, the licensee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the complainant, licensee, and the owner can reach an amicable solution, the City will direct the licensee to comply with the solution in his notice of reconciliation.

H. If the parties cannot agree upon an amicable solution to the problem, the complaint, together with any recommendation thereon, shall be transmitted to the City Law Department for consideration. The recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

I. The Law Department may accept, reject, or modify the recommendation of the designated City Official. The complainant, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the Law Department is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint shall be a public hearing which shall be held within thirty days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Law Department shall enter its decision the day of hearing unless additional time is needed. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling

to a court of competent jurisdiction under authority of and pursuant to the provisions of R.C. Chapter 2506.

J. This complaint process is separate and distinct from any law enforcement action taken to enforce the laws of the state or the city and this article, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

765.07 HOURS OF OPERATION.

No operator of a Sweepstakes/Internet Cafe shall permit the same to be or remain open between the hours of 11:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any computerized sweepstakes device between the hours of 11:00 p.m. and 10:00 a.m. of the next day.

765.08 PROHIBITED CONDUCT.

No licensee of a Sweepstakes/Internet Café by himself/herself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate or prevent the activities specified in this section from occurring on the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions or inactions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

(a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises;

(b) Permit the premises to become a gathering place for disorderly persons of any type;

(c) Permit the gambling in any form or the possession or use of gambling paraphernalia upon the premises;

(d) Permit intoxication or the possession or use of alcoholic beverages upon the premises;

(e) Permit the possession or use of any unlawful drug, narcotic or controlled substance;

(f) Permit the public streets, sidewalks, alleys or walkways in the immediate vicinity of any entrance or exit to the premises to become littered;

(g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;

(h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;

(i) Permit any computerized sweepstakes device thereon to be operated at any time the premises is not open for business, or permit the entrance to be locked at any time that the premises are open for business;

(j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire, health or sanitation codes;

(k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operation condition;

(l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;

(m) Permit the operation of any unlicensed computerized sweepstakes device upon the premises;

(n) Permit any violation of any ordinance of the City or statute of the State to take place upon the premises.

765.09 MISCELLANEOUS.

A. Any Sweepstakes/Internet Cafe shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the computerized sweepstakes devices during all hours of operation.

B. The interior of the Sweepstakes/Internet Cafe shall provide a minimum area of forty (40) square feet per computerized sweepstakes device in each room in which such devices are located.

C. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of a Sweepstakes/Internet Cafe.

D. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

E. No persons under the age of twenty one (21) years shall be permitted on the premises of any Sweepstakes/Internet Cafe.

F. The operator shall require a photo identification of every person to whom anything of value is given in connection with the Sweepstakes/Internet Cafe and shall record the person's name and home address and a description of the thing given, a stated dollar

value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value of the thing given to a person is more than ten dollars, the operator shall include in the record a copy of the photo identification and the person's social security number. By the second Tuesday of each month the operator shall cause to be delivered to the City Income Tax Division a copy of the record of things given to persons together with the above required information given during the preceding month. The operator and the Income Tax Division shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States government.

G. The operator shall post in a conspicuous place on the premises in the room where the computerized sweepstakes devices are located in no less than twenty point type:

1. Each separate prize that may be given and each separate dollar amount that might be given.
2. The odds as stated in the filing with the City, as required in Section 765.03(A)(7).
3. A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

H. The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records shall be maintained for ten (10) years.

I. No applicant shall make a false or incorrect statement in an application for a license and no operator shall fail to update the information supplied to the City to reflect existing operations as required in Section 765.03(B)

J. It is the intent of this chapter that operators are strictly liable for any violations of this article.

K. No person shall be denied any license or the right to use a licensed computerized sweepstakes device under this Chapter in the City because of race, color, creed, sex, religious belief or natural origin.

765.10 SEVERABILITY.

In the event any provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of

this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

765.99 PENALTY.

Whoever violates any provision of this Chapter for which a specific penalty is not otherwise stated shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the license for the Sweepstakes/Internet Cafe shall be permanently revoked.

SECTION II: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting or meetings of this Council and any of its committees that resulted in such formal action, were in meetings open to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

SECTION III: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

APPROVED: _____

_____
Sam Scaffide, President of Council

Submitted to the Mayor for approval this

_____ day of _____, 2010

Approved by the Mayor _____, 2010

_____
Katherine A. Procop, Mayor

ATTEST:

_____
Lisa Spraggins
Clerk of Council

1st Rdg. _____

2nd Rdg. _____
3rd Rdg. _____

Passed: _____

Yes _____ No _____

CERTIFICATE OF POSTING

I, Lisa Spraggins, Clerk of Council of the City of Twinsburg, State of Ohio, do hereby certify that publication of the foregoing ordinances, resolutions was duly made by posting true copies thereof at five of the most public places in said City as determined by Section 113.02 of the Codified Ordinances of the City of Twinsburg; each for a period of fifteen days commencing on the _____day of _____, 2010.

_____
Lisa Spraggins
Clerk of Council
City of Twinsburg

PROPOSED

1

ORDINANCE NO. _____

AN ORDINANCE BY THE COUNCIL OF THE CITY OF LORAIN, OHIO ESTABLISHING CHAPTER 750 OF THE CODIFIED ORDINANCES OF THE CITY OF LORAIN REGARDING COMPUTERIZED INTERNET SWEEPSTAKES CAFÉS AND THE DECLARING OF AN EMERGENCY

WHEREAS, the Mayor and the Council of the City of Lorain, Ohio recognize the increasing popularity of computerized internet sweepstakes cafés; and

WHEREAS, the Council believes that computerized internet sweepstakes cafés are by their nature unique businesses; and

WHEREAS, the Council is aware that the State of Ohio has not taken a position or offered guidance as to whether such cafés violate State of Ohio gambling laws; and

WHEREAS, the Council finds that the City has an overwhelming interest in regulating this type of business for the safety and welfare of the residents of the City of Lorain; and

WHEREAS, the Council of Lorain finds that communities in proximity to the City of Lorain have passed ordinances regulating Internet Sweepstakes Cafés.

NOW THEREFORE, be it ordained by the Council of the City of Lorain, Ohio, State of Ohio:

SECTION 1. That the Council of the City of Lorain hereby establishes Chapter 750 of the Codified Ordinances as follows:

CHAPTER 750
Computerized Internet Sweepstakes Cafés

750.01 Purpose & Objectives.
750.02 Construction, Separability & Applicability of Chapter.
750.03 Definitions.
750.04 Computerized Sweepstakes Device License Required.
750.05 Sweepstakes Terminal Café License Required.
750.06 Authority of Safety Director.
750.07 Nature of Licenses.
750.08 Procedure for Obtaining Licenses.
750.09 Denial of Sweepstakes Terminal Café.
750.10 Conditions and Regulations.
750.11 Prohibited Conduct and Conditions in Sweepstakes Terminal Cafés.
750.12 License Expiration, Suspension or Revocation.
750.13 License Fees.
750.14 Equal Opportunity.
750.99 Penalty.

750.01 PURPOSE & OBJECTIVES.

It is the purpose of this chapter and the policy of the City to establish standards for licensing, regulation and control of computerized sweepstakes devices and sweepstakes terminal cafés and premises upon which they are located and operated for purpose of entertainment of the public. The objectives of this chapter are to prevent safety and fire hazards, disturbances, disruption of pedestrian traffic, disorderly assemblies, theft of personal property, gambling and truancy within the City.

750.02 CONSTRUCTION, SEPARABILITY AND APPLICABILITY OF CHAPTER.

(a) Construction. This chapter shall be liberally construed and applied to promote its purpose and objectives.

(b) Separability. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

750.03 DEFINITIONS.

As used in this chapter:

(a) "Computerized sweepstakes device" means any computer, machine, game or apparatus which, upon the insertion of a coin, token or similar object, or upon payment of anything of value, wherein a product or service is provided, and may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not public generally for use as a contest of skill, entertainment of amusement, whether or not registering a score, and which does not in any way, manner or form encourage gambling.

(b) "Service Director" means the Director of Public Service for the City of Lorain, Ohio.

(c) "Board" means the City of Lorain Zoning Board of Appeals.

(d) "Operator" means the person or persons having authority to control the premises of a Sweepstakes Terminal Café.

(e) "Licensee" means the person or persons who sign an application for a license hereunder and to whom such license is issued.

(f) "Owner" means any person who possesses any interest, either directly or indirectly, in a Sweepstakes Terminal Café.

(g) "Person" means any natural person, firm partnership, association, corporation or any other form of business organization.

(h) "Premises" means the building or any portion thereof used for conducting the operation of a Sweepstakes Terminal Café.

(i) "Sweepstakes Terminal Café" means any premises upon which any computerized sweepstake device is located for the use or entertainment of the public, whether or not such premises has any other business purpose.

(j) "City" means the City of Lorain, Ohio.

750.04 COMPUTERIZED SWEEPSTAKES DEVISE LICENSE REQUIRED.

No person shall display for purposes of use any computerized sweepstakes device in the City without first having obtained a computerized sweepstakes license as provided in this chapter. A separate license is required for each computerized sweepstakes device.

750.05 SWEEPSTAKES TERMINAL CAFÉ LICENSE REQUIRED.

No person shall conduct or operate a Sweepstakes Terminal Café in the City without having first obtained a Sweepstakes Terminal Café license as provided in this chapter.

750.06 AUTHORITY OF SERVICE DIRECTOR.

Authority is hereby established and vested in the Service Director to consider any application for a license under this chapter, conduct investigations therefore and thereon and issue or deny issuance of any such license based upon the criteria set forth in this chapter.

750.07 NATURE OF LICENSES.

(a) Licenses. Any license issued under this chapter shall have the following characteristics:
   (1) Each license shall be valid for a period of one year from and after the date of issuance unless suspended or revoked as provided in this chapter.
   (2) Each license shall vest a personal privilege but not any property rights in the license.
   (3) Each license shall be required to be displayed permanently in a conspicuous place upon the premises for which it is issued.
   (4) Each license shall be in the name of the applicant.
   (5) No license shall be assignable or transferable, either as to person or location.

(6) Each license, if lost, destroyed or mutilated, upon application within thirty days may be replaced by a duplicate license issued by the Safety Director bearing the word "Duplicate" across its face and bearing the same license number as the license which it replaces.

(b) Computerized Sweepstakes Device Licenses. All computerized sweepstakes device licenses issued under this chapter shall have the following characteristics:

(1) Each license shall be issued for only (1) computerized sweepstakes device.

(2) Each license shall specify the name and address of each licensee, and the manufacturer, model number and serial number of the computerized sweepstakes device for which it was issued.

(3) Each license, if changed, mutilated, erased or in any manner defaced, shall be void, and any amusement device for which such license has been issued shall be deemed an unlicensed amusement device.

(c) Sweepstakes Terminal Café Licenses. All sweepstakes terminal café licenses issued under this chapter shall have the following characteristics:

(1) Each license shall be issued for only one (1) business at only one (1) premise.

(2) Each license shall specify the name and address of each licensee, and the manufacturer, model number and serial number of each computerized sweepstakes device located upon the premises for which it was issued.

750.08 PROCEDURE FOR OBTAINING LICENSES.

(a) Applications for Licenses. All applications for licenses under this chapter shall be in writing on a form approved by and filed with the Service Director. The application shall be signed by the owner or owners and shall contain information required by this section supplied in detail as to each such person, including general and limited partners, or partnerships, shareholders of corporations and principals or members of any other type of business entity or organization. All applications shall contain a statement that the information contained therein is complete, accurate and truthful. Every owner and operator of the Sweepstakes Terminal Café, shall be fingerprinted by an agency approved by the Safety Director and such person shall pay for the costs associated with obtaining said fingerprints.

(b) Contents of Applications. The application shall contain the following information as to all owners:

(1) True name and all names used in the past five years;
(2) Date of birth;
(3) Permanent home address and all home addresses used in the past five years;
(4) Business and home telephone numbers;
(5) Employment history for the past five years;
(6) A statement as to whether or not the owner has been convicted of any crime other than traffic offenses and, if so, the date and place of conviction, the nature of the offense and the penalty imposed;
(7) A statement as to whether or not the owner has ever conducted a sweepstakes terminal café and, if so, when, where and for how long.
(8) A description of the nature and operation of the main type of business activity to be conducted upon the premises;
(9) Description of the nature and operation of any business to be conducted in conjunction with the sweepstakes terminal café, and the anticipated percentage of gross revenue to be derived from each respective business;
(10) The address and telephone number of the premises and of the business, if different from that of the premises;
(11) The name under which the business and premises will be operated;
(12) A statement as to whether or not the owner will directly operate the sweepstakes terminal café, or whether or not an operator who is not an owner will operate it, and if the latter, the application shall contain information required by this section supplied in detail as to each such operator.
(13) A floor plan of the premises and the immediate vicinity drawn to scale, showing the square footage and placement of the computerized sweepstakes devices, exits, windows, storage spaces, bicycle storage racks and off-street parking.
(14) The name, and address and telephone number of the agent of the business upon whom service of process can effectively and validly be made;
(15) The number, type, name, model and manufacturer's serial number of each computerized sweepstakes device requested to be licensed;
(16) The name and address of the owner, distributor and manufacturer of each computerized sweepstakes device requested to be licensed;

(17) Specification of terms of agreement governing the acquisition and installation of each amusement device requested to be licensed;
(18) A description as to the nature and type of property or services which will be sold or supplied upon the premises;
(19) A copy of the title or lease to the premises;
(20) A copy of the Articles of Incorporation, if the owner is a corporation;
(21) A copy of the Operating Agreement, if the owner is a limited liability corporation;
(22) A copy of the Partnership Agreement, if the owner is a partnership;
(23) Specification of the days of the week and the hours of the day during which the licensed activity will be conducted; and
(24) Supporting documentation from a Certified Independent Regulatory Compliance Test Laboratory that the software performs in similar fashion as other permitted sweepstakes commercially offered to the public and that the entries are drawn from a pre-created finite static pool of entries with assigned values. To be certified the Independent Regulatory Compliance Testing Laboratory must be authorized to test regulated gaming equipment by at least one state government gaming regulatory agency.
(25) A plan detailing the measures which will be taken to "block" viewing of adult oriented or pornographic material.
(26) Any other information which the Service Director may deem reasonably necessary for the full interest of the public in the application.

(c) Reports of City Officials. Upon receipt of an application for a license under this chapter, the Service Director shall request the following reports, which shall be rendered to him within thirty days of the date of filing of the application.

(1) A written report from the Fire Chief shall be submitted to the Service Director as to whether the premises and computerized sweepstakes devices thereon will create a fire hazard; and
(2) A written report from the Police Chief shall be submitted to the Service Director specifying, with regard to all owners and operators, any convictions for any felony or for any misdemeanor involving the operation of an amusement device business or involving physical violence, gambling activity, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude.

(3) A written report from the Chief Building Official shall be submitted to the Service Director as to whether all building and zoning laws have been satisfied.

(d) Determination Process.

(1) Service Director. All applications for licenses under this chapter shall be considered by the Service Director, who shall, within ten days after receiving the written reports, either issue such licenses or deny issuance of such licenses.

(2) Appeal to Board. In the event of the denial of issuance of such a license, the applicant shall be notified of such denial and the specific reasons therefore in writing. Such notice shall be mailed or delivered to the applicant at the address specified in the application by certified U.S. mail, return receipt requested. The applicant shall have ten days after receipt of such notice within which to appeal such denial, by filing a written notice of appeal with the Board of Zoning Appeals. Thereupon, the Board of Zoning Appeals shall set a date and time for a hearing upon the appeal. Notice of hearing shall be sent to the applicant not later than fifteen (15) days prior to the date of hearing, by certified U.S. mail, return receipt requested. The appeal shall be heard by the Board of Zoning Appeals, which Board shall have the power after such hearing to confirm the denial, order the license to be issued or, at its discretion, to issue a conditional or probationary license.

(3) Appeal to court. The decision of the Board may, within thirty days thereof, be appealed to a court of competent jurisdiction under Ohio R.C. Chapter 2506.

(e) License Renewal. Each computerized sweepstakes device license and sweepstakes terminal café license must be renewed annually. At the time of renewal, a statement shall be filed with the Safety Director that the information listed on the original application for the license is still complete, accurate and truthful to the best knowledge of all applicants, or a statement shall be filed with the Safety Director listing each and every item of information which has changed since the original application. Such statement shall be signed by the same persons who signed the original application. The Safety Director may determine to accept such statement and issue the license requested, or he may determine to enforce the procedure required for an original license.

750.09 DENIAL OF SWEEPSTAKES TERMINAL CAFÉ.

No arcade amusement center license shall be issued or renewed for any business or premises:

(a) Where any of the owners or the operators has been convicted within the last five years of any felony or of any misdemeanor involving the operation of a sweepstakes terminal café business, or involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude;

(b) Where the premises do not provide a minimum of 1 off-street parking space for every 2 computerized sweepstake devices;

(c) Where it is determined that the premises or operation thereof would be in violation of any provision of the Building Code, the Zoning Code or the Fire Code of the City or any other pertinent provisions of local, state or federal law;

(d) Where the applicant made a false statement as to a material matter upon the application or in a hearing concerning the license;

(g) Where the application failed to provide all of the required information; or

(h) Where there is not compliance with all terms and conditions under this chapter and all other applicable ordinances and statutes.

750.10 CONDITIONS AND REGULATIONS.

(a) In addition to any other condition or regulation contained in this chapter or in state statutes, the following conditions and regulations shall be applicable to and shall govern and control all licenses of Sweepstakes Terminal Cafés.

(1) Each licensee shall at all times open each and every portion of the premises for inspection by the Police Department and other City departments for the purposes of enforcing any provisions of this chapter.

(2) Each licensee shall have present on the premises at all times when the premises are open to the public at least one adult operator who has not been convicted of any felony or of any misdemeanor involving the operation of a sweepstakes terminal café or involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude.

(3) No licensee shall allow living quarters to exist with direct entry to the premises.

(4) No licensee shall allow any person, other than an owner or operator over the age of twenty-one years, who shall be readily identifiable, to be in control of the premises, nor allow such operator to be regularly situated in a place upon the premises other than a place from which he has an unobstructed view of the entire portion of the premises devoted to the operation of computerized sweepstakes devices.

(7) No person under the age of 18 years shall be permitted to operate a Sweepstakes Terminal Café.

(8) Any and all sweepstakes rules and odds of winning shall be posted in a conspicuous place at the premises and displayed on the computerized sweepstakes device at the start of each game and/or activity.

(9) Each licensee shall operate the Sweepstakes Terminal Café business in compliance with any and all pertinent Federal Trade Commission rules and regulations.

(10) Licensees may be required to hire an off-duty police officer or other security personnel to provide for the safety of the patrons as determined by the City.

(11) Each licensee shall maintain the name, address and prize amount of all sweepstakes prize winners. Each licensee shall provide the City Treasurer with a complete list of sweepstakes winners on a monthly basis on or before the tenth day of each preceding month.

(b). All computerized sweepstakes devices upon the premises of a Sweepstakes Terminal Café shall be located thereon in conformity with the floor plan filed with the application for the license and in such a manner:

(1) So as not to impair ingress or egress to the premises;

(2) So as not to interfere with free and unfettered passage through the premise;

(3) So as to permit a clear and complete view of the interior of the premises immediately upon entry; and

750.11 PROHIBITED CONDUCT AND CONDITIONS IN SWEEPSTAKES TERMINAL CAFES.

No licensee of a Sweepstakes Terminal Café by himself, directly or indirectly, or by any representative, agent or employee shall permit or fail to take active steps to eliminate the activities specified in this section from occurring upon the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

(a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises, or to allow viewing of illegal and/or explicit adult oriented material;

(b) Permit the premises to become a gathering place for disorderly persons of any type;

(c) Permit gambling in any form or the possession of gambling paraphernalia upon the premises;

(d) Permit intoxication or the possession, use or consumption of alcoholic beverages upon the premises;

(e) Permit the possession, use or consumption of any unlawful drug, narcotic or controlled substance upon the premises;

(f) Permit the public streets, sidewalks, alleys or walk-ways in the immediate vicinity of any entrance or exit to the premises to become littered;

(g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;

(h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;

(i) Permit any computerized sweepstakes device thereon to be operated at any time the premises are not open for business, or permit the entrance to be locked at any time that the premises are open for business;

(j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire, health or sanitation codes;

(k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operation condition.

(l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;

(m) Permit the operation of any unlicensed computerized sweepstakes device upon the premises;

(n) Permit any violation of any ordinance of the City or statute of the State of Ohio to take place upon the premises.

750.12 LICENSE EXPIRATION, SUSPENSION OR REVOCATION.

(a) Expiration. Any sweepstakes terminal café license issued under this chapter shall expire upon the transfer or sale of a majority interest in the business, or the discontinuation of the business for a continuous period of thirty days. Any computerized sweepstakes device license issued under this chapter shall expire upon the transfer or sale of such computerized sweepstakes device.

(b) Suspension and Revocation. All licenses issued under this chapter shall be suspended or revoked by the Service Director upon his finding of the occurrence of any of the following events;

(1) A false statement by any licensee as to a material matter made in an application for license or in a hearing concerning the license;

(2) Conviction of any licensee or operator of any felony or of any misdemeanor involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude;

(3) Conviction twice within a one-year period of any licensee or operator for a violation of this chapter.

(c) Hearing. The suspension or revocation of any license under this chapter shall not be made without a hearing. The licensee shall be given at least ten days prior written notice of intent to suspend or revoke, which shall set forth the time and place of the hearing and the specific reasons for such suspension or revocation. The licensee shall have the right at the hearing to present testimony and other relevant evidence and to orally examine any person offering evidence as to the reasons for suspension or revocation.

(d) Appeal. The decision of the Safety Director may be appealed to a court of competent jurisdiction under Ohio R.C. Chapter 2506.

750.13 LICENSE FEES.

(a) Computerized Sweepstakes Devices. The fee for each computerized sweepstakes device license shall be thirty dollars ($30.00) per device, per month.

(b) Sweepstakes Terminal Café. The fee for a Sweepstakes Terminal Café shall be five thousand dollars ($5,000.00) per year.

(c) Replacement License. The fee for a replacement license shall be fifteen dollars ($15.00).

(d) Filed with Application. License fees under this chapter shall be filed with the application for license.

(e) Return of Fee. In the event an application is denied under this chapter, one-half of the license fees therefore shall be returned to the applicant. In the event any license is suspended or revoked under this chapter, no portion of the license fee shall be returned to the owner.

750.14 EQUAL OPPORTUNITY.

No person shall be denied any license or the right to use a licensed amusement device under this chapter in the City because of race, color, creed, sex, religious belief or national origin.

750.15 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the City of Lorain, Ohio the emergency being the immediate necessity of regulating computerized internet sweepstakes cafés within the City of Lorain, Ohio.

PASSED: _____, 2010

_____
PRESIDENT OF COUNCIL

ATTEST: _____, CLERK

APPROVED: _____, 2010

_____
MAYOR

I, Nancy Greer, duly appointed Clerk of Council of Lorain, Ohio DO HEREBY CERTIFY that this is a true and exact copy of Ordinance # _____, PASSED _____, 2010.

DC 3-10-11
from D. Hocean
ICF = 1-3

Chagrin Falls

1125.08 SUPPLEMENTAL PARKING REGULATIONS.

In addition to the applicable parking regulations of Chapter 1141, the following parking regulations shall apply in all R1 and R2F Districts.

(a) Exceptions. Vehicles temporarily on the premises of a dwelling for the purposes of deliveries, repairs, construction, landscaping, maintenance, garbage removal or service calls to and from the dwelling are exempt from the requirements of this section.

(b) Overnight Parking. Overnight parking of vehicles in front and side yards is prohibited with the following exceptions:

(1) The occupants of the premises and their guests may park a passenger vehicle that is not considered a Large Vehicle in a driveway provided that no part of any vehicle may extend over any public sidewalk or other right of way.

(2) A single vehicle having truck license plates and with a capacity rating of one (1) ton or less may be parked in a driveway provided that no part of any vehicle may extend over any public sidewalk or other right of way and that such truck is used solely by the occupant of the dwelling.

(3) A single recreational vehicle when authorized under Section 1125.08(d)(5) or Section 1125.08(d)(6).

(c) Prohibited Activity. The rebuilding, overhauling or dismantling of an automotive vehicle or recreational vehicle or the storage of motor or body parts in an open yard is prohibited.

(d) Recreational Vehicles. The outside parking and storage of recreational vehicles shall conform to the following:

(1) When not authorized under Section 1125.08(d)(5) or 1125.08(d)(6), a single recreational vehicle twenty-four (24) feet or less in overall length or eight (8) feet or less in width or twelve (12) feet or less in height, inclusive of any rooftop mechanical equipment may be parked or stored on the premises provided that the following requirements are satisfied:

A. The vehicle shall be located only in a rear yard, a minimum distance of three feet from any lot line plus the width of required screening. On a corner lot the vehicle may be parked no closer to the street than five feet plus the setback for the main building plus the width of required screening.

B. The Administrator may require an increase in setbacks if necessary for the installation of adequate screening.

C. The vehicle shall be screened as required under Section 1125.08(f) so as to obscure it from adjacent parcels and public streets when viewed from adjacent parcels and public streets by a person standing at ground level. The Administrator may exclude from the screening requirement an area of sufficient width to serve as an approach drive for the vehicle.

D. All parking areas and access drives to accommodate the vehicle shall comply with the requirements of Section 1125.04(b) and shall be paved or otherwise improved. The Administrator shall approve such method of improvement.

(2) Recreational vehicles parked or stored shall not have fixed connections for electricity, water, gas or sanitary sewer facilities, and at no time shall a recreational vehicle be used for dwelling, business, or commercial purposes or for any accessory uses.

(3) The wheels or any similar devices of any recreational vehicle shall not be removed except for repairs, nor shall such vehicle be otherwise permanently fixed to the ground in a manner that would prevent ready removal.

(4) No recreational vehicle shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(5) The permanent residents of the premises may park a recreational vehicle in the driveway for loading and unloading, for a period of forty-eight (48) consecutive hours as long as the location does not obstruct the view of vehicular and pedestrian traffic.

(6) A recreational vehicle that is not owned by a resident person may be parked in the driveway of a lot for not more than five (5) consecutive days. Within a calendar year, there shall be a maximum of two permissible periods that any such vehicle is so parked. The Administrator may allow an extension of the five (5) day period for an emergency.

(7) All recreational vehicles, when required by law, will have current legal license tags and/or plates.

(e) Large Vehicles and Trailers.

(1) Vehicles exceeding nineteen (19) feet in length or seven (7) feet in width, or eight (8) feet in height are considered large vehicles for the purpose of these parking regulations. Unless otherwise permitted in this section, a large vehicle shall be stored in a garage and used solely by the occupant of the dwelling. No large vehicle shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(2) When not considered a large vehicle, the outside parking and storage of trailers shall conform to the following:

A. The trailer shall be located only in a rear yard, a minimum distance of three feet from any lot line plus the width of required screening. On a corner lot, the trailer may be parked no closer to the street than five feet plus the setback for the main building plus the width of required screening.

B. The Administrator may require an increase in setbacks if necessary for the installation of adequate screening.

C. The trailer shall be screened as required under Section 1125.08(f) so as to obscure it from adjacent parcels and public streets when viewed from adjacent parcels and public streets by a person standing at ground level. The Administrator may exclude from the screening requirement an area of sufficient width to serve as an approach for the trailer.

D. The wheels or any similar devices of any trailer shall not be removed except for repairs, nor shall such trailer be otherwise permanently fixed to the ground in a manner that would prevent ready removal.

E. No trailer shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(f) Screening. Screening shall consist of a planted area that provides a year-round, continuous, visual screen to an initial height of at least eight feet and an initial depth of at least ten feet. At a minimum, such planted area shall consist of two staggered rows of evergreen (non-deciduous) vegetation. Landscaped earth mounts and fencing may supplement the planted screen in order to achieve the required screen density and height. The Administrator shall determine the effectiveness of the selected screening. The screening requirement shall not apply where natural or man-made barriers exist which provide screening generally equivalent to that required. Screening shall be maintained in good condition at all times.

(Ord. 2007-06. Passed 2-12-07.)

1107.161 RECREATIONAL VEHICLES AND TRAILERS.

(a) "Recreational vehicle" means a vehicle or portable structure designed and constructed to be used for travel, recreational or vacation uses, including but not limited to the following:

(1) Travel trailers, motor homes, truck campers, fifth-wheel trailers, buses or fold out camping trailers that may be self-propelled or nonself-propelled with facilities enabling them to be used as a temporary dwelling; or

(2) Watercraft, including boats, floats, rafts, wet bikes, jet skis or other vehicles designed or used for transporting persons or property on the water and the normal equipment to transport same; or

(3) Off-road vehicles, including all-terrain vehicles, snowmobiles, trail bikes or other vehicles designed or used for transporting persons or property on nonimproved surfaces and the normal equipment to transport same.

(b) "Trailer" means any form of device, equipment or machinery on wheels, or a single wheel that is designed to be towed, whether or not attached to a motor vehicle. This shall include every vehicle, regardless of size, designed for the purpose of transporting materials, equipment or animals. (Ord. 2007-06. Passed 2-12-07.)

Mayfield Village

1373.06 OPEN STORING; SCREENING.

(a) No person shall openly store a **recreational vehicle**, as defined in Section 1373.01(i), unless the Board of Appeals has granted a variance, proper screening is installed as required by the Architectural Review Board and a permit is issued by the Building Department for the installation of such screening.

(b) The criteria to be followed by the Board of Appeals and the Architectural Review Board in determining screening requirements shall include the following:

(1) Location of screened area to adjacent building or adjoining lots.

(2) Size and condition of the **recreational vehicle**.

(3) View of the screened areas from the street and adjoining lots.

(4) Quality and quantity of screening material.

(Ord. 75-28. Passed 10-28-75.)

PC 3-10-11

(Hts pgs 5, 6

HIGHLAND HEIGHTS

A. A travel trailer, means a non self-propelled **recreational vehicle**, portable structure built on a chassis designed to be used as a temporary dwelling for travel, **recreational** and vacation use, and permanently identified "travel trailer" by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer as defined in Ohio R.C. 4517.01;

B. A pickup camper, i.e., a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, **recreational** and vacation use;

C. A motor home means a portable dwelling designed and constructed as an integral part of a self-propelled **vehicle**, and designed for travel, **recreational** and vacation use and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

D. A folding tent trailer, i.e., a canvas folding structure, mounted on wheels and designed for travel, **recreational** and vacation use; and,

E. Boats and boat trailers, including boats, canoes, floats and rafts, snowmobiles, all-terrain **vehicles**, plus the normal equipment to transport the same on a street or highway;

F. "Park Trailer" means a **vehicle** that is commonly known as a park model **recreational vehicle**, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold- storage, cooking and consuming of food, and for sleeping;

G. "Truck Camper" means a nonself-propelled **recreational vehicle** that does not have wheels for road use and is designed to be placed upon and attached to a motor **vehicle**. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(b) **Parking of Recreational Vehicles.**

(1) Any **recreational vehicle** may be parked or stored in a residential area subject to the regulations contained herein.

A. No **recreational vehicle** shall be parked or stored unless it is titled to or leased and used exclusively by one of the permanent occupants of the residence where the **recreational vehicle** is located.

B. A **recreational vehicle** shall not have connections to water electricity, gas or sanitary sewers.

C. A **recreational vehicle** shall not be used for living, housekeeping or similar purposes.

D. A **recreational vehicle** parked or stored outside a garage or enclosed structure shall not be parked or stored in the front yard of the lot and shall be stored or parked at least ten feet from the side and rear lot lines of the lot and ten feet from the enclosed structure or garage. If the residence has a rear entry garage, then the **recreational vehicle** may be parked behind the entrance to the garage.

E. A **recreational vehicle** parked outside of a garage or enclosed structure shall be licensed pursuant to State law.

F. A **recreational vehicle** may be parked on any premises for loading or unloading purposes for a period of not more than forty-eight (48) hours so long as such **parking** does not obstruct pedestrian or vehicular traffic of adjoining or abutting properties.

G. No person, being the owner or operator of a **recreational vehicle**, shall park or store such **vehicle** in a residential area of the city in violation of any of the regulations set forth in this section.

H. No person, being the owner and/or occupant of or having possession of real property in a residential area of the City, shall permit a **recreational vehicle** to be parked or stored thereon in violation of any of the regulations set forth in this section.

I. No more than one **recreational vehicle** per premise may so be parked.

PC 3-10-11

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Willoughby

Parking or Storage of **Recreational**, Commercial and Other **Vehicles**. In addition to the area, coverage, and locational requirements of Schedules 1131.11 (a) and 1131.11 (c), the **parking** or storage of a **recreational vehicle**, camper, or boat, on or off wheels, truck or commercial **vehicle**, shall comply with the following regulations.

(1) All **recreational vehicles** shall be either stored wholly within a garage or outdoors in compliance with the following:

A. Not more than one **recreational** or commercial **vehicle** shall be stored outdoors.

B. Outdoor storage shall be permitted only in the rear yard on a paved or gravel surface, with the exception that when permanent obstacles prevent the maneuvering of a **recreational vehicle** into the rear yard, the **recreational vehicle** may be stored in the side yard on a paved or gravel surface.

(2) The outdoor **parking** of a commercial **vehicle** shall not be permitted on a lot in a One-family Residential District except that an occupant shall be permitted to park one truck not exceeding three-quarter ton rated capacity that is used in connection with said occupant's livelihood.

(3) **Recreational** and commercial **vehicle** shall not be used as a dwelling, office, or other business structure, or for storage of any material, and shall have no connections to any electric, telephone, water, sewer, gas, or fuel source.

(4) A **recreational** or commercial **vehicle** may be parked in a driveway for loading or unloading purposes for a period not to exceed forty-eight hours in any seven day period.

(5) **Recreational** and commercial **vehicles** must be licensed by the state.

Hunting Valley

1367.01 LIMITATIONS ON STORAGE; RECREATIONAL VEHICLES; SCREENING; USE FOR SLEEPING OR EATING PROHIBITED.

No **vehicle** shall be stored upon any premises in a residential use district within Hunting Valley except passenger automobiles, light-weight vans, horse trailers and pickup trucks used customarily as personal **vehicles**. Private mobile **recreational** facilities, including motor homes, boats and **recreational** trailers, used solely for **recreational** purposes by the residents of the premises, and **vehicles** and equipment customarily incident to a permitted use or accessory use of the premises, may be stored on the premises in a garage or other accessory building; but if the same are stored outside, they should be adequately screened, if visible from any adjoining premises, and shall not be used for sleeping or eating purposes within the Village.

(Ord. 1992-101. Passed 1-14-92.)

PC 3-10-11 5-18-11

HARD Surface & screening

A. A travel trailer, means a non self-propelled **recreational vehicle**, portable structure built on a chassis designed to be used as a temporary dwelling for travel, **recreational** and vacation use, and permanently identified "travel trailer" by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer as defined in Ohio R.C. 4517.01;

B. A pickup camper, i.e., a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, **recreational** and vacation use;

C. A motor home means a portable dwelling designed and constructed as an integral part of a self-propelled **vehicle**, and designed for travel, **recreational** and vacation use and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

D. A folding tent trailer, i.e., a canvas folding structure, mounted on wheels and designed for travel, **recreational** and vacation use; and,

E. Boats and boat trailers, including boats, canoes, floats and rafts, snowmobiles, all-terrain **vehicles**, plus the normal equipment to transport the same on a street or highway;

F. "Park Trailer" means a **vehicle** that is commonly known as a park model **recreational vehicle**, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold- storage, cooking and consuming of food, and for sleeping;

G. "Truck Camper" means a nonself-propelled **recreational vehicle** that does not have wheels for road use and is designed to be placed upon and attached to a motor **vehicle**. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(b) Parking of Recreational Vehicles.

(1) Any **recreational vehicle** may be parked or stored in a residential area subject to the regulations contained herein.

A. No **recreational vehicle** shall be parked or stored unless it is titled to or leased and used exclusively by one of the permanent occupants of the residence where the **recreational vehicle** is located.

B. A **recreational vehicle** shall not have connections to water, ~~electricity~~, gas or sanitary sewers.

C. A **recreational vehicle** shall not be used for living, housekeeping or similar purposes.

D. A **recreational vehicle** parked or stored outside a garage or enclosed structure shall not be parked or stored in the front ~~yard~~ of the lot and shall be stored or parked at least ~~ten~~ 20 feet from the side and rear lot lines of the lot and ~~ten feet from the enclosed structure or garage~~. If the residence has a rear entry garage, then the **recreational vehicle** may be parked behind the entrance to the garage.

E. A **recreational vehicle** parked outside of a garage or enclosed structure shall be licensed pursuant to State law.

F. A **recreational vehicle** may be parked on any premises for loading or unloading purposes for a period of not more than forty-eight (48) hours so long as such **parking** does not obstruct pedestrian or vehicular traffic of adjoining or abutting properties.

G. No person, being the owner or operator of a **recreational vehicle**, shall park or store such **vehicle** in a residential area of the city in violation of any of the regulations set forth in this section.

H. No person, being the owner and/or occupant of or having possession of real property in a residential area of the City, shall permit a **recreational vehicle** to be parked or stored thereon in violation of any of the regulations set forth in this section.

I. No more than one **recreational vehicle** per premise may so be parked.

PC 3-10-11
from D. Ondrey

ORDINANCE NO. 2010-160 **Late Filing**

SPONSOR Ms. Prentice

DATE May 10, 2010 COMMITTEE Rules

An amended Ordinance adopting and enacting Chapter 755 of the Codified Ordinances of the County of Summit, entitled, "Entertainment Device Arcades," for the County Council, and declaring an emergency.

WHEREAS, pursuant to the Ohio Revised Code and the Summit County Charter, this Council has authority to regulate businesses in the unincorporated areas of the County; and

WHEREAS, this Council has exercised its authority in the past to regulate certain businesses in the unincorporated areas of the County by adopting certain provisions in Part Seven of the Codified Ordinances of the County of Summit; and

WHEREAS, in several unincorporated areas within Summit County, certain businesses are operating gaming devices more commonly known as skill-based amusement machines or "games of skill," **internet café terminals and internet sweepstakes machines**;" and

WHEREAS, the State of Ohio currently permits the operation of games of skill pursuant to Chapter 2915 of the Ohio Revised Code, but also narrowly defines games of skill and strictly prohibits devices that are, in fact, games of chance; and

WHEREAS, outside of regulations governing sweepstakes in general, the State of Ohio currently does not regulate internet café terminals or internet sweepstakes machines; and

WHEREAS, throughout Summit County and the State of Ohio, several businesses claiming to operate **legal** games of skill**, internet café terminals and internet sweepstakes machines** have been investigated and closed by various public law enforcement entities for actually operating games of chance or otherwise violating **gambling and gaming provisions of** ~~the restrictions imposed upon them by~~ the Ohio Revised Code; and

WHEREAS, when a business unlawfully operates as a **gaming, gambling or** games of chance parlor, it often times will encourage other illegal activity and harm to the community; and

WHEREAS, several local municipalities have adopted legislation regulating the games of skill**, internet café terminals and internet sweepstakes machines** businesses to ensure that they are operating in a legal manner and in a manner that is not likely to lead to illegal activity and harm to the community; and

WHEREAS, as a result of regulation by local municipalities, several of the games of skill**, internet café terminals and internet sweepstakes machines** businesses have chosen to locate or relocate in the unincorporated areas of Summit County; and

(pp1)

WHEREAS, by adopting regulations on games of skill, **internet café terminals and internet sweepstakes machines** businesses, this Council will ensure that those businesses are operating lawfully and in a manner that is not likely to harm the community; and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the County to adopt regulations of skill based games, **internet café terminals and internet sweepstakes machines** businesses in the unincorporated areas of Summit County.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the County of Summit, State of Ohio, that:

SECTION 1

Chapter 755 of the Codified Ordinances of the County of Summit, entitled, "Entertainment Device Arcades," attached hereto as amended Exhibit A, and incorporated herein by referenced, is hereby adopted and enacted by this Council.

SECTION 2

This Ordinance is hereby declared an emergency in the interest of the health, safety and welfare of the citizens of the County of Summit, and for the further purpose of immediately allowing the regulation of games of skill, **internet café terminals and internet sweepstakes machines** businesses and immediately ensuring that those businesses are operating lawfully.

SECTION 3

Provided this Ordinance receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

SECTION 4

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

INTRODUCED March 29, 2010

SECOND READING April 26, 2010

ADOPTED May 10, 2010

Shirley F. Greer
CLERK OF COUNCIL

PRESIDENT OF COUNCIL

APPROVED May 11, 2010

EXECUTIVE

ENACTED EFFECTIVE May 11, 2010

On Voice Vote: 10-0-1 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras, Prentice, Rodgers, Schmidt, Shapiro, Smith ABSTAIN: Poda

(PP3)

AMENDED EXHIBIT A

CHAPTER 755
Entertainment Device Arcades

755.01 Applicability.
755.02 Definitions.
755.03 License application; requirements.
755.04 License fees; transfer and display; disposition of fees.
755.05 License revocation; hearing procedure.
755.06 Location.
755.07 Closing hours.
755.08 Miscellaneous operating requirements.
755.09 Severability.
755.99 Penalties.

SECTION 755.01 APPLICABILITY.

This Chapter shall be applicable only to townships located in the County of Summit, Ohio. This Chapter shall apply to the operation of entertainment devices that are lawfully operated pursuant to the Ohio Revised Code and does not legalize or license any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all entertainment device arcades that commence operations after the date of the enactment of this Chapter. All entertainment device arcades in operation at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment of this Chapter, unless otherwise stated herein.

SECTION 755.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) "Entertainment device arcade" means any business, establishment, room or place where four or more entertainment devices are kept for use by the public or by persons other than the owner of the devices, where persons give anything of value to access the use of the entertainment devices or the premises, and the person may be given anything of value by the operator, whether the giving occurs on or off the premise or at the same time or a later time.

(b) "Entertainment device" means any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. "Entertainment device" does not include any **vending machine,** juke box, audio book, video player or any device that gives anything of value where the only value given, directly or indirectly, is a video or audio transmission~~, or any device specifically exempted under Section 2915.01 of the Ohio Revised Code from that Section's definition of a skill-based amusement machine~~.

(c) "Anything of value" means cash, cash equivalents, tangible objects, credits to play, sweepstakes entry points and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.

(d) "Operator" means any person or organization that owns, controls, operates, promotes or maintains or knowingly engages in conduct that facilitates the operation of an entertainment device arcade or the entertainment devices in an entertainment device arcade.

(e) "Law enforcement agency" means the law enforcement agency responsible for policing a township, whether a township police department or the Summit County Sheriff's Office.

SECTION 755.03 LICENSE APPLICATION; REQUIREMENTS.

(a) No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade without first obtaining an annual license therefore from the Office of Consumer Affairs. The license shall first be obtained prior to the initial operation of the entertainment device arcade and annually thereafter, with the subsequent annual application and associated fee due prior to the 1st day of January of each calendar year.

(b) Every person, partnership, corporation, organization or other entity shall make an application in writing to the Office of Consumer Affairs, which application shall set forth:

(1) The name and federal tax identification number under which the business is to be conducted;

(2) The location where the business is conducted, with a description of the premises, including a scaled diagram;

(3) The name, ~~and~~ address, and government issued photo identification of any manager, supervisor, and all other employees;

(4) The name, ~~and~~ address, and government issued photo identification of the owner or owners of the entertainment devices; and

(5) The name, address, government issued photo identification and principal occupation of every person with an interest in the business. If the business is conducted by:

A. A sole proprietorship, the name, home address, government issued photo identification and principal occupation of that individual.

B. A firm, limited liability company or partnership, the names, home addresses, government issued photo identification and principal occupations of each member of the firm or partnership.

C. A corporation, the names, home addresses, government issued photo identifications and principal occupations of all officers and shareholders and the statutory agent;

(6) If a corporation or limited liability company, a certificate of good standing from the Ohio Secretary of State.

(7) A certificate of insurance indicating that the person, partnership, corporation, limited liability company, organization or other entity operating the entertainment device arcade has covered the premises with general liability insurance coverage of not less than $1,000,000.00 per occurrence.

(~~6~~8) The name, description, model number and serial number of each entertainment device on the premises and any other device on the premises that is necessary to the operation of the entertainment device;

(~~7~~9) A. A list of each separate prize that may be given out and each separate dollar amount that may be given; and

B. The odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in an entertainment device or participating in any other

activity or promotion in the entertainment device arcade, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location;

(~~8~~10) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the licensee's entertainment devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed; and

(11) A certificate or report, provided by an Authorized Independent Testing Laboratory, verifying that each entertainment device identified in 755.03(b)(8), above, and the software therein, complies with all provisions of the Ohio Revised Code and is not a game of chance, gambling device, gaming device, or other device that is prohibited from operation in the State of Ohio under any provision of the Ohio Revised Code. The Office of Consumer Affairs shall publish, within fourteen (14) days after the enactment of this ordinance a list of Authorized Independent Testing Laboratories, and shall keep said list updated and current at all times. Only certificates or reports from the entities listed by the Office of Consumer Affairs as Authorized Independent Testing Laboratories shall satisfy the requirements of this Section. Said certificate or report shall be provided to the Office of Consumer Affairs for each entertainment device prior to an operator placing the device into service.

The certificate or report for an Authorized Independent Testing Laboratory required herein shall be updated annually for each entertainment device and the updated certificate or report shall be provided at the time of each annual application. Said updated certificate or report shall verify that each entertainment device, and the software therein, continues to comply with all provisions of the Ohio Revised Code and is not a game of chance, gambling device, gaming device, or other device that is prohibited from operation in the State of Ohio under any provision of the Ohio Revised Code.

Any update to an entertainment device, or the software therein, during the course of the year shall be reviewed and inspected by an Authorized Independent Testing Laboratory, and a certificate or report from the Authorized Independent Testing Laboratory shall be filed with the Office of Consumer Affairs prior to the operator placing the device in service, which verifies that the entertainment device, and the software therein, continues to comply with all provisions of the Ohio Revised Code and is not a game of chance, gambling device, gaming device, or other device that is prohibited from operation in the State of Ohio under any provision of the Ohio Revised Code.

(c) Duty to keep information current. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the Office of Consumer Affairs as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade at any time unless the information on file with the Office of Consumer Affairs is current and accurately reports the licensing information at the time of operation.

(d) Rejection of application. If an application is not approved, the Office of Consumer Affairs shall notify the applicant in writing, with reasons for rejection.

(e) Prohibition as a result of conviction; fire inspection. The Office of Consumer Affairs shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been

convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the township's fire department to seek and obtain the approval of said department.

(f) Right of entry for inspection. The entertainment device arcade shall be open to inspection and viewing of operations by the Office of Consumer Affairs, law enforcement agency officers, ~~and~~ fire department personnel, and health department personnel at all times that the arcade is open for business. No operator shall fail to immediately permit entry to any such officials.

(g) Suspension or revocation of license. Failure to register or pay a license fee for an entertainment device shall be grounds for suspension or revocation of the license for the entertainment device arcade and said device shall be seized and forfeited to the County.

SECTION755.04 LICENSE FEES; TRANSFER AND DISPLAY; DISPOSITION OF FEES.

(a) License fees. The non-refundable annual license fee, payable to the Office of Consumer Affairs at the time of initial or annual application, shall be ~~$2,000.00~~ $1,000.00 for each entertainment device arcade location for each calendar year or any part thereof. Additionally, ~~a monthly~~ an **semi-**annual non-refundable license fee of $200.00 shall be paid to the Office of Consumer Affairs ~~no later than the 1st day of each month~~ for each entertainment device that will be located on the premises during **the following semi-annual period. ~~that month calendar year~~**. The ~~monthly~~ **semi-**annual license fee ~~shall be paid~~ for each entertainment device shall be paid at the time of initial or annual application **and no later than June 1st of each calendar** year, or, if the entertainment device is brought to the premises following the **payment of the semi-annual license fee ~~filing of the initial or annual application~~**, prior to such time as the entertainment device is brought to or operating on the premises ~~before the device is put into use for that month~~. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

(b) Non-transferability; display. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each entertainment device with serial number.

(c) Disposition of license fees. License fees received by the Office of Consumer Affairs shall be disposed of as follows:

(1) Special revenue fund. 75% of the license fees shall be deposited into a special revenue fund which shall be established for the benefit of those townships in which entertainment device arcades are located. The County of Summit shall pay each township on quarterly basis those fee amounts received during the previous quarter from entertainment device arcades located within the township and deposited into the special revenue fund.

(2) Office of Consumer Affairs. 25% of the license fees shall be deposited on behalf of and paid to the Office of Consumer Affairs to be used for the Office's operational expenses.

SECTION~~755.04~~ 755.05 LICENSE REVOCATION; HEARING PROCEDURE.

(a) Creation of commission. An Entertainment Device Arcade License Review Commission is hereby created to hear complaints concerning entertainment device arcade licenses. The Commission shall consist of the County Executive or their designee, the President of the County Council or their designee and the County Fiscal Officer or their designee.

(b) Revocation or suspension of license. A license may be suspended or revoked at any time by the Commission on satisfactory proof that violation of the laws of the State of Ohio, the Codified Ordinances of the County of Summit or this Chapter occurs at an entertainment device arcade. In addition to any license suspension, the Commission may assess the licensee a penalty fee of not less than $500.00 or more than $1000.00 for any violation of this Chapter. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees by the Commission is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other County, State of Ohio or federal laws. Penalty fees shall be disposed of in the same manner as license fees as set forth in Section 755.04(c).

(c) Submission of complaint; regular inspection. Any resident of a township may submit a written notice of complaint to the Office of Consumer Affairs concerning any entertainment device arcade located within the complainant's township. The notice of complaint will include the name, phone number and address of the resident, the address of the location, the OAC device number, if applicable, and the specific reasons why the resident is complaining. The Office of Consumer Affairs and/or the law enforcement agency responsible for policing the township shall regularly inspect the premises, the operation, the entertainment devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.

(d) Interview of complainant. The Office of Consumer Affairs shall interview ~~meet with~~ the complainant and inquire as to the specific reasons for the complaint. The Office of Consumer Affairs may dismiss the complaint if it is determined that:

(1) The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license; or

(2) There are not substantial credible facts to support the complaint by the township resident.

(e) No appeal from dismissal of complaint. No appeal shall lie from the decision of the Office of Consumer Affairs to dismiss a complaint.

(f) Fact-finding conference. If the complaint is not dismissed by the Office of Consumer Affairs, the Office will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Office of Consumer Affairs and the Office may request the assistance of the law enforcement agency to assist in the investigation. The Office and any assisting law enforcement agency officer shall have access to the entertainment device arcade and the records of the licensee during all times that the entertainment devices are available for play.

(g) Resolution of complaint. At the time of the conference, the resident, the licensee and the owner of the devices will meet and attempt to amicably resolve the situation. If the resident, licensee, and the owner can reach an amicable solution, the Office will issue a written notice directing the licensee to comply with the agreed resolution of the complaint.

(h) Referral to the Commission. If the parties cannot agree upon an amicable solution to the problem, the Office of Consumer Affairs will transmit the complaint, together with its recommendation thereon, to the Entertainment Device Arcade License Review Commission. The Office's recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

(i) Hearing. The Commission may accept, reject, or modify the recommendation of the Office of Consumer Affairs. The resident, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the

Commission is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint before the Commission shall be a public hearing which shall be held within 30 days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Commission shall enter its decision the day of hearing. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.

(j) Other enforcement actions. The complaint process set forth in this section is separate and distinct from any law enforcement action taken to enforce the laws of the State of Ohio or the Codified Ordinances of the County of Summit and this Chapter, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

SECTION 755.06 LOCATION.

(a) Limitation on location. No license shall be granted to an entertainment device arcade that will conduct its business at a location that is within 500 feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio.

(b) Exception; change in ownership. This section shall not apply to any entertainment device arcade locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed entertainment device arcade locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within 500 feet of said entertainment device arcade. However, any change in ownership of the entertainment device arcade or change in location will remove said entertainment device arcade from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than 50 percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, or public playground moves within five hundred feet of said entertainment device arcade.

SECTION 755.07 ~~CLOSING~~ HOURS OF OPERATION.

~~No operator of an entertainment device arcade shall permit the same to be or remain open between the hours of 11:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any entertainment device between the hours of 11:00 p.m. and 10:00 a.m. of the next day.~~

Entertainment device arcades shall operate only between the hours set forth below:

Sundays	**1:00pm to 12:00am Monday morning**
All Other Days	**10:00am to 12:00am of the following day**

No operator shall permit any person to operate any entertainment device during any time other than specified herein.

SECTION 755.08 MISCELLANEOUS OPERATING REQUIREMENTS.

(a) Supervision of entertainment devices. Any entertainment device arcade shall have an adult who is 21 years of age or over on the premises and supervising at all times the entertainment devices during all hours of operation.

(b) Square-footage. The interior of the entertainment device arcade shall provide a minimum area of 50 square feet per entertainment device in each room in which entertainment devices are located.

(c) No alcoholic beverages. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of an entertainment device arcade.

(d) Public peace. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

(e) No minors. No persons under the age of eighteen years shall be permitted on the premises of any entertainment device arcade.

(f) Photo identification. The operator shall require a photo identification of every person to whom anything of value is given in connection with the entertainment device arcade and shall record the person's name and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value of the thing given to a person is more than ten dollars, the operator shall include in the record a copy of the person's photo identification. By the second Tuesday of each month the operator shall cause to be delivered to the Office of Consumer Affairs a copy of the record of things given to persons together with the above required information given during the preceding month. If the records pertaining to photo identification contain social security numbers or drivers license numbers, the operator and the Office of Consumer Affairs shall not disclose those numbers to anyone except as required by the laws of the State of Ohio and the United States government.

(g) Posting. The operator shall post in a conspicuous place on the premises in the room where the entertainment devices are located in no less than twenty point type:

(1) Each separate prize that may be given and each separate dollar amount that might be given.

(2) The odds as stated in the filing with the Office of Consumer Affairs, as required in Section 755.03(b)(7).

(3) A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

(4) On each machine, a sticker, if issued by the Office of Consumer Affairs, indicating that it has been registered by the operator with the Office of Consumer Affairs and bearing a unique identification number for that machine.

(h) Records. The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records more than 10 years old are exempt from this requirement.

(i) Correct information. No applicant shall make a false or incorrect statement in an application for an entertainment device arcade license and no operator shall fail to update the information supplied to the Office of Consumer Affairs to reflect existing operations as required in Section 755.03(b).

(j) Insurance. Each operator of an entertainment device arcade shall maintain general liability insurance covering the premises of the arcade in an amount of no less than $1,000,000.00 per occurrence.

(k) Reporting of Internet Time. Any entertainment device arcade that engages in the sale of internet time or computer usage time in exchange for anything of value shall provide to the Office of Consumer Affairs, no later than the 15th day of each month a report detailing the daily amount of time sold and the daily amount of time used or consumed in the preceding calendar month.

(j) Strict liability for violations. It is the intent of this Chapter that operators are strictly liable for any violations of this Chapter.

SECTION 755.09 SEVERABILITY.

In the event any provision of Sections 755.01-755.99 shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 755.99 PENALTIES.

(a) Minor misdemeanor. Whoever violates or fails to comply with any of the provisions of this Chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor and shall be fined not more than $100.00 for each offense, said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Failure to obtain or operating without a license. Whoever violates or fails to comply with the requirement to obtain a license for an entertainment device arcade or an entertainment device as provided in this Chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than $250.00, or imprisoned not more than 30 days or both, for each offense, provided said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

ORDINANCE NO. 80-2010

AN EMERGENCY ORDINANCE ENACTING A NEW CHAPTER 793 OF THE CODIFIED ORDINANCES OFTHE CITY OF MACEDONIA REGULATING COMPUTERIZED SWEEPSTAKES/INTERNET DEVICE CAFES

Adopted by Macedonia City Council
September 23, 2010

WHEREAS, the City of Macedonia may legitimately license and regulate the location and operation of certain businesses that are of such a nature that they possess unique characteristics in operation that they could potentially have negative secondary effects on neighboring properties; and

WHEREAS, Council has determined that it is in the best interests of the City of Macedonia and its residents to establish licensing and regulating requirements for such businesses that operate sweepstakes and/or internet café operations wherein the public is invited to the establishment for the purpose of purchasing telephone cards or some other item of value for an opportunity to be entered into a sweepstakes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Macedonia, Summit County, Ohio, not less than two-thirds of all the members thereof concurring, that:

Section 1. That a new Chapter 793 of the Codified Ordinances of the City of Macedonia, entitled "Sweepstakes/Internet Device Cafes" is hereby enacted, as set forth in "Exhibit A" attached hereto.

Section 2. That all present Codified Ordinances shall remain as presently drafted unless inconsistent with this Ordinance.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

WHEREFORE, this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Macedonia and the inhabitants thereof, for the reason that it provides for the daily operation of a municipal department, and provided it receives the affirmative vote of four (4) or more of the members elected or appointed to this Council, it shall take effect and be in force from and after the earliest period allowed by law.

EXHIBIT A

CHAPTER 793

Sweepstakes/Internet Device Cafes

793.01 PURPOSE AND APPLICABILITY.

A. Applicability. This Chapter shall apply to the operation of computerized sweepstakes terminals and internet cafes or establishments operating such terminals. This Chapter shall only apply to the operation of such terminals that are lawfully operating pursuant to the Ohio Revised Code and nothing in this Chapter shall be construed to legalize, license or authorize any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all devices, arcades and/or internet cafes that commence operation after the date of enactment of this Chapter. All arcades, internet cafes, or establishments in existence at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment unless otherwise stated herein.

B. Purpose. It is the purpose of this Chapter and the policy of the City of Macedonia to establish standards for licensing and regulation of computerized sweepstakes devices and arcades and/or internet cafes upon which they are located and operated. This Chapter is designed to prevent safety and fire hazards, prevent disturbances, preserve the peaceful enjoyment of neighboring establishments and residences, and preventing gambling and other criminal behavior in the City.

793.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Computerized Sweepstakes Device". Any computer, machine, game or apparatus which, upon the insertion of a coin, token, access number, magnetic card, or similar object, or upon the payment of anything of value, wherein a product or service is provided, and may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which is not gambling under state or local laws. Machines designated for use by the State Lottery Commission are not computerized sweepstakes devices for purposes of this Chapter 793.

"Operator". Any person or persons having authority to control the premises of an arcade and/or sweepstakes/internet café.

"Licensee". The person or persons who sign an application for a license hereunder and to whom such license is issued.

"Anything of value". Cash, cash equivalents, tangible objects, credits to play, and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.

"Owner". Any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent (25%) or more in a sweepstakes/internet café.

"Sweepstakes/Internet Café". Any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.

793.03 LICENSE APPLICATION AND REQUIREMENTS.

A. No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet café without first obtaining a license from the City. Every person, partnership, corporation, organization or other entity shall make an application in writing to the City, which application shall set forth:

1. The name under which the business is to be conducted;

2. The location where the business is conducted, with a description of the premises, including a scaled diagram;

3. The name, address, and date of birth of any manager, supervisor, and all other employees;

4. The name, address, and date of birth of the owner or owners of the entertainment devices; and

5. The name, address, date of birth, and principal occupation of every person with an interest in the business.

If the business is conducted by:

a. A sole proprietorship: the name, home address, date of birth and principal occupation of that individual.
b. A firm or partnership: the names, home addresses, dates of birth, and principal occupations of each member of the firm or partnership.
c. A corporation: the names, home addresses, dates of birth and principal occupations of all directors, officers and shareholders owning more than twenty-five percent (25%) of the outstanding shares.

6. The name, description, model number and serial number of each computerized sweepstakes device on the premises and any other device on the premises that is necessary to the operation of the computerized sweepstakes device.

7. A list of each separate prize that may be given out and each separate dollar amount that may be given; and the odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in a computerized sweepstakes device or participation in any other activity or promotion in the sweepstakes/internet café, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

8. The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the computerized sweepstakes devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.

9. The tax account number of the business from the City of Macedonia Income Tax Division.

10. The application is to include supporting documentation from a Certified Independent Regulatory Compliance Test Laboratory that the software performs in similar fashion as other permitted sweepstakes commercially offered to the public and that the entries are drawn from a pre-created finite static pool of entries with assigned values. To be certified, the Independent Regulatory Compliance Testing Laboratory must be authorized to test regulated gaming equipment by at least one state government gaming regulatory agency.

B. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the City as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet café at any time unless the information on file with the City is current and accurately reports the licensing information at the time of operation.

C. If an application is not approved, the City shall notify the applicant in writing, with reasons for rejection.

D. The City shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. All owners, employees and persons having an interest in the business, as set forth in Section 793.03(A)(5), shall consent to a criminal history check by the Macedonia Police Department.

E. As a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Fire Department and the premises must be in compliance with all applicable fire regulations. The sweepstakes/internet café shall be open to inspection and viewing of operations by law enforcement officers and fire department personnel at all times of operation. No operator shall fail to immediately permit entry to any such City officials.

F. Failure to register or pay a license fee for a computerized sweepstakes device shall be grounds for suspension or revocation of the license for the establishment and said device shall be seized and forfeited to the City.

793.04 LOCATION.

A. No license shall be granted to a sweepstakes/internet café that will conduct its business at a location that is within one thousand (1000) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, or religious institution, or within one thousand (1000) feet of any establishment that has been issued a liquor permit by the State of Ohio.

B. This section shall not apply to any sweepstakes/internet café locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed sweepstakes/internet café locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within one thousand (1000) feet of said sweepstakes/internet café. However, any change in ownership of the sweepstakes/internet café or change in location will remove said sweepstakes/internet café from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, church, religious institution or public playground moves within one thousand (1000) feet of said sweepstakes/internet café.

793.05 LICENSE FEE; TRANSFER AND DISPLAY.

A. The license fee, payable to the City at the time of application and annually thereafter, shall be Five Thousand Dollars ($5,000.00) for each business location per year or any part thereof ending on December 31 of each year. In the event that an application is denied under this Chapter, one-half (1/2) of the application fee shall be returned to the applicant. In the event that a license is revoked or suspended hereunder, no portion of the license fee shall be returned.

B. The fee for each computerized sweepstakes device shall be Five Hundred Dollars ($500.00) for each device on the premises for each year or any part thereof ending on the last day of the year.

C. The fees, which are paid at the time of application, are not refundable in any case. The license fee shall be paid for each device brought to the facility before the device is put into use. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

D. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each device with serial number.

E. Failure to register any computerized sweepstakes device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of One Hundred Fifty Dollars ($150.00) for each day the device is not registered, and said fine shall not be reduced or suspended.

793.06 REVOCATION; HEARING PROCEDURE.

A. The license may be suspended or revoked at any time by the City on satisfactory proof that violation of the laws of the state, ordinances of the City, or of this Chapter occur on the premises. In addition to any license suspension, the City may assess the licensee a penalty fee of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Five Hundred Dollars ($1,500.00) for any violation of this article. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other village, state or federal laws.

B. Any person may submit a written complaint to the City in regard to any sweepstakes/internet café location, which shall include the name and address of the complainant, the location of the sweepstakes/internet café, and the specific reasons why the resident is complaining. The designated City official or a designee from law enforcement shall regularly inspect the premises, the operation, the computerized sweepstakes devices and the licensee's records and may issue a complaint to the licensee for any violations.

C. The Mayor, or his/her designee from law enforcement, shall meet with the complainant and inquire as to the specific reasons for the complaint. The complaint may be dismissed if it is determined that:

1. The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license.

2. There are not substantial credible facts to support the complaint by the resident.

D. No appeal shall lie from the decision to dismiss a complaint.

E. If the complaint is not dismissed, the Mayor, or his/her designee, will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Mayor who may request the assistance of any person in law enforcement to assist in the investigation. The City and its designee and any law

enforcement officer shall have access to the premises and the records of the licensee during all times that the computerized sweepstakes devices are available for play.

F. At the time of the conference, the complainant, the licensee, the Mayor, or his/her designee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the complainant, licensee, Mayor, or his/her designee, and the owner of the devices can reach an amicable solution, the City will direct the licensee to comply with the solution in his notice of reconciliation.

G. If the parties cannot agree upon an amicable solution to the problem, the complaint shall be transmitted to the City Director of Law for consideration. The recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

H. Consideration of the complaint shall be a public hearing which shall be held within thirty days after said notice is given. The complainant, the licensee and the owner of the devices, as listed on the license application, shall be notified at least fifteen (15) days in advance of the hearing by certified mail; and they may, if they so choose, be present during consideration of the complaint. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses and introduce evidence. The Director of Law shall enter its decision the day of the hearing unless additional time is needed. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Ohio Revised Code Chapter 2506.

I. This complaint process is separate and distinct from any law enforcement action taken to enforce the laws of the State or the City and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

793.07 HOURS OF OPERATION.

No operator of a sweepstakes/internet café shall permit the same to be or remain open between the hours of 10:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any computerized sweepstakes device between the hours of 10:00 p.m. and 10:00 a.m. of the next day.

793.08 PROHIBITED CONDUCT.

No licensee of a sweepstakes/internet café by himself/herself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate or prevent the activities specified in this section from occurring on the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions or inactions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

(a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises;

(b) Permit the premises to become a gathering place for disorderly persons of any type;

(c) Permit the gambling in any form or the possession or use of gambling paraphernalia upon the premises;

(d) Permit intoxication or the possession or use of alcoholic beverages upon the premises;

(e) Permit the possession or use of any unlawful drug, narcotic or controlled substance;

(f) Permit the public streets, sidewalks, alleys or walkways adjacent to the premises to become littered;

(g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;

(h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;

(i) Permit any computerized sweepstakes device thereon to be operated at any time the premises is not open for business, or permit the entrance to be locked at any time that the premises are open for business;

(j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire, health or sanitation codes;

(k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operating condition;

(l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;

(m)Permit the operation of any unlicensed computerized sweepstakes device upon the premises;

(n) Permit any violation of any ordinance of the City or statute of the State to take place upon the premises.

793.09 MISCELLANEOUS.

A. Any sweepstakes/internet café shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the computerized sweepstakes devices during all hours of operation.
B. The interior of the sweepstakes/internet café shall provide a minimum area of forty (40) square feet per computerized sweepstakes device in each room in which such devices are located.

C. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of a sweepstake/internet café.

D. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

E. No persons under the age of twenty one (21) years shall be permitted on the premises of any sweepstakes/internet café.

F. The operator shall require a photo identification of every person to whom anything of value is given in connection with the sweepstakes/internet café and shall record the person's name, date of birth, and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value given for any single event for which there is a chance of winning, as calculated by the odds of winning provided to the City in Section 793.03, is Six Hundred Dollars ($600.00) or more the operator shall also include in the record a copy of the photo identification and record the person's social security number. By the second Tuesday of each month the operator shall cause to be delivered to the City Finance Director a copy of the record containing the information set forth above for the preceding month. The operator and the City Finance Director shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States government.

G. The operator shall post in a conspicuous place on the premises in the room where the computerized sweepstakes devices are located in no less than twenty point type:

1. Each separate prize that may be given and each separate dollar amount that might be given.

2. The odds as stated in the filing with the City, as required in Section 793.03(A)(7).

3. A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

H. The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records shall be maintained for ten (10) years.

I. No applicant shall make a false or incorrect statement in an application for a license and no operator shall fail to update the information supplied to the City to reflect existing operations as required in Section 793.03(B).

J. It is the intent of this Chapter that operators are strictly liable for any violations of this article.

K. No person shall be denied any license or the right to use a licensed computerized sweepstakes device under this Chapter in the City because of race, color, creed, sex, religious belief or natural origin.

793.10 NUISANCE.

A violation of this Chapter shall constitute a nuisance and is subject to civil proceedings, including an injunction, in addition to prosecution for criminal violations of the State of Ohio and Codified Ordinances of the City of Macedonia.

793.11 SEVERABILITY.

In the event any provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

793.12 PENALTY.

Whoever violates any provision of this Chapter for which a specific penalty is not otherwise stated shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the license for the sweepstakes/internet café shall be permanently revoked.

Emailed to Council 06/18/10
Distributed to Council 06/18/10

CITY OF TWINSBURG, OHIO

ORDINANCE 89-2010

AN ORDINANCE CREATING CHAPTER 765 OF THE CODIFIED ORDINANCES OF THE CITY OF TWINSBURG REGULATING ENTERTAINMENT DEVICE ARCADES

WHEREAS, the City of Twinsburg may legitimately license and regulate the location and operation of certain businesses that are of such a nature that they possess unique characteristics in operation that they could potential have negative secondary effects on neighboring properties; and

WHEREAS, Council has determined that it is in the best interests of the City of Twinsburg and its residents to establish a licensing and regulating requirements for such businesses that operate sweepstakes and/or internet café operations wherein the public is invited to the establishment for the purpose of purchasing telephone cards or some other item of value for an opportunity to be entered into a sweepstakes

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Twinsburg, County of Summit and State of Ohio:

SECTION I: That Section 765 of the Codified Ordinances of the City of Twinsburg is hereby created as follows:

CHAPTER 765
Entertainment Device Arcades

765.01 PURPOSE AND APPLICABILITY.

A. Applicability. This Chapter shall apply to the operation of computerized sweepstakes terminals and internet cafes or establishments operating such terminals. This Chapter shall only apply to the operation of such terminals that are lawfully operating pursuant to the Ohio Revised Code and nothing in this Chapter shall be construed to legalize, license or authorize any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all devices, arcades and/or internet cafes that commence operation after the date of enactment of this Chapter. All arcades, internet cafes, or establishments in existence at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment unless otherwise stated herein.

B. Purpose. It is the purpose of this Chapter and the policy of the City of Twinsburg to establish standards for licensing and regulation of computerized sweepstakes

devices and arcades and/or internet cafes upon which they are located and operated. This Chapter is designed to prevent safety and fire hazards, prevent disturbances, preserve the peaceful enjoyment of neighboring establishments and residences, and preventing gambling and other criminal behavior in the City.

765.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. "Computerized Sweepstakes Device". Any computer, machine, game or apparatus which, upon the insertion of a coin, token, magnetic card or similar object, or upon the payment of anything of value, wherein a product or service is provided, and may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which in no way tends to promote or encourage gambling.

2. "Operator". Any person or persons having authority to control the premises of an arcade and/or Sweepstakes/Internet Café.

3. "Licensee". The person or persons who sign an application for a license hereunder and to whom such license is issued.

4. "Anything of value." Cash, cash equivalents, tangible objects, credits to play, and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.

5. "Owner." Any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent (25%) or more in a Sweepstakes/Internet Café.

6. "Sweepstakes/Internet Café". Any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.

765.03 LICENSE APPLICATION AND REQUIREMENTS.

A. No person, partnership, corporation, or other entity shall operate or conduct a Sweepstakes/Internet Cafe without first obtaining a license from the City. Every person, partnership, corporation, organization or other entity shall make an application in writing to the City, which application shall set forth:

1. The name under which the business is to be conducted;

2. The location where the business is conducted, with a description of the premises, including a scaled diagram;

3. The name and address of any manager, supervisor, and all other employees;

4. The name and address of the owner or owners of the entertainment devices; and

5. The name, address, and principal occupation of every person with an interest in the business.

If the business is conducted by:

a. A sole proprietorship, the name, home address, and principal occupation of that individual.
b. A firm or partnership, the names, home addresses, and principal occupations of each member of the firm or partnership.
c. A corporation, the names, home addresses, and principal occupations of all officers and shareholders and the statutory agent.

6. The name, description, model number and serial number of each computerized sweepstakes device on the premises and any other device on the premises that is necessary to the operation of the computerized sweepstakes device.

7. A list of each separate prize that may be given out and each separate dollar amount that may be given; and the odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in a computerized sweepstakes device or participating in any other activity or promotion in the Sweepstakes/Internet Cafe, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

8. The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the computerized sweepstakes devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.

9. The tax account number and a certificate of registration from the City of Twinsburg Income Tax Division.

B. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the City as to changes in the information

required in this section. No person, partnership, corporation, or other entity shall operate or conduct a Sweepstakes/Internet Cafe at any time unless the information on file with the City is current and accurately reports the licensing information at the time of operation.

C. If an application is not approved, the City shall notify the applicant in writing, with reasons for rejection.

D. The City shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Fire Division to seek and obtain the approval of said agency.

E. The Sweepstakes/Internet Cafe shall be open to inspection and viewing of operations by law enforcement officers and fire department personnel at all times of operation. No operator shall fail to immediately permit entry to any such city officials.

F. Failure to register or pay a license fee for a computerized sweepstakes device shall be grounds for suspension or revocation of the license for the establishment and said device shall be seized and forfeited to the City.

765.04 LOCATION.

A. No license shall be granted to a Sweepstakes/Internet Cafe that will conduct its business at a location that is within five hundred (500) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, religious institution or any establishment that has been issued a liquor permit by the State of Ohio.

B. This section shall not apply to any Sweepstakes/Internet Cafe locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed Sweepstakes/Internet Cafe locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within five hundred (500) feet of said Sweepstakes/Internet Cafe. However, any change in ownership of the Sweepstakes/Internet Cafe or change in location will remove said Sweepstakes/Internet Cafe from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, church, religious institution or public playground moves within five hundred (500) feet of said Sweepstakes/Internet Cafe.

765.05 LICENSE FEE. TRANSFER AND DISPLAY.

A. The license fee, payable to the City at the time of application and annually thereafter, shall be Five Thousand Dollars ($5000.00) for each business location per year or any part thereof ending on December 31 of each year. In the event that an application is denied under this Chapter, one-half (1/2) of the application fee shall be returned to the applicant. In the event that a license is revoked or suspended hereunder, no portion of the license fee shall be returned.

B. The fee for each computerized sweepstake device shall be Five Hundred Dollars ($500.00) for each device on the premises for each year or any part thereof ending on the last day of each year.

C. The fees, which are paid at the time of application, are not refundable in any case. The license fee shall be paid for each device brought to the facility before the device is put into use. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

D. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each device with serial number.

E. Failure to register any computerized sweepstakes device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of One Hundred Fifty Dollars ($150.00) for each day the device is not registered, and said fine shall not be reduced or suspended.

765.06 REVOCATION. HEARING PROCEDURE.

A. The license may be suspended or revoked at any time by the City on satisfactory proof that violation of the laws of the state, ordinances of the city, or of this Chapter occur on the premises. In addition to any license suspension, the City may assess the licensee a penalty fee of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Five Hundred Dollars ($1500.00) for any violation of this article. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other city, state or federal laws.

B. Any resident of the city may submit a written notice of complaint to the City in regard to any Sweepstakes/Internet Cafe location. The notice of complaint will include the name and address of the resident, the address of the location, and the specific reasons why the resident is complaining. The designated City official or a designee from law enforcement shall regularly inspect the premises, the operation, the computerized

sweepstakes devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.

D. The designated City Official or its designee from law enforcement shall meet with the complainant and inquire as to the specific reasons for the complaint. The complaint may be dismissed if it is determined that:

1. The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license.

2. There are not substantial credible facts to support the complaint by the resident.

E. No appeal shall lie from the decision to dismiss a complaint.

F. If the complaint is not dismissed, the designated City Official will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the designated City Official who may request the assistance of any person in law enforcement to assist in the investigation. The City and its designee and any law enforcement officer shall have access to the premises and the records of the licensee during all times that the computerized sweepstakes devices are available for play.

G. At the time of the conference, the complainant, the licensee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the complainant, licensee, and the owner can reach an amicable solution, the City will direct the licensee to comply with the solution in his notice of reconciliation.

H. If the parties cannot agree upon an amicable solution to the problem, the complaint, together with any recommendation thereon, shall be transmitted to the City Law Department for consideration. The recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

I. The Law Department may accept, reject, or modify the recommendation of the designated City Official. The complainant, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the Law Department is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint shall be a public hearing which shall be held within thirty days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Law Department shall enter its decision the day of hearing unless additional time is needed. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling

to a court of competent jurisdiction under authority of and pursuant to the provisions of R.C. Chapter 2506.

J. This complaint process is separate and distinct from any law enforcement action taken to enforce the laws of the state or the city and this article, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

765.07 HOURS OF OPERATION.

No operator of a Sweepstakes/Internet Cafe shall permit the same to be or remain open between the hours of 11:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any computerized sweepstakes device between the hours of 11:00 p.m. and 10:00 a.m. of the next day.

765.08 PROHIBITED CONDUCT.

No licensee of a Sweepstakes/Internet Café by himself/herself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate or prevent the activities specified in this section from occurring on the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions or inactions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

(a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises;

(b) Permit the premises to become a gathering place for disorderly persons of any type;

(c) Permit the gambling in any form or the possession or use of gambling paraphernalia upon the premises;

(d) Permit intoxication or the possession or use of alcoholic beverages upon the premises;

(e) Permit the possession or use of any unlawful drug, narcotic or controlled substance;

(f) Permit the public streets, sidewalks, alleys or walkways in the immediate vicinity of any entrance or exit to the premises to become littered;

(g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;

(h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;

(i) Permit any computerized sweepstakes device thereon to be operated at any time the premises is not open for business, or permit the entrance to be locked at any time that the premises are open for business;

(j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire, health or sanitation codes;

(k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operation condition;

(l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;

(m) Permit the operation of any unlicensed computerized sweepstakes device upon the premises;

(n) Permit any violation of any ordinance of the City or statute of the State to take place upon the premises.

765.09 MISCELLANEOUS.

A. Any Sweepstakes/Internet Cafe shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the computerized sweepstakes devices during all hours of operation.

B. The interior of the Sweepstakes/Internet Cafe shall provide a minimum area of forty (40) square feet per computerized sweepstakes device in each room in which such devices are located.

C. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of a Sweepstakes/Internet Cafe.

D. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

E. No persons under the age of twenty one (21) years shall be permitted on the premises of any Sweepstakes/Internet Cafe.

F. The operator shall require a photo identification of every person to whom anything of value is given in connection with the Sweepstakes/Internet Cafe and shall record the person's name and home address and a description of the thing given, a stated dollar

value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value of the thing given to a person is more than ten dollars, the operator shall include in the record a copy of the photo identification and the person's social security number. By the second Tuesday of each month the operator shall cause to be delivered to the City Income Tax Division a copy of the record of things given to persons together with the above required information given during the preceding month. The operator and the Income Tax Division shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States government.

G. The operator shall post in a conspicuous place on the premises in the room where the computerized sweepstakes devices are located in no less than twenty point type:

1. Each separate prize that may be given and each separate dollar amount that might be given.
2. The odds as stated in the filing with the City, as required in Section 765.03(A)(7).
3. A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

H. The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records shall be maintained for ten (10) years.

I. No applicant shall make a false or incorrect statement in an application for a license and no operator shall fail to update the information supplied to the City to reflect existing operations as required in Section 765.03(B)

J. It is the intent of this chapter that operators are strictly liable for any violations of this article.

K. No person shall be denied any license or the right to use a licensed computerized sweepstakes device under this Chapter in the City because of race, color, creed, sex, religious belief or natural origin.

765.10 SEVERABILITY.

In the event any provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of

this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

765.99 PENALTY.

Whoever violates any provision of this Chapter for which a specific penalty is not otherwise stated shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the license for the Sweepstakes/Internet Cafe shall be permanently revoked.

SECTION II: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting or meetings of this Council and any of its committees that resulted in such formal action, were in meetings open to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

SECTION III: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

APPROVED: _____

_____
Sam Scaffide, President of Council

Submitted to the Mayor for approval this

_____ day of _____, 2010

Approved by the Mayor _____, 2010

_____
Katherine A. Procop, Mayor

ATTEST:

_____
Lisa Spraggins
Clerk of Council

1st Rdg. _____

2nd Rdg. _____
3rd Rdg. _____

Passed: _____

Yes _____ No _____

CERTIFICATE OF POSTING

I, Lisa Spraggins, Clerk of Council of the City of Twinsburg, State of Ohio, do hereby certify that publication of the foregoing ordinances, resolutions was duly made by posting true copies thereof at five of the most public places in said City as determined by Section 113.02 of the Codified Ordinances of the City of Twinsburg; each for a period of fifteen days commencing on the _____day of _____, 2010.

_____
Lisa Spraggins
Clerk of Council
City of Twinsburg

Proposed

1

ORDINANCE NO. _____

AN ORDINANCE BY THE COUNCIL OF THE CITY OF LORAIN, OHIO ESTABLISHING CHAPTER 750 OF THE CODIFIED ORDINANCES OF THE CITY OF LORAIN REGARDING COMPUTERIZED INTERNET SWEEPSTAKES CAFÉS AND THE DECLARING OF AN EMERGENCY

WHEREAS, the Mayor and the Council of the City of Lorain, Ohio recognize the increasing popularity of computerized internet sweepstakes cafés; and

WHEREAS, the Council believes that computerized internet sweepstakes cafés are by their nature unique businesses; and

WHEREAS, the Council is aware that the State of Ohio has not taken a position or offered guidance as to whether such cafés violate State of Ohio gambling laws; and

WHEREAS, the Council finds that the City has an overwhelming interest in regulating this type of business for the safety and welfare of the residents of the City of Lorain; and

WHEREAS, the Council of Lorain finds that communities in proximity to the City of Lorain have passed ordinances regulating Internet Sweepstakes Cafés.

NOW THEREFORE, be it ordained by the Council of the City of Lorain, Ohio, State of Ohio:

SECTION 1. That the Council of the City of Lorain hereby establishes Chapter 750 of the Codified Ordinances as follows:

CHAPTER 750
Computerized Internet Sweepstakes Cafés

750.01 Purpose & Objectives.
750.02 Construction, Separability & Applicability of Chapter.
750.03 Definitions.
750.04 Computerized Sweepstakes Device License Required.
750.05 Sweepstakes Terminal Café License Required.
750.06 Authority of Safety Director.
750.07 Nature of Licenses.
750.08 Procedure for Obtaining Licenses.
750.09 Denial of Sweepstakes Terminal Café.
750.10 Conditions and Regulations.
750.11 Prohibited Conduct and Conditions in Sweepstakes Terminal Cafés.
750.12 License Expiration, Suspension or Revocation.
750.13 License Fees.
750.14 Equal Opportunity.
750.99 Penalty.

750.01 PURPOSE & OBJECTIVES.

It is the purpose of this chapter and the policy of the City to establish standards for licensing, regulation and control of computerized sweepstakes devices and sweepstakes terminal cafés and premises upon which they are located and operated for purpose of entertainment of the public. The objectives of this chapter are to prevent safety and fire hazards, disturbances, disruption of pedestrian traffic, disorderly assemblies, theft of personal property, gambling and truancy within the City.

750.02 CONSTRUCTION, SEPARABILITY AND APPLICABILITY OF CHAPTER.

(a) Construction. This chapter shall be liberally construed and applied to promote its purpose and objectives.

(b) Separability. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

750.03 DEFINITIONS.

As used in this chapter:

(a) "Computerized sweepstakes device" means any computer, machine, game or apparatus which, upon the insertion of a coin, token or similar object, or upon payment of anything of value, wherein a product or service is provided, and may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not public generally for use as a contest of skill, entertainment of amusement, whether or not registering a score, and which does not in any way, manner or form encourage gambling.

(b) "Service Director" means the Director of Public Service for the City of Lorain, Ohio.

(c) "Board" means the City of Lorain Zoning Board of Appeals.

(d) "Operator" means the person or persons having authority to control the premises of a Sweepstakes Terminal Café.

(e) "Licensee" means the person or persons who sign an application for a license hereunder and to whom such license is issued.

(f) "Owner" means any person who possesses any interest, either directly or indirectly, in a Sweepstakes Terminal Café.

(g) "Person" means any natural person, firm partnership, association, corporation or any other form of business organization.

(h) "Premises" means the building or any portion thereof used for conducting the operation of a Sweepstakes Terminal Café.

(i) "Sweepstakes Terminal Café" means any premises upon which any computerized sweepstake device is located for the use or entertainment of the public, whether or not such premises has any other business purpose.

(j) "City" means the City of Lorain, Ohio.

750.04 COMPUTERIZED SWEEPSTAKES DEVISE LICENSE REQUIRED.

No person shall display for purposes of use any computerized sweepstakes device in the City without first having obtained a computerized sweepstakes license as provided in this chapter. A separate license is required for each computerized sweepstakes device.

750.05 SWEEPSTAKES TERMINAL CAFÉ LICENSE REQUIRED.

No person shall conduct or operate a Sweepstakes Terminal Café in the City without having first obtained a Sweepstakes Terminal Café license as provided in this chapter.

750.06 AUTHORITY OF SERVICE DIRECTOR.

Authority is hereby established and vested in the Service Director to consider any application for a license under this chapter, conduct investigations therefore and thereon and issue or deny issuance of any such license based upon the criteria set forth in this chapter.

750.07 NATURE OF LICENSES.

(a) Licenses. Any license issued under this chapter shall have the following characteristics:

(1) Each license shall be valid for a period of one year from and after the date of issuance unless suspended or revoked as provided in this chapter.

(2) Each license shall vest a personal privilege but not any property rights in the license.

(3) Each license shall be required to be displayed permanently in a conspicuous place upon the premises for which it is issued.

(4) Each license shall be in the name of the applicant.

(5) No license shall be assignable or transferable, either as to person or location.

(6) Each license, if lost, destroyed or mutilated, upon application within thirty days may be replaced by a duplicate license issued by the Safety Director bearing the word "Duplicate" across its face and bearing the same license number as the license which it replaces.

(b) Computerized Sweepstakes Device Licenses. All computerized sweepstakes device licenses issued under this chapter shall have the following characteristics:

(1) Each license shall be issued for only (1) computerized sweepstakes device.

(2) Each license shall specify the name and address of each licensee, and the manufacturer, model number and serial number of the computerized sweepstakes device for which it was issued.

(3) Each license, if changed, mutilated, erased or in any manner defaced, shall be void, and any amusement device for which such license has been issued shall be deemed an unlicensed amusement device.

(c) Sweepstakes Terminal Café Licenses. All sweepstakes terminal café licenses issued under this chapter shall have the following characteristics:

(1) Each license shall be issued for only one (1) business at only one (1) premise.

(2) Each license shall specify the name and address of each licensee, and the manufacturer, model number and serial number of each computerized sweepstakes device located upon the premises for which it was issued.

750.08 PROCEDURE FOR OBTAINING LICENSES.

(a) Applications for Licenses. All applications for licenses under this chapter shall be in writing on a form approved by and filed with the Service Director. The application shall be signed by the owner or owners and shall contain information required by this section supplied in detail as to each such person, including general and limited partners, or partnerships, shareholders of corporations and principals or members of any other type of business entity or organization. All applications shall contain a statement that the information contained therein is complete, accurate and truthful. Every owner and operator of the Sweepstakes Terminal Café, shall be fingerprinted by an agency approved by the Safety Director and such person shall pay for the costs associated with obtaining said fingerprints.

(b) Contents of Applications. The application shall contain the following information as to all owners:

(1) True name and all names used in the past five years;
(2) Date of birth;
(3) Permanent home address and all home addresses used in the past five years;
(4) Business and home telephone numbers;
(5) Employment history for the past five years;
(6) A statement as to whether or not the owner has been convicted of any crime other than traffic offenses and, if so, the date and place of conviction, the nature of the offense and the penalty imposed;
(7) A statement as to whether or not the owner has ever conducted a sweepstakes terminal café and, if so, when, where and for how long.
(8) A description of the nature and operation of the main type of business activity to be conducted upon the premises;
(9) Description of the nature and operation of any business to be conducted in conjunction with the sweepstakes terminal café, and the anticipated percentage of gross revenue to be derived from each respective business;
(10) The address and telephone number of the premises and of the business, if different from that of the premises;
(11) The name under which the business and premises will be operated;
(12) A statement as to whether or not the owner will directly operate the sweepstakes terminal café, or whether or not an operator who is not an owner will operate it, and if the latter, the application shall contain information required by this section supplied in detail as to each such operator.
(13) A floor plan of the premises and the immediate vicinity drawn to scale, showing the square footage and placement of the computerized sweepstakes devices, exits, windows, storage spaces, bicycle storage racks and off-street parking.
(14) The name, and address and telephone number of the agent of the business upon whom service of process can effectively and validly be made;
(15) The number, type, name, model and manufacturer's serial number of each computerized sweepstakes device requested to be licensed;
(16) The name and address of the owner, distributor and manufacturer of each computerized sweepstakes device requested to be licensed;

(17) Specification of terms of agreement governing the acquisition and installation of each amusement device requested to be licensed;
(18) A description as to the nature and type of property or services which will be sold or supplied upon the premises;
(19) A copy of the title or lease to the premises;
(20) A copy of the Articles of Incorporation, if the owner is a corporation;
(21) A copy of the Operating Agreement, if the owner is a limited liability corporation;
(22) A copy of the Partnership Agreement, if the owner is a partnership;
(23) Specification of the days of the week and the hours of the day during which the licensed activity will be conducted; and
(24) Supporting documentation from a Certified Independent Regulatory Compliance Test Laboratory that the software performs in similar fashion as other permitted sweepstakes commercially offered to the public and that the entries are drawn from a pre-created finite static pool of entries with assigned values. To be certified the Independent Regulatory Compliance Testing Laboratory must be authorized to test regulated gaming equipment by at least one state government gaming regulatory agency.
(25) A plan detailing the measures which will be taken to "block" viewing of adult oriented or pornographic material.
(26) Any other information which the Service Director may deem reasonably necessary for the full interest of the public in the application.

(c) Reports of City Officials. Upon receipt of an application for a license under this chapter, the Service Director shall request the following reports, which shall be rendered to him within thirty days of the date of filing of the application.

(1) A written report from the Fire Chief shall be submitted to the Service Director as to whether the premises and computerized sweepstakes devices thereon will create a fire hazard; and
(2) A written report from the Police Chief shall be submitted to the Service Director specifying, with regard to all owners and operators, any convictions for any felony or for any misdemeanor involving the operation of an amusement device business or involving physical violence, gambling activity, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude.

(3) A written report from the Chief Building Official shall be submitted to the Service Director as to whether all building and zoning laws have been satisfied.

(d) Determination Process.

(1) Service Director. All applications for licenses under this chapter shall be considered by the Service Director, who shall, within ten days after receiving the written reports, either issue such licenses or deny issuance of such licenses.

(2) Appeal to Board. In the event of the denial of issuance of such a license, the applicant shall be notified of such denial and the specific reasons therefore in writing. Such notice shall be mailed or delivered to the applicant at the address specified in the application by certified U.S. mail, return receipt requested. The applicant shall have ten days after receipt of such notice within which to appeal such denial, by filing a written notice of appeal with the Board of Zoning Appeals. Thereupon, the Board of Zoning Appeals shall set a date and time for a hearing upon the appeal. Notice of hearing shall be sent to the applicant not later than fifteen (15) days prior to the date of hearing, by certified U.S. mail, return receipt requested. The appeal shall be heard by the Board of Zoning Appeals, which Board shall have the power after such hearing to confirm the denial, order the license to be issued or, at its discretion, to issue a conditional or probationary license.

(3) Appeal to court. The decision of the Board may, within thirty days thereof, be appealed to a court of competent jurisdiction under Ohio R.C. Chapter 2506.

(e) License Renewal. Each computerized sweepstakes device license and sweepstakes terminal café license must be renewed annually. At the time of renewal, a statement shall be filed with the Safety Director that the information listed on the original application for the license is still complete, accurate and truthful to the best knowledge of all applicants, or a statement shall be filed with the Safety Director listing each and every item of information which has changed since the original application. Such statement shall be signed by the same persons who signed the original application. The Safety Director may determine to accept such statement and issue the license requested, or he may determine to enforce the procedure required for an original license.

750.09 DENIAL OF SWEEPSTAKES TERMINAL CAFÉ.

No arcade amusement center license shall be issued or renewed for any business or premises:

(a) Where any of the owners or the operators has been convicted within the last five years of any felony or of any misdemeanor involving the operation of a sweepstakes terminal café business, or involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude;

(b) Where the premises do not provide a minimum of 1 off-street parking space for every 2 computerized sweepstake devices;

(c) Where it is determined that the premises or operation thereof would be in violation of any provision of the Building Code, the Zoning Code or the Fire Code of the City or any other pertinent provisions of local, state or federal law;

(d) Where the applicant made a false statement as to a material matter upon the application or in a hearing concerning the license;

(g) Where the application failed to provide all of the required information; or

(h) Where there is not compliance with all terms and conditions under this chapter and all other applicable ordinances and statutes.

750.10 CONDITIONS AND REGULATIONS.

(a) In addition to any other condition or regulation contained in this chapter or in state statutes, the following conditions and regulations shall be applicable to and shall govern and control all licenses of Sweepstakes Terminal Cafés.

(1) Each licensee shall at all times open each and every portion of the premises for inspection by the Police Department and other City departments for the purposes of enforcing any provisions of this chapter.

(2) Each licensee shall have present on the premises at all times when the premises are open to the public at least one adult operator who has not been convicted of any felony or of any misdemeanor involving the operation of a sweepstakes terminal café or involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude.

(3) No licensee shall allow living quarters to exist with direct entry to the premises.

(4) No licensee shall allow any person, other than an owner or operator over the age of twenty-one years, who shall be readily identifiable, to be in control of the premises, nor allow such operator to be regularly situated in a place upon the premises other than a place from which he has an unobstructed view of the entire portion of the premises devoted to the operation of computerized sweepstakes devices.

(7) No person under the age of 18 years shall be permitted to operate a Sweepstakes Terminal Café.

(8) Any and all sweepstakes rules and odds of winning shall be posted in a conspicuous place at the premises and displayed on the computerized sweepstakes device at the start of each game and/or activity.

(9) Each licensee shall operate the Sweepstakes Terminal Café business in compliance with any and all pertinent Federal Trade Commission rules and regulations.

(10) Licensees may be required to hire an off-duty police officer or other security personnel to provide for the safety of the patrons as determined by the City.

(11) Each licensee shall maintain the name, address and prize amount of all sweepstakes prize winners. Each licensee shall provide the City Treasurer with a complete list of sweepstakes winners on a monthly basis on or before the tenth day of each preceding month.

(b). All computerized sweepstakes devices upon the premises of a Sweepstakes Terminal Café shall be located thereon in conformity with the floor plan filed with the application for the license and in such a manner:

(1) So as not to impair ingress or egress to the premises;

(2) So as not to interfere with free and unfettered passage through the premise;

(3) So as to permit a clear and complete view of the interior of the premises immediately upon entry; and

750.11 PROHIBITED CONDUCT AND CONDITIONS IN SWEEPSTAKES TERMINAL CAFES.

No licensee of a Sweepstakes Terminal Café by himself, directly or indirectly, or by any representative, agent or employee shall permit or fail to take active steps to eliminate the activities specified in this section from occurring upon the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

(a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises, or to allow viewing of illegal and/or explicit adult oriented material;

(b) Permit the premises to become a gathering place for disorderly persons of any type;

(c) Permit gambling in any form or the possession of gambling paraphernalia upon the premises;

(d) Permit intoxication or the possession, use or consumption of alcoholic beverages upon the premises;

(e) Permit the possession, use or consumption of any unlawful drug, narcotic or controlled substance upon the premises;

(f) Permit the public streets, sidewalks, alleys or walk-ways in the immediate vicinity of any entrance or exit to the premises to become littered;

(g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;

(h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;

(i) Permit any computerized sweepstakes device thereon to be operated at any time the premises are not open for business, or permit the entrance to be locked at any time that the premises are open for business;

(j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire, health or sanitation codes;

(k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operation condition.

(l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;

(m) Permit the operation of any unlicensed computerized sweepstakes device upon the premises;

(n) Permit any violation of any ordinance of the City or statute of the State of Ohio to take place upon the premises.

750.12 LICENSE EXPIRATION, SUSPENSION OR REVOCATION.

(a) Expiration. Any sweepstakes terminal café license issued under this chapter shall expire upon the transfer or sale of a majority interest in the business, or the discontinuation of the business for a continuous period of thirty days. Any computerized sweepstakes device license issued under this chapter shall expire upon the transfer or sale of such computerized sweepstakes device.

(b) Suspension and Revocation. All licenses issued under this chapter shall be suspended or revoked by the Service Director upon his finding of the occurrence of any of the following events;

(1) A false statement by any licensee as to a material matter made in an application for license or in a hearing concerning the license;

(2) Conviction of any licensee or operator of any felony or of any misdemeanor involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude;

(3) Conviction twice within a one-year period of any licensee or operator for a violation of this chapter.

(c) Hearing. The suspension or revocation of any license under this chapter shall not be made without a hearing. The licensee shall be given at least ten days prior written notice of intent to suspend or revoke, which shall set forth the time and place of the hearing and the specific reasons for such suspension or revocation. The licensee shall have the right at the hearing to present testimony and other relevant evidence and to orally examine any person offering evidence as to the reasons for suspension or revocation.

(d) Appeal. The decision of the Safety Director may be appealed to a court of competent jurisdiction under Ohio R.C. Chapter 2506.

750.13 LICENSE FEES.

(a) Computerized Sweepstakes Devices. The fee for each computerized sweepstakes device license shall be thirty dollars ($30.00) per device, per month.

(b) Sweepstakes Terminal Café. The fee for a Sweepstakes Terminal Café shall be five thousand dollars ($5,000.00) per year.

(c) Replacement License. The fee for a replacement license shall be fifteen dollars ($15.00).

(d) Filed with Application. License fees under this chapter shall be filed with the application for license.

(e) Return of Fee. In the event an application is denied under this chapter, one-half of the license fees therefore shall be returned to the applicant. In the event any license is suspended or revoked under this chapter, no portion of the license fee shall be returned to the owner.

750.14 EQUAL OPPORTUNITY.

No person shall be denied any license or the right to use a licensed amusement device under this chapter in the City because of race, color, creed, sex, religious belief or national origin.

750.15 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the City of Lorain, Ohio the emergency being the immediate necessity of regulating computerized internet sweepstakes cafés within the City of Lorain, Ohio.

PASSED: _____, 2010

_____
PRESIDENT OF COUNCIL

ATTEST: _____, CLERK

APPROVED: _____, 2010

_____
MAYOR

I, Nancy Greer, duly appointed Clerk of Council of Lorain, Ohio DO HEREBY CERTIFY that this is a true and exact copy of Ordinance # _____.
PASSED _____, 2010.

PC 3-10-11

CF-1-3

Chagrin Falls

1125.08 SUPPLEMENTAL PARKING REGULATIONS.

In addition to the applicable parking regulations of Chapter 1141, the following parking regulations shall apply in all R1 and R2F Districts.

(a) Exceptions. Vehicles temporarily on the premises of a dwelling for the purposes of deliveries, repairs, construction, landscaping, maintenance, garbage removal or service calls to and from the dwelling are exempt from the requirements of this section.

(b) Overnight Parking. Overnight parking of vehicles in front and side yards is prohibited with the following exceptions:

(1) The occupants of the premises and their guests may park a passenger vehicle that is not considered a Large Vehicle in a driveway provided that no part of any vehicle may extend over any public sidewalk or other right of way.

(2) A single vehicle having truck license plates and with a capacity rating of one (1) ton or less may be parked in a driveway provided that no part of any vehicle may extend over any public sidewalk or other right of way and that such truck is used solely by the occupant of the dwelling.

(3) A single recreational vehicle when authorized under Section 1125.08(d)(5) or Section 1125.08(d)(6).

(c) Prohibited Activity. The rebuilding, overhauling or dismantling of an automotive vehicle or recreational vehicle or the storage of motor or body parts in an open yard is prohibited.

(d) Recreational Vehicles. The outside parking and storage of recreational vehicles shall conform to the following:

(1) When not authorized under Section 1125.08(d)(5) or 1125.08(d)(6), a single recreational vehicle twenty-four (24) feet or less in overall length or eight (8) feet or less in width or twelve (12) feet or less in height, inclusive of any rooftop mechanical equipment may be parked or stored on the premises provided that the following requirements are satisfied:

A. The vehicle shall be located only in a rear yard, a minimum distance of three feet from any lot line plus the width of required screening. On a corner lot the vehicle may be parked no closer to the street than five feet plus the setback for the main building plus the width of required screening.

B. The Administrator may require an increase in setbacks if necessary for the installation of adequate screening.

C. The vehicle shall be screened as required under Section 1125.08(f) so as to obscure it from adjacent parcels and public streets when viewed from adjacent parcels and public streets by a person standing at ground level. The Administrator may exclude from the screening requirement an area of sufficient width to serve as an approach drive for the vehicle.

D. All parking areas and access drives to accommodate the vehicle shall comply with the requirements of Section 1125.04(b) and shall be paved or otherwise improved. The Administrator shall approve such method of improvement.

(2) Recreational vehicles parked or stored shall not have fixed connections for electricity, water, gas or sanitary sewer facilities, and at no time shall a recreational vehicle be used for dwelling, business, or commercial purposes or for any accessory uses.

(3) The wheels or any similar devices of any recreational vehicle shall not be removed except for repairs, nor shall such vehicle be otherwise permanently fixed to the ground in a manner that would prevent ready removal.

(4) No recreational vehicle shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(5) The permanent residents of the premises may park a recreational vehicle in the driveway for loading and unloading, for a period of forty-eight (48) consecutive hours as long as the location does not obstruct the view of vehicular and pedestrian traffic.

(6) A recreational vehicle that is not owned by a resident person may be parked in the driveway of a lot for not more than five (5) consecutive days. Within a calendar year, there shall be a maximum of two permissible periods that any such vehicle is so parked. The Administrator may allow an extension of the five (5) day period for an emergency.

(7) All recreational vehicles, when required by law, will have current legal license tags and/or plates.

(e) Large Vehicles and Trailers.

(1) Vehicles exceeding nineteen (19) feet in length or seven (7) feet in width, or eight (8) feet in height are considered large vehicles for the purpose of these parking regulations. Unless otherwise permitted in this section, a large vehicle shall be stored in a garage and used solely by the occupant of the dwelling. No large vehicle shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(2) When not considered a large vehicle, the outside parking and storage of trailers shall conform to the following:

A. The trailer shall be located only in a rear yard, a minimum distance of three feet from any lot line plus the width of required screening. On a corner lot, the trailer may be parked no closer to the street than five feet plus the setback for the main building plus the width of required screening.

B. The Administrator may require an increase in setbacks if necessary for the installation of adequate screening.

C. The trailer shall be screened as required under Section 1125.08(f) so as to obscure it from adjacent parcels and public streets when viewed from adjacent parcels and public streets by a person standing at ground level. The Administrator may exclude from the screening requirement an area of sufficient width to serve as an approach for the trailer.

D. The wheels or any similar devices of any trailer shall not be removed except for repairs, nor shall such trailer be otherwise permanently fixed to the ground in a manner that would prevent ready removal.

E. No trailer shall be parked, stored or allowed to remain on a lot or parcel of land that is not improved with a main building.

(f) Screening. Screening shall consist of a planted area that provides a year-round, continuous, visual screen to an initial height of at least eight feet and an initial depth of at least ten feet. At a minimum, such planted area shall consist of two staggered rows of evergreen (non-deciduous) vegetation. Landscaped earth mounts and fencing may supplement the planted screen in order to achieve the required screen density and height. The Administrator shall determine the effectiveness of the selected screening. The screening requirement shall not apply where natural or man-made barriers exist which provide screening generally equivalent to that required. Screening shall be maintained in good condition at all times.

(Ord. 2007-06. Passed 2-12-07.)

1107.161 RECREATIONAL VEHICLES AND TRAILERS.

(a) "Recreational vehicle" means a vehicle or portable structure designed and constructed to be used for travel, recreational or vacation uses, including but not limited to the following:

(1) Travel trailers, motor homes, truck campers, fifth-wheel trailers, buses or fold out camping trailers that may be self-propelled or nonself-propelled with facilities enabling them to be used as a temporary dwelling; or

(2) Watercraft, including boats, floats, rafts, wet bikes, jet skis or other vehicles designed or used for transporting persons or property on the water and the normal equipment to transport same; or

(3) Off-road vehicles, including all-terrain vehicles, snowmobiles, trail bikes or other vehicles designed or used for transporting persons or property on nonimproved surfaces and the normal equipment to transport same.

(b) "Trailer" means any form of device, equipment or machinery on wheels, or a single wheel that is designed to be towed, whether or not attached to a motor vehicle. This shall include every vehicle, regardless of size, designed for the purpose of transporting materials, equipment or animals. (Ord. 2007-06. Passed 2-12-07.)

1373.06 OPEN STORING; SCREENING.

(a) No person shall openly store a **recreational vehicle**, as defined in Section 1373.01(i), unless the Board of Appeals has granted a variance, proper screening is installed as required by the Architectural Review Board and a permit is issued by the Building Department for the installation of such screening.

(b) The criteria to be followed by the Board of Appeals and the Architectural Review Board in determining screening requirements shall include the following:

(1) Location of screened area to adjacent building or adjoining lots.

(2) Size and condition of the **recreational vehicle**.

(3) View of the screened areas from the street and adjoining lots.

(4) Quality and quantity of screening material.

(Ord. 75-28. Passed 10-28-75.)

HIGHLAND HEIGHTS

A. A travel trailer, means a non self-propelled **recreational vehicle**, portable structure built on a chassis designed to be used as a temporary dwelling for travel, **recreational** and vacation use, and permanently identified "travel trailer" by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer as defined in Ohio R.C. 4517.01;

B. A pickup camper, i.e., a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, **recreational** and vacation use;

C. A motor home means a portable dwelling designed and constructed as an integral part of a self-propelled **vehicle**, and designed for travel, **recreational** and vacation use and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

D. A folding tent trailer, i.e., a canvas folding structure, mounted on wheels and designed for travel, **recreational** and vacation use; and,

E. Boats and boat trailers, including boats, canoes, floats and rafts, snowmobiles, all-terrain **vehicles**, plus the normal equipment to transport the same on a street or highway;

F. "Park Trailer" means a **vehicle** that is commonly known as a park model **recreational vehicle**, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold- storage, cooking and consuming of food, and for sleeping;

G. "Truck Camper" means a nonself-propelled **recreational vehicle** that does not have wheels for road use and is designed to be placed upon and attached to a motor **vehicle**. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(b) **Parking of Recreational Vehicles.**

(1) Any **recreational vehicle** may be parked or stored in a residential area subject to the regulations contained herein.

A. No **recreational vehicle** shall be parked or stored unless it is titled to or leased and used exclusively by one of the permanent occupants of the residence where the **recreational vehicle** is located.

B. A **recreational vehicle** shall not have connections to water electricity, gas or sanitary sewers.

C. A **recreational vehicle** shall not be used for living, housekeeping or similar purposes.

D. A **recreational vehicle** parked or stored outside a garage or enclosed structure shall not be parked or stored in the front yard of the lot and shall be stored or parked at least ten feet from the side and rear lot lines of the lot and ten feet from the enclosed structure or garage. If the residence has a rear entry garage, then the **recreational vehicle** may be parked behind the entrance to the garage.

E. A **recreational vehicle** parked outside of a garage or enclosed structure shall be licensed pursuant to State law.

F. A **recreational vehicle** may be parked on any premises for loading or unloading purposes for a period of not more than forty-eight (48) hours so long as such **parking** does not obstruct pedestrian or vehicular traffic of adjoining or abutting properties.

G. No person, being the owner or operator of a **recreational vehicle**, shall park or store such **vehicle** in a residential area of the city in violation of any of the regulations set forth in this section.

H. No person, being the owner and/or occupant of or having possession of real property in a residential area of the City, shall permit a **recreational vehicle** to be parked or stored thereon in violation of any of the regulations set forth in this section.

I. No more than one **recreational vehicle** per premise may so be parked.

PC 3-10-11

Willoughby

Parking or Storage of **Recreational**, Commercial and Other **Vehicles**. In addition to the area, coverage, and locational requirements of Schedules 1131.11 (a) and 1131.11 (c), the **parking** or storage of a **recreational vehicle**, camper, or boat, on or off wheels, truck or commercial **vehicle**, shall comply with the following regulations.

(1) All **recreational vehicles** shall be either stored wholly within a garage or outdoors in compliance with the following:

A. Not more than one **recreational** or commercial **vehicle** shall be stored outdoors.

B. Outdoor storage shall be permitted only in the rear yard on a paved or gravel surface, with the exception that when permanent obstacles prevent the maneuvering of a **recreational vehicle** into the rear yard, the **recreational vehicle** may be stored in the side yard on a paved or gravel surface.

(2) The outdoor **parking** of a commercial **vehicle** shall not be permitted on a lot in a One-family Residential District except that an occupant shall be permitted to park one truck not exceeding three-quarter ton rated capacity that is used in connection with said occupant's livelihood.

(3) **Recreational** and commercial **vehicle** shall not be used as a dwelling, office, or other business structure, or for storage of any material, and shall have no connections to any electric, telephone, water, sewer, gas, or fuel source.

(4) A **recreational** or commercial **vehicle** may be parked in a driveway for loading or unloading purposes for a period not to exceed forty-eight hours in any seven day period.

(5) **Recreational** and commercial **vehicles** must be licensed by the state.

1367.01 LIMITATIONS ON STORAGE; RECREATIONAL VEHICLES; SCREENING; USE FOR SLEEPING OR EATING PROHIBITED.

No **vehicle** shall be stored upon any premises in a residential use district within Hunting Valley except passenger automobiles, light-weight vans, horse trailers and pickup trucks used customarily as personal **vehicles**. Private mobile **recreational** facilities, including motor homes, boats and **recreational** trailers, used solely for **recreational** purposes by the residents of the premises, and **vehicles** and equipment customarily incident to a permitted use or accessory use of the premises, may be stored on the premises in a garage or other accessory building; but if the same are stored outside, they should be adequately screened, if visible from any adjoining premises, and shall not be used for sleeping or eating purposes within the Village.

(Ord. 1992-101. Passed 1-14-92.)

3-1-2011

To: PC
From: Maggie Tomaro

Greetings!

The next PC meeting is set for Thursday, March 10, 2011 at 7:30 p.m. Enclosed is a copy of the minutes from the last PC meeting on 6-16-2010.

There are two items on the agenda:

1. Discuss internet cafes/online gambling; info. enclosed
2. Discuss campers parked on residential properties; info. enclosed

Ned Foley & Ike Tripp are not available for the meeting. Janice DiMichele, Jim Flaiz & David Ondrey are able to attend. I haven't heard from Wally or Matt. Please call to confirm. (440)338-1807. Three board members must be present in order to have a meeting.

Thanks.

Maggie

Maggie

PC 4-14-11

burntwood tavern
est 2010

504 East Washington
Chagrin Falls, OH 44022
440-318-1560
burntwoodtavern.com

Back Patio Bar is Open!
Live Music Thursdays!
Happy Hour 3-6 Daily!

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSSION
APRIL 14, 2011
7:30 P.M.

1. ROLL CALL: **Sutliff, Brett, DiMichele, Flaiz**

2. MINUTES: 3-10 -11 **approved**

3. AGENDA:

1. Development review with Bret Adams & Chris Kalinyak. Mr. Adams leases the building at 504 East Washington Street. He opened Burntwood Tavern in the summer of 2010. Formerly, it was called Chagtown. Mr. Adams appeared before the PC on 6-16-2010. On 4-14-2011 he wishes to discuss opening an outside patio in the back of the restaurant. Mr. Chris Kalinyak is the builder for the project.

Flaiz, "I approve the motion of an outside patio at Burntwood Tavern, 504 East Washington St. condition upon:

1. **When the patio is opened, Burntwood Tavern is required to have a minimum of 72 parking spots available through onsite & offsite parking facilities.**
2. **Burntwood Tavern is required to provide documentation – some evidence of permission from the property owners of the offsite facility – guaranteeing that it (BT) has 30 parking spots at the offsite facility.**
3. **A valet is required when the onsite lot is full.**
4. **Noise restrictions regarding outdoor music/bands is equal to what the Village put in place for Panini's (540 East Washington St.) when it opened. If nothing was put in place, then the conditions are: (a). no outdoor music would be played after 10:00P.M. (b). On Saturdays, no outdoor music would be played before 6:00P.M.**
5. **When the patio is closed, a minimum of 50 parking spaces are required & will be provided through onsite & offsite parking facilities.**
6. **This approval runs only with this ownership group: Bret Adams & associates. If Mr. Adams & his associates sell the restaurant, PC will review the approval to use the outdoor patio, parking requirements, noise restrictions & other concerns prior to new owners taking possession of the restaurant."**

DiMichele seconds. Roll call. All ayes. CONDITIONAL APPROVAL

2. Continue to discuss internet cafes/online gambling **Table it until PC gets some direction from Council**
3. Continue to discuss campers, trailers, RV's, parked on residential properties. **Brett asked Flaiz "to put some thoughts together & share them with the solicitor (Ondrey) combining Highland Heights with screening for the next meeting." Flaiz agreed.**

4. OLD BUSINESS: **none**

5. NEW BUSINESS: **NEXT MEETING: MAY 18, 2011 AT 7:30 P.M.**

6. ADJOURN: **8:35 P.M.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
RECORDS OF PROCEEDINGS
APRIL 14, 2011
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Janice DiMichele, Jim Flaiz

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor, Ned Foley, Engineer

ABSEBT: Ike Tripp

GUESTS:
Bret Adams, 1080 Bell Rd.
Chris Kalinyak, 2730 Chagrin River Rd. builder for Mr. Adams
Joan Demirjian, 525 East Washington St. reporter, Chagrin Valley Times

Sutliff called the meeting to order at 7:28 p.m. The minutes from 3-10-2011 were approved.

Development review with Brett Adams & Chris Kalinyak. Mr. Adams leases the building at 504 East Washington Street. He opened Burntwood Tavern in the summer of 2010. Formerly, it was called Chagtown. Mr. Adams appeared before the PC on 6-16-2010. On 4-14-2011 he wishes to discuss opening an outside patio in the back of the restaurant. Mr. Chris Kalinyak is the builder for the project.

-handouts: Mr. Adams brought new plans to the meeting. These were reviewed. Disregard the plans he gave to the Building Dept. on 4-4-2011
-Mr. Adams provided an unsigned letter from Five Star Valet Services, Solon, Ohio (216) 403-6619. Partners identified as: Jim Del Torto & John Scott "Five Star Valet Services provides complimentary valet parking for all guests of Burntwood Tavern. FSVS, with permission from both Burntwood Tavern & ownership of the lots on Industrial Parkway, is capable of valet parking the cars of every guest on a nightly basis."
-PC member, Janice DiMichele, provided a sheet, 'Notes From the Pastor' from Father David Walkowiak of St. Joan of Arc Church, 498 E. Washington St. (next door to Burntwood Tavern) This was distributed to the congregation Sunday, April 10, 2011.

Father Walkowiak writes, 'Burntwood Tavern has been in operation for 6 months. BT does not have adequate parking to operate its business. Every day patrons & employees of the restaurant have been parking in the parish parking lot. The experience of the last 6 months ... a pattern of nuisances, an unacceptable liability exposure. I will be posting signs that indicate the lot is reserved for church related business only...Vehicles parked on church property for non-church related purposes, will be towed.' A copy of the letter is in the file

Hocevar, "Their original proposal to PC in 2010 did not include a back patio. It included the inside of the building. Our zoning requires that they have one parking place for every two seats. On the original drawings, they drew in (unintelligible). When I checked, they were a few parking spaces short, which wasn't a big issue because they had a valet service taking cars out."

Hocevar, "Now PC, according to our zoning, has the right to approve offsite parking. We've never done that. That's one of the reasons to come to PC & other reasons are if there is an addition, alteration, or a use of an existing building for development review."

Brett, "So it's conditional use of the patio because it wasn't in the first part (in 2010). Is it also because it is changing?" Hocevar, "It has an effect on the parking. I just received a letter now from a valet service. They (Brett Adams) have contracted with a valet service & have permission to park these automobiles on Industrial Parkway." Brett, "I thought you also said, if they change anything about the patio, that's also a reason." Hocevar, "Absolutely."

Adams, "There's been a problem with the drainage. Our goal is to fix the drain. We want to add a fire place; all within code. The previous bar was built out of plywood & we'd use something that has been brought up to code. The elevation of the patio was very dramatic. In areas, it's asphalt & buckled. We want to do concrete & clean it up so that there are no tripping hazards."

Adams explains that he has updated the inside of the restaurant. Now he'd like to open up the patio; "enhance what was there & open it for the summer season." He does not plan on expanding the patio in the back. Adams, "If anything we are trying to shrink it down. If we would have built the patio from scratch, we would have built it smaller than it is. It could probably seat 120-150 people. One, we don't have the parking for it. Two, we wouldn't be able to execute at a high level. We have shrunk it down considerably as we did in the interior of the building. We pulled tables & chairs out of the restaurant & have soft seating just to shrink it down so we can execute out of the kitchen."

DiMichele, "Would you be increasing the capacity?" Adams, "We're pulling down some of the inside capacity to accommodate the outside. We're looking for 40 additional seats on the back patio & pulling approximately 16 on the inside. Yes, there will be additional seats. We tried to pin down exactly how many spots the valet has back

there. It fluctuates. If you take our current capacity, pull the seats out, I think it should allow another 20, 30, 40 seats. We're well within where we need to be. They are saying that they are parking between 50 & 100 cars an evening. That's with 2 or 3 turns. I think we'll be good."

DiMichele, "What about the complaint from the church that patrons & employees are parking in the church parking lot?" Adams, "The church has been accommodating. We haven't promoted that. Father Kovach has said in the past, if anyone is going to park over there, we'd rather it be your associates verses your patrons because they can be managed & they are not drinking alcohol. The exposure has been minimal. We took out an umbrella policy on our insurance similar to what Chagrin High School does. If somebody is walking over to the church & they fall, we're held responsible. We did that per his request."

DiMichele reads a sheet from St. Joan of Arc Church titled, Notes from the Pastor. It was given to the congregation 4-10-11. It says in part, Burntwood Tavern does not have adequate parking to operate its business. Every day patrons & employees of the restaurant have been parking in the parish parking lot. This is an unacceptable liability exposure. The priest will be posting signs indicating the lot is only for church business & cars will be towed. Adams, "That's news to me. It hasn't been communicated to me."

Sutliff, "You're talking about eliminating 16 seats inside?" Adams, "Yes. The main dining room would loose 2 tables. The big shrinkage would be to the left. (the east side) We call it the private dining room or the VIP room because there are 2 French doors that open up to the patio. We want to flow that from an indoor/outdoor use. So, we'd loose the majority of those tables. That's going to be an undesirable area to dine, with the exception of those who don't want to dine outdoors."

DiMichele, "So you're adding 40 in the patio & taking away 16 inside. You have a net gain of 20. Two people per parking spot, you need 10 more parking spots." Adams, "Yes. The valet wasn't part of the interior…"

Brett, "How does PC factor in valet parking into the mathematical equation for how many spots a business should have?" Ondrey, "I don't think we ever have." Hocevar, "All that is required is that they come before PC for the approval of offsite parking." Ondrey, "A more typical plan when we had concerns about parking is reserving areas on a particular lot, like land bank for future parking or even if it was an adjacent. I think we always insisted upon some kind of deed restriction; something that goes with the property. The concern here is that the valet parker says that they have the permission of the lot owners. That could change tomorrow."

Brett, "Can this board grant this based on the condition of what the valet company has in place? There are enough spots. The location that is used is Industrial Parkway. Over time that could change. The number of existing spaces & the valet service has to have X number of spots that are guaranteed & available; do we have the ability to make a condition if they loose that, they loose the ability to have the outdoor patio?" Ondrey, "That would certainly be an approach. Is that an effective remedy?"

Sutliff, "How many parking spaces do you have over there?" Someone said 44 & someone answered 43. Flaiz, "This plan says total seats 144." Kalinyak, "That is proposed new." Flaiz, "You would need 72 parking spaces & you have 44." Adams, "We believe there are between 36 & 50 spots available." Flaiz, "How many valets?" Adams, "Between 3 & 5 on any given night."

Brett compliments how the building looks. He thinks improving the patio is good news. Brett, "The parking issue is one that I'm sensitive to. You've got a successful business but, I've seen cars trying to pull in & they can't get in. From the Village's perspective, that is a concern because it's a safety issue." Adams, "It's congested at peak times. It's our livelihood & if we don't have a patio then we don't compete in that arena for what we call the season. It's a good problem from our standpoint, but there are safety issues. We won't expand anymore because we won't execute like we are now."

Adams, "All the business transitions from the inside to the outside. There is a small group of people, mature or families that will stay indoors. The challenge is Friday & Saturday when we could have too many people. It's not a smart business decision because our kitchen doesn't get any bigger. To hit capacity on the inside & outside, we wouldn't be around very long. Friday is a heavier volume because of happy hour. That's probably 100 plus. On Saturday, from 4:00P.M. to 9:00P.M. we are booked & hit capacity. Right now that is 90 people."

DiMichele, "So 100 people, you are supposed to have 50 parking spots. You said you have 40?" Adams, "43 or 44, but then we've got the valet."

Flaiz, "When I go by Jekyll's (17 River St. Chagrin Falls) & see that they have probably 30 seats out there & there is probably 75 people, my concern is 144 seats. Don't you think there are going to be times you are going to have a lot of people on the patio who aren't eating? Don't you think you're going to be pushing 180 plus? What's going to be capacity?"

Hocevar, "Capacity according to the state of Ohio occupancy code, which is the existing building only is 118 seats total. That is on the signed certificate of occupancy. That's from the state of Ohio."

Hocevar & Adams refer to drawing that was submitted at this meeting. Adams or associate, Kalinyak said, "There'd be 24 seats on the exterior patio. Hocevar, "How many square feet do you have on the rear patio? You are allowed 15 square feet net per person. That includes tables & chairs. So, you have to try & stay within what confines you here. You shouldn't try; you have to."

Brett, "David, what is the number not including the rear patio?" Hocevar, "118, not including the rear patio." "

Flaiz, "It looks like there's quite a bit of square footage back there." Brett to Adams, "Do you have any sense of the square footage of the rear patio?" Adams, "It's over 2,000 square feet. Our goal is not to take advantage of the square footage. If you look at the drawing, there's a section out there for soft seating, just like we did on the interior. On the inside, if we pull out all of those couches, we could have another 10

tables, maybe not by law, but physically we could. We don't do that because we don't want to over capacitate the restaurant."

Brett, "Assuming that the 2,000 square feet is accurate, & a 15 to 1 ratio, it is 133 additional people." Hocevar, "That seems big, 2000. That's what your guess is?" Kalinyak, "I know it's 27 yards of concrete." Hocevar, "Are you utilizing that whole area for seating?" Kalinyak, "No. There is a bar back there."

Brett, "So the occupancy based on the total square footage, shouldn't be an issue." Hocevar, "It shouldn't be an issue Matt." Brett, "If it's 1,000 square feet, then you're talking 65 added to your 118." Kalinyak, "It's way beyond that."

Hocevar, "I think they did comply with the building codes. From what I was told, the zoning regulations supersede that as far as parking regulations. We did designate the occupant load by our parking designation. We did supersede the state code with that if we wanted to. We could say it comes from zoning & planning."

Brett, "One of my concerns would be the noise. The former establishment had some issues. Residents complained that they had a band. It would go past 10:00 p.m. Any plans for a band?" New drawing presented tonight shows area for band. Adams, "There is a gentleman who is playing tonight. He plays acoustic guitar. That's the band. He plays from 7:00p.m. to 10:00p.m. We'd love to bring him out there Thursday nights. We're not a late night establishment. We're done by midnight. If the noise ordinance says 10:00p.m. then 10:01p.m. we're done." Brett, "I don't think it does." Flaiz, "We restricted Panini's." Brett, "I think we made that a condition for Panini's. I think 10:00p.m. was the time frame."

Brett, to Ondrey, "What is it that we would be granting?" Ondrey refers to the zoning code, Pp. 45, 4.07 PARKING REGULATIONS: "You've got to have these off street parking facilities. 'Such facilities shall be provided whenever a structure or use is erected, altered or moved & shall continue unobstructed so long as the structure or use remains unless equal facilities are provided in another location, approved by the Commission.' So, you apparently have the power to approve parking in another location in order for them to meet the minimum required parking spaces. It's not a variance. You have the power to approve offsite parking."

Ondrey, "In this particular instance, it's ephemeral what that offsite parking is. If you grant permission & all these improvements are done & tables are installed & then the parking isn't there, just understand - then you've got an enforcement issue."

Ondrey, "Another way to approach this is to say, you want more space for more seating, you can't meet our parking requirements, require them to go before the ZBA & get a variance from the parking requirements. Now, how do they solve the parking?"

Brett, "I like the first one better. To me, you've (Adams) got to have the valet parking option here. I'm supportive of this. We want to see businesses flourish in the village. My greatest concern is that parking element. It feels to me that the village is in the best position if we require, if we make a condition of the patio use that they've got to have offsite parking space capacity. If you loose it, then you loose the condition for that patio. Whether it's at industrial parkway..." Ondrey, "Did we figure out how many parking

spaces they are short?" Brett, "They have 43 now." Flaiz, "At least 72." Brett, "It's 2 to 1 seats for one parking spot." Flaiz, "30 spots." Ondrey, "Are there truly 30 spots on Industrial Parkway?"

Sutliff to Adams, "Do you have a legal agreement with these folks? Where is Industrial Parkway?" Adams, "It's all the spots behind Hunan. (508 E. Washington) We approach it from the standpoint of a valet. We pay a pretty penny for that valet. We do it for this reason. They are the professionals in this arena. So insurance & finding that relationship & making sure that it's safe for the kids to park in the spots, all that becomes their specialty. That's why we've stayed out of it." Sutliff, "Do they have a legal agreement with the business owner; that they can use that property?" Adams, "From a contract standpoint, I don't know. My guess is no. They must have something that accommodates because if they loose that, they can't valet the cars, so they loose their job from us."

Flaiz, "Who is parking at St. Joan of Arc?" (496 E. Washington) Adams, "Congregation & a couple staff members. It sounds like we're going to have to put them in Industrial Parkway as well." Flaiz to Hocevar, "Do parking regulations contemplate staff?" Hocevar, "No." Flaiz, "You could probably have a dozen cars a night just for staff." Adams, "Probably 6 to 9". Hocevar, "We go by seats Jim."

Brett, "I would be supportive of this. I would want the conditions of: (1). offsite parking (2).noise, bands, time frame; no outside music after 10:00 p.m." No one remembers how the conditions for music were phrased for Panini's. Hocevar will look it up.

Hocevar referring to conditions set on Panini's: "I know 10:00P.M. rings a bell. I thought we threw a couple of days in with weekends. I'll look it up. If it's ok we'll go by the conditions that we set up for Panini's." Brett thinks that is fair. Ondrey, "I don't recall making any conditions on noise for them."

DiMichele, "This time we're right next to the church. Loud, outdoor music is going to affect services going on at church. There's 4:30 P.M. mass on Saturday. Is the organist going to be competing with the band?' Adams, "We wouldn't have it before 7:00p.m." Brett, "So maybe we could add something, not prior to 6:00P.M." Sutliff, "On Saturdays."

Sutliff, "I'm still confused as to the legalities of this valet service. Is there any obligation on the village's part to make sure that that is properly enforced via an agreement between the landowner…?" Ondrey, "You could require that as a condition of your approval that they present to you written evidence that permission has been granted to park the required number of spaces. I'm still kind of hung up on that because you don't have a power to give a variance. Let's say it is 70 spaces, you need to satisfy yourself there is really another 30 spaces on Industrial Parkway before you can do this." Brett, "There clearly are. I don't have any question about that." Sutliff, "As long as they have approval from the people who own it..." Brett, "If we make that a condition; they have to produce an agreement between Five Star Valet & Ed Gottschalk (owner of

Industrial Parkway), that they have a minimum of 30 spaces contracted, it feels to me that we're good."

Adams, "Ed Gottschalk was at the tavern when we left & confirmed that that is who the relationship is with; Ed & Five Star. There's a bunch of spaces back there. He said what ever he can do to support, just let us know."

Flaiz raises issue of cars backing into street. Flaiz, "Since all the spaces are full, there's no staging area for the valets & that's why cars are backing into the street." Adams, "What was happening was cars were coming in both entrances & getting clogged. So, they closed off the south entrance & they can stage 5 cars. Sometimes they don't bring on the second or third person & if we experience high volume early, we get backed up. Unfortunately, everyone wants to eat dinner at 7:00p.m. So we get an influx of 30 cars at 7:00p.m. They could have 10 guys & not be able to accommodate it. I think every week it's gotten better. Initially, it was a train wreck. They have established a rhythm & they get bottlenecked a little bit, but it's for a short amount of time." Brett suggests signs to help people know the entrance & exist.

Flaiz, "We could approve the outdoor patio condition upon: the music & that they have 30 additional parking spaces. They said they have 43 & need 72 to accommodate 144." Brett, "Can we do it with a different methodology? They commit to a combined onsite & offsite parking of a minimum of 72 total spots."

Ondrey, "As part of a motion, they (Burntwood Tavern) would provide PC or the Building Commissioner with some written evidence of permission of these property owners to provide those offsite parking spaces."

Motion:

Flaiz, "The motion is approval of the outdoor patio conditioned upon:

1. **no outdoor music during the same time restrictions that PC imposed on Panini's. With an additional restriction of not prior to 6:00p.m. on Saturdays.**
2. **When the outdoor patio is opened, with onsite & off site parking, a minimum of 72 parking spaces are to be provided**

Hocevar explained that currently they are 5 parking spaces short. This is without the outdoor patio being open. The original plan needed 47 spaces. They showed 42.

PC reviews plans. The existing seating shows 104. Hocevar, "One parking space for every two seats." PC discusses.

Flaiz continues condition #2. When the outdoor patio is closed, with onsite & off site parking, 50parking spaces are required, not 43 as previously discussed.

3. **When the patio is opened & they've exceeded the available parking spots…**

Ondrey, "There are other restaurants in the area. I don't know what their parking issues may be. What happens if they come before you & say, 'I can get permission to park some cars on Industrial Parkway also'? Now we've got multiple restaurants all fighting over the same 30 or 40 spots." Brett, "It's a good thought. What Burntwood has to do is through their valet they have to guarantee that they've got those 30 spots. If Trifles or Hunan say we are going to do the same thing, then whoever they are using has to guarantee that they have those spots. They need to exist." Ondrey, "We need to be cautious. My guess is the valet companies are going to say, don't worry, we've got the spots for everybody. You could make it that Burntwood Tavern has to show that they have written permission exclusive to them to park at Industrial Parkway."

Sutliff agrees. Sutliff, "A letter from the valet company saying we've got 30 spots doesn't mean anything. I think if we have documentation from the property owner granting permission to the valet service, for 30 spots, then I think we're ok."

-discussion about when valet service is required: Ondrey, How about valet is required when Burntwood Tavern's on site lot is full?" They currently have valet 7 days a week. **Flaiz "The condition is the valet is required when the onsite lot is full."**

Brett, "In regard to the noise, if our solicitor is correct & we only discussed it & didn't do anything for Panini's, I'd like to have something in place. The noise restrictions would be: equal to Panini's or nothing past 10:00P.M."

FINAL MOTION:

Flaiz, "I approve the motion of an outside patio at Burntwood Tavern, 504 East Washington St. condition upon:

1. **When the patio is opened, Burntwood Tavern is required to have a minimum of 72 parking spots available through onsite & off site parking facilities**
2. **Burntwood Tavern is required to provide documentation - some evidence of permission from the property owners of the off site facility - guaranteeing that it has 30 parking spots at the off site facility**
3. **A valet is required when the onsite lot is full.**
4. **Noise restrictions regarding outdoor music/bands is equal to what the Village put in place for Panini's (540 East Washington St.) when it opened. If nothing was put in place, then the conditions are: (a). no outdoor music would be played after 10:00P.M. (b). On Saturdays, no outdoor music would be played before 6:00 P.M.**
5. **When the patio is closed, a minimum of 50 parking spaces are required & will be provided through onsite & off site parking facilities**
6. **This approval runs only with this ownership group: Bret Adams & associates. If Mr. Adams & his associates sell the restaurant, PC will review the approval to use the outdoor patio, parking requirements, noise restrictions & other concerns prior to new owners taking possession of the restaurant."**

DiMichele seconds. Roll call. All ayes. CONDITIONAL APPROVAL

Continue to discuss internet cafes/online gambling

Ondrey, "I've done Middlefield's & I felt they were fairly easily translatable to South Russell. I sent them to Jim Flaiz. I don't think Council has decided if an internet café is a good thing to approve or not. It's helpful to continue this discussion. But let's not move forward because there is no point starting zoning amendment if Council is not sold on the idea of allowing them."

Ondrey, "There is still a basic choice that you can make to prohibit them. Cleveland is prohibiting them & closing them down. Some operators might claim they are a lawful business & you shouldn't be able to just prohibit them without evidence that they are a nuisance or a danger. I think what's happening is, there are so many spots that they can go, they are not going to take on a big expensive law suit."

Brett said that Council did talk about it at its last meeting. They will discuss it at their next meeting on 4-25-2011. Brett brought up internet cafes to the Chagrin Valley Governmental Council. Brett, There are polar opposite opinions on this. Some communities are welcoming this. Other communities feel that this is bad news & they are prohibiting it."

Sutliff, "Let me suggest that we wait until we get some sort of direction from Council before we spend any more time on this." PC agrees. **Table it.**

Continue to discuss campers, trailers, RV's parked on residential properties

-previous meeting: 3-10-11: a homeowner on Maple Hill has a trailer, about 27', parked in the backyard, electrical & water hooked up, visible to neighbors, allegedly dogs stay there. SR zoning: it has to be parked behind front setback, which it is.

Hocevar sent a second letter to the homeowner reminding him of the agreement to get the trailer out of there. No response. Hocevar & Ondrey talked. Hocevar, "There is a spot in our zoning code that we may have some grounds. If we have complaints from adjoining neighbors, we can take action on it. It's broad."

Hocevar, "Do you want to wait awhile to see if it's moved?" Brett, "David (Hocevar), I think you need to keep going down the path you are going down. If you look at this issue that we have identified, if it were right next door to me, I wouldn't be happy. I don't think it's within the character of the Village. I think it's skirting around what we have in our zoning code."

Brett, "There are RV's parked in residential lots all over the place throughout the Village. You don't see them. They are not an issue. What makes them an issue is when you put them in the middle of the back yard, hook up utilities, someone's living in it or something is living in it. That is a very different situation. That' what we have to address."

Flaiz, "I like the Highland Heights restrictions because they don't allow things to be hooked up. It has to be titled to who lives in the residence, so they are not storing

other people's. Something like what Highland Heights has plus some screening requirements, would give us something to avoid what's going on on Maple Hill. It would still allow the people who store these things to do that. I don't think we want to restrict people's use of their property. If they have a camper, they should be able to keep it on their property."

Hocevar is documenting complaints from the neighbors. The ground is too wet to remove it from the property now. Brett, "We've agreed to when the ground is solid enough, move it. How do you define that? The Village will be fair to them. When it is obvious that it can be moved, it needs to be moved."

Brett asked Flaiz "to put some thoughts together & share them with the solicitor (Ondrey) combining Highland Heights with screening for the next meeting." Flaiz agreed.

OLD BUSINESS: none

NEW BUSINESS: next meeting changed to Wednesday, May 18, 2011 at 7:30 p.m.

There was no further business. The meeting adjourned at 8:35 p.m.

Walter Sutliff, Chairman

Maggie Tomaro, secretary

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
MAY 18, 2011
7:30 P.M.

1. ROLL CALL: **Sutliff, Brett, DiMichele, Flaiz**

2. MINUTES: 4-14-2011 **approved**

3. AGENDA:

   1. Development Review with Mark Derry. He wants to discuss renting space at 576 Industrial Parkway to open a business called Living Lean. He conducts exercise classes. **Brett, "I make a motion to approve the application as submitted for Living Lean for 576 Industrial Parkway as it appears that it would fit in well with the area that it's slated for. It would not detract from that area & it sounds like a good use of the building." DiMichele seconds. Roll call: all ayes. APPROVED**

   2. Continue to discuss campers, trailers, RV's, parked on residential properties. Flaiz & Ondrey will put something together combining Highland Heights restrictions with screening & present it to PC **Flaiz & Ondrey will prepare a draft of an ordinance & bring it to the next PC meeting**

   3. Continue to discuss internet cafés **Ondrey will prepare a draft of an ordinance & bring it to the next PC meeting**

4. OLD BUSINESS:

5. NEW BUSINESS: **NEXT MEETING: June 9, 2011 at 7:30 p.m.**

6. ADJOURN: **8:30 p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
RECORDS OF PROCEEDINGS
MAY 18, 2011
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Janice DiMichele, Jim Flaiz

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor, Ned Foley, Engineer

ABSENT: Ike Tripp

GUESTS:
Mark Derry, Living Lean, LLC 576 Industrial Parkway, SR

Sutliff called the meeting to order at 7:29 p.m. The minutes from 4-14-2011 were approved.

Development review with Mark Derry. He wants to discuss renting space at 576 Industrial Parkway to open a business called Living Lean. He conducts exercise classes.

Mark Derry, "What I do is personal training & small group fitness training. The space is 2,400 square feet. I'm moving from my place, my home, which was 450 square feet into this place. I was there 10 years."

New space is last building on the right. Hocevar, "It's the last unit in Tressler's building. The door is at the rear of the building. The door enters into the refinishing shop & the stairs lead up to the second floor." Derry, "It's a common entrance. It's on the second floor, above the furniture refinisher. I don't have a ton of equipment. I just need a bigger place."

This is a permitted use. Derry, "The biggest class size currently is 8 to 10 people. Clients like small classes; intimate like a semi-private group so they still get the attention. I still have some one on one clients which is me & one other person." He hopes to open in a couple of weeks.

DiMichele wondered if noise, jumping & equipment would interfere with the people below. Derry has ¾" mats that absorb sound & concrete floors. Most of his work is done before Ben (tenant on first floor) gets to work. Ben arrives at 9:30 a.m. Derry has three classes in the morning & ends at 9:30 a.m. There will be a couple of personal clients after that & one class at night."

There is sufficient parking. Hocevar talked to the electrician today. Repairs are minor. Hocevar to Derry, "The section for watching children, you've got to be careful with 5 kids & the state law turning that into some kind of day care. I just don't want you to start watching kids & you're doing it for a fee. If they just want to bring in their kids & have somebody watch them while they are working out for 45 minutes, it's not a big deal. But, if they start going a couple of hours …" Derry, "That's going to be mainly storage right now."

Derry does not see himself competing with Snap Fitness or the yoga studio. His place is not open to the public. Derry, "My clientele is very specific. It's a niche market. It's a fat loss market. People come there to get instruction from me& follow a program. Snap Fitness they do their own thing. That's becoming a fitness area & we all compliment each other."

Ondrey identifies criteria for development review approval. (pp.16 & 17, 3.04 Development Approval, (e). Review Standards) Ondrey, "It's pretty broad if it's a permitted use. We're just limited to traffic issues & compatibility with adjacent uses. Will it adversely affect neighboring properties? Will the plan of the development provide for integrated & harmonious design of buildings & structures & for adequate & properly arranged facilities for internal traffic circulation, off-street parking & loading, landscaping & such other features as may be necessary to make the project attractive? The next one is there adequate water supply. That is not an issue here."

Brett would like Mr. Derry to better define the activities of this business. Ondrey reads the application. 'Developmental Review for exercise classes'. Ondrey, "Between that & the minutes, we've got it clearly defined as to what we are talking about." Brett, "Ok. The thought that struck me was at some time in the future, you (Derry) started to do yoga. Then I think you are competing with the yoga studio." DiMichele, "So what if he wanted to do yoga?" Brett, "I would be concerned that this would detract from the existing yoga businesses." DiMichele, "I don't think that's our job. Is it?" Ondrey, "No. We really can't be concern with it. If there is a competitive business, if it is permitted by the zoning, then we really have to just consider the standards."

Brett, "I make a motion to approve the application as submitted for Living Lean for 576 Industrial Parkway as it appears that it would fit in well with the area that it's slated for. It would not detract from that area & it sounds like a good use of the building." DiMichele seconds. Roll call: all ayes. APPROVED

Continue to discuss campers, trailers, RV's parked on residential properties. Flaiz & Ondrey will put something together combining Highland Height restriction with screening & present it to PC

Ondrey & Flaiz conferred. Ondrey, "We feel the Highland Heights ordinance presented the easiest & quickest way to accomplish what you want. We'd like you to

consider adding to it a provision that the RV has to be on a pad or gravel. Willoughby has that. And a provision for screening if it were visible to neighboring properties." There is no ordinance prepared yet.

Flaiz likes about Highland Heights ordinance: to be stored in the community, it has to be titled to or leased & used exclusively by a resident. So people aren't storing other people's RV's." Ondrey to Flaiz, "I noticed the Highland Heights one didn't seem to prohibit the vehicle from being hooked up electrically. It prohibited other utilities like sewer & water. Other communities did have a prohibition against electrical hookup too. I can see where that would be a subject of debate. Someone might say, I'm trying to recharge my battery or the kids are sleeping there this weekend. We have to think about do we want to prohibit electrical hookups along with the other utility hookups?" Hocevar points out that it is in the Highland Heights one.

Brett, "I think there are a lot of people who store their motor homes & have them hooked up to power. I don't have an issue with that. My issue is when somebody does & starts to use it as a domicile." One reason for electricity: to keep the refrigerator running. Flaiz doesn't have a problem taking electricity out of the ordinance.

PC reviews Highland Heights ordinance & others. PC considers what things to incorporate into an ordinance for South Russell. (A.) adequately screened & not visible from adjoining properties, (B). The Building Commissioner will determine if the screening is appropriate, (C). It is to be parked on a hard surface or gravel, (D). to be parked at least 10 feet from the side & rear lines of the lot; **D.** of Highland Heights ordinance If there is a problem, the resident can apply for a variance.

Flaiz &Ondrey will prepare a draft of an ordinance & bring it to the next PC meeting.

The RV causing concern in the village has to be moved. It will not be grandfathered. Hocevar, "They told me they were going to move it as soon as the ground gets firm enough to tow that thing out & not to bring it back. That was the agreement we had. I just verified that with a letter I sent to the homeowner & said we are expecting some action down there."

Ondrey, "The grandfather issue would be an interesting one. I think we have good arguments if they are not grandfathered. They don't comply with our current zoning."

Hocevar explains that the homeowner's animals were in the RV to get them accustomed to it because they go to dog shows all over the country & they will be traveling in it.

Continue to discuss internet cafés

Ondrey, "We've been in limbo because we wanted a clear signal from Council. Are internet cafés a use you want to permit in commercial, industrial? The feedback seemed to be yes, go ahead. We are not going to prohibit them. Council is undertaking a

review of the actual regulations that will control them. How much to charge for licensing fees? Age limitations. Reporting requirements.

For the PC, we have to decide what zone you are willing to have them in. Do you want to make it a permitted use or a conditional use? That is what Middlefield & Chardon did. Do you want these minimum distances from churches, schools, playgrounds? The Middlefield/Chardon model was 250'. If you are going to allow them in the industrial area, you could run into a real practical problem because of the church up there."

Ondrey, "It seems to me that B-1 & I-1 districts are the logical choice for these things. (B-1 is north side of E. Washington Street; Cleveland Clinic & I-1 is south side of E. Washington St.) If you want to keep it simple you could tonight, say we recommend a creation of a zoning regulation for the internet cafés with those definitions that we sent out earlier, making them a conditional use in the two districts. Then decide what you want to do about these minimal distances from these various uses."

Ondrey, "If you approve it here, it goes to Council who has to hold a public hearing on the zoning amendment. The idea is to try & coordinate all of this so they all get adopted virtually at the same meeting."

Ondrey, "Right now if someone made an application in the B-1 district, they might have some arguments that they ought to be allowed under our current zoning. We really don't have any regulations to control them other than parking & setbacks. That's another thing to think about is parking. The Middlefield/Chardon model was 1½ spaces for each computer terminal.'

Flaiz, "I don't think anybody's going to come to the Village & open up a stand alone business with 20 terminals. What I could see happening is the Bell Station wants to put one in. Panini's wants to put 2 in. We have to decide where they can go. Council is inclined to have pretty high fees & put regulations like no one under 21 is allowed in. I think Council is waiting for PC to determine what zoning district these are permitted in."

Sutliff, "These are permitted?" Ondrey, "That's controversial. It's almost evenly balanced. Some courts say it's a form of gambling & say you can't have them. Other courts said, this is not gambling. There is no skill involved. It's an issue of the odds.'

Ondrey, "It's not as if Council wants this. It came from me. Applications are popping up all over Cleveland & we don't have any regulations." Brett, "The choices are create regulations or prohibit them." Flaiz, "What I presented to Council was that I thought it was going to be the industrial district is where PC was going. Council seemed fine with that. "

PC agrees to limit internet cafés to B-1 & I1 districts. It will be a conditional use, no minimum feet from churches, preschool etc., 1 parking space per terminal. Ondrey will prepare a draft of an ordinance & bring it to the next PC meeting.

OLD BUSINESS: Re. Burntwood Tavern, 504 E. Washington. Hocevar received appropriate documentation for restaurant to have valet service. The outside patio is open.

NEW BUSINESS: Hocevar explains that "there is a residential property, a home, at 552 East Washington St. It's next to Panini's, in a B-1, I1 district. The gentleman who owns it, plans to live upstairs & would like to turn the first floor into a pizza shop. He's got enough area. He can fit in with all the setbacks. It's going to be like a gourmet pizza shop. He'll probably put a few tables in there, mostly carry out."

Ondrey, "Right now it's in the commercial district, but it's used as a residence. Our position would be that he is grandfathered to live upstairs. He could open a pizza shop because that's permitted as a commercial use." Hocevar, "You're right. He's got some building code issues. He's aware of them. He owns the property. He's been there a long time & said it's useless to pay taxes on commercial property & not utilizing the property to its fullest.

If he decides to do this, he has to come to PC & present the site plan, the parking, his hours. With the changes to the outside, he'll have to go to the ABR."

The next meeting is set for June 9, 2011 at 7:30 p.m.

There was no further business. The meeting adjourned at 8:30 p.m.

Walter Sutliff, Chairman

Maggie Tomaro, secretary

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
JUNE 9, 2011
7:30 P.M.

1. ROLL CALL: **Sutliff, Brett, Tripp, DiMichele**

2. MINUTES: 5-18-11 **tabled to next meeting**
3. AGENDA:
   1. Formal discussion/development review with J.F. Riley. He hopes to open a "food manufacturing, research & development. Small outlet store" at 524 East Washington St. **DiMichele, "I make a motion that we give our approval for this use at this property. Conditions: the parking lot is to be delineated, plumbing has to be inspected by the county, get approval from the Department of Agriculture." Tripp second. Roll call: all ayes. CONDITIONAL APPROVAL**
   2. Jim Flaiz & David Ondrey will present a draft of an "ordinance amending Sections 2.01 & 4.01 of the zoning code of the Village of SR by adding the definition of "recreational vehicles" & providing for regulations for the parking of recreational vehicles outdoors in residential areas D. Ondrey sent PC this ordinance via e-mail. **Brett, "I move to recommend this ordinance to council & make that change on Pp. 3, 10F, the typo from (49) to (48) hours." DiMichele second. Roll call: all ayes. CONDITIONAL APPROVAL**
   3. Jim Flaiz & David Ondrey will present an "ordinance amending the zoning code of the Village of South Russell to permit internet sweepstakes cafes as "Conditional" uses in the B-1 & I-1 commercial & industrial zoning districts respectively; & providing certain definitions, regulations, & minimum off-street parking requirements for such conditional uses. D. Ondrey sent PC this ordinance via e-mail. **Brett, "I move that we make a motion to recommend the ordinance amending the zoning code to permit internet sweepstakes cafes as "Conditional" uses in the B-1 & I-1 districts. That is introduced without Section 3. (5)." DiMichele second. Roll call: all ayes. CONDITIONAL APPROVAL**

4. OLD BUSINESS: **man who is considering a gourmet pizza place at 552 E. Washington St. intends to submit drawings to the Building Dept.**

5. NEW BUSINESS: **Jim Flaiz & his wife welcomed a baby boy today!**
   NEXT MEETING: JULY 14, 2011 AT 7:30 P.M.

6. ADJOURN: **8:10p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
RECORD OF PROCEEDINGS
JUNE 9, 2011
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Ike Tripp, Janice DiMichele

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor

ABSENT: Jim Flaiz, Ned Foley, Engineer

GUESTS:
-Joe Riley, 2814 25th NE Hickory, NC / J.F Riley & Co. Innovative Snack Food, Development & Manufacturing (231) 645-0707 / JFRiley3@aol.com
-Jeff Calig, 23279 Shelbourne Rd. Shaker Hts. Ohio
-David Jezek, owner of property at former Milbar Co. 524 E. Washington St.

Sutliff called the meeting to order at 7:30 p.m. Approval of the minutes from 5-18-11 were tabled until the next meeting.

Formal discussion/development review with J.F. Riley. He hopes to open a "food manufacturing, research & development; small outlet store" at 524 East Washington Street.

Mr. Riley, "We looked at the building on East Washington Street to put a food manufacturing, research & development & in time put a small outlet store to sell the overruns of product. We manufacture everything that we sell. The company will only have a handful of customers. There are larger snack food companies; we'll be manufacturing products for those companies in their packaging."

The building they intend to use is behind Chagrin Yoga. It's a one story structure that looks like a two story. Currently, it's empty. It's 30,000 square feet.

Mr. Riley, "I've been in the food manufacturing business a long time. This will be a new entity. Originally, when we started to look at this, it was going to be part of a company that I was working at in North Carolina. They backed out of this project. Myself, my partner who is a CPA from Michigan & another gentleman who owns a distributing company in Toronto most likely will be the three equity partners in the company."

Mr. Riley provided samples of the snacks he intends to manufacture: a variety of mini rice cakes i.e. sweet potato & tortilla chips.

Sutliff, "Are you regulated by USDA?" Riley, "We're regulated by the Department of Agriculture. USDA gets involved with meat & dairy. Everything we process is all natural. There are no chemicals, no preservatives for the most part. We'll be organic certified, gluten free. The Department of Agriculture will inspect us for food safety & personnel safety. I'm assuming the fire department & building inspector will come for their inspections."

Riley, "Most of the food we buy comes in 50 pound or 250 pound bags; corn, wheat, rice."

Tripp, "How many people do you anticipate employing at the facility?" Riley, "Once we are up & running, about 50." Hocevar, "The parking area is not designated yet. They've done some rough measurements. I think there is plenty of parking back there." Jezek, "We have about 150 spaces in the back lot." Riley, "I would guess it's a 5 day operation; two shifts. We're co-packaging for someone else." Tripp, "The retail store, what area of space will that take?" Riley, "I would guess it wouldn't be more than a 1,000 square feet. It'll probably sit inside the front of the building."

Brett asks for a summary: how many trucks does Riley envision? What kind of trucks? Riley, "On a daily basis - once we are up & running, probably 6 to 9 months – there will be 1 maybe 2 semi's a day that will come to the property. They'd come down that side street & come in the back to the loading dock area. Fed Ex or UPS would come at least once a day. All the raw materials will come in on semi's. A lot of what we make is corn based. A lot of our corn is coming from a mill outside of Indianapolis, Indiana & another one outside of Dayton, Ohio."

Riley, "I've been in the food business for awhile. I do co-packaging for a number of customers. There are a few sizable customers that are not happy with who they are getting their product made by. I was part of a group that was going to start a new company to do this. We looked at a number of locations, this being one of them."

DiMichele, "Good Health Natural Foods isn't your brand." Riley, "Good Health is a brand owned by (Golden Science: not sure if that is what he said.) I am a manufacturer for them."

PROCESS: There will be ovens. Riley, "Each of these items are made on different lines. The tortilla chips: that raw material will be corn or corn flour, it comes in dry. We mix it with water, lime juice. It's put on a machine called a sheeter, which makes the dough thin & cuts it to size. It goes through an oven. The moisture has been removed from that chip. It's cooled down to room temperature & then it drops down into a deep fryer. It's fried for about 17 seconds. It's cooled, seasoned & it goes to be packaged."

ODORS: Riley, "I t smells good. If you ever drive by a bakery & you can smell the bread in the air, this would be like smelling tortilla chips in the air. I've never had a complaint. It would be during the shifts if we are running that line. We plan to have 3

lines. One will be a fry line that has a deep fryer. The others are baking processes where we are using pressure or high temperature heat to make a product."

Tripp, "Given you are making gluten free products & kosher products & 0 Trans fat, your snack food is more healthy. The oil you will use is much higher quality…" Riley, "Most of the oil we use is hiolectic sunflower & non hydrogenated oil."

Sprinklers required? Hocevar, "No. The way the building is constructed with the separations & masonry construction & what he is relating to us as far as the use, they are going to have to go through a building code & review everything, I don't think it's going to be an issue only because of the construction in that building." Riley, "The one thing that we have that poses a fire hazard is the deep fryer. That has a self contained fire suppression system. Should there be a fire, it automatically goes off & extinguishes…"

Jezek, "Although it's a 30,000 square foot building, it's actually split into 10,000 square foot modules. Generally, you are not required to sprinkle under 12,000 square feet. These have fire doors that drop automatically." It is Chagrin Falls water.

Riley, "Once we are up & running, I guess 6-12 months down the road, we'll probably employ approximately 50 people. That includes office & management. The plant will probably work 2 shifts a day, 5 days a week." Hocevar, "It's an overlay." Ondrey, "The use is ok with manufacture & research."

Hocevar, "We don't have any construction drawings yet. I went through the building yesterday, the parking lot today. I don't see anything wrong. There will be minor things & we'll deal with them as they come."

FUTURE: Riley, "We are leasing 30,000 square feet. There are two 10,000 square feet additions to the building. We have an option to lease them."

PC & applicant review computer GIS images & discuss

Brett, "When that was a manufacturing facility, Milbar, they would have had semi's coming in & out. I don't know if you'd say daily." Tripp, "Absolutely. Daily I'm sure they had any where from 3 to 5 & as many as 15 to 20 a day. That's why they've got the loading docks."

PC is to consider: traffic arrangement to make sure it is safe & logical, impact on adjacent neighborhoods Hocevar, "**One of the things you'd want is a delineated parking area, mark spaces"**

Brett, "Fitting in with the surrounding businesses there, I don't see that there is an issue with this." PC agrees. **DiMichele, "I make a motion that we give our approval for this use at this property. Conditions: the parking is to be delineated, plumbing has to be inspected by the county, get approval from the Department of Agriculture. Tripp second. Roll call: all ayes. CONDITIONAL APPROVAL**

Timing: Riley, "If we finalize the lease today, we'll take position of the building July 1st. We'll get equipment shipped in & probably start making tortilla chips August 1 st. By the end of summer we'd have 3 lines running."

Jim Flaiz & David Ondrey will present a draft of an "ordinance amending Sections 2.01 & 4.01 of the zoning code of the village of SR by adding the definition of "recreational vehicles" & providing for regulations for the parking of recreational vehicles outdoors in residential areas."

Ondrey reported that the proposed ordinance was modeled after Highland Heights definitions. Ondrey, "We did a couple things such as: we allow connections to electricity, but not to other utilities (10. B). We're keeping out animals or pets (10.C). We allow them to park it right up next to the garage which is different than what the other one had (10. D). We added a requirement for screening if the vehicle is visible from adjoining premises (10. J). Pp. 3, 10. F. we will change (49) hours to (48)."

Tripp requests explanation as to why PC has this new ordinance. Brett explains. He summarizes the problems with the RV on Maple Hill. It has been moved. Tripp, "There is a number of neighborhoods, for example, Bramble Farms, that have by-laws. The by-laws address specifically RV's. In fact, it prohibits parking RV's, except if someone is visiting over night. We are allowing something that may be prohibited by by-laws in Bramble farms, Chagrin Lakes." Ondrey, "This won't affect that. If their by-laws prohibit them or restrict them, are tougher than these, than those by-laws take precedent. Those are essentially a contract between those homeowners & their association. Our regulations will not preclude the enforcement of those, whether we say it or not."

Brett, "I move to recommend this ordinance to council & make that change on Pp. 3, 10 F, the typo from (49) to (48) hours." DiMichele second. Roll call: all ayes. CONDITIONAL APPROVAL

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Ondrey refers to Pp. 2, Section 3 # 5; the distance these are to be from each other. Ondrey, "We basically copied what Middlefield & Chardon & other communities have done already. But, since we have such a small area, I didn't know if any minimum distance; if it mattered to you. I left it blank. PC discusses & decides to delete #5.

The state has decided it is going to try & come up with some uniform regulations to make sure they aren't gambling places. That seems to be the controversy. If they are run a certain way, they can lean quickly into actual gambling. The state is going to make those regulations to put the rest of us at ease that we aren't allowing gambling into our communities."

No one has formally approached SR to open one of these operations. There is a moratorium on these. It's up in July 2011. The village has the option to extend it. Ondrey tells PC that council is considering a companion set of regulations that will deal with issues such as: licensing fees, age limitations, reporting requirements. None of those are zoning issue. They are being handled separately. The ordinance has to go through 3 readings, which could take 3 months. Council can waive the 3 readings. At a minimum, a Public Hearing is required.

Brett, "I move that we make a motion to recommend the ordinance amending the zoning code to permit internet sweepstakes cafes as "Conditional" uses in the B-1 & I-1 districts. That is introduced without Section 3. (5)." DiMichele second. Roll call: all ayes. CONDITIONAL APPROVAL

OLD BUSINESS: Hocevar talked with the man who is thinking about a new gourmet pizza place at 552 East Washington St. He intends to submit drawings to the village.

NEW BUSINESS: Jim Flaiz & his wife welcomed a baby boy today!!!!!!
If someone intends to make a presentation to the PC, the next meeting will be July 14, 2011 at 7:30 P.m. Tripp might not be able to attend a meeting on that date. Otherwise, the PC will meet August 11, 2011 at 7:30 p.m.

There was no further business. The meeting adjourned at 8:10 p.m.

Walter Sutliff, Chairman

Maggie Tomaro, secretary

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There was no further business. The meeting adjourned at 8:10 p.m.

Walter Sutliff, Chairman

Maggie Tomaro, secretary

Approved
11-17-11

Original
+ when send out to
people, remember to note
to the folks to read +
bring copy of min. from
5-18-11 (I distributed
them on 5-18-11)

By BARBARA CHRISTIAN

The homeowners at 51 W. Cottage St. in Chagrin Falls said Monday they intend to file a lawsuit against developers of the neighboring Falls Walk condominium project, claiming hillside excavation has damaged their property.

James Weingart and his wife, Patricia, said they will join Terry and David Mitchell in the lawsuit filed in April against Silver Leaf V
oper Robert Vitt.

Mr. Weingart said the outside wall of his home is beginning to bow, the foundation is showing signs of "crumbling," and an older flagstone patio which "has been there forever" is beginning to slide down the hill.

The home, an investment property for the Weingarts, who live in Moreland Hills, is currently rented.

"The tenant is nervous about sleeping in the bedroom at the rear of the house," Weingart said, adding that the renter not said anything about moving out.

According to Mr. Weingart, problems for his and the Mitchells' properties began when the developer cleared the hillside last year then let it sit fallow during a prolonged rainy season. He said the ground softened on the hill.

Retaining walls are planned for the hillside but have not been built, Mr. Weingart said.

The Mitchells moved out of their home in April on advice from their engineer, they said.

Chagrin Falls Village Administrator Benjamin Himes said Monday he sympathizes with the Mitchells, but his legal obligations forced him to order the home repaired or demolished.

The Mitchells' attorney, Thomas Merriman, notified the village in writing that their house "appears to be moving rapidly toward collapse" and poses a hazard to the public, Mr. Himes said, quoting the notification.

On the strength of that information,

Please turn to next page

THE TIMES, JUNE 23, 2011

50 jobs coming to South Russell

By JOAN DEMIRJIAN

South Russell Mayor Matthew Brett told Village Council Monday that a manufacturing business planning to locate in the village is expected to bring 50 new jobs.

The J.F. Riley and Co., of Hickory, N.C., has told village officials that it is planning to establish a satellite facility in the former Milbar Co. property on East Washington Street.

J.F. Riley and Co. is a manufacturer of tortilla chips and other snack foods, Mr. Brett said. "They are high-end products."

The manufacturing firm makes the products at the site and supplies them to companies with the companies' labels.

There is a potential for an August opening, he

Please turn to next page

over →



"We can finally proceed."

Robert A. Lee
superintendent

Groundbreaking planned for wind turbine in Kenston

By SUE HOFFMAN

The Kenston School District is moving ahead to break ground this summer for the installation of a new 750-kilowatt wind turbine.

The school board approved a contract Monday with Marous Brothers Construction, of Willoughby, which had the lowest bid on the project.

The total cost of $1,958,500 includes an alternate bid on an ice sensor for $8,500. The ice sensor is a safety device that checks for ice buildup on the blades.

Marous Brothers' bid includes the purchase of a turbine from Aeronautica, which is headquartered in Massachusetts. The purchase has been approved by the Ohio Department of Development.

"We can finally proceed," School Superintendent Robert A. Lee said about the project, which has been in the planning for 4 1/2 years. "Environmental studies have been completed. We have the money to proceed and the blessing of the state and federal agencies to move forward."

According to funding requirements, the turbine must be installed by March 2012, Dr. Lee said. "We will start this

Please turn to next page

CVT 6-23-11

PC 6-9-11

ORDINANCE NO.: 2011-_____ FIRST READING _____
SECOND READING _____
INTRODUCED BY: _____ PUBLIC HEARING _____
THIRD READING _____

ORDINANCE AMENDING THE ZONING CODE OF THE VILLAGE OF SOUTH RUSSELL TO PERMIT INTERNET SWEEPSTAKES CAFES AS "CONDITIONAL" USES IN THE B-1 AND I-1 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS RESPECTIVELY; AND PROVIDING CERTAIN DEFINITIONS, REGULATIONS, AND MINIMUM OFF-STREET PARKING REQUIREMENTS FOR SUCH CONDITIONAL USES.

WHEREAS, the Village of South Russell is considering the adoption of an Ordinance regulating the operation of "Computerized Internet Sweepstakes Cafes" in the Village of South Russell, Ohio; and

WHEREAS, a "Computerized Internet Sweepstakes Café" is recognized as a unique use or accessory use due to the impact upon the community of such business operations; and

WHEREAS, the Village recognizes the necessity of restricting the location of "computerized internet sweepstakes cafes" to the B-1 and I-1 zoning districts as a conditional use; and

WHEREAS, the Planning Commission recommended the adoption of this Ordinance on 6-9, 2011.

NOW, THEREFORE BE IT ORDAINED by the Council of the Village of South Russell, County of Geauga, State of Ohio, that:

SECTION 1: Section 2.01 "General Terms" of the Zoning Code of the Village of South Russell shall be amended by adding the following definitions:

1. Computerized Sweepstakes Device:

Computerized Sweepstakes Device" means a computer, machine, game or apparatus including an individual computer terminal screen which may be operated by the public generally for participation in a sweepstakes and which does not violate the Ohio Revised Code or municipal ordinance prohibitions upon gambling. No electronic or computerized sweepstakes device, game play or outcome shall have as a component thereof, or shall be operated or determined by, a random number generator (RNG) or compensating algorithm. The game play and outcome shall be determined by or from a finite pre-determined pool, with the odds of winning stated in the sweepstakes "Official Game Rules".

2. Sweepstakes Terminal Café and Computerized Internet Sweepstakes Café:

"Sweepstakes Terminal Café" and "Computerized Internet Sweepstakes Café" means the premises or the portion of the premises upon which computerized sweepstake devices are located for the use or entertainment of the public, whether or not such premises are operating under a zoning certificate for another use or business purpose.

SECTION 2: Sections 5.01 and 6.01 of the Zoning Code of the Village of South Russell shall be amended by adding "Computerized Internet Sweepstakes Café" to the Conditional Uses listed for the B-1 District and for the I-1 District.

SECTION 3. Section 7.02 of the Zoning Code of the Village of South Russell shall be amended by adding the following new paragraph (Z) as follows:

(z) Computerized Internet Sweepstakes Café shall be subject to the following conditions:

(1) The board shall consider the impact that the use will have on the adjacent properties, such as lighting, noise, signs, traffic and parking.

(2) All activities associated with the use shall be conducted in an enclosed building.

(3) The area of the premises upon which the Computerized Internet Sweepstakes Café is operated shall comply with the Codified Ordinances of the Village of South Russell's regulations of computerized internet sweepstakes cafes.

(4) All computerized sweepstakes devices on the premises shall be identified in the application by manufacturer and serial number and listed in the approved zoning certificate.

(5) The proposed use shall be located more than _____ feet from another licensed computerized internet sweepstakes café. The distance shall be measured in a straight line, without regard to intervening structures or objects, from the closest external wall of the building or structure in which each computerized internet sweepstakes café is located.

SECTION 4. Sections 5.05 and 6.05 of the Zoning Code of the Village of South Russell shall be amended by adding the Conditional Use "Computerized Internet Sweepstakes Café" and establishing the minimum required spaces for parking as one per Computerized Sweepstakes Device, plus one space for each employee on a single shift.

SECTION 5. The Conditional Use Regulation Chart found at Section 7.02 of the Zoning Code of the Village of South Russell shall be amended by adding the words "Computerized

Internet Sweepstakes Cafes to the list of Conditional Uses for the B-1 and I-1 Zoning Districts. In the B-1 District the regulations shall be identical to those set forth for "Commercial Amusements". In the I-1 District the regulations shall be identical to those set forth for "Commercial Amusements" in the B-1 District.

SECTION 6. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

SECTION 7. This Ordinance shall take effect and be in full force at the earliest time allowed by law.

_____
Mayor - President of Council

ATTEST:

_____
Fiscal Officer

I certify that Ordinance No. 2011-_____ was duly enacted on the _____ day of _____, 2011, by the Council of the Village of South Russell, and posted in accordance with the Ordinances of the Village.

_____
Fiscal Officer

Https://Portal.Tddlaw.Com:444/Active Clients/South Russell/Ordinances/2011/Amending Zoning Code - Internet Sweepstakes Cafes.Docx

PC 6-9-11

ORDINANCE NO.: 2011-_____ FIRST READING _____
SECOND READING _____
INTRODUCED BY: _____ PUBLIC HEARING _____
THIRD READING _____

ORDINANCE AMENDING SECTIONS 2.01 AND 4.01 OF THE ZONING CODE OF THE VILLAGE OF SOUTH RUSSELL BY ADDING THE DEFINITION OF "RECREATIONAL VEHICLES" AND PROVIDING FOR REGULATIONS FOR THE PARKING OF RECREATIONAL VEHICLES OUTDOORS IN RESIDENTIAL AREAS.

WHEREAS, the outdoor parking or storage of certain vehicles commonly known as recreational vehicles may present certain unique and potentially problematic issues effecting the health, safety and welfare of the residents of the Village of South Russell; and

WHEREAS, the parking and storage of such vehicles outdoors may also impact property values and aesthetics of residential neighborhoods; and

WHEREAS, the Planning Commission has recommended the adoption of certain new zoning regulations to govern and control such use in residential areas.

NOW, THEREFORE BE IT ORDAINED by the Council of the Village of South Russell, County of Geauga, State of Ohio, that:

SECTION 1: Section 2.01 of the Zoning Code of the Village of South Russell shall be amended to include the following definition:

Recreational Vehicle: shall include the following:

A. A travel trailer, means a non-self-propelled recreational vehicle, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation use, and permanently identified "travel trailer" by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer as defined in Ohio R.C. §4517.01;

B. A pickup camper, i.e., a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation use;

C. A motor home means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle, and designed for travel, recreational and vacation use and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

D. A folding tent trailer, i.e., a canvas folding structure, mounted on wheels and designed for travel, recreational and vacation use;

E. Boats and boat trailers, including boats, canoes, floats and rafts, snowmobiles, all-terrain vehicles, plus the normal equipment to transport the same on a street or highway;

F. "Park Trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A110.5 (1988) for park trailers, is built in a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

G. "Truck Camper" means a non-self-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

SECTION 2: Section 4.01 of the Zoning Code of the Village of South Russell shall be amended by adding new paragraph 10 to read as follows:

10. Parking of Recreational Vehicle.

(1) Any recreational vehicle may be parked or stored outdoors in a residential zoning district on a paved or gravel surface only, subject to the regulations contained herein.

A. No recreational vehicle shall be parked or stored unless it is titled to or leased and used exclusively by one of the permanent occupants of the residence where the recreational vehicle is located.

B. A recreational vehicle shall not have connections to water, gas or sanitary sewers, but may be connected to electricity.

C. A recreational vehicle shall not be used for living, housekeeping or similar purposes, including the harboring of animals or pets.

D. A recreational vehicle parked or stored outside a garage or enclosed structure shall not be parked or stored in the front yard of the lot and shall be stored or parked at least ten feet from the side and rear lot lines of the lot.

E. A recreational vehicle parked outside of a garage or enclosed structure shall be licensed pursuant to State law.

F. A recreational vehicle may be parked on any premises for loading or unloading purposes for a period of not more than forty-eight (~~49~~ 48) hours so long as such parking does not obstruct pedestrian or vehicular traffic of adjoining or abutting properties.

G. No person, being the owner or operator of a recreational vehicle, shall park or store such vehicle in a residential zoning district of the Village in violation of any of the regulations set forth in this section.

H. No person, being the owner and/or occupant of or having possession of real property in a residential zoning district of the Village shall permit a recreational vehicle to be parked or stored thereon in violation of any of the regulations set forth in this section.

I. No more than one recreational vehicle per premise may so be parked.

J. A recreational vehicle parked or stored outdoors must be adequately screened, if visible from any adjoining premises, as approved by the Building Inspector.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

SECTION 4. This Ordinance shall take effect and be in full force at the earliest time allowed by law.

_____
Mayor - President of Council

ATTEST:

_____
Fiscal Officer

I certify that Ordinance No. 2011-_____ was duly enacted on the _____ day of _____, 2011, by the Council of the Village of South Russell, and posted in accordance with the Ordinances of the Village.

_____
Fiscal Officer

PC 3-10-11 + 5-18-11

Hard Surface & screening

HIGHLAND HEIGHTS

A. A travel trailer, means a non self-propelled **recreational vehicle**, portable structure built on a chassis designed to be used as a temporary dwelling for travel, **recreational** and vacation use, and permanently identified "travel trailer" by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer as defined in Ohio R.C. 4517.01;

B. A pickup camper, i.e., a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, **recreational** and vacation use;

C. A motor home means a portable dwelling designed and constructed as an integral part of a self-propelled **vehicle**, and designed for travel, **recreational** and vacation use and is constructed with permanently installed facilities for cold-storage, cooking and consuming of food, and for sleeping;

D. A folding tent trailer, i.e., a canvas folding structure, mounted on wheels and designed for travel, **recreational** and vacation use; and,

E. Boats and boat trailers, including boats, canoes, floats and rafts, snowmobiles, all-terrain **vehicles**, plus the normal equipment to transport the same on a street or highway;

F. "Park Trailer" means a **vehicle** that is commonly known as a park model **recreational vehicle**, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold- storage, cooking and consuming of food, and for sleeping;

G. "Truck Camper" means a nonself-propelled **recreational vehicle** that does not have wheels for road use and is designed to be placed upon and attached to a motor **vehicle**. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(b) **Parking of Recreational Vehicles.**

(1) Any **recreational vehicle** may be parked or stored in a residential area subject to the regulations contained herein.

A. No **recreational vehicle** shall be parked or stored unless it is titled to or leased and used exclusively by one of the permanent occupants of the residence where the **recreational vehicle** is located.

B. A **recreational vehicle** shall not have connections to water, ~~electricity~~, out gas or sanitary sewers.

C. A **recreational vehicle** shall not be used for living, housekeeping or similar purposes.

D. A **recreational vehicle** parked or stored outside a garage or enclosed structure shall not be parked or stored in the front ~~yard~~ of the lot and shall be stored or parked at least ~~ten~~ feet from the side and rear lot lines of the lot and ~~ten feet from the enclosed structure or garage~~. If the residence has a rear entry garage, then the **recreational vehicle** may be parked behind the entrance to the garage.

E. A **recreational vehicle** parked outside of a garage or enclosed structure shall be licensed pursuant to State law.

F. A **recreational vehicle** may be parked on any premises for loading or unloading purposes for a period of not more than forty-eight (48) hours so long as such **parking** does not obstruct pedestrian or vehicular traffic of adjoining or abutting properties.

G. No person, being the owner or operator of a **recreational vehicle**, shall park or store such **vehicle** in a residential area of the city in violation of any of the regulations set forth in this section.

H. No person, being the owner and/or occupant of or having possession of real property in a residential area of the City, shall permit a **recreational vehicle** to be parked or stored thereon in violation of any of the regulations set forth in this section.

I. No more than one **recreational vehicle** per premise may so be parked.

(P.C. 6-9-11)

FORM Z-1
PAGE 1

APPLICATION FOR
ZONING PERMIT

VILLAGE OF
SOUTH RUSSELL, OHIO

Zoning Permit Application
No._____

HOUSE/BUILDING NUMBER AND STREET 524 E. WASHINGTON ST., CHAGRIN FALLS, OH
SUBLOT NO._____ SUBDIVISION_____ PHASE_____
LOT WIDTH: FRONT_____ REAR_____ LOT DEPTH: LEFT_____ RIGHT_____
TOTAL LOT SIZE: _____ TOTAL PROJECT SQ. FT._____ AVERAGE HEIGHT_____
EXISTING USE: RESIDENTIAL_____ COMMERCIAL: X EXISTING ZONING: _____
NEW:____ ADDT'N/ALT'N:____ HABITABLE:____ NON-HABITABLE:____ ACCESS.STR.____
WILL PLACEMENT BE TO THE: FRONT___ SIDE___ REAR___ PROPOSED FRONT YARD_____

APPLICATION FOR: J.F. Riley & Co. FOOD MANUFACTURING, RESEARCH AND DEVELOPMENT, SMALL OUTLET STORE

FOR FENCING: NEW TOTAL LENGTH CONNECTED:_____
TOTAL FENCING ON LOT (NEW AND EXISTING_____

FOR SIGNS: BUILDING FRONTAGE:_____ USAGE TYPE_____ LOCATION TYPE_____

OWNER NAME: ~~DEVELOPERS~~ Joseph F. Riley **OWNER ADDRESS:** 2814 25TH STREET NE HICKORY, NC 28601

APPLICANT'S SIGNATURE [signature] **DATE:** MAY 25, 2011
231-645-0707

ZONING INSPECTOR having reviewed this application and blue prints finds the following action:

Signature_____ Date:_____

FORWARDED TO PLANNING COMMISSION: ✓ ZONING BOARD OF APPEALS:_____

Required action of PC on 6-9, ~~200~~ 2011 was as follows:

Approval:___ Conditional approval: ✓ Disapproval:___ Conditions attached:___ Conditions: must have deliniated parking spaces

Signature: MD Tomaio Date: 6-9-11

Zoning Inspector per the above Board action, hereby takes the following action:

Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____

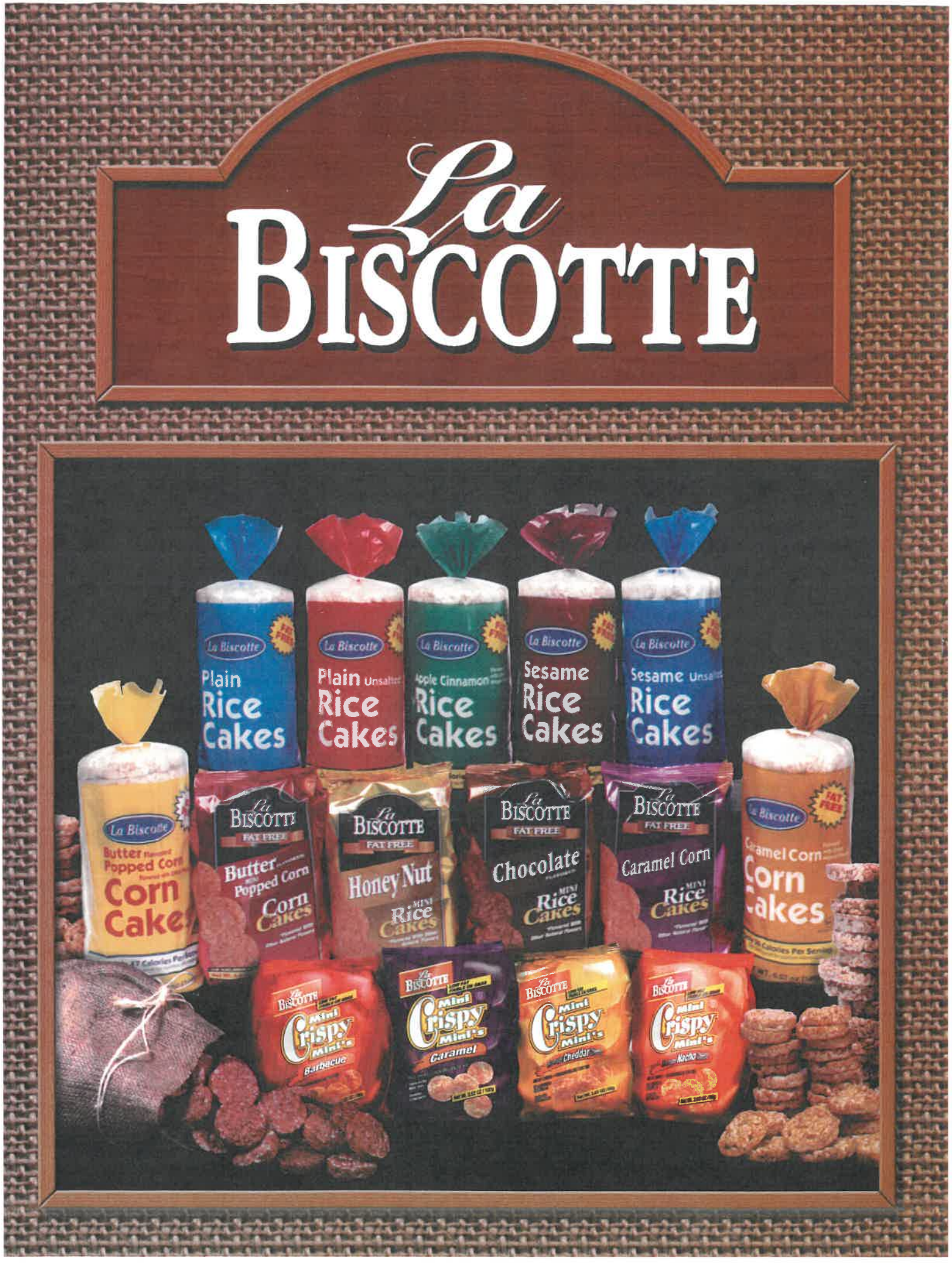
Good Health® Natural Foods

ALL NATURAL
GLUTEN FREE
0 Grams Trans Fat

Poppin Chips



PC
6-9-11


La Biscotte
Plain Rice Cakes
Plain Unsalted Rice Cakes
Apple Cinnamon Rice Cakes
Sesame Rice Cakes
Sesame Unsalted Rice Cakes
Butter Popped Corn Corn Cakes
Butter Popped Corn Corn Cakes
Honey Nut Mini Rice Cakes
Chocolate Mini Rice Cakes
Caramel Corn Mini Rice Cakes
Caramel Corn Corn Cakes
Mini Crispy Mini's Barbecue
Mini Crispy Mini's Caramel
Mini Crispy Mini's Cheddar
Mini Crispy Mini's Nacho

LA BISCOTTE 2000 INC.

With its incredible freshness, crisp taste and delicious flavour La Biscotte is the Rice Cake to eat.

Since the late 1980's we have consistently been producing the best tasting rice cakes on the planet. With the freshest of ingredients, and most up to date production line La Biscotte rice cakes taste natural, light and always fresh. Try it for yourself, and we know you will be back for more and more. Enjoy!!

Michael Zimlichman, President.

SPECIFICATIONS

Products	Master UPC Number	Item Number	Item Description	Case Pack	Case Weight	Case Cube	Case Dimensions	Cases Per Truckload	Pallets Per Truckload	Pallet Tie-Hi	Cases Per Pallet
La Biscotte Crispy Mini Rice Cake 	7-70268	00032	3.03 oz. Caramel	12	3.03 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
	7-70268	00033	3.03 oz. Barbecue	12	3.03 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
	7-70268	00034	3.03 oz. Cheddar Cheese	12	3.03 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
	7-70268	00035	3.03 oz. Nacho Cheese	12	3.03 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
La Biscotte Regular Mini Rice Cake 	7-70268	00028-8	4 oz. Caramel	12	5 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
	7-70268	00029-5	4 oz. Honey Nut	12	5 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
	7-70268	00030-8	4 oz. Chocolate	12	5 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
	7-70268	00031-8	4 oz. Butter Popped	12	5 lbs.	1.01	21" x 9.5" x 8.75"	2,520	28	10 x 9	90
La Biscotte Uncoated Large Rice Cake 	7-49031	10002-9	5.2 oz. Plain Salted	12	5.3 lbs.	1.27	17.5" x 12.75" x 10"	2,016	28	9 x 8	72
	7-49031	10003-6	5.2 oz. Plain Unsalted	12	5.3 lbs.	1.27	17.5" x 12.75" x 10"	2,016	28	9 x 8	72
	7-49031	10007-4	5.2 oz. Sesame Salted	12	5.3 lbs.	1.27	17.5" x 12.75" x 10"	2,016	28	9 x 8	72
	7-49031	10008-1	5.2 oz. Sesame Unsalted	12	5.3 lbs.	1.27	17.5" x 12.75" x 10"	2,016	28	9 x 8	72
La Biscotte Coated Large Rice Cake 	7-49031	10004-3	6.5 oz. Butter	12	5.9 lbs.	1.27	17.5" x 12.75" x 10"	2,016	28	9 x 8	72
	7-49031	10005-0	6.5 oz. Caramel	12	7.3 lbs.	1.27	17.5" x 12.75" x 10"	2,016	28	9 x 8	72
	7-49031	10006-7	6.5 oz. Apple Cinnamon	12	7.3 lbs.	1.27	17.5" x 12.75" x 10"	2,016	28	9 x 8	72

LA BISCOTTE 2000 INC.
12 222 Albert Hudon
Montreal, Quebec, H16 3K7
Canada
Tel: 514-326-4613
Fax: 514-326-9423

PC
6-9-11



Joseph F. Riley
231-645-0707
JFRiley3@aol.com

J.F. RILEY & CO.
INNOVATIVE SNACK FOOD
DEVELOPMENT & MANUFACTURING

PC
6-9-11

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
NOVEMBER 17, 2011
7:30 P.M.

1. ROLL CALL: **Sutliff, Brett, DiMichele, Flaiz,**

2. MINUTES: 5-18-2011 & 6-9-2011 **approved**

3. AGENDA:

Development Review with Bret Adams of Burntwood Tavern, 504 East Washington Street. The building is a non-conforming structure. Mr. Adams installed a patio roof extension that is 26' X 34' without securing permits from the Building Department. It cannot be enlarged or added on to without conforming to present requirements. The side yard setback is three feet, two inches. Current side yard setback requirement is 15 feet. A variance was approved for 11 feet 10 inches on 10-25-2011.

Parking is a concern for PC not ZBA. A letter written & notarized, 10-25-2011, by Ed Gottschalk regarding parking has been given to PC.

Flaiz, "I make a motion to approve the patio roof. It is approved with conditions: 1. The patio remains closed until the owners of the restaurant (Bret Adams & or partners) are able to come back & demonstrate to the Building Department that they have adequate off site parking to allow its reopening. (2). It has to meet commercial standards & regulations. (3). They need to verify the number of seats inside. I don't think this (drawing) accurately represents the seats inside." Brett second. Roll call: all ayes. CONDITIONAL APPROVAL

4. OLD BUSINESS: **internet cafes: Council approved the zoning & regs.**

5. NEW BUSINESS: **NEXT MEETING: JANUARY 12, 2012 AT 7:30 P.M.**

6. ADJOURN: **8:45 P.M.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
RECORD OF PROCEEDINGS
NOVEMBER 17, 2011
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Janice DiMichele, Jim Flaiz

OTHER OFFICIALS: David Hocevar, Building Inspector, David Ondrey, Solicitor, Ned Foley, Engineer

ABSENT: Ike Tripp

GUESTS:
Julia Barnes, 1620 Berkshire, Gates Mills 44040
Carl Koniar, KEI Carbody, 100 Industrial Parkway
Bret Adams, Burntwood tavern, 504 East Washington St
Christian Kaunyak, 504 East Washington St.
Rick Siegfried, RSA Architects LLC, 10 North Main St.
Joan Demirijan, Chagrin Valley Times newspaper
Ed Gottschalk, 200 Industrial Parkway

Sutliff called the meeting to order at 7:30 p.m. The minutes from 5-18-2011 & 6-9-2011 were approved.

Development review with Bret Adams of Burntwood Tavern, 504 East Washington Street. The building is a non-conforming structure. Mr. Adams installed a patio roof extension that is 26' X 34' without securing permits from the Building Department. It cannot be enlarged or added on to without conforming to present requirements. The side yard setback is three feet, two inches. Current side yard setback requirement is 15 feet. A variance was approved for 11 feet 10 inches on 10-25-2011.

Parking is a concern for PC not ZBA. A letter written & notarized, 10-25-2011, by Ed Gottschalk regarding parking has been given to PC.

Adams provides photos for PC

Adams, "At the last meeting (ZBA, 10-25-11) we talked about if the building was structurally sound, so I brought the architect to discuss that. From an aesthetic standpoint, we have the church next door who is ok with it. The Italian restaurant, on the opposite side, who is satisfactory with it. It follows the same design as the tavern that we did a year ago. All we did was take the existing patio & covered it. We did it as a reaction to the elements of a poor summer."

Sutliff, "That's already been done?" Adams, "Uh-huh." Sutliff, "Why are we here?" Hocevar, "It has to come to PC for your approval for any addition, anything that you do to a commercial building in SR. They had to get a variance because of how close they are to the lot line." Brett, "It should have come here first before it was constructed."

Sutliff, "I thought it did." Ondrey, "The patio did. Putting the roof on was done without prior approval."

Hocevar, "One of the issues that couldn't be discussed at the ZBA is the issue of parking. We've got some people who want to speak about the parking. When PC approved the parking, we approved some off site parking, which is going ok. I guess there is some hard feelings between other tenants & property owners down in that area."

DiMichele, "Should the parking be addressed separately from the roof issue?" Hocevar, "It could be. When you go back to when this building was Chagtown & they put this patio on; to utilize the patio they had to take seats from the inside & take them outside. But, it's not there any longer. We gave them a variance. They got the patio. They got the permits then. This roof was done without my knowledge or the Village's knowledge. Now they have the issue of you to approve it."

Sutliff, "The fact that the roof was put on - with or without a permit - that seems to be the issue." Hocevar, "That's part of the issue. They still need your approval." Sutliff, "Didn't they get approval for the additional seats in the patio subject to off site parking?" Hocevar, "That is correct. There have been some comments that the parking has never changed down there. Well, it has changed quite drastically because of the use they have now. When it was Chagtown, we took seats from the inside & took them outside. The occupant load didn't change. Now we have an occupant load of: on the patio we have 58 seats, on the inside we've got 94 seats. That's a lot of parking."

DiMichele, "I still think it's two issues. I don't think the roof has anything to do with the parking." Hocevar, "We'll have to ask David (Ondrey) about that. The roof is an issue." Sutliff, "Why is the parking an issue now & it wasn't an issue when it came before this board a year ago?" Hocevar, "I'll wait & let the audience comment on that."

Ondrey, "It was an issue then. Your approval was conditioned upon satisfactory evidence that they had sufficient off site parking." Sutliff, "Does that not exist now? You don't have an agreement now?" Adams, "It does exist." Sutliff, "This letter, Mr. Gottschalk says it doesn't exist." Adams, "If he decides to change his mind that will adjust the amount of parking available today. It still satisfies- until at least the patio is open - & we are very confident that we can find alternative parking."

Sutliff to Adams, "What is your understanding of the off site parking?" Adams, "I have not received any documentation that says anything different than the abundance of parking that we've been afforded." Sutliff, "I think it was documented in the minutes how many off site parking places…" Hocevar, "Wally, that's not really the issue. They came up with the parking places that were necessary. We received documentation from different business owners down there. Talking to Mr. Gottschalk, (1). He never gave the approval for his tenants to lease out spots of parking. (2). There have been a number of phone calls made to my office about the abuse of the parking privileges on their own lots. You know different businesses, the property owners down there, have a hard time with the parking situation. I don't think it's due to the owner of that business (Adams), I think it's due to the valet service who is just taking advantage of the situation."

DiMichele, "What do you mean taking advantage of the parking places that aren't in the valet's spot?" Hocevar, "Absolutely. There are quite a few phone calls that I've had in reference to that parking issue. It's ok to utilize the spots that they submitted to our office & the ZBA, but it goes far beyond that." DiMichele, "Isn't that still a separate issue than the roof?" Ondrey, "The reason it is not 100% separate is that any time an approval of a business use comes before you, you have limited discretion. If it is allowed by the zoning, you can't challenge it on that basis. The one thing you can consider is traffic circulation & safety. I think that what's really happened now is that we've got some members of the public who want to address you, expressing their concerns about whether or not traffic circulation & safety are being adequately addressed."

DiMichele, "It's not that I don't want to address that, I think it's a separate issue than the roof." Ondrey "I would have to disagree because of the way we've set up this approval process. You can at least consider the issues of whether or not the parking is being adequately addressed under the arrangement. It is an arrangement that we previously approved. The real question is, is it working or isn't it working? If not, why not? What other solutions would you want to see?"

Flaiz to Hocevar, "The additional roof does not change the occupant level?" Hocevar, "Only when the weather is bad. No it does not change it." Flaiz, "That is my experience as a patron. There's not that many seats under that roof. Certain nights, there are a lot of people standing under that. I think part of the problem is that the occupants exceed the seats, which means that the occupants in the restaurant exceed the available parking. To me that is a concern because when you cover more patio, you are able to get more people in there. This (the roof) hasn't added seats, but it's added more people out on the patio." Hocevar, "Right. It still goes back to some of the parking issues that we are running into down there. Mr. Gottschalk is here. He'd like to comment on it because we're talking about recalling some of these parking places that they have to utilize."

Flaiz, "The other issue with the parking is that we approved them having so many seats & having so many parking spaces." Hocevar, "Right." Flaiz, "So if you find out that they have 20 less parking spots than - is that our issue or is it yours to go down there

& say ok you're taking 40 seats out of here? We should be looking at it as we're allowing off site parking. But if they don't have the available spots it's an enforcement issue of you going down there & taking out seats." Hocevar, "I think that's part of what the audience is going to do tonight; try to explain that they don't have the parking places that they had prior to your approval." Flaiz, "We approved the number & it was up to them to provide documentation of it & you (Hocevar) to enforce it." Hocevar, "That's correct."

DiMichele, "We are being told that the documentation that was presented is not valid now." Hocevar, "I don't know if it is valid. I'd like the business owners to talk about that."

Sutliff to Ed Gottschalk, "You've got the floor." Gottschalk, "Brett (Adams) & I talked about a year ago. He asked me for some off site parking before the patio was an issue. **We gave them spaces in our back lot. It's next to St. Joan, behind KEI. We gave him 10- 15 spaces when he needed them. All of a sudden the patio issue came up & the parking was going through the roof. He came to me again. I said I have other buildings, but I'm not willing to give it, because we are committed to other people. I have other people who aren't happy about all the traffic there anywhere. I said I'll stick with my 10- 15. What I found out latter, after the fact, is somebody went to one of my tenants in the 300 building; went to 4 of the tenants & asked them for parking – which they don't own. It's not part of their lease.**"

Gottschalk, "Their (Burntwood) success is the biggest problem. As a property owner, or as a tenant of a property, you have responsibilities to the people around you. What we tried to do is help him, to make it more accommodating for the restaurant. **What has happened since then is incrementally, we're turning 60 to 100 cars over on certain nights – coming out of our lots.** If you think about: the traffic coming up & down Industrial Parkway - which is a private road, the people cutting through the Hunan & Violante's restaurants, the valet guy running out on to East Washington Street & running back up Industrial Parkway, the people who don't want to valet are looking for an open spot at Violante's or the Hunan Restaurants. All the hard feelings & the problems; people at Hunan's or Violante's don't want to come out & yell at somebody in their lot because they are a future customer."

Gottschalk, "In addition, all the building owners share an easement off of Industrial Parkway. I've had too many complaints. It's not worth the complaints. My loyalties are to make sure the businesses that deal with that road day in & day out & have been paying the taxes, making the improvements, & the maintenance in & around that area, come first. So, we have too many cars in too little of an area."

Sutliff, "The original agreement from a year ago, there was written documentation that you were willing to …" Gottschalk, "Whenever the patio issue came up, I put something down in writing. (letter that PC was given) I don't remember, as I found out latter, how many spaces my other tenants in another building had given approval for. They didn't have the right to give the approval. They don't own any of those spaces."

Brett Adams, "If I may, we have been blessed with a busy restaurant for the last year. Our neighbors have both benefitted if you are in the same industry from rollover & been frustrated. We continue to try to react & fix opportunities. If there are guests that are parking in a separate lot, we obviously don't want to take any business away from our neighbor. We've had some challenging conversations with the Hunan's & the Violante's. Both are not here this evening because I think we've cultivated that relationship & said we are a phone call away from reacting to the situation. If a guest parks there & walks into our building, we'll tell them, you need to park somewhere else or valet."

Brett Adams, "When it comes to Ed's (Gottschalk) building & property back there, yes there have been a number of tenants who have come to our aid, saying we have 3 spots & you can have them. I stand confident & saying if we pull all of Ed's parking spots out of there, we will accommodate, on the short term, the winter's occupancy – which is a much smaller number. In the spring, I think we will be prepared to have those spots available, if not sooner, when we open the patio."

Gottschalk, "That is one of the reasons I waited. I didn't want to blow up anyone's party. I figured we'd wait for the patio. I told Hunan be patient, winter will calm down. This gives him some time to figure out something to do. The problem is the situation as it works now come spring when the patio opens, doesn't work on Industrial Parkway."

Sutliff to Brett Adams, "How do you propose solving this problem come spring?" Adams, "We're beyond our required occupancy for now by roughly 20 chairs. We have property owners in line willing to accommodate us if we need them, in the pipeline. We just didn't need it until now. There was a problem & we thought we addressed it. The complaints unfortunately didn't come directly to the restaurant where we could address them."

Matt Brett, "To Jim's (Flaiz) point, **it sounds like the agreement that you (Gottschalk) had, you revoked that. You've pulled that back." Gottschalk, "On the original 10 or 15, I haven't decided one way or another. I figured I'd be open minded. The second part, 35 spaces, those were never given**." Brett Adams, "Those people came to us with their support. We didn't go door to door knocking for parking spots." Gottschalk, "They aren't property owners. I've got a half a dozen phone calls to you & you don't return a call. I asked to address this outside & you never wanted to. That's why it went to this."

Matt Brett, "What I believe the Village should do, & this is outside of PC, is until Burntwood has documentation that they have enough parking to support the total number of seats; they have to have those spots available, a combination of on site & off site. The position that PC took was we weren't going to sit here & say where parking spots they had to be, but that you have to have some sort of contract that you've got them available. Wherever they are, whether they are with Ed (Gottschalk) or some where else, that's not our concern as long as they are legitimate spots. That goes to you David (Hocevar) to work that through: how many spots do they have on site & off site? If some chairs need to come out, chairs need to come out."

Matt Brett, "As we look at the roof that is there, if the number of spots has changed, that affects the number of seats. We still have the issue of the roof that's been constructed. From the Village perspective, I'm not happy that a structure was put up & permits weren't pulled. It didn't go to ZBA. It didn't go to PC."

Matt Brett, "Looking at this roof, it doesn't change the footprint. If it does, it's pretty minor. That's the perspective that PC is to consider. The enforcement in regard to the number of spots that they have & the number of seats that correspond to those spots that is a Building Department issue."

Hocevar was made aware of the new roof by the fire inspector. Christian Kaunyak, "I was the builder. I was aware that we needed a permit. It was a time thing." Brett Adams, "We were approved for the patio. Three weeks latter & our $150,000. investment – we didn't have any action out there because it was the wettest summer on record. I went to Chris & asked how fast can we cover this thing? I gave him the autonomy. We should have covered it with a tarp on a temporary basis. He did it right, just not right with the Village. Now we go back & if it isn't right hence, the architect (Rick Siegfried, RSA Architects) & the investment there. We're going to make it right. We formally apologize. We didn't do it to personally offend anybody. We did it as a reaction to drive business & satisfy & take care of guests."

DiMichele, "Structurally, is it sound? Does it meet all the regulations as far as a structure goes?" Hocevar, "We didn't go that far yet. I didn't want to spend Brett's money on a plans review. They go to a plans examiner for structural stability: wind loads, snow loads. I didn't want to spend (money) if ZBA had said you can't put this structure up there. I think the architect has come up with some drawings. We'll send them out to CT Consultants for plans examination for commercial building."

DiMichele, "After the Village found out that this was built without permission, they came to ZBA & got their variance & now it's coming to us." Hocevar, "That's correct & the reason the parking issue came up is because it's was entirely up to PC to approve off site parking. It's not just a given. It's approved by the PC. To my knowledge, this is the first time that PC ever approved off site parking."

Flaiz to Hocevar, "They laid a roof on top of an existing roof. I know when that existing roof was built, it wasn't built to have another roof on it. I'm concerned about it. If we approve it & you find out it doesn't meet the commercial building standards, are we stuck?" **Hocevar, "Because of the weather, I don't think it's going to be utilized anymore. I'd like to make that public. Because we never had that approved, that we do not utilize that patio until we get plans back from our plans examiner saying that it meets the standards. Up until we get that straightened out with our plans examiner, I'd like to keep it unoccupied.**"

Rick Siegfried, architect, "There are still a couple things to do. With respect to your comment, a roof on top of a roof, I'll use the existing column & I'll put another

short, stubby column on top of that to brace the b mark. The vertical load is all good. There is some bracing & additional reinforcing to do. Until the three feet of snow that is going to come shows up, we're ok. They've got a couple of things to do before the snow is gone. It's not an expensive or difficult thing to take care of." Hocevar, "They still have to go in front of ABR once PC approves it."

Matt Brett, "From the PC perspective, it's straightforward & I'd be supportive of approving this. From the Village's perspective, we're thrilled we have this business & other businesses that are doing well on East Washington Street. There's an income tax impact to the Village. We also want the individual businesses there to do well & thrive. I'm happy that Burntwood is doing well, but speak to the other businesses that are in the area, I think it is critical that the parking situation be worked out. Not only if there is a contract with a building owner, but the other businesses that are around that somehow they feel like they are getting the benefit out of this & not just a headache from it. The business (Burntwood) is doing well, but there is the impact to the other businesses."

Sutliff to Adams, "If you don't get parking from Ed (Gottschalk) where do you get parking there?" Adams, "There are a couple other land owners that don't have tenants that have reacted, so they don't care. They've said, let us know if you need more spots. There's a gentleman who owns a building. I don't know his whole name. There's 30 spots right there. He's gone at 5:00P.M. It's a full parking lot. Then the person next to him & then there's another tow company that says as long as you stay out of our tow area, we could care less. I'm confident that we will satisfy that legally."

Adams, "Our concern & we will try to find common ground with our neighbors to support this. I don't want people to be upset with us. We were surprised when KEI showed up at the last meeting & said we haven't been good neighbors because we try to keep that line of communication going. It turns out that our staff is accommodating, but not our guests. What I will try & do is bring in a third party. We'll bring in the valet company & get them involved. On the short term, if they are not accommodating only the spots that we have approval from, then we need to address it. These are Chagrin High School kids & Kenston kids that are parking cars."

Gottschalk, "I've talked to the guy who runs the valet company. He has tried anything we've asked. The problem is having kids parking cars & the bigger problem is the pure mass of people that are coming in & out. It's not just finding a different building. It's how they get to there; from point a to b. Industrial Parkway serves a lot of businesses, but only some of the businesses have easements. It's not just finding spots on the map, it's finding spots & making sure you're not annoying some of the other businesses."

Flaiz, "You do have patrons that don't valet. They park behind Hunan. If KEI doesn't want people parking in their lot, I don't know that Burntwood or Dave Hocevar or any of us can stop the patron who parks there. I think it's on the property owner to put up signs & tow people out of there. We can't police…" Gottschalk, "You're right except those are all local business owners & they make their business in the community. You

start towing, who takes the brunt of it? All they are doing is protecting their property & you're putting them in charge of something they didn't create." Flaiz, "I don't know how we can police that." Gottschalk, "I don't have an answer. It's not working the way it was. It's not just a matter of finding a different building because all you're doing is moving the cars around. And even if they have parking spaces, they aren't parking at the buildings where they are supposed to be parking. They are parking anywhere & everywhere."

Carl Koniar, KEI Carbody, "If you ask Mr. Adams how many employees he has when the patio is open, I think you'll find out there is an abundance. Not only are we having the customer issue at our parking, we have an employee issue. I think the employee issue is larger than the customer. Any given Friday, I'm out there policing & ask them to move. They say, 'we don't have any place to park.' I said, 'park at Burntwood' & they said, 'they don't have any parking.' I said, 'it's not my problem. We have employees too.' The point is there are so many & they have the nerve to tell me, 'this is our spill over lot. We're told to park here.' Who is right & who is wrong? I don't know. All I know is that I'm so tired of going out there & asking people to move & employees to move."

Koniar, "We have 24 spots at KEI. We've been there 20 years. We haven't infringed on anyone. We do an abundance of business. We put up with it & I don't think this is fair."

Sutliff, "Are your employees parking back there to your knowledge?" Adams, "This gentleman's son & I had a conversation a week before the last meeting (ZBA 10-25-11). There was one gal who was parking there on Friday nights & we addressed it immediately. We want to be good neighbors. We're not trying to be problematic. If he'd pick up the phone & say there is a problem, we can't address it if we're ignorant to it."

Koniar, "When the valet parking valets at Ed's lot, there may be 15 cars & 15 fellas running across the front of our building. There is a liability issue here. Kids running back & forth around Hunan's, down the parking lot over to Burntwood & back. If I were home & I saw someone run across the front of my yard 10 or 15 times in a 1/ 2 hour, I'd be upset. I think you'd be that way too if someone parked in your yard without permission. On the side of our building are all of our spots & the south side of the building is a fire lane. We had a delivery in the late evening of a car towed in to be put into one of our spots. He couldn't put it anywhere because they were filled up by someone else. That's unfair to our business. I realize Mr. Adams didn't know that problem, but it's not our issue. We can't be the policeman either. It curtails our business. The liability is a big issue. I don't care to have an accident there or a customer of his slipping on our private property or the kids there running back & forth. I can prove all of this. We have cameras. We see what's going on every night."

DiMichele, "This committee gave them permission for those extra patio seats based on a certain number of parking spots, which they don't have the documentation for

right now. Do we have the authority to amend or revoke or change that to make sure that the number of seating is reduced until the parking issue is resolved?" Ondrey, "Yes, I think you do. I'm not sure that it has been established that they don't have sufficient off site parking. It's implied, but I'm not sure we know that one way or another."

Hocevar, "Right now they have 42 parking spots on their lot. They can accommodate 84 people." Sutliff, "Does that include employees?" Hocevar, "Yes. But, if you go with the off site parking, that number goes up to 113-120." Brett, "Based on the parking that is onsite & the parking that is off site, that is the total occupancy that they could have." Hocevar, "Correct." Brett to Hocevar, "Do you know how many inside seats & how many outside seats there are?" Hocevar, "I do not. I have a drawing here that he submitted to PC, but whether it stayed the same, I don't know. (looking at the drawing) They have occupancy for 116 people. That includes the patio & inside. So with both onsite & off site parking, it's 116. Without the off site parking, it is 84."

Hocevar, "Someone submitted a letter signed by different tenants releasing their parking spaces to Brett. Whether they are legitimate now because Mr. Gottschalk has an issue with giving away his parking places, that's an issue we have to deal with."

Matt Brett to Hocevar, "Your 116 includes numbers from tenants who have given up their parking spots." Hocevar, "Absolutely." Brett, "I do think that that needs to be factored out of that. We're hearing the landlord, the building owner, is stating that the tenants don't have the right to give that up. Based on that, I don't think we can count them." Hocevar, "Based on that & Mr. Gottschalk has the only parking spaces if he still wants to release them – the 15 parking places he gave to Burntwood Tavern out of a total of 50. So, we're going to reduce that by 35 parking places if the tenants can't give those parking places."

DiMichele, "What does that do with the occupancy number?" Hocevar, "17: one parking space per 2 occupants." Ondrey, "If the patio were to be shut down for the winter until a new parking scheme came back that Brett thinks he can come up with, do they have enough spaces then?" Hocevar, "No. They only have 42 spaces onsite." Ondrey, "Plus Ed's." DiMichele, "Don't assume he is going to leave those." Hocevar, "With Ed's, there will be 57 parking places. The occupancy would be 114 with employees."

Sutliff, "I'm looking at the plan & the existing inside seating I'm showing 80 seats on the inside. So that requires 40 spots." Hocevar, "Right & they had 42." Sutliff, "If this plan is accurate, 40 parking spots would accommodate 80 seats." Hocevar, "80 people." Sutliff, "The question is do you have 80 seats in there?" Adams, "Oh yeah." Sutliff, "Do you have more than 80?" Adams, "No." Sutliff, "Can that be verified?" Hocevar, "That's the Fire Inspector. Adams, "It's between 75 & 85."

DiMichele, "How does the employee parking factor into that? If we are allowing 2…?" Hocevar, "We never addressed it in our book. It's just says it is 1 parking space for every 2 occupants." DiMichele, "Right, but you've got employees who need to park their car." Hocevar, "That's not addressed." Flaiz, "So we just look at it as parking

spaces for patrons." Hocevar, "Yes." Brett, "That's how every other business is measured." Hocevar, "Right."

Sutliff, "Back on my count here Dave, (Hocevar) I'm looking at this drawing & it looks like in the patio we've got 32 seats plus 16, plus 8 at the bar. I think it's a heck of a lot more at the bar from what I've seen. According to this count, we've got 56 seats in the patio. 56 seats is going to require 28 off site spots." Flaiz, "From my recollection there is more seating than is shown." Hocevar, "Oh yeah. I think it's more seating."

DiMichele, "If the patio is closed (it has been closed for two weeks) because of the weather & they have enough onsite parking for the inside people, why is there still a problem?" DiMichele to Mr. Koniar, "Is there still a problem today?" Koniar, "Yes." DiMichele, "Are you still using off site parking spots with your current crowd?" Adams, "Weekends: Thursday, Friday, Saturday, we use those spots." DiMichele, "You should have enough onsite spots for the crowd." Koniar, "The employees park there." DiMichele, "That's the missing link here. We have to identify & include that in the factoring." Hocevar, "Who is that?" DiMichele, "The employees." Hocevar, "We never factor them in."

Brett to DiMichele, "The model that has been built is factoring in all the people who will patronize a business along with those required to operate the business. The ratio is for every vehicle, there would be 2 seats." DiMichele, "You can't just include 84 seats. You have to add the number of employees too." Ondrey, Hocevar & Brett all talk at the same time & say something like the regulations aren't determined like that. DiMichele, "That seems to be the gap that we have here. On paper, it should be working, but in reality it is not." Brett, "You have your model & it says how many spaces are required in order to have so many seats. Having said that, it may be that at Burntwood more people are driving & they are the only individual in the car. That's causing more cars to be at the restaurant & using the off site parking. Any business could run into that same thing. What is the code that we apply to all businesses? We have to apply that. It would be unfair if we did something else other than that."

Flaiz, "I think Dave (Hocevar) needs to go down there & count seats. (pointing to drawing) I know there are seats along this wall that aren't on here. I don't think this is an accurate representation of the seating. We can't micro manage it. We've allowed the off site parking to a certain extent. It sounds like they've closed the patio. Dave's not going to allow it to be opened. It's up to Dave & the fire inspector to count the seats. In my opinion, we're just looking at the roof situation. Is that alteration to the building something that we should approve? I don't have a problem with the alteration of the building. The Building Department has to be more aggressive on the seating issue."

Brett, "I echo that. We need to look at their on site parking plus if Mr. Gottschalk is giving them 15 spots. That's the arrangement. If they thought they had some other ones in their contract & those deals weren't valid, they shouldn't be counted in there. **I would ask our Building Commissioner to validate the number of seats.** Unless your number is grossly off, the number of spots should facilitate the inside of the business.

With the patio currently closed, they should be incompliance. There should be no issue. Come this spring, in order to get the patio reopened, or said differently, however many seats would be outside, you've got to have the adequate parking in order for that to occur. I agree with you Jim. That is an enforcement issue."

Brett to Ondrey, "The roof structure is over the patio. The patio is currently closed. Does that mean that we shouldn't be considering this?" Ondrey, "You can go ahead. The issue before you is whether or not to approve a roofed patio. You can go ahead & consider & approve that."

Flaiz, I make a motion to approve the patio roof. It is approved with conditions: (1). The patio remains closed until the owners of the restaurant (Brett Adams & or partners) are able to come back & demonstrate to the Building Department that they have adequate off site parking to allow its reopening. (2). It has to meet commercial building standards & regulations & go through the proper permit process. (3). They need to verify the number of seats inside. I don't think this (drawing) accurately represents the seats inside. Brett second. After discussion; roll call: all ayes. **CONDITIONAL APPROVAL**

DISCUSSION: Ondrey clarifies, "The patio stays closed until they (owners of restaurant) demonstrate to the PC that they really have off site parking."

Hocevar agrees with Flaiz condition #3. "I don't think it does at all." Sutliff, "If it comes back that we have more seats in there than parking permits them to have, we'll have to take some seats out." Ondrey, "Or get more off site parking." Brett, "42 spots onsite & 15 spots off site that we believe is on the contract; that is 57 total spots. Total seats that they would be allowed to have is 114." Hocevar, "One glitch in this is the building & state requirements. The building code, under the fire code, reduces that to 90 seats. Our zoning supersedes the building code in the sense of parking because we could regulate it more stringent. Once the patio is closed & you think we can still seat 120 people in here, we still have to go back to the building code, which doesn't let you seat that many because of the square footage of the building." Someone says, "It is 15 square feet per person for loose table & chairs & (?) square feet for standing per person. Kitchens & storage areas are 100 square feet per person."

DiMichele to Gottschalk, "Would you still be willing to let him use your 15 spaces?" DiMichele to Adams, "Would you promise that your employees would use those spaces to make sure that your onsite spaces are freed up for customers?" Adams, "We'll accommodate Mr. Gottschalk however he deems appropriate." Gottschalk, "I don't have a problem with that. That's not fair to make me micro manage. You can tell people whereto park. They don't."

Adams, "The church has taken a pretty firm stand. They towed our guests. We'll continue to try & work with our neighbors to accommodate that. We'll continue to work to find common ground." Gottschalk asks if church will allow access through there. Adams, "No." DiMichele, "One of the issues is the liability." Gottschalk, "That is one of the issues that has come back to haunt me. We have a liability of not just for the

people coming across our lot, but if some of the other buildings use our easement. My insurance company has said that company has an easement rite. But you're not (?) a third party in. Now they are throwing legalize at me."

Adams, "When we initially used the church parking lot for valet, the valet company added them as a rider. It was over insured for what we used it." Sutliff to Gottschalk, "has the valet company given you insurance?" Gottschalk, "Yes they've given us insurance. The problem I worry about is if they start parking at the other buildings, the old Milbar property & then they are using Industrial Parkway. It's not as simple as finding parking spaces & putting people in it."

DiMichele, "My other concern is if we approve this without any kind of reprimand are we setting a precedent for other people to go ahead & build something, then come after the fact to get approval?" Sutliff, "There is a fee isn't there?" Hocevar, "There could be." DiMichele, "Nothing personal, but that's a no no. I just don't want us to let this go merrily without any repercussions for having done this backwards & set a precedent for anybody that wants to do this." Ondrey, "It's not a binding precedent. People break regulations all the time. Sometimes there are consequences." Brett commented that the Village becomes aware of things being built without going through the proper channels.

Roll call: all ayes. CONDITIONAL APPROVAL

Siegfried asks Ondrey, "Now in the spring, is this an administrative issue that they have to deal with Mr. Hocevar?" Ondrey, "Yes." Siegfried, "So it doesn't have to come back before this board once he brings the proof that he has the parking to Mr. Hocevar & the patio can open at that point?" Ondrey, "Yes." Brett, "If the Village were aware & somebody brought it to PC that the business was not in compliance, could PC reconvene, reconsider & revoke the permission for that use?" Ondrey, "You certainly can keep the patio shut down if you were made aware that they were not in compliance."

Ondrey, "I think Dave (Hocevar) is going to need some guidance as to what really satisfies us as far as these other agreements. It's pretty clear that it's a difficult situation. The ideal one that the legislation originally contemplated is you go to a property owner near by & you get something written; maybe a deed restriction & things of that nature to make it a permanent solution. What we have here is a shifting scene of a parking solution. Brett, "You've got to be forewarned. You're going to have to come up with something pretty good to satisfy the Building Department." Adams, "We'll work diligently on it."

Hocevar, "PC gave that privilege of off site parking. If we have an issue with tenants & property owners down there giving permission, can we just say PC is not going to give off site parking anymore?" Ondrey, "Yes." Hocevar, "They, PC, can take it back & say forget the off site parking." Ondrey, "Yes because we always conditioned our approval on being satisfied that there was adequate off site parking. If it isn't created, then yes we can withdraw the original permission."

Hocevar, "They can't use the patio until they get that approval from (unclear)." Ondrey, "Assuming they solve that, if they didn't have adequate off site parking, they could probably use the patio, but a section of the restaurant would have to be closed off."

Latkovic, "What Matt just said; presumably, when the patio was approved, it was under the assumption that the overall occupancy of the facility would go up. That was premised upon with the occupancy going up, the parking would go up. The answer would seem, if they can't solve the parking issue, then the approval for the increased occupancy would effectively be gone. So, they have to figure out how to shift people."

Brett, "If they don't have the parking, they probably have to close the patio first, based on the village's requirement for how they got the patio. We made that contingent upon the parking. From a practical stand point, I don't think they can survive closing 100% of the inside & only having the outside."

Hocevar, "I'm going to talk to Mr. Gottschalk first because he pulled all his parking spaces back. He broke the deal. Nothing, nothing." DiMichele talked with the pastor at St. Joan of Arc & he won't allow anyone to park in the church lot. Ondrey wondered if there is any place nearby that can physically handle the number of parking spaces they need.

NEW BUSINESS:

Hocevar reported that a new martini bar is going in where Trifles cafe had been. (516 E. Washington St.) He suspects it will attract a crowd. Question? Where will people park? He assumes they will come before PC in February. Trifles has moved somewhere on East Washington & will only be doing catering.

The chip factory hasn't opened yet.

Ike Tripp's term as a PC member has ended. New member, Steve Latkovic was sworn in tonight.

Next meeting is set for 2-9-2012 at 7:30 p.m. if there is something on the agenda.

There was no further business. The meeting adjourned at 8:06 p.m.

Acting Chairman, Jim Flaiz

Maggie Tomaro, secretary

original - take to office

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Acting Chairman, Jim Flaiz

Maggie Tomaro, secretary

Old Business:
Internet cafes: Flaiz reported that Council approved the zoning & separately approved the regulations for the internet cafes that have been described as stringent.

New Business:
Off site parking: Hocevar said another business down on East Washington may want off site parking & may be coming to PC. He wondered if PC should have guidelines for the off site parking. "People are parking all over the place & people are going crazy."

Next meeting January 12, 2011 at 7:30 p.m.

There was no further business. The meeting adjourned at 8:45 P.M.

Walter Sutliff, Chairman

Maggie Tomaro, secretary

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
JANUARY 12, 2012
7:30 P.M.

1. ROLL CALL: **Acting Chairman Jim Flaiz, Mayor Matt Brett, Janice DiMichele & new member, Steve Latkovic**

2. MINUTES: 11-17-2011 **amended & approved**

3. AGENDA:

HEIGHT VARIANCE REQUEST FROM PREMIER CUSTOM BULDERS FOR MATTHEW SCHRON. HE PLANS TO BUILD A NEW HOME AT 104 ASHLEIGH. MAXIMUM HEIGHT ALLOWED IS 35'. THE PLANS SHOW THE HEIGHT AT 38'. A THREE FOOT VARIANCE IS REQUIRED TO PROCEED.
Brett, "I make a motion to approve a three-foot height variance. Finding of facts: (1). There is no material negative impact on the adjacent properties. (2). The way that the lot slopes in the back would present some difficulties with this particular lot in building a house. The variance is a result of how the lot is laid out." DiMichele seconds. Roll call: all ayes. APPROVED

HEIGHT VARIANCE REQUEST FROM PAYNE & PAYNE BUILDERS FOR CHRIS & SUZANNE CONTI. THEY PLAN TO BUILD A NEW HOME AT 109 ASHLEIGH. MAXIMUM HEIGHT ALLOWED IS 35'. THE PLANS SHOW THE HEIGHT AT 38'. A THREE FOOT VARIANCE IS REQUIRED TO PROCEED. **These plans will be reviewed by ABR**
Brett, "I make a motion that we approve the request for the three-foot height variance taking it to 38 feet. Finding of facts: (1). It will not detract from contiguous properties or the neighborhood. (2). The lot & house have topography issues that appear to drive the need for the request." Flaiz seconds. Roll call: all ayes. APPROVED

4. OLD BUSINESS: **Burntwood Tavern 504 E. Washington St. Owners still need to present plans for unauthorized patio roof, get approval of plans, pull permits for what has been built & present documentation that they have off site parking. Patio to stay closed until owners meet conditions. PC discussed occupancy: numbers allowed in restaurant/ numbers allowed on patio**

-Hocevar wonders if the village should establish guidelines for off site parking. Response: good idea. Hocevar will start to look into it.

5. NEW BUSINESS: **NEXT MEETING: 2-9-2012 AT 7:30 p.m. if there is something on the agenda.**
-PC member, Ike Tripp's term has ended. New PC member, Steve Latkovic was sworn in.
-new martini bar gong in where Trifles café had been; 516 E. Washington St.
Concern: where will people park?

6. ADJOURN: **8:06 p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
RECORD OF PROCEDINGS
JANUARY 12, 2012
7:30 P.M.

MEMBERS PRESENT: Acting Chairman Jim Flaiz, Mayor Matt Brett, Janice DiMichele, new member Steve Latkovic

OTHER OFFICIALS: David Hocevar, Building Inspector, David Ondrey, Solicitor

ABSENT: Chairman Walter Sutliff

GUESTS:
Lana Owens, Premier Custom Builders for 104 Ashleigh
Chris Conti, homeowner of 109 Ashleigh

Ike Tripp's term as a PC member has ended. New PC member, Steve Latkovic, was sworn in by Mayor Matt Brett.

Acting Chairman Flaiz called the meeting to order at 7:30 p.m. The minutes from 11-17-2011 were amended & approved. Solicitor Ondrey swore in anyone who intended to give testimony.

Height variance request from Premier Custom Builders for Matthew Schron. He plans to build a home at 104 Ashleigh. Maximum height allowed is 35'. The plans show the height at 38.' A three-foot variance is required to proceed. These plans have been approved by the ABR.

Hocevar, "Back in 1993 or 94, we had a 30' height limitation on our homes in south Russell. It used to go before the ZBA. We changed it to PC because when Emeralds Lakes was built, we wanted to keep a better eye on these houses: for height variances & look at how close the houses were going to be to each other. The zoning in the village is now all 35'. This is in the R-1-C district, R-1-D area. Those areas are about 35'. Because of the walk out basement - taking an average from all 4 sides - increase it to 38'."

Flaiz, "So 38' isn't the highest point. It's the average from grade." Hocevar, "That's correct." Flaiz, "What do you do? You take the height from grade, add it up &

divide it by four?" Hocevar, "That's correct."

Latkovic, "What's the highest in the village? Does it get zoned higher than 35?" Hocevar, "No that's the max." Ashleigh has some other homes that are higher than 35'." Variances were granted. Probably two, at least one."

Brett to Ondrey, "We have a variance before us. What is it that PC is considering? What are the conditions that can be applied to it?" Ondrey refers to the zoning code: 4.02 AREA, YARD & HEIGHT REGULATIONS, Pp. 35, RESIDENTIAL DISTRICT REGULATIONS (14). Ondrey, "It reads, 'the Commission can give relief in circumstances where the Commission determines that the lot upon which the structure will be located has topographical features in the rear… & will not create a need, by the grant of an increase, by itself, for an increase in the maximum height to be granted to contiguous lots.' In other words, you are supposed to take into consideration how the house is going to impact immediate neighboring homes. If the side yard regulations were 25' or less, then you can't even give a variance." Hocevar, "I think it's 60' on one side & 35' on the other." Ondrey, "So look at, do we have a height problem because of some topography issue? What is the impact on the potential homes next door?" 15 of the 18 lots are developed. This lot is 2 acres.

Owens, "There is an ARB for the subdivision. They've been approved minus some changes. They have to add some shutters. The head of the ARB is our homeowner's neighbor."

Brett thinks it would fit in well & is supportive of the variance. Flaiz, "Looking at this, the high point is in the back. From the street, it won't look like it's towering above the street. Looking at the site plan, there is 67' to the side yard. The house next door has almost a 65' side yard. It wouldn't diminish the surrounding properties. It would only enhance them."

Brett, "I make a motion to approve a three-foot height variance. Finding of facts: (1). There is no material negative impact on the adjacent properties (2). The way that the lot slopes in the back would present some difficulties with this particular lot in building a house. The variance is a result of how the lot is laid out." DiMichele seconds. Roll call: all ayes. APPROVED

Height variance request from Payne & Payne Builders for Chris & Suzanne Conti. They plan to build a new home at 109 Ashleigh. Maximum height allowed is 35'. The plans show the height at 38'. A three foot variance is required to proceed. These plans will be reviewed by ABR.

Chris Conti, "My wife & I bought the property a year ago & hope to break ground 2-8-12. There is a downward grade on the side yard. There is a walk out basement on the south side of the house."

Hocevar, "It's the same situation as we had before. Prior to changing the zoning, the topography of that lot would be over the 35' limitation." PC reviews the plans. The house is on the east side of Ashleigh. The garage faces south.

Brett, "They have the exact same need as the previous case had. I would be supportive of it."

Brett, "I make a motion that we approve the request for the three-foot height variance taking it to 38 feet. Finding of facts: (1). It will not detract from contiguous properties or the neighborhood. (2). The lot & house have topography issues that appear to drive the need for the request." Flaiz seconds. Roll call: all ayes. APPROVED

OLD BUSINESS:

Previous meeting: 11-17-11 Burntwood Tavern, 504 East Washington; unauthorized patio roof, neighbors complain about parking at restaurant & in their lots without permission, question of how many seats inside & when patio is open. Hocevar does not know how many seats are in the restaurant. Hocevar, "The day I did go through there, they had enough seats for the occupancy. #1. We go back to parking & the building code. They never straightened out the parking issue with the off site parking. #2. The architect never brought in the drawings for that roof over that patio. The patio is closed. It won't open until PC reopens it." There have been no more complaints from neighboring businesses about parking.

Brett, "Burnt Wood still needs to address it with the Building Department. They have to present their plans & they need to get their permits for what is already constructed. Assuming all that goes well, when they go to reopen the patio, they have to come back before PC."

DiMichele, "Right now the patio is closed until we see a plan showing where the off site parking is located." Hocevar, "And permission from the owners that they are giving the parking places." DiMichele, "Right, that they have official permission."

DiMichele, "What is our policy on people building things without permits & then not following through? Do we make them take it down?" Hocevar, "If you wanted to. That would be tough. You'd have to give them an adjudication order, a rite to appeal it; 30 days. It's more lengthy than when we were little Germany & could say, 'tear it down'." Brett, "We do more than just frown upon the idea of just go build it & ask for forgiveness. Having said that, we'll work with businesses. So far we've put them through the paces: ZBA, ABR, PC. If they come back in the spring & haven't followed through with anything, it's going to be a quick meeting that night."

Hocevar to Ondrey, "What are your thoughts on establishing guidelines for off site parking? Can we do that during a meeting? Or should we look around & get some ideas from different places? What documentation they need?" Ondrey, "I think it's a good idea. It'll give you some guidance as to what is a satisfactory agreement. I don't know if we are going to find any guidance in other municipalities.
We can take a look. It seems to me we can sit down & say, what would satisfy us? What

is the minimum length of an agreement? Are we going to insist that it be permanent? Or deed restrictions? What we want to avoid is them coming back in with a one line piece of paper from a property owner saying, 'You have my permission to park cars on my property', with no time table, no dead lines, no detail."

A comment is made that Hocevar could talk to the owners of The Inn of Chagrin Falls (87 West St.) They park guests' cars off site. An agreement was worked out between Chagrin Falls Village & the Inn when it opened in the 1990's.

Latkovic, "There seems to be two different things. I don't know if PC wants to deal with both. While the patio & parking are related, technically, they are two separate things." Ondrey, "The use of the patio is driving up the number of spaces they need. They have no ability to expand their current parking lot. Judging by our zoning numbers, they couldn't fit enough on the site. They have to find parking off site. I think it was 15 spaces. Maybe it's more now."

Latkovic, "So if they don't find the parking, the amount of people permitted on the patio - the building aside - the occupancy, would be limited." Ondrey, "Right." Brett, "It's overall. It's the patio & the building. Once the patio is reestablished, there is a total occupancy that can fit in there. They have to have parking to accommodate that. If they don't, then they have to reduce seats inside or outside." Ondrey, "Theoretically, they could ask for a variance. They never did."

SUMMARY OF ACTIVITY TO DATE: Ondrey, "They came in front of the PC with this plan to open the patio. We knew that our zoning allows off site parking, even though we've never done it with my history of the village. They were given permission to open this patio conditioned upon them having adequate off site parking. They did present David (Hocevar) with evidence of agreements with Gottschalk (Ed, 200 Industrial Way). For a time, it seemed that they solved the problem. Then Gottschalk finds out that some of his tenants …"

Flaiz, "To me, them getting a variance, I don't know if that would solve their problem 100%. My understanding of how we handled it was they needed to get PC approval for alteration to a commercial building. We approved the alteration; the patio conditioned upon them having this extra parking. Unless there is parking, they are not opening the patio."

Flaiz, "The problem with the patio is not just the seats out there. You could pull all the seats out of there. People are standing at the bar. That's where you are getting these huge numbers of people in there. It's not a seat problem so much as…"

DiMichele, "If we take away the roof issue, is it a matter of saying, you can't open the patio? Or do we determine that they can't have that many people in there? They could put all the people in the patio & have nobody in the restaurant." Flaiz, "They could pull every seat out of the restaurant & say we have enough seats. In my mind, we approved the patio which is the alteration to the building premised upon them having off site parking."

DiMichele, "So we have the right to tell them, 'Close the patio.' Or are we saying, 'No you can't have more people in the facility?" Ondrey's unsure.

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION

NOVEMBER 8, 2012

7:30P.M.

1. ROLL CALL: **Chairman Wally Sutliff, Mayor Matt Brett, Jim Flaiz, Steve Latkovic**

2. MINUTES: 1-12-2012 **approved**

3. AGENDA:

1. Formal discussion with Dr. Lori Bieber & Dr. Meghan M. Kartley, the vets at South Russell Veterinary Hospital, 5210C Chillicothe Road. They wish to expand the business to include alpacas, crias, (baby alpacas) & possibly goats. A copy of minutes from 8-5-1998 - when Dr.Bieber initially appeared before PC – was given to PC to review.
   Flaiz, "I make a motion to approve the South Russell Veterinary Clinic to expand its business to include treatment of alpacas, crias, goats & sheep with the following conditions:
   1. that any of those animals enter & exit from the rear of the building
   2. any trailer checks be performed behind the building
   3. that there be no more than 2 adults & 2 juveniles-under one year- at any given time on the premises
   4. It be limited to 10 walk-in cases per month. The walk-in cases would not include trailer checks."
   Brett second. Roll call: all ayes. CONDITIONAL APPROVAL

2. The Building Dept. will present info. regarding abandon houses & tell PC what other communities are doing about them. **Heilman provided handouts re. abandon houses from CF, Wickliffe, South Euclid. Discussion. Brett asked Heilman to send him current list of vacant/abandoned houses. He will circulate it to PC. PC to think about, 'Is there an issue'?**

3. Perhaps an informal discussion with a resident who is considering opening a business. **No discussion. Resident did not attend meeting.**

4. OLD BUSINESS: **Burntwood Tavern, 504 E. Washington is currently in compliance with parking.**

5. NEW BUSINESS: **next meeting, 12-13-12 if there is something on agenda.**
   - Jim Flaiz, Council & PC member, has been elected to be the Geauga County Prosecutor. His term starts 1-7-2013.
   - Effective 1-2013, PC needs a new member.
   -cemetery on 306: issues: rezone property, costs, operation of it, financial model; short term, long term. No decisions made to date.
   - Rec Center: The Rec Center Expansion Committee is advocating creation of a joint rec center with CF, SR, Bainbridge& Bentleyville.

6. ADJOURN: **8:35p.m.**

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PLANNING COMMISSION
RECORD OF PROCEEDINGS
NOVEMBER 8, 2012
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Jim Flaiz, Steve Latkovic

OTHER OFFICIALS: Laura Heilman, Building Dept. David Ondrey, Solicitor

ABSENT: Janice DiMichele

GUESTS:
Lori Bieber, DVM, SR Veterinary Hospital, 5210C Chillicothe Road, SR.
Dr. Meghan M. Kartley, same as above
Dan Walker, husband of Dr. Beiber

Chairman Sutliff called the meeting to order at 7:27 P.M. The minutes from 1-12-2012 were approved as presented. If anyone changes their email, please notify Danielle & Maggie.

Formal discussion with Dr. Lori Bieber & Dr. Meghan M. Kartley, the vets at South Russell Veterinary Hospital, 5210C Chillicothe Road. They wish to expand the business to include alpacas, crias, (baby alpacas) & possibly goats. A copy of minutes from 8-5-1998 – when Dr. Bieber initially appeared before PC – was given to PC to review.

10-25-2012, letter from Michael Cipriani, of Cipriani Investment Co., LTD, 25901 Emery Road #115, Warrensville Heights, Ohio 44128. (216) 581- 8091; owner of building that SR Veterinary Hospital is located "You have done an excellent job controlling the patients at your location…please accept this letter as approval for you to treat Alpacas…" letter in file

Dr. Bieber explained that a month ago she hired Dr. Kartley because the business is expanding & down the road Dr. Kartley will hopefully purchase the business when she, Dr. Bieber, is ready to retire. Dr. Kartley is a large animal Veterinarian who also wants to do small animal which is what Dr. Bieber does. Dr. Hartley specializes in alpacas & crias, baby alpacas; occasionally sheep & goats. She is well known in this area & Pa.

Dr. Kartley told PC:
- average size of an alpaca is 150 to 200 pounds. Crias are 15 to 18 pounds.
-hospitalization would not be long term. "It would be an initial intensive care; stabilizing. A lot of the farms have areas that once the animal is stable, they take their animals back to their farm & continue treatment there."
-alpacas are a clean animal compared to other livestock. They go to the bathroom in one place, easy to clean up after. They don't need a lot of bedding.
-"They might need intravenous fluids for a day or two. Sometimes I do C-sections & I want to keep them hospitalized for a day to make sure they are doing ok & the baby is up nursing. That's probably the most common thing."
-How often would I hospitalize? "Right now the market is continuing to go down. At this point, maybe 3 cases a month. It won't be something that is consistent. I have some big farms that I've worked for & call me on a referral basis. So I don't do all their work. I only do the stuff their vet can't."

Sutliff, "Do you presently have overnight stays?" Bieber, "Yes because we have animals like my surgery animals, my spays & sometimes foreign bodies have been eaten. They stay. Cats with kidney failure, sometimes they stay there on dialysis & intravenous fluids. They can stay there as long as 4 or 5 days to see if fluids help." At this time, only cats & dogs stay overnight; no farm animals.

Flaiz, "How many square feet do you have?" Bieber, "I have no idea. We took over the dentist's spot (5210 D). I'd say about 3,600. We have an L shape behind Dr. Jurcak: Chagrin Valley Optometrist, 5210-B, Chillicothe Rd.

Flaiz, "How many would you keep at one time? What do you have room for?" Kartley, "I would just do one case at a time. I don't see any need for multiple cases."

Sutliff, "Where do alpacas go now?" Kartley, "Ohio State Referral Hospital & there's one in Burton. That's where I came from. They do some hospitalizations. However, I don't think he wants to continue hospitalizing them. As the economy is going down, they are trending out. I really just want to provide this for my big farms who I worked for that are kind of the lone ones still in the actual business."

Latkovic, "Do you actually have to build out any space? Where do you actually keep an alpaca?" Bieber, "We have the dog kennels. They would fit in one of the runs. If this were approved, we were thinking we have a room in the back. We have cages in there for cats. We would just move the cages out. Alpacas & crias tend to spit. We'd have to put up Plexiglas against the wall. So they don't stain the walls." Kartley, "They don't need a big area."

Flaiz, "How do you bring them in & out? I can see one on a leash going across the parking lot." Hartley, "Most of them are used to being shown. They are used to being led. Their used to walking through doors."

Brett, "Is that how you would envision that? Coming in from the front door?" Bieber, "No back door. The area we are thinking about is right outside a door. We'll have to have special rugs because they would slide on that floor."

Brett, "Your request is for alpacas, crias & goats." Bieber, "And occasionally sheep." To Kartley, "You don't really see many sheep." Kartley, "No." Bieber, "And even goats, you don't see a ton either." Kartley, "They are considered similar." Brett, "If we were to approve this, I think we want to be careful about defining what we would approve. So if it is sheep, I would recommend…" Kartley, "I would add sheep in because to me a goat & a sheep is the same."

Brett, "From a noise perspective, what kind of noise do alpacas make?" Kartley, "They can scream, but they are very quiet. They only scream when they are restrained & don't want something that has to be done. In general they are more quiet than dogs &cats. It's an upper pitch scream; not loud. It's an alarm call." Bieber, "I think cat screams are loud."

Goats & sheep: Kartley, "They might be just blatting like baa. It's not common for them to constantly do that. It's not loud." Bieber, "They are probably the quietest ones."

Neighbors: Hair World Hairdressers is next to vet clinic. Area that vets are thinking about for alpacas is adjacent to Hair World's room where they have the laundry. Dr. Jurcak is on the other side. The dog kennel is directly behind Dr. Jurcak's area. Bieber, "We have an L shape. Also in that area is my surgery & treatment area. We are thinking of putting them (the alpacas) near the north end. That's by Hair World's dryer."

Brett to Heilman, "In the Building Department, have we heard from any of the other tenants?" Heilman, "We talked to the owner of Augie's who has no objection whatsoever."

Sutliff, "How do you manage the clean up? Where do the animals go to the bathroom? Out back?" Bieber, "Yes. With most of the animals, we don't have a lot of waste from them because most of them are coming in for surgery. They've been fasted or they are sick & they are not eating. So we don't generate a lot of waste. That waste can be disposed of in regular disposal. The same with these guys. We can just put it out."

Sutliff, "To your knowledge, have there been any complaints over the years?" Bieber showed PC a letter from landlord, Mike Cipriani. In part it reads, "accept this letter as approval for you to treat Alpacas…provided that all conditions outlined in Paragraph 15 of our Lease continue to be met." 15. Permitted & Prohibited Uses. In part it reads, "Lessee will be permitted to use the grassy areas to the west & south of the Shopping Center for the purpose of walking animals, upon the expressed condition that any defecation will be immediately removed & disposed."

Sutliff, "If an alpaca has surgery, are they unattended at night? Is there somebody there at night? Kartley, "Depending on how critical they would be, yes & no. They typically do well as far as being unattended, just like the dogs & cats do."

Brett to vets, "You forecasted that you might have 3 cases a month. One of my concerns, if we were to approve this, is that growing. The concern would be too much traffic coming in there. Would you be comfortable if we put a restriction on the number of cases that you could have per month for the larger animals?" Brett to Ondrey, "What might we have for restrictions? Could it be how many cases over night? The overall traffic, what's being presented is light use. That doesn't sound like a big deal. I would like to see a restriction so it doesn't become too great of a deal & it's not what we had thought & it's a different environment." Kartley, "In the past

month, I wouldn't have hospitalized any of them because they are not having their crias now. In the spring when they have their crias, there is a possibility that I could have 4 or 5 cases in that month vs. having none the next month. As far as the future & working for this practice, I'm not looking into growing this area of the practice. That is not my intent. My intent is to service just what I have now. Four years ago to now, it's much slower than what it was. Every year, it is going down. At some point, I'm planning that I'm not going to hospitalize them anymore."

Brett, "That would be the overnight. If we limit that to one overnight case at a time that would be…" Kartley, "That would be fine." Brett, "Total alpacas for a month, what would be fair?" Kartley, "I think I would have to say 6 because of the spring time. I would be worried that I may have 6 in April or May." Sutliff, "Would you only have 6?" Kartley, "Correct. That's 6 staying at different times; one maybe 2 nights."

Brett, "Not just overnight, but alpacas, goats, sheep or crias coming in, whether they are overnight or not, would you say that is 6 per month?" Kartley, "Yes. As far as you are concerned with traffic, sometimes they would bring them in a trailer. I would actually go on the trailer & do health certificates. If there were more than that, would you have an issue with that? They can have multiple animals on the trailer. Probably the most common thing I do is have a trailer come to me. If that would be a concern of yours…" Brett, "No, but that's good to know that is in there."

Brett, "I don't see a big issue with this. Five years, 10 years down the road, there are different tenants on either side of you. The environment has changed & that piece of the business has gotten really busy. That could be problematic for the tenants on the other side. I'd be comfortable granting this with some restrictions. I'm also trying to be sensitive to not put something in your way that creates an obstacle for you that you think, 'oh shoot, we shouldn't have done that'."

Ondrey, "The whole purpose of this type of review is to know & understand what businesses are coming in. I think you have the power to impose reasonable conditions on a new business. When I say reasonable, that means if they are incompliance with zoning & if we can't demonstrate some real, potential threat to public health, safety & welfare, you've got to be restrained in your conditions you impose in these things. If the use is allowed then any conditions that you want to impose, you'd have to be able to justify them based upon some legitimate concerns. Traffic is one of them."

Brett, "There are 2 pieces to it that I would have some concern. 1. I imagine all of these would be coming in in a trailer." Kartley, "Most of them are in a minivan. The males are up to 200 pounds. It's more common - 125 pounds to 150 pounds - for a female. I see more females than males. The trailers are smaller than the goose neck trailers that you see with horses. If there are trailers, they are smaller, stock trailers like a cargo trailer. My clients in PA. have specialized minivans, cargo vans." Brett, "2. Even though it's in the back, that transition out of the vehicle & into the building."

Sutliff, "I think you mentioned that you would never intend to have more than one hospitalization case, one overnight at a time." Kartley, "Correct." Sutliff, "What happens in the

spring when these babies are being delivered & all of a sudden, you have three that need immediate attention?" Kartley, "If I had to do that, I also have a stall at my house that I would have to take them to."

Latkovic, "How much room would you have in your space? If there were no restrictions, how many could you house?" Kartley, "Three adults. The most common reason to hospitalize is with their babies; working on their babies. The babies are with the mother & weigh only 15 pounds. If they are sick, they just sit in one little corner of the area." Latkovic, "If you have to overnight a cria, the mom with it …" Kartley, "You're saying that is two animals." Latkovic, "I want to avoid creating something that you guys realize that we handcuffed you into not being able to actually do your business." Kartley, "Yes that would be two animals. The space that they take up is exactly the same."

Brett, "I think I raised that because I have a little concern about too many large animals overnight could create some problems. Some sort of limitation would be logical to me. If it's two, that accommodates you, whether it's a mother & a newborn or two. From what you presented earlier, it sounded like that would be an unusual scenario." Kartley, "Alpacas typically have one baby at a time. In five years, I've had one set of twins."

Flaiz, "I'm not worried about having strict restrictions on the numbers. It doesn't worry me. I'd like to see conditions like: they have to enter & exit from the rear & these trailer checks be done only behind the building." Bieber, "That's what we would do. I don't like doing things out front. It's too scary for the animals. People are nosey. They look & it's disruptive. Sometimes we have dogs that are difficult to work with & we have to sedate them in their car. I make the people go in the back so it is private & quiet." Brett agrees with concerns that Flaiz raised.

Brett, "I think there was concern when your practice went in because it's a strip of stores. I think it has worked well. We haven't heard complaints. You've been diligent about taking the animals in the back & cleaning things up. Having said that, the concern I have is when you introduce larger animals, when there aren't limitations, it could become a different scenario. If we put some restrictions that don't limit you too far; let you have the practice that you're envisioning, I think that is logical. It makes sense."

Sutliff, "From a practical standpoint, if we do put a condition on it & I think we are talking 6 per month, how do you police that?" Brett, "I think it gives the village some control. If it becomes greater than what we had anticipated, it gives you some ability to say they are only allowed to have this many. Just so you know, if you think the number was 6, the number I had in my head was 10." Bieber, "If something does change, we would come forward & say can we modify this & do something different?"

Flaiz, "So maybe at any one time one alpaca & one cria." Brett, "For the flexibility, I would just say two. It could be a goat & a sheep." Bieber, "If we have more than one or two, we might have somebody stay there to monitor them. Some of these have an insulin problem." Kartley, "They have to go on fluids & have their glucose checked hourly. I've had a technician with me for 4 years that has done that; stayed overnight." Bieber, "So there might be a time somebody is staying overnight." Brett, "Ok. I think we need to segment - two of the larger animals…" Bieber, "Excluding dogs & cats."

Category: small ruminants: goats, ship, alpacas, crias. Large ruminate: cow

Scent of alpacas: Kartley, "Typically they are not a dirty animal. It's not like a cow. They go to the bathroom in one spot. It makes for easy clean up. They all go in one area, in the same spot.

Flaiz to Ondrey, "Is this a motion to approve expanding the restrictions? I'm guessing what we did was we approved this business use & restricted it to certain animals. So what we are doing is changing that?" Ondrey, "In the minutes that I looked at, I don't think that we specifically ever pinned it down that it was only to be a small animal practice. It was discussed, but I don't think that was an actual condition of the approval. I would make it simple & say the motion is to permit treatment of the small ruminants: alpacas, crias, sheep & goats with the following limitations."

Ondrey, "Let's say you agree upon 10 per month. What if two mothers come in & both are about to deliver? You've said you can't have more than two at a time. They were talking about maybe they might have room for three at a time max. Maybe you could say no more than 10 a month & no more than 4 at a single time. That way there is 2 mothers & 2 babies. Let's face it. They come in the spring."

Sutliff, "Can you accommodate …" Kartley, "I can accommodate 2 adults & 2 babies. I could not accommodate 4 adults."

Flaiz, "Are we saying 10 overnights a month or 10 cases?" Brett, "I refer to them as cases. She could have a trailer with several. I would view that as one case." Flaiz, "They're not getting off the trailer." Kartley, "Correct." Sutliff, "I wouldn't even consider that a case." Flaiz, "To me, it's the going in & out.

Latkovic, "I don't have an issue if there is no limit on in & out, during the day, through the back. I'd be more concerned with the overnight, the animals staying there being by themselves. If they are coming in & out the back even if they are seeing one a day, so 25. Would that be an issue for the Village?" Brett, "It could be. If the practice transitions & it becomes something different than what we're talking about today…" Latkovic, "Can we expand this latter?" Ondrey, "Yes."

Bieber, "Talking with Dr. Meghan (Kartley) right now, I asked her, as long as we don't include the trailers or vans that come in - as long as she goes out & they are not walking out of the space they are in- if we said 10 cases that actually walked into the building, excluding people that stay in their vehicle & trailer, that sounds fair." Flaiz, "10 admissions a month."
PC questions word usage i.e. walk-ins, outpatient, cases.

Sutliff asks for clarification. Overnights, maximum of 4 & 10 walk-ins a month. No more than 4 staying overnight at one time. Question: What is considered an adult ruminant? Kartley, "A yearling. That is one year or older."

Flaiz, "I make a motion to approve the South Russell Veterinary Clinic to expand its business to include treatment of alpacas, crias, goats & sheep with the following conditions:
1. that any of those animals enter & exit from the rear of the building
2. any trailer checks be performed behind the building
3. that there be no more than 2 adults & 2 juveniles- under one year- at any given time on the premises.
4. It be limited to 10 walk-in cases per month. The walk-in cases would not include trailer checks."

Discussion: Flaiz didn't address overnight stay. Sutliff, "Only 4 overnights." Ondrey, "Why would you limit it to 4 overnights? You've got it limited to 10 a month." Sutliff, "Maybe it's not necessary to limit it." Flaiz, "If one of them is sick & is there for a while..." Sutliff, "Ok." Brett, "My concern wasn't the number per month. It's the total volume of overnights so you don't create an environment where you have 10 there overnight. I'm good with what you have."
Brett, I second. Roll call: all ayes. CONDITIONAL APPROVAL
xxxx

Sutliff, "Wickliffe, what do they do?" Heilman, "I really focused more on South Euclid because it's more extensive. They make owners register vacant buildings with them. They charge them $200.00 for it. If they don't do it, there are fines like a $1,000.00 a day. It's pretty strict."

Ondrey, "Laura, are they zoning regulations or are they elsewhere in their codes?" Heilman, "I looked this up in their codified ordinances." Ondrey, "The PC only has the power to recommend zoning ordinances. That doesn't mean that some of these might not end up being zoning. I'm looking at Wickliffe. That may well be part of their zoning. We have to keep that in perspective. If we can't figure out a way to slot it into the zoning, then PC doesn't have any jurisdiction."

Flaiz, "The problem is this seems to rarely come up in the village. But, when it does the Maple Hill situation, there were a couple of houses on Maple Hill for years."

Heilman, "We have been able to get certain things done under the property maintenance. There are some people that we try to be patient with because of lack of money. Going about it in a nice way, we get a lot farther then if we were to get nasty & push the issue." Flaiz, "Was that the one that a tree fell on a garage?" Heilman, "The garage collapsed. There was a car inside. It was towed. The garage was torn down." Flaiz, "But that took a long time." Heilman, "It didn't take all that long. We had to go through some red tape." Sutliff, "The bank owned that piece of property." Heilman, "Again, it was a reverse mortgage where the homeowner died. We had to go through the bank to get something done. They did cooperate."

Latkovic, "That kind of surprises me. In a reverse mortgage, the bank is only going to get its money back if it sells the house. When the owner dies, that's effectively when they get the title." Heilman, "They had to get permission from HUD. They had to get an appraisal, find out how much it would cost. Once they got the approval from HUD, they came in & took down the garage. It took like 6 weeks to get it done."

Latkovic, "That could be a bigger problem if that is the case. An aging population in parts of the village, a reverse mortgage is an easy way for them to pull current equity & cash out. I could see more people doing that."

Brett, "Does it matter what the ownership of the house is? The true issue is, it is abandoned." Flaiz, "You're focusing on the vacancy part. If it is vacant & deteriorating, I don't want us policing; I don't want us to be like Shaker & South Euclid. There is a crack in your garage floor & you have to fix it like Cleveland Heights. It's not what we're about out here. You're right, these ones that are vacant for years…" Heilman explained that there is a police officer & she who are keeping close tabs with each other about vacant houses.

Brett asked Laura to send current list of vacant/abandoned houses to him. He will circulate it to PC. PC to think about: is there an issue?

OLD BUSINESS: Burntwood Tavern, 504East Washington St. Ondrey, "They had to get their roof approved. (ZBA conditionally approved new patio roof on 10-25-2011). Neighborhood folks were upset about parking & used that, the roof, as a reason to come & complain about the parking situation at the same time. My impression is that they have represented to David & he is

satisfied that they've got sufficient commitments of off-site parking now. Problems & complaints continue. I'm not sure where the enforcement is. It isn't a problem that is going away."

Brett, "Now they are in compliance with what PC & Council said. While they have the number of spots, there has been discussion about how they are using it. They have spots at the end of industrial parkway. They also have spots way over behind the old Milbar facility. It is a significant hike to get over there. That's one issue. They really weren't using that & it was causing some grief with some of the other local businesses there. I've met with the folks from Burntwood & some of the other business owners & building owners over there. Burntwood has recently put together something where they've taken some additional steps & corrective action regarding parking. They have switched their valet service. Right now, I would tell you that they are in compliance. We'll see what happens. From a demand perspective, this should be the offseason. We'll have to see in the spring if this heats back up. If it does, PC has the ability to revoke that capability; the off lot parking."

Sutliff, "Is Ed Gottshalk still on his muscle?" Brett, "Burntwood doesn't have any relationship with Ed for any parking. I had a meeting with Ed & Brett. (owner of Burntwood) Ed wants to see this worked through & is willing to help work it through. I think he's close to the end of his rope."

NEW BUSINESS:

Village cemetery: Flaiz, "The village is looking at doing a new cemetery across the street on 306. Nothing's been finalized. It's zoned residential, R-1. We have a provision in our zoning code regarding cemeteries. My personal take is that it was created to make sure that we didn't have any cemeteries put in residentially zoned areas. It was not set up for a municipal cemetery. The issues: (1). having the cemetery go through a variance process (2). rezoning that property. By doing that, which is what I wanted to do, is create a new zoning classification for a municipal cemetery as opposed to what we currently have for a commercial cemetery, private cemetery. (3). ignore it. It's our property. We're the village. We can do whatever we want. Matt (Brett) & I are not fans of 'We're the village. We can do whatever we want'."

Ondrey, "We can voluntarily submit to the variance process. It's a little bit silly because if you didn't like the result, we could legislate it whenever we want it. It does give people the chance to voice their opinion."

Brett, "The cemetery project still has a ways to go. This isn't a done deal. The village has said if the cemetery is going to occur, that's the property for it. I think the appropriate thing for PC & the village to do is to go through this process. That way, no one can come back & say, 'You snuck this thing through. You did it in a public session. You did it the right way'."

Sutliff, "What is the easiest way to do it?" Ondrey, "I think rezoning it. It starts here with a recommendation to Council." Brett, "Tonight was to give PC a heads up. Maybe the next time we get together, we can have something before us to consider. This is simple straightforward stuff." Sutliff to Ondrey, "Is this something you can have for the next meeting? Maybe a rough draft." Ondrey, "I don't know. This is the first time I've heard of it. I'm not sure how fast anybody wants to move."

Flaiz, "We would have legislation: changing our zoning code, establishing a municipal cemetery zoning category." Ondrey, "Or making a municipal cemetery a permissible use in a R-1 district." Flaiz, "There are different ways to approach it. We could make it restrictive. We could have buffers. Or we could make it very simple. It would be publically advertised. The neighboring properties would get notice. There would be a hearing. We could decide what if any zoning we would approve. When PC approves zoning, it is sent to Council. Council holds a public hearing & approves it."

Latkovic, "There would be a public hearing at both levels." Ondrey, "Having a public hearing at this level is optional. It's mandatory at Council. The meetings where we discuss it & vote on it are public meetings, but that's different than a public hearing"

Brett, "If there is nothing else on the agenda for the next meeting; there is no sense of urgency right now. There is a little bit of a lead time because when it goes to Council, it will go through three readings & a public hearing." Ondrey, "Council created a cemetery committee. In the Ohio Revised Code you can see a cemetery board, a statutory board for a Village. We didn't go that route." Brett, "The committee put together the plan, the model, makes some recommendations, sees if it is feasible."

Sutliff, "Timetable. Is this something that is 2 years away, 5 years?" Brett, "I think the cemetery committee will come back to Council in the near future & present a revised model. They will really look to, 'Let's get moving on this in 2013or we're out'. They've been working on this for 4 years."

Sutliff, "What are the issues?" Brett, "Costs to start this. What do you need to operate it? Design. Size. The financial model. Does it sustain itself short term & long term? What is the level of interest of the residents & surrounding residents?"

Sutliff, "What is happening with the community rec center?" Brett, "The Rec Center Expansion Committee presented to Council & that was received well." Latkovic said the committee has presented to Bainbridge. Chagrin Falls will be Monday night & Bentleyville will be at the end of the month. Brett, "All the communities will receive this update. After the first of the year, the 4 communities will get back together & ask, where is everybody on this?"

Ondrey, "The committee is advocating the creation of a joint recreation center." Flaiz, "That property would work if it was put on the property on East Washington Street now that it is part of South Russell. This commission would have to work at rezoning that." Brett, "Village Council annexed that property from Bainbridge. Several reasons for it: We have park rules but it was in Bainbridge. If something happens there, who enforces it?" Sutliff, "How did Bainbridge react?" Ondrey, "They didn't have a choice. They couldn't stop it. The statute said if we own (didn't understand word) we can annex it. We just had to go through the steps."

Next meeting is set for 12-13-12 if there is something on the agenda other than discussing the cemetery.

Council & PC member, Jim Flaiz, was elected to be the Geauga County Prosecutor. If there is no meeting in December 2012, this is his last PC. His term begins 1-7-2013.

There was no further business. The meeting adjourned at 8:35 p.m.

Chairman, Walter Sutliff,

Maggie Tomaro, secretary

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
MAY 9, 2013
7:30P.M.

1. ROLL CALL: **Chairman Wally Sutliff, Mayor Matt Brett, Janice DiMichele, Steve Latkovic, Brian Kostura**

2. MINUTES: 11-8-2012 **approved**

3. AGENDA:

(1). Development review, formal discussion with James Pascoe of the Bell Station, 5196 Chillicothe Road. (soon to be a Gulf Station)
On 10-19-2005, the ZBA granted conditional approval for a variance to Mr. Pascoe. He requested a variance for an addition to the north & west sides of the building - approximately 540 square feet -for coolers, office & storage. The business is a nonconforming use. It existed before zoning.
Before he can proceed with the addition, Mr. Pascoe is required to have approval from the PC.
Enclosed is a copy of the ZBA minutes from 10-19-2005
Brett, "I move that we approve the request for conditional approval for the variance (ZBA 10-19-2005: addition 10' to the north & 6'8" to the west) with the plans as submitted. And I approve the plans as submitted pertaining to the signage." Latkovic second. Roll call: all ayes. CONITIONAL DEVELOPMENT REVIEW APPROVAL

(2). The Mayor wishes to discuss whether or not PC chooses to make a recommendation to Council either for or against a proposed cemetery. **DiMichele, "I make a motion to recommend that zoning be amended to permit municipal cemeteries in any zoning district in South Russell." Brett second. Roll call: all ayes. APPROVED**

(3). Development review, formal discussion with Mark Derry, owner of Living Lean, an exercise facility, located at 576 Industrial Parkway. He wishes to enlarge the size of the business by 2,400 square feet. He hopes to expand the gravel parking lot up to 25' X 90'.
Brett, "I make a motion to approve the proposed expansion into the first floor & additional gravel parking, 25'X90'. The proposed parking lot is subject to the Village Engineer's & the Building Inspector's approval." Kostura second. Roll call: all ayes. CONDITIONAL APPROVAL

The Village Engineer requests a site plan.

(4). Informal discussion with Jean Makesh, CEO at an assisted living facility called, The Lantern of Madison. He may purchase the property at 5277 Chillicothe Road & develop it as an assisted living facility. Ten of the 15 acres is already zoned for that use.
NO ACTION. A summary of discussion is part of the minutes.
-Chagrin Valley Times, 5-30-2013, Pp. CL5 REAL ESTATE TRANSFERS, SOUTH RUSSELL: Emuna Reality Ltd., 5277 Chillicothe Road, to Chagrin Woods LLC, $685,000.

4. OLD BUSINESS: **NONE**

5. NEW BUSINESS:
-PC has a new member, Brian Kostura. He has taken over the council position vacated by Jim Flaiz.
-NEXT MEETING: JUNE 13, 2013 AT 7:30P.M. if there is something on the agenda

6. ADJOURN: **8:43p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
RECORD OF PROCEEDINGS
MAY 9, 2013
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Janice DiMichele, Steve Latkovic, Bryan Kostura

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor, Eric Haibach, Engineer

GUESTS:
-Mark Derry, 576 Industrial Parkway (John Tressler's Building)
-Rick Melzer, 5196 Chillicothe Rd. (Bell Station)
-Jim Pascoe, 5196 Chillicothe Rd. (Bell Station)
-Jean Makesh, 10790 Stella Lane, Auburn Twp. 44023 re: 5277 Chillicothe Rd. potential assisted living facility
-Mary Beth Wolfe, SR Village Council, 19Daisy Lane

Chairman Sutliff called the meeting to order at 7:30P.M. The minutes from 1-8-2012 were approved as presented.

1. **Development review, formal discussion with James Pascoe of the Bell Station, 5196 Chillicothe Rd. (soon to be a Gulf Station) On 10-19-2005, the ZBA granted conditional approval for a variance to Mr. Pascoe. He requested a variance for an addition to the north & west sides of the building-approximately 540 square feet- for coolers, office & storage. The business is a nonconforming use. It existed before zoning.**
   Before he can proceed with the addition, Mr. Pascoe is required to have approval from the PC.
   Enclosed is a copy of the ZBA minutes from 10-19-2005.

Jim Pascoe introduced Rick Melzer who distributes Mr. Pascoe's product. Pascoe, "We're going to go with Gulf Oil. It's going to be a branded Gulf Station. There will be some exterior changes as far as colors. I went before the ABR Tuesday, 5-7-13. They approved colors."

Pascoe, "We went before the ZBA 5 or 6 years ago. We wanted to go out 10' & back 10'. We found out that we could put the coolers inside the building. After going to the ZBA, we decided to move everything inside. So there was no need to take advantage of the expansion

at that point. Now we are rethinking this whole thing since we're going to go with a new image. We're looking and we haven't even decided for sure, because economics will play a part here, is exactly what we're going to do. They (the Building Dept.) said we have to come in front of PC."

Pascoe, "Our intent is to go out 10' toward Dr. Rood's place (north) & 10' to the back (west)." Sutliff, "The drawing shows 6'8" to the west. Is that changed?" Pascoe, "You are very observant. I didn't notice that."

Sutliff, "Would this be a walk in cooler?" Pascoe, "Yes. We have one in the store that is 9'8" deep. We wanted to move that out into the new area & open up the front for more food sales."

Brett to Pascoe, "Do you envision the use of the building going to change at all with the added space?" Pascoe, "All we're going to do is add food. We're not sure what. Right now, the thinking is to move the coolers, which are 9'8". Brett, "That gives you greater room inside." Pascoe, "The back is going to be for storage. There is no storage & we've got stuff behind the building. We hope to get that stuff out of there." PC looked at pics.

Sutliff to Hocevar, "What were the issues that the ZBA looked at? Were there side yard?" Hocevar, "It's a nonconforming use. Other than nonconforming, I don't think they had a variance on anything other than a nonconforming use." The property is 200' X 300' according to Mr. Pascoe.

Brett, "Since the Bell Station has already gone to the ZBA, what is it that PC is here to review?" Ondrey, "Is this the same physical expansion they got approved in 2005?" Pascoe, "Yes. Exactly." Ondrey, "That was conditioned upon landscape approval."

Hocevar, "Right, but he never came in front of PC for approval at all. We either do PC or ZBA first. Remember, on any commercial development or expansion, according to the zoning code, they have to come before PC to get their approval. So I told Mr. Pascoe, 'Jim when you go for the sign you're going to put up, let's get the approval from PC even though ZBA granted the variance.' We always in the past had them come before PC for developmental approval."

Ondrey, "So this is a developmental approval issue." Hocevar, "Basically it is. I told him, as long as they are here, let them approve the sign & then they'll approve the expansion of your building."

Ondrey, "Is the sign in conformance with zoning?" Hocevar, "Yes. They are changing the facing of the sign. They are not changing anything to do with location or size." Pascoe, "It will remain the exact same dimensions." Pascoe showed pics of new sign. Hocevar, "In the past, we've never made an issue if they change the facing. As long as ABR approves it, we're going to leave it."

DiMichele, "I thought we already did this sign. I remember having this discussion way back when." Hocevar, "If we did, we don't have a record of it." DiMichele, "I know we talked about it." Hocevar, "It may have gotten ZBA approval, but it never came before the PC."

Pascoe, "The signage issue has reared its head. As I showed you in the picture, we want Gulf Oil. We're maxed out now on signage. We want to put the signs on the canopy. When it

was a BP station, we took the BP off the canopy." Pascoe shows PC what he wants to put on the canopy. Pascoe, "They are 21 square foot per sign. There are 2 of them. I'm hoping we can do that without having to go back to the ZBA." Hocevar, "The signage that he showed to me is 42 square feet. He is permitted 45 square feet. He fits in that category. I thought you'd like to look at it because there is nothing on the canopy."

Sutliff, "Does the sign on the canopy increase beyond 45 square feet? Are we beyond the 45 square feet?" Hocevar, "We're not. I talked to Mr. Pascoe about the sign on the front of the building; that illuminated little sign. He has to go to the ZBA if he wants to use that."

Brett, "So if he fits within our zoning requirements, then he doesn't have to ask for PC approval." Hocevar, "No. He's still changing the façade. He's still changing something that PC always used to say, 'I'd like to see it.'" Brett, "So do we make that part of the motion?" Ondrey, "You say you approve the plans as submitted pertaining to the signage."

Brett, "So the point is, when you change the footprint of a business, it automatically has to come back to PC." Hocevar, "Absolutely." Brett, "To me the fact that the use isn't changing, the expansion of the building has already been approved by the ZBA, I think it's a good fit for the Village, I would support it. I'd like to see us move forward with it."

Latkovic, "A gas station, is there any impact from the tanks? You don't need to get any special approval?" Someone said no. Latkovic, "I agree. I think it's great that the business is flourishing & growing."

DiMichele, "What about the landscaping issue that was never done from before?" Pascoe, "Well, we have made an attempt to do the landscaping. As I said, we quit doing this thing at the 11th hour. So we never came back in with a master plan." Brett, "The issue was there were old Cedars. When those were removed, folks on Fox Run were concerned that they didn't want to see the building. Since then, there has been landscaping that has been put in." DiMichele asked Hocevar if there have been any complaints from neighbors. Hocevar, "None at all."

Brett, "I move that we approve the request for conditional approval for the variance (ZBA 10-19-2005: addition 10' to the north & 6'8" to the west) with the plans as submitted. And I approve the plans as submitted pertaining to the signage." Latkovic second. Roll call: all ayes. CONDITIONAL DEVELOPMENT REVIEW APPROVAL

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(2). The Mayor wishes to discuss whether or not PC chooses to make a recommendation to Council either for or against a proposed cemetery.
-PC refers to drawing prepared by CT Consultants, the Village's Engineering Co. Cemetery Layout Section 1, January 2013, contract # 08376, on Chillicothe Rd. R-1-A district

Mayor summarizes: next Council meeting is May 20, 2013. Council is expected to make decision regarding cemetery – to move forward or not. Cemetery proposed on village property on Chillicothe Road; R-1-A district. Council has made a motion that dedicates that parcel for the use of a cemetery. One step needed is to make sure it fits in with SR zoning.

Ondrey, "We've advised all of you - in the past - when it is a municipal use, you don't really have to comply with your own zoning. That's a little cold & we do want to try & comply. The problem is the way that property is currently zoned. A cemetery is a conditional use. We have a setup to allow a cemetery there. Those regulations are antiquated. It's a 40 acre minimum. We couldn't meet that here. There are about 22 different standards for a cemetery in that district. From what my limited knowledge is of the proposed layout for the municipal cemetery, we wouldn't meet probably 85% of those requirements. They were drawn up years ago in an effort to control if a big, commercial cemetery came to the village."

Ondrey, "Faced with the reality, if you wanted to comply with the current zoning, the village would have to get a number of variances. A far easier solution is to change the zoning. Either exempt municipal cemeteries altogether from zoning or say a municipal cemetery is located in each zone or at least that zone; and not put any particular regulations on it."

Ondrey, "If you want to put a cemetery across the street & you want to conform to our zoning, you've got to make a change to the current zoning or go through an onerous variance request. Remember any zoning change is initiated here with PC. A simple motion such as, municipal cemeteries are allowed in R-1-A. Or, they are allowed in every zoning district & not put any particular restrictions on them. Council will sort through exactly how & where it is going to be laid out."

Sutliff, "Does that require a Public Hearing?" Ondrey, "Not here at this level. If we make a zoning amendment, eventually there will be a Public Hearing." Brett, "I'd like PC to move on this. PC would pass a motion asking Council to make this change. Council would go through their process. When zoning issues came up before, they typically go through all 3 readings & part of that is a Public Hearing."

DiMichele, "I make a motion to recommend that zoning be amended to permit municipal cemeteries in any zoning district in South Russell." Brett second. Roll call: all ayes. Approved

Hocevar to Ondrey, "I think we have to put some kind of regulation. We don't want people burying people in their backyards & declaring that a cemetery." Ondrey, "I said municipal cemetery. An ordinance will be drawn up & a Council member will introduce it. "

History: the Village acquired the property on Chillicothe, R-1-A, because someone had looked at doing a large office complex there. Considered use: a park

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(3). Formal discussion with Mark Derry, owner of Living Lean, an exercise facility, located at 576 Industrial Parkway. He wishes to enlarge the size of the business by 2,400 square feet. He hopes to expand the gravel parking lot up to 25'X90'.

-letter, 5-9-13 from building owner, Dr. John H. Tressler III. He supports Mr. Derry's plan to expand

Mr. Derry, "Right now I'm on the second floor. Ben, the refinisher, moved. He has the same foot print as we do; just on the first floor. We'd like to expand so we have both floors.

We will have almost 5,000 square feet. We have parking issues. Exotic Plants moved into the building. We're a growing business. So we're taking most of the parking. Luckily, they only have about 4 or 5 spaces that they do need. So, we are proposing to put the parking lot back, 25'X90'. 90' is the width of the existing parking lot; 25' back in the wooded area."

Sutliff to Hocevar, "Do they need additional parking?" Hocevar, "It's his choice but, with the additional square feet, he's going to need it. The reason he's in front of the PC is because it's actually not the same use going in down stairs. It's a different use. It was his option to expand the parking lot for parking. I said, 'Why don't you just come to PC, get their development review approval?' It is not a similar use that was in that building? They are upstairs & there's a different use downstairs." Basically, this is the same thing that PC heard with the Bell Station. Mr. Pascoe had a variance. Mr. Derry does not.

Brett, "Do we need to think of these as different aspects? One is conditional use? The other is expanding the parking area?" Hocevar, "I don't think so. The expansion of the parking; it's pretty flat back there. I don't think there is a drainage issue. It's just putting a different use inside that building. Put it all together, I want PC to approve the use of it & expansion of the lot because the minute he goes out with a front end loader & starts digging, I'm going to get some calls."

Sutliff, "Is this something the village engineer is going to take a look at?" Eric Haibach, "Yes." Ondrey, "If PC approves the development plan tonight, plans still need to be submitted to the engineer & reviewed for proper drainage. Any approval is contingent upon the village engineer's approval."

Haibach asks for site plan in color. Derry shows PC proposed driving patterns. Derry, "We can add, behind the building, about 17 parking spaces. We use 27 spaces. So we will still use spaces here. (He points to drawing). We'll take the stress off the landlord who gets complaints from Exotic Plants about us taking their parking."

Sutliff to Hocevar, "Is a gravel parking lot recognized as an approved surface in SR?" Hocevar, "We never had it addressed where it wasn't. It's permitted to do in a parking lot. We have a few in SR."

Brett to Hocevar, "Does Mark need to do the parking as part of what he's come to PC for?" Hocevar, "Actually, the business that was in there, they both had the same parking regulations requirements. Nobody who had the building down below caused a problem." Brett, "I don't think it is a requirement, but if you're (Derry) going to have that business there, I think it's the wise thing to do. There are already parking issues in that general area."

Latkovic, "Are you making it big enough?" Derry, "That is my concern also. That's a budget issue. This was my idea, not the building owner. He is coming down on me because we are taking others' parking places. It was my proposal to expand out into the back. It's going on my dime. In the future, if we continue to grow, we could come back here & propose another 25' say. "

Brett to Hocevar, "Is there anything we need to watch like side yard setback? Or any of the setbacks?" Hocevar, "None at all. He's got plenty for the second parking. He has some interior alterations done. It's pretty flat." Brett, "My own perspective is, a South Russell

business is doing well. It wants to expand. I would like to support that. The plan for expansion to take on a second floor is a good one. It's a good use for that space." Derry's been in that building 2 years this June. Brett, "The fact that he doesn't have to expand the parking area, but wants to, I think that is the right thing to do. I would be supportive."

Brett, "I make a motion to approve the proposed expansion into the first floor & additional gravel parking, 25'X90'. The proposed parking lot is subject to the Village Engineer's & the Building Inspector's approval." Kostura second. Roll call: all ayes. CONDITIONAL APPROVAL

The Village Engineer requests a site plan.

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(4). Informal discussion with Jean Makesh, CEO at an assisted living facility called, The Lantern of Madison. He may purchase the property at 5277 Chillicothe Road & develop it as an assisted living facility. Ten of the 15 acres is already zoned for that use.

Makesh lives in Auburn. He goes to Fellowship Bible Church.
- He has purchased the property at 5277 Chillicothe Rd. It closed yesterday. Ten acres in back is zoned for assisted living. The front 5 acres is residential. He is President of the company. His investors are from Pittsburgh.
- He is an occupational therapist. He has his masters in orthopedic medicine & an MBA from Lake Erie College.
-7 years ago he developed a concept for dementia/Alzheimer's. He is applying for a patent. Unique concept in Madison called squares. They retrofitted into an existing building; an old hospital on Harper Rd. Because of the program, he won the entrepreneur award last year.
-He would like to put the program in SR. When you walk into the building, you get the impression that you are outdoors. The sun rises inside the building & the sun sets inside the building. He wants to do that in the back 10 acres.
-He &partners are going back & forth trying to figure out what would make perfect sense for them. There are other places near: the Weils, South Franklin Circle, Hamlet Manor, and Arden Court. His concept is very unique, very different.
-The Zoning Board from Concord Township came to Madison. They were very interested in having Makesh open a facility there. He lives in Auburn. He'd like to build a facility in SR & not drive an hour each way to work.
-His facility: is high end, but affordable. For SR he'd like: about 40 assisted living, maybe 40 dementia/Alzheimer. If possible, 40 independent living. **Not sure if he would do independent living. He asked if PC would consider that on the 5 acres in the front.** This morning he & partners discussed, "Should we do the independent living in the 5 acres or are there other lands available here in SR that we could buy & build?" He doesn't want to be as big as South Franklin Circle. I'm thinking about 100 apartments.
-in Madison: 20 dementia/Alzheimer's, 71 assisted living

-Fees: all private pay. The Madison project cost about $7million dollars.
- "For 10 years I was BP compliance. I had 120 properties over 12 states. I managed them before I started on my own. When we started in Madison, I was everything. I was the housekeeper, the laundry guy. I was fielding marketing & sales calls. I turned people down because they didn't have the financial resources. At that point, we started to work with the Wayward Program in 2004-05. It is state approved. If we do the Medicaid route, it is hard to function. Medicaid doesn't pay us much. In Madison, my cost is $90.00 a day for each apartment. Medicaid pays us $70.00 a day."
- What they did: "If you guys have money for two years to live with us, then we will take care of you the rest of your life. I worked out the numbers in such a way, that I can continue to accommodate that 10% or 15% of my clientele under the Medicaid umbrella. It works very well. My clients come in with the assurance that they can come in & when they run out of money, they can still live there. Other assisted living facilities, you don't typically see that."
-He is the first one to accept Medicaid in Lake County & Cuyahoga County. Now other places are doing it.
-What is the monthly self-pay? He's not sure. He toured South Franklin Circle. They start at $7,000.00 a month. There are 3 or 4 levels of care. "My guess is that it goes up to $10,000.00 a month. They have a fantastic facility but the rooms are outdated."

"Over at Madison, we start at $90.00 a day. So that is about $2,700.00, $2,800.00 a month. Depending on the level of care, it goes up to $4,000.00 to $4,500.00." That includes Alzheimer's.
- Building concept: Latkovic, "80 units on 10 acres. That's a big piece of land for 80 units. I can see 80 units on 4 or 5 acres." Makesh agrees. In Madison he has 16 acres. They have developed only 10 acres. "Ten years down the road, the demand will change. My guess is we would make it green space."
-units are single floor. A unique model; it hasn't been done anywhere. There are 7 stages of dementia/Alzheimer's. He wants a wing, a living environment for 2 stages at a time. Stages 1, 2, 3 will have a living environment. 4, 5 will have a location. 6, 7 will have a location.
-With Alzheimer's you always revert to earlier memories. His philosophy is memories of yesterday are function today. It is based on 5 principles that he wrote. The book will be coming out in 3 months. "What we do is leverage their (clients) memories. I went back to 1925. I captured that era between 1925 & 1940. When you walk in, you actually have homes in sight like with shingles, gutters & porches. They are real homes. The ceiling is all sky. The computer is tied to the sunrise, sunset. As the light progresses, it gets brighter with time. It gets darker latter in the day.
-He's going to create each living environment similar to the other. Clients with Alzheimer's/dementia in stages 1 & 2 don't get along well with people in stages 5, 6. "So if I create 3 living environments that look similar with no changes, when they progress from one stage to another, I can move them & they wouldn't really know. With Alzheimer's/dementia, you have to avoid (?) displacement. It upsets them."

-When they get the feedback from the environment, they tend to do very well. The facility has water falls inside because water is 2 molecules of Hydrogen & 1 molecule of oxygen. When it hits the ground, it breaks & creates positive & negative ions. Negative ions are very good for us. That's why we love to be outside. So you create the negative ions inside & you have greeneries. Plants give out oxygen. They take in carbon dioxide. It is clearly a healthy environment.
-Latkovic has been through about 2 dozen facilities. He's familiar with the market. Makesh's comments are cutting edge. "It sounds expensive. How do you buy 15 acres, build on it & support it on $2,500.00?" Makesh, "I don't think we'll be able to do $2,500. I think we can be very competitive in the market." Latkovic thinks this is an exciting concept. It would be a good thing done the right way for the village in this specific location. He lives across the street from the Chillicothe property.
-Latkovic, "I think the Village needs to be very concerned about putting something in place there that is sustainable & that makes for the long term & have a guy like you who seems very passionate doing something as opposed to Sunrise coming in. Sunrise is a giant company. When we talk about this we need to know what demand there is. I would have concern; is there going to be demand? Where are the demand drives for an Alzheimer's (?)"
-Comments & questions from PC: he owns 17 acres. What does he envision from a building perspective? How much property will be used? How many employees does he envision?
-Brett, "What you're looking for from us, informally, is how the Village would receive this? To give you that we have to hear more about what you would be doing physically with that property."
-Sutliff, "The back 10 acres are zoned for assisted living. What do you intend to do with the front 5 acres? Change the zoning?" Makesh, "I'm not sure yet. We talked about a year round resort for the elderly. Create something unique. I'm not sure what the plans are for the first 5 acres. I know we want to preserve the house. We want to convert that into a club house. I want to preserve the barn; maybe a fitness center."
-# of employees: Makesh's guess 60-70. Brett, "About 120 beds? 40 dementia/Alzheimer, 40 assisted living, 40 independent living." Makesh, "Yes. If we don't go with the I (?) then it will be 80 beds; 40 & 40.
-Size of building to be built on back 10 acres: Makesh guesses, "Assisted Living would be close to 45,000 square feet. My guess is the dementia side would be close to 45,000sq feet. Total, about 90,000 square feet. Will I do all the 90,000 at the same time, I don't know." He likes to do things in phases.
-He doesn't want it to look like a residential care facility. He's working with an architect to make it look like a mansion. He thinks the concept will sit well in Chagrin Falls, SR. #1, it looks great. #2 he doesn't want his clients to feel like they are going to a home. You pull up. There are 2 big double doors, a gothic, rustic look. "
-H2O on site: Makesh said he has sewer. He was told there was city water. He saw the well the other day. Sutcliff recalls when that property was rezoned, Dr. Eckstein was involved with water studies. They did determine that there was sufficient water there to support an assisted living ..." Hocevar, "Sufficient from a well; sufficient well water." Makesh, "How far down is the water? Hocevar, "Miles."

-timing for project: investors would like to start right away. Concern; building when it's snowing. His investor would like to see doors open by next June. Architect from Ft. Myers, Florida for the Madison project. Greg, who has done a lot of high end million dollar homes in Ft. Myers. Makesh likes designs that he's never seen in his life. Makesh tries not to work with people from the industry. He likes to work with guys who build resorts. He's been talking with Tim Mully (?) who lives in Lake Lucerne. He's a designer.
-Makesh invites PC to visit Madison. When he built Madison, the feedback he received was that he was 10 years ahead & foolish to build in Madison. He likes to think 10 years ahead.
-The dementia care was just built & that part is full. They just added another 19. That part is not full. We've got another 14 rooms. We've got wood floors, fireplace & large columns in the rooms. All the TV's are smart TV's. They can skype.

Sutliff, "Is this project going ahead, contingent upon rezoning the front 5 acres?" Makesh, "The 5? No not really." Sutliff, "So if you didn't get that, it wouldn't impact it?" Makesh, "No. No. One of the things we do is we want to partner with the city, the township, the fire dept. & police. I will not go into a community unless they are willing to work with me. We looked at property off the golf course in Auburn. I walked away from that. Then we looked at Petitti's (on Chillicothe). Then someone from my church told me this property was available. The interest was that the 10 acres was already zoned for a facility. The first 5 acres, I was just asking folks what your thoughts were."
-access to property: through the south. They will have to make an access to it. The land is almost landlocked. They'll have to enter over the 5 acres. Makesh doesn't have an idea where that will be. Hocevar, "Where the barn is or where the house is, they'll have to stay south of that." Makesh, "I would like to push it to the corner of the property if I could. It's a very efficient use of land."
-Latkovic, "Does the Village incur expense for EMS coming into the Village?" Brett, "We do. With our current contract with Chagrin Falls, the amount of money that we pay is factored by the number of EMS runs that they do. They take that as a proportion of all the runs with all of the communities that participate. They take all their costs& then they allocate them that way. If there are more runs based on a facility like this, that's going to add to our cost."
-Latkovic, "Do we have impact fees? Is there anything like that that the Village has when a facility like this is built?" Hocevar, "No." Ondrey, "Mostly because we haven't had to change our infrastructure. That's where those impact fees go. We haven't had to expand roads."
-when this becomes a formal discussion, PC will consider according to Ondrey: "Traffic circulation. There will certainly be some density limitations. That's where the discussion gets interesting. The developer wants as many spaces & rooms as possible. Our regulations are relatively restrictive you will find when you put pencil to paper & start looking at what you are hopeful of getting square footage wise compared to the land. When other people have come before us with similar discussion, that's where it became a difficult issue. How much can you really fit on to that footprint? How big a footprint can you put on the land? There's always interest about traffic issues. That would be one of the highest use traffics in the entire village. That always becomes a discussion."

-Ondrey, "Assuming they fit into the zoning parameters that we have, your look at it is relatively limited".
-zoning now: Hocevar, "Elderly assisted living; ten residents per acre. (100 residents on 10 acres) They have to meet the side yard requirements, the height requirement, and lot coverage requirement. Mr. Makesh went through all this & he feels confident that he can comply with all the restrictions. If anyone sat on PC when we developed Fox Run, Country Estates, they have to go through the whole approval. They have to approve all the drainage, the storm issues, water runoff. Our police department comes forth & goes through the safety issues: aspect of entering, egress of vehicles. There aren't many problems with developments that went in because we beat the heck out of it to get what we wanted." Ondrey, "And the parking issues."
-Ondrey, "You're only going to get the feedback that you need is to come with a sketch plan, a general idea."
-Makesh has one investor, Ed Dunlap who is out of Pittsburgh. Originally he was from Painesville. He's in roofing business; a self-made guy. They've known each other for 9 years. He developed Victoria Station in Painesville & a mall in Kent. Makesh is not involved with that. He is involved with the health care side of business. They work with Freemont properties. That's who developed Kent. Now they are going to do something in Canton.
-Makesh just came to introduce himself. "From here on, my architects, engineers will come in. They will do everything that is required. We will work with you guys. We will not try to do anything that you don't want us to do."
-Brett's concern, "There are a number of homes that border that, 6 or 7. They'll be concerned about what's going to happen there. That will be their concern. That'll be my concern too." Makesh, "The leaves are back & I can't see them. I was able to see them a month ago. One of the things that we will try to do is buffer it with landscaping & find a way that they don't see the fire truck, the ambulance from their side. I'd like to accomplish, when they look on this side, they should get impression that it is a huge mansion, not a facility. Those are some of the challenges, but I'm sure my engineers can draw that."

-Chagrin Valley Times, 5-30-2013, Pp. CL5: REAL ESTATE TRANSFERS: SOUTH RUSSELL, Emuna Reality Ltd., 5277 Chillicothe Road, to Chagrin Woods LLC, $685,000.

There is no old business. Under new business, PC has a new member, Brian Kostura. He has taken over the council position vacated by Jim Flaiz.

The PC will meet 6-13-2013 at 7:30p.m if there is something on the agenda.

There was no further business. The meeting adjourned at 8:43p.m.

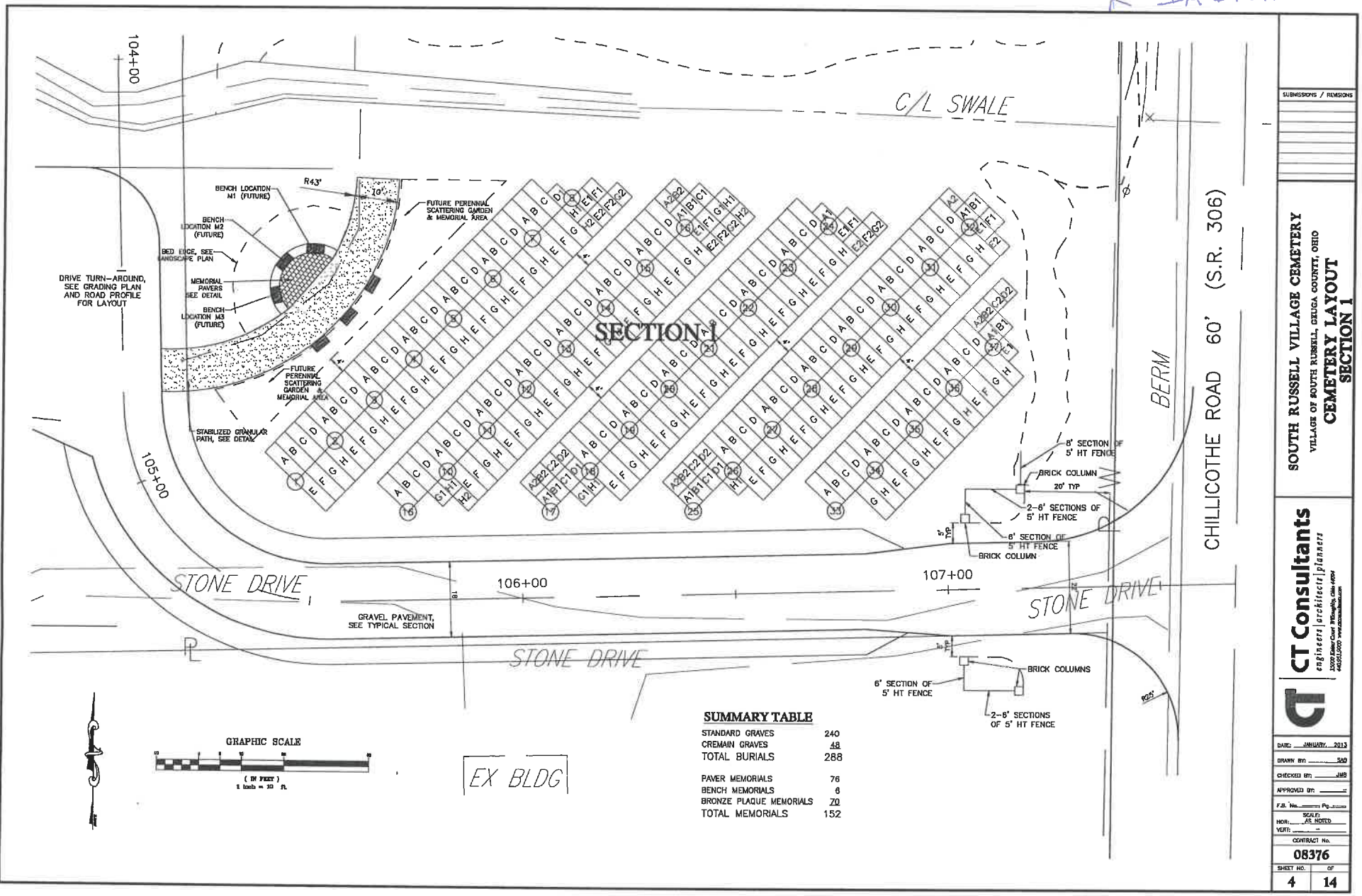
Chairman, Walter Sutliff

Maggie Tomaro, secretary

P.C. 5-9-2013 Dimichele, "I make a motion to recommend (to Council) that zoning be amended to permit municipal Cemeteries in any zoning district in SR." Brett second. Roll call: all ages Approved.
Chairman Walter Sutliff, Mayor Matt Brett, Janice Dimichele, Steve Latkovic, + Brian Kostura

PC reviewed this 5-9-2013

R-1A DISTRICT



SUMMARY TABLE

STANDARD GRAVES	240
CREMAIN GRAVES	48
TOTAL BURIALS	288
PAVER MEMORIALS	76
BENCH MEMORIALS	6
BRONZE PLAQUE MEMORIALS	70
TOTAL MEMORIALS	152

SUBMISSIONS / REVISIONS

SOUTH RUSSELL VILLAGE CEMETERY
VILLAGE OF SOUTH RUSSELL, GEUGA COUNTY, OHIO
CEMETERY LAYOUT
SECTION 1

CT Consultants
engineers | architects | planners
13000 Kinsey Court Willoughby, Ohio 44094
440.951.5000 www.ctconsultants.com

DATE: JANUARY, 2013
DRAWN BY: SAD
CHECKED BY: JMB
APPROVED BY:
F.B. No. Pg.
SCALE: HOR: AS NOTED VERT:
CONTRACT No. 08376
SHEET NO. 4 OF 14

Copyright - Feb 27, 2013 - 11:11am CT Consultants, Inc.
Drawing name: N:\2008\08376\dwg\Cemetery.dwg Layout: 4 plotted by: bond

FORM Z-1
PAGE 1

APPLICATION FOR
ZONING PERMIT

VILLAGE OF
SOUTH RUSSELL, OHIO

Zoning Permit Application
No._____

HOUSE/BUILDING NUMBER AND STREET 576 No. Pkwy
SUBLOT NO._____ SUBDIVISION_____ PHASE_____
LOT WIDTH: FRONT_____ REAR_____ LOT DEPTH: LEFT_____ RIGHT_____
TOTAL LOT SIZE: _____ TOTAL PROJECT SQ. FT._____ AVERAGE HEIGHT_____
EXISTING USE: RESIDENTIAL_____ COMMERCIAL:_____ EXISTING ZONING: _____
NEW:____ ADDT'N/ALT'N:____ HABITABLE:____ NON-HABITABLE:____ ACCESS.STR.____
WILL PLACEMENT BE TO THE: FRONT___ SIDE___ REAR___ PROPOSED FRONT YARD_____

APPLICATION FOR: Development of 2400 sq. ft. of additional space & up to 25 ft x 90'w of parking space (gravel)

FOR FENCING: NEW TOTAL LENGTH CONNECTED:_____
TOTAL FENCING ON LOT (NEW AND EXISTING_____

FOR SIGNS: BUILDING FRONTAGE:_____ USAGE TYPE_____ LOCATION TYPE_____

OWNER NAME: _____ OWNER ADDRESS: _____

APPLICANT'S SIGNATURE_____ DATE: 4/29/13

ZONING INSPECTOR having reviewed this application and blue prints finds the following action:
Forward to Planning Commission for Development Review

Signature___ [signature] Date: 4/29/13

FORWARDED TO PLANNING COMMISSION: 4-30-13 ZONING BOARD OF APPEALS:_____

Required action of PC on 5-9-2013 was as follows:

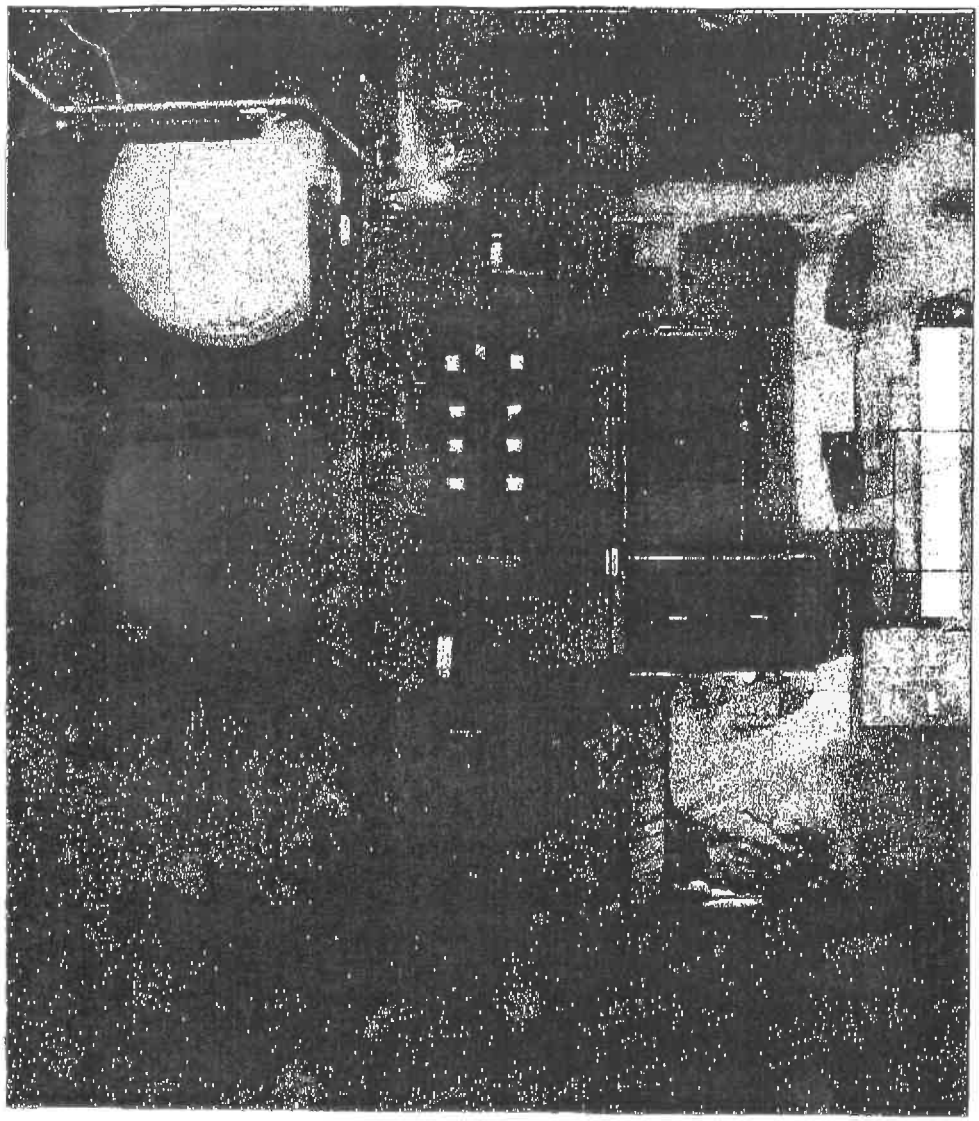
Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____

Zoning Inspector per the above Board action, hereby takes the following action:

Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____



Access Geauga

Parcel #: 29-097360 Routing #: 29-09-15-00-091-00
Tax District: S RUSSELL VILL-CHAGRIN F EV
Location Addr: 576 INDUSTRIAL PK
Owner: MARTGUILD PROPERTIES LLC

Owner Address: 179 E WASHINGTON ST
CHAGRIN FALLS OH 44022
Mail Name: MARTGUILD PROPERTIES LLC
TRESSLER JOHN H III
Mailing Address: 576 INDUSTRIAL PKWY
CHAGRIN FALLS OH 44022
Deed Volume/Page: 1765/1804 Class: 340
Sub/Lot/Sect/Tr: LOT 16 TR 3
Acreage: 1.08

VALUATION	Tax Year: 2012 Market	Taxable
Land	$59,400	$20,790
Improvement	$35,600	$12,460
Total	$95,000	$33,250
CAUV	$0	$0

Sale Value: $0 Sale Date: 08-20-2005
Yr Blt/Remodel: /
Total Living Area: 0 Grade:

N

Frank J. Gliha - County Auditor
"Inter-agency coordination benefiting the citizens of Geauga County"
Joe Cathell, P.E., P.S.
County Engineer

Scale 1:908

This map was prepared as a Tax Map for Geauga County by the Geauga County Engineer in accordance with Section 5713.09 of the O.R.C. Geauga County digital data is a representation of recorded plats, surveys, deeds, and other collected information for use within the Geographic Information System for purposes of public access and analysis. These and other digital data are not replacements for actual surveys, deeds, and for other legal instruments defining land ownership or use. Geauga County assumes no legal responsibility for this information and encourages persons the GIS or Tax Map Department with questions or concerns.

http://www.auditor.co.geauga.oh.us/agi/ April 29, 2013

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<< Prev | Next >>

From: Laura Heilman <Laura@southrussell.com>

To: mtomaro@roadrunner.com

Cc:

Subject: 5277 Chillicothe

Priority: Normal **Date:** Monday, April 29, 2013 10:25 AM **Size:** 6 KB

On Friday afternoon, I learned that the farmhouse on Chillicothe (across from Sheerbrook) is under contract and they intend to close this week. The plan is to develop the property as assisted living; 10 of the 15+ acres is already zoned for that use. They will specialize in dementia and Alzheimer's patients. The existing house is to be made into a sort of clubhouse, with a cigar smoking room and a bar which would overlook an indoor swimming pool. Behind that building, to the rear of the property, will be a building that would appear from the road to be a Gothic style mansion, rather than a traditional apartment style complex or nursing facility. It would have 60 beds for assisted living, a movie theater, a salon, a day spa, a pond with a beach (if the Village will permit it), and possibly an area where they could sell their own brand of lotions and such to the residents as well as to the general public. It would also have another 30 beds in apartments for independent living. I suggested that they may want to approach Planning Commission informally to present their plans and get some idea of what the board would want to see. He welcomed that idea, and seems very open and willing to work with us. In addition, he said they are possibly going to ask for the front 5 acres to be re-zoned so they can sell those lotions and such to the public. Their vision is for this to be a "world class" facility - I don't believe they will be sparing any expense. Jean Makesh is currently the CEO of an assisted living facility in Madison called The Lantern Of Madison. They hope to begin the interior work on the clubhouse soon, but the exterior appearance of that building is to stay the same.

330-348-4855

Inbox (288)
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11-30-2012 Maggie Jane & Saved Mail

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(s13)

REAL ESTATE TRANSFERS

CUYAHOGA COUNTY

Following is a partial list of real estate transfers for April provided as a public service by the Cuyahoga County Auditor's Office. Transfers may involve the sale of land only.

CHAGRIN FALLS

Carol A. Catalano and Ronald J. Strah, 113 Bell Tower Court, to Lester T. Zatko Jr., $390,000.

Daniel Gregg, 355 Solon Road, to Federal Home Loan Mortgage Corp., $24,550.

GLENWILLOW

The Drees Co., South Village Lane, to Leonardo E. and Juliana B. Bellodi, $264,800.

ORANGE

Berns Custom Homes, Waterford Court, to Musca Properties LLC, $285,000.

David W. and Mary F. Abbuhl, 4369 Hilltop Road, to David W. and Annemarie H. Cochran, $345,000.

PEPPER PIKE

Pulte Homes of Ohio LLC, North Pointe Drive, to Cheryl G. Persanyi, $270,451.

SOLON

Wells Fargo Bank NA (trustee), 5264 Denise Court, to Eric J. and Robyn L. Greenberg, $297,500.

Lynne R. Paderewski and Jerry Peters, 32327 Springside Lane, to Jack L. and Laura S. Koslen, $235,000.

Riverstone Investments LLC, 34250 Country View Lane, to Derrick Hoffman, $265,000.

William L. Knowles, 32234 N. Roundhead Drive, to Thanh Ngo, $159,000.

Carol Demichele (trustee), 37700 Bainbridge Road, to Edwin M. Perez, $134,500.

Kingdom at Signature of Solon Inc., Wexford Drive, to Hernando and Laura Zegarra, $100,000.

GEAUGA COUNTY

Following is a list of real estate transfers for the week ending May 10 provided as a public service by the Geauga County Auditor's Office. Transfers may involve the sale of land only.

AUBURN

Federal National Mortgage Association, 147 Kensington Court, to George B. Rumore, $242,000.

BAINBRIDGE

US Bank NA (trustee), 7165 Aurora Road, to Pebb Cleveland LLC, $3,360,000.

Angelique Kalomeres and Jeff Ringness, 17165 Abbey Road, to Justin C. and Sara E. Snyder, $283,000.

William and Marie S. Dolan, 7580 Cottonwood Trail, to Mark A. and Jill Marie Doheny, $754,500.

Florence A. Koenig, 9229 Taylor May Road, to Jeffrey S. and Emily E. Rankin, $134,000.

BURTON

Brian M. and Nicole M. Rich, 13750 Carlton St., to Alan J. and Linda E. Maresh, $56,000.

CHARDON

Hidden Glen Associates LLC, 108 Hidden Glen Trail, to Barr Brothers Remolding Construction Inc., $65,000.

Federal National Mortgage Association, 354 S. Hambden St., to Ryan and Martha McKenzie, $78,900.

CHESTER

US Bank National Association (trustee), 12313 Chillicothe Road, to EH Pooled 313 LP, $22,5000.

Jefferson D. and Jennifer L. Lexa, 7694 Oak Hill Drive, to Charles C. Holub and Rachel E. Leisure, $209,000.

HAMBDEN

Michael A. and Terri A. Fabian, Locust Grove Drive, to Joseph F. and Antonina M. Novak, $73,000.

DAD Properties Ltd., 12577 GAR Highway, to Chardon RP LLC, $428,600.

Donald L. and Cheryl L. Arnold, 8960 Williams Road, to Michael O. Fleener, $320,000.

MUNSON

Rollin G. Cooke III, 11870 Julie Drive, to Janik Investments, LLC, $48,400.

Joseph A. and Beth M. Puzder, 12211 Woodiebrook Road, to Michael J. Dunlap, $64,500.

NEWBURY

Sweetbriar Suri Properties LLC, 12375 Pond Road, to Allen S. Daffron and Tamsin Beach, $398,000.

Tamsin Beach, 9839 Bell St., to Thomas A. and Gail K. Visconsi, $275,000.

Gretchen L. Watjen, 14636 Woodbury Drive, to Karen L. Bailey, $25,000.

RUSSELL

Stephen P. and Ana S. Cholewa, 8370 Kinsman Road, to Robert W. and Theresa Poelking, $267,800.

Gloria E. Ptak, 14447 Caves Road, to Janice L. Duale Babiak, $163,000.

SOUTH RUSSELL

Emuna Realty Ltd., 5277 Chillicothe Road, to Chagrin Woods LLC, $685,000.

Debra A. Clark, 103 Champion Lane, to Xuan Huang and Qiang Song, $520,000.

Russ C. and Nancy F. Valentine, 518 Woodland Court, to Mark A. Rosner and Amanda H. Butler, $660,000.

4-30-2013

To: PC
From: Maggie Tomaro

Greetings!

The next PC meeting is set for Thursday, May 9, 2013 at 7:30p.m. In addition to the two items previously scheduled, (James Pascoe, Bell Station, 5196 Chillicothe Road & discuss a cemetery) there are two additional agenda items:

3. Formal discussion with Mark Derry, owner of Living Lean, an exercise facility, located at 576 Industrial Parkway. He wishes to enlarge the size of the business by 2,400 square feet. He hopes to expand the gravel parking lot by 25'X 90'.

4. Informal discussion with Jean Makesh, CEO at an assisted living facility called, The Lantern of Madison. He may purchase the property at 5277 Chillicothe Road & develop it as an assisted living facility. Ten of the 15 acres is already zoned for that use.

Please confirm whether you are or are not available for this meeting. You can e-mail response ASAP or call me at 440-338-1807. Also bring materials that were sent to you on April 5, 2013.

Thanks.

Maggie

APPLICATION FOR
ZONING PERMIT

VILLAGE OF
SOUTH RUSSELL, OHIO

Zoning Permit Application
No._____ Living Lean

HOUSE/BUILDING NUMBER AND STREET 576 No. Pkwy
SUBLOT NO._____ SUBDIVISION_____ PHASE_____
LOT WIDTH: FRONT_____ REAR_____ LOT DEPTH: LEFT_____ RIGHT_____
TOTAL LOT SIZE: _____ TOTAL PROJECT SQ. FT._____ AVERAGE HEIGHT_____
EXISTING USE: RESIDENTIAL_____ COMMERCIAL:_____ EXISTING ZONING: _____
NEW:____ ADDT'N/ALT'N:____ HABITABLE:____ NON-HABITABLE:____ ACCESS.STR.____
WILL PLACEMENT BE TO THE: FRONT___ SIDE___ REAR___ PROPOSED FRONT YARD_____

APPLICATION FOR: Development of 2400 sq. ft of additional space & up to 25 ft x 90'w of parking space (Gravel)

FOR FENCING: NEW TOTAL LENGTH CONNECTED:_____
TOTAL FENCING ON LOT (NEW AND EXISTING_____

FOR SIGNS: BUILDING FRONTAGE:_____ USAGE TYPE_____ LOCATION TYPE_____

OWNER NAME: Mark Derry **OWNER ADDRESS:** _____

APPLICANT'S SIGNATURE Mark Derry **DATE:** 4/29/13
440-552-3239 Mark Derry

ZONING INSPECTOR having reviewed this application and blue prints finds the following action:
Forward to Planning Commission for Development Review

Signature D Heilman Date: 4/29/13

FORWARDED TO PLANNING COMMISSION: 4-30-13 ZONING BOARD OF APPEALS:_____

Required action of P C on 5-9 2013, 200_ was as follows:

Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____

Zoning Inspector per the above Board action, hereby takes the following action:

Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____

PLANNING COMMISSION
MAY 9, 2013
7:30P.M.

1. ROLL CALL: **Chairman Wally Sutliff, Mayor Matt Brett, Janice DiMichele, Steve Latkovic, Brian Kostura**

2. MINUTES: 11-8-2012 **approved**

3. AGENDA:

(1). Formal discussion with James Pascoe of the Bell Station, 5196 Chillicothe Road. (soon to be a Gulf Station)
On 10-19-2005, the ZBA granted conditional approval for a variance to Mr. Pascoe. He requested a variance for an addition to the north & west sides of the building - approximately 540 square feet -for coolers, office & storage. The business is a nonconforming use. It existed before zoning.
Before he can proceed with the addition, Mr. Pascoe is required to have approval from the PC.
Enclosed is a copy of the ZBA minutes from 10-19-2005

(2). The Mayor wishes to discuss whether or not PC chooses to make a recommendation to Council either for or against a proposed cemetery.

(3). Formal discussion with Mark Derry, owner of Living Lean, an exercise facility, located at 576 Industrial Parkway. He wishes to enlarge the size of the business by 2,400 square feet. He hopes to expand the gravel parking lot up to 25' X 90'.

(4). Informal discussion with Jean Makesh, CEO at an assisted living facility called, The Lantern of Madison. He may purchase the property at 5277 Chillicothe Road & develop it as an assisted living facility. Ten of the 15 acres is already zoned for that use.

4. OLD BUSINESS:

5. NEW BUSINESS:
-PC has a new member, Brian Kostura. He has taken over the council position vacated by Jim Flaiz.
-NEXT MEETING: JUNE 13, 2013 AT 7:30P.M.

6. ADJOURN: **8:43p.m.**

PLANNING COMMISSION
MAY 9, 2013
7:30P.M.

1. ROLL CALL: **Chairman Wally Sutliff, Mayor Matt Brett, Janice DiMichele, Steve Latkovic, Brian Kostura**

2. MINUTES: 11-8-2012 **approved**

3. AGENDA:

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4. OLD BUSINESS:

5. NEW BUSINESS:
-PC has a new member, Brian Kostura. He has taken over the council position vacated by Jim Flaiz.
-NEXT MEETING: JUNE 13, 2013 AT 7:30P.M.

6. ADJOURN: **8:43p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
OCTOBER 10, 2013
7:30P.M.

1. ROLL CALL: **Chairman Wally Sutliff, Janice DiMichele, Steve Latkovic, Bryan Kostura**

2. MINUTES: 5-9-2013 **approved**

3. AGENDA:

Formal discussion, Development Review, with Dr. Carol Osborne, a Veterinarian. She hopes to open an office at 530 East Washington St. **DiMichele, "We will entertain a motion to approve with the conditions of: (1). No boarding of animals, (2). Restriction against large animals i.e. horses, cows, llamas. Kostura second. Roll call: all ayes. APPROVED**

4. OLD BUSINESS: Mr. Makesh, who appeared before PC on 5-9-2013 to discuss an assisted living facility at 5277 Chillicothe Road, purchased the land & is now trying to work out the water issues. Question: The size & location that they want to put on that piece of property & the amount of people they want to put in it, is that going to meet our zoning requirements? **He will return to PC on 11-14-2013 for a Development Review.**
-cemetery: still going forward with it. It's been relocated further north because it was in a swamp.
- pavilion: at SR Park on Bell Rd. hoping to break ground next week.

5. NEW BUSINESS: **NEXT MEETING: NOVEMBER 14, 2013 AT 7:30P.M.**
Jim Pascoe, Bell Station, 5196 Chillicothe to return to PC on 11-14-13. He hopes to raise the canopy to accommodate a sign that extends above it. Hocevar, "Any enlargement, anything done on a commercial piece of property requires PC to ok it." Hocevar, "He'll be at the next meeting."

6. ADJOURN: **8:07 P.M.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
OCTOBER 10, 2013
7:30P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Janice DiMichele, Steve Latkovic, Bryan Kostura

OTHER OFFICIALS: David Hocevar, Building Commissioner, Jaredd Flynn, Solicitor

ABSENT: Mayor Matt Brett, Eric Haibach, Engineer

GUESTS:
Dr. Carol Osborne, 953 Bell Rd. Veterinarian
Roger Hover, 5265 Chillicothe Rd.

Chairman Sutliff called the meeting to order at 7:30 p.m. The minutes from 5-9-2013 were approved as presented.

Formal discussion, Development Review, with Dr. Carol Osborne, a veterinarian. She hopes to open an office at 530 East Washington Street; suite A-1.

Dr. Osborne introduced herself: a South Russell resident, lived here her whole life, an Ohio State Grad., has been a veterinarian for over 25 years, had a big private practice, took a research sabbatical, became Board certified in gerontology - aging- as well as anti-aging or helping use of longevity, took further formal training in homeopathy & herbal, Chinese medicines.

Osborne, "I am now what you would refer to as an Integrated Veterinarian. I am a traditionally trained Ohio State grad. who about 10 years into her practice realized that you've got all of these puppies & kittens that are now senior citizens. Old dogs & old cats, that suffer from all the things that we all suffer from: arthritis, diabetes, cancer, kidney disease, heart failure. What I've specialized in is those geriatric pets that are at the end of the road, that traditional medicine can't help them."

Osborne, "What I do is combine traditional therapies with natural therapies to support the body & help the pet. Unlike a traditional vet, I see very few people each day. I spend a long time with each person. I try to educate people & empower them with the knowledge & skills they need to recognize the signs that their pet gives them. And recognize what they can do for that particular individual."

Osborne, "As I said, traditional & alternative therapies. I'm very strong on nutrition & homemade diets & really healthy living. I spend a lot of time educating people in those parameters. I would love to share my knowledge & experience educationally with groups like local schools. As far as older people &pets; getting fit & staying in shape, having great walks, learning about heart health. Two Saturdays ago, I was a speaker at a great event for the American Heart Association downtown at Voinovich Park with the Cleveland Clinic. That pet is their significant other. Pets are considered family members. People are demanding that their pets can receive the same kind of care that they can. My focus is very strong on education & prevention."

Osborne, "Right now, I do not have a hard practice. I make house calls because I don't have a retail location. I don't do spays & neuters. I spend a lot of time talking & teaching. At the clinic I am proposing tonight, there would be no boarding, no grooming, no overnights."

Sutliff, "Would you do any surgeries there?" Osborne, "I would do minor procedures. I wouldn't be using inhalation gas." Sutliff, "And no boarding?" Osborne, "Absolutely not."

Osborne, "As far as medical waste disposal, I have a special service that is accepted by the state that picks up medical waste."

DiMichele, "What unit are you going into? Who is your neighbor?" Osborne, "The music person. The building is really big, about 4,000 square feet. The dance studio is taking ¾ of the space. The space I would have is approximately 1,100 square feet. The music entrance is in the front. They are making him a special entrance. My entrance is on the side."

Kostura, "It would be a separate, direct entrance." Osborne, "Yes sir." Kostura, "You're not asking for a run or an open area for the dogs." Osborne, "No. I do nothing with boarding, grooming. Absolutely none."

Number of employees: Osborne, "Right now my daughter is my veterinary technician. Hopefully, we'd have a couple." Opening: Osborne, "On the lease, which is not yet signed, it says November the 1st. I just saw 8 pages of architecture drawing, I don't know if they can do all that work that fast. Hopefully, by December 1st." Name: Chagrin Falls Integrative Veterinary Center. Osborne, "I'm pretty sure it would be the first integrative veterinary center in a very large radius. I think it's an exciting option for people to know if the pet doesn't respond to a traditional chemo therapy or a toxic substance, there's a softer, nicer, more natural means. There is also a way to combine therapies." She sees dogs & cats; that's it.

Osborne gave PC a couple of books that she wrote.

Hocevar, "They're going to need an occupancy permit & building permit. The landlord, the real estate company wants to hear tonight's verdict before they get going on it." Sutliff, "Is this a permitted use?" Hocevar, "This is a B-1, I-1 district. We kind of categorize personal services & this particular occupation is not really listed. I thought it would be better to come before PC & get its approval. If something is not spelled out in the book, I bring it to PC to get their ok on it. B-1, I-1 is Business 1, Industrial 1. It's probably the least restrictive zoning. B-2 which is across the street here is grandfathered in as retail."

Sutliff to Flynn, "Any zoning issues that you see?" Flynn "No. As Dave (Hocevar) indicated it is not specifically spelled out. Dave, are there any other veterinarian zoned; is there anything else in the Village?" Hocevar, "Remember PC had a lot of concern with Bow Wow. Not that this fits in with that. This is something unique down in that area."

Flynn, "The question is, does it meet the development approval standards for PC to move forward? I.e. Is there an adverse effect on neighboring properties? Is it a harmonious design? Any sign issues?" Hocevar, "It's slide in, slide out. The owners of that property & the real estate agent work with us very well."

Flynn, "The question is, "Approval? Approval with conditions? If there are any restrictions that you would want to put on, PC can do that."

DiMichele, "I can't think of any restrictions on that unless we want to make sure that there is no boarding of animals there. Kostura, "That would be my only concern. Long term, if you (Osborne) decide to change, you'd have to come back to us for something like that." Osborne, "That's fine. I have no interest. I'm too old for all that stuff."

DiMichele, "We will entertain a motion to approve with the conditions of: (1). no boarding of animals, (2). Restriction against large animals i.e. horses, cows, llamas. Kostura second. Roll call: all ayes. APPROVED

OLD BUSINESS:

-Mr. Makesh appeared before PC on 5-9-2013 for an informal discussion about a possible assisted living facility at 5277 Chillicothe Rd. Kostura reported: Currently discussion - with Mr. Makesh, Bainbridge, SR, the CF school district - about a possible water line along Chillicothe Road from Bainbridge to South Russell to Gurney School on Bell Rd.

-About a year ago, Latkovic talked to the woman who sold the land, Ruth Wilson. She had been under contract for 6 months & that deal fell apart because of the water issue. Latkovic, "I was surprised when I heard that he (Mr. Makesh) had bought it." (Chagrin Valley Times, 5-30-2013, Pp. CL5 Real Estate Transfers, South Russell: Emuna Reality Ltd., 5277 Chillicothe Road, to Chagrin Woods LLC, $685,000.)

-Hocevar, "They can still build without the water. They have intentions to build without the water. If they had the water, it would be easier for them."

-Question: "The size & location that they want to put on that piece of property & the amount of people they want to put in it, is that going to meet our zoning requirements?" Hocevar hasn't seen anything other than the renderings.

-Hocevar, "He seems to comply with everything we want. We went to meetings with the water lines. If he can get what he wants out of the school & South Russell to run a water line - he still has the option to run a water line on his own with a private contractor. He's been renovating the old house. He said if he can't do anything with zoning as far as making it part of the assisted living, he'll sell it off as a residential dwelling. It's the oldest house in South Russell Village."

-DiMichele, "If the water line goes down to Gurney, will residents along the line be able to hook into it also?" Hocevar, "I don't know what they are going to decide on that. I don't know what they want to do with that as far as charges. That's where they are at right now. Who is going to

pay for what? Once the county accepts it, he can't get any money towards it. They are trying to work out a deal where he gets some money back."
- a guest in the audience tonight, Roger Hoover, lives in house next to the possible assisted living facility. Hocevar said he just wants it to be classy. Hocevar said he was told that it will look like a mansion.
-**Mr. Makesh will be at the next PC meeting on 11-14-2013 for a development review. Hocevar, "He's not going to have complete sets of drawings for you to look at. He wants to give you an enlarged rendering of what their ideas are. It's not going to be a done deal. He's going to come back here plenty of times, getting your ok on everything there is. He just wants to make sure PC is going to say, 'I like the idea. Go ahead forward with it.'** He wants to break ground February or March." Water: Hocevar, "He'd have to put a water tower in there. The county's going to kick in the tower. That's still debatable where it will be. It might be at Federated Church. It might be on the property for assisted living. It could be up the road in Bainbridge." Sutliff, "Why do they need a water tower?" Hocevar, "Pressure." Sutliff, "I'm not so sure we want to see a water tower." Hocevar surmises size of water tower is 60'-80'. It'll be like the one that was put up in Knowles Industrial Park. No water tower would be needed, if a continuous loop can be made to Daisy Lane.

-cemetery: Hocevar thinks they are waiting until some projects are out of the way. They are still going forward with it. It's been relocated, further north, because it was in a swamp. Still on Chillicothe Rd.

-pavilion at South Russell Park on Bell Rd. They hope to break ground next week.

NEW BUSINESS: **next meeting: 11-14-2013 at 7:30 p.m.**
-Bell Station, 5196 Chillicothe Rd. Hocevar explained that owner, Jim Pascoe, appeared before the ZBA on 9-19-2013. He requested 2 variances: one for a pole sign & one to exceed the canopy over the pumps. Both are not permitted in SR. Both were denied.
Pascoe would like to come to PC to talk about raising the canopy so the sign that was denied is flush with the canopy. Hocevar, "Any enlargement, anything done on a commercial piece of property requires you guys (PC) to ok it. Do you feel it is necessary for him to come back if he is going to raise that thing 8" around that perimeter?" Comments.
-Hocevar, "They didn't want to start a precedent because that ordinance, that zoning requirement; we fought like heck to get it in there because down on East Washington Street, they wanted to put these signs over the top of roofs. I understand denying him." Comments. The sign is 8"-10" over the canopy. Pascoe's idea is to raise the entire canopy.
-Hocevar, "Do you want to see it?" Latkovic, "If ZBA had a big enough problem with it, they wouldn't agree to that, there had to be something there. It seems odd that we would then undercut one of our own committees." Hocevar, "I don't have a problem with him coming to PC at all. I just wanted to know…" Latkovic, "That's my point. Basically, we're going to undercut what ZBA didn't want."

-Flynn, "The question is, do you want him to come in to show you because now he isn't seeking a variance if he's moving the canopy? – unless the canopy requires a variance." Hocevar, "Our zoning says that he should acquire developmental approval, which he did tonight basically. So, if you want to see him, I'll tell him to come. If you don't want to see him, I'll tell him to go ahead & raise the canopy." DiMichele, "I feel uncomfortable setting precedent & not have him come in." Latkovic, "I'm thinking he has to come in because that is a big change to that thing."
-Kostura, "The last time he was in, I thought he showed us that the Gulf sign extended above. I thought he actually explained it. There would be one section of the Gulf sign that comes above the canopy." Hocevar, "Bryan, you were actually just approving the enlargement of the building. He wasn't sure what he was doing with that logo. He wasn't sure if it was going to be Gulf at that time. He wasn't too sure of anything then." Kostura, "Remember he came in with the guy from Gulf & he showed us new renditions of what the new canopy would look like." Latkovic, "I don't think we approved that. I think we just approved the expansion."
-Hocevar, "He needs approval from you (PC). If you feel aesthetically it's not going to look right, you have a problem with it, you have a right to deny it."
-Question: Height restriction on signs in SR? Hocevar, "He's not going to make it. It's nothing to do with that."
-DiMichele voices that he should come in. **Hocevar, "That's great. He'll be at the next meeting." Latkovic agrees with DiMichele**.

There was no further business. The meeting adjourned at 8:07p.m.

Chairman, Walter Sutliff

Maggie Tomaro, secretary

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
NOVEMBER 14, 2013
7:30 P.M.

1. ROLL CALL: **Chairman Wally Sutliff, Mayor Matt Brett, Janice DiMichele, Steve Latkovic, Bryan Kostura**

2. MINUTES: 10-10-2013 **APPROVED**

3. AGENDA:

1). Informal discussion with Bill Stone, a resident who lives at 137 Fairview Road. He has attended 2 ZBA Public Hearings: 9-19-2013 & 11-7-2013. A builder purchased 5 lots in & around Fairview Rd./Hazelwood Drive – four in South Russell & one in Russell Township. The builder intends to construct a home on each of the 4 lots in SR. The minimum size allowed for a house is 2,400 square feet. To accomplish this on those small lots, he needs variances.
Mr. Stone, a rep from the neighborhood, is asking PC to consider modifying the Zoning by reducing the minimum size allowed for a house in certain areas of SR i.e. the west end: Hazelwood, Fairview, Mapleridge because those homes were built just after WWII & are much smaller than 2,400 square feet.
SUMMARY: Setbacks on west end of SR are in accordance with preexisting zoning of 1947: the minimum required side yard setback is 10 feet on each side of a house. The size of a house is according to current zoning; minimum size is 2,400 sq. feet. Thus, old zoning applies in terms of lot sizes & setbacks & current zoning in terms of size of house. Conclusion: builders adhering to 2 codes for one house. Residents of west end propose examining changes to the code -just the west end. Decrease the minimum home size for that area.
-For next PC meeting, Hocevar will prepare something showing how many empty lots on the west end, what PC can do, why that was implemented.

2). Formal discussion, Development Review, with Jean Makesh of Orcus Systems & Solutions, Inc. He hopes to build an assisted-living facility, the Lantern of South Russell, to be located at 5277 Chillicothe Road
The PC 'may defer action upon such application (for Development Review) until the date of the next regularly scheduled PC meeting, but in no event later than 40 days after the filing date, unless the applicant agrees to a further extension of time'. Brett, "Does the applicant agree that you would extend that time frame?" Makesh, "Yes." Ondrey, "It's on the record that Jean is in agreement that we can defer taking action beyond 40 days."

Brett, "I make a motion that PC recommend to South Russell Village Council to rezone the 5 acre portion of the parcel that is located at 5277 Chillicothe Road that is currently R-1-A to R-3." Latkovic second. Roll call: all ayes. APPROVED

4. OLD BUSINESS:
Cemetery: per Brett; break ground late spring; maybe it's open for business, late summer 2014

Jim Pascoe, Bell Station 5196 Chillicothe Rd. re raising the canopy for a sign that was above the canopy. **Hocevar reported no need for Pascoe to come to PC. He lowered the sign so it is flush with the canopy.**

5. NEW BUSINESS: **next meeting – if there is something on the agenda- 12-12- 2013 at 7:30 p.m.**

6. ADJOURN: **9:43p.m.**

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MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Janice DiMichele, Steve Latkovic, Bryan Kostura

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor, Eric Haibach, Engineer

GUESTS:
Bill Stone, 137 Fairview Rd.
Jean Makesh, 10790 Stella Lane, Auburn Twp. Oh 44023
Tim Mulle, TMA Architects Inc. 8500 Lucerne Drive CF 44023. (216) 633-0235
Roger & Dianne Hoover, 5265 Chillicothe Rd.
Mary Beth Wolfe, 19 Daisy Lane

Chairman Sutliff called the meeting to order at 7:30 pm. The minutes from 10-10-2013 were approved as presented.

Informal discussion with Bill Stone, a resident who lives at 137 Fairview Road. He has attended 2 ZBA Public Hearings: 9-19-2013 & 11-7-2013. A builder purchased 5 lots in & around Fairview Rd./Hazelwood Drive – 4 in South Russell & 1 in Russell Township. The builder intends to construct a home on each of the 4 lots in SR. The minimum size allowed for a house is 2,400 square feet. To accomplish this, he needs variances.
Mr. Stone, a rep from the neighborhood, is asking PC to consider modifying the Zoning by reducing the minimum size allowed for a house in certain areas of SR i.e. the west end: Hazelwood, Fairview, Mapleridge because many of those homes were built after WWII & are much smaller than 2,400 square feet.

Bill Stone, "There are variance issues going on with some property on Hazelwood that a builder wants to build on. There is a situation with the village's current zoning that conflicts with (unclear)."

Background: "The west end of the Village, the Chagrin Heights/Stanton Allotment was platted in the 1940's. A lot of the lots are small. Many on my street, Fairview, have multiple lots with one house on them. The average size is around 1,000 square foot. I did some google research on that. We are grandfathered in with a small side yard setback of 10 foot on each side where as the rest of the village has 25'- keeping things a lot more open. Yet, the village has a code where the smallest house to be built is 2,400 square feet. You combine that with a 50 foot

wide lot & you see what you get. You get a 20' wide garage & a very small front door. In our situation, we might have 4 in a row like that & also very close to each other.

I feel there is a clash in the code. The world's moved on & some of the things haven't been looked at or touched for a long time. There are a lot of lots in the neighborhood & this can be precedent setting. It's going to come up again & again & again street by street. I'm not sure how to do this; all this procedure & process.

Stone, "We'd like to propose examining possible changes to the code, maybe just to the west end. Maybe decrease the minimum home size for that area. There is movement toward green homes; smaller homes. There is some market for that & it will fit much better in the neighborhood. **Maybe pay stricter adherence to the percentage of lot they could be built on. Take the variance requests; hold a little more tighter on those things.** I was looking things up. We're part of the Chagrin Watershed Partnership. They have limitations on impervious covers, driveways & things like that. **Maybe consider revising codes for setbacks, so that you end up with houses that are somewhat in line with each other. Five foot for a front porch is a lot different than 20 foot for a garage that can go out toward the street; 20-25' forward of all the other houses that have been there for 50 years. I'd like to suggest a possible revision, examination."**

We've got a little loose neighborhood organization now over this. We're going to go out & measure the distances between the houses & provide some data for you. I would be willing to help in any way shape or form."

Sutliff, "Is there an issue pending right now down there?" Brett, "Down at Hazelwood & Fairview- it is at the South Russell/Russell line - an individual who owns 4 lots has come before ZBA 2 times with requests for side yard & rear yard setback variances. To date, ZBA has denied both requests. Part of the argument is you have a very small lot & the village has a requirement that total square footage of a house, including a second floor is 2,400 square feet. When you get to some of the lots that are that small, given even small setbacks, it's a challenge to do 2,400 square feet."

Brett, "Dave Hocevar brought this topic up at the Council Meeting, Monday (11-11-13). Is this a Council item to change zoning or is it a PC? Bill (Stone) attended the Council meeting. I recommended that Bill come here to give you a heads up on the topic."

Builder may be returning to ZBA for a third time. Sutliff, "Assuming he gets turned down, what is the proposed action here?"

Hocevar, "When we implemented that zoning code for this 2,400 square foot home, it was when Emerald Lakes, Manor Brook, Kensington & Fox Run were going in. One of the ways to restrict building is to keep the square footage of the home a higher number. That's where it all started. We never really took a look at the west side of the village because who would think 20 years ago that people would be looking at these lots & trying to build houses on them?"

Hocevar to Sutliff, "I could put together something showing how many empty lots we've got on the western end, what we can do, why that was implemented & go from there for the next PC. " Sutliff, "I think that would be helpful." Hocevar will prepare something.

DiMichele, "If we do change the zoning, wouldn't the people who already own the lots be grandfathered in to be able to build a 2,400 square foot house? I remembered when we changed zoning, it could only go forward." Hocevar, "That would be a minimum. So if they want to build bigger, they can." DiMichele, "If somebody bought that lot, planning to build a 2,400 square foot house & we change the zoning & say you can't do what you want to do with the lot..." Brett, "They could still build a 2,400 square foot house. It's tough to do it because of the side yard setbacks given the size of those lots. It would probably give lot owners more flexibility. If somebody could figure out how to do it, they could build a 3,000 square foot house."

Formal discussion, Development Review, with Jean Makesh of Orcus Systems & Solutions, Inc. He hopes to build an assisted-living facility, Lantern of South Russell, to be located at 5277Chillicothe Road

Two handouts: conceptual site/building plan

Architect for the project, Tim Mulle started the presentation. "Jean owns assisted living facilities focusing on dementia, Alzheimer care."

Developed to this point: early, conceptual plans for how to develop the site & develop a facility to fit the site. Not here to present a finished plan

Property is 16 acres w/a farm house, a barn & another out building in the front along Route 306. Front 5 acres zoned residential. Back 11 is zoned for assisted living

Plan: take back portion of property & develop an assisted living facility: residential in character, entire building would be one story, total about 80,000 square feet with space for 80 to 90 residents

Suites/homes: each resident would have a suite or a home in the concept that is being developed. Those homes are organized into neighborhoods. Literal translation: at front door, the entrance to this facility, there would be a home where they are greeted, with a living room, a kitchen. As you move out of the home into the facility - into the wings, that are residential wings- they are broken up into smaller pods.

Pods = neighborhoods: Creating different pods that are neighborhoods & creating within that footprint contained outdoor space like courtyards, that the residents may enjoy freely without a lot of control. No fear of folks wandering off & getting off the property.

The scale of whole thing is kept low with it being a single story, a one floor facility that is broken up into pieces. It stays small. It doesn't become an institutional facility. It's comfortable for those living around the site & for those people occupying it. They can connect to a kind of neighborhood that is created.

They've kept everything around the perimeter of the site, a minimum of 100 feet from the property line. Mulle, "We are trying to be sensitive to the fact that there is a residential community around the back of the property. So, we are trying to keep a minimum of 100 feet from the property line & develop landscaped buffers to create visual separation so we don't

have issues with residential neighborhoods in back. There will be activities like deliveries of food services.

Parking: try to keep it on the east side & on the south side of property- next door to church property (Federated, in Bainbridge)

Sutliff, "What will they do with existing buildings out front? Mulle, "Restore them & incorporate them into the concept." Sutliff, "What would you use them for?" Mulle, "We haven't exactly decided yet. Jean has already done a fair amount of restoration to the farm house. The idea is that initially, it becomes a visitor center for the site while we do the project where people can come & find out what is going on. Meetings can happen. Perhaps use it for educational purposes; helping people understand what Alzheimer's is all about & how to deal with it & how best to treat it. The farm house could be used for some of that."

Mulle, "We want to renovate the barn & use it as an activity center. It might be an art center or other activity space that could not just be for the people who live on site, but also for people in the community to come & use."

Mulle, "The front 5 acres is not really zoned for this purpose. But there has been some discussion that there might be an opportunity to look at & consider rezoning of the front parcel. Then as we develop this project, we could pull it farther forward on the site & create more of the buffer in the back for the residential area. Connect it more to the front & take these front buildings & really incorporate them into the design solution for the building."

Mulle, pointing to conceptual plan, "This circle drive to the entrance is far back on the site. What if we were able to bring that driveway in here? Have the circle drive here within the farm house & the barn, incorporate them actively into the design. Bring the building forward up to here. We could have that much more landscaped, undisturbed property in the back."

Sutliff, "Sounds like you like that solution." Mulle, "I like it very much. It requires rezoning the front parcel." Brett, "For our hearing tonight, that is not on the agenda."

Brett, (referring to conceptual plan) "In each building, there is what looks like a Lego. Are there any exterior exits from them?" Mulle, "Only for emergency. We're going to have to have emergency exits. Those kind of exits are controlled." No individual patios. Mulle, "The exterior access for the residential pods would all be to the interior, to these courtyards. Residents have the ability to go outside, but be in a controlled environment. We don't want residents to have the ability to wander."

Suites/homes: Mulle, "You commented about Legos. It's a good way to refer to it. This drawing is a block plan. It doesn't show any kind of architectural definition. It shows the basic plan concept where a house will be in the front. It will stretch across the front & each of these sections that break down; they all have these pieces – these teeth or Legos. Each one is a resident suite, their home. It's about 500 square feet. It's a bit larger than a typical hotel suite; large enough to have a living space, a sleeping area, a bathroom & a kitchenette. The reason we've given them that tooth like configuration is so that there are windows on 3 sides."

Mulle, "Then there is a common space in the center, that all of those resident suites open into. With a sloped roof, we can get natural day light to flood that exterior space. It becomes a

park like environment. Jean's already done this in his facility in Madison where there is common space in the center with gazebos & activity spaces for people to interact."

Mulle, "All of the suites take on the character of a home. Each has a façade, a front door, a porch. They look like individual houses. Folks with Alzheimer's can relate to & it creates a level of comfort."

Dining: Mulle, "It will happen several different ways. Informally, within these resident pods & in the park like areas. Also, there will be in the back a central service area where the intention is to create a Main St. There is: a salon, a PO, a movie theater, a restaurant & the central kitchen. There is support space for maintenance, areas for trash. We need to find a way for services to come in & go out without a disruption. We're suggesting that it occur around the back. It could also happen on this side too."

Sutliff, "Will there be provisions for end stage Alzheimer's? I'm going through that right now with my mother. She can't bathe herself. She's very unsafe. What do you do with a case like that?" Makesh, "Imagine Kensington Green. On top of Kensington Green, I put a roof. That's what we have here. We'll have the town square, a post office, a gas station, a mechanic shop, a studio, a bistro, a salon, a movie theater."

Makesh, "Clients with dementia/Alzheimer go through 7 stages. What I learned the last 14 months, in Madison, is that I created a space for everyone. I realized, as the clients go through the stages - & the end stage would be stage 6 or 7 - as they go through the stages, the clients who are at stage 3 or 4, they don't want to hang out with stage 6 & stage 7."

Makesh, "The reason we created those pods; the plan is to have stages 2, 3 & 4 in one pod. Stages 5 & 6 in another pod. Stage 1 to another pod & stage 7 in another pod. Every pod is built the same. When I transition my client from stage 2 to stage 7, they would not know a thing. It'll be a smooth transition. Every time you displace a dementia/Alzheimer's patient, they lose 10 years. We will try our best not to move our clients to hospitals. We will try to manage them right then &there."

Makesh, "In Madison, we have sky ceiling inside. It follows the light scheme outside. The computer is tied into the weather channel. It coincides with sunrise & sunset. As the sun rises, it gets brighter & it gets darker at the night. All the porch lights come on & the street lights come on."

Makesh, "What did it do for the clients? They don't try to escape. With dementia/Alzheimer client's as the day progresses, they wander & seeking exit tends to increase & they become combative & aggressive. The sky ceiling & this concept has helped us minimize these behaviors. We have homes in Madison, but they are contained inside. Here we will have half of the house will be exposed to the natural elements & the other half will be inside the building. That enables us to create a better floor plan with windows. If they look out, they are able to experience the light, the weather, the darkness. They will experience the 4 seasons."

Makesh, "With dementia/Alzheimer's, the first thing to go is short term memory. In addition to the building, we have a program in place. We go back & trigger those memory centers. You offer a structure which enables them to live a life of dignity & quality. 85% of our clients in Madison have been taken off medications like Ativan. It helps you to relax. Our

program has prevented our clients from progressing. They are able to maintain their quality of life."

Traffic/entry drive: Latkovic, "The entry drive, is that anticipated to be across the street from Sheerbrook? Do you have to do a traffic study? You've got food trucks coming in & out of there." Mulle, "All of that has to be looked at." Latkovic, "It looks like that's what is anticipated." Mulle, "We were thinking that it would make sense because of the existing buildings i.e. the farm house & barn & wanting to retain them. That all needs to be studied."

Rezone: Latkovic, "If that circle moved up towards the house & barn, would that be a conceivable entrance point?" Mulle, "Yes. Yes. When I was talking about that idea - if you rezone & bring all of this forward - yes instead of having the entry drive over here, (near Sheerbrook) it could be here. (near the farm house). And we might incorporate the entrance to the facility through the barn & the buildings could start to be up here (front parcel) instead of back there." (back parcel)

Buildings: Mille, "The concept is that it is a low scale, residential scale facility. It is one story & we are breaking it up into pieces so that it doesn't become a massive structure. It's not imposing or unfriendly for the surroundings." Makesh, "It's important for the clients & their families that they don't feel like they are going into an institution or a residential care facility. Look at other residential care facilities in the area, they look like an institution. Even the one I have in Madison, it's an old hospital that I renovated. On the inside, I tried to make it look like a huge Beverly Hills mansion. That's exactly what I want to do here."

Makesh, "This is what I envision. I want the front house; I like the Beverly Hills mansion look. What it will look like is, you walk into this huge mansion with 2 big double doors, a nice, round half-moon stair case going up. You walk into a huge foyer like you do a house. You step down to a living space with huge bay windows from the floor to the ceiling. Turn left is a kitchen space, pass that is a master bedroom with a master bathroom. Mud room on left, a dining room. To the right is a family room."

Makesh, "From that house, on either side, it opens to a lounge with a large aquarium. It's therapeutic. You go through the lounge & it opens into the facility (Legoland) on either side."

Sewer, extend a water line: Mulle, "There has been discussion about bringing water down Rte. 306, about forming a cooperative effort to bring it down the street & share it with the school system."

Brett, "Jean approached PC & Council 5 months ago or so. The village would need to approve a water line extension from where it ends now around Heinen's on 306 & Washington St. The Village approached Jean with the idea of, if this project were to go forward - & the village blesses it - & all those hurdles were overcome. If a water line is going to come up this far, how would you feel about taking it to Bell & 306 & down to Gurney? (1155 Bell Rd.) The reason for that is Gurney School, over the years, has had water quantity issues & water quality issues. To date, they've dealt with them, but it could be an issue. If that's going to happen, maybe there is a collaborative plan between the school system, the village & Jean. That is dependent upon whether this is an approved facility & plan."

Sutliff, "If that doesn't happen, how do you picture fire protection? Drill wells & put a storage tank up? I think the people in Kensington would object to a water tower back there." Makesh, "We can't put a water tower. We decided to use the current well. I was told there is a lot of water on that property. For me to sprinkle the building, the tank has to be underground. It has to be below frost line so it doesn't freeze."

Latkovic, "That underground tank would service the entire building." Makesh, "Yes. The water is good." Sutliff, "The sewers right now are on 306. I assume there is adequate capacity." Makesh, "We'll tap into it."

Approved use of farmhouse?: DiMichele to Hocevar, "They aren't talking about rezoning right now. The existing house is on residential. They are redoing it for a visitor center, which sounds like a sales office. Is that an acceptable use under residential zoning?" Hocevar, "No. Probably not. They are right now just redoing the inside of the building. They just restored that residential home like it was. They just updated it; very few walls were taken out, quite extensive work with plumbing & electrical. Inside, it's the same footprint."

DiMichele, "But will they be able to use it as office space for showing…" Hocevar, "They would not. It would have to be some type of rezoning to do that."

Building: Brett, "How would you envision making those pods as residential as possible? As you go east on your property, you have Kensington Green. As you go north, you have residential & across the street there is some. Elements of the plan, I really like; you've indicated that it won't be 2 stories. How do you make those bump outs like it's more of a residential area?"

Mulle, "You start to look at one of these pods as an individual element. A pod is more than 100 feet long; maybe 120' long by 60' wide. It's not huge. There are a lot of houses that big. With that exterior delineation & maybe putting an element on the end that might be a half round element with glass & so on & so forth. It gives you the opportunity to start to break up roof lines. There are sloped roofs. It wouldn't be a flat roof. Exterior materials might be cedar shakes, might be some stone & windows will be residential in character & there will be shutters."

Kostura, "All of those teeth that are coming out are those dormers? Or reverse gables?" Mulle, "No. They are large enough because each one of those is about 16' wide. It might be a gable roof or a slate extension of a sloped roof. It's going to have windows on 3 sides."

Landscaping: DiMichele, "Will it be softened with landscaping?" Mulle, "Yes. The intention is that there would be a lot of landscaping around the perimeter. Not just for the neighborhood & what they see n, but also for the benefit of the residents & what they see looking out. We don't want them to be looking out at a parking lot."

Size: building: 80,000 square feet, 80-90 residents

Employees: Makesh, "In Madison there are 94 units & 16 part time & full time employees. In SR, in the morning, at full capacity, 15 employees. At night, it drops about 40%, so each pod has a care giver. If we have 4 or 5 pods, we'd have 5 caregivers at any given time & 2 nurses. The formula at Madison is 1 to 8; 1employee for 8 clients. We would follow that."

Brett, "Ball park: an average of 15 during the day & at night you might drop down to…" Mulle, "You wouldn't have more than 15-20 people on site at the time." Makesh agrees. Makesh, "Our concept is I can't staff a gas station, a grocery store. That would add on to our expense. I've been thinking about having the Director of Care & Operations or the Administrator - the Post office will be her office. That's the most efficient way of using space. The restaurant, the diner would have the servers there all the time. The Bistro with a saloon – our clients are allowed to drink. That will be a juice bar staffed by servers. Every space will have some kind of functionality. It's very conceptual."

PC responsibilities re. Development Review: Brett to Ondrey, "This is a Development Review. What are the things that PC needs to look at to grant development approval?" Ondrey, "For Development Review, the standards are relatively brief. Where this gets more complicated is we've got an extensive chart of what the dimension requirements are supposed to be & density. These are impossible to address until we have a more detailed plan."

Ondrey, "For Development Review (Pps. 17-18 of the zoning code) consider: (1). whether the proposed development is harmonious with the Subdivision Regulations if applicable. "I don't think the Subdivision Regulations play into this thing. Instead, it will have to be the specific requirements of the assisted living zoning that we have." You are to consider: (2). whether it will adversely affect neighboring properties. (3).You are to look that the plan of the development provides for integrated & harmonious design of buildings & structures & for adequate & properly arranged facilities for internal traffic circulation, off street parking & loading, landscaping & such other features & facilities as may be necessary to make the project attractive & efficient from the standpoint of the applicant as well as from the standpoint of the adjoining or surrounding, existing or potential developments."

Ondrey, "It goes on for almost a full page about investigating water needs all of which you will eliminate, if in fact, there is a water line that is ultimately going to be part of this. If not, it is a complicated review of whether or not there is sufficient ground water. We have the ability to have the village hire the hydrogeologist to advise. That expense would be at the applicants cost.'

Ondrey, "Likewise (f). Pp.18, 'the applicant shall be responsible for all expenses incurred by the village for engineering, legal & other costs of experts arising from any inspection &/or … developmental approval.' That is supposed to be coming out of the deposit. I don't know if a deposit has been made. There will be a need to keep the deposit replenished if your engineer & our office gets involved."

Dr. Eckstein, hydrogeologist, is not on retainer as he was in the past. He is semi-retired. Ondrey's office used him about 2 years ago.

Brett asked about restaurant that was referred to. It's a way to refer to dining facility; not a restaurant for the general public.

Light pollution: Roger Hoover, 5265 Chillicothe, resident of home just north of proposed property, "As far as night light. The parking lot is going to be lit. The courtyard is going to be lit up. Are there going to be shields against the residential areas?" Mulle, "There certainly

would be. At this point in the process, we haven't given the night lighting that much…" Hoover, "Light pollution." Mulle, "attention. But, that is something that we will control." Sutliff, "I think it's fair to say that the PC would be involved in that." Ondrey, "There are current regulations already in place that will provide some measure of protection for light spilling on the neighboring properties." Makesh, "I have to be sensitive to the clients. There are windows. We would like the clients to be able to sleep."

Timeline: Makesh, "I would like to break ground in March. Hopefully, have the facility fully built by October 2014."

Steps of project:

Ondrey, "I don't know if you can give Development Approval until you see a final plan that has been reviewed by your zoning inspector to determine what variances, if any, might be needed. There is going to be minimum parking requirements, side yard requirements, density requirements, lot coverage. I would think that those things would have to proceed in a parallel path. Obviously, these gentlemen aren't portraying that this is a finished project."

Rezoning: Ondrey, "We also know that a rezoning of the property would potentially be a part of what they are proposing. If there is no rezoning - we don't have a clue if this fits within our dimensions; if it is allowed. If there is a rezoning proposal & that can come about through their application. They could specifically request rezoning & propose the new language for our zoning code that would accommodate what they think they need."

Ondrey, "It can be initiated here by this body. Or it could be initiated by Council. Then it flips back to PC for a recommendation. PC does not have to conduct a Public Hearing on a rezoning of property. You have the option to conduct a Public Hearing. Once it gets back to Council, they have to conduct a Public Hearing. That process could take months just to accomplish that task. It takes a ¾ majority of Council to overturn whatever recommendation PC makes."

Brett, "One of the requirements would be lot coverage." To Makesh & Mulle, "I don't know if you've calculated the amount of square footage of the buildings compared to the whole property. Do you have a sense of what that percentage is?" DiMichele, "Do you know what the lot coverage is?" Mulle, "Not really." Sutliffe, "11 acres, 440,000 plus the parking area. I would think you'd be ok on lot coverage." Brett, "Lot coverage is 35%." (building plus parking)

Sutliff, "What's your thought on the rezoning issue?" Mulle, "It's not something that needs to happen for the project to go forward." Sutliff, "Might it not be a win win? I know this commission always dreads the idea of rezoning. If we have the opportunity to move that further west, it might be a win win." Mulle, "I think it would be a better solution for a lot of reasons. To rezone this (front parcel) & pull this forward, it would allow us in pulling the building forward, to bring it in; to skinny it down. It will create a lot more buffer around the perimeter, which is going to improve the situation for the neighborhoods around the back & the side."

Latkovic, "Unless I'm missing something, that sure seems like a route that makes total sense for this project to move forward. That property would be otherwise so tied to this. I'd want to see the rest as to how that would play out. I see why that would make sense. The

biggest reason is the adjoin property owners. If you pull that more toward the street…" Mulle, "It's not going to adversely affect what happens up here. It's very picturesque. It's a beautiful old farm, homestead that is here in the front. That wouldn't change. You'd still keep that. It allows the rest of this to come up closer. If I design it well, it's not going to hurt the character of what's up here."

DiMichele, "Isn't this something that you're going to have to address right away? You can't decide on the current thing & then latter rezone it?" Mulle, "Exactly, you are right. If we are going to do that, we need to do it now because we need to design this (pointing to something) based on what the real property is." DiMichele, "And also for March ground breaking, you'd have to start rezoning tonight."

Brett, "Council has heard this idea. My sense would be is that Council is not really objecting to this idea; to the idea of the Lantern going in there. It seems like a good use of the property. I would sense that they wouldn't be averse to the rezoning."

Ondrey, "What we ought to keep in mind is, if you rezone the front parcels, while they are presenting a very attractive concept of keeping the farm intact & making it a part of it, technically, they would be able to put the buildings right up front. There is always a danger that this …"

Latkovic, "If you rezone, can you put additional setbacks? Can you rezone so that you couldn't have a building 20' from the road?" Ondrey, "It certainly would take some careful …" Mulle, "That would require us tearing down the buildings that are there." Ondrey, "Right. What I'm saying is unless we build that into the zoning amendments, those things could happen. You guys could sell it & the new people could…" Mulle, "Tear down the farm house & put up some ugly building." Ondrey, "Exactly."

Sutliff, "In lieu of rezoning, can you get around it by a variance?" Ondrey, "You could certainly seek a variance to use it in a different way as part of it. But, use variances are legally tough to get. You have to show that you can't use the property as it is currently zoned. If you want the project to happen, as Steve (Latkovic) noted, you make sure the new zoning language doesn't allow a development right up onto 306."

DiMichele, "Why rezone it? Just not give them the ability then to make it a larger facility cause they could have more residents per acre. They have 5 more acres." Kostura, "That would be my concern. How much farther back are you going to push the pods?"

Sutliff, "You could address that in the rezoning issue. Ondrey, "These are all issues that we'd have to think through & figure out what are we worried about. How do we write the language?"

Brett, "Outside of the rezoning issue, the property is currently zoned for this use. At any given time, a project like this could come in there. Given the way that this is laid out, I think this is a pretty good scenario. One of my concerns, how do the people in Kensington Green feel? I'm curious Roger (Hoover, neighbor on Chillicothe) of your take on this."

Brett, "I like: if you keep the buildings up front, that keeps that residential feeling, the way that the entrance building is, you keep the same feeling of residential. I think there is a number of compelling points to it. A few of the PC members agree."

Roger Hoover, "I agree. I like it one story. The last thing I want to see is 2 or 3 floors over there. A buffer won't hide. If it has to happen, it's a nice plan. Brett, "I think that's the way to look at it. That parcel is zoned for assisted living."

Water: DiMichele, "I know you said the tank has to be underground, is that for well water & city water?" Many answer, "Not city water." DiMichele, "If you have city water wouldn't you still have to have a water tank for the pressure situation?" Makesh, "No. I don't have to." City water pressurizes itself. Sutliff, "What's your gut with this water situation? Do you think you're going to be able to bring water in?" Makesh, "I'm open to anything. We've discussed this the last 2-3 months. My concern, as I communicated to the Mayor, is the timing." Sutliff, "Have you talked to the city of Cleveland?"

Brett, "We've had a couple of meetings. We did an evaluation meeting with the school to see if they have an interest. They do. We had Water Resources there. They would be plugged in. The village passed a motion that indicated our approval of a water line extending up to Gurney. It also takes Bainbridge to do that. I talked to Bainbridge. Their concern is that if there were large parcels, if a water line came in, then that could be developed. There isn't. There are some commercial, industrial applications with Stock Equipment, Lowe's Greenhouse & the churches."

Brett, "If the collaborative effort to try to get it to Gurney doesn't work – there are a lot of hurdles to get 3 parties coming from different perspectives lined up to do that. If that can't happen, then Jean could run a water line from where it is. He'd need the village's approval, Bainbridge's approval & Water Resources. I think that's doable."

DiMichele to Hocevar, "When they put water into Knowles Industrial Park, they built a water tower. Why wouldn't we have that same situation?" Hocevar, "They might need a water tower from Water Resources, but it might be located off site. The water tower would be approved by Water Resources. It could end up in Bainbridge, in the Federated Church, anywhere. That's up to them to decide where it would go."

Setbacks: Brett to Hocevar, "On a project like this, what are the setbacks?" Hocevar, "On assisted living, there's a 300 foot setback off the road. 100 foot side yards. It's probably, the most restricted zoning regulations we have. He conforms to about 90% of them. We have a little parking issue, being in the front setback, which is not permitted. It's doable to get around with a variance."

Hocevar, "If they rezone that front to assisted living, they still have a 250 foot setback that they have to maintain. You talk about the house & the barn, it's not going to do them any good to take them down & move things forward because they still have to maintain that setback." Brett, "How do we deal with that? Let's assume, everybody is on board, even with the zoning. How would you handle for existing buildings that are there? Those buildings are within 300 feet. What would they have to do in order to use them?" Hocevar, "If they do rezone that

piece of property. It would be grandfathered into what it is. Anything else on that property would have to be changed. They don't have to tear down the buildings because of rezoning." Mulle, "The front parcel is 250. You couldn't do anything on it."

Ondrey, "I was going to ask David (Hocevar) where the 250 foot line is now. Mulle, "From the road, it's probably where the parking lot is." Ondrey, "So moving it closer to the old building as you were suggesting, might be nice from a planning standpoint for you, might take changing our setback if we rezone or you'd have to seek an area variance."

Mulle, "If we did that, it would be a complete redesign. We'd bring the building forward. We wouldn't bring the parking forward. The parking would end up moving to the side & the building would get narrower."

Latkovic, "Would we look at this as one contiguous lot then?" Ondrey has to think that through. Brett, "It's currently one lot with two different zones. Ondrey, "The history of this precedes all of us except Wally. There must have been strong passions when this got rezoned. It was important to officials at the time to keep that front residential."

Brett, "It doesn't feel like we can say that we are giving approval for this." Ondrey, "You don't have to. You've got 40 days from a formal application. Even then, they can consent to continuances. I think they are looking for feedback. How do you like it so far?"

Brett, "Assuming that we want to move this forward & PC is supportive of this, given the fact that you (Makesh) contemplating a zoning change, do we indicate that this looks good? What do we do tonight?"

Ondrey, "If you (PC) have no interest in initiating the zoning change necessary for this, you would tell them that. It's Jean's call if he wants to make the formal application requesting that you vote on a rezone of it, obviously not tonight. If there is a sentiment that rezoning is not unreasonable, you can direct that we start to investigate what the terms of that should be & have something ready within a short period of time."

PC reviews process: In December PC approves it if in favor of it. 2013 is over. If Council is in favor of it, they want 3 readings. It is end of February 2014, before Council takes action.

Brett to Makesh, "Is that workable for you if you want to pursue that? You're going to be in limbo because you don't know if they are going to approve it or not." Ondrey, "Let's say Council approves a rezoning of it, it could be put on a referendum & you're stalled until there is a vote by all the residents. Normally it ends once Council approves it, but that isn't guaranteed."

Makesh, "As a businessman, I think of the worst case scenario. I plan for the unexpected. Timing is important for this project. We've spent a lot of money. So, my investors would like to see it happen very soon. If things will be delayed due to rezoning, I would prefer that we keep the facility back. And think about the front 5 acres down the road to see what we can do with it."

Latkovic, "It seems that the only practical reason to rezone is to move the facility further toward 306. Sutliff, "I think that would be advantageous to the neighbors." DiMichele, "If you move the parking & service entrances all to the Federated side (south), I think that's the best scenario because the ugly parts aren't facing any neighbors." Sutliff agrees.

Mulle, "I think it's better for the community to rezone." Sutliff, "That's my sense." Brett, "I think by rezoning it, everybody would end up with a better product. You would, the Village would & the contiguous neighbors." Brett to Makesh, "It's your call."

Sutliff asks about variance route. Ondrey, "They are entitled to ask for it. They would be asking for a residentially owned parcel to be allowed to be used in a commercial enterprise. They'd have to demonstrate that you cannot use the front - where it is zoned residential - as a practical matter, can't use it residentially. Maybe they could establish that."

Makesh, "The intent was to use it (the house on property). I also rebuilt the house so it is livable, if we decide to sell it down the road. What would I do with the barn? If we decide to push the facility forward - the mansion I was talking about - the barn becomes the mansion. So the barn will look like a residence. We've got some great ideas how to do that."

Brett, "In order for that to happen, that requires a zoning change. If PC felt like doing it tonight, the PC can't make a motion to rezone that property. Can they?" Ondrey, "Sure. You could adopt a motion to rezone the residential properties in the front from R-1 to R-3. Then it would go to Council."

Timing: Ondrey, "If adopted tonight, it's supposed to be in front of Council at their next meeting (11-25-13) to start the discussion. It would go to Council in the form of a first reading, an ordinance. Then, we'd have to schedule a Public Hearing no sooner than 30 days."

Brett, "If PC wanted to get moving on this, there are 2 Council meetings between now & the end of the year; one in November & one in December." Ondrey, "When is the one in December? You may not have 30 days to even publish it? The ordinance itself is not much if we don't change any of the other dimensions." Council meetings: 12-9-13 & 1-13-2014 at which point there could be a Public Hearing at 6:30 p.m. & the third reading at 7:30 p.m. at the Council meeting.

Sutliff & DiMichele are in favor of the idea. Latkovic, "I would probably support it. The one question I have, is practically speaking, the parking. Would that be to the side? Would it move to the rear?" Mulle, "You'd pull the footprint of the building in & run the parking down the side & bring it forward." Ondrey, "They have to meet whatever the parking regulations are." Mulle, "You are providing parking for staff & guests."

Kostura, "You have a 300' setback. So could you actually use the barn?" Mulle, "No that would be within that 250'." Kostura, "You could bring that house portion up to the 300' mark & you could still use the barn for something else."

Makesh is game for anything. There is excitement for this project. His investors are on board. He'd like to start construction March 1, 2013.

Brett, "The risk for the Village is if we were to rezone that property & the project doesn't happen, then we've just rezoned property under a concept & idea that we thought was compelling." Mulle, "Jean's risk is having me pursue designing a project based on rezoning & it may not happen."

Latkovic, "I think there is a bigger risk for the Village. With a 300 foot setback, you couldn't even put something on this property. It doesn't seem like rezoning this poses that big of a risk to the Village; from a density perspective maybe." Sutliff, "What is the risk to the

Village? It pushes everything closer to 306. To me it's more advantageous than toward the back properties." Brett to Sutliff, "Somebody could come in & say, we're not doing anything like this. We're going up. We're going out." Mulle, "He could cancel the project & sell the property to someone else." Kostura, "At that point PC can say no to the plan."

Makesh, "What can the barn be used for?" Brett, "In order to do anything with that, we're going to have to rezone & then you are going to have to get a variance." Makesh, "The barn is worth restoring." Mulle, "It's not in great condition. It's worth restoring. It's not back 300'." Someone said it would be grandfathered. Ondrey, "The grandfather issue would have to be thought through. I'm not sure that I agree that it is grandfathered for use as part of an assisted living center; even if we rezoned it. It may require an area variance. It would not be a use variance. It's an easier standard."

PC role re Development Approval: Ondrey, "There is Chapter 10 (zoning book, pp. 107-108) which is Development Regulations that any kind of development has to meet. That talks about: circulation, screening, grading, paving, architecture, parking & loading, signage. You do have some additional standards that you would be thinking about once there is a more finalized plan coming before you."

Brett to Ondrey, "I said earlier that PC is not in a position to approve this tonight. Do you agree with that?" Ondrey, "Yes. I don't think they've even asked for approval of this. They are saying this is preliminary." Mulle, "This is conceptual. We're here to share with you what our basic intentions are for how to develop the site."

Sutliff, "They deserve to know how we feel whether we want them to move forward or put the brakes on."

DiMichele, "Without approving it, can we go ahead & initiate the rezoning?" Ondrey, "Sure."

Hocevar, "Mr. Makesh is here for a formal discussion to get Planning Commission's ideas. If PC decides that we don't like the concept, tell him. If we decide, we're in, give him the go ahead to go forward. If he goes forward, you'll probably see him here at least another dozen times: the screening, the parking, the lights, the water. It goes through a lot of steps with PC."

Hocevar re rezoning the 5 acres: Hocevar, "I think it's a good idea, a great idea. If you're going to put a house there it's a non-productive piece of property. Nobody is going to purchase it. What are you going to do? Rent it? " Brett, "My sense is the likelihood of somebody buying that 5 acres to build a house is unlikely given the fact that the 10 acres is zoned for assisted living." Eric Haibach, SR engineer, "I don't have a take on the rezoning. Personally, I think it's a great idea because it seems consistent with what the property is going to be used for. My bigger concerns come in later once a more formal plan is generated as far site drainage & grading & water. I have to reserve those comments for a more formal plan."

Brett to Makesh, "If rezoning the property is something that makes a difference to you in order to end up with a better product for the Village, for you & for the residents that border that, I would initiate that process. I need to know from you that is important to you. It's going to take time. It seems like a good idea tonight. We could have folks coming up from Kensington Green as unlikely as it seems sharing their displeasure. We could hear other residents…" Tomaro,

"Chagrin Lakes. They are not going to be happy that the driveway is going to be right across from Sheerbrook." DiMichele, "With the rezoning, there is a chance that they are going to move it down towards the barn. Mulle, "Correct." Brett, "And we're not approving the final location of the driveway."

Latkovic, "I live on Sheerbrook. That's going to be an issue regardless if this rezoning is done. The one question I have is to Jean. If we move forward with this rezoning, does that put the rest of this project on hold until that's done?" Ondrey, "Theoretically, they could come back with a plan that assumes the rezoning is going to be adopted. You could approve it contingent upon the rezoning occurring." Latkovic, "So us taking action on the rezoning wouldn't necessarily stop it. Is that possible?" Ondrey, "Yes." Sutliff, "It's a risk on their part." Mulle, "Jean may have us design a project based on rezoning when it may not happen."

Brett, "If it's going to be a better product across the board, I would make that motion. Jean how do you feel about that?" Makesh, "The people that I deal with, I'm a very small fish. There are 20 people. They are billionaires. These guys just spent 120 million dollars in Kent. They are going to put a lot of money in NY. My fear is if I continue to delay this, I'll end up losing them. They are my primary financial support." Brett, "It's your call. I don't want to go down a track of rezoning if it causes you an issue." Makesh, "I want to be a proper neighbor, the best neighbor that I can be. If there is anything that I can do to help my neighbors, my preference is to move the building forward. I'm fearful that I may end up losing or things will get further delayed if the zoning process takes more than 3 or 4 months. That is my only concern."

Makesh, "Or I have to find a very creative way of designing in such a way that we are able to draw & if it would work parallel with your process, that is the reason I asked about the barn. What else can I do with the barn? If we decide to use the barn & the barn will be the house upon getting rezoned. If I decide to move the facility closer to the barn, can we create a path or a doorway or an entrance very close to the barn & get it approved? The 10 acres getting it approved for development & then the next 2 months as we go through the process, we have an entrance to the facility. The worst case scenario is that it doesn't get rezoned."

Clarification: Latkovic to Ondrey, "Didn't you say if it's not rezoned, getting a use variance is going to be very difficult? It sounds like if this is not rezoned, those front buildings; it's going to be very difficult to use for what jean is talking about." Ondrey, "You could be right. It's a tough standard to get a use variance." Latkovic, "That's the primary route if this isn't rezoned to use these buildings for what they are talking about: a welcome center. The barn is a community center. That takes a use variance. If that doesn't happen, these buildings sit vacant unless they find a renter. Is that?" Ondrey, "Yes."

Kostura, "I guess what I'm at a loss about is the fact that you have a 300 foot setback. That 300 foot setback means that you can't put anything closer to the 300 foot anyway. The area that you are talking about is less than the 300 foot setback. If you bring it forward & this thing didn't go through, you would not be in any worse position than you are right now. All you've done is brought it forward & you can't bring it forward into the 5 acres anyways. What you have is a product that is now moved forward & it's just closer to the 5 acres. But, it doesn't change

the overall design for you because now you can start drawing the condensed version. Am I missing something?"

Question: Where does the 300' start? Hocevar, "300' from the right-of-way." Mulle, "Whether it's rezoned or not, it's still measured from the road?" Hocevar, "Right." Mulle to Kostura, "What you're suggesting is correct. We have to design it without anticipating the use of the existing structures."

Makesh, "The way the design is now, the main house is right there. You can access these pods by going to the left or by to the right. If we move this down to the barn, this whole structure has to change. The only access we'll have is on the right." Kostura, "Well you can't use the barn for the house. Right?" Mulle, "No. You can't." DiMichele, "No. It's closer than 300 feet." Kostura, "Your plan still stays the same except now you've just done what Tim's (Mulle) been talking about. You've gone from a fat picture to a skinnier picture." Mulle, "Uh huh. In other words, you still can look at bringing the entrance in through here (points to drawing) instead of over here. (points) You can still bring this forward to the 300' line & design the building from this line back & be independent of these structures. These (the current house & barn) can only be decorative. They cannot be used. They cannot be integrated into this solution. They have to be separate. "

Ondrey, "Can you design this? Push it as far forward as you can under the current regulations. Flip the parking to the south, which seems to be attractive to the PC & then get it approved & get going. Then come back later & ask, will you rezone the front parcel so I can use my barn & my house?" Mulle, "Even if we rezone it, I'm worried that these buildings are still within that 300' setback. So, we'd still need to get some kind of dispensation to actually allow us to use them. And we would add them into the design at a later time." Ondrey, "Right."

Mulle, "The initial design solution would be exclusive of those existing structures." Ondrey, "Yes. Pretend that you can't use them for now." Sutliff to Mulle, "Is that practical?" Mulle, "Yes."

Ondrey to Hocevar, "The actual zoning map, is that entire front R-1-A? Or was there some kind of narrow area for where the driveway was going to go?" Hocevar, "No. It was always R-1-A, the whole parcel." Ondrey, "So we always knew that a commercial driveway was going to have to go through R-1 property." Hocevar, "Correct." Mulle, "We're ok with that. Right? Because we don't have a right-of way for a drive." Hocevar, "You don't have to because it is a single parcel." Mulle, "We have to take a driveway through that front parcel." Ondrey, "Right."

Brett, "Is there a rush to do the rezoning?" Makesh, "I would like for it to be rezoned." Mulle, "My opinion is that if the consensus between the two parties – the Village & the owner- is that it makes sense to do it, then I think it makes sense to move forward." Brett, Sutliff, DiMichele agree.

Ondrey, "It's as simple as you (PC) recommending that the front of the parcel be rezoned so that it is all R-3. We're not changing any of the setbacks or the density."

Ondrey, "I thought we were just going toward the direction of let's bag the rezoning. You (Mulle) redesign within the dimensions that are currently there. So you can move forward

& you come back & get more feedback & get that thing going. Why are we doing the rezoning now?" Mulle, "I think it still makes sense for the entire parcel to be zoned…" Ondrey, "It does make sense, but I was hearing that you are concerned about delay & the message that sends to your investors." Mulle, "I think we were searching for a solution for, is there a way that we feel comfortable with moving forward with designing our final solution that works with the ultimate rezoning?" Ondrey, "Okay, whether the rezoning works or not." Mulle, "Correct."

Brett, "Once we rezone, we could do –correct me if I'm wrong – they could ask for a variance of the front yard setback." Ondrey, "Right." Brett, "And drop it from 300 feet to 200 feet or whatever it might be to include the barn & that." Ondrey, "Yes."

Brett, "I make a motion that PC recommend to South Russell Village Council to **rezone the 5 acre portion of the parcel that is located at 5277 Chillicothe Road that is currently R-1-A to R-3." Latkovic second. Roll call: all ayes. APPROVED**

Brett, "In regard to the application for Development Review, I think PC is supportive of your idea. Until we have other information: lot coverage etc. we are not in a position to formally accept that." DiMichele, "We're all for the concept, but we don't have anything concrete to vote on." Sutliff, "The timeline: (to Ondrey) at the next Council meeting, you'll have something drafted for Council." Ondrey, "Yes. It's going to be real simple." Sutliff, "Then there will be 3 readings & the Council will have a Public Hearing."

Time frame: Ondrey refers to zoning book. PC does not have a complete application. Ondrey, "Even if we had a complete application, it says, '**the PC may defer action upon such application until the date of the next regularly scheduled PC meeting, but in no event later than 40 days after the filing date, unless the applicant agrees to a further extension of time.'** Ondrey, "I don't see a deadline that is going to mess this up as far as approval goes."

Mulle, "We seem to be confused about terminology because an application was made. The question is, is that application the same as what your language meant?" Makesh paid a fee & brought an application in on 10-20-2013. Kostura, "You don't have a completed plan for us to review." Brett, "If it is 40 days from that date, it feels like we should- the word choice I think you (Ondrey) had was -'agreed upon by the applicant that a delay was logical'. (to Makesh) **Does the applicant agree that you would extend that time frame?" Makesh, "Yes." Ondrey, "No motion is needed. It's on the record that Jean is in agreement that we can defer taking action beyond 40 days."**

Sutliff, "Expectations for next meeting, we're going to need to see a schematic plan, screening plans." Ondrey, "Yes. We need as much detail as you (PC) are comfortable with. It may be that they come back with much more detail & you say I still would like to see this."

Makesh, "What do you want to see at the next meeting? The solicitor explained a lot of things. Would you like to see all those elements? Or do you want to see those in phases as we go through?" Sutliff, "The revised lay out is going to be important. Screening is going to be an issue. Parking locations." Mulle, "We need a more defined site plan, building plan, elevations, code requirements for site development." Kostura, "A rendering of what the outside is going to look like." Mulle, "Yes."

Ondrey, "For the sake of discussion, what about thinking we won't see you until our first regular meeting in January?" (1-9-2014) Hocevar, "When the Engineer gets involved with this, he's going to bring it back to PC. I doubt that the first plan that they submit, the engineer is going to approve. It's going to be hard to do because of the lay of the land & the storm water issue."

Makesh appreciates flexibility that PC is providing. He'll do everything he can to move things forward.

OLD BUSINESS:
-cemetery: per Brett; break ground late spring; maybe it's open for business, late summer 2014

-Hocevar told PC on 10-10-13 that Jim Pascoe of the Bell Station, 5196 Chillicothe Rd. appeared before the ZBA on 9-19-2013. He requested 2 variances: one for a pole sign & one for a sign to exceed the canopy. Both were denied. After the ZBA hearing, Pascoe approached the Building Dept. & requested to raise the canopy to accommodate the sign that was denied by the ZBA. On 10-10-13, Hocevar said, "Any enlargement, anything done on a commercial piece of property requires PC to ok it." Pascoe to be at next PC meeting set for 11-14-13. **Hocevar reported no need for Pascoe to come to PC. He lowered the sign so it is flush with the canopy.**

If there is something on the agenda, the next meeting is set for 12-12-2013 at 7:30 p.m.

There was no further business. The meeting adjourned at 9:43pm.

Chairman Walter Sutliff

Maggie Tomaro, secretary

note
PC - Feb
agenda end
1) Makes
2) Gamms letter re: rezoning West

12/8/2013

South Russell Village Council
5205 Chillicothe Road
South Russell, OH 44022

Dear Council:

An issue has come the attention of the Zoning Board of Appeals with the current zoning for residential housing within the village. The issue has to do with the far western edge of the village. The western portion of the village contains several streets with small lots and small homes with square footage far below the current zoning requirement of 2400 square feet. The current code calls for any new home in the village to be a minimum of 2400 square feet. The current zoning also requires a 10 foot side yard minimum for placement of such a home. It is impossible to build such a structure on the small lots without a substantial variance and a substantial alteration of the nature of that part of the village. Builders are placed into a very difficult situation when trying to construct a home on the small lots. Current residents are very concerned with the placement of such large structures near their existing homes. There are several lots still available in that section of South Russell with the inevitable probability that in the future there will be "tear downs" and new construction.

During the last Zoning Board of Appeals meeting of December 5, 2013 several recommendations were made for your consideration:

1. Create a "zone" in the western end of the village that would follow a different set of zoning regulations. This would require identifying the specific streets and addresses within the zone.
2. The new "zone" would have the square footage requirement to be reduced from 2400 square feet to 1800 square feet.
3. No new zoning concerning the lot side and rear minimums would be needed.

Sincerely,

Gregory Gamm

Chairman, ZBA

Hi Danielle, Would you please forward this email to the members of the Zoning Board of Appeals, Dave Hocevar and Mayor Brett.--Thanks

Hi All,
Attached is a DRAFT letter to council concerning a requesting change in the zoning for the Village. This is the result of a variance request that took 3 meeting to resolve. Many people gave testimony to the issue and the three of us that held the meeting on December 5th feel a change is needed for a section of the community. PLEASE make any corrections for additions that you feel are necessary. I would ask that you respond before Monday, December 16th so that we may proceed. Please email me or call if you have any questions, thoughts or feel more discussion is needed.
Thanks,
Greg

Greg Gamm
440-668-7989

The TopKnot bun
1 Look, 2 Ways: The Fashion Forward TopKnot bun

The TopKnot bun
1 Look, 2 Ways: The Fashion Forward TopKnot bun

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READ MESSAGE

From: Danielle Romanowski <srvclerk@neohio.twcbc.com>

To: Matt Brett <Matt.Brett@fleetmatics.com>, christine.houston@bms.com, David Ondrey <DOndrey@tddlaw.com>, davidmaistros@maistroslaw.com, george@clemensarchitecture.com, gregorygamm@msn.com, hocevar@southrussell.com, Maggie Tomaro <mtomaro@roadrunner.com>, perottimail@roadrunner.com

Cc:

Subject: FW: Need a favor

Priority: Normal **Date:** Monday, December 9, 2013 7:52 AM **Size:** 188 KB

Attachments: ZBA Zoning letter.docx (176.9 KB)

From: Greg Gamm [mailto:gregorygamm@msn.com]
Sent: Sunday, December 08, 2013 2:05 PM
To: Danielle Romanowski
Subject: Need a favor

Hi Danielle, Would you please forward this email to the members of the Zoning Board of Appeals, Dave Hocevar and Mayor Brett.--Thanks

Hi All,
Attached is a DRAFT letter to council concerning a requesting change in the zoning for the Village. This is the result of a variance request that took 3 meeting to resolve. Many people gave testimony to the issue and the three of us that held the meeting on December 5th feel a change is needed for a section of the community. PLEASE make any corrections for additions that you feel are necessary. I would ask that you respond before Monday, December 16th so that we may proceed. Please email me or call if you have any questions, thoughts or feel more discussion is needed.
Thanks,
Greg

Greg Gamm
440-668-7989

Open Attachment: ZBA Zoning letter.docx

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(s13)

Print

Date: Monday, December 16, 2013 7:29 PM

From: Greg Gamm <gregorygamm@msn.com>

To: Dave Hocevar <hocevar@southrussell.com>, Danielle Romanowski <srvclerk@neohio.twcbc.com>, Matt Brett <matt.brett@fleetmatics.com>, christine.houston@bms.com <christine.houston@bms.com>, David Ondrey <dondrey@tddlaw.com>, davidmaistros@maistroslaw.com <davidmaistros@maistroslaw.com>, george@clemensarchitecture.com <george@clemensarchitecture.com>, Maggie Tomaro <mtomaro@roadrunner.com>, perottimail@roadrunner.com <perottimail@roadrunner.com>

Subject: RE: Need a favor

Hi Dave, Thanks for the feedback. That is a good suggestion. My fear is that variances will still then be needed to reduce the size of the house since 2400 square feet is still required. If the square footage was reduced on those lots in the first place the problem could be solved.
just my thoughts.
Thanks,
Greg

Greg Gamm
North Star Scheduling Solutions
440-668-7989

From: hocevar@southrussell.com
To: srvclerk@neohio.twcbc.com; Matt.Brett@fleetmatics.com; christine.houston@bms.com; DOndrey@tddlaw.com; davidmaistros@maistroslaw.com; george@clemensarchitecture.com; gregorygamm@msn.com; mtomaro@roadrunner.com; perottimail@roadrunner.com
Subject: Re: Need a favor
Date: Mon, 16 Dec 2013 12:57:27 -0500

Hello Greg,
I read your letter and a simple fix would be to change the zoning to eliminate the 10% reduction of 2400 square foot requirement on properties that where platted before 1947, which would be lots in the western portion of the Village. There are not that many empty lots in that area.
I will bring this up at the next PC meeting.
Dave

From: Danielle Romanowski
Sent: Monday, December 09, 2013 7:52 AM
To: Matt Brett ; christine.houston@bms.com ; David Ondrey ; davidmaistros@maistroslaw.com ; george@clemensarchitecture.com ; gregorygamm@msn.com ; hocevar@southrussell.com ; Maggie Tomaro ; perottimail@roadrunner.com
Subject: FW: Need a favor

From: Greg Gamm [mailto:gregorygamm@msn.com]
Sent: Sunday, December 08, 2013 2:05 PM
To: Danielle Romanowski
Subject: Need a favor

Print

Date: Tuesday, December 10, 2013 7:53 AM

From: George Clemens <george@clemensarchitecture.com>

To: Matt Brett <Matt.Brett@fleetmatics.com>

Cc: christine.houston@bms.com <christine.houston@bms.com>, davidmaistros@maistroslaw.com <davidmaistros@maistroslaw.com>, gregorygamm@msn.com <gregorygamm@msn.com>, perottimail@roadrunner.com <perottimail@roadrunner.com>, Danielle Romanowski <srvclerk@neohio.twcbc.com>, Maggie Tomaro <mtomaro@roadrunner.com>, hocevar@southrussell.com <hocevar@southrussell.com>, David Ondrey <DOndrey@tddlaw.com>

Subject: Re: Need a favor

Greg,
I agree with your letter -- it concisely reflects our concerns about those older streets at the western end of South Russell
Thanks for your efforts!
George

On Mon, Dec 9, 2013 at 9:18 AM, Matt Brett <Matt.Brett@fleetmatics.com> wrote:

Greg,

Thanks for sharing this. Planning Commission and Village Council have both received updates regarding this issue. We will share your letter with Planning Commission and Council. I believe that the appropriate process would be to have Planning Commission queue up a motion to amend our Zoning, which would then go to Council.

I truly appreciate all the hard work and dedication from our Zoning Board of Appeals on this and other matters that come before you. I continue to receive very positive feedback regarding our ZBA.

Thanks,

Matt

Matt Brett
FleetMatics
Director, North America Customer Care
Office: 440-528-0709
Cell: 216-701-0961

Fleetmatics

From: Danielle Romanowski [mailto:srvclerk@neohio.twcbc.com]
Sent: Monday, December 09, 2013 7:53 AM
To: Matt Brett; christine.houston@bms.com; David Ondrey; davidmaistros@maistroslaw.com; george@clemensarchitecture.com; gregorygamm@msn.com; hocevar@southrussell.com; Maggie Tomaro; perottimail@roadrunner.com
Subject: FW: Need a favor

From: Greg Gamm [mailto:gregorygamm@msn.com]
Sent: Sunday, December 08, 2013 2:05 PM

To: Danielle Romanowski
Subject: Need a favor

Hi Danielle, Would you please forward this email to the members of the Zoning Board of Appeals, Dave Hocevar and Mayor Brett.--Thanks

Hi All,
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Thanks,
Greg

Greg Gamm
440-668-7989

--
George A. Clemens, A.I.A.
principal

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tel 440.247.7767 fax 440.317.7752
www.clemensarchitecture.com
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Budget.com: Official Site
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READ MESSAGE

From: Matt Brett <Matt.Brett@fleetmatics.com>

To: 'Dave Hocevar' <hocevar@southrussell.com>, Janice DiMichele (peabodys@aol.com) <peabodys@aol.com>, Kostura, Bryan <bkostura@bricker.com>, Steve Latkovic <sjl@candlewoodpartners.com>, Walter Sutliff (wsutliff@boltonpratt.com) <wsutliff@boltonpratt.com>, Bryan Kostura (bryan.kostura@gmail.com) <bryan.kostura@gmail.com>, DISHONG, JOHN E. <jd7132@att.com>, 'Jack Binder' <JackBinder@edmarchem.com>, marybethwolfe@howardhanna.com <marybethwolfe@howardhanna.com>, Porter, Mark (mp@mporterlaw.com) <mp@mporterlaw.com>, wnek3@roadrunner.com <wnek3@roadrunner.com>

Cc: Danielle Romanowski <srvclerk@neohio.twcbc.com>, Maggie Tomaro <mtomaro@roadrunner.com>, David Ondrey <DOndrey@tddlaw.com>, gregorygamm@msn.com <gregorygamm@msn.com>, lfdfpo@gmail.com <lfdfpo@gmail.com>

Subject: ZBA Zoning letter (2)

Priority: Normal **Date:** Tuesday, December 17, 2013 7:29 AM **Size:** 61 KB

Attachments: ZBA Zoning letter (2).docx (52.5 KB)

All,

Please see the attached letter from Greg Gamm, Chair of our ZBA. The letter pertains to the recent topic on Hazelwood drive. I believe that Greg's recommendations are worthy.

I believe that the appropriate process would be for Planning Commission to pick up this topic and look to make a motion for Council to consider.

Thanks,

Matt

Matthew E. Brett
Mayor, South Russell Village
440-338-6700
www.southrussell.com

Open Attachment: ZBA Zoning letter (2).docx



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(s13)

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Thanks,
Greg

Greg Gamm
440-668-7989

12/8/2013

South Russell Village Council
5205 Chillicothe Road
South Russell, OH 44022

Dear Council:

An issue has come the attention of the Zoning Board of Appeals with the current zoning for residential housing within the village. The issue has to do with the far western edge of the village. The western portion of the village contains several streets with small lots and small homes with square footage far below the current zoning requirement of 2400 square feet. The current code calls for any new home in the village to be a minimum of 2400 square feet. The current zoning also requires a 10 foot side yard minimum for placement of such a home. It is impossible to build such a structure on the small lots without a substantial variance and a substantial alteration of the nature of that part of the village. Builders are placed into a very difficult situation when trying to construct a home on the small lots. Current residents are very concerned with the placement of such large structures near their existing homes. There are several lots still available in that section of South Russell with the inevitable probability that in the future there will be "tear downs" and new construction.

During the last Zoning Board of Appeals meeting of December 5, 2013 several recommendations were made for your consideration:

1. Create a "zone" in the western end of the village that would follow a different set of zoning regulations. This would require identifying the specific streets and addresses within the zone.
2. The new "zone" would have the square footage requirement to be reduced from 2400 square feet to 1800 square feet.
3. No new zoning concerning the lot side and rear minimums would be needed.

Sincerely,

Gregory Gamm

Chairman, ZBA

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
FEBRUARY 13, 2014
7:30P.M.

1. ROLL CALL: **Chairman Wally Sutliff, Mayor Matt Brett, Steve Latkovic, Bryan Kostura, Andy Hitchcock**

2. MINUTES: 11-14-2013 **Approved**

3. AGENDA:

(1). Formal discussion, Development Review, with Jean Makesh of Orcus Systems & Solutions, Inc. He hopes to build an assisted-living facility, the Lantern of South Russell, to be located at 5277 Chillicothe Road. Plans for the project to be presented by architect, Tim Mulle.
NOTE: On 11-14-2013, the PC deferred "action upon application for Development Review until the date of the next regularly scheduled PC meeting." Refer to minutes of 11-14-13 for details.
Unresolved issues i.e.: variances, height restrictions, uses of barn/farm house, traffic concerns, entrances & exits, driveways & parking, water: storm water study, ground water study, wells, sewers, signage, lighting, landscaping, engineering,
-Engineer needs: underground utility plan, grading plan & grading specs for how they plan to manage storm water
-PC wants a fire department review that identifies requirements of the facility i.e. is a firelane required? If required, to go around the property? Etc.
-Brett, "For the next meeting, could you map out your time line for the significant milestones?"

(2). Request from ZBA (Zoning Board of Appeals) to change the zoning regarding permitted size of homes for a section of the community; the western part of the Village. Enclosed letter dated 12/8/2013 from the Chairman of the ZBA, Gregory Gamm
Bill Stone, 137 Fairview & Building Commissioner, David Hocevar to work together & present something to PC. Some items to consider: identify specific area in the Village, square footage reduction, lot percentage & height.

4. OLD BUSINESS: **None**
5. NEW BUSINESS: **next meeting 3-13-2014, 7:30p.m. if there is something on agenda**
-Janice DiMichele's term on PC has expired. Andy Hitchcock has been appointed as a new member to the PC. Andy was present at tonight's PC meeting; his first meeting.
-next meeting: folks at 552 East Washington St. will come to PC to discuss opening a carry out pizza shop
6. ADJOURN: **9:48 p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
RECORD OF PROCEEDINGS
FEBRUARY 13, 2014

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Steve Latkovic, Bryan Kostura, Andy Hitchcock

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor, Eric Haibach, Engineer

GUESTS:
Tim Mulle, TMA Architects, 8500 Lucerne Dr. CF 44023
Deborah Stephen, 113 Hazelwood Dr.
Emilie Unkrich, 131 Fairview Rd.
Valarie & Christopher Mariola, 15911 Hemlock Rd.
Martin P. & Jane Ostergard, 38 Westover Dr. (Kensington Green)
Nina Lalich, 1137 Royal Oak Dr. (Chagrin Lakes Club)
Bill Stone, 137 Fairview Rd.
Jean Makesh, 10770 Stella Lane, Auburn Township

Chairman Sutliff called the meeting to order at 7:31p.m. Sutliff, "I would like to express my appreciation to Janice DiMichele for her years of service & welcome new member, Andy Hitchcock." The minutes from 11-14-2013 were approved as presented.

Formal discussion, Development Review, with Jean Makesh of Orcus Systems & Solutions, Inc. He hopes to build an assisted-living facility, the Lantern of South Russell, to be located at 5277 Chillicothe Road. Plans for the project to be presented by architect, Tim Mulle.
NOTE: On 11-14-2013, the PC deferred "action upon application for Development Review until the date of the next regularly scheduled PC meeting." Refer to minutes of 11-14-13 for details. NOTE: PC did not take action at tonight's meeting regarding Development Review

-11"X17" set of preliminary plans from architect for PC to review, 7 pages

Tim Mulle, architect, "We are representing Lantern of South Russell. The owner of the property, Jean Makesh is also here. We'd like to give you an update on our progress with the redevelopment of the property at 5277 Chillicothe Rd."

Mulle, "When we last met, we showed you this, which was our basic conceptual plan for how we intended to redevelop the property: 16 acre parcel, formerly a farm, historic farm house, out buildings on the property, the intention to redevelop the property with an assisted-living

facility. We've done a lot of work since then. That is what we would like to show you this evening."

Mulle, "To recap: we did go through the process of successfully rezoning the front 5acres of the parcel along State Route 306, which was previously single family residential. That has been rezoned so the entire 16 acre parcel is now zoned as an assisted living project."

Latkovic, "Were there any conditions or just straight rezoning?" Brett, "Straight rezoning."

Mulle, "handout: **first sheet** is aerial shot of property, most of which is vacant land, with farm house, barn & **shed** that are currently located at the front of the parcel, close to State Route 306, to the western side of the property."

Mulle, "That front 5 acre parcel that contains the historic buildings is still an area that we are not intending to redevelop because we still have a 300 foot setback requirement. If you go to the **third page**, that 300' setback means that the 11 acre parcel that is the primary open & back portion of the property is what we are intending to redevelop. That's where the new construction would occur for the new building. The front 5 acre parcel will remain because it is within that 300 foot setback. It primarily will be the existing buildings that are already there: the historic farm house, the barn & it is our intention to renovate, restore those existing structures – rejuvenate them & incorporate them into this entire project."

shed: Brett, "There are 3 buildings currently there." Mulle, "Yes." Brett, "Are all 3 buildings on your drawing?" **(pp.3)** Mulle, "No. What we would like to do, the shed, which is essentially just a garage building, we would like to tear it down. We've already restored the existing farm house. It is our intention & our desire to restore the barn. But, the shed which is basically a garage building, it doesn't have any intrinsic value. It gets in the way of what we are trying to do. We'd like to take that building down. If you look at the aerial shot on the **first page**, you can see it."

barn: Hitchcock, "What about the barn? Is it in decent shape?" Mulle, "It's going to take a lot of work & a lot of cost to renovate the barn. A number of people have looked at it & said, 'I don't understand why you aren't just tearing it down'. We feel the barn has historic value. It's our desire to restore the barn, renovate it & reuse it."

Barn to serve as an activity center for elderly in the community; not primarily for residents of assisted living facility with an exercise pool: Mulle, "It will become an activity center. It would be a somewhat separate function than the rest of the new structure that we are building. It would not be there for the intention of primarily serving the residents who live in the facility, but rather to serve the community – for the elderly community, people who live in the area to be able to come & have day time activities in that building; organized activities for people who are still independent, but elderly, looking for things to do, social interaction & other activities that happen during the day. That's what we would like to use the barn for."

Mulle, "What we would like to do with the barn is to put an addition on the back of it. It is basically the same width, which is 28 feet by a depth of approximately 30 feet (28' X 30') to include enhanced functions that we need to have to make that structure useable. What we are intending & what we would like to add onto the barn is a smaller footprint then what has already

been taken down. The piece that has been removed because it was literally falling down, was approximately 30' X 40'. We'd like to add on about 28' X 30'."

Mulle, "There are things we have to put in the barn because in order to use the barn as an activity center it does become an assembly use group. You have to have adequate exiting. It does have a second floor. We want to put in a lift for proper access to the second floor, exit stairways & restrooms to make it useful."

Latkovic, "You tore down the back & what you tore down, you want to rebuild. It looks like a swimming pool." Mulle, "An exercise pool." Latkovic, "How does that impact the setback?" Mulle, "That's what we need to talk about. These are existing structures. They are nonconforming structures & they are within the 300' setback. We don't want to lose those buildings: the farm house & the barn. Everything else that is new is behind the 300' setback. That is something that we need to address. We need to talk about this as part of our discussion this week because we want to reuse these buildings. They are an integral part of the whole concept."

New structure, replicates a house: Mulle, "When we start looking at the design side of this, the aesthetic solutions of what we are trying to create - all of course is still subject to what we will get into with the Architectural Board of Review Board – the whole idea is to create a complete solution that is very attractive & an aesthetic amenity for the community. That includes creating this front piece with the new structure that replicates an image of a house. It is welcoming. It has the ability to go as large as 100,000 square feet. We're trying to keep the scale of this low, residential in character. As you page back & look at elevations, we're trying to replicate farm buildings, horse barns & character that is consistent with the property, the community & the surroundings."

First phase: Mulle, "At this point, we are only talking about the first phase. Going back to the site plan & to recap: we have the site plan of the property with 16 acres. We have a buildable footprint indicated on the plans with a dotted line & everything that we are doing is within that footprint. Previous discussions had to do with where to locate things like service, parking & some other support functions. We have reworked those things. All the parking & service functions are on the south side of the building. The initial concept, some of those things were happening in the back. We've moved everything that is service oriented to the south side. Around the east & north side of the building, there are adjoining residential properties. Everything is quiet & accessible. It will be completely landscaped; a berm, landscaping so as to create a buffer to completely separate things as best as possible from the surrounding neighborhood. All the activity space is to the south. The adjoining property is the church property."

Page 4 of plans: Mulle, "That is an enlarged floor plan. It does spread out & that is intentional because it's all one story. All of the residential areas within the new building are pods. Each pod consists of 22 residential units. Each residential unit is a 400 square feet apartment with common areas in between for residents to have interactive space. It is set up so it can be constructed in phases. They don't have to build this entire thing at one time. You can build the front half of this project initially & then start to add other wings as supplemental

phases. There is a separate service building, bottom of the plan. It has the kitchen & deliveries can occur. The parking lots are all on the south side & closely adjacent to State Route 306 for access in & out."

Mulle, "As we talked about before, we have a house structure in the front that is the main entrance. We tried to make a connection to the barn."

Page 6 of plans: elevations: "These are various views, which are subject of course what we need to do with the ABR. You can start to see the scale of it & how we are trying to break it down into pieces where the building is designed as sections & is individual pieces so as to keep the scale down. Keep it low to the ground & trying to work as best we can within the height restrictions. Keep it as a residential scale."

Page 7, the barn: Mulle, "We have a couple of ideas of what we'd like to do with the barn." I.e. first floor: fitness studio, game room, reading room, swimming pool. Second floor: multi-purpose room, 2 classrooms.

Farm house: Sutliff, "What do you plan to do with house up front, the farm house?" Mulle, "The farm house has already been restored & renovated. The intention for that building is that it would be used as a welcome & education facility for (unclear)." Latkovic, "Could somebody live in it?"
Mulle, "It's possible down the road that could happen as need be. The way it has been renovated, yes, it could be a single family residence."

Mulle, "During construction, it would be used primarily as a welcome center & a way to greet people & show them what's happening with the project. Once construction is complete, again it's a welcome center & education. It could ultimately be a single family residence again."

Water: Sutliff, "What's been done with the water? Have you contacted Dr. Eckstein?" Mulle, "There have been a lot of discussions about the water issue & extending the water supply to the site. Issues that have been happening in Bainbridge; looks like that's not something that's possible to happen with our time line. We've been exploring using well water for the property. The initial reaction that we've had from the studies we've done is that is not a problem."

Sutliff, "Have you talked with or contacted the hydrogeologist, Dr. Eckstein? Or will you?" Mulle, "I have not personally talked to Dr. Eckstein." Sutliff, "I think that's the next …" Brett, "The village no longer has Eckstein on a retainer. We can use him as a resource for us. Given this project, there are 2 paths that they are considering. One is the potential of extending the city water line." Sutliff, "I'm understanding that's really not an option now." Mulle, "It doesn't appear likely that it can happen within our time line."

Mulle, "We have talked to people including Jim Ayers who feels very confident that we can do what we need to do with well water. This needs to be a fully sprinkled building." Sutliff, "What would you do? Would you build storage tanks?" Mulle, "Yes. We would have underground storage tanks." Kostura, "They would have to be massive. How big do they come?" Mulle, "I don't know." Kostura, "You'd have to get reviewed by the fire marshal."

Ondrey reads from Chapter 10, Development Regulations, 10.01 REGULATIONS (j) Water Supply (pp.108) of the zoning code, "Wally (Sutliff) in response to your concern, our development regulations says, 'the Commission shall require proof of adequate potable water for any … elderly assisted living.' Ultimately you've got to be satisfied."

Brett asked Solicitor & Building Commissioner to explain the process & identify the things PC needs to consider "as we look to approve or not approve this."

STANDARDS PC TO CONSIDER: Ondrey refers to **Chapter 10, DEVELOPMENT REGULATIONS** (pp. 107-108) of zoning code. "Any assisted living proposal, you're entitled to look at a number of standards: **10.01 REGULATIONS**

(a) **Circulation.** That means the traffic issues.

(b) **Surrounding Area**: 'All development features, including structures, open spaces, access drives, parking & loading areas, utilities, sewage systems, water wells, & signs shall be located & related to minimize the possibility of any adverse effect on adjacent development.'

(c) **Screening**: 'The development shall include adequate provision for screening of parking areas, service areas & active recreation areas from surrounding properties by landscaping' etc.

(d) **Grading**: You're supposed to look at 'grading & surface draining provisions'. That's supposed to be approved by the engineer. It's supposed to 'take advantage of natural features which will minimize construction of drainage facilities, grading & the removal of trees. Top soil shall not be removed from the site without Commission approval.' If it's in a flood plain, there are provisions, but we're not at that."

(e) **Paving:** 'All private streets, access drives & parking & loading areas shall be built according to plans approved by the Engineer in accordance with' our other regulations.

(f) **Privacy**: 'Maximum privacy for multifamily dwellings & surrounding residential properties shall be provided through appropriate design & the use of proper materials & landscaping. Visual privacy shall be provided through structural screening & landscaping.' A landscaping plan is supposed to be submitted & approved.

(g) **Architecture**: 'The architectural design of structures shall be developed with consideration given to the relationship of adjacent development in terms of height, mass, texture, materials, line, pattern & character. The location & placement of structures shall be developed with consideration given to minimizing removal of trees & change of topography.'

You're supposed to be looking at: (h) **Parking & Loading,** (i) **Signs** & (j) **Water Supply.**"

Process: Ondrey, "There is no set – this is the only way- procedure. You can raise concern through questions or comments & give them the opportunity to adjust or tell you why they can't adjust. We don't have the level of detail submitted yet to satisfy some of these things. Although, sometimes you can approve subject to approval by the engineer of technical issues like the drainage & paving. It's kind of a give & take for a while. I'm not sure that they are asking for approval. I think they are saying, here's where we are at."

Mulle, "We had a first meeting when we were at concept level. This is about updating you about how we are progressing, what we are doing & how we are trying to incorporate comments that this group has made in the past. We are not trying to submit this as absolute final because we are not there yet."

Questions/discussion:

Driveways: Kostura, "I have a few questions about the overall layout & traffic pattern. Coming off of State Route 306, I see 2 sets of driveways. (pp. 3 of plans) You reference one as a service driveway & one is the main entrance. Is that what your thoughts were?" Mulle, "The northern most drive is the existing driveway as it comes onto the property. We're trying to make use of that as the primary entrance for people who are coming to visit the property. It's very minimal access. This is not a high activity operation. The vehicular access & activity is minimal. The building, at its maximum size, is 100,000 square feet. The people who are living here are in the building. They are not mobile. They don't have cars. They stay here."

Mulle, "The staff size for this entire building -the largest staff during the day- Monday through Friday, is about 20 people. In terms of vehicular access, it's extremely quiet. The upper drive (north) that comes next to the house, which is where it is today, is primary visitor access. The other access drive, at the southern end of the property; there are going to be deliveries of course. They will come in & out to bring food, empty the dumpsters & retrieve trash."

Parking:

Mulle, "The majority of the parking is down at the southern side, behind that 300' setback."

Mulle, "There is some visitor parking that we do have up here (near farm house) & we need to talk about that. The parking ordinance & to this use group says that there is not supposed to be parking in front of the building. There is some question about how that should be & will be interpreted. We have a building that is up here (pp. 3. pointing to farm house) & we have a building here. (pp. 3 pointing to new assisted living structure that is not built yet) In front of which building are we actually talking about? We are trying to incorporate in this area (near the farm house) about a dozen or so parking spaces that are for visitors. The handicap spaces are close to the entrance for convenience purposes to the existing structures & the (new) building. There is some question about how that needs to be interpreted that we need to address."**(refer to pp. 8 of minutes, variances:parking)**

Sutliff to Hocevar, "What are our parking requirements for this district?" Hocevar, "What Tim was referring to was, on R-3 zoning that front yard setback is 300 feet. You are not allowed to park in the front yard setback." Sutliff, "Number of spaces." Hocevar, "He qualifies for a number of spaces for that use. It's based on occupants."

Mulle, "It's based first on the resident occupants. There's a percentage of spaces based on the number of occupants who live there. Then you add to that the number of staff who are working. It comes up with a number that is way below what we've provided. We are only required to have 50 spaces." Sutliff, "So do you need all that parking?" Mulle, "No. What we are showing is more than what we are required to have. We actually can build something smaller. We are just trying to identify that there is more than enough spaces. We wanted to allow a certain amount of spaces for visitors."

Cont. of driveways: Mulle, "So we have the southern entrance. There is some flexibility as to where that can be located because there is nothing else happening in this whole quadrant of the property & the other drive up here." (Northern part of property near farmhouse)

VARIANCES:

Brett, "What are the items that you still require a variance for?" **(1).** As an example, the parking out front is one. **(2).** The use of the buildings in the first 300 feet would be another one. What other ones exist?" Mulle, **"(3).**We need to look specifically at the barn. We are looking at putting an addition back on the barn in the area that we have taken down; that existing portion that is collapsing. **(4).** And also the height. We have a 25' height restriction for this use group. 25' is a tough height limit to try & stay within. That's part of the reason we've broke this building up into pods. The height restriction for a house is much higher than the height restriction that we have with this building." **(5).** Refer to next page: use of barn other than for residents/their families/employees

Latkovic, "Outside of the barn, is anything two-story?" Mulle, "Everything is single story. If we were doing flat roofs, it would be easier for us to comply with that. A flat roof structure would be unattractive. The highest roof that we have is 3' higher. It's 28 feet. That's a peak of a pitched roof. That's using shallow roof pitches, like 4/12. It would be more attractive to do a 6/12 & go as high as 30 feet with some of those ridges. **(continuation of 4.)** That may require us asking for a variance depending on how that is interrupted; you know if we're averaging heights or if it's an absolute number because a lot of our roof pitches are below that 25' height."

HEIGHT: Hocevar, "In our zoning ordinances, the requirement for our height for zoning in R-3 is 25 feet. I want to take a look at that because on the accessory structure it's 30 feet. It doesn't make a lot of sense to have an accessory structure higher than the height of the main structure."

Kostura to Mulle, "For clarification, you said the height restriction is 25'. As I'm looking at the side elevation, you've got cupolas across the top. Is that the 28'?" Mulle, "No. It's the ridge of the roof." Kostura, "So that's another 3'on top of that." Mulle, "The cupola would be an appendage. Again that's a matter of interpretation that I'm not certain of. Is a cupola as an accessory, decorative item …?" Hocevar, "We've always gone from across the ridge of the roof." Mulle, "We're looking at the ridge when we're talking about height. The highest ones that you see are at 28'. As you step down to those intermediate heights, they are in the 25 foot then they drop below."

BARN: Hocevar, "In reference to the variance that he talked about for the barn; actually being a nonconforming building - if you have less than 50% either destroyed or removed or it's falling down- they are permitted to build that. He can't exceed the footprint of the existing.

Hocevar to Ondrey, "The way I'm reading on that nonconforming, a variance wouldn't be required on the barn. It says here they are permitted to replace that barn 'as long as it doesn't exceed the footprint of the existing structure'." Ondrey, "I have to think that one through."

Barn/activity center refer to pp. 2 & 3 of minutes: Ondrey to Mulle, "My concern about the front structure is, as I understand it, you were saying this is going to be some kind of an activity center for elder citizens. Just the general public could utilize it. The way we define the

elderly assisted living, the activity centers are supposed to be for residents or guest of residents or employees of the facility. **(5).** If that structure is being thrown open to public visitation & use, that may require some kind of a variance or change in zoning to permit it."
Mulle, "The intention is it would be specific to elderly people in the community that would become members. It would be fee based. It's not open for anybody to just come in at any time. It would be for people who are not living on site." Ondrey, "That's where I think we may have a problem."

VARIANCES CONT.

PARKING: Sutliff to Hocevar, "What's your interpretation of that parking in front of the building? (Pp. 3 of drawings, Pp. 6 of minutes) In fact, it's behind the building." Hocevar, "That's what I was referring to before. We have a 300' setback with parking. You aren't allowed to park within the setback." Sutliff, "So that would require a variance." Hocevar, "I'm thinking it would."

Cont. of questions/discussion:

Drainage/ runoff/retention pond: Latkovic, "I live on Sheerbrook. (street directly across Ste. Route 306 west of 5277 Chillicothe) There is concern about the driveway. Another big issue, I know for Sheerbrook in particular, is the drainage, the runoff. (referring to plans) I don't see a retention pond in this. I don't see any place for that to go. I don't know how much of that property drains. But, a significant amount drains under the road, creates a little river & then goes into that first pond on Sheerbrook. Have you studied the water issue? I know it has to be approved by engineering." Mulle, "That's something that's still in the works. I don't have information on that this evening."

Sutliff to CT engineer, "Have you guys taken a look at this at all?" Haibach, "No. I'm **waiting for an underground utility plan, a grading plan, & your grading specs for how you plan on managing storm water.** I haven't received any of that." Mulle, "That's something that's in the works."

Phases; Maximum size: 110 units, 5 pods of 22 units = 110 residents & units
Hitchcock to Mulle, "You mentioned that this could be done in phases. **(Pp. 3 of the minutes)** You could build the first three structures & do the next three at a later date. Does the plan become economically feasible to do them separately? If we were to say that we only approve half of it, does it become a business decision not to move forward? How would you interpret that?" Mulle, "It's hard for me to say because I'm not the person making that decision."

Mulle, "There's a certain amount of infrastructure that is here (pointing to plans) that is designed to support the entire project. The infrastructure with the common areas, the service areas, the kitchen facilities has to be built based on the entire project. The entire project at its maximum size is a space for 110 residents." Latkovic, "Does that include double occupancy because there are 88 suites?" Mulle, "No. There is the ability to do 110 suites. There are 5 pods

with 22 units per pod. They are all individual. They are all single occupant units. Each unit is 400 square feet, basically a one bedroom apartment. It has a living room, bedroom, bathroom."

Mulle, "What you are not building day one, if you phase it, are the residential pods. So, if you don't ever build those pods - where is the cutoff where it makes financial sense? I'm not sure."

Firelane: Mulle, "We are showing a driveway that is fire access that goes all the way around the building. The reason that we are showing that is for fire fighting purposes, should fire trucks need to get in and emergency access the property. They have the ability to access all the way around the building."

Brett to Hocevar or Ondrey, "How is the firelane viewed in regard to setbacks? Does the firelane fall under the requirements of the setback?" Ondrey, "I never researched it. I'm skeptical it does. I think setbacks refer to structures."

Mulle, "The 100 foot setback is for building structure. Parking & paving have different setback requirements which are 20 feet from the sides & the back is 20 feet from the back of the property line."

PARKING: Mulle, "The front is separate. In the front, as far as the building goes, there is a 300 foot setback. **As far as parking goes, what it says is that there is no parking in front of the building. It doesn't say there is no parking within the 300 foot setback." Hocevar, "No." (refer to pp. 8 parking) Mulle, "What it says specifically is there's no parking in front of the building." Hocevar, "No, in front of the 300 foot setback."**

Latkovic, "Those are two different things." Mulle to Hocevar, "I think we may disagree on that Dave. (Hocevar) As I read it, it says there is no parking in front of the building. **It doesn't say there is no parking in front of the 300 foot setback." Hocevar, "In the front yard & you classify the front yard setback is where that line comes in."**

Firelane: Mulle, "The sides are 20 foot setback for parking & paving. We've tried to keep that firelane as close to that building line as possible. **All of that is subject to the fire department & their review**. Where they want that to be & how they want that to be. They have their own feelings about how close they want a fire truck to get to a building. That is subject to their review."

Ambulances: Hitchcock, "What about ambulances? It seems like it may be difficult for paramedics to get into the Main Street area or the center of pod 4. Mulle, "That access would happen through the service area. It takes you into the center of the complex or from the front." Hitchcock, "You can get a vehicle in here?" Mulle, "Yes. This whole drive area is designed to get fire trucks in here. We can get emergency vehicles that access directly to the front of the building & to this side through the service entrance that takes you back into the center."

Brett, "For clarity, a vehicle can only come up to where you've got the parking." Mulle, "Yes." Brett, "A vehicle cannot come into…" Mulle, "They only come this far & after that you are on foot."

Latkovic, "Would you use the firelane for the ambulance?" Mulle, "I suppose you could." Latkovic, "It provides better access, but it's 50' from the back of somebody who lives in Kensington. I wondered if that was anticipated or not?" Mulle, "That's going to be based on conditions. If there is a person who is having an issue & he needs an ambulance, the staff is probably going to have plenty of time to bring that person out to this point before that emergency vehicle arrives to pick him up."

Firelane/ambulances:

Martin Ostergard, 38 Westover (Kensington Green) "I'm one of the families that have lived for 27 years on the north boundary of this property. I keep hearing that it is so not intrusive; very few people, 20 employees. But, what really bothers me is this road on the north & the east side. (firelane) When I saw the concrete that had been done to the structure in the last several months, I thought that's great because they are going to route everything to the south; putting the parking lot & roads between this property & the church. (Federated Church Life Center, 16349 Chillicothe Rd. Bainbridge, 44023) Now I see & it really bothers me is the road to the north & to the east. I know that is not necessary if you plan it differently."

Ostergard, "I do not believe – I'm no expert- that the fire marshals are going to tell you that you have to have a road there if you configure the roads differently between the pods, such that they can get in there. I look at the Weils where my mother was for a year. (Weils of Bainbridge 16695 Chillicothe Rd. Bainbridge, 44023, a facility for the elderly) I know there is no access by the fire department to the far north, far north eastern, far northwestern of the structure. There's an acceptance that you are not going to be able to pull the fire truck right in front of everything."

Ostergard, "Why do we need a road on the north & the east? That would impact the 11 or 12 families that live around there. That's my big thing. I wanted to make sure that the parking was to the south, which it seems to be. But the road is a real negative for me."

Sutliff, "That road is not open to the public. That's for emergency access." Mulle, "It's there for…" Ostergard, "the ambulance that comes every day." Mulle, "No. It's for the fire truck that hopefully never comes." Ostergard, "Unless there is a barricade there, there is no way that you're going to prevent somebody who pulls in who goes to the left instead of going to the right."

Ostergard, "The only reason you need a service road, I believe, is because of the way you've decided to configure the location of these pods. You can't tell me that if there isn't a road that's open, that people won't use it. And ambulances coming in there, they may go left & loop around. Why is there a road there?" Mulle, "The road is there strictly & only for the purpose of allowing access for fire trucks. Our preference is that it not exist."

Ostergard, "You could route it to the south." Mulle, "I could do anything. But, it's entirely & completely controlled by & subject to the decisions of the fire department. If the fire department tells us that they need to have access on all 4 sides of this building to fight a fire, then that's what they will tell us to do."

Kostura asks what the footprint of the Weils is. No one knows. Ostergard, "I can't tell you the square footage, but I can tell you this. They have absolutely no access on the north, the north east or the north west." Mulle, "If they don't ask for it & they don't tell us to put it there..." Ostergard, "If you had designed it for access in to the interior that would have been fine with them."

Latkovic, "The Weils can access all sides but the north. (to Mr. Ostergard) We understand your objections & one of the purposes of this PC is to make sure that this thing isn't going to impact, to minimize the impact to the residents around it. I certainly don't want - &

that's why I asked - if ambulances are going to drive around it. If you (Mulle) can remove that, then you should. If the fire department is going to require it, then it needs to be."

Latkovic refers to a drawing. Latkovic, "On this one, they don't have full access all the way around it. This is laid out…" Mulle, "It's a single story, fully sprinkled building. Fire departments make their own decisions about what they require & what they don't require. We are trying to anticipate conditions based on what we've seen historically. If they don't ask for it & they don't tell us that they need to have a road around the building, then there won't be a road around the building."

Ostergard suggests an access road through the pods. Mulle says it can't be done because buildings are only 25' apart. Mulle, "The purpose of the courtyard is to provide outdoor space for the residents that is secure. People suffering from Alzheimer's & dementia, who live here, have an outdoor space that they can enjoy that is secure. They can go outside, but it is contained so that they don't leave the property & walk out onto Ste. Route 306."

Cont. to discuss firelane: same comments reiterated

Jean Makesh, CEO of company that plans to build Assisted Living facility, "I do have a 94 unit facility in Madison. We have a subdivision right across from the facility. We hardly have traffic. We don't have ambulances every day. I did an informal study. I parked myself next to Perfect-A- Smile (dental group, 16716 Chillicothe Rd. Bainbridge; across the street from the Weils) to see how many times traffic is being hindered going into the Weils. I didn't see any. The traffic moves very smoothly. There is hardly traffic coming in & out." (of the Weils)

Ostergard, "We're not talking about the Ste. Rte. 306 access in & out like you are. You live on Sheerbrook. You're concerned about that. (to Latkovic) I live in Kensington Green where you have 11 or 12 families who have lived there for 27 years. I'm not concerned with access off Ste. Route 306. I'm concerned about a road there (firelane) that I have no assurance that it won't be used – I know one thing, at the Weils, which is very comparable to this – the ambulance is in there almost daily For you to suggest that it's only to be used for fire, I don't believe that." Makesh, "No. We won't be using that."

Mulle, "We have been trying to keep the building as far away as possible from that property line. (east side) We have shrunken the size of the property to bring the building farther away so we can use that 100' setback & create a berm, a mound. So when you are in your home & you are looking out the window, you are only looking at landscape. You won't see this building. If we have to put this road here, please understand that we don't want to put a road here. But, we may have to. If the fire department tells us that we have to have a firelane around the building, then we will have to put it there. It's not an ambulance drive. It's a fire drive."

Brett to Mulle, "Before the next time that we meet, will you meet with the fire department & get from them what they are going to require?" Mulle, "Yes." Makesh said in Madison they direct the ambulances to one source of exit & one source of entry. Makesh to Ostergard, "Sir, you will not see those trucks coming behind. It has to be in the front."

Entrance/exit: Nina Lalich, 1107 Royal Oak Drive (Chagrin Lakes Club) "At the previous public meeting (1-13-2014) you said you planned on having only one entrance from Ste. Route 306, but the fire department might require that you have another entrance. Is that also

something that is still up in the air? If they don't require a drive around, you won't have that second drive there?" Mulle, "There may be some confusion there, because our plans have always shown two entrances." Lalich, "That's not what was said at the public meeting. You can look it up in your minutes. There were a bunch of people from Chagrin Lakes. They were concerned about the road being opposite Sheerbrook." Mulle, "I think you are confused about that because our plans have always showed 2 entrances." Lalich, "That's not what you guys said."

Brett, "My take on what was presented was; the question came up because the concrete drive had just been put in. Is that where the driveway is going to go? I think what was presented was, that is certainly one of the spots they are planning on. But, they are still working through the access points & that wasn't determined yet."

Mulle, "Our initial, conceptual plan is right here. It was presented, yeah, it has two driveways." Lalich, "I'm just stating what was stated at the public meeting." The secretary showed the group a handout from Mulle of the: conceptual site/building plan presented to everyone on PC 11-14-13. It shows one driveway.

Lalich, "You say that you're only going to use this driveway (firelane) for some things & then when we come to the next meeting, it'll be yeah we are going to use ambulances over there."

Makesh, "Can I respond to the lady's question? You are absolutely right. We never had the driveway in our last meeting. I think we did talk about it. If I remember right, I think Mr. Myer actually brought that up. He had asked me about it point blank. At that point, I did suggest that there is a very good possibility that there will be a driveway. The only reason that I would like to see a driveway there is, it's going to help. If I have 20 employees coming in, having 2 access points will distribute the traffic. I don't see a problem. Just having an entry & exit point or two way traffic would distribute the traffic going into the property."

Ostergard, "Then you've got two different areas where people are stopping, turning. Do you want 2 verses 1? You have two access points. You're going to have two areas where cars are stopping."

Cont. of driveways, refer to Pp. 6: Kostura, "Between the two driveways, to your point Tim, that this is not going to be a heavily traffic area based upon the clientele that's in here. What I do see is the service driveway to the south being more heavily utilized because you're going to have deliveries, people showing up to go to work. What concerns me is that it is right across the street from Sheerbrook & how that is going to impact the coming & going of residents there. The last thing I want to do is create traffic incidents based upon somebody turning right, somebody turning left."

Eric Haibach, Engineer, "Ideally, that southern driveway would be directly across from Sheerbrook so the center lines matchup. It would look much more like a conventional …" Kostura like a three-way stop." Haibach, "There's no question or conflicting turning maneuvers if you match center lines across. Everyone can see what everyone is doing." Latkovic, "I assume at that entrance & exit, there will be a stop sign."

Traffic study: Latkovic, "As part of the traffic, parking plan, is there a traffic study completed? Car counts, what is coming in & out of Sheerbrook, up & down Ste. Route 306? Is

anything like that required as part of the process?" Mulle, "Not that we've done. No." Hocevar, "We haven't done that before. If Eric feels that would be necessary, that is something that PC could request." Haibach, "If we were constructing a new subdivision here with residents, 100 houses with a dedicated road, then I think that is something that we could be looking at. The only people coming & going are the people working there. It's only going to happen a couple times a day."

Signage: Latkovic, "Would you anticipate signage or a main entrance to be indicated at the northern entrance then? Are you going to direct people to the northern entrance?" Mulle, "Yes because that would be the visitor entrance. That's the front entrance to the project. It's there."

Setbacks: Brett refers to property north east of the property zoned for assisted living. (5265 Chillicothe Rd. Roger Hoover's property) Brett, "How do we define the front yard & side yard setback?" Mulle, "This piece that cuts in here is a bit of an issue. That's not really a front yard setback. We held the 100 foot setback from it. But, subject to interpretation." Hocevar, "I have to take a really good look at that. I looked at it today. I didn't know how to define that. That is something that I will take a look at again. You've got a bunch of definitions that you've got to keep going back & forth with to try to come up with the answer to define that." Mulle, "We've treated it as the 100 foot setback."

Landscape plans: Kostura, "I know this is not the landscape plan. What is the plan for the north & east sections?" Mulle, "The plan for north & east is to berm along both of those sides. The dotted line on plans is a building line. Our actual building is well beyond that minimum line. That line is 100 feet from the property line. The required setback is 100 feet on the side & the rear. We have exceeded that. On the side, we're almost double that. In the back, we are 25 feet beyond it. The intention is in that 100 foot setback area is to construct a berm to create an earth mound to create a visual break & to landscape all of that; trees & other vegetation so there would be separation from the surrounding properties."

Sewers: Sutliff, "Have you touched base with the county on sewers?" Mulle, "No I have not." Sutliff, "Is the capacity available at McFarland?" Hocevar, "Before we can issue a building permit, they'll have to come in with a Department of Health permit from the county. They'll also have to come in with a permit from …" Sutliff, "I understand that. To me, that would be something I would do sooner rather than later."

Brett, "We've talked with Water Resources. Water Resources would be the central water supply group. And they are also sanitary. They know about this project & ball park capacity. I haven't said anything about capacity for this many tie ins yet. As the Village has looked into this for other areas of the Village, this topic - because it was zoned this way before- has come up. They've indicated that if the rest of the Village went to sewers & something occurred here, they think there is capacity. It does need to go through that process. I don't think that is an issue."

Lights: Jane Ostergard, 38 Westover Dr. "Any lighting on those buildings on the north side?" Mulle, "We haven't done lighting plans yet. The north & east side of the building is not accessible space. There are resident units that have windows that look out to that side of the building. They don't have accessible back yards. This is not independent living where they have doors & patios & walk outside. They will stay within the confines of the building."

Martin Ostergard, "Are you required to have lighting on that service road?" Mulle, "No." Mr. Ostergard, "No lighting. Because when you go down the Weils, there is multiple high level lights." Mulle, "There may be a need for emergency lighting. It would only be activated in the event of an emergency when the fire department would be using it. Other than that, there would be no plan for lighting out there. Any kind of lighting that would be outside the building or on the perimeter of the building, would be low level lighting that would be cut off, aimed at the ground just where you might have a fire exit."

Mulle, "The courtyard space that is in between the buildings is where you might have outdoor lighting, landscape lighting. People are outside & walking on paths through a garden space. That's within the confines of the building. That's not outside on the perimeter. What we're striving to do is make this perimeter as unobtrusive as possible."

Mulle, "There would be parking lot lighting where we have the parking lot, which again would be low, cut off lighting. That's on the opposite side of the property."

Sutliff to Mulle, "Will you make sure you touch base with the fire department & have an answer for us?"

Feedback: Latkovic, "Based on what we talked about last time, I think you (Mulle/Makesh) have come back & addressed issues. There are big issues left. Particularly the **variances** we talked about. I'd like to understand better this **parking issue in the front** & how that plays out. The **traffic is a concern**. I don't know if there is a one way: this is an out & this is an in. I'd like to understand options there. The **concern for north & east**. Being a single story; 25' vs. 30'. I don't know. The **height restriction** doesn't worry me too much. Definitely **water;** would love to see how that plays out & where that water goes. Is there going to be a **water study of the actual ground water?** The design looks very nice. You've pushed everything south to the Life Center side. I think that's good. You're on the right track. There's just a lot more concerns to be addressed."

Latkovic, "There is still quite a bit to do: **utility plan, fire plan & is firelane required to go all the way around the building/property? Type of lighting, landscaping, engineering**. This sounds like, come back, present where it fits, what it could look like. There is still quite a bit of open topics, like **variances**."

Hocevar, "If we determine that a zoning issue requires variances, do you have any objection for them to pursue these variances? So they can start that? Latkovic & Sutliff don't have a problem with that. Brett, "I think it's better to do it earlier."

Brett to Makesh & Mule, "For the next meeting, could you map out your time line for the significant milestones? **The water study, the storm water study, fire department** all those key things that we'll have to make some decisions on so we've got it in our head of what's the timing for those." Mulle, "Yeah. The water study is under way. The weather hasn't been very cooperative." Sutliff, "Who is doing it?" Mulle, "Jim Ayers." Makesh, "Regarding the **water**, I did get a chance to talk to the engineer who is working on it. **They foresee multiple ponds**."

Makesh, "I want to be a good neighbor. I'm here to serve the community. We don't want to do anything to upset your lifestyle. We build like the way that they (community) would prefer. However, we don't compromise the integrity of the service that we intend to provide our clients. Going back to the **lights**, I look at every single lighting to **make sure that you're able to sleep during the night,** not too much noise or any kind of disturbance. I thought about a **single driveway. I think you would benefit from another one**. Regarding going around the

building, I don't see a problem with that because god willingly, we don't have fire trucks every day. When ambulances come in, there could be three trips made by the ambulances on a single day. But it doesn't happen every single day; maybe once every two weeks, maybe once a month. It depends on our clients. I do not see a problem."

Makesh, "One of the things I would encourage you to do if you're so worried about traffic, sit in the parking lot & watch for ½ hour, 40 minutes what goes in & what comes out of the Weils. That'll give you a very clear picture."

Refer to Entrance/exits, driveways discussion: bottom of Pp. 11 & Pp. 12 of min.
Mulle, "This driveway issue, it jogged my memory bank when I was shown that earliest plan. It actually had one driveway. That was the driveway down at the bottom (south). It was in response to that initial plan, that we created this other driveway up here (north). The driveway down here (south) has been the issue for everyone. We ended up adding the second one up here. It wasn't that we had this & added the second one to the bottom. We had the one at the bottom & added this one (north) to try & take the (unclear) off of it."

Lalich, "Most of the people that were at that meeting from Chagrin Lakes went away with the impression there wasn't necessarily going to be a driveway out near Sheerbrook."

Ondrey to Mulle, "Is there any practicality to making that one near Sheerbrook, a one way entrance only? Everyone would have to exit the other way?" Mulle, "We can look at that & see what makes sense. I don't know if it makes sense to do one as an entrance & one as an exit or is it better to have them be two way. This is not a place where you have a lot of traffic volume. This is light, light access in terms of traffic. That is something that can be looked at."

Request from ZBA (Zoning Board of Appeals) to change the zoning regarding permitted size of homes for a section of the community; the western part of the Village

-12-8-2013, letter from the Chairman of the ZBA, Gregory Gamm
current zoning: new houses to be a minimum of 2,400 square feet & maintain 10 foot side yard minimum on each side. Problem, western part of village, small streets with small homes with square footage far below 2,400 sq. feet. "Impossible to build such a structure on the small lots without a substantial variance & a substantial alteration of the nature of that part of the village." Builders in a difficult situation trying to construct such a home on small lots. Residents very concerned with placement of such large structures near their existing homes. There are several lots available in that section with the "probability that in the future there will be "tear downs" & new construction."
Recommendations for PC consideration: (1). Create a "zone" in western end that follows different zoning regs. This requires identifying streets & addresses within zone (2). New "zone" square footage reduced from 2,400 square feet to 1,800 sq. feet. (3). No new zoning concerning lot side & rear minimums needed.

-9½" X 10½" color handout, GIS, of streets in western end of Village: Hazelwood, Fairview, Mapleridge, Fernwood, Laurel Rd. from Hocevar

Hocevar, "Wally, I've got a description (color handout) of what we are talking about, a GIS. One of the concerns of the homeowners down there is because of the way South Russell is developing, you're going to take some of these older homes, tear them down & build a monster home on the property. Not only do we have some empty lots, some can be buildable lots because we go back to our preexisting zoning, 1947, which has yard regulations."

Hocevar, "We have an issue because our zoning requires a 2,400 square foot minimum dwelling. The ZBA is permitted to give a 10% variance on that, which is kind of restrictive because you're still going to have a big house. I don't think we are looking at people trying to build homes that are 1,200 – 1,300 square feet, unless we adjust our zoning to meet that."

Hocevar, "I'm not sure if we are going to go through trying to rezone this. We really can't rezone it. To change our zoning, we could make it less restrictive."

Hocevar, "The person who applied before (a builder in Sept. 2013) did not come in with a smaller house. They wanted a bigger house. I don't know if you want to try to lessen the amount of square footage permitted." Sutliff, "That's a great recommendation from Greg Gamm." Hocevar, "If you look at it, maybe it makes sense to an extent. I don't know if you want to look at the western end of the village & say we're going to allow 1,100- 1,200 square foot bungalows & ranches. Or if someone buys a lot & reconfigures it, they have to comply to today's zoning."

Hocevar, "I have a copy of the preexisting zoning; what they can actually build & side yards. Zoning is complicated. It keeps going back & forth. If you have a lot that is platted before our zoning, you can go to the existing zoning before it was platted. At the western end of the Village, you are talking about 1947 zoning."

Brett, "It seemed as if the issue that was going before the ZBA was that we had semi-conflicting language. (1). We have a minimum house size of 2,400 square feet. (2). And then we have requirements regarding the setbacks. The challenge was - & this is what Bill Stone has raised with us - in many ways they conflict with each other. If you say you have to build a house this size but, you also have to have these setbacks, one of the two of those has to give. The belief is that is partly why the variance was granted."

Brett, "I think what has been requested is, we back off the size requirement of the house. Somebody could still come to the village & say I want to build a 2,500 square foot or even a 3,000 square feet house. Right?" Hocevar, "Absolutely." Brett, "But they can't stand on, well I'm being forced to do it because you have a zoning requirement. Is that the crux of the issue?"

Bill Stone, 137 Fairview Rd. "Partly. I don't think it's quite as simplistic as a one item thing to change. I think it has to be more comprehensively looked at. In terms of some of the things I was talking to Dave (Hocevar) about this morning, we looked at homes that are on 3, 4 lots. As property values rise, you can see situations where it's advantageous to a developer to buy the home that is on 4 lots, raise the home & as builders do -square footage is profit- he will build the largest home that he is permitted to build. You end up with what happened in our situation. They are referred to as snout nose home; the garage is forward, no frontage for a window & possibly very closes together."

Stone, "It's a sticky, complicated thing. Perhaps Dave is correct that people don't want smaller homes. Lowering the square footage size may not be the magic bullet & simple fix. It may require more attention to the codes. In our situation, I don't know that the code was ultimately the declining factor. I think perhaps a percentage of the lot size should be paid attention to. These things are in the code, but they seem to be so softly written that it's too easy to massage one way or the other."

Brett, "What I thought you presented before was that simple of a request to say: reduce the requirement to build at least a 2,400 square foot house." Stone, "That is a basic consideration." Brett, "What I would say is, that makes complete sense to me. To your point, it's not going to stop somebody if they want to acquire a parcel there that is buildable right now & want to build a 2,600 square foot house. It could happen. They could still ask for variances. They wouldn't be able to say, you are forcing me to build a house that's at least 2,400 square feet. It removes that from the argument. I thought that is what I had heard from the residents who attended." Stone, "Yes that is probably at the top of the list."

Deborah Stephens, 113 Hazelwood Dr. "That is just one of the items. The builder is building at least a 2,600 square foot house on a 48' front lot. The part of the code that says this house has to be commensurate with the other houses in the neighborhood, this house is going to be almost 3 times as big as houses right around it. It has a driveway of 35'. The average is between 60' & 90' of most of the driveways in this area. We're going to have an extremely tall house; 2-3 stories. It's going to look ridiculous. He said I can't build a small house. I have to build a big one. It's a really huge house on a really small lot. It does not blend in with the neighborhood. It is going to lower our housing value." Hocevar, "The height requirement for that area is less than 30'. It towers over the rest, I'll tell you that."

Stephens, "The problem was so much of this was cherry picked. There's just little bits & pieces of the zoning code. There was never a plan of the house shown. These people who are doing the Lantern of South Russell, no matter if you like them or not, they came in here & you get to see what's happening. All of this is discussed. There was nothing for our neighborhood. We got a footprint. It was never taken into account whether it was going to look like anything in the neighborhood. There were all these little bits & pieces that seemed to be ignored. It's going to be a nightmare. We hate to see this happen again & again & again. It would be nice if you had a house that fit in there, but certainly not the only problem with the house or building on those lots."

Stone, "When Deborah was talking about the lack of plans that is one of the things that I was going to suggest. I spoke to one of the zoning board members afterwards & he said the village took a very laissez-faire attitude towards these things. I thought that doesn't serve the residents well. I've been involved in a little bit of construction in other cities. I was aware that we did have to provide detailed plans. It was a risk for the person making the proposal for building to have those plans drawn up before they went before a zoning board. If you read the code, there is multiple references to things that can't be determined without plans." I think that is something that might be considered in the future."

Hocevar, "In the years that I've been here, we do not want the Zoning Board of Appeals to design the homes because it goes in front of the ABR. The ABR designs the homes & decides on the character of the house fitting with the neighborhood. I know some of the requirements that the ZBA is supposed to look at is how it fits into the neighborhood, the height. As far as the design & looking at the drawings, they never actually submit a formal set scale with all of the elevations of the home to the ZBA because it's not what they are really looking at. ABR makes that determination. I see your point where it would be a good idea. As long as I have been here, it goes to the ZBA. Once you get your variance, then you go to ABR."

Stone, "What I see in the zoning code is a whole page of items relating to design. When does that occur?" Hocevar, "Well they can look at the design of the house, but ABR could change it all around. I see your concern. It would be back & forth & ultimately ABR is the final say on design of that house."

Stone, "Does the ABR take into account that a 30' high house is going next to a 16' tall house? How close they are? How far out it juts? Or are they just looking at a design of a house which in a book every house looks beautiful?" Hocevar, "We really don't want the ABR to change the footprint of that house. In the past, they pushed out a wall & now you need a variance. They will change roof pitches, window locations. The actual footprint of where that house sits is (unclear)."

Brett, "The ABR is another independent board for the Village. They should look at what is being presented to them & how it is fitting in with the surrounding houses. How they determine hat, we have to rely on them & their expert opinion."

Brett, "Regarding the recommendation that was brought to us as to how to address this issue, I'm on board with reducing the requirement on the 2,400 square feet homes. It may not address everything. If there are other things that you want us to consider, we have to hear it, think about it, consider the complexity of it. It's going to take us awhile to go through that. It's your call on how you want us to proceed."

Valarie Mariola, 15911 Hemlock Rd, "I've been a resident of this community for 45 years. Background: Mrs. Lash (formerly of 101 Hazelwood Dr.) whose house we are talking about, lived on this property for 60 years. She had 5 lots for 60 years & had I house on these 5 lots. Mr. Hosmer, who was a member of the zoning commission for many years, celebrated his 50th anniversary with his wife in a house that they live in on Fairview. (#108) They own 3 lots. There could be sometime when that family sells that house & 3 houses of 1,500 square foot, 1,800 square foot are built on Mr. Hosmer's property. Mrs. Unrich lives in a beautiful ranch (131 Fairview) that sits on 4 lots. Those 4 lots could be built with 1,800, 2,200 square foot houses on them. There could be 44 homes on Fairview Road alone. There are currently 17. Forty four homes based on the lots that you have on that street."

Mariola, "There is nothing in that zoning code that is going to prevent that from happening as it stands right now. It will change this neighborhood forever if you allow that to happen. I'm just looking at Fairview at this point. Hazelwood, Mapleridge; multiple houses on multiple lots or sitting with vacant lots next to them. We need to address the future of hat neighborhood – not just making a smaller home. There are plenty of Mr. Joyce's (a builder) out

there. Any builder, who wants to maximize his return on a property, can do that in that neighborhood. It will drastically change the way this part of this town looks."

Sutliff to Ondrey, "It seems to me if somebody has a lot it's a legal issue. All of a sudden you're telling them that you can't build on it." Ondrey, "Yes that's the problem. The courts have already said if it was legally platted, no matter if it is 4 or 5 decades down the road, an owner of a platted lot is permitted to develop it in accordance with the zoning regulations that were in effect at the time. It's not an issue that we can cure now. These things got platted in 1947. Yes, the potential is there. But the courts are going to prevent us from being able to wipe out those property rights. We don't have much flexibility."

Ondrey, "We can build in these provisions to say we won't make you build a 2,400 square foot house. People might say I'm really not interested in a 1,600 square foot house. I want to build something bigger. The zoning board will have to decide on the same issues that govern an area variance."

Kostura to residents, "Basically, what you're looking for is for us to grandfather in the amount of houses that are in this neighborhood. So if someone were to tear it down, they couldn't turn Mrs. Unkrich's home of one home into 4 homes. What I'm hearing from you, (Ondrey) is that we can't do that."

Stone, "I agree. I don't think it's possible to say that you can't do that. I wish there were some way to guide that process. In this instance, a variance is granted & the house is 4½' from the property line. If he continues to build out these other lots, they are all going to be 4½' from the line. That's 9' between houses."

Brett, "I understand that point. I think what occurred is, you have conflicting language which he was able to leverage to say, you're requiring me to build a 2,400 square foot house. I'm not interested in taking away people's rights to build on a lot. There is an open lot next to me that I love to see never be developed. It's wrong of me to say that that owner can't have the right to build on it."

Brett, "Having said that – my word choice here not the PC word choice- there are a number of lots & they're goofy. They are awfully thin. I don't see that you can potentially build on them. I think some of these lots aren't buildable. You wouldn't be able to build on them."

Brett, "My recommendation, tackle the things that you think are doable to help your cause. I'm supportive of reducing that requirement of 2,400 square feet in that area. I'm not on board at all with: you own several lots & you could build houses on them & we're not going to let you."

Stone, "Again, I don't think that is what we are saying at all. What is the buildable percentage of a lot? How is that adhered to by the zoning board? " Stephen, "35% in the new zoning code." Hocevar, "That goes back to today's zoning, 35%. The only thing the 1947 zoning gives you a little bit of leniency with is the yard restrictions. It does not have anything to do with the height restrictions, lot coverage or anything else."

Stone, "That 35% is in the new code book. It does not currently apply to the lots that we are talking about. Correct." Hocevar, "Yes it could. But it's not." Stone, "What if you applied that to these lots that you apply elsewhere in the Village? Say, here's your lot, you can build on 35% of it. In essence, forcing a smaller house. That would be a two-fold change. We'd allow a

smaller house to be built & we are going to say that you can only build on 35% of the lot. Therefore, when you come in & ask for a variance –this house on Hazelwood was over 50%, within the code, it says that is a substantial request. That should have a lot of careful attention given to substantial requests. It's kind of throwing another obstacle in to building a very large house."

Hocevar to Stone, "How big is your lot?" Stone, "How far across? I've got 3 lots." Hocevar, "The one lot. The one you are living on. I think it's 55'." Stone, "Yes. That makes sense, by 150'." Hocevar, "You've got 6,000 -7,000 square feet. 35% of that is still around 2,400 square feet. I don't know if that 35% will help us a whole lot there."

Brett, "If those are the 2 things that you are asking for, it would help PC to understand your recommendations as to what area it would apply to. Draw it out to say, these new conditions applies to this area. We can look at it then. In order to move the process forward, I would recommend that you do that for PC. Make that recommendation & get it to us ahead of time." We can look at it & apply some of those standards to the lots & ask what does that mean? How does that play out? We might make a decision. Would we agree? Would we modify it?" **Hocevar & Stone are going to meet & put something together to present to PC.**

Emilie Unkrich, 131 Fairview, "We have PC. We have an ABR. We have a zoning board. Do the 3 commissions talk with each other & look at what each is doing? For example, I never knew about any architectural review. Was there a meeting where Mr. Joyce was given permission to build the house that he wanted on the lot that the zoning commission said he got the variances for? I never heard anything about that. I went to the end of the street & saw this gigantic thing that is built forward to the street. Patsy's property is next door (to it). I'm seeing her bay window is going to be looking into one of the windows of the house. It's disproportionate to the neighborhood."

Unkrich, "My question is, in South Russell where I've lived for 47 years, should there be a way that any building that's going to go up would be reviewed & we would see the 3, Planning, Architectural & Zoning coming together before the final decision was made on what would be put on a piece of property? Is that something to be considered?"

Brett, "The only time the zoning board comes into play is if somebody needs a variance based on the requirements of what they are trying to put on that particular lot. Much building occurs in the Village that 100% fits into the zoning code & doesn't have to go to the zoning board at all."

The process to build a new home: Hocevar, "They apply for a zoning permit. When you are talking about a zoning commission that is actually my office. It comes to my office. A site plan is submitted, which we put up against our zoning & make sure it meets the requirements of our zoning. If it doesn't, it goes to the ZBA. After the ZBA makes its decision, it comes to the ABR. After they put their comments on the drawings, it comes back for the permit for zoning. The PC has no involvement in it."

Hocevar, "I know your idea is to try to get these boards together. The ABR is made up of 2 architects & a builder. They don't really care what Wally Sutliff (Chairman of PC) thinks of their design of the house because they are architects. Don't step on my toes. We're going to tell you how to design this house. Unfortunately that's the way it is. It's not only here. It's

everywhere. They've got their own ideas of what they want to see in the neighborhood. Whether it is right or wrong, what they did on the house on Hazelwood, it's not something that everything is going to gel together & everyone is going to agree to it. I don't think that is going to happen."

Brett, "To expand on that. The ZBA, the ABR are independent boards. The mayor appoints those roles. Some of those roles have to be affirmed by Council. They are designed to be outside of the Village so the Village isn't saying we want you to rubberstamp these or make it tough for some. It's their decision. The direction that I have provided to ABR is homes that go in should fit into the character of the surrounding areas. I certainly understand your feelings that this one doesn't. I don't know why the ABR approved it." Hocevar, "They don't rubber stamp anything."

Unkrich, "The ABR looked at the plan that Mr. Joyce submitted. Is that correct?" Hocevar, "Yes." Unkrich, "He was given the go ahead to build this building on that lot that the ZBA had told him that he could have the variance." Hocevar, "That's correct." Unkrich, "We didn't know anything about the architectural review board." Hocevar, "We never publicize it to anyone, the ABR. Darrell Johnson, right now, is putting on the South Russell web page when these boards meet & what's on the agenda for them. This is something that he's recently been doing. So for the best information, go to the web page & look under …" Unkrich, "We're happy that's going to happen."

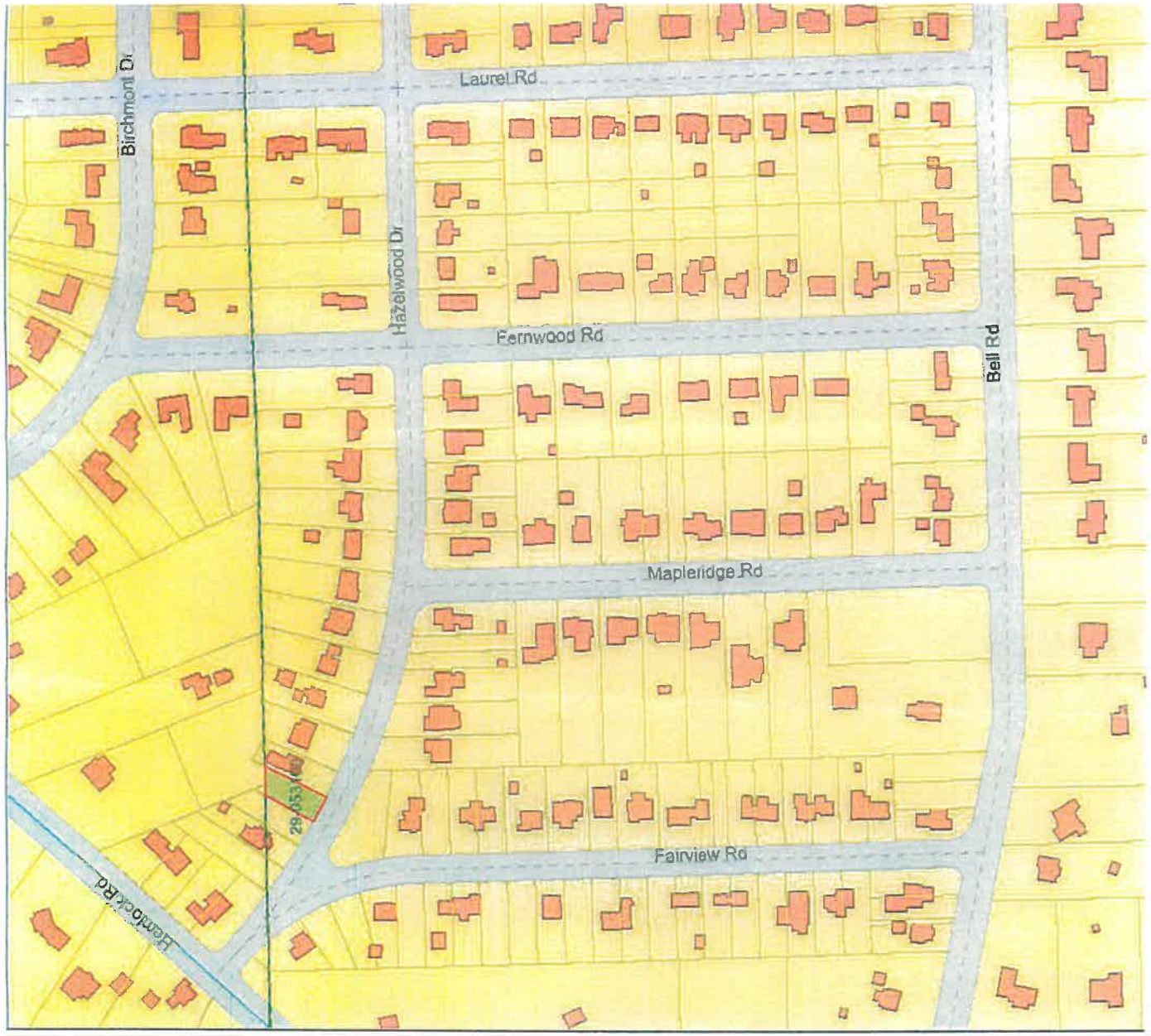
Unkrich, "From my viewpoint, all of a sudden the people arrived on that lot." Hocevar, "Yeah, I can see that." Unkrich, "It's like, I'm going to push this in your face." Latkovic, "Was this a zoning variance issue that created the problem? Once the ABR gets it, they have to deal with whatever has been provided. This is really an issue of the variance that they were allowed to build this house. Or not." Hocevar, "Pretty much."

Ondrey, "They met the front yard. They got one side yard variance. They did meet the regulation on the other side; the one that is closest to the Patsy house. They moved it 10' off. They got the rear variance because they own a lot behind there. I think the ZBA looked at it & said, it's not impacting anybody. It's their lot behind them. If the house is pushed further to that rear line, it was acceptable to the ZBA."

Latkovic, "This is the genesis of this whole conversation about the potential rezoning, which is what the PC can look at, broad rezoning."

Stone, "I jotted a few notes down as you talked: **square footage reduction, lot percentage & height**. Perhaps there should be a line referring to the heights with percentage to the adjoining structure, especially if they are very close to each other. It could be a substantial impact on the adjoining house. For example, all your light is taken away by a house that is 30' tall."

Hocevar, "You don't want to go to the old zoning in reference to height, believe me. With that formula, there is a 3-4 story limitation." Brett, "In this general area that we are talking about, if somebody wanted to build a house, what is the height restriction?" Hocevar, "30 feet, which is the whole village unless you go to the eastern end where depending on the side yards, you can go 32'-33'. We decided to change that because of some of the 2acre lots in Ashleigh."



PC 2-13-2014 from Hoeevar

- presented to PC 2-13-2014
NO ACTION -

12/8/2013

South Russell Village Council
5205 Chillicothe Road
South Russell, OH 44022

Dear Council:

An issue has come the attention of the Zoning Board of Appeals with the current zoning for residential housing within the village. The issue has to do with the far western edge of the village. The western portion of the village contains several streets with small lots and small homes with square footage far below the current zoning requirement of 2400 square feet. The current code calls for any new home in the village to be a minimum of 2400 square feet. The current zoning also requires a 10 foot side yard minimum for placement of such a home. It is impossible to build such a structure on the small lots without a substantial variance and a substantial alteration of the nature of that part of the village. Builders are placed into a very difficult situation when trying to construct a home on the small lots. Current residents are very concerned with the placement of such large structures near their existing homes. There are several lots still available in that section of South Russell with the inevitable probability that in the future there will be "tear downs" and new construction.

During the last Zoning Board of Appeals meeting of December 5, 2013 several recommendations were made for your consideration:

1. Create a "zone" in the western end of the village that would follow a different set of zoning regulations. This would require identifying the specific streets and addresses within the zone.
2. The new "zone" would have the square footage requirement to be reduced from 2400 square feet to 1800 square feet.
3. No new zoning concerning the lot side and rear minimums would be needed.

Sincerely,

Gregory Gamm

Chairman, ZBA

Brett, "Could you build a two-story house that is not 30'?" Hocevar, "Sure, 26', 28'. I think the new house is 28'. He is well within the requirements."

Ondrey, "Part of the problem here is nobody has a clear definition of how physically large we're talking about in an **area** that we potentially change the minimum square footage requirement. There are probably other subdivisions in South Russell that may have been platted & approved as far back as that. You have to think about if I allow this neighborhood to change to some number; let's just say 1,600 square feet as a minimum, can somebody who is in one of these old subdivisions say, why is it allowed there, but it's not in mine? If you are going to make a change like that, you may have to expand the notion, there may be other neighborhoods."

Sutliff, "What would it be? Paw Paw Lake?" Ondrey, "That's what I'm wondering. Does Paw Paw Lake qualify? Hocevar, "You're talking 1 acre lots down there. You could run into some smaller lots in Maple Hill."

Kostura, "When was this one platted because we could limit it to the year of platting?" Hocevar, "When we started institutionalized zoning here, it goes back to 1948. This was platted before 1948." Kostura, "With future development, we could count out based on years." Hocevar, "Yes." Brett, "I think this is the only section where you have some lots that are odd sized. Some are thin & long. **We have to identify what is the area that we are considering?** Is it only Fairview? Is Mapleridge plugged in? Fernwood? Hazelwood?

Stephen, "This whole thing of previous uses, does that count if it has always been used as a side lot or as greenery or sort of a park space? That would not be considered previous usage? It's not really clear. I was reading the zoning code. I think it was the old zoning code, that if it has been used - the previous use of the land as something- could influence how it is used in the future. If it's only been used as green space, is that previous usage of the land?" Hocevar, "We never looked at it like that. I know what you are referring to. Going back to 1947 zoning, they make a comment on that." Stephen, "They do. I was wondering because if it does apply to green space then maybe…" Hocevar, "Going back again, our current regulations only say that we can accept the side yard, rear yard setback. It only refers to the setbacks, not the height of the building. We never accepted anything else in 47 zoning. Century structures, they have to comply with today's zoning. It only refers to front yard, side yard, rear yard setback that we took out from the 47 zoning. Nothing else." Stephen, "That's good to know."

No old business.
New Business: Hocevar explained: For the next meeting, a resident at 552 East Washington Street may come to PC to discuss opening a business: carry out pizza shop. It's a house, next to Panini's, in a commercial district. The owner wants to turn his garage into a carry out pizza shop. It is zoned business. He can do it."

If there is something on the agenda, the next meeting is set for March13, 2013 at 7:30 p.m.

There was no further business. The meeting adjourned at 9:48 p.m.

Chairman Walter Sutliff

Maggie Tomaro, secretary

2-6-2014

To: PC
From: Maggie Tomaro

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

Greetings!

The PC will meet Thursday, 2-13-2014, at 7:30p.m.

There are two items on the agenda:

Request from ZBA (Zoning Board of Approval) to change the zoning regarding permitted size of homes for a section of the community; the western part of the Village. Enclosed letter dated 12/8/2013 from the Chairman of the ZBA, Gregory Gamm.

Formal discussion, Development Review, with Jean Makesh of Orcus Systems & Solutions, Inc. He hopes to build an assisted-living facility, the Lantern of South Russell, to be located at 5277 Chillicothe Road. Plans for the project to be presented.
NOTE: On 11-14-2013, the PC deferred "action upon application for Development Review until the date of the next regularly scheduled PC meeting." Refer to minutes of 11-14-13 for details.

Janice DiMichele's term on PC has expired. Andy Hitchcock has been appointed as a new member to the PC.

Enclosed here is a copy of the minutes from 11-14-2013.

At this time, Wally Sutliff, Mayor Matt Brett, Steve Latkovic & Bryan Kostura are available for the meeting. I haven't heard back from Andy Hitchcock. Any questions, please call me at (440) 338-1807.

He just called. He'll be at meeting.

Thanks.

Maggie

Evergreen Sheet Brook got this

PC 2-13-14
This letter written after that meeting + before 3-4-14

Lantern of Madison
A community for the elderly

My name is Jean Makesh and I'm the CEO of the Lantern Group. There have been some concerns and worries among a few residents regarding our proposed Alzheimer care facility on 5277 Chilicothe Road. With your kind permission, I would like to update you on my plans and objectives.

When I bought the property, a majority portion of the property was already zoned for assisted living. The South Russell council and the planning commission felt that, with the current zoning provisions, the facility would be too close to the Kensington Green development. They asked me if I would consider getting a portion of the property rezoned to move the facility away from Kensington Green. I obliged and sought the rezoning of a small portion of the property to benefit the residents of Wolfpen and Westover. This rezoning has now been finalized.

Unfortunately, a driveway around the facility is required by the Fire Marshal to accommodate emergency vehicles. In case of a fire or an emergency, the fire personnel must have access to all parts of the facility. This drive will only be used for emergency vehicles. This will not be a thorough fare and the traffic will only be for fire and rescue vehicles in emergency situations. Service and delivery activities will only occur at the service building on the south side of the property.

Our guests are elderly and have functional challenges due to memory loss. It is not safe or appropriate to have vehicular traffic close to the facility. Therefore, this drive way will be used only for emergency vehicles. There is a good chance that the drive way may also be used as an exercise walking trail for our staff and elderly guests.

Water is an important natural resource for all our existence. I have been working with the South Russell Village, City of Bainbridge, Geauga County and the City of Cleveland to allow me to extend the water line from Bainbridge. The mayor and his team have been extremely cooperative and supportive with this process. However, this process takes time and it appears to me that it may take anywhere from 18 months to three years. There is also a possibility that I may not be able to extend the water line. If I'm unable to, I will have to tap into the water

source under my property. There has been some concern that if I choose to tap into my water resources, that the wells in the surrounding property may dry up. This is a valid concern; however, this assumption is not true. I have engaged a very reputed Hydro-geologist to conduct water studies on mine and the surrounding properties. This study will enable me to design and construct wells appropriately to ensure safe healthy drinking water not only for my guests but also to ensure that the water supply to the surrounding properties are not compromised. I'm confident that this will not be an issue.

In Madison, Ohio, I own and operate a 97 unit facility. The facility is located on a busy street with housing developments right across from the facility. The residents from the development are able to get in and out of their private drives and subdivisions without any problems. In my humble opinion, having two entry and exit points into the property will ensure a smooth flow of traffic. The facility's busiest hours are 6.00AM to 7.00AM, 2.30PM-3.30PM, 10.00PM-11.00PM. This is the time the shift change occurs and during this time 8-10 employees will enter and exit the facility. All the shift changes don't occur all at once. It is spread over a 45 minute period.

Vendor traffic occurs during the working hours and in a given day the facility may have 5-6 vendors. Families of our guests usually visit during the late evenings or on weekends. Family traffic is also distributed and spread over days. I don't foresee traffic being an issue.

I have designed the facility in such a manner that it complements the surrounding property. There are some very expensive homes around the property and I want to make sure that anything I design will complement and enhance the value of the surrounding properties and the character of the community. Unfortunately, to accomplish the design, I require a variance. The variance will enable me to design and construct a beautiful residential-like structure that will fit well into the current landscape, complimenting the restored historic buildings.

The facility in Madison is state of the art and has won awards for design and innovation. It is one of a kind. The facility was featured on Fox 8 and in various magazines. The facility in South Russell will be similar but not the same. The facility is South Russell will be unique and will be the first of its kind in the world. It is a self-contained village for the elderly with the Alzheimer's disease. The name of our flagship patent pending program is "Svayus". Our therapeutic program slows the progression of the disease. Our program and the environmental design have enabled our elderly guests to live a life filled with quality and dignity. The families are able to engage with them and have a meaningful relationship. It is just amazing to see the happiness and joy the families experience with our guests. I would like to extend the same services to the residents of Chagrin Valley.

I believe that my guests are not with us to quietly fade from the society, but come to us to live a dignified life. We know that the human spirit glows until we take our last breath. When we stop nurturing the human spirit through meaningful connection, we hasten decline.

Alzheimer's disease is the sixth leading cause of death in the United States. 1 in 3 seniors dies with Alzheimer's or another dementia. More than 5 million Americans are living with the disease. I seek your support and blessing to help me with this project. I know that this project will revolutionize the delivery of Alzheimer care.

Once the weather breaks, I would like to invite you to an open house at the farm house. The farm house was originally built in 1820 and is the first documented house in South Russell. I restored the house and intend to use the house to educate the community about the disease. I believe that the farm house will give you a flavor of my commitment to the community.

I appreciate your time and support. Feel free to reach me at jeanmakesh@yahoo.com with questions or concerns. To know more about the program, please visit www.lanternofmadison.com. There is a virtual tour available under the tab "Svayus". There are educational videos and information related to the program.

Thank you again and look forward to meeting with you!

Sincerely,

Jean Makesh, CEO
Lantern Group

READ MESSAGE

Usage 82% of 250.0 MB

From: Matt Brett <Matt.Brett@fleetmatics.com>

To: 'Dave Hocevar' <hocevar@southrussell.com>, Janice DiMichele (peabodys@aol.com) <peabodys@aol.com>, Kostura, Bryan <bkostura@bricker.com>, Steve Latkovic <sjl@candlewoodpartners.com>, Walter Sutliff (wsutliff@boltonpratt.com) <wsutliff@boltonpratt.com>, Bryan Kostura (bryan.kostura@gmail.com) <bryan.kostura@gmail.com>, DISHONG, JOHN E. <jd7132@att.com>, 'Jack Binder' <JackBinder@edmarchem.com>, marybethwolfe@howardhanna.com <marybethwolfe@howardhanna.com>, Porter, Mark (mp@mporterlaw.com) <mp@mporterlaw.com>, wnek3@roadrunner.com <wnek3@roadrunner.com>

Cc: Danielle Romanowski <srvclerk@neohio.twcbc.com>, Maggie Tomaro <mtomaro@roadrunner.com>, David Ondrey <DOndrey@tddlaw.com>, gregorygamm@msn.com <gregorygamm@msn.com>, lfdfpo@gmail.com <lfdfpo@gmail.com>

Subject: ZBA Zoning letter (2)

Priority: Normal **Date:** Tuesday, December 17, 2013 7:29 AM **Size:** 61 KB

Attachments: ZBA Zoning letter (2).docx (52.5 KB)

All,

Please see the attached letter from Greg Gamm, Chair of our ZBA. The letter pertains to the recent topic on Hazelwood drive. I believe that Greg's recommendations are worthy.

I believe that the appropriate process would be for Planning Commission to pick up this topic and look to make a motion for Council to consider.

Thanks,

Matt

Matthew E. Brett
Mayor, South Russell Village
440-338-6700
www.southrussell.com

Open Attachment: ZBA Zoning letter (2).docx



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(s13)

Hi Danielle, Would you please forward this email to the members of the Zoning Board of Appeals, Dave Hocevar and Mayor Brett.--Thanks

Hi All,
Attached is a DRAFT letter to council concerning a requesting change in the zoning for the Village. This is the result of a variance request that took 3 meeting to resolve. Many people gave testimony to the issue and the three of us that held the meeting on December 5th feel a change is needed for a section of the community. PLEASE make any corrections for additions that you feel are necessary. I would ask that you respond before Monday, December 16th so that we may proceed. Please email me or call if you have any questions, thoughts or feel more discussion is needed.
Thanks,
Greg

Greg Gamm
440-668-7989

12/8/2013

South Russell Village Council
5205 Chillicothe Road
South Russell, OH 44022

Dear Council:

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Sincerely,

Gregory Gamm

Chairman, ZBA



PC 2-13-14 from Hocevar

12/8/2013

South Russell Village Council
5205 Chillicothe Road
South Russell, OH 44022

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Greg

Greg Gamm
440-668-7989

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11-30-2012 Maggie Jane & BGSU, Mike & Rob
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From: Matt Brett <Matt.Brett@fleetmatics.com>

To: 'Dave Hocevar' <hocevar@southrussell.com>, Janice DiMichele (peabodys@aol.com) <peabodys@aol.com>, Kostura, Bryan <bkostura@bricker.com>, Steve Latkovic <sjl@candlewoodpartners.com>, Walter Sutliff (wsutliff@boltonpratt.com) <wsutliff@boltonpratt.com>, Bryan Kostura (bryan.kostura@gmail.com) <bryan.kostura@gmail.com>, DISHONG, JOHN E. <jd7132@att.com>, 'Jack Binder' <JackBinder@edmarchem.com>, marybethwolfe@howardhanna.com <marybethwolfe@howardhanna.com>, Porter, Mark (mp@mporterlaw.com) <mp@mporterlaw.com>, wnek3@roadrunner.com <wnek3@roadrunner.com>

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Matt

Matthew E. Brett
Mayor, South Russell Village
440-338-6700
www.southrussell.com

Open Attachment: ZBA Zoning letter (2).docx



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(s13)

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
April 10, 2014
7:30 p.m.

1. ROLL CALL: **Chairman Walter Sutliff, Mayor Matt Brett, Steve Latkovic, Bryan Kostura, Andy Hitchcock**

2. MINUTES: 2-13-2014 **approved**

3. AGENDA:

Continuation of formal discussion with Jean Makesh of Orcus Systems & Solutions, Inc. Discussion about an assisted-living facility, the Lantern of South Russell, that Mr. Makesh hopes to build at 5277 Chillicothe Road.

Kostura, "I make a motion to:
(1). approve the plans that have been submitted tonight condition on approval by the Village Engineer, CT, & are dated 4-10-2014, which are similar to plans that have been reviewed by PC at prior meetings. In addition to the plans of 4-10-2014 (referenced above) there are 3 more sets of plans that are being introduced & are a part of this motion to approve, condition on ABR approval: (A). Architectural site plan (B). Building floor plan (C). The exterior elevations of the building.
(2). approve the storm water management plan & the ground water study. These are condition upon the Village Engineer, CT, or Dr. Eckstein's approval. Village to determine who to use for these evaluations & approval.
(3). approve the grading & landscaping condition on approval by the Village Engineer, CT.
(4). approve the site lighting condition on approval by the Village Engineer, CT.
(5). approve two gates to be installed to block the access to the fire lane."

Brett second. Roll call: all ayes. CONDITIONAL APPROVAL

4. OLD BUSINESS: **none**

5. NEW BUSINESS: **none**

6. AJOURN: **9:35p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

RECORD OF PROCEEDINGS
MINUTES OF THE PLANNING COMMISSION
APRIL 10, 2014
7:3OP.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Steve Latkovic, Bryan Kostura, Andy Hitchcock

OTHER OFFICIALS: David Hocevar, Building Commissioner, David Ondrey, Solicitor, Eric Haibach, Engineer

GUESTS:
Douglas Hemeckay, landscape architect
Tim Mulle, TMA Architects, 8500 Lucerne Drive
MichaelCarroll, 125 Lakeview Lane
Louis P. Mallis, 5272 Chillicothe Rd.
Jean Makesh, 5277 Chillicothe Rd.
Jane & Buzz Ostergard, 38 Westover Dr.
Linda Deeken, 37 Westover Dr.

Chairman Sutliff called the meeting to order at 7:30p.m. The minutes from 2-13-2014 were approved as presented.

Continuation of formal discussion with Jean Makesh of Orcus Systems & Solutions, Inc. Discussion about an assisted-living facility, the Lantern of South Russell, that Mr. Makesh hopes to build at 5277 Chillicothe Road.

Plans showing preliminary landscape presented to PC for review; at conclusion of meeting, Mr. Mulle asked for them back. Not stamped

Mulle, "As I understand it, we had some outstanding issues that were identified at the last meeting that were still in the works on our part i.e. **the storm water management report, preliminary landscaping plan & hydrogeology report**. Those needed to be addressed to continue the process & approving the project. Since that last meeting, all 3 of those items have been completed & submitted to Dave's office. (SR Building Dept.) They've been passed onto the Village Engineer."
STORM WATER MANAGEMENT: Mulle, "Storm water report is how all the drainage is handled on the property with the development taken into account & how we are going to manage that water flow. Now all of the water flow starts at the eastern side of the property & moves across. There is 25 feet of drop from east to west, heading across the property to 306. Most of

that water settles down in the lower south west corner adjacent to 306. The storm water management plan, with the new building taken into account, is basically routing water around the north side of the property into a holding basin & it's brought down to the front. It's also primarily brought around the south side of the property & into a larger retention pond. It's gradually fed across the street through the lakes on the other side of 306."

Hocevar, "The landscape plan was submitted a week & a half ago. The other plan was submitted two weeks ago." Sutliff, "Has there been any feedback from CT?" Haibach, "Yes there has been a little bit of feedback. Just a couple days ago, I did get their proposed engineering plans for the improvements. As far as the buildings & roads go, thickness wise for the pavement; since it is a private development I have to look at it as a subdivision for drainage & infrastructure. As far as how thick their asphalt is & the configuration of the roads, that doesn't concern me so much since it's always going to be a private development. The Village is never going to say this is going to be a public road so it has to be of a certain thickness or of a certain quality."

Haibach, "They did submit about 110 pages of drainage calculations. I've started to wade through the bulk of them. It looks good. They are following the Village Building & Zoning Code for subdivisions as far as how much water falls on the site & runs off of it now vs. how much falls on it & runs off after it is developed. They are incorporating retention basins to keep it on site & slowly release it."

Haibach, "I still have to go through the numbers & verify that the rainfall data that they plugged into these calculations is accurate & run some of my own calculations to have a side by side comparison. As of now, the post development runoff will be less than the predevelopment runoff. They'll be helping hold more water on the site & release it slowly."

Brett, "How is that achieved? If you are adding impervious surface…" Haibach, "Right. What we've got now is an open meadow, grassland scenario. There are calculations done by the Army Corp that say, you've got a meadow that is used for mowed hay. It's expected that a certain percentage of the rain water that falls on that soil - base of soil type as well- it's expected that certain percentage of that water, a certain volume will soak into the soil. The rest of it runs off. First we figure out, how much runs off the site now? They are planning on building & paving over 40% of the site with impervious materials i.e. an asphalt road or a roof or a concrete walk. No water soaks into that. They are going to have a (wand?) on the rest of it, which does allow some infiltration into the grounds."

Haibach, "It's a pretty detailed process where all of that is calculated. If we didn't do any storm water retention, how much would runoff the site? They take that & say, here's what we've got now. Here's what we are going to create with the development. We need to size retention basins to hold back that water plus some. I think the Village ordinances require 125% for water quality. They appear to have that."

Haibach, "I'm still chugging through those calculations. I need to look at this site fresh like I was developing it myself. Here are my calculations. Compare it to theirs & make sure

those two numbers are similar. The process they used to develop their storm water curves & their retention basins volumes is valid. It's the same one that I'm going to use."

Brett, "It's important that we are careful about that. The reason I say that is; that area to the south west corner of the property typically does pool up. Water can back up going underneath the culvert pipe which then goes into some private ponds that are in Chagrin Lakes. We've had some flooding issues there previously. To the south of that property is the Family Life Center. (16349 Chillicothe Rd. Bainbridge) They did a retention basin that holds water & puts it out over a period of time."

Brett, "In years to come, one of the things I'm sure that we're going to hear from Chagrin Lakes is, if there is a flooding issue there - which there has been in the past- how can we say that this project didn't exacerbate or make it worse?"

Latkovic, "You hit a very important point that I was wondering about; the 125%. I don't know what is standard & what is not. I'm on Sheerbrook. Often times, heavy rain or snow melt, there is a river that comes straight across under the road. (306) Then it goes in front of the first house on the north side of Sheerbrook (1188 Ponikvar) & then under a driveway & fills that first lake. Then I think that drains down to 1 or 2 other lakes. You can definitely see that pond itself fill up & that first house (Ponikvar) is definitely susceptible."

VILLAGE ORDINANCES: **Haibach, "The Village ordinances require not only that you keep all the water on site that naturally fell on that grassy field & release it at the same rate, but it's more stringent than that. We require all the water be retained & then some, to actually alleviate some of the problem down the stream."**

Brett, "When the project is done, if they've met all of the criteria that you are still reviewing…" Haibach, "It should improve the situation." Brett, "We should have less water at one time coming off that parcel." Haibach, "Yes." Brett, "It will improve any storm water drainage issue that occurs right…" Haibach, "I wouldn't go so far as to say that it will eliminate all downstream flooding problems. It definitely won't add to it."

Brett to Haibach, "You're looking at it from a calculation perspective." Brett to Mulle, "Tim, from your perspective, how are you accomplishing that?" Mulle, "I'm not the author of this document. That has been done by our civil engineer. He's the expert, not me. Simply put, right now that water just flows equally across the width of this 16 acre parcel. Everything that comes onto the site, primarily from the east & it moves west through this property. The topography lines that are on this plan are running straight across, top to bottom. It's a big sheet. It's flowing downhill against the road."

Brett to Mulle, "could you walk through that drawing?" Mulle, "The heavier topography lines represent the new topography that is being proposed. There are some lighter lines that indicate the existing topography. Those run north to south, a very uniform slope, dropping about 25' from the east side down to the west side of the property against 306. When you look at it, it's deceiving."

Thick lines on drawing: Mulle, "What's happening with the new development, it's one story. What's being proposed, we are cutting around this perimeter – the site- removing soil so as to drop the back half of the building down into the site. Instead of dropping the new building

on top of that existing site, we're cutting the site out & dropping the building down into it about 12'. Mulle points to drawing; "That's what you are seeing. That cluster of heavy dark lines back here represents a slope." Question: will dirt be pushed back to the edge? Mulle, "We're not pushing the dirt. We are actually taking it out & removing it from the site so as to drop this back part of the site approximately 12'. Thirty or 40 feet from the back property line will be a slope; a hillside that will drop down about 12'. The building will hunker down into the site. From on top of the hill, you are essentially just looking at the roofs of the building."

Question: will it be level with the street? Mulle, "No. We're still sitting higher. The front of the building has a 300' setback from the road. The front of the building will have an elevation of- in round numbers- 1,200 feet, which is 6' or so above the road. The current, gentle 25' slope that goes a 1,000 feet from front to back. You've got about 5', 6', 7' feet of that slope that happens in that first 300 feet."

Question: how big is that retention pond? How big is it compared to the existing house? Mulle, "It's a big pond." Haibach, "It's a big pond & it's a dry pond. It's not going to hold water in it all the time. It may be 5' or 6' deep. It's got to be mow able. It's not going to have water in it all the time. It's going to be like a contour depression in the lawn." Brett, "Which would be similar to what is over at the Family Life Center in the corner. They built theirs up."

Mulle, "It's not a pond. It's there to manage water & grab the water. If it's a pond"... Haibach, "It will be a pond after a rain." Mulle, "Yes, which is what you want it to do. If it's a pond before the rain, you haven't provided anything to manage that storm water. There is another one, but it's smaller. "

Brett, "If you are standing in the Northeast corner, you are standing 12' above the ground level of the buildings." Mulle, "Yes." Brett, "Or at ground level, you would be half way up the building. Your buildings are ballpark 24'." Mulle, "The eves of the roof on the building are at 9' – 9½'. When you look at a house, there are walls that come up vertical & you've got the eves- where the overhang is, where the sloped roof starts & goes up- those eves are at about 9'4". You're standing above that level. At the ridge, at the highest point of that roof, you are around 25'."

Brett, "I would assume removing that amount of material, there is a cost to it. Why are you doing that?" Mulle, "Primarily because we need to try to maintain as level of a floor plan as possible. You can't have a lot of level change inside the building. We have elderly people who are infirm & they are not able to easily handle a lot of level changes. We can't have stairs. That means we have ramps. There are limitations as to what you can do with ramps because of code requirements for slope. Then you are getting into elevators & lifts. It's not a good solution for this facility."

Brett, "For the residents to the north & the east, this should minimize what they see in those buildings." Mulle, "Yes." Brett, "Those buildings in the back & off to the side are almost buried into the ground." Mulle, "Yes. You are going to be looking at roof & above roof. You are not going to be looking at the side walls."

Storm water management process: Brett, "If I'm at the far right property line (E), as I move left – heading toward the west, I'm still going downhill. You're not mounding anything. Any water coming from the east or the north will still come onto the property." Mulle, "Yes it's going to drop down from the hillside & taken through this swale & bring it down to this retention basin. From here, there is underground drainage that takes it out to the front & eventually it finds itself under the street through drainage lines."

(Pointing to the drawing) Mulle, "From anywhere back here, that water flow goes around to the south side of the building & comes down this way & ends up in this catch basin." (south west corner of property) Haibach, "There is going to be a decent amount of sheet flow coming off the parking lot to the south of the building. It's all directed over to that catch basin. There is going to be an area in the lawn where it is sunk down a little bit with a 2'X2' inlet basin that is piped over to the retention basin." Mulle, (pointing to drawing) "There is a driveway here & this (the inlet basin) is catching the water that is on the south side of the driveway & taking it back to the pond (retention basin.)"

Mulle, "Everything that goes around the back of the building is not piped. It's all based on landscaping. It's grading."

Berms: Latkovic, "Every time you presented, I thought there was some mounding or some kind of barrier around." Mulle, "Initially we talked about putting mounding around the perimeter to create a visual screen, to create a berm in addition to landscaping to try to create a privacy screen for the residents. As we began to understand the natural slope & the elevation change that exists & what we needed to actually do to try to accommodate the building program, is what led us to this solution of dropping the building down into the site, which creates even more of a screen. We haven't gotten to the landscape plan yet. The intention is adding vegetative, screen, trees."

Mulle, "Can we do some berming? Yes we can." Kostura, "Would that impact the drainage?" Mulle, "Yes. That's the concern. The more we build mounds …" Kostura, "You're going to back up the water." Mulle, "We have a lot of water that naturally drains from these properties through our site. If we start building a lot of berms, then we are going to start to hold that water back & make those yards wet because that water is not naturally going to drain off this property. We're hesitant to do too much of that. The way things are taking shape now, we don't have to do that. It's probably best not to."

Brett, "Does the plan incorporate a rain garden? Or the vegetation that you are using is that stuff incorporated into how the water is kept off the property?" Haibach, "Since it's a dry pond, it'll be a long surface in there, you'll have a large amount of sheet flow. I was pleasantly surprised to see how much sheet flow they have over grass because that gives it: (a) the maximum potential to percolate into the soil (b) any oils or things that drip out of the bottom of cars & sit on the parking lot have a chance to filter through a large portion of grass before it gets into a pipe. I think Amy Brennan from the Chagrin River Watershed Partnership will be really happy to see that. **They did a really good job of making it as low of an impact as they possibly could as far as storm water goes.**"

Brett, "Based on the plan that has been submitted & based on the engineers comments so far, I think this would satisfy me as long as our engineer gives that final stamp. We have a lot of

things to cover. If those things are covered, I think if we are going to move forward tonight, we can do approval based on final approval from our engineer; if that's what we choose to do."

Ondrey, "The new, excavated wall on the eastern edge, is that going to be grass? Is it so steep that a person couldn't walk up & down it?" Mulle, "We have not made final determination as to how that is going to be planted whether it is grass or it might be some other planting that would still allow water flow to happen correctly." Ondrey to Haibach, "Do you see it as a safety hazard?" Haibach, "I don't. It's not super steep. As Tim (Mulle) said, there may be some massaging done to the grading plan to make it the best it possibly can. Right now, there is a 10'-12' drop over a span of a 60' run. It's not going to be a 45 degree angle."

Sutliff, "Are you trucking this material off site?" Mulle, "That is the current plan." Kostura to Mulle, "You may want to talk to the Parks Committee. They are looking to put in a sledding hill at the park down on Bell Rd."

Landscaping: Douglas Hemeckay, landscape architect

Mulle, "To preface this, just like with the architectural drawings, these are not final working drawings. Our understanding is that the preliminary drawings are submitted to PC for approval after which we finalize finish construction documents that go through official submittal through Dave's (Hocevar) office. The initial landscape plan that is here is not the final landscape drawing. It's not the installation drawing."

Mulle, "We asked Doug to put together the initial landscape plan that addresses the issues of the site that includes a screen that works around these two sides – north & east -perimeter of the site. Visual screening is a combination of deciduous trees, a lot of evergreens & a sampling of ornamental trees. We are not talking about doing a heavy landscaping solution. We will replace some of the trees that are going to be lost. In the front is a large Willow tree & that tree is going to be lost. We'll replace that. We have strategic solutions that need to happen such as using vegetation to screen the service elements on the south side of the property: the dumpster, the service building where we have the generator for backup power."

Brett, "If PC were to approve this, your final plan would have to follow the general parameters of what you've laid out here." Mulle, "Right." Brett, "I'm sensitive to going to the north & the east. To the south is the Family Life Center. It's not as concerning to me."

North & east borders; trees & shrubs on drawing: Doug Hemeckay, "For privacy, the majority of plant materials, at this point, is large evergreen trees: spruce, pine- things that get to be 40'-50'. These are needed to create a nice break between the properties. We'll supplement that with some ornamental trees. The smallest to consider (when planting) would be 8'. They may not all be the same size. They may be a minimum of 8'. To keep it natural looking, we would inject other sizes."

Brett, "At this point, assuming that this is to move forward, what is it that PC does regarding landscaping? Do we put in the size of the trees, that they can't be less than X height?" Ondrey, "You can. You can decide that you don't want to give any approval until you see the final drawings. It's somewhat similar to the storm water management. CT has a group that specializes in landscape design. We have, with other projects of smaller scope said, landscape approved subject to approval by their department. You could still lay out some minimum parameters such as an 8' minimum for new plantings."

Latkovic, "Could we lay out some general guidelines? Not say, we want a minimum tree size, but say our concern is privacy, screening. To lay out, subject to their discretion, what our concerns are. Maybe that's too vague." Mulle, "Until we get to the point of final drawings, do you relinquish the right of approval on what we do. The Village always has the right of review & approval. Correct?" Ondrey, "It depends on how we phrase the approval." Brett, "And which board you are talking about. At a certain point, PC would say we've approved the project based on storm water, water supply & landscaping, ingress/egress. At that point it leaves PC. PC needs to do its due diligence to say, are we satisfied with the plan that has been put in there?"

Brett, "I would agree that the final details of the landscaping plan will be worked through. There are not many trees on that parcel as it is. This is a significant improvement. I'm happy with what I see. One concern is there are more Blue Spruce trees than I anticipated. Does it create too much of a wall? We have to make sure that we are comfortable with the level of landscaping in the general parameters that exit."

Sutliff, "I feel comfortable with CT's input on the landscape plan." Hocevar, "CT, Joyce Bond, is very well aware of our concern with the screening of this property. They (Mulle/Makesh) submitted some plans to us. She already went back to them with a concern, which they are addressing."

Sutliff, "Ultimately with this (landscaping) & the storm water management, this board will say we approve it or we don't approve it subject to CT's approval."

Height of mature trees: Doug Hemeckay, "The shade trees we would consider in the 3 inch, 4 inch caliber range, depending on the species, 15'. The ornamental size trees will be a little bit smaller, somewhere in the10' range. (Earlier he said deciduous trees would be 8' when planting; grow to 40'-50'. (Pp.6)

# of trees on this plan: Hemeckay, "On this plan, there are probably 40 or 50 evergreens, maybe 30 ornamental trees & maybe 15-20 shade trees."

Western edge of property: Hemeckay, "These smaller trees represent ornamental, deciduous trees: Crab Apples, Pears, Dogwoods, Magnolias. It isn't considered a shade tree like a Maple or an Oak. The larger symbols are larger trees: Oak, Hickory, Maple which are considered shade trees. We are trying to introduce a nice mix of sizes. With the maturity of the trees, you are going to want a nice range to make it look like a homestead. You'll want shade trees in areas that will support it with more of a generous area for the tree to be planted."

Hemeckay, "Right now on the property, there is a lot of scrub & on the property line there may be: Ash, Elm, a few Maples. A few of the woodland trees are on the east property line. I doubt that there is any more than a dozen trees of any caliber size that are on the property now."

Brett, "For our residents to the north, the east & the west across the street, it appears that this project is doing quite a bit of screening & improving what is there now." Mulle, "The more mature trees that are along the property line, (east side) it is not our intention to take those down." Sutliff, "The grading won't accept that?" Mulle, "No. We brought the grading far enough into the property so that those trees are not being removed."

Ground water: Mulle, "ACW Environmental produced a report, a ground water study, which was submitted. The intention is that there will be wells created on the site. They would be down on the southern part of the property. The intention is that there will be 2 wells."

Sutliff, "Is Yorum Eckstein going to review that?" He's in Alaska. Brett, "I talked with Dr. Eckstein. He has everything he needs if the Village or the project folks here engage with him. He doesn't need to come here. He has everything there to do the work. The question as it pertains to water supply, it's a mathematical calculation. (A). Does this parcel support enough water for them to provide for the sprinkler system & their water supply? (B). Would it adversely impact any of the surrounding communities – any of those surrounding homes?"

Brett to Mulle or Makesh, "The report you provided to the Village, is that the data that you provided?" Mulle, "What we are being told by the consultant is that there is plentiful supply of ground water in this area. As far as sprinklers - which is in reference to the fire suppression system that we'd be putting in the building - that comes off the table because that system would be supplied by a tank. It's not realistic to assume that that system could be funded by a normal wells supply. We put in a large underground tank that is filled with water at the outset. The water just sits there. That's an independent thing."

Mulle, "What we are really looking at, just as with someone's home, is the water supply that you are using on a daily basis for normal drinking water, bathing & so on. We are being told there is a very adequate supply. They only need, even with the size of the facility that they are talking about, a maximum of 2 wells."

Brett to Hocevar, "Can you share the report with PC so we feel confident there is adequate supply & it won't impact the neighbors?" Hocevar, "I can do that." Mulle, "I would add to that, for the domestic water supply portion of it, what we are still talking about doing is putting a tank in for that. It is independent of a tank that would be installed for the fire suppression system. If there is any kind of a peak demand that would cause a surge for supply need for that water, rather than try to draw from the well to handle that, there would be a reserve tank." (underground)

Sutliff expresses concern that PC members won't be able to understand report. He recalled Dr. Eckstein's reports having maps, referring to recharge etc. Hocevar, "You're right. One of the concerns back then was because we have overlays of the Village where we have water sensitivity zones. We determined the acreage & what the acreage should be on a single family dwelling. What you are saying is correct. When we built Emerald Lakes that was in a water sensitivity zone for 2 acre development. Less than an acre, we built homes on."

This project is not in a water sensitivity zone.

Latkovic, "Across the street in Chagrin Lakes, we are on ¾ acre lots & there is a well. This (project) is talking about 2. Are these the same size & type well that a homeowner would have?" Someone said, "Yes. Basically". Mulle, "There is not a high water demand in this kind of facility. It's designed for a maximum of 110 residents. As compared to a neighborhood that would have 100 people living in the neighborhood, that would have families – it's a much lighter water demand. It's an elderly population & they don't bathe as frequently. Their bathing is a sponge bath. It's not like your 14 year old kid who stands in the shower for 45 minutes every

day. They don't consume a lot of water & you don't have a lot of staff. There's a limitation as to how many people can be bathing simultaneously because of the limitations of staff."

Sutliff to Haibach, "Back on this report, do you have someone capable to analyze this report? Haibach, "Yep. We do. We have a couple of guys, engineers, who do hydrology type of review." Sutliff, "Wouldn't they have to have the models, the maps that this village developed 20 years ago? Haibach, "We would have to have access to some sort of mapping that you have done." Hocevar, "I can provide that." Haibach, "We'd be happy to look at it & make certain that their calculations are in the ball park."

Brett summarizes: PC can take & read the report that's been done by Mulle's firm. It doesn't mean much to PC. PC can either have CT or Dr. Eckstein analyze & confirm whether report is acceptable or not. Makesh is comfortable with either CT or Dr. Eckstein reviewing, analyzing & reporting conclusions.

Sutliff, "The people in South Russell depend on their wells. I've been on this board for 30 years now & that has always been a sensitive subject." Makesh, "We did a very extensive study, more than what the Commission required. We did study the well depth of the adjacent properties. That was one of the reasons we choose to keep the wells on the south outside. We didn't want to go north or east. I'm pretty confident."

Mule, "That was part of the charge to the engineer who did the study, HCW. He conducted an evaluation of all the wells on all the surrounding properties. As part of his study he looked at what those existing wells are, how deep they are, how they perform & looked at our site to make sure that we wouldn't adversely affect the adjacent property."

Fire department: feedback about access: Hocevar, "The fire department has a concern about having drives on both sides. It could fall under a "fire code requirement" to have those. Mike Carroll, Fire Chief of Lyndhurst Fire Dept. & other fire inspectors have come up with the same conclusion. Those drives are required. Depending on what you want to do in the rear - it's still going to be a surface that a fire vehicle could go onto - maybe not paved. I think they'd like to see it paved all the way around. It would be to their advantage. I think our fire inspector will require that. Nothing has been sent to our fire inspector yet because we are waiting for the sprinkler calculations."

Mike Carroll, Lyndhurst Fire Chief, "The building code requires access to 75% of the building. They (driveways) have to be at least on both sides per code requirement. The recommendation would be to go along the back side, so they have access to the back in the event there is a fire. That would be the preferred method. The code requires 75% access."

Sutliff, "There was some concern from the residents there. (Kensington Green) We've lowered that grade now. Any traffic down there - if a fire engine did have to go around there - you probably wouldn't even see it." Buzz Ostergard, resident of Kensington Green, "They are not adjusting the elevation that far north along our property line. The road is not going to be depressed." Mulle, "The road would be down as the same elevation as the building. " Ostergard, "12 feet below the grade." Mulle, "Below the grade of your backyard, yes. Let's be realistic. In the event that there was a fire & fire trucks needed to drive around the back of that building, fire trucks are big. They have lots of lights. If it is 3:00am, they are going to be

lighting up the neighborhood. The likelihood of that happening is really slim. It's a very rare occurrence."

Brett, **"Regarding a fire lane, it's required**. It's now at the elevation of the buildings. If you're on the northern or eastern edges, you can't see that fire lane that goes around there. It's 12' down." Ostergard, "My concern is not the fire engine. It's the almost daily occurrence of rescue vehicles or ambulances. Are they going to be using that road?" Mulle, "No. We do not have provisions at the back of the building for transport vehicles to take people in & out of the building. That occurs on the side of the building. Emergency vehicles access the building on the south side at the service building or at the front."

Kostura, "So we are not going to send emergency vehicles to the back of the building to pick up people." Mulle, "No. People will go to the front part or south side." Kostura, "That (fire lane) is only for fire prevention vehicles." Mulle, "It's for emergency purposes for fire trucks to get to the back of the buildings to fight a fire. That's the whole purpose of that fire lane."

Ondrey, **"I think the parking lot issues got resolved.** The **zoning issue** was **conditionally approved**. As you may know, **they sought a height variance**." (ZBA 3-19-2014: ZBA member, George Clemens, "I would move to approve the variance of 5½ feet in height for the peaks & ridge lines alone for the Lantern of South Russell. Contingent upon: the Planning Commission's approval of the overall project." David Maistros second. Roll call: all ayes. CONDITIONAL APPROVAL

Second driveway: Brett, "I think one open issue is the second driveway." Ondrey, "That discussion was still up in the air. There hasn't been a traffic study done. There has been representations that they (Mulle/Makesh) don't believe there is going to be traffic issues there. I don't know if that discussion is over or not."

Brett, "The concern that I have is with the driveway that is directly across from Sheerbrook. It's right on 306. Safety is my concern. Last time when you presented it, you had it offset from Sheerbrook." Haibach, "It's better to be directly across then it is offset because there's confusion about whose turn. When it is directly across it's a familiar situation just like an intersection works." Mulle, "So we moved the driveway (southern one) so it is directly across."

Latkovic, "You basically just look left if you are going right. If you are going to the left, you have to look both ways. On the west side of the road are trees. Is there any other potential way to address that? Something to do on the west side of Sheerbrook exit that would help?" Haibach, "Maybe address that with the HOA & trim back the landscaping."

Brett, "I'm not sure why your plan has 2 driveways. Can you address that?" Mulle, "We were requested to locate all of our parking & service functions on the south side of the property. A vehicle enters the site (south end) & it meanders its way through & around. Functionally, it works a lot better to have that entrance adjacent to where the activities will be.")

Haibach, "If it were a neighborhood being put in here - say you were going to build another Sheerbrook- then yes I would definitely take a look. Maybe a turn lane or some widening because you'd have a high traffic area up & down 306. You've got a high traffic area on Sheerbrook. If you were building something that would generate almost as much traffic as Sheerbrook does, then yes I would focus more scrutiny on traffic patterns. From

what I understand, the people who are going to be living here don't drive. It's just going to be the staff that's coming in & out at certain times of the day, deliveries..." "And visitors".

Mulle, "We have not hired anybody to do a traffic study. The staff size during the day is approximately 20 people. The cars sit all day. You will have some deliveries that come in & out during the day. During the course of construction, there will be a construction drive put in. That's going to happen on the south side of the property."

Haibach, "In terms of in & out traffic, how could you relate that to something that we're all familiar with like the Weils that is further to the south?" (16695 Chillicothe Rd. Bainbridge) Mulle, "I guess similar. It's very light.'"

Hitchcock, "What do you expect to be the difference in usage of the driveways?" Mulle, "The upper drive will serve visitors. Visitors are coming to look at the facility to evaluate it to move a family member here or visit a person who lives here. Staff will come in to the lower drive & park down here."

Traffic study:

Hitchcock, "One of the concerns is lining up the south driveway with Sheerbrook & try to figure out what the traffic pattern will be there. Do we expect the northern driveway will be twice as much or three times as much traffic? Is there an estimate? Presumably, the cars to the north are going to be coming & going a lot more than the cars to the south at various times throughout the day." Mulle, "Staff will be regimented in terms of in & out activity. Every 8 hours there will be a turnover."

Latkovic, "I think you need to order a traffic study or accept it. I don't know if we want to require as the PC, but I would like to see traffic diverted to the north for the visitors as much as possible. I don't know what kind of signage you will have. I would hope it would be toward the north entrance. So that would be the natural draw for people." Mulle, "We're allowed 1 sign, 35 square feet."

Brett, re traffic study; "It would tell us the conditions that currently exist on 306. It wouldn't tell us the volume to expect for this facility. Or would it?" Haibach, "It would not without knowing: there is X number of employees & here is the shift that they are going to working." Mulle, "Is a traffic study going to tell you what the volume is going in & out of Sheerbrook?" Haibach, "It would."

Mr. Mallis, 5272 Chillicothe Rd. "I'm the house right across the street from the north drive. I think I'd rather have them go through Sheerbrook so the light shines at the road instead into my house. I'm for the driveway to the south."

Haibach, "I think visitors using the north driveway; they'll be coming & going during the day time." Mallis, "If you don't have another driveway, I'm for the south driveway." Brett, "I wasn't in favor of 2 driveways. Having 2 splits the demand. We don't know what 50-50 is, but it does split what is going to happen there. I think it is doable." (2 driveways)

Kostura, "With respect to ingress & egress from the facility itself, when visitors come to visit mom or dad, are they coming in the front door? Are there other entrances that are available to them?" Makesh, "I think we have 2; one in the front & one by the south side." Mulle, "Family members will have the ability to enter the facility other than the front door. First time visitors, they have to use the front door."

Site lighting: Sutliff, "I know it will be subject to final approval, but have you guys given any thought to site lighting?" Mulle, "That's in the works. It's minimal. It's low level. It's low cutoff pointing straight down to the ground. There would be exterior lighting around the front entrance & the parking area. There would be virtually no lighting around the side or the back other than what we are required by code. Fire exits have a light over the door that shines straight down. We don't have lighting up on the building. The posts are 8' -10' tall. Landscape lighting: I'm sure there will be some accent lighting across the front of the house."

Development Approval? Brett, "What are we considering here? What is the application before us?" Ondrey, "Development Approval. It's a package. I'm not certain if they are seeking a final approval tonight. There are some things that you would make contingent upon CT's approval also."

Phasing the buildings: Ondrey, "There had been some discussion previously about phasing these buildings in. I am curious. Is what we see, is it all going to be built at once? If not & it's going to be phased in, what do you anticipate going up first? What is going to wait until latter?"

Mulle, "That ultimate decision has not been made yet. If phasing were to occur, construct this front portion first & then add these 3 residential pods in back. The infrastructure, the administrative function, the central support functions that we call Main Street happen in the front of the facility i.e. the beauty parlor, the movie theater. Then there are 2 residential pods that are up here. That is 44 units. The service building is up here. If it were to be in phases, that would be Phase I."

Ondrey, "Would all the storm water management go in even though you are not bringing in other buildings to latter?" Haibach, "All the site work &grading would have to be done project wide." Ondrey, "I want to make sure that we are clear those are our expectations. Let's say there is **a 5 year gap before those eastern most buildings are built, would that property be grass in the meantime? Mulle, "Yes. You put yard drains in because you end up with a large grassy yard in the back. The yard drains pick up that storm water & bring it around."**

Ondrey, **"What about the fire lane?"** Mulle, "I'm not sure. I don't know if you have to put it in at that point or not." Latkovic, "Does the fire lane have to be paved; be a hard paved surface?" **Carroll, "A fire lane has to be able to hold 75,000 pounds, however they do that. It has to be maintained year round for fire department access. It will depend on square footage of the building. There are parameters that go into total fire lane comps. If they do it in phases, they may not be required to do the 75%."** (refer to Pp. 9 for explanation)

Ondrey to Brett, "To return to your question, the issues before you; are you ready to give final approval? Is there anything else you want to see or still take public comments or questions?"

Ground water: Makesh, "I see that water & storm water management is a very important issue here for the township & the residents. I think we talked sensibly in regard to storm. I want to talk about water. We engaged Matt at HCW. I asked Matt to look at every well around the area. I tried to understand; how can a well dry up? What causes a well to dry up? What he found was,

if you don't do the depth studies of the wells around your property & you drill your well deeper, then the wells around your property – there are different rivers: the Cuyahoga, the Berea, the Sharon. Depending on where you want to tap your water source into, we are better off staying with the same source, the same level, the same layer of the surrounding properties. That's exactly what we did. If you go deeper, there is a good chance the water from the layer above could drip into. Depending on the location of the well, it also matters how much water comes out from those layers. It does vary from layer to layer."

Wells: Makesh, "Those are some of the detailed studies that we did. When you go through the report, we plotted all the wells around that property: Kensington, we went down to Bell, we went deep into Chagrin Lakes. We found the depth of the majority of the wells. We couldn't find 1 or 2. We found the depth & based on that we made a determination where we want the wells to be. We thought about placing the wells east on the property. I said I don't want anything close to Kensington or close to any residential properties. It would be safer to have those wells on the rear end (east) of the property. I made a conscious decision to move it to the south end so that none of the residents are affected by or wells. We've taken a very conservative approach to locating those wells." **(more about ground water & wells on Pps. 8 & 9)**

Sutliff to Hocevar, "I can remember & this goes back several years, that with Emerald Lakes, didn't Dr. Eckstein made us alternate those wells? We had to go Sharon in one & Berea in one." Hocevar, "Yes because of the water sensitivity." Makesh, "Yes you are right Wally. But you don't want to be too close & deeper." **Sutliff,** "That's beyond my capabilities. **As long as the Village is comfortable with CT analyzing that report, I'm comfortable with it."**

Haibach, "I'll let you guys know. I have a couple of individuals in mind that this is right up their alley. If I can get a copy of that report from you Dave, (Hocevar) I'll take it to them. I'll ask are you guys comfortable in looking at this & assuring that this information is accurate? If not I'll let you know & you can pursue Dr. Eckstein or do that simultaneously."

Brett to Makesh, "For tonight, what are you asking the PC for? Makesh, "It would be very helpful for us to get some approval for us to move forward & start the work. We're still targeting October or November to open at least a portion of the facility."

Mulle, "Our understanding is that we need your approval before we can obtain ABR final approval, which we need to have before we submit completed documents to Dave's (Hocevar) office (the Building Dept.) for plan review; for permitting." Hocevar, "That's correct." Mulle, "We need you approval otherwise this project will stop."

Brett to Mulle, "Based on your plan, there was one variance required. You went before ZBA & the ZBA granted that. (refer to Pp. 10 paragraph 3) The process is you come to PC to get Developmental Approval. PC may approve that. If they do, you go back to ABR with everything they need. At that point, you can start." Mulle, "Once we get ABR approval, then we can submit our finished construction drawings to Dave (Hocevar) for plan review for permitting. We can't start construction until we have those permits. Timing wise, it is becoming critical for us to get these approvals in order to move things forward."

Ostergard, "How can you approve anything without having an independent appraisal of the water report?" Sutliff, "The approval would be subject to CT's approval." Ostergard, "Is it going to be somebody independent of the developer & CT? Or is it going to be CT?" Sutliff, "CT is an engineering company. They are our consultants." Ostergard, "What about Dr. Eckstein? You're saying the 2 wells are going to be no different than 2 wells that would be in Kensington Green as far as depth or size or capacity. I'm concerned about the water availability & having somebody who is professional & independent. "

Ostergard, "The other thing is for me, the north road is strictly fire engines. How is the Village going to make sure that 3-4 times a week, an ambulance doesn't decide to go down there? These things often happen at night. I don't need 3-4 times a week those vehicles vs a fire engine coming down with their lights blaring." Mulle, "You can gate the fire lane."

Brett, "It's a valid concern. In regard to that, we've already gone through this with EMS to say this is how you get into the facility. They wouldn't make any errors of going around the property partly because of what you said. More importantly, that is a waste of seconds. When they are responding to a situation, they need to know exactly where to go. What they shared is the only 2 spots that that's possible is either up front or the side."

Ostergard expressed his desire for "a lot of pines" between his property & the site because the idea of a berm has been taken out of the plan. The mayor explained that there is no berm because with a berm, the water backs up. Brett, "The fact that they lowered this 12', I think that accomplishes way more than what a berm; I think this is a better solution." Mulle, "It doesn't hinder the natural drainage of water from your property because we don't want to turn your backyard into a pond."

H2O: Linda Deeken, 37 Westover (in Kensington) has concerns about the water. "The 2 wells are equal to 2 Kensington Green Homes. The draw is very important then because if you have 110 plus residents & the employees, that's a lot more people than in a house. The consumption that is coming through there any given day – that's an important part to think about. What that means for all the pull across the wells?"

Deeken, "The other comment is about how the water is used. We're used to having it fill up. I understand your point about draining back to our houses. Just thinking through now, how the wells get filled up & what that means for a 16' drop in terms of where that water is going & how much it is getting drawn from the water. I think its fine. Those are my concerns."

Mulle, "The slope has no impact to your property in terms of storm water. The storm water that hits your property today & flows from your property to this site is exactly the same water that will do the same in the future. What we are doing won't change that. What we're doing will only change what happens to your water after it comes onto your property."

Brett, "Your other question was, if you change how ground water is handled on this property, what happens to water supply? When we've reviewed this with Dr. Eckstein, he has shared that nothing that we do here affects our local aquifers. Our water comes from Western New York."

Kostura, "I make a motion to:
(1). approve the plans that have been submitted tonight condition on approval by the Village Engineer, CT, & are dated 4-10-2014, which are similar to plans that have been reviewed by PC at prior meetings. In addition to the plans of 4-10-2014 (referenced above) there are 3 more sets of plans that are being introduced & are a part of this motion to approve, condition on ABR approval: (A). Architectural site plan (B). Building floor plan (C). The exterior elevations of the building.
(2). **approve the storm water management plan & the ground water study. These are condition on The Village Engineer, CT, or Dr. Eckstein's approval.** Village to determine who to use for these evaluations & approval.
(3). approve the grading & landscaping condition on approval by the Village Engineer, CT.
(4). approve site lighting condition on approval by the Village Engineer, CT.
(5). **approve two gates to be installed to block the access to the fire lane."**

Brett second. Roll call: all ayes. CONDITIONAL APPROVAL

Ondrey, "The way you've phrased it, there is nothing further for PC to do. Theoretically you could say, after CT approves the landscaping plan & the grading plan, it comes back to PC." Someone said that's not necessary. Ondrey, "There is no bonding requirements because there are no public improvements going in i.e. public roads, infrastructure. Signage is subject to our current zoning requirements." Mulle, "We're allowed one 35 square foot sign."

Culvert pipes under State Route 306, near the site:

Mallis, "What about the culvert pipes going under 306?" Sutliff, "I assume that's part of the storm management." Mulle, "Yes it is. That's part of the civil engineer drawings."

Latkovic, "To his question & I think it's fair, the storm water is actually all coming back down to Sheerbrook. There is not going to be any additional piping going to the western side of 306 other than what is existing across from Sheerbrook."

Mallis, "If there's one more, it's going to come right through my front yard." Latkovic, "That's what I'm saying. What they've provided, that's not going to happen." Mallis, "It's going to happen because there is going to be 2 drains, 2 water basins; one to the north & one to the south."

Haibach, "The one in the north feeds into the one in the south on their property." Someone said, "I think they go through existing culverts." Mallis, "They didn't replace that culvert. Remember I came & asked you about the culvert." Haibach, "Yes. I think it's a 36 inch." Mulle refers to drawing, "Existing 36". It's right here, across the road." Mallis, "It's cracked."

Brett, "There are a number of culvert pipes that are underneath 306. The village has tried to work with ODOT to address these. Some of them we feel should be enlarged. Some should be replaced because of the condition. Some should be lowered because of drainage issues. Working with ODOT to try & get that done is not very easy." Mulle is not going to replace any culverts. Haibach, "We'd have to go through ODOT if we wanted to cut across 306."

Ondrey to Haibach, "In light of the apparently damaged culvert or at least substandard culvert that this gentleman (Mr. Mallis) was referring to, you'll be looking to make sure that that flow from the north won't be increasing the problem." Haibach, "The flow will actually be decreasing that runs off of this property. After the development occurs, the flow off this property will be less than it is now."

Mallis, "That's great. But, do you have a backup plan? If that pipe fails & my yard turns into a pond like Mr. Ponikvar's on Sheerbrook, I don't have any water now." Haibach, "We've got to make sure that the water that is running off the site after this is built is less than…" Latkovic, "You have a very valid concern." Haibach "We can't replace the culvert as part of this." Mallis, "What is the backup plan? I don't have water now."

Brett, "If you started to have some issues with water & you felt like this was the cause, then we look at the asbuilts, the grading, to see did something occur that was not in this plan? We've had people go back & regrade because work wasn't done in conjunction with the plan."

Hocevar, "That will take place on their final. CT will go out there & verify that that was built according to what they submitted. Tonight is not the end of the deal." Haibach, "I wish we could replace the culvert."

Brett, "Some residents might say that parcel should stay the way it is. We've known for years that this parcel was zoned as assisted living & a project could occur. We've been presented with different ideas & concepts. From the village's perspective, from the mayor's perspective, this is the most compelling design that I've seen. To their credit, they've done a very good job of hearing our concerns. They've listened to the concerns that we've had & modified their plans to accommodate them. We're trying to minimize the impact & make it as best as it can be. I think they've done that. I'm supportive of the project."

The next meeting is set for May 8, 2014 if there is something on the agenda. Kostura will not be at the May 8, 2014 meeting. There was no further business. The meeting adjourned at 9:35p.m.

Walter Sutliff, Chairman

Maggie Tomaro, secretary

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
JULY 10, 2014
7:30P.M.

1. ROLL CALL: **Chairman Walter Sutliff, Mayor Matt Brett, Steve Latkovic, Bryan Kostura, Andy Hitchcock**

2. MINUTES: 4-10-2014 **approved**
3. AGENDA:

1). Informal discussion with Bob Flesher about a preliminary proposal for a subdivision of 5-10 homes on the property between South Russell Park & Deerfield Dr. Parcel# 29-037900. Access from Bainbridge. **Preliminary questions & answers. No action**

2). Review status of assisted living facility, the Lantern of South Russell, 5277 Chillicothe Rd. Plans conditionally approved by PC 4-10-2014: 5 pods, 110 units for 110 residents & fire lane going around the property.
At ABR meeting on 6-17-2014, a different set of plans were presented & approved. These plans show 2 pods with 52 units for 52 residents. These plans do not show a fire lane going around property. Architect Mulle said it is no longer required due to minimizing size of project.
PC will hold a special meeting on Thursday, July 24, 2014 at 7:30p.m. with representatives from the Lantern of SR. Review 2 different sets of plans submitted by the Lantern of South Russell: PC 4-10-2014 & to ABR 6-17-2014. Plans submitted to ABR show: a much smaller project, service building moved from southern part of property, deliveries will now be made to back of facility, cars/trucks will be driving in back, there is parking in back of building, dirt is stockpiled at eastern part of property, fire lane is gone. Hopefully, SR fire prevention officer will provide summary of his recommendations if he can't attend meeting.

4. OLD BUSINESS: **None**
5. NEW BUSINESS: Chairman Walter Sutliff is resigning from PC effective 8-1-2014. He is moving from South Russell. Tonight is his last PC meeting. **Chairman Sutliff was recognized for all his years of service to SR.**
   -PC's future: **PC voted & approved Steve Latkovic as new PC Chairman.**
   PC still has one vacancy. Mayor to present name of a candidate to Council on Monday, 7-14-2014 for its approval.
6. Adjourn: **9:05p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

RECORD OF PROCEEDINGS
MINUTES OF THE PLANNING COMMISSION
JULY 10, 2014
7:30 P.M.

MEMBERS PRESENT: Chairman Walter Sutliff, Mayor Matt Brett, Steve Latkovic, Bryan Kostura, Andy Hitchcock

OTHER OFFICIALS: Laura Heilman, Building/Zoning Inspector, David Ondrey, Solicitor, Eric Haibach, Engineer

GUESTS:
Bob Flesher, 533 Manor Brook Dr.
Mary Beth Wolfe, 19 Daisy Lane

Chairman Sutliff called the meeting to order at 7:34 p.m. The minutes of 4-10-2014 were approved as presented.

PC started with agenda item # 2
Review status of assisted living facility, the Lantern of South Russell, 5277 Chillicothe Rd. Plans conditionally approved by PC 4-10-2014: 5 pods, 110 units for 110 residents & fire lane going around the property.
At ABR meeting on 6-17-2014, a different set of plans were presented & approved. These plans show 2 pods with 52 units for 52 residents. These plans do not show a fire lane going around property. Architect Mulle said it is no longer required due to minimizing size of project.

-both set of plans here for PC to review

Ondrey, "We knew they were going to phase it in. I haven't seen the ABR drawings. But, if they reconfigured ..." Haibach, **"The storm water is different. However, it's equal to the proportion."** Ondrey, "I think the PC said, from the storm water, as long as your office (CT Consultants) approves it, then it's ok." Latkovic, "Did they change the storm water?" Haibach, "They changed the configuration of the ponds. Before they had a long, skinny pond to the north & a rectangular one to the south. Now they are similar to each other."

PC looks at both plans

Dirt at eastern part of property: Ondrey, "One of my concerns is, are they still carving out the hill in the back because that was a big sale to the neighbors?" Refer to Pps. 3 & 4 of these min. for discussion on dirt. It's being stockpiled & not being removed from site. (a change from discussion on 4-10-14).

Sutliff, "What prompted the change?" Brett, "What they presented to us was they thought they might approach this in phases. They'd do the first buildings first & then the back buildings. My sense is the drawings that they submitted are consistent with what they presented as a phased approach. What do we do to approve the drawings?

Parking: ABR plans show the parking lot as half the size of the plans from April. Brett, "The parking up front, the driveway is the same." (as plans from 4-10-14) Latter during tonight's meeting, Latkovic said, "They have parking back here now." (a change from 4-10-14 plans)

Service Building: Ondrey, They had a service building in this general area (on south side of the property) & it's gone."

Latkovic, "This is totally different because you have Main Street in the center. This was not like that." Kostura, "The whole configuration is different."

Brett, "The big question is, if someone submits one set of drawings like this (4-10-14) & they start to execute them with a different set - from PC perspective- is there anything for us to do?" **Ondrey, "We approved this set of plans (4-10-14) understanding that it might not all be built in Phase I. What they apparently took to ABR is very different. I think it at least deserves requesting them to come & explain why they made the differences. What impact, if any, they are going to have on circulation, delivery of services?"**

Latkovic, "Service Building, that's what this is. They are going to use this now." (pointing to plans) Ondrey, "That's a big change because what everybody thought was down here by the Federated Church was where those activities would be located. **They need to come back & get PC approval on different plans." Sutliff, "I agree."**

Brett, "Do we make them stop what they are doing now?" Ondrey, "I don't know what they are doing now." Haibach, "What they are doing now is site work. They've gotten everything pretty well flattened out. **They are addressing their storm water concerns with sedimentation basins & such.** The ponds…" Latkovic, "That's different too. What they built & I don't know if it is a pond..." Haibach, "That's a sedimentation basin." Latkovic, "Is that going to change?' Haibach, "It will change. It's at the low end of the construction. Everything drains into that. It settles out all of the… (unclear)."

Ondrey, "Has the landscaping changed too?" Haibach, "That I don't know." Ondrey, "I think we need to have a conversation." (with reps from Lantern of SR)

Fire lane: Sutliff, "Why don't we need a fire lane now? If they need to get a fire truck around the north side of the building…" PC referred to comments made by Architect Mulle at ABR on 6-17-14 about not having a fire lane around the property – no longer required due to minimizing size of project. Brett, "**We should have our fire prevention officer review this.**" Sutliff, "Absolutely."

Downsizing project: Heilman, "The reason that they downsized was they didn't want to charge people $8,000.00 - $9,000.00 a month to live here. They are trying to make it more affordable. That was the concept of going from 110 units down to 52." Brett, "Are they downsizing the whole project or are they doing it in phases?" Heilman, "Right now, they are downsizing the whole project. If it comes to a point that they can go to the next level & add more beds latter, that is a whole different thing. They would have to come back for approval."

Hitchcock, (pointing to the 2 set of plans) "That's not this. That's a whole different project. That's not just fewer…" Sutliff, "The building's gotten much smaller. It surprises me that they would take a plan to ABR that is different than the plan that was submitted & approved by the PC." Ondrey, "The only thing that we contemplated was maybe they would wipe out the back half of it for a while." Kostura, "That's what they actually said. They were going to cut it off here." (pointing to plans from 4-10-14)

Brett, "Is that what they have done?" Latkovic, "No. It's totally different. The setup is different. It's not built for expansion. The service access is back here now." Brett, "What if it is temporary & when they expand, they build this building? (the service building)" Latkovic, "I agree that we don't know. But it has changed enough that I feel that they need to come back in & tell us. They've got parking back here now."

PC approved project, 4-10-14, is not same project that ABR approved: Ondrey, "What we approved, according to the minutes, was that plan." (the plan that was stamped 4-10-2014.) **Brett to Heilman, "I think you need to as the Building official for the village, go to Jean (Makesh) tomorrow morning or the construction entity & say the plans that you submitted to ABR are not the same. They are different significantly from what was approved by PC. It needs to come back to PC based on those changes, to be resubmitted."**

Sutliff to Heilman, "**Tell him, whatever they are doing now, they are doing at their own risk.**" Heilman, "We gave them approval to do the site work." Sutliff, "Based on what?" Heilman, "Based on the site plan that was approved." Brett, "It's not approved". **Ondrey, "I take Wally's (Sutliff) position & that is, alert them that if they continue at this stage…" Sutliff, "They're doing it at your own risk…" Ondrey, "because it is not approved."** Ondrey, "Ultimately, we could refuse to give them the necessary building permits."

Dirt removal: Developer Bob Flesher, who is on the agenda this evening, looked at the plans & made a comment to Latkovic. Latkovic, "Bob just said something. You can clearly see

it. Bob just said they took all the dirt & moved it to the back side. That's not what we talked about. Even that I'm interested in hearing from these guys because that could create huge potential water issues for the people back here. (in Kensington Green) Remember, originally they were going to dig down & it wouldn't change the water runoff. It's like a 50' hill back there." Flesher, "It's stockpiled."

PC MIN. 4-10-14 re dirt removal: (refer to PC minutes 4-10-14, Pp. 3 last paragraph & top of Pp. 4. Question: will dirt be pushed back to the edge? Mulle, "We're not pushing the dirt. We are actually taking it out & removing it from the site so as to drop this back part of the site approximately 12'." Refer to Pp. 4 second last paragraph; another reference to dirt removal. "Brett, I would assume removing that amount of material, there is a cost. Why are you doing that?" Refer to Pp. 5 & read from **Berms:** Mulle, "Can we do some berming? Yes we can." Kostura, "Would that impact the drainage?" Mulle, "Yes. That's a concern. The more we build mounds…" Kostura, "You're going to back up the water." Pp. 6 second paragraph, Sutliff, "Are you trucking this material off site?" Mulle, "That is the current plan.")

Heilman, "The construction drawings are already being finished." Brett, "That's their issue. They should know you can't come in & present one thing & then build something else. That's not to say that PC won't approve this, but it is a different project." Heilman, "They are going to end up waiting a month. I think they thought they were going to have a building permit." Ondrey, "We could have a special meeting."

Ondrey, **"The problem is: we thought we had service deliveries there.** (pointing to plans) **Now we've got them in the back."** Haibach, **"No traffic was going to be coming to the back. This plan, you clearly got some coming to the back."** Latkovic, "**Not just car traffic. This is service delivery; trucks.**" Kostura, "**The people in Kensington Green, that was an issue with the fire lane. It was assured that, 'we won't have any cars for any reason'."** (refer to PC min 4-10-14 Pp. 14 paragraph 2 & 3. "Ostergard, "The other thing for me, the north road is strictly fire engines. How is the Village…") Ondrey, "**Our fire guy hasn't said if there is a problem with no fire lane."**

Set a special meeting. Kostura is not available on 7-24-14. Tonight is Sutliff's last PC meeting. Ondrey will tell Danielle Romanowski, fiscal officer, what to put in notice that will be sent to the newspaper. Ondrey, "The one topic will be review of plans submitted by the Lantern of SR."

Sutliff to Haibach, "Are you guys inspecting that?" Haibach, "It's not a public improvement. It's a private site." Sutliff, "Have you approved what they are doing up there?" Haibach, "I approved the storm water based on the revised drawings. Why didn't you (unclear) that?" Haibach, "I didn't get to see the buildings. They just said we're changing the ponds

around. The ponds are basically equalizing. Instead of having one long pond, they are having 2 round ponds. I did a check. They held the same capacity. The pipe sizes were all the same. The shape of the ponds were different & I didn't have an issue with that. They are holding the same amount of water. As far as the site layout, what they are doing with the buildings, I never even got to see that."

Heilman, "In my mind, when you approve a building or a project like this of the size that it was, it's like when a person puts an addition on their house. They are going to put on a 1,000 square feet addition & then they reduce it 500 square feet. They are going for less. So, it doesn't really raise a flag. If they were saying I have a thousand & now I want 1,200 that raises a flag. That's my thinking. That's why it didn't raise a flag to me. With the revised grating plan being approved by CT, I would not have flagged that." Ondrey, "In fairness to Laura, she was not at the PC meetings where we talked about some of these issues."

PC to schedule special meeting.

Informal discussion with developer, Bob Flesher about a preliminary proposal for a subdivision of 5-10 homes on the property between South Russell Park & Deerfield Drive. Parcel # 29-037900. Access from Bainbridge.

- Maps provided by Bob Flesher for PC to review: SR Zoning Map (1-2005), Village of SR Water Sensitivity Map, 2 maps of Preliminary Boundary for 7822 Washington Street Properties, LLC. One of them shows 5 new lots & has a notation, "Meets GW-2 septic, well". The second shows10 new lots & has a notation, "Meets R-1-A of public water, septic or sewer"

Solicitor Ondrey told PC, "My firm has represented entities connected with Bob in relation to developments." Flesher, "The same entity that is here tonight." Ondrey, "If the PC or Council at some point decides they'd like to have different counsel on it, obviously we wouldn't represent Bob's entities on it." To Bob, "If you're uncomfortable, we can find you independent counsel." The Mayor said he's comfortable with Solicitor Ondrey. Sutliff agreed.

PC & Bob looked at maps. Mary Beth Wolfe is in attendance because she is representing property owners, the Ketchel family. Fran Cahill owned some of the property. It was purchased by the Ketchel family. Total then, is 16 acres. Goal: Fletcher to develop the property.

Frontage is on Washington St. in Bainbridge, Ohio. Looking north, you come to a boundary of South Russell. In the last month, Fletcher had a meeting with Heilman, former Building Commissioner Hocevar & the Mayor. **Zoning question: what does SR believe the property is zoned: R-1-A with 10 lots or GW-2 with 5 lots?**

Flesher, "Total acreage is 16 acres: eleven acres of it is in SR, 5 is in Bainbridge. In SR, the area is zoned R-1-A. In the SR water sensitivity map, there is a category called GW2. If you read the zoning map it says R-1-A. Other verbiage in the community, says the GW2 takes precedent. There is enough to develop the parcel which would be well water & septics. If it is GW2, it cuts the density in half; 5 lots."

Flesher, "We're trying to find out (unclear) to utilize public sewer, which exists in 3 logical directions per Jerry Morgan of the Geauga Co. Sanitary Dept. (1) in front of Rob Myers house (9 Deerfield Dr.) (2) in front of David Maistros' lot (972 Bell Rd.) & (3) the old sanitary plant. On Rte. 422 - Washington St. - the closest one is 4,000 feet away."

Flesher, "If it were a 10 sub lot development, you could say septics are as expensive per lot as connecting to a public sewer. A public sewer could make long term sense. Jerry Morgan is telling me what I need is SR to help me get easements through either First Energy right-of-way, their property or up along the property belonging to David Maistros. SR would have to investigate & determine if a below ground structure like a sewer, could be placed in that sensitivity area."

Flesher, "We're trying to get a definitive answer from the Village & we're here to ask PC & the zoning commissioners where are we with the zoning? Purchasing this as a developer, I think there is a better market for lesser expensive lots that are 10 lots in density (R-1-A) than there would be for more expensive lots that are 5 lots in density (GW-2). Without knowing where we are today, it's difficult to make a plan. Our goal is to come back next month with our first submission."

Road: Flesher, "A road for Geauga County is pretty straightforward. It would be a Public Road, not a driveway."

Haibach, "The public road would extend from East Washington all the way up. This would be a public cul-de-sac." Flesher, "Correct."

Flesher points to either R-1-A or GW-2 drawing & says, "In this scenario, this would exceed what the maximum length of a spur road is. The difference between a spur & the other road in the development is that it is curvy."

Brett, "This property is in Bainbridge. It adds a layer of complexity. If it's a public road, then the Village would have to come out of the Village & go into Bainbridge. We wouldn't be responsible for the Bainbridge section, but we'd be responsible for the SR section."

Ondrey points & says, "This is not part of the Village because of the annexation. The county & Bainbridge might say, why don't you annex this so it's your road? You take responsibility for it. It's adjacent. That might be a way to address that particular problem. I don't see the county or township willing to take over & maintain a road that is doing nothing for

them." Ondrey thinks SR has a requirement that all roads are to be public. Ondrey, "I don't think we allow private roads anymore."

Sutliff noticed 60' right-of way. Flesher, "The opening between the property is 47'.1". Joe Rawtowski, a civil engineer, said you bring the 60' right-of-way up to this point (pointing to drawings.) Then you set up another 60' right-of –way." The property is almost 48'. Ondrey, "So that would require a PC variance".

Utilities: Flesher, "Dave Dietrich, Geauga County Planning Commission, said in this scenario, he'd love to see all the utilities on the west side of the roadway in Bainbridge. They would be brought underneath through conduits to the road & then brought up this side. They'd all be on one side of the street."

Haibach, "We'd have to look in the subdivision regulations to see if the road has to be centered in the 60' right-of-way. I'm guessing it does. Flesher, "If it's in the regs that way, then sure we would have to ask for a variance." Haibach, "A variance or work on getting an easement for this corner." Who owns the property? Sutliff points to drawings & said, "This is Rob Myers & this house has just been sold." Kostura, "How do you get a variance for something that you don't own & neither does the Village?" Ondrey, "The variance is for the 48'. You have to get an easement from the owners."

Haibach, "The subdivision regulations reference the engineering typical section. It shows the roadway pavement center in a 60' right-of-way." Width of pavement? Flesher, "24 feet, curb to curb." Ondrey, "It's a 60' right-of-way. " Haibach, "You can fit the road through there." Ondrey, "But will you have adequate right-of-way to then handle utilities?"

Brett, "What you are saying is, if it's a 60' right-of-way, the road has to be in the center of that right-of-way." Wolfe, "But it is only 24' wide." Haibach, "Right. The pavement is only 24'wide."

Water: Brett to Flesher, "Your first question was, what is the Villages stance on these 10 acres? Everything that you said is right. It is R-1-A that has an overlay of ground water sensitivity. This whole area is governed by the ground water, 2 acre zoning, unless there is some reason to say that doesn't apply. Maybe one of those reasons is, if you had city water. Barring that, that's our zoning."

Ondrey, "I thought if you could demonstrate that you have adequate ground water, you can still develop R-1-A." Sutliff, "I think that is the way it reads. Right." Ondrey, "City water would cure that problem." Sutliff, "Or a hydrological study." Ondrey, "Exactly. Or a study that says, we put it in this zone, but at this particular location, it looks like you could solve the problem."

Haibach, "The city water piece: I called Tim Landon, the engineer for Chagrin Falls, this afternoon. It's not an option to have city water." Flesher, "I think a septic in today's world is

roughly $18,000 per house. If there were 5, that's $100,000 worth of money that you could allocate by raising the price of the lot because they don't have to do a septic. It would probably be $100,000. of sewer work to get to either Bell Street or underneath the power lines."

Brett, "Either one of those, would have to go through Village property." Flesher, "Yes." Sutliff, pointing, "This is pretty high here. You may need a lift station." Flesher, "Exactly. I don't think that is something the Village wants. At some point in time that would be adding, just like a sewer, to the Village for maintenance." Brett, "The County has to maintain that." There's nice gravity down to the power lines.

Haibach, "If you're looking at the possibility of having sewer service vs septic & still on wells, how do you build the sewer service because it is always based on water consumption?" Brett, "Geauga County it's just a flat number."

Brett to Ondrey, "Trying to get a sewer line from either Bell or from Southwick, it would have to go through Village property. That's where we have the conservation property easement. Is it possible for a sewer line to go through that property?" Ondrey, "I don't know the answer to that. My hunch is yes. I don't know that without looking at the conservation easement." Kostura, "Is that a government activity?" Ondrey, "That's certainly an argument to be made."

Looking at eastern side of power lines, a dot on drawings is a sewer line on Village property. **Brett, "What the Village needs to know is: 1. Does the easement restrict it? 2. Does Village Council have an appetite to grant it? The other pieces, would CEI or Maistros grant you an easement? To Ondrey, we need to know the answer from the Conservancy.** Ondrey, "How much underground say do they have? We'd be disturbing the surface for a temporary period of time." Kostura, "I think a conservation easement, unless it otherwise says, includes all rights up & down." Flesher to find out answers from CEI & Maistros. Ondrey to find out info from conservation easement.

Ondrey to Flesher, "Are you proposing city water, Chagrin Falls water?" Flesher, "I'm not proposing anything. I've been investigating; there is an existing 8" water line that is fed from the Chagrin Falls reservoir eastward beyond Savage to the Beatty's house. It's a gravity fed line. It's a 2" line off of the reservoir feeding an 8" line. Its static pressure here (pointing to map) is 40 pounds of pressure, which is well below what a pressurized system would require. If you put a pressurized system on this existing line, with a new pipe, it would push this pressure somewhere towards 100."

Sutliff, "You can't reduce that or put a releaser on that?" Haibach, "You can, but the amount of infrastructure improvement to get a pressurized line through is probably not something Mr. Flesher would want to put…" Flesher, "Exactly. This is a very old line, maybe 80 years old. The integrity of it is not even worth the risk."

Flesher, "I called Jim Meers & talked to Mary, his wife. Mary pulled all the logs from Daisy Lane & Deerfield. He's put several of the wells in. Mary said that's a good place to start: demonstrating how much water is over there." Mary Beth Wolfe, **"How would PC like that to be demonstrated?"**

Ondrey explained what the commercial development on Chillicothe- the Lantern of SR- did. Ondrey, "They had HCW, Engineering Firm, do the study of the adjacent wells. That firm made a recommendation where the well could be located. The problem was, that firm didn't render an opinion about what was the impact on adjacent properties. So we **ultimately went to Dr. Eckstein & said here's their plan. Here's their statistics.** He went through a complicated formula. He determined as long as the Lantern water use wasn't going to be in excess of X amount of gallons, there shouldn't be any impact on anybody. I suspect that you have to go through a similar exercise & demonstrate if 10 lots each had their own well, he might make recommendations like sharing a well." Sutliff, "Or alternating wells; one to Sharon, one to Berea. He did that in Emerald." The Village views Yurem Eckstein as an expert & views his findings as very credible.

A study done in 2005: Ondrey, "If Dr. Eckstein is satisfied with the statistics from 2005, if he thinks they are adequate, we don't have the expertise to second guess him. He may say to you that's old news & I need more numbers."

Wolfe, "The reading said it's a recharging area, not that there was water sensitivity there." Ondrey, "When we did that zoning on his (Dr. Eckstein's) recommendation, it was to be cautious so we didn't get into causing problems for existing homes by drilling new wells. It doesn't mean it is impossible. It just means, this is an area that might not be able to support..." Wolfe, "That was before we purchased the park." Ondrey, "Yes."

Wolfe, "You're ok with us contacting Dr. Eckstein?" Brett, "For clarity, that's on your dime." Wolfe, "I understand." Brett, "Yes. That would be our preference."

Ondrey to Flesher, "Why did you think it would be an advantage to have sewers as opposed to septic?" Flesher, "I think perception. People are more inclined to want to be on a sanitary sewer." Wolfe, (a realtor) "They would prefer to have a sewer." Flesher refers to a septic contractor in Geauga County who "gets about 10 calls a week from people who are on 1 acre lots, 1960's, that are looking to sell. The Health Dept. basically says, we'll test your system, but it's going to fail. You're going to need a new system." Sewers solves the problem long term." Wolfe, "From a real estate perspective, with something new, that location is ideal. It's in the CF school district."

Pointing to maps, Sutliff, "That inner urban easement, who owns it?" It's about 20'. Sutliff heard it was abandoned & the adjacent property owner... Ondrey, "That's not unusual for old railroads - unless there was something in the deed that provided it differently. That would be

the norm." Sutliff, "That runs right behind my property. It's a 20' easement." Wolfe, "Are you going to give it to us Wally?" Sutliff, "I don't know. I don't know who owns it."

Brett, "We've talked about how this is zoned, the sewer. We've approached CEI on a couple of minor things & they shut that down very quickly. How would they feel about something that is going underground there, I really don't know."

Flesher, "Would the Village have an appetite to grant an easement or a variance?" Brett, "I doubt it." Kostura, "The other side is through the conservancy. They'll be hell bent before they let that happen." Ondrey, "Right."

Brett, "There are 2 different ways to do variances. One variance is to get the right-of-way wider. The other variance is to say we don't need 60'." Flesher, "We could apply for that & get an answer." Ondrey, "You could, but without a whole lot more detail of what's happening, you're premature."

Sutliff, "The one thing with a variance that you have in your favor is, without a variance, it makes that piece of property, totally useless." Haibach, "Unless someone wanted to put a single driveway through it." Wolfe, "Without a variance, you don't know if you can proceed."

Latkovic, "What if he did apply & try to do a private drive the whole way? Would that take care of the easement?" Kostura, "There is no right-of-way on a private drive." Haibach, "He'd need the variance to put the private drive in." Ondrey, "I'm not sure our standards of construction are a whole lot different between a private & a public."

Brett, "From a Village stand point, there are 2 pieces. One is a public road here (pointing to map). If it's going to be a public road, the Village almost has to engage in & annex this property." Flesher, "Dave Dietrich said it is pretty common between communities to have a joint maintenance agreement. He said it would be easy for Bainbridge & South Russell to satisfy. He didn't think annexing was ..." Brett, "If it's a public road & the Village has to maintain it, we'd have to come out of the Village to do it. A joint thing with Bainbridge, my guess is Bainbridge will want something out of that in order to do that. They'll want some of the tax dollars."

Brett, "So if it is a private drive that removes that issue, but we've had issues with private drives. Some of the private drives are: Paw Paw, Sugarbush, Sorrelwood, Alderwood. Years down the road, those residents come to us & say, we're paying taxes, you should pave our road. It's not an approved road. Once you go on Alderwood & you go off of it, each one of those is a private drive. They are responsible or paving & plowing.'' Wolfe, "They would be the same as Sugarbush & all the others." Brett, "Yes." Wolfe, "That's a newer construction, you haven't had any trouble with those." Brett, "Yes we have. We've had people contact us saying, I'm paying the Village taxes. You should be plowing my area."

Brett to Ondrey, "If we were to annex the property, do you remember how long it took us?" Ondrey, "That was easy because we were the owners of the property that was adjacent to

the Village. There was no need for County Commissioners to approve it." Brett, "They did approve it. I had to go & present to the Bainbridge Trustees. They had to approve it. Then it went to the County Commissioners. The reason I'm bringing it up Bob, it's a timing element." Wolfe, "I think it took about 9 months."

Haibach, "Our subdivision regs say, a private drive shall be prohibited in the development of subdivisions. You would need a variance."

Kostura to Brett, "Are you thinking to annex that whole piece of property or just the 60' right-of-way?" Brett, "I don't know." Kostura, "Because if other residents were on that piece of property, you'll have a fight from Bainbridge. If you are going to take the road…" Brett, "Yes. I don't know how this would exactly work. I would think you'd have to do it by parcel. There are 3. I don't know how this works. You might have to replat it or go for all 3."

Brett, "The zoning in Bainbridge is 3 acres. So you will own a piece of property that will yield only one lot. The new house would be built off a private drive." Ondrey, "What Bainbridge might be worried about, is we annex the whole thing, then the zoning is under our control."

Wolfe, "What is the appetite for the neighborhood? If you don't have an appetite for the neighborhood, then none of this makes any sense. So, does it make sense for us to talk to Dr. Eckstein, First Energy? Yes or no?"

Flesher, (talked to Rob Myers) "Rob said it should have been developed a long time ago. 10 houses, 3,200 – 3,500 square feet"

Feedback: Brett, "To answer your question, I'm not sure. Being the adjacent park owner immediately to this, it would change some of this park. That doesn't excite me. What you see now is just trees. Even with a buffer, I think you are going to see houses back there."

Ondrey to Wolfe, "How much cooperation would we get from the Western Reserve Land Conservancy if they know this is going to be developed?"

Wolfe, "A private drive seems less combative, easier to do. The only variance would be from the Village." Flesher, "We might need; I don't know the regs in Bainbridge." Ondrey, "I don't either." Wolfe, "If we get the right answer from Dr. Eckstein on the water sensitivity; if he says you can build10 houses back there, then it becomes very compelling. From a real estate perspective, they would sell."

Latkovic (pointing to map) "People walk along here. It's right on top of here (the building site). Aside from seeing homes, what is the appetite for people buying a house when you have somebody walking 20' behind it? I'm not making a judgment either way." Wolfe, "There is a little creek back there that Bob (Flesher) thinks needs a little water retention. " Flesher, "That storm water runoff has to be managed. So that NE corner probably is the only area that would be opened up. It's July. It's not December. I think in June, there is going to be

a lush, thick tree & lower canopy cover that is not going to be disturbed. The buffer is going to be in the back. Winter time, you're going to see houses."

Hitchcock, "What is Block A meant to be?" Flesher, "That's the retention area. It's just by topography now. Preliminary. It's all making sense that when an engineer is looking at it; where is the water going? Where is it running & collecting? There is going to be some retention in that NE corner or maybe its rain gardens or something else." Hitchcock, "Is it wet now?" Flesher, "It's an ephemeral stream." Wolfe, "The property there is relatively flat."

Wolfe, "Think of it from a sale perspective. You're sitting on the park. From the Bainbridge side, the Cahill property is almost blighted. In the wintertime, you can see it. It looks derelict. You can see the houses on Daisy Lane when you are in the back wooded area."

Feedback: Kostura, "I'm not opposed to it. I like the idea of less is more. 5 houses has less of an impact on the park & the properties around it. The way it is done, has got to be so that it is the least impactful on everything around it. I'm not sold yet."

Hitchcock, "I'm with Bryan (Kostura). The concept doesn't rub me the wrong way. The bigger lots for the sake of less impact seem to be a bit more appealing. If it's back there & it's usable, I don't see why I wouldn't consider using it for something."

Sutliff, "I think less is more. 5 lots would be nice. But I know 10 lots economically, makes a lot more sense than 5 does."

Latkovic, "We are a really good place to live. If there is an opportunity for more people to live here & be part of Chagrin, I think that is a pretty positive thing. I've got some concern about how this impacts - the Village put a lot of time & money & effort into creating these awesome resources. This is why people want to come & live in a place like this. I'm not saying 5 or 10. I think it's worth the time to investigate further."

Public vs private road: Flesher, "What about public vs private road?" **Brett, "If I had to pick one, I'd say, as much of a headache as they are, in this particular situation, private is a better solution."**

Ondrey, "I don't know if it is as simple as saying PC can give a variance. We can vary from subdivision regulations, like taking 60' down to 50' on a right-of-way requirement. When we have an outright prohibition on private roads, I would like to think about that. That may be something that only Council can wave. To me, it seems potentially different than …" Hitchcock, "Where is the prohibition? What is it in?" Heilman, "Subdivision Regulations & this certainly qualifies as a subdivision." Ondrey, "All I want to do is draw out a cautionary note on that one. I'm not sure if that is solved by saying a variance could be granted."

Flesher, "Were the subdivision regulations drafted after Emerald Lakes II?" Ondrey, "No. I'm sure they were in existence before Emerald Lakes II." Flesher, "How did Sid Simon

weave his way through?" Ondrey, "Simon was able to negotiate court ordered settlement agreements with the Village because he had successfully challenged the Village's zoning of the property. It resulted in settlement agreements that got amended a few times along the way afterwards. You can't necessarily draw comparisons between everything that happened with Emerald Lakes II & what happens elsewhere in other subdivisions. He had some leverage."

Latkovic, "Some feedback on the drive, I would agree with Matt (Brett) preliminarily from what I've seen & heard & understand. Private drive seems to make sense. But in this situation, it may be more difficult in how to approach it."

Hitchcock, "I would agree. For being so far out of the way & the added burden of maintenance - I don't know if the extra tax dollars make up for it – **it just seems it's more of a headache to be a public road than a private road, if that's possible."**

Heilman, "How do we know that Bainbridge would allow a private drive?" Flesher, "I'll go & talk to Dave Dietrich tomorrow & find out which way to go next in approaching Bainbridge or Geauga County.

OLD BUSINESS:

Re: Lantern of SR, 5277 Chillicothe: Brett, "Two weeks ago we had a very large rain that caused a lot of muddy water to go from that property (the Lantern) underneath 306 & go into the first lake…" Haibach, "First two." (Referring to lakes in Chagrin Lakes development) Brett, "We've heard from a half of dozen residents of Chagrin Lakes. I've been in contact with the President of the Homeowner's Association. We've been in contact with Jean Makesh .. There is a fair amount of concern there. I think that our Building Department & Engineer did move swiftly when that large rain hit to have them bolster or increase what they had from an erosion control & sediment control perspective. It was a huge rain & there is clearly material that would have gone into those lakes. What happens, we have to work through that."

Hitchcock, "Is that something that would subsist over time?" Haibach, "It will absolutely settle out. One of the issues, in talking with the homeowners, that is largely a lean clay. The particle size is so small. Once that gets riled up in suspension, it takes a long time to settle out. The particles that were easily seen in the chocolate milk color in the first pond were starting to settle out & then this past week we got another decent rain. We checked the site. There was clean water running off the site. That clean water running into that pond & rattling it up again…" Hitchcock, "So it looks worse than it actually is." Haibach, "Yes. There has been no substantial or measurable amount of sedimentation that has come off the site since the first event."

Sutliff, "Did they have copper sediment controls in place?" Haibach, "They had sediment controls in place before the big rain. There was so much water that came down through there, it got over the top of the silt fence & it was spilling over. We had them substantially bolster that."

Brett, "The other thing that occurred is, within a couple of days, the lake formed a green slime thing to it. Whether there is any connection to it, I don't know if we can say that it did or it didn't. **I've asked Jean (Makesh, owner of the Lantern property) to have the water tested & get the results of that so that we know."**

Latkovic, "That may be temporary, but seriously, that hill in the back is just enormous."

NEW BUSINESS:
-NEXT MEETING: special meeting on 7-22-14 at 7:30P.M. & regularly scheduled meeting will be 8-14-14 at 7:30p.m. if there is something on the agenda. Kostura is not available for meeting on 8-14-14.

Heilman received a call from Chris Wilbur, 552 East Washington St. He may come to PC to discuss opening a carry out pizza shop. In February 2014, Mr. Wilbur approached the Building Dept. about a carry out pizza shop then withdrew his application.

Chairperson Sutliff's official retirement is 8-1-2014. He is not available for the special meeting. Brett nominated Steve Latkovic as the chairperson for PC. Hitchcock second. Brett, "I make a motion to elect Steve Latkovic as chair of PC." Kostura second. Roll call: Latkovic abstains, Hitchcock yes, Sutliff yes, Brett yes, Kostura yes; all ayes. APPROVED

Sutliff, "In 30 some years, I've enjoyed it, seen the Village change a lot, but looking forward to moving on." PC members, the Mayor & Solicitor Ondrey addressed some of the highlights during Sutliff's tenure, thanked him for his dedication to the Village & his many years of service: 31 years.

There was no further business. The meeting adjourned at 9:05p.m.

Maggie Tomaro

Chairman Walter Sutliff

Maggie Tomaro, secretary

Newly elected Chairman, Steve Latkovic

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION, SPECIAL MEETING
7-24-2014 7:30P.M.

1. ROLL CALL: **Chairman Steve Latkovic, Mayor Matt Brett, Andy Hitchcock**

2. MINUTES: TO BE APPROVED AT REGULAR PC MEETING ON 8-14-2014

3. AGENDA:

REVIEW STATUS OF ASSISTED LIVING FACILITY, THE LANTERN OF SOUTH RUSSELL, 5277 CHILLICOTHE ROAD WITH ARCHITECT, TIM MULLE
NO ACTION
Some of the concerns expressed by PC & resident from Chagrin Lakes Club:
1. Latkovic, "What about the properties to the north? There is virtually nothing to the north blocking the site or sound." Mulle, "There would need to be more of a vegetative screen put in as part of landscaping to help conceal that." Latkovic, "I would suggest that is something that you want to address."
2. Brett, "The delivery of services & what you have in the back there, I have an issue with that. Significantly bolstering the screening back there would be one step. Moving it would be another step. I want to make sure that the plan that PC sees is what is then built."
3. Hitchcock, "My concern is getting feedback from the people who live near that & to understand these changes & how they feel about those..."
4. fire lane: SR Fire Prevention Officer, Jim Davis; ascertain from him requirements to be implemented on site & inside facility
5. CLC lakes

4. OLD BUSINESS: None

5. NEW BUSINESS: NEXT MEETING: 8-18-2014 AT 7:30P.M.

6. ADJOURN: 8:50p.m.

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

RECORD OF PROCEEDINGS
MINUTES OF THE PLANNING COMMISSION: SPECIAL MEETING
JULY 24, 2014
7:30P.M.

MEMBERS PRESENT: Chairman Steve Latkovic, Mayor Matt Brett, Andy Hitchcock

OTHER OFFICIALS: Laura Heilman, Building/Zoning Inspector, David Ondrey, Solicitor, Eric Haibach, Engineer
ABSENT: Bryan Kostura

GUESTS:
Tim Mulle, 8500 Lucerne Dr. CF, 44023 architect for Lantern of SR 5277 Chillicothe Rd.
David Hocevar, 8460 Lincoln Chesterland, Oh 44026
Jim Ohneck, 5233 Maple Springs Dr. (Chagrin Lakes Club development)
Joan Demirjian, Chagrin Valley Times

Chairman Latkovic called the special meeting to order at 7:30 p.m. No minutes to approve. Brett reported that Council approved the appointment of Geauga County Prosecutor & former SR Council member, Jim Flaiz, to PC. He is not available tonight for the special meeting.

Review status of assisted living facility, the Lantern of South Russell, 5277 Chillicothe Road

7-17-2014 letter to Jim Davis, Fire Prevention Officer
7-21-2014 email response from Jim Davis attached to minutes

Latkovic, "We'll move into our agenda, the assisted living facility. Last time we met at our regular meeting (7-10-14) we were provided some updated information on the project. It looks like it changed pretty substantially from Planning Commission's perspective. We've invited the developer back to walk through that & relook at the project, understand what's changed, why it's changed, if that makes a difference from Planning Commission's perspective."

Tim Mulle, "I'm the architect for the project. The owner (Jean Makesh) is not here. He is out of the country."

Mulle brought 3 boards: 2 are site plans – original that PC approved (4-14) & a different one that ABR reviewed & approved (6-14). The third is a 5' drawing showing sections of the site. Mulle, "Up here first is the original site plan of the project. Timeline: Mulle, "End of March beginning of April, after having done initial pricing on the project & some internal evaluations, the ownership made a decision to downsize the project. **Originally, the original scope was a building that was in excess of 100,000 square feet with space for 110 permanent residents.**

The ownership elected to reduce the scope of the initial construction & work things into a phase kind of approach. Build a structure that is somewhat smaller & allow some flexibility to perhaps enlarge the facility latter, depending on market conditions etc."

Mulle, "Originally there were 3 pods to the eastern end or rear of the property. We choose to eliminate those. For that portion of the building, cut it in half. There were 3 pods in the back. There were 3 pods in the front. We dropped the 3 pods in the front. However we stretched their length a little bit. So, we end up with a hybrid. This modification was not done in secrecy. We shared it with the Building Department with the ABR."

Mulle, "What we have done, of course the rear of the building has been pushed well forward on the site from what it was previously. (Refers to boards) The first plan had us all the way against the rear setback line. We are now about half that distance. That rear setback line was a 100' setback as is required by the Village ordinances. Now the rear of the building is closer to 400' from the rear property line."

Mulle, "The design of the building hasn't changed in terms of its outward appearance. All of the elements of the building, as it exists in this version, (original board) are the same as they were before. We basically just shortened it. The house component at the front is still there. Everything that we're doing at the front of the property is the same. We still have this circle drive in between the existing farm house & the new structure. These 3 pods are essentially the same. As I said, we extended the length of them. So we didn't exactly cut the building in half."

Service building: Mulle, "The other thing that happened - previously in this version (original) where we had 5 residential pods – **we had the service building to the side.** (towards southern property line) So the kitchen, the laundry, those kind of central support functions were down on this side of the building with a corridor that came in from that area & allowed us to move in both directions from the center. What we are **doing now with a smaller footprint is we are bringing that service entrance in the back in the center.** As you start looking at the plan, it just doesn't make sense - the efficiency & functionality of it- to have service down here."

Brett, "For clarity why PC has asked you to come back & get approval on this is, as we started to look at the differences, to me that is not a minor change. That's a very significant change. **I think PC**, along with the people who work here, was **very concerned about what was at the back of the property; what was facing toward Kensington Green. Now that this is redesigned & having a drive that goes back there, parking that goes back there & services that go back there, to me that is more than a minor change. That is a significant change & something that we had clearly talked through & we did not want."**

Mulle, "In the first plan, the building came all the way against the rear setback line. The service came around the backside of the service facility. It still came around the back side. Obviously, there is orientation that is different. We also had this **fire lane**, which was an important topic in various discussions, that went around the building. It was required for that larger footprint. What has changed that is pretty significant; this building is not 100' from the rear property line. It is now 400' from the rear property line. It has moved a significant difference. A significant amount of space is now at the back of this property. And yes, the service drive comes over here now instead of to here, as it did before. It still comes around to the back side. It just comes a little farther this direction."

Fire lane: Mulle, "We no longer have the fire lane going around the building. That was eliminated. We were able to eliminate it because the smaller footprint no longer requires us to have a full loop around the building. We eliminated the fire lane & as we all know that was not very popular amongst the residents."

Earth mound: Mulle, "What we've been able to do as a result of these changes; we are constructing a significant earth mound at the back of the building that totally conceals everything that has happened. The other drawing that is here is a 5' long piece of foam core showing sections of the site. What the building did in the (original) version, it came all the way back here. (pointing to drawing.) There is a heavy tree line on the property line between the neighborhood (Kensington Green) & this property."

Brett, "I'm confused because you are presenting 2 different things. One is, this is phase I of the original project & 2 is that." (# 2 & #3 boards) PC had approved a design. I understand if you shrink it & didn't change anything else. Theoretically, I don't think there'd be any issue with it. As you are talking about it, you still could extend to the back of the property." Mulle, "It's certainly possible that they could do that expansion at some point down the road, which would then have to come back to the Village for approval." Brett, "Would it?"

Brett to Ondrey, "PC approved plan 1. So is Plan 1 null & void & we're only considering Plan 2?" Ondrey, "We approved plan 1& when we did it, my recollection is there is a recognition that the whole project might get phased in. If we stayed with that footprint & simply eliminated a few of the buildings, kept everything else the same, I don't believe that they would have had to come back to build the back end.'

Ondrey, "You could certainly make it, any approval that you give with this new design, make any future expansion contingent upon your future approvals. In other words, require them to come back."

Mulle, "In whatever amount of time, next year or 5 years from now, to do an expansion would require getting new building permits. It's not like they can come out & continue to build. They would have to create a new set of drawings & submit them for a whole new set of approvals. The building permit that will be issued for this project is going to be for the drawings that have been submitted, which is for this smaller project."

Ondrey to Mulle, "What I'm saying is, if this new plan gets approved by PC, I think it's perfectly legitimate for them (PC) to condition any future expansion coming back before PC. If you had stuck with the old plan, I would say that you don't need to come in."

Mulle, "Any time you change a building, things change. It's not as simple as chopping off the building." Latkovic, "That was not how it was presented to us. It was presented as not putting in additional pods & when you expand, you just add additional pods. What was presented was very straightforward. Now you are saying something very different. From plan I, the original design, we approved the plan. If you didn't build that entire one out, it was because you didn't add a couple of pods. Nothing else would change. Down the road, you'd simply add on pods. Now you are saying, that is not actually the case. It would be a significant change to add onto the facility."

Mulle, "No. That is not what I'm saying. What I'm saying is, when you build half of a building, sometimes there are modifications that need to happen to support that. If I were to come back & build the rest of what is not being built now that was in the original plan, that is going to require some changes to occur to support that. For instance, as we look now at bringing a **service drive** around to here; which is being done because it makes this building operate more efficiently in this smaller configuration. That's exactly what it is. Instead of bringing the drive around back of something here, because it was a much larger footprint, (plan 1, original) it's a smaller footprint (plan 2). It makes this building work better having that service here (plan 2) than down here (plan 1, original). **If we come back & build the rest of the building, this goes away. That has to be eliminated. That service building would have to be built here as it was in the original plan. That drive would go away then."**

Brett, "I understand that it makes it work better for the building & the project. My issue Tim is that it is different from what was presented to us originally. That's why we are here tonight."

Brett, "It sounds like you're in agreement that yes, this is fundamentally different." Mulle, "Yes. There are things that are different." Brett, "Was your plan to come back to PC?" Mulle, "What we did was present it to the Building Department & the ABR, so if we needed to come back somebody would have directed us to you guys." Brett, "That's what's happened."

Brett, "Do you think this was a significant change?" Mulle, "I don't think I see it as significant of a change as you guys do."

Service drive & building: Latkovic, "I do & it's a bit frustrating. We spent a significant amount of time talking about a few things. **The service entrance was on the south side of the building. It was never characterized the way you characterized it tonight, pulling around the back. It was always the south side.** That's a change & it's meaningful because there is a stand up difference there. We should have been aware & you guys just didn't tell us."

Hill/mound at eastern part of property: Latkovic, "The other problem is I pull out of my street, Sheerbrook, & I see a gigantic hill. Is that meant to stay there? My concern is water drainage, specifically back in Kensington. We had talked in the meetings, how the land would be lowered & not raised because of water issues."

Mulle, "The mound that is back there right now is the result of the excavator cutting this portion of the site. As he has cut this portion to create a flat building pad; again we have a single story building for elderly. The idea is not have level changes inside the building. We have a site where elevation changes from 306 over a thousand feet to the back of the property over 20 feet of rise. What we've done in this portion where the building pad is, we've cut the grade to make it flat & then we put that rise on the site behind the building. It creates a mound."

Mulle, "The mound that is out there now is not final. A lot of what is on top of that mound is top soil & it will be put back into the site once the building is up. It'll go around the building & into the courtyards. **There still will be a mound back there.** We presented that before. We had that in the original plan, but it was pushed more to the back because the building came back here."

Haibach, "I don't think the plan that PC approved had a mound in the back. It was cut down, never mounded up." Mulle, "Yeah. At the back of the building, the site came up." Haibach, "Right. But, there was not actually an embankment on top of that." Mulle, "No. No. It came up & went flat. Because it was that far back on the property, that slope was greater."

Latkovic, "The difference though is that you are talking about increasing the height of that. **In the first plan we approved, it was at surface level & digging straight down. This is actually mounding up."** Mulle refers to dark line, "This dark line is the existing site grade. This dimension is about 5 feet." Latkovic, "You're only talking about raising it 5 feet." Mulle, "But it drops down. The back of the building is down here (pointing) & that service area is down here & the hillside goes up about 12 feet."

Brett, "The way I would describe it is, they cut in a bowl. This would be placed inside that bowl." Mulle, "Right."

Ondrey, "I don't think they are cutting a bowl anymore. They've cut from the front. What was represented to us was to achieve the level floor they were cutting in the back & going this way. What they've done now is carve out from the front & they are making a mound out of that. I don't think there is any future cut coming to the back. That may work better for the neighbors. I don't know. But, it's definitely different than what we approved."

Haibach, "It does work from a drainage standpoint & grading. **The initial site plan that PC approved was simply existing grade cut out to the street. This is existing grade with about a 5' mound & then a cut & out to the street."** Haibach to Mulle, "The way you have the mound situated on the revised grading plan, the water still gets around & it'll still go to the same place it did before. **I don't have a problem with it mechanically & grading wise. But, it is different."**

Ondrey to Mulle, "What about planting the mound? Are you intending to put pine trees or any screening on it?" Mulle, "Yes we are kind of illustrating that here in a very simplistic way. The whole idea behind doing this was an effort to try to continue to create privacy for the neighborhood in that view; the back of the building. One of the things that we had explained with the original plan & having that cut at the back of the property, from the neighbor's perspective, we were sinking the building. Their view would be roof tops. They would not see the back side of the building. We were trying to conceal that. The response that I thought I heard was that was a very positive thing. That was a welcomed solution."

Mulle, "What we are trying to do now, is continue the same concept with the building being almost 300' farther away from those neighbors. (Kensington Green) I see this as a significant improvement if I were one of them. We still have somewhat of a cut, but we don't have as much of a cut because the building is so much farther forward. When the building came back to here, (original plan) there was a more extreme cut in the grade because that grade was continuing to rise as it goes to the back. Now that we are farther forward, we don't have as much of a cut. What we did to compensate, was to put more of a mound on that slope in an effort to maximize the visual screening for the neighbors. As the site drops, that person's (say he is 6') eye view hits the roof line of the building. That's how much lower the building sits."

Brett, "That's the way it always was. **That's consistent with your first plan. Correct?"** Mulle, "Yes, but what is different, with the building being this much farther forward; **when the building was back here, it wasn't the same. It's a different condition now because the building is now 300' farther away."**

Ondrey, "What kind of activities are you anticipating around that service area?" Mulle, "Its daily deliveries: food service deliveries. Garbage is going to be going out. Food & other supplies are going to be coming in. Laundry is done internally. They clean the laundry in the building. It's not sent out."

Ondrey, "Can you address the timing? For example, will there be deliveries at 6:00 am in the morning? " Mulle, "I don't know. That's an operational question."

Brett, "Those are the specific issues. I understand your intention of the mound. Comparing the new plan to the approved plan, the idea of a trash truck coming in for the neighbors to the east & to the north, it's not even close to them. It's blocked by a building. It's blocked by the rest of the building & that was important to all of us. **I will tell you trying to put parking, a driveway and service delivery back there is an issue & I'm not in favor of it."**

Fire lane: Latkovic, "The other thing is we have a note from the Fire Marshal (7-21-14, Jim Davis). Apparently he is going to try to have a fire lane around the entire building. Have you had those conversations yet? If you need a fire lane, can you fit it in? How does that work?" Mulle, "The conversation that we had with the fire department was that the building, at a smaller size, didn't require a fire lane. It has to do with distances for being able to stretch a fire hose. Trucks have the ability to park at the front of the building & the back of the building. It's not necessary with a smaller size to have a lane that goes all the way around."

Brett, "I think our fire prevention officer, his take is, he hasn't seen enough of the plans to be able to weigh in on it. But he is concerned. I think his inclination is that a fire lane is probably required."

Hitchcock, "If you were to expand in the future, does the footprint of what we are calling plan 2, have to be altered to allow for a fire lane to go all the way around?" Mulle, "Which is what we had at that time. What I'm saying is this larger building (plan 1) had a fire lane that went all the way around." Hitchcock, "But, if you don't put that in now, is expanding feasible in the future?" Mulle, "Yeah you'd have to put it in as part of that expansion." Hitchcock, "So the footprint of plan 2 has not changed north or south or east or west. You just cut off part of the back of the building." Mulle, "Correct. The front of the building is still in the same location. The north side & south side are in the same location. The only change to the building footprint is on the east side, it moves forward. As you would expand that, you'd be pushing back. (east) The front stays the same which is on the 300' setback line. "

PONDS: Latkovic, "I noticed that the ponds are a little different because plan 2 you have a pond on the north side where in plan 1 you had to maintain flat area for the fire lane. What's going on with the drainage, water? They are slightly different with how it looks now." **Haibach, "I checked that. The drainage calculations are still valid**. In plan 1, which was approved by PC, there was a long, thin pond along the property line. That has just moved & become a more rectangular pond." Latkovic, "How much does the second, the smaller one to the

north, impact that? My concern is if we bring the fire lane down…" Haibach, "Right. There is not enough room. They would have to do some regarding to that drainage around the side of the building to put the fire lane in if they expand the building back."

Time line: Hitchcock, "I think I heard you say earlier that it was around March or April that you guys said, economically speaking, the full project isn't feasible right now so you are scaling back to what is now plan 2." Mulle, "Yes end of March, beginning of April." Hitchcock, "That was before we approved this plan." Mulle, "Uh huh." Hitchcock, "So you came to us knowing that you weren't going to do what you presented to us." Mulle, "That was when the ownership was having discussions about the feasibility. When we were directed to make changes & modify drawings was in May. We modified drawings in May & completed them the first of June which is when we submitted them for plan review." Hitchcock, "It seems like less than full disclosure."

Questions about new plan: **parking lot in back:** Latkovic, "There are a number of questions that are still open. The back with a parking lot really concerns me. Maybe there is enough space there. We had to have a special meeting. Yes notice goes out, but it's not a regular meeting. I certainly would have been in favor of having had the opportunity for people who live back there (Kensington Green) to make a comment & view this. They don't have the opportunity. **It's fundamentally different**. I'd love to hear from ownership & ask what was going on with this. I can appreciate the inner workings of a Village & the people involved, it's part of the risk that a developer takes on to make sure that you are going through the right process. The way in which we found out was a bit frustrating. Now there are a lot of questions. **I'm not sure that I'm prepared to approve this**. I don't know what that means tonight. What do we do next?"

Decision that can be made re plan 2: Brett, "We don't have to approve it. You could approve it. You could table it or you could deny it. My take, **given this change, I'm not in favor of it**. We all were concerned about the noise & any kind of traffic going behind that property & to the north. A mound is nice, but these are very different things. Having those services now in the back, it's very, very different from what was presented."

Mulle, "So how do issues on a site like this & a project like this; there are Village ordinances that define what the buildable area is & what configurations are & what you are allowed to do in terms of parking & all of these other components of the project. There is nothing that is on here that is in violation of those Village ordinances. So, how does the process work? What I'm hearing you guys say is, you don't want to have any kind of vehicular access to the back of the building at all. The Village ordinances allow for that to happen. So, how does that work?"

Ondrey, "The ordinances give the PC the ability to make judgments about the appropriateness of the layout; not just from the standpoint of meeting dimensional requirements & density of the forms, but literally the traffic pattern & the flow, the impact on adjacent properties. I think what you are hearing is that the plan that got approved, you had persuaded the PC that it was a satisfactory product. Unfortunately, that was not put in front of the ABR. The only thing the ABR could approve is the plan that this PC could approve. Our position is, we do

have discretionary authority to make judgments about appropriate layout, apart from whether or not it meets zoning requirements & other building permits. The issue, therefore of noise & impact on adjacent properties is something that the PC, in my view, can legitimately concern itself with."

Ondrey, "I think the dilemma is, I gather we have a significant amount of excavation. Has any actual construction begun?" Mulle, "No." Ondrey, "That's a good thing. I'm sure you are anxious & the owner is anxious. **So, I think it's in everybody's best interest, if you are not ready to approve, then we schedule a meeting & give notice to the neighbor's so that a comment can be made. Tim (Mulle) in reaction to what you are hearing tonight, maybe you can find some way to restore the service area to the south line. I think that is probably the most critical issue we are hearing about. The fire lane has got to be worked out. We don't know if it is going to be needed or not."**

Mulle, "If the **fire lane** has to go around this building, then that lane would have to come around like this (points to plans)." Latkovic, "**It's not the access that is the issue & please try to keep these two issues separate. It's the use. In the original plans, the access we dealt with because it was a necessary thing. But, the idea was, it would be infrequently used & critical. This is very different. This is often used daily. They are totally different things.** Whether a fire lane is required or not, in my view of how this works, it's not relevant to whether or not the rest remain behind it."

Latkovic, "I was a little surprised. You guys have been very good I thought in trying to accommodate being in a Village like South Russell with its residents & the ownership understanding that. Really this is kind of the opposite."

Mulle, "I totally disagree with you on that because we are very much attempting to do that. When we had the service building that sat here (southern side of property) on the previous plan, this driveway; & we still had parking on the south side of the building & we are maintaining the parking on the south side of the building & it was a bit larger then because the building was larger so that parking lot had to be bigger. At the end of the parking lot, the service drive came around like this (points to drawings). I kept that exactly the way it was. I cut off the back of the building. I didn't change anything relative to service drive. If I had kept the service building here, I would still have a service drive right here. (points) Those vehicles would be coming back here. This is still wide open back here."

Mulle, "What is different is that drive now comes up to here (points) instead. That's the difference of what we are talking about." Brett, "But it's not Tim. I totally disagree with that. Can you pull up the other plan? **(original plan/plan 1) If you are the property to the north or if you're in Kensington Green, you're not going to be able to hear or see that from the property to the north or from the properties of Kensington Green because you had that whole building there."** Mulle, "Right. We don't have that anymore." Brett, "What **you are presenting is that this is an insignificant change. I'm telling you that that (plan 2) is much different from that." (original plan/plan 1)** Mulle, "Because this was eliminated." Brett, "That's one big reason. The other is that you are moving it to the north."

Mulle, "This was subtracted (rear pods) & what this building was doing before, it was blocking the view from up here of what was happening down here." Brett, "That's right." Mulle, "Now that's been subtracted. I don't have that anymore. The cards that were dealt to me is that, that building that was there is now gone. What am I going to do to try & react to that & try to maintain a quality solution in an effort to try & keep everybody still happy?"

Mulle, "If I take the building out & I leave the service where it was, it is right here. (points) That's where it was. If I had it right there, would that be considered ok? I don't think you'd be happy with that either." Brett, "I'm not thrilled with that. I feel quite frankly as if we've been duped to a certain extent because what **we had approved was a full plan. What we had heard was, so that you know, this may come in phases. Now there is a different plan. A different plan requires a different approval. This is different. It's not just lopping off the back because when you loop off the back, it changes it."** Mulle, "Yes exactly. That is my point. It does change it."

Brett, "Just because it changes it & it changes it in your perspective of how you think it needs to be done, or how the ownership thinks it should be done, does not mean the PC should summarily say, oh that's fine. We have an obligation to our residents. I think we bent over backwards to help this project. I think we've been very, very, very fair in everything that we've done & will continue to be, but I'm not on board with this."

Latkovic, "At a minimum, we need to better to consider this. We need to understand the topography of this mound. Now back there, I don't know what that is. You're saying it's not going to last & it's going to be different. I'm pretty close to Matt (Brett) on this. But I'm not going to say, summarily I wouldn't support this. But it's going to be really tough. Part of this is the way that it's played out frankly. I totally agree with Matt that it feels like this was very much changed on us. What is shown now; I'm not really comfortable that the way it'll be done now is actually going to comply with the spirit in which we all agreed on this. There is a certain amount of that that needs to go into what we approved, how you guys work. We can't literally oversee every single piece & detail of it."

Latkovic, "We need more information. I really want people from Kensington to have an opportunity - maybe they will be happier with this. Right now all we see is a giant mound & you wonder, what is going on with the grading, fire lanes? There is just too many questions."

David Hocevar, former SR Building Commissioner, "I spent about 2 hours back on the site today walking it. I think for everybody to appreciate what is going on there, you ought to visit that site. Not in defense of the builder or the architect, this is a much better plan. If you look at the mound - where the mound goes in the back of this building – Kensington is a lot more covered than they are ever going to be. I paced it off from the house to where the buildings are going to stop, to where the existing mound is going to be, roughly where it is supposed to be. This is just a stockpile. If we can get them to stake this out & show you exactly where it's at, you might have a different outlook on this. Walking it this afternoon & looking at it, if I were a Kensington resident, I'd be damn happy it was here."

Hocevar, "I think PC should look at it. I think the builder should lay something out & say here is an elevation. They've got grade stakes back there on these mounds. They've got the footprint of this building; pretty much where you could pace it off. I think it's better looking.

I'm not speaking in defense of this. I think it's fair to the Village to look at this & say here is where it's going to be. Then come back with a determination. If you don't like it, then I'd say ok." Latkovic, "Maybe it's better. Again, the way this has played out, I think we need more information."

Mulle, "What I keep hearing is that you feel as though you have been duped & that the ownership has been pulling the wool over your eyes somehow. I can't speak for them. I'm not ownership. I'm a consultant. What I know about this & how it transpired is there was a course of events of changes needing to be made & trying to implement those changes & trying to move through that process which on a project this size can be unwieldy to try to implement. Nothing was done in secrecy. Everything was very open with all the people we've been dealing with, with the Village about what was happening & what we were doing. If it didn't get to this commission & it should have, that is certainly unfortunate. That's through the innocence of misunderstanding. That's not through intentional subversive behavior. It's important to state that."

Mound: Mulle, "The effort that has been made to try & incorporate this mound is entirely an effort to try to continue to maintain visual screening & privacy for those residents from the back of the building. Unfortunately, there has to be a back to the property somewhere. We now have a building that is much farther away, which to me should be a huge advantage for those residents for this building to be 300' farther away than it was. A lot of what I was hearing in the comments from the residents was, we are going to look out our windows & look right at the back of this building you are putting up. We've been trying to deal with that all along in this process. That is part of the reason why we tried to sink the building originally & that is what we are still trying to do now. We are trying to take advantage of the fact that we are much farther away. That should be a huge improvement for these folks & we are trying to create additional screening & privacy via the topography in that mound. It's not like we are building this big, huge mound. I know you go over there & you look at it & it looks like you parked a blue whale in the middle of the property. It's big. A lot of what's out there is going to get moved as they continue to work the site & build a building."

Mulle, "There is going to be in this plan, recognizing that yes it has not been approved, in this plan there is still a mound. As you look at this in perspective, it's not like it's a big, gigantic mountain that is being constructed. It's not that significant. What is significant is on this side, this whole area behind the building is depressed. It's sunken & it's out of sight."

Ponds: Latkovic to Haibach, "Have you seen the plans for this plan 2; complete from a water…?" Haibach, "Yes, I have a grading plan. The grading functions & flows very similarly. It splits from the back. Part of it goes to the north. Part of it goes to the south. The location of the pond to the north has changed as the configuration of the pond has changed. Instead of a long thin pond, it's now a more rectangular pond. It's more symmetrical with the pond to the south. It's equivalent volume. The runoff will actually be less because there is less paved area & less roof surface. But the ponds volumes are still (unclear). So if they expand this, they are not going to have to do much to the pond because they are sized for the full building. From a grading perspective, it functions very much like it did before, although the layout, especially the north pond is a little different."

Brett to Mulle, "What else is different between plan 1 & plan 2?" Mulle, "The only other thing that is different is that they are not doing the renovation & addition to the barn." Brett, "What happens to the barn?" Mulle, "Just maintenance, cleaning it up, put new siding on it, new roof & shore up the faults that exist in the structure because of water damage. It'll be for storage."

Hitchcock, "That was originally going to have a pool." Mulle, "The original plan was to do a pretty significant renovation of it & add onto it & connect it to the new building. In that addition & the connector was where that circulating exercise pool was going to be located. That's basically it."

Latkovic, "Aside from the service entrance, what else would that back parking lot be used for? Is there going to be parking back there? Is that going to be the primary entrance now? That looks like what it is; for workers, facility staff. " Mulle, "We included several parking spaces back there for convenience as part of the delivery process to come in & out of here. The primary parking is still over on the side." Latkovic, "Where would staff enter?" Mulle, "Staff would still park over here (points) & come in the side of the building."

Pump house & dumpster site: Hocevar to Mulle, "Another thing that is not on the drawing that they should recognize - it's not detrimental. There is a pump house going in there. It's not on the site plan. It's going between the back of the building & the dumpster site. It's a 16' X 24' pump house." Someone asks, "Where are the dumpsters? Are those the 2 little boxes to the north right before the mound?" Mule, "Yeah there's a wall enclosure within which the dumpster would sit."

Brett to Hocevar, "You made a comment that you think this (plan 2) is a better product for the folks in Kensington Green. I am going to challenge that. When a trash truck comes in at 6:30a.m. in the morning, how is that better than that (pointing to plan1) if you live in Kensington Green or to the north?" Hocevar, "I don't know about 6:30 am in the morning. If you went to the original plan, to the back of that 300'; as Tim (Mulle) was saying, if you walk that 300' with the size & elevations of that mound, I don't know if you are going to hear anything back there. I'm just saying if you really look at this plan & study it & go out in the field - again I'm not speaking in defense of this - going back & looking at it, that mound is going to do a heck of a job for Kensington Green as far as shading & noise & appearance of the back of that building."

Hocevar, "The pump house is not on there. That should be. That is an issue that we have to address because I didn't want to come back & say, this pump house wasn't here. It's a 16'X 24' building between the dumpsters & the rear of the building."

Mulle, "The pump house is right here (pointing). What that's for is the fire suppression system. It's a small building with a simple roof on it. There will also be a second pump house that will be located down in this area somewhere. (southern area) That's going to be for the well system. The reason that that doesn't exist yet, with having to do well water, it forces us into a design build process because they have to drill the wells first &then test the output on the wells. That information goes to the EPA. The EPA basically designs the system at that point in time."

Latkovic, "In the original plan, the garbage bin area was directly south because of a separate access drive. Right?" Mulle, "It's right here." Latkovic, "To Matt's point & Dave

(Hocevar) I totally understand what you are saying. I can see that this mound can potentially do it. It's much further away. **Is it possible to move that garbage bin somewhere further south?** So instead of up there, move it south of the building." Mulle, "Yeah." Latkovic, "That's your service area. I understand why you want to have the trash; that's the problem. Garbage trucks are loud. At 6:30 am in the morning, you are probably going to hear that thing."

Ondrey, "The one thing I do want to suggest to you that **could be explored is putting a limitation on how soon those deliveries can start. The municipality has the ability to set hours of operation. You can't put anybody out of business obviously. We may be able to dictate, no delivery before 7:00a.m. – something reasonable & the garbage folks would have to comply too."**

Hitchcock, "As I looked at the differences - whether the new mounds option, plan 2 is a better option, I don't know - it seems to make sense, I wouldn't oppose it off hand. **The big thing for me is we had a lot of input from the people in Kensington Green. They came. They said their peace. I think we listened to them & made recommendations based on what we felt was going to be right for them**. Fundamentally, this is different. **I'm not comfortable approving anything until those same people come back & say, 'it seems like a much better option. I'm on board or that plan really stinks' & figure out what they have to say."**

Brett, "I think what we could do is we could notify the Home Owner's Association in Kensington Green & let them know that we do have our next meeting August 14th."

Mulle was asked if he would have different plans back to SR with changes by the 14th of August. Mulle, "We haven't defined what the changes are yet, if any." Brett, "If we were going to meet & discuss this topic, we could let the HOA know this is on the agenda. The issue is you can't selectively say, on this topic we're going to notify residents. Then on the next topic we didn't notify them. You have to stay consistent.'"

Latkovic, "How does PC view a field trip? If we wanted to see the site, do we have to do it individually? There are rules about when we are together." Ondrey, "If you go as a group that complicates life. As long as a quorum of you doesn't go..." Latkovic, "We could go 2 at a time." Ondrey, "Or individually & you have to coordinate with the property owner."

Fire lane: Ondrey to Haibach, "If our fire marshal ultimately concludes that he thinks that a fire lane is still necessary, is there a solution to this new retention area in the front?" Haibach, "They'd have to adjust their grading around the north side of the building to allow room for a fire lane. Right now, the grading north of the building if I recall correctly, starts at finished grade at the building & starts rolling towards the ponds. There is not a flat spot north of the building that's big enough for a fire lane. Yes, you'd have to make some relatively minor changes to the grading. It's very solvable."

View from eastern property line to back of Lantern building: Mulle, "The other thing I am pointing out because it's here & we haven't talked about it, is there is also a view at the bottom that is the view from the back of the property, looking towards the back of the building from Kensington Green. (looking from east property line to the west) The top of this dark gray band is where the grade would be. You'd be standing up at that height at the back of the property. The area behind the building is down here. (points) What you see from back there, is

these elements of the back of the building. What you see is those 3 pieces sticking up. The rest of the building is all below grade & out of the sight line." Brett, "That is very true from this angle. But, what's different is it depends on where you are at. If you are closer to the edge, then you're actually seeing the whole thing." Mulle, "If you walked the (unclear) of the property, yeah. But if you are back on your property, if you live in Kensington Green, then you are back here." (points) Brett, "Yeah, but I can see down the site line. Right?" Mulle, "Looking toward the back of the building, that is what you'd be able to see are those roof elements sticking up."

Latkovic, "How much depth, height however you want to define it, what of the property; what's covered? How much is the grade difference on the lower picture that you colored in below?" Mulle, "I think it's 12'." Latkovic, "About the size of your average truck. So if we are talking garbage, lifting up, easily higher than that." Mulle, "Whatever would be parked down there in way of vehicles would be out of sight."

Latkovic, "What about the properties to the north? There is virtually nothing to the north blocking the site or sound. As you've done the mound, it's only to the east." Mulle, "The house that would be the most open would be the Hoover's house. In terms of its position, it is along the side here. There still is some drop. That driveway is down here. So there is still some drop going that direction that goes down into the back of the site. **There would need to be more of a vegetative screen put in as part of landscaping to help conceal that." Latkovic, "I would suggest that is something that you would want to address."**

Latkovic, "I don't know if anybody else has any more comments or questions, but it sounds like this is something we should table until we meet. This was put together very quickly for you guys so we could meet & try to address it. Obviously, I don't think the three of us here are prepared to approve it. As opposed to taking any action, probably the best thing for you guys is to table this & we'll go to the next meeting."

Latkovic, "In the meantime, we can go by two's or ones. I would like to go out & see the site, take Dave's suggestion. It could really help."

Latkovic to Mulle, "I would suggest please see our perspective here. You came into present what you thought were insignificant changes & certainly presented it as this is no big deal, whether you meant to or not, but that's how it came across. To us, it is not. Maybe next meeting, more like it is from the beginning. You've made some decent points, but there are certainly plenty of things in here to be concerned about." Brett, "I would agree with that." Hitchcock, "I would agree as well."

Mulle, "Are there particular things that you are looking for that you see here?" **Brett, "I thought I was pretty clear. The delivery of services & what you have in the back there, I have an issue with that. Significantly bolstering the screening back there would be one step. Moving it would be another step. Those things are my most significant concerns. I want to make sure that the plan that PC sees is what is then built. The contours, grades, where things are – minor things change- I get it. That's what I would expect to see then."**

Hitchcock, "I don't know if I've got anything else to add. My concern is getting feedback from the people who live near that & to understand these changes & how they feel about those & whether we as a board have satisfied their desires & thoughts."

Chagrin Lakes: concern for lakes since excavation started at Lantern building site & noise across 306 re garbage trucks entering/exiting the facility.

Jim Ohneck, 5233 Maple Springs in Chagrin Lakes. Mr. Ohneck & Haibach have talked on the phone re concern for lakes. Ohneck, "You made a comment that the drainage ponds are designed for the full build. There is not a full build. So is the drainage into the ponds different & therefore drainage out of the ponds different?" Haibach, "The drainage out is the same. The drainage in; it will take a lot longer to fill the ponds up during a rain event. So the release will be even slower."

Ohneck, "Is the volume in from these changes, comparable to what it was? In other words, are our pond levels going to change because of the change that they are making to the grade?" Haibach, "They are still dry ponds. The volume in will be less. The volume out will be at a reduced rate."

Ohneck, "The other questions I have for you is the clay turbidity that's been occurring in the ponds across 306 due to the issue of the erosion controls." Haibach, "That was because of significant release of sediment." Ohneck, "We need to know in Chagrin Lakes how that will be addressed. It's caused some serious damage to the ponds that are there. It will continue to propagate down the ponds that are interconnected. Certainly the entry pond looks like chocolate milk. As you go down to three of them (ponds), you can't see the bottom of them. We can't restock the ponds. I really need some explanation of how that is going to be addressed. This may not be the appropriate meeting for it, but I need an explanation."

Brett, "Jim on that topic, I've reached out to the CEO of Lantern. He is traveling. I think he gets back this week & I'm waiting to connect with him & try to schedule the meeting we talked about." Ohneck, "Great." Mulle, "It's an engineering issue that as an architect, I'm not able to address."

Ohneck, "I don't think you should underestimate the noise issue across 306 as well. I know Kensington is very close to it. But, don't underestimate the noise carried from where you place the garbage & the trucks coming in across to our neighborhood. The traffic noise from 306, we hear quite clearly. It wakes us up about 6:00a.m in the morning. I'm sure we will hear the garbage trucks & things. **I just don't want our neighborhood to be forgotten**. All those houses on Maple Springs are (unclear). I want to see a solution that is adequate for both. It's not one or the other."

There was no further business. The meeting adjourned at 8:50 p.m.

Steve Latkovic, Chairman

Maggie Tomaro

Maggie Tomaro, secretary

7-17-2014

To: Jim Davis, SR Fire Prevention Officer
From: Maggie Tomaro, secretary for PC, Planning Commission/ZBA/ABR
Home phone: (440) 338-1807

Hi Jim. Mayor Brett said he mentioned that PC will hold a special meeting re: the Lantern of South Russell, 5277 Chillicothe Rd. It will be on Thursday, July 24, 2014 at 7:30p.m.

Concerns: plans were approved by PC on 4-10-14. On 6-17-14, different plans were presented to the ABR, Architectural Board of Review. One noticeable difference is there is no longer a fire lane going around the property on the new plans.

Enclosed here is a copy of the min from 4-10-2014. I will spare you hours of reading & tell you fire related discussions are on Pps.: 9, 10, 12, 14 paragraph 2, 15 #5 of motion.

If you need to have square footage of the buildings to make your determination, please contact Laura Heilman at the Building Dept. 338-6700, ext. 233. She probably has that info. I have plans in my office if you want to see them. Call me at phone # listed at top of page.

Please let me know if you are able to attend the special meeting. During the meeting, you will report your findings with regard to state requirements & expectations that the Lantern of SR must adhere to. I.e. Does the project require a fire lane? Does it have to go around the property? Paved? Please provide any & all info that you deem important.

If you are not able to attend the special meeting on July 24th. would you please email your evaluation & requirements that the Lantern must adopt to mtomaro@roadrunner.com ? I'll share info with PC.

Thank you. Questions, call me at (440) 338-1807. It's easier to reach me by phone. I rarely look at my email.

EMAIL:
Priority: Normal Date: Monday, July 21, 2014 11:55 AM Size: 6 KB

Dear Mrs. Tomaro

I will not be able to attend the meeting this Thursday. I will be out of town/out of state at a meeting.

I can advise you that I have reviewed what plans that are available. As far as they go, they are incomplete for a lot of the components that I need so I can not make a full review as far as fire safety compliance.

I can say that I will push for the fire lane around the entire exterior of the building. However since the plans are not complete; I can not say what code will cover that requirement.

I need to know if the other portion of the building; the next 3 pods to the east of the proposed structure will be built in the immediate or near future. I also need all the plans that show the design of the automatic fire suppression system ans well as the plans for the water supply and pumps to supply the
automatic fire suppression system. I need to see the plans for the Fire Alarm system that must be installed. Lastly, I need to see the plans for the Kitchen Exhaust Hoods fire suppression systems that are required.

I'm sorry I can not give you anything more to go on at this point but I am totally dependent on the blue prints at this time to conduct an accurate plan review!

Please do not hesitate to call me with any questions or concerns! You have my cell phone number and I have that on me 24/7.

Jim Davis, Fire Marshal
Village of South Russell

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

PLANNING COMMISSION
AUGUST 18, 2014
7:30 P.M.

1. ROLL CALL: **Chairman Steve Latkovic, Mayor Matt Brett, Bryan Kostura, Andy Hitchcock, Jim Flaiz**

2. MINUTES: 7-10-2014 **approved** & 7-24-2014**amended & approved**

3. AGENDA:

   1. Formal discussion/Development Review with Chris Wilber, 552 East Washington St. He hopes to open a pizza shop – take out & delivery only. **PC is in favor of the concept**

   2. Review status of Assisted Living Facility, the Lantern of SR; 5277 Chillicothe Rd.

Brett, "I make a motion to approve the plans submitted by the Lantern with the following conditions:

1. **No parking to the east of the building**
2. **The fire lane would be at the discretion of the fire prevention officer**
3. **Service delivery would be limited from 8:00a.m. To 5:30p.m. Monday through Friday & from 10:00a.m. To 3:00p.m. on Saturday & Sunday**
4. **The mound to the east would be based on the drawings that were submitted to PC & that the mound to the north would be at least 300' in length & at least 35' in width & an elevation change of a minimum of 5 feet with final location & landscape approval to be set by PC."**

Latkovic second. Roll call: Hitchcock yes, Latkovic yes, Brett yes, Flaiz no, Kostura yes. CONDITIONAL APPROVAL

4 OLD BUSINESS: cemetery, a contract has been let out. Work should start this week; turn around in 60 days

5. NEW BUSINESS: **next meeting: 9-11-14 at 7:30 p.m. if there is something on agenda**

6. ADJOURN: **10:30 p.m.**

VILLAGE OF SOUTH RUSSELL
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022
440-338-6700
FAX 440-338-8776

RECORD OF PROCEEDINGS
MINUTES OF THE PLANNING COMMISSION
AUGUST 18, 2014 7:30 P.M.

MEMBERS PRESENT: Chairman Steve Latkovic, Mayor Matt Brett, Bryan Kostura, Andy Hitchcock, Jim Flaiz

OTHER OFFICIALS: Laura Heilman, Building/Zoning Inspector, David Ondrey, Solicitor, Eric Haibach, Engineer, David Hocevar SR consultant

GUESTS:

Bill Koons, 61 Potomac
Russ Zajaczkowski, 5237 Maple Springs
Joan Demirjian, Chagrin Valley Times
Mike Sizler, partner of C. Wilber, 552 E. Washington St.
Nina Lalich, 1137 Royal Oak Dr.
Jane & Buzz Ostergard, 38 Westover
Michael & Mary Sparger, 6007Parkland Dr.
Florence Olson, 52 Daisy Lane
Sandra & Tom Meyer, 1106 Sheerbrook
Jean Makesh, Lantern of SR, 5277 Chillicothe Rd.
Jordan Westrop, Lantern of SR, 5277 Chillicothe Rd.
- Tim Driscoll, 79 W. Bel-Meadow
- Joe Mulloy, 5235 Maple Springs
-Warren Richardson, 26349 ?, architect for C. Wilber
- Chris Wilber, 552 E. Washington St.
-Jan & Joe Nally, 44 Wolfpen Dr.
-Jose C. Feliciano, 46 Wolfpen Dr.
-Joe Franzese, 45 Wolfpen Dr.
-Bill Barnard & Sujata Lakhe, 1187 Sheerbrook
- Roger Hoover & Dianne Gilbert, 5265 Chillicothe
-San Suhai, Lantern of SR, 5277 Chillicothe
-Tim Mulle, Lantern of SR, 5277 Chillicothe

Chairman Latkovic called the meeting to order at 7:30 p.m. The minutes from 7-10-2014 were approved as presented. The minutes from 7-24-2014 were amended & approved. New PC member Jim Flaiz attended his first PC meeting. Latkovic, "Tonight is not about the water issues at the Lantern of SR. Tonight is about the plan in general."

Formal discussion/Development Review with Chris Wilber, 552 East Washington St. He hopes to open a pizza shop – take out & delivery only.

-a drawing for PC to review of property & a sheet with phases of development; the business plan

Chris Wilber, "I own property on East Washington St. We're looking to turn it into a wood-fire carry out delivery service pizza." His partner is Mike Sizler & architect is Warren Richardson. Name may be En Fuego; on fire.

Warren Richardson: property is on E. Washington, zoned commercial, next to Panini's. It would be a unique facility because there are no wood-fired pizza establishments. Presently, it

is an existing residence. "Mr. Wilber lives there & would like to turn part of his home into the preparation area for this. The addition would be the carry out portion."

Richardson refers to drawing, "We have 2 driveways coming in. One is existing & we want to provide a separate entrance for the customers. Hopefully, what we would like to have is a covered eating area, covered patio & a small storefront. If it's a win for the Village & for the owner, they want to do a full facility. Because it is a wood-fired pizza establishment, part of the design would be to do a hearth that people can see from the street. We want to add to the community, provide a service."

Brett asks Hocevar what PC is looking at tonight. Hocevar, "PC will be looking at the overall project. I explained to Mr. Wilber, we do have a couple issues. They go from PC to ZBA. That would bring this building, a residential home in a commercial district into a nonconforming building. If he adds onto it, it would have to comply with today's zoning regulations for that district. He has to apply to ZBA. You'd be looking at a development approval. It would still have to come back to PC because it is not a permitted use in a B-1 district. The restaurants down there now were put there before our zoning. He'd have to come back to PC for a conditional use permit to get the business permitted in that area."

Hocevar, "The PC is looking at the conceptual idea & saying it seems like a decent idea. He'd have to get his variances in order. He has a parking variance in front, a setback variance. It's zoned B-1, I-1. It's a business 1, industrial use 1. A restaurant in a B-1 district is nonconforming. It's a conditional use. It would be the same thing as a school in a residential area. It's permitted, but it's under a conditional use permit. On East Washington, it's B-1 or I-1; business or industrial." It is the last property in SR on East Washington Street.

Latkovic, "This is meant to be a carry out to begin with & if it is successful, it becomes a sit down?" Richardson, "Yes it is. Because of space restrictions, we are looking at carry out initially. We have enough space to provide a small patio. The ideal for this would be a full, sit down restaurant at some point."

Latkovic, "Are we being asked to approve a plan with a full patio & full parking for a sit down restaurant at this point? Or are we being asked to approve just a smaller footprint for somebody to pull up & carry out?" Richardson, "We have the required parking. We'd like enough for carry out & delivery at this point. When we are able to grow, we would like it to be pedestrian friendly."

Hitchcock, "You have full parking for a carry out or you have full parking for a future sit down restaurant?" Richardson, "Right now for a carry out."

Brett, "The application that was submitted is for take-out only. I think that is consistent with what you are saying which is at this point, that is you objective." Richardson, "Yes." Bret, "We should think about this as a take-out facility only."

Mike Sizler, Chris Wilber's partner, "This is an outline of our business plan. Phase 1 is what we just talked about: takeout & delivery only, wood-fired pizza. I have an opening date of 10/01/2014. From there, Phase 2, the patio area is something that we want to open up in the spring of 2015, in April. It would be more of an open patio, probably 1,000 square feet, umbrella seating. We'd have a little bar out there. We'd go for a beer & wine license. Now it would be take-out & delivery. It would be just wood-fired pizza. When the patio would open up, we'd have appetizers, more extensive menu. A year from the spring which is in 2016, we're looking to make this whole property, the whole house a restaurant, Phase 3."

Sizler, "For tonight, it's just the take-out & delivery only." Now there are 8 parking spaces. To make it pizza ready: Sizler, "We'll have a wood-fired oven, some industrial refrigerators. As far as inside, you walk in & you have a counter area & you'll see the pizzas being made."

Richardson, "The circumference of the pizza oven is 5' or 6'. As far as safety, the pizza oven has its own suppression system. We do want to add a fire rating to that existing wall in the home. There is an existing coal stove. The pizza oven will be in the same location."

Sizzler, "Any upgrades to bring it up to code, obviously we'd do that for the commercial side."

Brett, "The objective for Phase 1 is to keep it as a residence, but also to operate a business out of it." Brett to Hocevar, "Is that a permitted use?" Hocevar, "It's residential right now. I don't think we have anything in our ordinances that say it is not a permitted use. If the house stays like it is, the additions are going to complicate it because it's an addition to a nonconforming building." Sizler, "There is no addition. In the house, there's a room &that will be transferred into the pizza shop."

PC reviews drawing; the residential portion is to the left, entrance from the rear is for preparation area & entrance from front for customers.

Latkovic, "Is the parking on the property line? Are there issues with setbacks?" Richardson, "The setback requirement is beyond the existing house. 100 foot setback from the front of the property line. I lined it with what they have next door." Latkovic, "Panini's." Richardson, "We'd have to go for a variance to match their parking."

Brett, "If PC felt that this was acceptable, the process is we would grant conditional use approval tonight." Ondrey, "You can't tonight. Conditional use takes a public hearing. You have to advertise. The best you can do is say from a development approval standpoint, you are ok with it. There are all the extra steps of the variances needed & the conditional use. If they don't get the conditional use permit, what is the point of going for the variances? Or you could say, try & get the variances. If you don't get them, then you know you're not going to be able to build it the way that you want. They'll be going for a use variance. They will need to

demonstrate to the ZBA that they cannot use this property as it is currently zoned in the I-1 district, which is not an easy burden, not to mention, the combined use of a residential with a commercial type business."

Ondrey, "The best you can do is give conditional approval condition upon the necessary variances being granted & the conditional use being granted. I would make it crystal clear in the record that all your approving is this walk up concept, delivery concept because if it goes through all these steps that's no guarantee guys that eventually you can expand with the patio & all the other items."

Flaiz, "I didn't know that we don't allow restaurants. There are so many in SR in the industrial area. Ondrey, "As David said, they were grandfathered. That weighs in favor of the concept of the variance. Literally, it's not a permitted use."

No residences on either side of this property. To the west is Panini's & to the east is the armory.

Flaiz, "I'm in favor of the concept & would like them to obtain the variances before we do anything." PC agrees. Ondrey, "What I'm hearing is that you don't want to make a definitive decision tonight. You want to table it pending their processing of the variances & the conditional use permits."

Flaiz, "My thought would be if they obtain the variances, then they would come back to us for the development review & conditional use permit; we would advertise." Ondrey, "That would be fine too."

Review status of Assisted Living Facility, the Lantern of SR, 5277 Chillicothe Rd.
2 drawings: original plan, 100,000 sq. feet w/110 units & revised plan with 52 units

Jean Makesh introduced his team. Tim Mulle, architect, "The first plan that is up here is what was originally presented & approved. It's a 16 acre parcel. The farm house has been restored. Our plan originally, was to construct a new building that was 100,000 square feet & accommodated resident units for 110 people. A dotted line around the property indicates 100 foot setback on the rear & side."

Mulle, "The ownership elected to reduce the size of the building for initial construction to allow for expansion in the future. Decision was made to construct something of a smaller size. The 110 was reduced to 52 units. The rear of building is 300 feet further away from the rear property line. We're pushing almost 400 feet from the rear property line to the back of the building. We still have pods with open air courtyards in between. We still have an administrative building at the front, which is designed to look like a house. It's residential in

character. We still have a circular drive that is behind the farm house, next to the barn & in front of the main entrance into the new facility. The parking lot is still along the south side. It is smaller because with a smaller building, we don't need as much parking."

Mulle, "One change that was discussed at the last meeting; we previously had a building footprint that came back to here & we had a service building that was on the south side. It went into an interior corridor. Reducing the footprint & allow for future construction, we eliminated that service building & we brought the service drive into the back of the building. That's done for functional reasons. Now with a smaller building, the kitchen & the service area is located here. For the functionality of the building & the amount of square footage, it was not efficient to try & continue to have service in separate buildings. This allows for a future expansion that would have a service drive in between the two parts of the building. For current purposes, that does locate service in the back."

Mulle, "The site elevation is at its high point at the back, adjacent to the residential subdivision, Kensington Green. It slopes downhill toward 306. We have cut the site so as to create a flat platform on which to place the building. It's a single story building. When you get behind the building, there will be somewhat of a hillside."

Mulle, "We have created in this solution a mound. The mound isn't what you see today. If you go out today & you see that hillside, that big pile of dirt that's at the back of the property, that's a stockpile of the excavated material that has come off the site. A lot of that dirt in the stockpile is going to be redistributed on the site. It's all good topsoil. When we construct the building & bring the building out of the ground, a lot of that dirt is going to be placed around the building."

Mulle, "There will be somewhat of a mound that we would create. The view from these properties in the back looking toward the building, you will see a slight rise. The grade is going to drop downhill slightly. It will feel fairly flat as it does today. There will be a slight rise of 3'-4'. From the building side, it will drop down about 10'-12'. So the service area becomes a sunken courtyard that cannot be seen from the back or the side."

Mulle, "Also what we are developing, there will be additional mounding & vegetation – evergreens- that will be added on the north side of the property to help screen views. This section is from the Hoover's property looking south, toward the side of the building."

Mulle, "A 6' tall person, their site line from back of the property line, what they are seeing is the tops of the building. The service area that is located in the back is sunken down & completely concealed from view."

Latkovic, "The board we looked at at the last meeting, is that still the plan? Mulle, "That is what has been submitted. That is what I have described here."

Latkovic, "Have you looked into or the fire chief looked into the fire lane? Hocevar, "I talked to Jim Davis, the fire inspector, & he will require a fire lane to go around the building." Latkovic, "All the way around." Hocevar, "Yes."

Flaiz, "This, what you are showing us here that is marked up in red; the property is cleared. We have a plan. I haven't been here, but I've been following it in the local newspaper. It seems like a plan was presented –that first plan- it was approved. Then, without the PC knowledge, this started moving forward-with this plan. But now you are showing & this doesn't seem final; the one you are presenting currently. You are saying that we are talking about mounding up here. You haven't even gotten…" Mulle, "That is a landscape plan."

Flaiz, "You haven't even gotten the fire inspector approval for this fire lane so that isn't shown on here. You've cleared this property & created this huge mess down there - frankly been reckless & irresponsible in the building process from my standpoint so far. Then you are coming here to get approval of a new plan that wasn't presented to PC & it's not even complete. This isn't the complete plan. Right? You don't have a fire lane. You are showing us some concepts. How do you not have a final plan when you are in the middle of construction, aren't you?"

Mulle, "The excavation work that is underway was approved & authorized to proceed. The building design is what has been modified. The purpose of what I'm sketching on here is an effort to use a large red marker to illustrate what the intended solution is."

Flaiz, "If it were me, at this point in the process coming before this board, I would have a final plan." Mulle, "We did submit final plans to the Village, to the Building Department." Flaiz, "Well they don't have a fire lane obviously." Mulle, "Those plans are subject to various review & approval processes." Flaiz, "So you expect further modifications." Mulle, "If the fire department comes back & says we need you to do something, we have to obviously address that, yeah." Flaiz, "So you are contemplating modifying what you are presenting tonight." Mulle, "If they require that we have to construct a fire lane around the building, then we would have to accommodate that. Initially we were told that was not required. If it is, that is something that we have to address. The initial review said that that was not going to be required. We do have reach. You have the ability to park the fire truck in the back & reach & go around to the side of the building. In the front, reach around from that side. What we were told initially & our understanding is that was going to be sufficient; that would not require putting in an actual driveway around the side."

Latkovic, "At what point is this going to be reviewed by the fire chief? How has it not been?" Hocevar, "It was only today that I talked to the fire inspector & asked him his thoughts on the fire lane. He said, according to the Ohio Fire Code, he can ask them to comply with the fire lane going around the building because of being a cistern or holding (?) for a suppression

system. He will request that." Latkovic, "At what point will that request be made & do you know why…?" Hocevar, "I don't know why it hasn't been done. There were some options. Is it really required or isn't it? When he got back to me today, he said I can foresee having it."

Mulle, "The normal procedure is: when we submit drawings to PC, once we have PC approval of what are presented as final design drawings for the building, PC issues an approval of that. Then we complete final working drawings. Those construction drawings - after we have this commission's approval- then those drawings are submitted for code review & subject to changes directed by building officials."

Brett to Mulle, "I'd like to be clear on the changes from the first plan, the approved plan to this one. The building is a smaller footprint. Services move from the southern edge to the middle. The fire lane, we just talked about. What else has changed?" Latkovic, "The front ponds & the drainage." Haibach, "The configurement of the ponds has changed." Flaiz, "So the storm water management plan that you approved originally, they changed?" Haibach, "They did. But they provided an equivalent pond size. Instead of a long, thin one along the north edge of the property, they put a round one along the front. I checked that & approved that."

Sam Suhai, engineer for the Lantern of SR project, "My understanding is that there was an original plan that was submitted, which was a bigger plan. Then there was a smaller version of the building that was submitted latter. In between, there was a plan – this plan – a smaller version of the site plan. That was actually submitted & approved before we started construction. When we submitted the smaller plan, you mentioned that, you are still talking about mounds, this is not final. These mounds that you are talking about now are a response to some of the comments & feedback that Tim had regarding headlights. What he had is something without a drive going all around. That is the way it was approved because of the fire suppression system & everything. We don't need a (?) because pretty much the hose is 150 feet. As long as you can get pretty far into the building with the fire hose, we should be covered."

Suhai, "Now the plan that was approved which is being used for construction, the building plan has been (?) The barn has been almost remodeled. This is the existing barn. The slope from the barn to the building pad does not allow for any driveway to come all the way across. We can talk about making a circular drive out here & coming back the same way. As far as having a complete loop, I just want you to understand & we are on the same page here because I don't want people to say, go back to the drawing board & have a loop here. We cannot have a loop beyond that point."

Latkovic, "To be clear, you couldn't fit a full driveway around." Suhai, "No you can't. So we can't have a driveway. You can talk about the location of the service building in the center. The ponds, I believe that this is a much more functional pond then what we had before.

This mound is a temporary height. Some of the mounding needs to be distributed elsewhere which is going to be part of the landscaping plan. The neighbors here had some concerns about not wanting to see this property. Well, we could probably put some mounding over here. Those are things that are not really part of what the approval that they are coming for today. The approval that they are here for today is not the site plan. It is for the buildings. The site is in a state of being stripped. As soon as we get as much of the construction as possible, the elimination problems that it is exposed to right now; right now we need to go in & put in the (?) & the driveways & see what the remainder of the property that needs to be seeded."

Suhai, "Pretty much what they are looking for tonight is an approval to go forward with the building plans or the size of the building; not here for an approval of the site plan because my understanding is that site plan has already been approved."

Hitchcock, "Did I hear you say, given the current state, you cannot put a road around that?" Suhai, "No." Hitchcock, "So what's the plan if the fire inspector says you have to have that?" Suhai, "I don't believe it was required to begin with before the plan was approved." Hitchcock, "What I'm hearing now is we might need one." Hocevar, "What he said is correct. We may need one." Hitchcock, "Well if may need one turns out to be you need one & what he is saying is the plan isn't compatible with that, what happens? How do you address that?"

Mulle, "What the fire department requires is access to all sides of the building. They need to get hoses around the building. The distance from where they park a vehicle to the farthest point, where they can stretch a hose is 150 feet. That is the limitation. This building is less than 300 feet long. It's two hundred some feet."

Mulle, "In the initial review that we did, it showed that we did not require a fire lane to go all the way around the building. We could get a fire truck to the back & we could stretch a hose around one side & a fire truck in the front & stretch a hose along that side, which would negate a need to have a fire driveway. What I'm hearing tonight is something that we have not heard before. It's hard to respond to. We're going to have to talk to him again & find out why he is now saying that, which is different than what we were told before. All we can do is talk to him & try to sort that out."

Brett, "A fire lane does not have to be an entire loop around a building. Right?" Mulle, "No." Brett, "So if the fire prevention officer wants to have a fire lane, you could continue the route at least around the corner." Mulle, "You can extend the lane farther around. It doesn't have to go …" Brett, "It can go around the front corner." Mulle, "That's correct." Brett, "That's your issue. That's why you are saying right now, you'd have a hard time putting a fire lane that goes to…" Mulle, "What Sam is alluding to is the storm water drainage system goes through this space up in this corner & down to that retention pond. There is a swale there that is

taking a significant amount of storm water & collecting it in that retention basis. You can't obviously do that & have a driveway going through."

Latkovic to Ondrey, "From a development plan approval perspective, what is not on here is an extension of fire lane; if it goes around or to the edge of the corner of the building. Also some of the landscaping, some of the mounding. From PC perspective, what is part of the development plan that we can require? For example, as submitted, this does not have a complete landscaping plan."

Ondrey, "Originally, if you remember, I think we made the other one approved contingent upon the engineering firm approval of the landscaping plan. We understood then that complete landscaping plans would come latter. It's fair for the PC to know type, size, the general location of the mounding. You can leave the landscaping details to our landscape experts who work at CT for approval. I don't think it is unreasonable for you to say, there may be a need for this mounding & any approval you give is contingent upon installation of the mounding in a fashion acceptable to the engineering firm."

Latkovic, "So it doesn't technically have to be shown on this plan. We can describe general mounding areas." Ondrey, "More detail would have helped. You can work through this problem if you are so inclined."

Mulle, "The way we have been trying to deal with this particular issue is to allow some of the site development to happen; to allow everyone to see how it is taking shape & fine tune that landscaping solution. Part of what we've been trying to do, is be sensitive to the homes that are around the perimeter of the site & control those site lines & provide the visual & sound control."

Brett, "The revised plan does move the buildings away from the residential area to the east by 300 feet, which helps the neighbors in Kensington Green. The concern I had last time was what happens if deliveries are in the back. Not thrilled with that, but the mounding that was proposed last time, I think does help with that situation. Now you have 400 feet between the back of the building & that etched line & you have the slope that goes up & you have a mound."

Brett, "Having said that, one of my concerns is the property to the north. What I pointed out last time is if a service vehicle comes around to the north, two things occur: lights & sound. I do think having a mound up to the north, I would want to better define that. The way that the excavation occurs, the northern edge is still built up higher than the buildings. A mound up there would help screen that area. If the services are going to be in the back, I would want a mound there; something pretty significant."

Latkovic, "For the mounding, can you walk us through the water? Last time you said the water flow wouldn't change. It would come around the back mound. Does the north mound impact? Mulle, "It comes down through here." Latkovic, "It would not impact the silt. It

would still flow westward." Mulle, "That is the idea behind separating them & having them overlap one another. You get the consistency of the visual control. We leave an open space between to allow water flow. We don't want to create something with a mound that creates another problem by backing up water & not letting it flow through the property correctly."

Brett to Ondrey, "I think what you had shared at our last PC meeting, PC would have the ability to limit hours of vehicles that fall into the service requirement." Ondrey, "Reasonably regulated, yes." Brett, "We could say trash service could not occur prior to X time & cannot occur after X time. Ondrey, "Yeah within reasonable business needs. If you say you can't have a delivery before 6:30 a.m. that's probably reasonable. You have discretion on those issues. You have to act reasonably. Remember, this property is zoned for this use. Limitations must be within the range of reasonableness for this type of business."

Kostura to Mulle, "Are there other options of where you can place your trash pickup? Maybe put it off to the south near the Family Life Center to further shelter Kensington Green." Mulle, "On this plan, the service entrance is here. That's where we are locating the trash pickup, the dumpster on this plan. This is concealed in this location under this hillside." Kostura, "There is a chance there is going to be a fire lane running through that anyway." Mulle, "That's true in which case it would have to move for that purpose. It could be located anywhere. If you put it out here, it's open to view from the front of the building. Tucking it in the back here is probably a better location. It keeps it out of sight for everybody. "

Latkovic, "There won't be any parking in the back only deliveries. Parking for staff, everything is still to the south. " Mulle, "What we had shown, which was on the plan last time, we have about a half a dozen parking spaces that were over here, for the purpose of people coming in & out the back of the building. The primary parking for staff & visitors is on the south side & it's toward the front. It's a practical matter. It makes sense to have a few spaces back here."

Hitchcock to Mulle, "What does the project look like as you try to expand it?" Mulle, "None of us can predict the future. Future expansion could range from never to next year. If there is a market demand there, the intention as we are looking at it now, is do something somewhat different then what we originally had. Rather than just add those 3 pods that we had before, probably do something a little simpler that we would place back here in this direction. Maybe have another entrance from the south side & create a connection between the buildings for service." Hitchcock, "Keeping that new service…" Mule, "The service drive would stay there. It would become a courtyard between the 2 buildings." Hitchcock, "The intent of the new service drive is that it is permanent." Mulle, "That would still serve the new building."

Flaiz to Ondrey, "What is the standard that we are operating under?" Ondrey, "We've got our list of improvement standards. We've got the development review. We don't have a specific legal test like you would with a variance. We have discretion to modify design to diminish impact on adjacent properties & to make sure storm water drainage is acceptable, traffic patterns are acceptable. All of that we have discretion in, but we have to act reasonable with any of the restrictions that we would require."

Kostura, "I like the idea of the mounds because it blocks the traffic & noise that will be coming from the service entrance. We are having drainage issues now. You explained that you left a space between the 2 mounds based upon drainage issues. But you are still going to put a large berm along the north side & anything coming in from the north is still going to hit it. So how is it going to be funneled?" Mulle, "It's going to flow around it. The site would be contoured such that the water flow; right now the water flow from back here makes its way around & is funneled down through here to that retention pond in front. That would still be the case." Kostura, "So it'll be swaled along the north. That mound will be swaled so it causes the water to go to the west before it goes to the east & around." Mulle, "Yeah. The water that goes around this side is from here down. Then it comes around & goes into this pond & it goes up to that side of the site."

Kostura, "Will that new mound that you are proposing, will that create greater issues with drainage? And is that pond in the front then, going to be sufficient to handle it all?" Mulle, "It's not going to add to the amount of water that's coming through the site. No." Kostura, "It's not going to cause a backup, if you would, so when there is a larger rain you're going to have faster runoff water?" Mulle, "No. If we build this coming across this direction & connect it to this mound, then we could create that kind of condition."

Suhai, "I would look at that mound like another building. The water is going to find its way around the building." Latkovic, "The general slope of the property will still be towards the west. We'll just have a mound in the middle & whatever side it will go."

Nina Lalich, resident, 1137 Royal Oak, Chagrin Lakes, "While you are on the subject of the mounds - since previous promises of not to affect our lakes haven't worked out- could you make your approvals contingent on having the EPA approve this mounding situation?" Latkovic, "Sure. Obviously that is a big issue. I live on Sheerbrook. I'm right there & understand. The first time we adopted it, it was contingent upon the Village approval of: the entire storm water drainage, where the water goes, how it works. Our approval has always been contingent on that happening. Whether it is complied with, how it is complied with is a separate issue from what we do here at PC. Regardless of what we approve - if it is not complied with - that is an issue that the village, the village engineer has to deal with. We are. I think the Mayor

has some insight on this as well. Our development plan approval doesn't anticipate very specific approval. It's to approve an overall plan that our engineer has to tell us works."

Brett to Haibach, "Assume that PC approves this tonight & it includes this added mound to the north." Haibach, "The drainage plan will have to change to accommodate those mounds. If PC approves tonight the plan as presented with the mounds as sketched in their preliminary locations, the developers will have to develop a grading plan that shows here is how the water on the site is managed. Here is how it is going to get into the pond & drainage structure that is in place currently. That will be subject to my approval."

Flaiz, "What is the timeline? Is the land going to lay bare all winter?" Mulle, "The timeline for construction is we are ready to start bringing the building out of the ground." Flaiz, "Is the land going to lay bare all winter?" Mulle, "No. Seeding is going to commence…"

Suhai, "Starting now, once we get approval from you & we start construction. Obviously, very soon we are going to have a concrete pad around. We will start to put a driveway in & start moving the mounds around. It's not going to take a whole lot of time for us to get the revised drainage plan into Eric. Once he approves it & we'll start moving that around. The EPA requirement - they have been regularly on the site. If we are not incompliance, those are the first people who shut us down. The EPA requirement is if the site is not going to be worked on for 14 days or more, then we have to seed it. That's a huge cost to just do a temporary seeding for the purpose of; it's in excess of $30,000 just to put temporary seed on this. Where we put seeding, we can put concrete & have the same effect. If we get approval tonight, we can go with this: pouring the concrete, putting the driveway in, moving the dirt around & once we get done with it…" Mulle, "Seeding would happen. Right now based on what the EPA is telling us, seeding might happen as quickly as this week."

Mulle, "The intention is for the building to come out of the ground & be under roof this fall. And the site won't be finished because final landscaping wouldn't happen until next spring. The initial seeding & the illumination of all of the exposed soil would be taken care of in the next month or 2." Suhai, "We can substantially cut down on our seeding cost by pushing the dirt, creating the mounds that we need to. We don't know the minor details of the final landscaping plan. We know the major mounds that we want to put in. Once we have that, we can go ahead & seed this area up. As soon as that is done, we can put seeding there."

Mulle, "We are going to move forward right away with final seeding for the whole front part. Suhai. "Yes & that's our goal because other problems that you are talking about, once we get this under concrete & under grass, a lot of those problems will be eliminated."

Brett, "If you got approval tonight, you would envision that within the next week, two weeks, you would start the concrete?" Jordan Westrop from PCS, the general contractors,

"Based on tonight, the next process for us is to get the permit. We can't cut the final schedule until we have the permit because it requires about 5 different contractors. We would be underway very quickly. In the coming couple of weeks, we'd get staged to start those foundations. The planning process starts upon receipt of the permit."

Mulle, "Right now the site is, in terms of the initial excavation & grading & all of the initial prep to put the building foundations in place, is almost complete."

Brett, "The existing grade, that is the grade that you would start to build up." Mulle, "Right now what is there is what you've heard referred to as the pad. They've prepped the earth, the soil conditions, to receive the building." Suhai, "The position of that pad is one foot lower than where the final concrete will be." Mulle, "What will happen is: we will dig foundations & we'll dig footers & pour footers, we'll bring walls up & pour a concrete slab. The top of the concrete slab is a foot higher than where that dirt is today. That top soil that is sitting back here in the stockpile will be brought forward. It will fill in around the building, inside the courtyards to bring that finished grade up about a foot higher."

Buzz Ostergard, resident, 38 Westover, Kensington Green, "I have a couple concerns because I live on the north. In the original plan, we wouldn't have seen the service area. It was to the south. People who live on the north will now see a service area & they will have the dumpster 150 feet closer to their home. You may have solved it if you live to the east. But if you live to the north, this plan is worse for us because you've moved it to an exposed area. Before it was hidden behind the long row of buildings. It isn't better for us #1. I don't like the idea of looking out at trucks lined up to bring in food."

Mulle, "Two other concerns: is the only service drive going to be from the south for all food, for all linens?" Mulle, "The service is all from the south. It wraps around the back of the building." Ostergard, "It's not going to go around to the north of the building & curve around?" Mulle, "No."

Ostergard, "In the summertime, you don't see much because of the vegetation. If you are going to build this mound by cutting into the vegetation that exists there today, then that takes away everything." Mulle, "If you walked through & look at the existing mound of dirt, this mound is farther forward than that." Ostergard, "I know that. I'm talking about from the north. There is no mounding now on the north." Mulle, "Correct." Ostergard, "My concern is how far from my property line are you going to start the northern boundary of this mound? Currently, 6 months of the year, the vegetation is sufficient. I don't see much of anything. If you are going to cut into the area that you left virgin; that's what I'm wondering, where is the mound?"

Mulle, "The tree line, where there are actual trees & not that lower scrub…" Ostergard, "That lower scrub means everything. Are you going to keep that?" Mulle, "All that stays or

some of it goes, I'm not certain." Suhai, "Whatever we need to do to build that mound, we are going to do. You have to understand, it's not going to stay there as a mound." Mulle, "It's going to be attractive. It's going to be a gentle slope. It's going to be fully landscaped."

Ostergard, "I understand that, but that is subject to way down the road. By then it's too late. What I'm saying is as you currently construct the construction site now, the low lying vegetation provides great screening. Trees don't provide what scrub does. My point Mr. Mayor is, how much with the construction of that mound, are they going to move away from the current northerly excavated boundary line? That's my big question plus they moved the service area in plain view of my house."

Brett, "That was my concern with the revised plan, was they changed that. My comment was to do some screening to the north to give some protection for you & others. If the properties to the north don't want that, they'd probably prefer not to do it."

Joe Nally, resident, 44 Wolfpen Dr. Kensington Green, to the mayor, "The 3 of us here are due east. I was last here at a variance meeting that got a height approved because there was going to be this big mound so when we looked out to the west, we might only see tip tops. Now, what I hear is a tremendous earth movement toward the north, moving top soil around. (looking at the drawing) I see no mounds there whatsoever. I'm standing on my property at Wolfpen & I'm looking west." Brett, "The height of the buildings hasn't changed at all. What's changed is instead of the buildings going back within 100 feet of the property line, they've pushed them forward." Nally, "Again, the plans that we were presented with at this other meeting, show the entire thing. Now, they have broken ground. They have catastrophe. Now they have new plans in place for half size & all with this new mounding. I'm trying to ascertain the height of the mound. Currently, I have a 30 foot mound behind my property. Is that going to be 6', 10', 20' behind my property?"

Mulle, "From your property, when you look out across the site, the location of that mound compared to what's there today, it's going to be farther away. The space that is in between will be a natural environment." Nally, "So no mound. But what my architect friend points out, I rarely stand at the end of my property. My site line is not a 6 foot man looking out my property line. It's my deck. It's my first floor. It's a lot of other views. All of a sudden, I see little to no mounding. Then you are talking about increasing deliveries to that area, service to that area. It brings considerable concern of what you are currently presenting today. Clearly different then last time. I just don't understand the process. This is the biggest building ever in out township. It seems like a do it on the fly proposition."

Latkovic, "What has changed was somewhat anticipated by the original plan. The service area was changed. That is a clear area they tried to address. Whether you like it or not is a

anticipation that they would build half of the site. The difference is when they came back & said we are only going to build half, instead of keeping the service at the southern point, they moved it around to the back. That is one change."

Joe Franzese, resident, 45 Wolfpen Dr. "That's major. For the benefit of everybody here, I am an architect." Mulle, "We've brought the building back. So that relationship of the grade to the building hasn't really changed that significantly." Franzese, "But your view has of what you are looking at." Mulle, "What you are not seeing is the building anymore because it is 400 feet away." Ostergard, "I can see 400 feet. I'm looking at trucks now."

Franzese, "One of things with relocating the service drive to the side is now all of the traffic is going to be in Joe's windows. Light doesn't travel. It radiates up. Trucks coming in, their lights are higher up off the ground. They are driving up hill. So the lights are going to be shining uphill. They are going to be shining up & above whatever landscape mound you decide to put in. I have heard from you that it's going to be well landscaped & I've heard from you that what we're probably going to do is some landscaping. Well landscaped & probably some are miles apart."

Franzese, "Sound: the sound radiates as well. We can all hear the sound on 306. It is more pronounced in the summer because we are outside. In the winter, it's even louder with the traffic. Instead of the traffic driving up & down 306, it's going to be driving in facing all the properties. We all went through the Life Center when they built. They promised us that they would screen the property. We have trash trucks in our backyard every week & all the deliveries in our backyard. The mounding that they did was somewhat (?). They never clarified; they were never required to demonstrate what they were going to do until after the fact. I had to make phone calls for 2 years to get them to finally put in the landscaping that they had promised at meetings. Jose (Feliciano, 46 Wolfpen) has had to call repeatedly to ask them at 2:00 am in the morning to stop the music from parties that they are having."

Franzese, "Probably & what we're going to do are 2 different things. I don't think it's unreasonable for you to demonstrate to the PC the extent of what you are going to do with the mounding, where it's going to be, the type of landscaping i.e. its size, its quantity, its layout. Then further demonstrate how it is going to effect the neighbors with light -whether it's from property lights, your truck lights, ambulances. They will come to your property not during normal business hours, but whenever they are required to."

Franzese demonstration: Franzese, "If I move the easel back here, the line sight for the neighbor; what do you see above here? You can see the door trim. I'll move the same height easel. What do you see now?" Someone answered, "Nothing." Franzese, "My point is the location of the mound. While, you may have made the mound bigger, if you move it further

away, you've lost its overall effect. Same is true with sound. The best place to trap sound is at the source. Don't expect trees 400 feet away to do the job that could be done at the source. Screening by the service, at the end of the driveway, so the light doesn't go any further than that, would be part of the overall design."

Ostergard, "So you are saying the mounding much closer to their building." Franzese, "Yes, moving the mounding closer doesn't have the same effect. If it's in your face, that's one thing. The further away it is, you can see over it. Again, the vantage point is not standing at the property line. It's 7' or 8' above property line. In addition, not only do the property lines fall east to west, but they fall north to south. So as the mound proceeds south, you may have taken the section at the northerly end where the mound is at its highest, but at the southerly end down by the Life Center, it's 10' or 15' lower there." Mulle, "It is lower, not that much."

Jan Nally, resident, 44 Wolfpen, "Joe you are saying the mound is most effective closest to the building." Franzese, "The closer the mound & the higher the stuff is, the more effect it has. As far as trapping sound, the closer you are to the source, the better likelihood the sound is going to stop there, which is why they put miles & miles of barrier along the interstate highways to trap the sound on highways. That's my point about sound & light."

Mulle, "That's why we have it laid out the way we do." Franzese, "I don't see anything laid out." Suhai, "You don't see anything laid out. You're talking about if you move the mound 400' away, but the reality is the original plan with the large building did not have a mound."

Latkovic, "The original plan adopted, did not. The grade on this was the original grade approved. There was no mounding in the back. It was just landscaping, 50 feet or less from that cut." Mulle, "There was a hillside that dropped. There was no mound." A woman said, "There was no deliveries & trash pickup there."

Suhai, "There was a fire lane looping all the way around the building." Ostergard, "I was here & you said, the fire guy demanded that there be one. I know & it was a requirement. I didn't like it. I didn't want it. I'm happy to hear now that maybe you can't do it. There was going to be a fire lane absolutely, around the whole circumference of the property." Mulle, "Yes there was. That was required." Ostergard, "It was said earlier that that wasn't going to be required."

Brett, "In the revised plan, they don't have a fire lane." Franzese, "When was that done?" Brett, "The Lantern Project has produced a revised plan that didn't include it. That's what we are reviewing. The village fire prevention officer has looked at it & said he wants a fire lane. Sorry about anyone's aesthetics, but safety is going to come first. The fire lane is not going to be used for deliveries & everything else, but it's there for a specific purpose. It's there to save lives. So if the fire prevention officer whose got 35 years of being a firefighter & a fire

prevention officer is saying it's a requirement, it's a requirement." Ostergard, "So in the original, it was going to be in there." Brett, "Yes."

Roger Hoover, resident, 5265 Chillicothe, "I was here 5 months ago. There was a mound on the north side of the property." Mulle, "Yes." Hoover, "Where's the mound? Now you are talking about doing it as a second option. That was discussed & that was approved. It's not there. Now you are saying what are we going to do about it?" Mulle, "Yes that's right." Hoover, "Landscapers don't put in mounds. Excavators do." Mulle, "The landscaper would not put the mound in. When we're talking about a landscape plan, we're talking about a finished landscaping plan that will be created by our landscape architect." Hoover, "What happened from 5 months ago?" Mulle, "We had indicated at that time running a berm along the north property line along the length of the building. When the building was shortened…" Hoover, "When the building got shortened, you put the mound in the back, but not on the north." Mulle, "That is why we are adding that back in because we realized it was dropped." Hoover, "When was it taken out?"

Latkovic, "There is a mound now." Hoover, "No there isn't. There is no mound on the north side. When I approved this, when I gave my blessing to it, there was a mound on the north side. It's not happened. Now they are coming back with all of these changes. I have big issues with that." Latkovic, "What they have proposed tonight includes a mound on the north side of the property." Hoover, "I'm asking what happened before? Why isn't it there now? With the original stuff it was supposed to be there. It's not there."

Suhai to Hoover, "Let me ask you a question. First of all, there is not a huge conspiracy going on. This plan was approved sometime back in March or April. I am the civil engineer. I was out of the country in April. They called me & said they are reducing the footprint because they want something done in a hurry, because they wanted to do this fast. Back in May, I believe, I revised the grading plan. So ok, mistakes happen. Maybe I forgot to put the mound." Hoover, "Big mistake." Suhai, "Alright, it can always be put in. It is not something that cannot be rectified. Call it a big mistake. Call it an oversight." Hoover, "From my eyes, it's a big mistake." Suhai, "It's there now." Hoover, "No it's not there now."

Brett to Hoover, "For clarity sake, I don't know where the rest of PC would be…" Hoover, "Go back to your minutes. That is what was approved." Brett, "I understand that. What was approved is gone. They are presenting a new plan. In the new plan, my take –unless I hear from you & the residents in Kensington Green- that you don't want a mound as they more or less…" Hoover, "I want a mound there, continuous. Let's see the mounds."

Ostergard, "I want to know where. I don't know about you, but if you start the northern boundary of the mounding, how many feet from the property line can that be begin?" Suhai, "It

can begin at our property line." Ostergard, "No it can't." Mulle, "Legally, it can happen at the property line. As a practical matter, we would not locate it there." Ostergard, "You can put a big mound right at my property line." Mulle, "We're going to pull it farther back." Ostergard, "You just said you could build that on my property line. I don't believe that." Mulle, "There is no ordinance that stops it, prevents it. We wouldn't do it that way."

An unidentified woman said, "The actual barrier that exists on the north right now, if you could maintain that. It sounds like on the east, that natural barrier is gone." Mulle, "I had a meeting on site on Friday with the landscape architect. That is exactly the conversation we had. We looked at all of that vegetation & said, we want to try & keep as much of that in place as possible." Ostergard, "What does that mean as much as possible? "

Latkovic to Haibach, "Your landscape team approves all of the landscape design that is done. Can you walk us through the process? What happens here when they finalized the detailed landscape plan? What do you guys do?" Haibach, "I look at it first in terms of how the water flows through the site. Are they going to cause problems for the neighbor because they are backing water up or not? If the answer is no, then I forward that plan along with the landscape plans that show here are the types of trees that we might provide. Here's the type of perennial vegetation we'd like to provide. Here's how we want to have this laid out. I forward that…"

Latkovic, "How specific does that plan get?" Haibach, "It's pretty specific. They call out the type of the planting, exact species: Oak tree. Caliber size, which is the measurement of the trunk & approximate heights. These will be 6' tall. These are going to be 14' tall." Latkovic, "It includes the grading levels." Haibach, "It's a pretty specific plan & I forward those to- we have 3 registered landscape architects on staff. I forward it to them to make sure (a) the plantings are appropriate for this zone, the climate that we are in. They will be vigorous & not die out in a year. (b) If it is the intent of the design to provide screening, then yes they will provide adequate screening."

Latkovic, "How do you evaluate that? How do you implement i.e. if we adopt something that says, there is a mound here?" Haibach, "For the purpose of screening. Then our landscape architect takes a look at the kind of species. They've got the height, what the plant density is."

Jan Nally, resident, 44 Wolfpen, to Brett & Haibach, "It has nothing to do with your building & the design, but it has everything to do with who is going to monitor water usage & look at that issue? To me seems pretty crucial."

Brett, "You mean water supply? The village required this project to have a water study done. We required that it's our hydrologist to be used & has years of experience with the village. He's evaluated the wells within the area to look at what they produce. He's done a calculation. He's determined that this project would not impact surrounding wells."

Nally, "How has he done that? The reason for my question, we've lived here since Kensington was begun, 20 some years. There were years when we did not have enough rainfall that there was serious concern about our water level." Latkovic, "Rainfall doesn't directly impact the wells that we have." Nally, "Rain fall & snow fall."

Brett, "We've had a hydrologist that is a local expert & been engaged with the village for 25 years. When we've asked questions about what happens locally with rainfall, snowfall, the driving factor of our aquifers occur a long ways from our area. What happens in western New York, with their rainfall & snow fall is what goes into the ground & ends up feeding our area. If we have a dry spout & they are ok, our aquifers are in good shape."

Nally, "I appreciate that answer. However, I'm talking 20 years ago when things were low whether it was in NY or whether it was here. We were told we could not water. This building will be in the same aquifer." Mulle, "There are 3 aquifers that are underneath us. Depending on how deep any individual well goes, it could go into any of those 3 & they operate independently of each other."

Nally, "Have you determined, made a study of the depth of…" Mulle, "That's what the mayor is referring to, yes." Nally, "Where our wells have been dug, are you going to go lower?" Mulle, "They looked at all of the wells on all of the surrounding properties & they looked at how deep those wells are & how long they've been in place & what aquifers they go to."

Franzese, "As the village expert was doing his study, he never called me to ask me about my water quality & asked me after the life center was constructed. Within months, I had no water. I had mud. I had to have my well dropped another 35 feet. I used to have really good water that very rarely needed to be treated. I now have a very sophisticated system. I will probably lose my pump again because of the poor water quality. Nobody bothered to ask us."

Brett, "That's not how it works though. Our hydrologist is not going to call every resident in the area & ask them about their well. The guy is an expert. He is the best expert in NE Ohio."

Franzese, "If they drill their wells & we again lose our water, or our water quality changes, are they prepared to have our wells replaced?" Suhai, "No they are not." Franzese, "I'm not going to go through this again to have a facility - that's going to be taking water for as many residents that we have in our entire neighborhood - out of the same aquifer."

Suhai, "Keep that in perspective. I don't know how many homes you have in your neighborhood." Franzese, "105." Suhai, "105 & I'm assuming each one has 3 or 4 bathrooms." Franzese, "2 or 3." Suhai, "Here you are talking about severely ill invalids who probably don't even shower every day. The water usage here is not as drastic as what you guys use in 10 of your homes, even less than that. Why are we even having this discussion when the mayor has said

(?) ?" Franzese, "When they built the center to the south of you, I lost my water because they did something wrong." Suhai, "(something said; unclear)."

Jose Feliciano, resident, Kensington Green, 46 Wolfpen, "I also had to drop my well. I have 3 concerns. One of them is lighting. What are you going to do with lighting? The second one relates to noise & third, sight lines. It sounds from what Joe said, you have a remedy for one; either for the sight or the sound. But you do not have a remedy for both."

Feliciano, "I suggest to you that you require them to provide a remedy for each because it sounds like you put the mound one place, it takes care of one problem. If you have it somewhere else, it doesn't take care of the problem. I've been through this stuff. We have to address this issue now because, with all due respect, there are a lot of empty promises being made. In the course of what happens latter, it just seems not to be what it ought to be. Those are the 3 issues I have: lighting, noise & sight lines. I'd like to review your study."

Brett, "Do you want to address the lighting?" Suhai, "Yes. My answer to that is that we have both situations handled here by having a mound closer to the source of your disturbance, the service area. The mound being close to the source, the sound is going to be less of a problem. We also have landscaping on top of that mound. I can add to this & draw a straight line & show you a straight line sight from here. It is not, in any way, going to penetrate those trees. If you want, we can make the mound higher. The mound as proposed from the back is about 3' or 4' high. It's not that much from the back, but from the front, from 306 it's about 13' tall." Mulle, "The service drive is 13' down." Suhai, "The service drive & the building is sitting 13' down. That is a substantial depth." Mulle, "It's like a sunken courtyard."

Brett, "For clarity, from the back of the building where the service drive would come in, the mound would go up 13'. At that elevation to the farthest edged line, property line for your property, it's actually 3' higher." Mulle, "No. It's 3' higher from where it comes back down & hits existing grade." Brett, "What's the elevation?" Mulle, "From the top of the mound back to the rear of the property, they are probably equal."

Latkovic, "Lighting, how is it in the back?" Mulle, "We have very minimal outside in the back of the building. We have lighting in the front around the entrance drive & around to the south side where the parking lot is. It's all low level lighting. We don't have any big tall light poles. It's all pretty close to the ground. We're just throwing light at the ground just to illuminate the parking area & around the sidewalks. Around the back of the building, all we have is some basic lighting at the entrances as is required by code. There is little to no lighting on the service drive because that is not a nighttime activity."

Latkovic, "What about the parking back there? Is that going to be lit?" Mulle, "No. That's only convenience parking for somebody who is coming during the day to make a delivery. That's not parking for visitors or…"

Latkovic, "From an operational perspective, what time do deliveries happen?" Makesh, "The way we have it in Madison is that we get deliveries twice a week. Usually it's around 11:30a.m. Trash pickup, depending on the volume, is twice a week. They are usually there around 10:00a.m. I do not anticipate anything prior to 7:00a.m. anything after 5:00p.m.

Mulle, "The visitor's parking lot on the south side, there is illumination for the parking lot. It's all low level lighting. Parking is for 30 spaces."

Ostergard, "Has the board opposed any variance request or change on this project? Is there anything that you've opposed of any magnitude with the developer of the project? Or has everything basically been approved?" Brett, "There's all sorts of things that we opposed." Ostergard, "Of any magnitude that would effect anybody that lives in the area? I don't think so."

Latkovic, "We're trying to work through something. They have the right to build this. It is zoned this. I understand that people live adjacent to this, we cannot just tell them that they cannot do it." Ostergard, "You can oppose the movement of the service facility." Latkovic, "We can potentially do that." Latkovic, "That wasn't your question."

Suhai, "Your question was, 'Have you opposed any variance?' We have not asked for a variance." Ostergard, "You have one on height. The location change of the service building from this location to that location is not a variance."

Kostura, "Let's talk about the berm again on the north side. What height are we talking about? We have residents that are concerned about it. They expected a berm. What is the height?" Mulle, "We haven't done the detail design work on that. We just brought this up tonight as a suggestion to try & respond to the comments that we've had. It has not been deigned nor engineered. I'm guessing it can be as little as 4' or 5' or it can be as high as 8' or 9'."

Kostura, "With the vegetation that you are looking at putting on both mounds - I know Eric brought up caliber of trees that gives us relative size of the height of the tree - so on top of these mounds, what size trees are we putting on them? Height wise. If residents at Kensington Green are looking west & they look at the grade of the mound & then they look at trees on top of that, what is the height of the trees?" Mulle, "You're going to plant trees that are going to be small when you plant them. We're not going to plant 30'tall trees. I would think we'd want to do more in the way of evergreens. So we have that visual screen 12 months out of the year." Suhai, "I would say about 6' tall at the time of planting, maybe 1½" caliber."

Brett, "It feels like our issues are circling around the screening. That's the number one thing that everyone has talked about. If we define what we would expect from the mounding; Joe Franzese raised a good point regarding the mound heading south. If we define that as that mound has to be X height & X length & within X feet from the service drive, those are things that we need to define."

Joe Nally, resident, 44 Wolfpen, "Thank you guys for digesting all of this. The other piece of information that I heard tonight that I want to put on the record is, so this is the current work in progress plan. Hopefully, this will get all sorted out. Based upon the market, should there be expansion. As a physician, this is one of the biggest public health problems we have. This is a facility that needs to be built across America. This is a facility that has had great success at their other location."

Nally, "This facility is probably going to need to grow. What I heard is that red marker area there, 'well maybe we won't extend it out. We'll just put another building over here'. The concern that you hear is whatever comes down the pike as we are in process, hasn't met with much resistance as some would like. To me that would be a very, very big ticket with an expansion that is different than the original 110 or so. Should they propose a new building across the back of the property, would that be an entire separate operation that would start from ground zero?" Brett, "From an approval standpoint, yes. If the Lantern came to us & said we want to extend this: 10 beds, 30 beds. That would have to come back to PC."

Nally, "He didn't say extend. He said we probably will have a new building." Brett, "Whether it's a new building, whether it's an extension, it would have to come back to the Village."

Nally, "How high are the lights in the parking lot?" Mulle, "I think they are about 6' tall. Franzese, "You don't have any light s on the back of the building for the service drive?" Mulle, "There are a few lights at the back of the building because we are required to have lighting at the doorways. That is the extent." Franzese, "They are not 6' off the ground?" Mulle, "There is nothing that is a pole light in the back."

Russ Zajaczkowski, resident, 5237 Maple Springs, "We've had the problem with silt in the water. No reflection on Eric, but has Geauga Water & Sewer been asked to weigh in on the change on the plans & what's happened?" Mulle, "Our plans have been submitted to them." Someone asked, "With the new berm to the north?" Brett, "They have not seen the new berm to the north." Same person asked, "Will they before you approve?" Brett, "We would look to engage them, yes."

Flaiz, PC member, "I'm struggling with this. With what is being presented tonight, I'm a no. I came here tonight thinking I need to remove how I'm deciding on these changes vs how bad of a neighbor you've been & how you've effected our residents negatively. When you made the comment that you haven't hydro seeded because you wanted to save $30,000. in temporary seed cost." Suhai, "I didn't say that." Flaiz, "That's exactly what you said. You wanted to save $30,000 in temporary seed costs. That irritates me."

Flaiz, "My problem is given your course of conduct, I have zero confidence in what you are telling us. I'm a no right now. I would be a yes if I actually saw a plan that had all of these features down to within a foot. You tell me exactly; not we're going to do this, we're going to do that because I don't trust you. If you give me something that says this is what we are going to do, so that latter if you don't do it, here it is – not just talk, then I think I would vote to approve it. Based upon what you presented tonight, I'm not…"

Suhai, "What exactly? I mean it is a little…" Flaiz, "You are showing me a mound that is a red circle with a marker. Again, your course of conduct here in handling this project; you're not giving any specifics. In my mind there is nothing to hold you to this. So without a specific - I'm talking plotted down to a foot plan for this screening - I'm a no. I'm just one of 5 people. That's what my position is."

Suhai, "I'm not trying to state your process to you, but as you yourself has just mentioned, anything that happens on this site is going to be subject to the approval of your village engineer. Obviously, this mound, as I said, this is just a stockpile. That is not a mound. The mound that we were going to build was going to be the plan that was approved. So this mound that we are showing here & any mound that we are talking, is going to be approved by the village engineer. Before we build anything, the size of that mound, the location of that mound, the type of planting on that mound is all subject to approval by your village engineer. So, I don't really understand what the hang up would be if everything that we are doing to the site is being approved by you. We're not just going to go there & do something. All we are looking for today, is an approval so we can continue to move this project forward."

Suhai, "Again, I did not say that we are trying to save $30,000. We just got the quotes. This is one of the proactive things that we initiated ourselves. Why haven't we gotten this under construction? Why don't we have the building (unclear)? Because we are waiting for PC approval. This is like being between a rock & a hard place here."

Flaiz, "I want to keep the flooding stuff separate. I drive by the project multiple times a day. Since May you've done nothing to address the flooding problems, in my book, zero. The water that is going into those ponds is as dark brown a week ago as it was three months ago. That's a separate issue to me. I'm not letting that – no pun intended- (unclear?) my judgment on what is going on with this. However, it does affect me in that I want to see specifics. I'm not voting yes unless I see specifics because all you've shown me is kidney bean shaped things drawn in red marker. It's not good enough for me"

Suhai, "What I'm looking to understand is you are not voting yes to what? You said you are a no. What exactly is it that we are trying to approve here today? "

Latkovic, "Let's talk about what that is. You said in the beginning, that it is just the building. It is not to just approve the building. It is a development plan. That development

plan includes the entire development. To Jim's point, that includes: mounds, that includes landscaping, that includes water, that includes light. It doesn't just include the building. Does that answer your question?" Suhai, "Yes it does."

Franzese, "You went ahead & designed a storm water drainage system on this entire piece of property & presented it to the village engineer. Now to some extent, it's been built according to drawings & as I understand it, somewhat modified from the approved drawings. Now you are proposing to go back & alter them, the topography of the site. Wouldn't that then, potentially alter the water flow of the site, where it goes, the volume in which it flows? When you've had the storms that we've had during the summer, if this going to become the new norm & we're going to be faced with 1" per hour storms, that is going to have an effect down the road to the people in the west. I would think that before you would want to proceed that you would want to know, how this altered topography is going to effect a system that you've already built. Then down the road, if you are contemplating adding another 50,000 square feet of surface, including all of the paving, you're only going to exacerbate the water problem.'

Franzese, "In my mind, I would want to look at the topography, figure out what it's going to do. Then make sure what is built will work so you don't have more problems & get down to a point where you can't undo what you've already done."

Suhai, "To answer your question, first of all this thing is sized properly. We know what the capacity is for these ponds. We've taken all of that into consideration; that there could be future development. These ponds right now are oversized. If the topography changes, I know it won't make a big difference because I know there is enough capacity. That being said, the way these retention ponds are sized (unclear). Right now whatever is called for, it is sized for. These flash floods are not the norm."

Latkovic, "I have some of the same concerns as the mayor. It comes down to screening. You've got service area in the back. How do you cover that? What does it look like? This clearly is not a finalized plan. To Jim's point, hand written areas where it's unclear on what you've done. Given the tract record, there is some uncertainty & unease."

Latkovic to Ondrey, "From PC perspective, do we have to approve an entire development plan as presented? Or could we say, approve the development plan subject to them coming back in front of PC for a separate landscape design approval? We understand generally where they are going to do these things. The building itself isn't changing. The service drive isn't changing. Based on exactly where they place the mounds, the density of the trees, exactly where they are."

Ondrey, "You could segregate it out & make certain portions subject to your latter approval. Everyone has to recognize the consequences. Do they go forward hoping they are going to get subsequent approval from you? You have to recognize; does this put the village in an awkward position if major funds are now spent & the building is underway? You will face a different kind of pressure than you do now for approval of those subsequent those plans. I'm not

saying that you can't do it. I'm saying there are pluses & minuses to that approach. If they are willing to risk it, as long as you've got it clear on the record, there is no guarantee that these subsequent items will be approved, it's one way to handle the problem. '

Latkovic, "If we approve the general plan excluding the major components of the landscape development; if they came back latter & the landscape plan was not approved, what would that mean? They could not move forward with the rest of the development? They couldn't open. What is the practical implication of that?"

Ondrey, "Ultimately, could you with hold an occupancy permit so they couldn't open up & operate? Theoretically, you could. Is a judge sympathetic to a situation where someone's got there building up & what's holding it up is a dispute over mounding & trees? We have to recognize that it's a bit unpredictable."

Suhai, "The reality is we are not looking for a dispute. We don't anticipate there being a dispute as to the location & size of those mounds. We will work with you guys."

Latkovic, "While I appreciate that, it is a bit frustrating not to have this detail presented tonight. I am very cognizant of the issues that this development proposes from what's already happened to the site & sound issues. On the flip side, it is your right to build this development. The water issue not withstanding & some of the missteps along the way & when things were presented, I do feel like you've tried to address some of the issues that people are concerned with. I don't know if it will be perfect either way. I do have a concern that there are a bunch of handwritten things on here."

Suhai, "We weren't sure if this is something that you would want. Maybe you don't want this mound. This is something that we were going to propose as a response to the comments that we heard about headlights & the sound. Without being sure what would fly with this commission & the residents, we didn't want to present something & it would be in your face. We're trying to work with you to come up with the solution. We are looking for approval from you & the residents."

Latkovic, "Would you accept a proposal like I suggested to our solicitor, with that risk? I'm concerned about the details that aren't on here."

Makesh, "Even before I bought the property, I presented myself & won the Council & Planning Commission's blessing before I even moved forward. We've been very (unclear) with the process. Unfortunately, some thing happened & I apologize. We wanted to build 110 units. The only reason I decided to bring it down is after we did all the drawings, I realized I have to find a way to serve the elderly population. In this country, we take care of the top 2%. There are 98% that we need to care for. Why build 110 units & service only the top 2% -3%? I need to find a way to serve the other 97%. That gave birth to breaking this project into 2 phases. When

we add another 20 apartments or 30 units, our intent is to find a way to serve those clients. Right now folks if you look around the cost is $7,000 to $10,000 a month. I don't want to be that provider. I want to do something that is useful to the community."

Makesh, "Going back to the gentleman's comment that Council's being always for this project; trust me, they have not. They've looked at everything, including the Engineer, the Building Commissioner. The last 15 years we've built 3 facilities. I haven't had to go through this process. At the end of the day, when we finish our project, if we don't build according to your specs, you can hold back the occupancy permit. Everything we do here, you absolutely have control of everything. Eric has complete control of how the water flows. If he doesn't like the way the water flows, if he doesn't think the basin will capture the water, he's going to tell us."

Makesh, "What I'm looking for is all your support. I would like you to look at things objectively & yes this project has affected a lot of people & I understand that. I sympathize. It's not like we have a conspiracy behind your back. Our goal is to work with you guys. I'm demonstrated this over & over the last 6 months. I'm here again asking for approval. Tonight's approval is extremely important. It's crucial for this project. We're here to do whatever you want us to do; to make sure that we do it the right way. If you say, we don't like the height of the tree. We need X more in height, we'll do it. If you don't like the mound that we built, you tell us. We'll change it. We want to be good neighbors. "

Latkovic, "Let me ask you this. If we split approval in some way that is what I'm hearing you say." Mulle, "I don't think it is reasonable for us to expect you to put a final approval on the landscape design when we don't have a 100% final landscape plan. As Sam said, part of what was happening here with this process, to have a collaborative session & see if we could try & discover what the right solution would be here that would be satisfactory to the village. If there is a willingness to do an approval on this part of the development, tonight to keep things moving forward relative to construction & then come back with the completed landscaping plans & do that as a separate approval. I think that is very reasonable."

Brett to Flaiz, "Where Tim drew the mound to the right of the building, to the east, they actually did have that drawn in with the elevations. It's hard to see because they drew over it. The one to the north was not there."

Brett, "I would be comfortable tonight for PC to do something that you said. The fire lane would be determined by our fire prevention officer. I would want no parking in the back. I want to define some parameters regarding the mounds. We define an elevation. We define a minimum length & width & distance from the building for the mound to the east & the mound to the north. Under those scenarios, I would be comfortable moving forward."

Brett, "To Mr. Hover's comment, he thought there was a mound in the first plan."

Latkovic, "So approval with certain requirements with a subsequent full landscape design approval to be done at a subsequent meeting." Brett, "Yes." Latkovic, "I think that makes sense."

Latkovic, "Define some general parameters of the mound to the east. Do you have any ideas about the height for the mound to the north?" Mulle, "I would suggest 5'-8' range. Suhai, "A 5' height mound to be able to mow it properly". He did calculations. Suhai, "15' here. 15' here. They'd be about 35'in length for the mound."

Flaiz, "That's why I want some more specifics on the mound. One of the concerns that I heard from the Kensington folks is there is going to be cars & trucks. All of which will be driving up the parking lots with the lights facing to the east. The original rendering, the mound is further to the north." Mule, "No it isn't." Discussion.

Franzese, "One thing about the new mound, is the intent to have a manicured slope that has a few trees on it? Or are you trying to create something that goes to more of a natural state by really giving you a jump start by placing evergreens to provide initial screening & then let the natural environment take over? That will do a few things: reduce their long term expense, reduce the amount of water runoff which we all know is a problem & give us more sound proofing." Mulle, "That is what my intention is. That is the conversation I had with the landscape architect." Franzese, "On the one hand, you're talking about a mound that is mow able by defining a certain slope; more manicured, a slope with trees on it. On the other hand, you want it to become more natural in its final appearance."

Suhai, "From our side, we don't want a lot of junk. We would like to see something manicured. We would like to have a mow able slope from our side to take care of. If what you guys want, you mentioned natural brush, so behind the evergreens at the top, if you want the back slope of the mound to be left in an undisturbed state & you have whatever grows over there, we can let that happen too. We don't do anything with the back. We take care of the front of the mound & don't go to the back."

Mulle, "There needs to be a combination of both of those solutions. We don't want to create a 16 acre piece of property where we have to mow 16 acres of grass. We want a lot of the site to still maintain a level of natural environment. It was a farm. It wasn't a mowed lawn before & we want to maintain that."

Kostura, "Tim, on that mound to the east, across the back of the building; I know residents have a lot of concern about light filtration & pollution. That mound, can it be extended farther to the south?" Mulle, "That is something we can definitely look at. There's also vegetation to accomplish that too. You have to be a little bit careful about mounding because we Don't want to have too much mounding where it interferes with our storm water. Vegetation

can help." Suhai, "Yes we can extend that mound south."

Brett to Ondrey, "If PC were to do this approval that we are discussing, now would be the time to set conditions for delivery of services." Ondrey, Sure make it part of the conditions." Brett, "I think a morning time of 8:00am is a reasonable time to start deliveries. Prior to that you are disturbing the neighbors. No deliveries after 5:30pm No Sundays for delivery of services."

Makesh, "The kitchen opens at 6:30a.m. They are there to 6:30pm – 7:00pm. The deliveries have to come midmorning. Usually, we do not receive anything past 2:00pm. However, maybe once a year; they missed something, there was an emergency & they come back. I think 8:00am is very reasonable request."

Makesh, "The other deliveries we expect is when clients move in. For the most part, our policy is we like our clients to come to the front door & leave through the front door. On weekends, they tend to move stuff. Clients do move stuff on Saturdays & Sundays. The clients that we serve, their children are working adults. They tend to move their mom, dad on the weekend. The adult children are in their 60's & 70's & they use the approach that is convenient for them. When we have the services in the back, the loading dock seems more convenient & accessible for them. It doesn't happen all the time. We encourage them to move in on weekdays & we will continue to do that."

Makesh, "Waste Management comes Tuesdays & Thursdays. They stop at 11:00am - 11:30am."

Brett, "If we said 8:00am to 5:30pm weekdays & limit Saturday & Sunday between 10:00am & 3:00pm. for deliveries." Makesh, "Perfect."

Hocevar, "On CT's Landscape Architects, they are component people. We've had great luck with their Landscape Architect Department. Latkovic, "If we have a subsequent meeting to approve the landscape plan, could we have one of your landscape architects join that meeting?" Haibach, "Yes."

Brett to Ondrey, "It feels like we would be approving a plan that replaces the original plan. The elements of it would be: the fire lane would be determined by our fire prevention officer, there would be no parking to the east, we would define the mounds in terms of overall length, width & height."

Ondrey, "That's where we're having a disconnect. What I thought I was hearing is that you will withhold approval of the mounding & landscaping plans until subsequent detail submissions are made."

Brett, "I think that it makes sense to do some description of the mounds so we don't end up with what Mr. Hoover said: there was supposed to be a mound. What happened to it? What I mean by defining the mounds would be: a mound to the east that would be approximately 300' in length north to south, approximately 50' in width & at least 13' above elevation of the

service drive. The final drawing, the final approval would come back to PC. The same thing for the mound to the north."

Ondrey to Mulle, "I thought the plans that got submitted to the ABR had that detail on that mound." Mulle, "Yes they did." Ondrey, "Which is what you generally described. You could say a mound to the east, no less than the dimensions on the plans that have been previously approved by the ABR, but subject to further review & discussion by this PC. And a mound immediately to the north …" Mulle, "You can define this one as 300' long & the width is 40' to 50'." Ondrey to Mulle, "Was that mound on the plans that the PC had approved a couple of months ago? Mulle, "What we had back then was we had a slope on that side." Ondrey, "Ok so there wasn't a mound. There was a slope."

Ondrey, "Then why don't we make it a mound to the north along the northern boundary line of approximately 5' in height, 35' in width & 300' in length &subject to further PC review & approval?" Brett, "With final location & final parameters to be determined by the PC."

Flaiz, "Wouldn't that have to happen sooner?" Mulle, "It needs to happen sooner than later." Flaiz, "Are we going to be able to sufficiently hold their feet to the fire? Are we protected? **If we do this type of approval & they don't follow through exactly as we want, we're withholding their occupancy permit." Ondrey, "Yes."** Flaiz, "I want to be able to hold the hammer." Ondrey, "Yes. As I pointed out earlier, do we have a perfect scenario? Probably less than ideal from that standpoint. Would we have enough given the parameters that were described generally here? If they don't get our approval, they are not going to get the occupancy permit. "

Latkovic, "Will you have this information together by our next regularly scheduled meeting?" Mulle, "One month from now? I doubt it. We'll make our best effort. Our landscape architect isn't here to confirm that." Suhai, "We can have a mounding plan then definitely. I'm pretty sure we can't have a landscape plan done by then."

Ondrey, "Remember, we do want our landscape experts to take a look at the landscaping plans." Mulle, "You want them to review it before it comes here, CT?" Ondrey, "I would say that would streamline the efforts." Mulle, "If that is the case, we'd probably have to be at the October meeting. We need to move this forward in order to make all these water issue go away. If this isn't moving forward, we aren't fixing the water issues. They are directly related. "

Brett, "I make a motion to approve the plans submitted by the Lantern with the following conditions:

1. **No parking to the east of the building**
2. **The fire lane would be at the discretion of the fire prevention officer**
3. **Service delivery would be limited from 8:00a.m. To 5:30p.m. Monday through Friday & from 10:00a.m. To 3:00p.m. on Saturday& Sunday**
4. **The mounds to the east would be based on the drawings that were submitted to PC & that the mound to the north would be at least 300' in length & at least 35' in width & an elevation change of a minimum of 5 feet with final location & landscape approval to be set by PC."**

Flaiz, Can we stipulate in there, no occupancy permit will be issued by the village until final approval by the PC? Are we able to do that?" Ondrey, "No. That is not our call. All we are doing is approving plans."

Suhai, "The stipulation that you made about the fire lane subject to the fire chief's input, could you expand on that a little bit? I guess that's sufficient about not being able to loop around. It's probably going to stick out further as per the fire chief's discretion; whatever distance he would require." Brett, "I don't know what he would require. I can't speak to it." Someone said, "It's his call. You'll have to work it out with him."

Latkovic second. Roll call: Hitchcock yes, Latkovic yes, Brett yes, Flaiz no, Kostura yes. CONDITIONAL APPROVAL

Ondrey said that this plan presented tonight should be stamped & signed. It was stamped & Chairman Latkovic & the secretary signed & dated it.

OLD BUSINESS: cemetery: a contract has been let out. Work on it should start this week. Turn around in 60 days.

The next meeting is set for 9-11-14 at 7:30 p.m. if there is something on the agenda. There was no other business. The meeting adjourned at 10:30 p.m.

Steve Latkovic, Chairman

Maggie Tomaro, secretary

House owner wants to open En Fuego pizza place

8-18-14

By JOAN DEMIRJIAN

SOUTH RUSSELL – Village resident Chris Wilber is hoping to do more than live in the East Washington Street house that has been in his family for 50 years. If his plans are approved by the village, he could soon be selling carry-out pizza cooked in a wood-fired oven.

First, however, Mr. Wilber and his business partner Michael Sizzler must clear some hurdles including obtaining approval for zoning variances. The location is in an area of the village zoned for businesses and light industrial uses. Restaurants are not one of those uses, although there are several already in the area.

Architect for the project Warren Richardson of Urbane Design Studios explained the project to village planning commission Monday. The house on about two acres at 552 East Washington St. is located next to the Panini's restaurant and is the only residence in that stretch of East Washington Street.

An existing attached space would be renovated and converted to a kitchen with the wood-fired oven and separated from the house with a fire wall. An addition would be built for the carry-out portion of the business. There would be two driveways to the facility, with a separate one for customers. Mr. Wilber said the proposed name of the business would be En Fuego, meaning on fire. The carryout portion would be the initial business with two more phases planned. Mr. Wilber hopes to add a covered patio area for eating in the future. And if the business goes well, the plans call for a future sit-down restaurant. "I want to do something that will help the community," he said.

The goal is to add to the community and fulfill the dreams of a budding entrepreneur, Mr. Richardson said.

David Hocevar, contracted building inspector, said the planning commission would determine the overall project, but the village zoning board of appeals would look at variance issues such as building on to the house for commercial purposes.

Existing restaurants have conditional use zoning because they were operating before zoning was put into place, Mr. Hocevar said.

The goal is to open in October and with phase two being the patio next spring, possibly selling beer and wine, and the final phase being the restaurant.

Village Law Director David Ondrey said the proposal will have to go to the zoning board of appeals for the variance requests.

Planning commission member James Flaiz said he is in favor of the concept, but would like to see the owner obtain the variance first. If variances are obtained, the plan could come back to the planning commission for overall approval.

Village Mayor Matthew Brett said the carry-out pizza plan is a "little unusual," but would fit in with the general theme of the area.

County could give township website new look for free

By JOAN DEMIRJIAN

BAINBRIDGE – Trustees are looking at options to update the township website. If they go with Geauga County's technology program, the new design could be done for free.

Trustees met Aug. 11 with Steve Decatur, chief technology officer at the Geauga County Department of Information Technology, to investigate ways to update the 15-year-old site.

The site needs to be more navigable, Trustee Lorrie Benza said.

Mr. Decatur said his staff of technologists would incorporate ideas from trustees to give the website a look that would last for several years.

He could guide the township through and update or have his department do the work.

The township would be responsible for updating and adding to the content with input from departments, Mr. Decatur said. "We put together the technology to let you input what you want." The township would monitor and edit it.

"We make sure it is up and running and make inputting easy," Mr. Decatur said. If existing software is used, there is no cost to the township. Any module added would be paid for by Bainbridge.

It would take a month or so to develop, he said.

"We publish updates twice a day," he said, that are flexible and dynamic. "Our people love to do development and the content is in your hands."

Trustee Jeff Markley said a redesign would make the website more compatible to current information.

Resident Ted Seliga agreed that an update is needed. Mr. Seliga and resident Gil Myers had asked trustees to investigate what the county could offer before paying a private firm for the job.

Mr. Decatur said the new website could be created in about a month. Trustees said before going forward, the county technology team should meet with department heads to analyze the scope of work needed for website revision.

Citizens police academy set for Sept. 9 in Bainbridge Twp.

The next Bainbridge Police Citizens Academy is set to begin 7-9:30 p.m. on Sept. 9 and will continue every Tuesday for eight weeks. The free classes will be held at the Bainbridge Police Department.

Applicants must be at least 21 years of age by July 1, 2013 and a resident or business owner in Bainbridge to attend. Individuals with felony or serious misdemeanor convictions are not permitted to participate. An application must be submitted and background checks may be done.

The Citizens Police Academy is designed to give participants a working knowledge of the day-to-day operations of the police department and officers' role in the community.

The academy is not intended to make citizens into police officers. Classes cover crime scene investigations, traffic and OVI enforcement, traffic accident investigations, firearm safety and training, patrol techniques and canine use as well as legal review and laws of arrest.

There will be speakers and at the end of the eight week graduates can schedule a ride-along with a patrol officer for one evening.

For more information and to submit an application, contact Elaine Marconi at 440-543-8252.

Assisted living facility gets approval for its new plans

By JOAN DEMIRJIAN

8-18-2014

SOUTH RUSSELL – The village planning commission gave its approval last week to a revised plan for the Lantern of South Russell, an estimated $8 million assisted-living facility to be built on former farm land on Chillicothe Road (Route 306).

As part of the approval agreement, representatives must come back to the planning commission in October with the final design for mounding and landscaping of the property. Building of the foundation should begin this week or next.

Residents filled village hall at the Aug. 18 meeting voicing concerns ranging from intrusion by headlights, to noise from a service area, to concerns about well water use.

Resident Jose Feliciano said he was worried about lighting and noise from the site.

Lantern representatives presented the latest plans for the 16-acre parcel adjacent to and south of the Federated Family Life Center in Bainbridge. The site is zoned for assisted-living facilities.

Current plans call for 52 units – about half the original size – to accommodate people with dementia and Alzheimer's disease. There is also an open area court yard and administration wing. The parking lot will be on the south side and smaller than the original plan, according to architect Tim Mulle of TMA Architects in Bainbridge.

The service area and drive will be located at the rear of the building in a sunken courtyard, Mr. Mulle said. Mounds built around the area with trees planted on top will give it a residential character.

"We have close to 400 feet from the back of the building to the eastern property line," Mr. Mulle said. This is further back than previously planned.

A fire lane may be required around the building, said David Hocevar, contracted building inspector for the village.

Village Mayor Matthew Brett said he has had concerns about residents to the north of the project being bothered by deliveries in the back of the building, headlights and sounds. How the mounds are developed will impact these issues.

Seeding of the site was to begin this week, Mr. Mulle said, and most of the existing vegetation can be retained adjacent to the property line on the north side.

Mr. Mulle said there are three aquifers in the area and all three are accessible for wells in the area.

Law Director David Ondrey said the village can limit deliveries to 8 a.m. to 5:30 p.m. on week days.

Lantern owner Jean Makesh said he does not expect any deliveries or trash pick up prior to 7 a.m. The visitors' parking lot will have low-level lighting.

The goal is to work with the community, he said. "We will not do anything without your blessing. We want to be a good neighbor."

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PLANNING COMMISSION MEETING
Record of Proceedings
November 13, 2014 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor Matt Brett, Bryan Kostura, Andy Hitchcock, Jim Flaiz

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor (On speaker phone); Eric Haibach, Engineer; Jennell Dahlhausen, Administrative Assistant

Guests: Bob Flesher, Manor Brook Drive; Mary Beth Wolfe, Daisy Lane; Bill Koons, Potomac Drive; Jennifer Pishko, Hudson; Derick Carver, Beachwood

Chairman Latkovic called the meeting to order at 7:30pm. Mayor Matt Brett asked for the opportunity to introduce Kathleen DeMarco as the new Secretary of the Planning Commission, ABR and ZBA. The Mayor thanked the Building Inspector and the Administrative Assistant for getting DeMarco on board.

Flaiz moved to approve the Planning Commission minutes of October 9, 2014, seconded by Hitchcock. Roll call: all ayes. Motion approved.

Derick Carver and Jennifer Pishko presented plans to the Planning Commission for a proposed Cross-Fit gym on East Washington Street.

Jennifer Pishko explained plans for the building at 524 E. Washington Street. She explained the type of exercise facility they are proposing and described what is involved with Cross Fit exercise. Derick Carver explained the different levels of the workouts and the safety that is involved. Pishko explained the growth of the trade mark "Cross-Fit" and their licensing program.

There are currently no Cross Fit gyms in the Chagrin Falls area. He stated that the information which was supplied to the members shows a typical layout of a Cross Fit facility and they will have 4 instructors. Parking will be in the rear of the building. As they grow, they will hire more instructors but they will have 1 coach for every 7 clients. They hope to obtain 300-400 customers within the first year.

Carver said their main clientele is police, fire and military and there are a couple of final steps before they close on the lease. They have equipment on hold and would like to open before the New Year so they can capitalize on resolutions. There will be both a men's and women's locker room. The front area of the facility will have shirts for sale. The classes will be held Monday through Friday and the facility will be closed by 8:30PM. Saturday classes will only be held in the morning. Carver feels the fitness center offers different, more intense services than Snap Fitness and Carver feels they will work well together.

Carver would like to hang a banner announcing their opening and eventually will apply for a permanent sign. Mayor Brett advised Carver and Pishko that there are a few processes they will need

to complete for approval of a sign and referred them to the Building Department to receive the proper permits.

Mayor Brett asked the Solicitor and Engineer if they had any concerns. The Solicitor said the main concerns are that the plan provides adequate traffic flow for pedestrians and neighboring properties. The Engineer added that he doesn't see any issues with the traffic flow or storm water drainage.

Mayor Brett and Chairman Latkovic both felt the plans for the cross fit gym look like a good addition for our community. The Building Inspector didn't have any concerns.

Flaiz moved to approve the Cross Fit Gym at 530 East Washington Street, seconded by Kostura. Roll call: all ayes. Motion approved.

Bob Flesher is returning to PC for an informal discussion/development review. He hopes to develop a 10 home subdivision on the Ketchel property, PP29-037-900 located west of SRV Park & east of Deerfield Drive. Flesher appeared before the PC on July 10, 2014 for an informal discussion about his plans, September 11, 2014 with Dr. Eckstein to discuss the water sensitivity on this property and on October 9, 2014 for continued discussion.

Flesher and Wolfe would like to update the Commission and present some additional information concerning the source of water for the proposed development, known as a community well system. This system is a method to deliver adequate water supply to the R1 zoning district in South Russell. Flesher stated that the amount of water usage for a 4 bedroom house requires 400 gallons per day. He believes this is achievable and will have the well driller report some data to support this claim. The current location of the well is in Bainbridge, which is outside the overlay of the property. Discussion followed concerning the water supply for this property.

Mayor Brett suggested that the Solicitor draft a process to be followed for submitting plans and variance requests to the Planning Commission. The Solicitor will contact Flesher to inform him of all his requirements to proceed with approval of the proposed subdivision.

Old Business:
Nothing to report

New Business:
Discussion was held on the process that an applicant should go through to be added or removed from the agenda. The Commission would like all information to be submitted to the Building Department no less than 8 days before the scheduled meeting.

Mayor Brett made a motion to adjourn, seconded by Chairman Latkovic. Roll call, all ayes.
The meeting adjourned at 8:40pm.

Steve Latkovic, Chairman

Kathleen DeMarco, Secretary

PLANNING COMMISSION MEETING
Record of Proceedings
June 11, 2015 at 7:30PM

Members Present: Mayor Matt Brett, Bryan Kostura, Andy Hitchcock, Jim Flaiz

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor; Lucy Jasinski Secretary

Guests: David Jezek, Jim Pascoe, Ken Ashbough

Chairman Latkovic was absent so a motion for a pro temp chair before the meeting was opened. MB motioned Jim Flaiz to act as temporary chair for the evening. BK second.

Roll Call: Hitchcock-Yes; Flaiz-Yes, Kostura-Yes, Brett-Yes

JF-in the absence of minutes to approve moved to the agenda of the Washington Center asking for 21 additional parking spots. Opened to the applicant to explain his request.

DJ- Detailed the history of the property, the past use as a warehouse, an attempted renovation of the property and then finally as a training facility for the SWAT teams. When Washington Center LTD acquired the property it had to go through a major reconstruction repairing all the damage from the SWAT team and the deterioration of roofing/interiors. With the help of the Village of South Russell, we were able to redevelop this property and bring businesses to the center. As part of that transition we have utilized the front section as primarily as retail. We now need more parking at the front of the property where the retail customers come in.

Solicitor –remarked on the reason the issue is at Planning Commission before ZBA because it dealt with traffic, seemed more logical to go through planning first. The issue will still need to be approved through ZBA. There were four review standards for this development review:

1. The proposed development is harmonious with the subdivision regulations if applicable

2. The development will not adversely affect the neighboring properties

3. The plan of the development provides for the integrated and harmonious design building and structures and for adequate and properly arranged facilities for internal traffic circulation, off street parking and loading and landscaping and such other feature and facilities as may be necessary to make the project attractive and efficient form the standpoint that the applicant as well as from the standpoint of the adjoining or surrounding potential developments.

4. The last standard has to do with water supply which doesn't apply in this instance.

AH – Questioned the large back parking lot. Wanted to understand where people park and when the parking lot fills up.

DJ – the primary motivator is Chagrin Yoga and Snap Fitness. Chagrin Yoga will be expanding; their customers come in one at a time, and are usually one per car. They cycle in and out but the goal is to provide enough additional parking for this additional business as well as parking for some of the other businesses in the area so they aren't crowded out by the new visitors.

AH- is there a shortage now? Is it adequate parking for their needs?

Discussion back and forth on the size of the parking, who parks where and why the space is needed in the front. The large back parking lot is utilized by employees, as a truck turnaround and sometimes by Burntwood Tavern. Board agreed that it wasn't reasonable for the customers for the retail stores to park way in the back and doesn't solve the parking issue. Board went on to say that Dave is to be commended on the success of the property. While they hate to lose green space, there isn't a whole lot on the property now. There were comments on the winning partnership of the community and businesses. The board sees the need and is willing to work to find a solution.

The discussion then turned on the location of the new parking and how the traffic pattern would work. The locations of ingress, egress, walkways and size of parking spots were deliberated on. Washington Center worked to find the most noninvasive placement of the parking and located it between the three buildings leaving the front tree area undisturbed. Defined timing of how long the additional parking would take to put in. Once it was approved by all boards and commissions, it would take about two to three weeks.

The conversation then moved to making a motion. Solicitor recommended that the engineer look at the plans for any drainage issues. LH noted that the engineer had a copy but had not commented on them as yet.

Board – questioned who the neighbors were for this property and the solicitor stated that when it goes to ZBA all the neighbors are notified and entitled to comment if they think it will impact them. More discussion on sidewalks and if the concrete will uphold truck traffic. The apron that was poured is thicker so it would. All concrete would be matched to the new surfaces. Discussed sizes of parking spots, LH referred them to building code. Board wanted to know timing of Chagrin Yoga expansion, which would be early September when school starts.

MB - Motion to approve Washington Center LTD requests a parking lot expansion for 21 cars. At 530 East Washington Street conditioned on the engineer approval and ZBA approval.

AH-Seconded

Roll Call: Hitchcock-Yes; Flaiz-Yes, Kostura-Yes, Brett-Yes

Old Business, - None

New Business – Jim Pascoe spoke informally to the board to get direction on a planned sale to Ken Ashbough. Ken has shown some interest in buying the corner gas station. Ken has a lot of questions and before moving forward, needed to have direction from the board if they think it's possible and whether he should pursue the acquisition.

KA then addressed the board. Discussion on what type of business Ken would like to bring to that corner and the needs to make it profitable so the property doesn't become squeezed out of business. KA explained the dynamics of the gas station business and more inside space and pump realignment is needed to provide an income that would keep the corner viable. There are variables that need to be addressed and substantial money that would need to be invested, so before he starts the process, he requested input from the board and asked what next steps he should take.

Board gave feedback on what was objectionable on the Circle K offer. The size and hours of operation were objectionable. KA expressed that hours of business would be in line with village and the size would not be as large but would need to be addressed.

KA showed pictures of what his current gas stations look like and the type of business he is pursuing.

Next Steps would be to get a drawing up and have Laura see it and set up an informal meeting. Would be August, but an informal meeting could be put together to discuss.

More discussion on timing to go through the process to get approved and it was indicated that from 3- 8 months should be planned.

NEW BUSINESS Cancel Planning meeting in July to schedule ZBA meeting.

Adjourned 8:35pm

Roll Call: Hitchcock-Yes; Flaiz-Yes, Kostura-Yes, Brett-Yes

Jim Flaiz, Pro Temp Chairman

Lucy Jasinski, Secretary

PLANNING COMMISSION MEETING
Record of Proceedings
September 10, 2015 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor Matt Brett, Bryan Kostura, Andy Hitchcock, Jim Flaiz

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey; Lucy Jasinski, Secretary

Guests: Daniel Jenks and Kimberly Gibson

Chairman SL called the meeting to order at 7:30pm.

MB moved to approve the Planning Commission minutes of November 12, 2014, seconded by AH
Roll call: all yes. Motion approved.

MB moved to approve the Planning Commission minutes of June 11, 2015, seconded by AH
Roll call: all yes. Motion approved.

MB – asked LH status of the assisted living facility, timeline and when it will open. LH said while it was set for October 30th, expects it to the first of 2016.

1st Agenda item – Augies Pizza, Daniel Jenk; Walk in cooler with an 8 foot fence.

DJ addressed the board outlining the history of the business and the request for additional cooler space via the outside cooler and a fence to screen the cooler. The board discussed any adverse effects on neighbors and if it would impact traffic. They discussed the size, location of cooler door and amount of space it would take up in the back lot. The cooler takes up around 3 parking spaces and it would not hinder deliveries to business as the back parking lot is seldom used to capacity. There were no communications from any neighbors; the owner of the property was notified. Because there were no neighbors in attendance, there were no objections to the cooler or its location. Then the board had a brief conversation on how it would be used and secured. DJ noted that there were padlocks on the door and no alcohol would be stored there at all. Also noted was that because the lot is conditional use property adding to the building was not an option.

The fence would be of white vinyl and be 8 feet to screen the cooler on two sides and was briefly discussed.

JF Motioned to approve the applicants request for a walk in cooler with an 8 foot high white vinyl fence to screen it (LJ); MB Seconded
Roll call:
SL-Y, AJ-Y, JF- Y, :BK-Y, MB-Y
Motion **APPROVED**

2nd Agenda item – New Grab n Go Business in Chagrin Yoga

Kimberly Gibson introduced herself to the board and gave an outline of her background in culinary education, her residence/pride in Geauga County and her current business Hungry Bee. She is looking to expand her business with the creation of Cultivate, a retail food business located in the front endcap of Chagrin Yoga. The business would cater to health conscience patrons of the multiple fitness businesses at 530 East Washington. The business would be similar to Chipotle in make your own wrap or salad. No cooking on the premises, the proteins used in the meals would be brought in from another location.

Solicitor – this is a little more complicated, the zoning it B-1industrial district that doesn't allow restaurants. We don't define a restaurant in our code. But the district permits retail uses and retail uses permits the retail sale of baked goods, confectionary, grocery, meats, fruits, vegetables, dairy products and packaged beverages. That sounds like we're awful close to what you're doing. They also say that under our definition of retail, that includes certain consumption of food and beverage, sounds like a restaurant. But it says that places that food or beverages are not consumed in a building may be permitted but conditional use is granted. But here's our complication, it sounds like some of this food is taken off the premises to be consumed meanwhile we have a thing that says she can sell retail of various food products. So I think our ordinance looks like we need to tweak it and revise it. But the immediate problem is are you of the opinion that this is a place that food and beverage is not going to be consumed in the building and that would require it to be a conditional use permit that would require a public hearing, notice in the paper etc.

Board discussed why this café would not be considered a restaurant but a grab and go. Because there is no plan to cook food there, it can be considered as retail. In future if there is a change, there would be a need to come back to the board. This is a great fit for the location and businesses that in that strip of stores. The new business would be called Cultivate. Checking with the Solicitor, he's okay with the interpretation this fits within our definition of retail use, then we have permitted use and we don't have to have go through the issue of conditional use. Also discussed how many people would be expected per day. The surrounding businesses start 5:15, 5:30 and those businesses have around 7000 people between them would guess about 80%. The owner of the building has expanded the parking and since this establishment is a grab and go, parking shouldn't be a problem.

MB Motioned to approve applicants request to set up a new grab n go food business with no food being cooked on site in the Chagrin Yoga location (LJ) ; BK Seconded
Roll call:
SL-Y, AJ-Y, JF- Y, BK-Y, MB-Y
Motion **APPROVED**

Old business
The Pizza shop – they're coming back because they can't meet the October 2015 deadline. The reason given was their architect was in the hospital. They will meet with ZBA first as there may be an issue with that board.

MB asked DO if there is precedence for this before and what are the options.

DO Solicitor – There was not a precedent for this but if their plans have not changed what purpose to come back to the boards.
The deadline was the issues so they discussed the amount of time and what has been done so far. The applicant was given a deadline as an incentive for this applicant to complete the project and not leave it open. Because of the deadline, the applicant needs to come back to the process of the Board approval to keep the applicant accountable to completing his project.

New Business

1. LH – Talked to the board about several zoning issues that need to redefine some to update for specifics, like tree houses, commercial locations.

   Board – all agreed that zoning needs to be addressed. Would like to give a more detailed zoning for topics that are currently vague. Retail, restaurants, and house/lot size restrictions were included in a need to be reviewed. Asked that LH help in find the zoning that needs to be looked at for rezoning.

   Discussed how they would set up meetings or discussions to offer new zoning to the council.

2. Board – wanted to know if Jim Pascoe has found a buyer for his gas station. The last deal had fallen through.
3. LH – Plociak property is looking to build a development on their property on Bell. It may be the same plan with a road on one side with all houses on the other. The first time she came to the board it was neither approved or denied but was withdrawn before a decision was made.

Adjourn:
MB Motioned to Adjourn; BK Seconded
Roll call:
SL-Y, AJ-Y, JF- Y, BK-Y, MB-Y
Motion approved

Steve Latkovic, Chairman

Lucy Jasinski, Secretary

PLANNING COMMISSION MEETING
Record of Proceedings
October 8, 2015 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor Matt Brett, Bryan Kostura, Andy Hitchcock, Jim Flaiz

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey Solicitor; Lucy Jasinski, Secretary

Guests: Shawna Napolitano, Monique Plociak, Bob Battisti, Jim Pascoe, Ken Ashba, Aubrey Zanella, Bailey Zanella, Patti Valencic, Bill Koons

Chairman SL called the meeting to order at 7:32pm.

MB moved to approve the Planning Commission minutes of September 10, 2015

Before it was seconded, SL requested that the minutes be amended with wording of the motions. LJ agreed to include the applicants request in the wording for the approved motions for the 9-10-15 minutes and resend to commission members.
Seconded by SL
Roll call: all yes. Motion approved.

1st Agenda item – Enclosure for dumpsters at 516 E. Washington Str. For Washington St. Partners.

Bob Battisti addressed the board and explained the need for the fencing due to other tenants in the complex using their dumpsters. Rather than using more extreme measures i.e., cameras and police, they would like to gate their dumpsters.

Board questioned the number of dumpster, location and how it would be secured. Also asked what type of fencing and gate material would be used.

BB - There are two existing dumpsters, one for recycling and one for regular trash. There would be no locks since there are multiple users. The fence would be dog eared 6 inch board on board that 90% of commercial buildings have and the gate frame would be steel with wood slats. There would be two gates on the front as the area is too large for one gate. The location of the dumpsters would not change but they might be moved closer together.

MB – questioned Solicitor and Building Official on how the Planning Commission should view these applications, is it solely because it's a fence?

LH – Because it's a fence, anything in a commercial area warrants coming to Planning Commission.

MB – Mr. Solicitor, to approve this fence are there conditions that we have to site?

DO – There are none because we aren't at that level. You can state your reasons, but you don't have to.

JF - Motioned to approve the applicants request for an enclosure for dumpster at 516 E. Washington St. for Washington St. Partners. (Wording by LJ)
MB Seconded
Roll call:
SL-Y, AJ-Y, JF- Y, BK-Y, MB-Y
Motion **APPROVED**

2nd Agenda item – Bell station at 5196 Chillicothe Rd.expansion and adding pumps for Jim Pascoe

Solicitor noted on record that his firm represents the Bell's station's partner and he was present to represent the Village of South Russell in the proceedings of the Planning Commission. Wanted it recorded that all present were polled to confirm they approved of his representation.

MB asked if they needed a motion and DO said they did not as long as it was on record all were okay.

Ken Ashba addressed the board with new site plans, updated from the originals he presented to set up the meeting. The board stood around one set while Ken explained the reasoning for the plans. Basic principles of his plans:

1. All new outside – canopies, islands, pumps, asphalt, concrete, lights and tanks – Current outside is 40- 50 years old and needs to update to current standards. Lighting would be LED and directional so they will not affect neighboring properties. Better quality with better lighting capabilities. The canopies, pumps and islands would be easier to use and move in and out of.
2. Addition of sq ft of hard space. Using 39.72% of total space, needing a variance from the normal 35% - KA explained to eliminate congestion and move people in and out. Additional parking which is not available now.
3. North side addition of 24-25 ft hard surface –
4. West side addition of 25-30 ft of hard surface. (50 ft from existing building) – This and north side addition would be used to create a straight on for trailers to easily pull up for filling up and then move out. KA feels that this area is heavily trafficked with trailers and no other stations in the area would have this flow.
5. Change in ingress and egress. KA would like to close the existing ingress/egress that is farthest west and align it with the new pull through for trailers giving them a clear path to come out with better visibility, less dangerous. He will move the traffic away from the light 25-30 feet and close that back up so we'll put green back and move the entrance down and make it a lot easier to get people in and out of there. The entrances closer to the corner would be made right/right turns and hope most people would adhere to it.

6. Clean Parking Lot clear of signs or ad lights. KA seemed to think that women don't like clutter or signs on windows and he would like to make their station as friendly as possible so people would feel comfortable and safe shopping there.
7. Good Neighbor - KA is a local born and bred personality. He says he is thoughtful about the environment that he buys in to. If the location is not supporting of his endeavors, he would rather not be there. KA feels he is an asset to the community and in wanting to be a good neighbor he is willing to work within the minimum footprint to bring a good business to a good village. While he would and could use more, he is sensitive to the needs of the surrounding neighborhoods. He is looking for community locations that work well with his company's vision.

KA talked at length on each point. Board questioned if he talked to any neighbors but KA had not and did not know how to do that.

MB – suggested moving the location of the drive through pump to the other side. Other board members discussed but were unsure that it would make a difference. KA stated that the set up was the best set up to get everything in place using the footprint he had. He mentioned several times that he could use more space but was working within what was necessary to conduct business in the smallest amount of room they had. There was discussion of how KA could move the location of the pump if there was a need.

Board – brought up the need for buffering of the station from neighbors. Ultimately a natural fence or landscaping would need to be presented to show the layout of trees and mounds to satisfy neighbors and the zoning board.

Solicitor was questioned on what was needed for this formal application in their consideration. Did the planning commission need to put in conditions? If they wanted to completely rebuild, start from scratch?

DO – normally a non-conforming use is if the building is destroyed the use is gone, its toast. So the only way they can take down the building and build a new structure is by getting a variance to permit the expansion of the site right now and that wouldn't be your problem that would be ZBA's problem. They can't expand in any way without a variance. The only thing Planning Commission can do is stop now and say go and get your variances first, but it's often helpful to know whether or not you think the layout is appropriate.

Board - discussed that after layout would landscape plans come now or later? Other development issues such as hours of operation, location of the pump, products for purchase, full blown kitchen are items they would want to weigh in on at a later date.

KA – questioned what the concern of a kitchen would be since their separation from other businesses is their successful fresh made products.

Board – out existing zoning doesn't permit this use, the uses that our zoning does currently permit on corners prohibit food preparation. A variance would be needed just like you would need a variance for lot coverage.

More discussion on:

- Location of tanks –location is decided on price and how they line up to pumps. To change location of tanks may need additional hard surface. Because the property is nonconforming there isn't anything on it in codes, all would need a variance.
- Landscaping – need as a buffer for neighbors mainly in the back.
- Pump location – there is enough set back from the neighbors to the north to not impact them. Driving around back was a concern but would be the path with either location for the pump.
- Gas loading – noise level is negligible and they can request delivery trucks to deliver gas during day hours.
- Timing of building - Weather permitting 90-120 days.
- Hours of Operation – Currently 6-9, KA would like 4am – 10pm with Friday and Saturdays open till 11pm. Will work with the village to determine.

MB – asked DO - given what's been presented to night, what's your recommendation to us? Is this something we would need to consider in regards to landscaping and hours of operation and any of those different criteria or is it that Planning Commission be comfortable with the general premise of four dispenser model with detail to be worked out and that we would think it would go through ZBA and if it passes BZA they may have some requirements and then come back to Planning Commission for final approval and that's where we would do things like landscaping, and what have you.

DO to KA – Reality is, without a variance for expansion, this Planning Commission can't give you the final approval. So I would leave it up to you, you could say to us look I want a vote yes or no, and maybe come back with some revised plan as based on the comments here or you can say thanks I got a feel for where you're at and will now revise our plans and submit them to the zoning board and we'll go get a variance. And remember that's a public hearing.

General discussion on process flow through ZBA, suggesting KA and JP present parking clearly, have a landscape plan and check with LH on zoning requirements.

LH – suggested scheduling a ZBA meeting for November.

Old business

LH - The Pizza shop Enfuego. What we're doing is having them go back to ZBA. What we're trying to find out from this board is are you good with going with whatever ZBA decides or do you want them to come back to Planning Commission?

DO – thought that it would be more efficient if one board made this decision. It would be difficult if ZBA grants them an extension and Planning does not. It's hard to justify two different decisions.

MB - ZBA required a 1 year from the date that was approved. Then when they came to Planning Commission we were having some issues regarding getting the property cleaned up, so I did recommend that they have 6 months from the date we approved it for the yard cleanup and 1 year for the total project. We put a requirement in there, I don't think it's an issue we're making them come

back, in essence their application had a condition on it that hasn't been met. So that application has expired.

Board asked if anything had been done on the property since last year and why they need an extension of time.

LH - They've had a dumpster there and a lot of stuff has gone into it, that's about all. The issue in their minds is they just want an extension. They're not asking for more or anything like that. They are going with the same plan. I've been told that their architect became quite ill and was in the hospital and nearly died and all kinds of issues that delayed getting the drawings which then delayed the contractors and everything else. And that's how they lost an entire year. They should have been on the architect right after they got the variance but they did not do that thinking they had a lot of time and it got away from them. That's what they would come to you and say, that's my understanding.

Board discussed options:

- Making a motion to approve or deny an extension
- Wait for ZBA to make a decision and then decide whether to have them come back to the Planning Board.

During the discussion Monique Plociak interrupted the board, upset with them discussing old business while she sat waiting, noting her daughter had a sitter watching three children and they had already sat through an hour listening about a gas station (on the agenda). She was unhappy and voiced her displeasure.

SL – Thanked her for coming and to have a good evening.

Board finished their discussion on whether to take action on EnFuego. No action was taken at this time and will reconsider after hearing what ZBA will do.

New Business

Property on Bell owned by Monique Plociak

Pattie Valencic – neighbor of Ms. Plociak addressed the Board – I'm the neighbor to the east of Monique Plociak. Monique is bringing back the same plans as she had before. A subdivision that was approved for 5 homes because of the perc test. With the flooding this summer, the concern is what will happen to the water if she puts in a road with all the concrete? PV had concerns on water, perc tests and big concerns about a one sided road. She would like to see an ordinance against it.

Board discussed the old plan that originally held 8 homes with only 5 passing the perc test. Storm lines are part of requirements for roads. The board remembered that there wasn't a way to ban houses on one side of a development. Couldn't take advantage of a conservation zoning because she only has 22 acres and needs 30 minimum for conservation. LH also noted that the rear of this property falls into the water sensitivity zone.

Discussions broke into two sets of conversations, most revolving around location of PV's house and the proximity to the proposed street (from Building Dept File copy of old plan).

More discussion on setbacks, roads, right of ways and lots. PV invited the Board to her property to visually see locations

SL – Any other New Business – there was none.

Adjourn 9:15pm
MB Motioned to Adjourn; BK Seconded
Roll call:
SL-Y, AJ-Y, JF- Y, BK-Y, MB-Y
Motion approved

Steve Latkovic, Chairman

Lucy Jasinski, Secretary

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
December 8, 2016 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor William Koons, Andy Hitchcock, Brian Kostura

Members Absent: Jim Flaiz

Other Officials: Laura Heilman, Zoning Inspector; Lucy Jasinski, Secretary;

Visitors:
Timothy Leonard, 40 Riverstone Dr. Moreland Hills, OH
Wendy Leonard, 40 Riverstone Dr. Moreland Hills, OH
Kaytie Leonard, 40 Riverstone Dr. Moreland Hills, OH
David Jessek, 30505 Bainbridge, Solon, OH
Peter Cary, 6075 Chagrin Rd, Bentleyville, OH

Steve Miller, 618 Bell Rd, Chagrin Falls, OH
Steve Ciciretto, 270 Park Place, Chagrin Falls, OH
Matthew Myer, 1584 Wyandotte Ave, Lakewood, OH
Tom Andrews, 3756 W178th St., Cleveland, OH
Jeff Poprik, 1123 Sheerbrook Dr., Chagrin Falls, OH
Jeff Tanchen, 516 E. Washington St. Chagrin Falls, OH
Colin Knott, 30505 Bainbridge Rd., Suite 202 Solon, OH

SL - Called the meeting to order at 7:30O pm took roll call.

Roll Call: AH – Yes; SL – Yes; WK – Yes; BK – Absent, JF - Absent

SL – Brought up the meeting minutes of October 13th and asked if anyone had questions or comments?

WK - Motioned to amend the minutes; AH Seconded

Roll Call: AH – Yes; SL – Yes; WK – Yes; BK-Abstained

1st Agenda Item – A Coffee House at 516 E. Washington Street for Timothy Leonard

SL – Addressed the audience asked that if an audience member wished to speak - to introduce themselves and speak one at a time. Asked the applicant to speak and explain his plan for a coffee house.

Timothy Leonard – explained that they are looking to open a specialty coffee shop. No roasting on the premises, focusing in on a special area of Africa. Bring in the world of coffee for the Chagrin Valley area. We are looking at the Galleria that used to be a dance studio. This is a new business for us and he gave his work background and how he and his wife and daughter have prepared to start into the coffee business having become professional baristas.

WK – Asked if there were two entrances to the location.

TL – Explained the location and how it would be set up.

WK – Asked several questions on demographics and what type of customers they were thinking to attract.

TL – Expected about 150 transactions per day to keep business profitable.

AH – Asked what needs to be changed to the property.

TL – It was a dance studio – would need to have put in water station, refrigerators and sitting area for the rest. Initial thought was toasting for bagels, but over time would need to decide on what was needed.

BK – Asked if there would be any catering capabilities.

TL – While they thought of having an under counter display with offerings, was not sure that was in their plan. Not sure there would be enough business for that.

WK – Asked what TL thought of the competition nearby?

TL – Explained the differences between similar businesses and how a unique coffee shop is different from franchise businesses (i.e. Dunkin Donuts, Starbucks)

SL – Asked about seating and amount of people being served and amount of time figured per person?

TL – Plan is for 15 – 20 people at a time, some benches on the side and some couches and side chairs. Want to have a place people can come in and have safe place and a spot to relax after yoga.

AH – Asked LH if there were any issues with food prep.

LH – Indistinct answer

BK – to LH – What issues do they have to go through after this, they have to go through Zoning? Or is this zoned for this

LH – This is your opportunity to approve the whole concept. To approve hours similar to a restaurant opening late at night, or the like the gas station.

AH – And your proposed hours early morning to . . .

TL – We've looked 6:30 am to 3:30/4 pm gives you a nice, but not sure about the hours in the evening. We're seeing later hours in the evening, after dinner coffee menu starting in Europe, so would like to offer that here. We would want to offer a more openness in the evening but just not sure yet.

The board discussed the businesses around the proposed coffee shop and discussed similar coffee shops in the area. How early the fitness businesses close to them started in the morning and if they would be open at the same time.

Jeff Tanchen – spoke in support of the coffee shop and how having this business in the building it would bring more traffic in the building and may offer business opportunities for his business.

SL – Asked about parking issues.

JT – Been in the building 15 years and sometimes people have to be reminded that the parking by his building are for his building not Burntwood Tavern.

Board then discussed parking and the layout of parking at the building, logistics of parking and coffee shop egress and a possible patio.

ST – Remarked it's a great idea and likes the idea of putting the business in South Russell and hopes it does well.

AH – Motions to approve the coffee house as stated in the request; WK seconded

Roll Call: AH – Yes; SL – Yes; WK – Yes; BK-Yes

2nd Agenda Item – Open a Brewery and Tap Room at 530 E. Washington St.

Steve Miller – proposing to build a commercial brewery with a 100 seat Tap Room at the Milbar property on East Washington St. in the back with a large parking area.

He referred to his business plan that was forwarded to the board prior to the meeting. They see an opportunity in the Chagrin Falls area for a brewery. There are several large breweries in Cleveland and in Willoughby, but none in the south or Chagrin Valley. They are not looking to create a large brewery with a large production/selling area but a smaller business with a Tap room and some package product. Went through the plan and what their expectation were for the first year. They are not interested in getting into the food business. They were thinking about getting food trucks to do catering with different types of food on different nights. They would like to have patrons from the surrounding fitness and restaurants in the area. Would like to partner with restaurants in the area. Gave his professional background and his experience in brewing. Also explained the other partners in the business and what financing they have planned.

WK – Gave his opinion on the business and about his acquaintances in the business. Remarked on the logistics of getting back to the brewery for customers. Asked LH her opinion on a patio back there.

LH – Mentioned that the Liquor Board would make them fence off the area used.

SM – Mentioned using neighboring restaurants and have runners or work with them to provide food.

Discussed hours and issues that might occur with other businesses. Hours would not be later than 10-11pm maybe later on sports nights. Discussed paths to other locations in the area, utilizing the area as a destination for the night. This would help all businesses in the area.

WK – Asked what challenges they had when planning the business.

SM – Construction figures getting nailed down has been our biggest challenge. The building is already commercial and fairly easy to change over for our needs.

Board and applicant discussed trucks getting in and out, access, loading dock, doors, signage amount of production.

BK asked LH about how this works with our zoning for this type of business, kitchen and how does this comply with our zoning, it is a food product.

LH – Those are not related to my department other than he has the permits from the Liquor and Health Dept. It's a conditional use where Planning Commission puts limitations on business requirements such as hours of operation. Liquor and Health Department regulate their specific items.

SL – BK Discussed the food prep issue, it's not in the business plan. Do we need to address this tonight? Or will it be a problem. Under the zoning now it's a conditional use and only pre-packaged or no preparation or food brought in.

More discussion on what was needed to get the pre-requisite licenses to run the business. What type of entertainment, TVs, and standard music would be provided? Discussed a prior business that was proposed for the location. Also discussed egress from the Tap Room that support the amount of people expected to patronize the brewery.

LH – Mentioned that the village engineer would have to sign off on plans before permitted.

SL – Took the discussion to the signage and the proposed path to the brewery from the street.

SM – Explained the sign restrictions in front and proposed having a sign or several signs to direct patrons to the entrance until it's more known.

Dave Jessek – Explained how it will be set up so people will be set up so people can get in with directional signs. Plenty of space to get things in and out for production and machines to set up the brewery.

Applicant explained how the process is set up and specifics on the barrels, fermenters, tanks, and set up. They are not planning on packaging out but would partner with an outside vendor for packaging.

SL – Addressed access road, how does it work, is it an easement and who is responsible for maintaining?

DJ – That road is half on the adjacent parcel and half on the site for this site. It's a shared easement agreement and shared the expense between the neighboring buildings. There are three in the shared agreement.

More discussion on parking and access to the back where the entrance of the brewery would be. Then discussed if there would be security, but the applicant said they would not have specific security at the door, but would rely on the local police if issues arose. They did not expect to have a more discretionary clientele that would not be in the rowdy group.

AH – asked about distribution of product?

SM – Target certain areas but not going after Giant Eagle or Heinens. More to local restaurants, focus initially locally in area and later leave it open for expansion. Would have take out from the brewery, growlers,

BK – asked about timeline for opening brewery

SM – Hoping to have timeline figured out soon and should be 9 months from construction to open.

Discussion on construction and the change from the building as it stands now to the brewery, including bathrooms, taproom heating, cooling and electrical. City Water and sewer for that property.

Discussed hops and leftover spent grain, with the spent grain going to local farmers. Hops gets washed down the drain. SM had already talked to Water Company.

Discussed again no food preparation and that if they did decide at a later date, they would come back to the board. Talked about merchandise sales t-shirts, hats, but not an issue for the board.

JP – Mentioned that when it snows, some parking spots are lost.

DJ – commented that patrons of Burntwood Tavern has an arrangement to park in some areas in the back behind the fence. There is a need sometimes to remind Burntwood Tavern patrons about parking prohibitions on the property.

BK – Motioned to approve the Interurban Brewery Company subject to obtaining the required licensures both state and federal, with no cooking food on the premises.

WK – Seconded

Roll Call: SL – Yes; AH – Yes WK – Yes; BK - Yes

Old Business: - None

New Business – None

Motion to adjourn

Adjourn at 8:30

Roll Call: SL – Yes; AH – Yes WK – Yes

Approved.

Steve Latkovic, Chairman

Secretary

Kaytie: 440-657-4317

FORM Z-1
PAGE 1

APPLICATION FOR
ZONING PERMIT Wendy 469-348-4720

VILLAGE OF
SOUTH RUSSELL, OHIO

Zoning Permit Application
No._____

HOUSE/BUILDING NUMBER AND STREET 516 E. Washington St.
SUBLOT NO._____ SUBDIVISION_____ PHASE_____
LOT WIDTH: FRONT_____ REAR_____ LOT DEPTH: LEFT_____ RIGHT_____
TOTAL LOT SIZE: _____ TOTAL PROJECT SQ. FT. 1032 AVERAGE HEIGHT 12 ft.
EXISTING USE: RESIDENTIAL_____ COMMERCIAL:_____ EXISTING ZONING: _____
NEW:____ ADDT'N/ALT'N:____ HABITABLE:_____ NON-HABITABLE:_____ ACCESS.STR._____
WILL PLACEMENT BE TO THE: FRONT___ SIDE___ REAR___ PROPOSED FRONT YARD_____

APPLICATION FOR: [redacted] Open a coffee house. (app. 1032 sq ft.)

FOR FENCING: NEW TOTAL LENGTH CONNECTED: /
TOTAL FENCING ON LOT (NEW AND EXISTING / /

FOR SIGNS: BUILDING FRONTAGE:_____ USAGE TYPE_____ LOCATION TYPE_____

OWNER NAME: Timothy Leonard OWNER ADDRESS: 40 Riverstone Dr 44022

APPLICANT'S SIGNATURE [signature] DATE: _____

PHONE: 4695255784

ZONING INSPECTOR having reviewed this application and blue prints finds the following action:
Referred to PC for development review

Signature [signature] Date: 11/17/16

FORWARDED TO PLANNING COMMISSION:_____ ZONING BOARD OF APPEALS:_____

Required action of _____ on _____, 20__ was as follows:

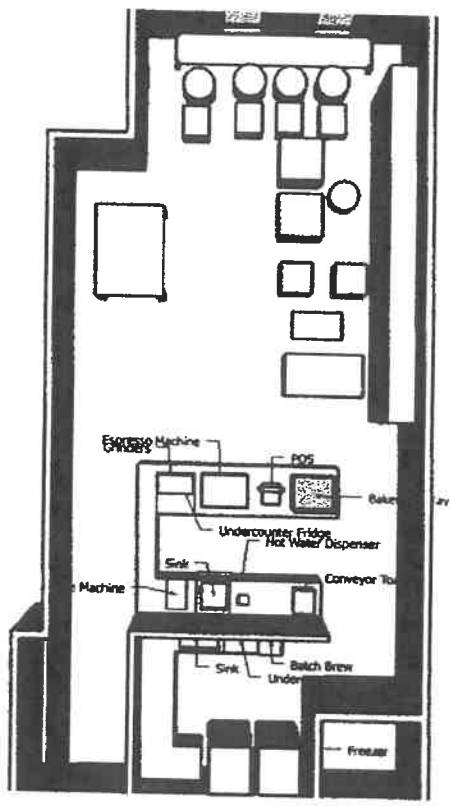
Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____

Zoning Inspector per the above Board action, hereby takes the following action:

Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____


Espresso Machine
Grinders
POS
Undercounter Fridge
Hot Water Dispenser
Sink
Machine
Conveyor To
Sink
Batch Brew
Freezer

To be sold, but not made in house

Food Menu

Pastry Options

- Croissant
- Pain Au Chocolat
- Muffin
- Cookie
- Bear Claws
- Cinnamon Rolls

Bagels

- Plain
- Butter
- Cream Cheese
- Peanut Butter

Hot Cereal

- Cherry Almond
- AM Trail Mix
- Mocha Nut

Toast

- Avocado (+1.00 Feta)
- Butter & Local Honey
- Butter & Cinnamon Sugar
- Peanut Butter & Banana

Yogurt Parfaits

Tame Rabbit

SPECIALTY COFFEE & ROASTER

Menu

Espresso

Espresso	2 OZ	$3.00
Macchiato	3 OZ	$3.50
Cortado	4 OZ	$3.75
Cappuccino	6 OZ	$3.75
Latte	8 OZ	$4.25
Latte	12 OZ	$4.75
Flat White	6 OZ	$4.00
Americano	8 OZ	$3.00
Americano	12 OZ	$3.50

Non - Coffee

Hot Chocolate	8/12	$3.00/4.00
Chai Latte		$4.00
(Dirty)		+$1.00
Selection of Teas		$2.50
London Fog		$3.75

Filter

Drip	8 OZ	$3.00
	10 OZ	$3.50
	12 OZ	$4.00
Refills		$1.75 (stay only)
Pour Over		$4.50 (upon barista availability)

Additions/Options

Milk Options: Skim, Whole, Cashew, and Lactaid

Additions: Chocolate, Caramel, and Seasonal +$0.50

All Menu Items Hot or Cold

Tame Rabbit

SPECIALTY COFFEE & ROASTER

VILLAGE OF SOUTH RUSSELL
Division of Building and Zoning
5205 Chillicothe Road
South Russell, Ohio 44022
Laura J. Heilman (440)338-6700 FAX:1606 Building Official
www.southrussell.com

* * * RECEIPT * * *

Zoning Rec.#: 19705

Receipt Date: 11/17/2016

Permit #: 0

Application #: 12026

Lot #:/Subdiv.: 00 COMMERCIAL
Address: 516 EAST WASHINGTON STREET

Use: ZONING

Applicant:

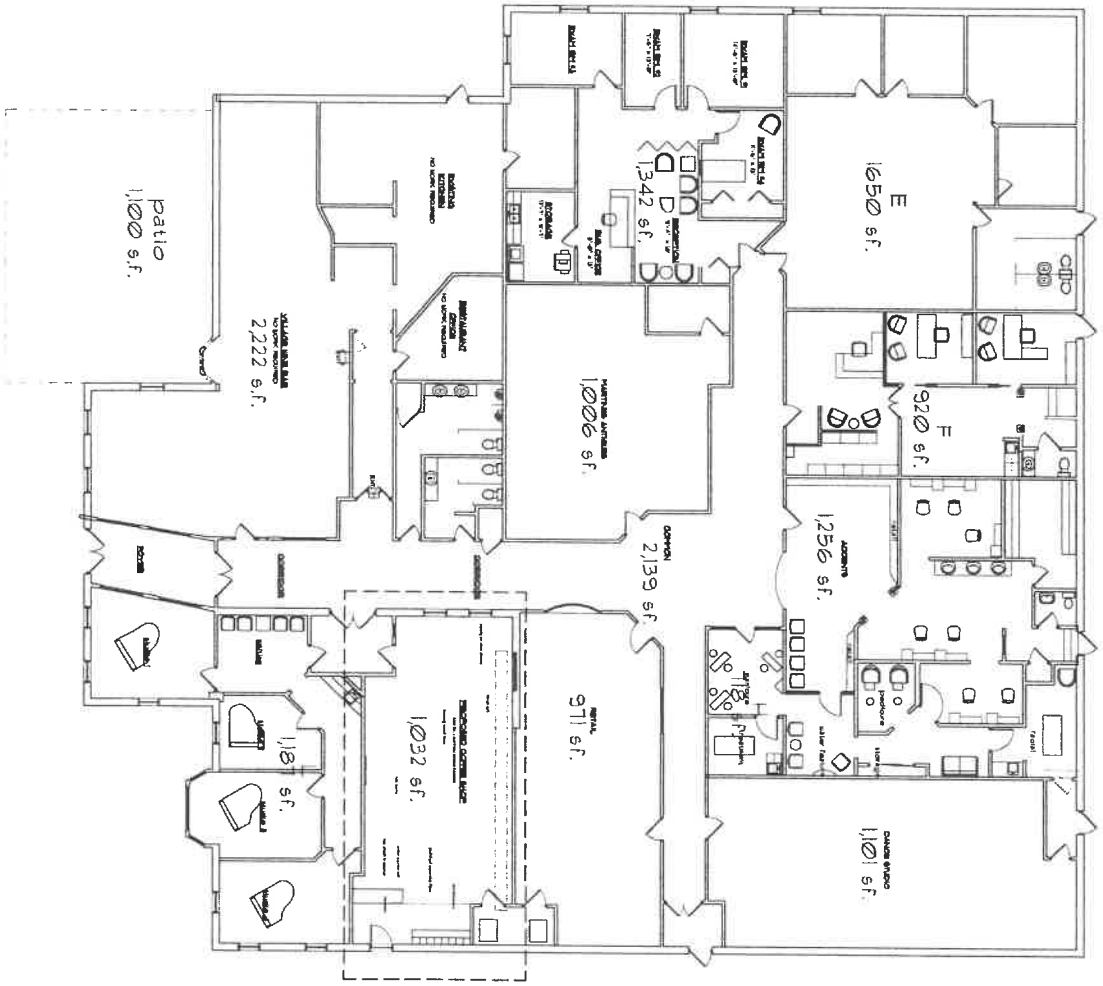
.....PAYMENT & PERMIT SUMMARY.....

MISC-NONREF.FEE	50.00
PC:D.R.OR H.VAR	200.00

TOTAL PAID: $ $250.00

By: Laura Heilman

zrecpt.bds



FIRST FLOOR PLAN

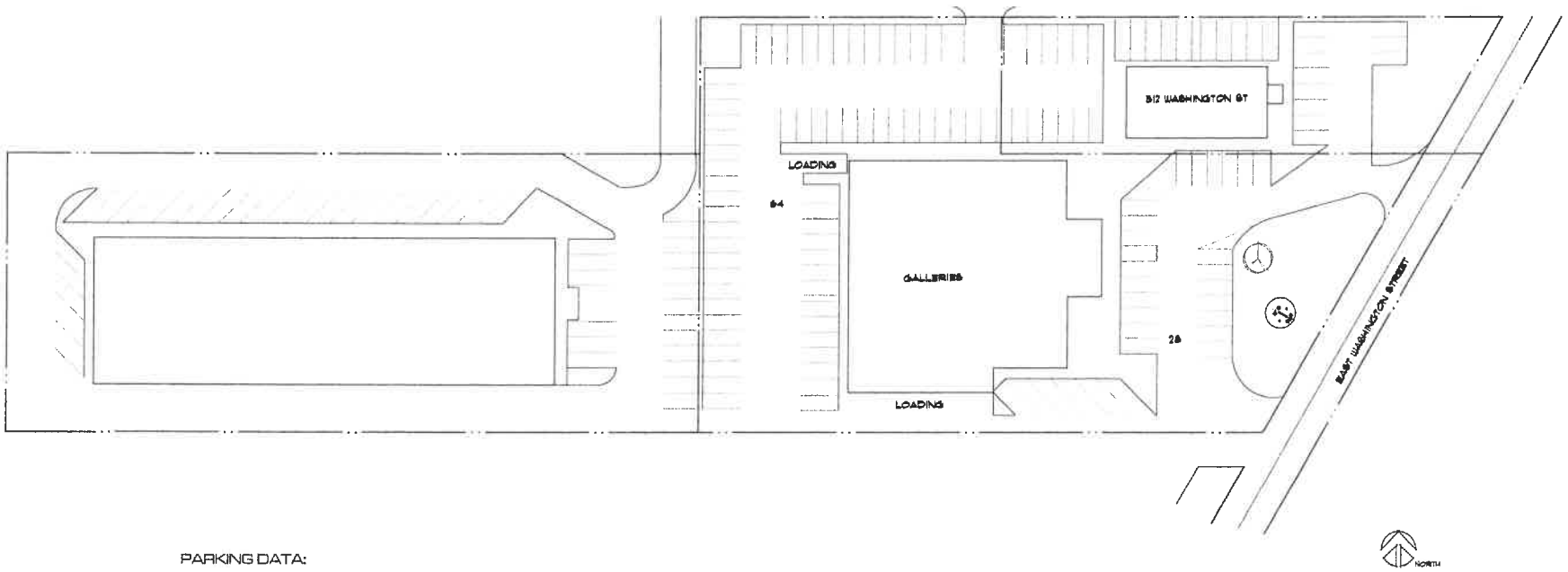
SCALE: 1/4"=1'-0"

A-2	SHEET TITLE: FIRST FLOOR PLAN	PROJECT TITLE: TAME RABBIT COFFEE SHOP CHAGRIN GALLERIES SOUTH RUSSELL, OHIO	DATE: 11/11/16 DRAWN BY:	REMARKS:

STEPHEN CICIRETTO, A.I.A. · ARCHITECT
270 PARK PLACE · CHAGRIN FALLS, OHIO 44022 · (440) 247-1000

TAME RABBIT COFFEE SHOP

516 EAST WASHINGTON STREET
SOUTH RUSSELL, OHIO



PARKING DATA:

TOTAL BUILDING AREA = 18,072 S.F.

TOTAL PARKING SPACES AT THE GALLERY BUILDING = 92 SPACES

PERSONAL SERVICE/RETAIL = 8,906 S.F. (5 PER 1,000 S.F.) = 45 SPACES
OFFICES = 3,912 S.F. (1 SPACE PER 300 S.F.) : 13 SPACES
RESTAURANTS/FOOD SERVICE (INCLUDING NEW COFFEE SHOP) = 3,254 S.F. (1 PER 2 SEATS 68 TOTAL): 34 SPACES
RESTAURANT AND COFFEE SHOP ARE NOT IN OPERATION AT THE SAME TIME - SHARED PARKING

SHEET TITLE: PLOT PLAN
X-1

PROJECT TITLE: TAME RABBIT COFFEE SHOP CHAGRIN GALLERIES SOUTH RUSSELL, OHIO

DATE: 11/11/16
DRAWN BY:

REVISIONS:

STEPHEN CICIRETTO, A.I.A. · ARCHITECT
270 PARK PLACE · CHAGRIN FALLS, OHIO 44022 · (440) 247-1000

COMMERCIAL STATUS SHEET

Builder: Enterprise Architect: _____
Business Phone: _____ Business Phone: _____
Cell Phone: _____ Cell Phone: _____

Owner: Steve Miller
Address: 530 E. Washington St. Subdivision: _____
Business Phone: _____ Cell Phone: 419-591-7175 Dave Jezek

For: Open Micro-Brewery + Taproom.

Rec. No.	App.Date	
_____	_____	Zoning: _____
_____	_____	Planning Comm. Dev. Review: 11/21/16 - For review 12/8/16
_____	_____	Plan. Comm. Conditional Use: _____
_____	_____	Zoning Board of Appeals: _____
		ABR Depositor: _____
_____	_____	Arch. Board of Rev.#1: _____
		_____
		_____
		_____
		_____
		_____
		Reviewers: _____ _____ _____
_____	_____	Arch. Board of Rev.#2: _____
		_____
		_____
		_____
		Reviewers: _____ _____ _____
_____	_____	OBC Compliance: _____
_____	_____	Site Plan Review: _____
_____	_____	Engineering Review: _____
_____	_____	Water Permit: _____
_____	_____	Sanitary or Septic Permit: _____
_____	_____	Ohio Energy Code: _____

Zoning Code Compliance and Fee Review: Out: _____ Returned: _____
Building Code Compliance and Fee Review: Out: _____ Returned: _____

APPLICATION FOR
ZONING PERMIT

VILLAGE OF
SOUTH RUSSELL, OHIO

Zoning Permit Application
No._____

HOUSE/BUILDING NUMBER AND STREET 530 E. Washington St. Units C & B
SUBLOT NO._____ SUBDIVISION_____ PHASE_____
LOT WIDTH: FRONT_____ REAR_____ LOT DEPTH: LEFT_____ RIGHT_____
TOTAL LOT SIZE: _____ TOTAL PROJECT SQ. FT. 11,035 AVERAGE HEIGHT_____
EXISTING USE: RESIDENTIAL_____ COMMERCIAL: X EXISTING ZONING: B-1 & I-1
NEW:____ ADDT'N/ALT'N:____ HABITABLE:____ NON-HABITABLE:____ ACCESS.STR.____
WILL PLACEMENT BE TO THE: FRONT___ SIDE___ REAR___ PROPOSED FRONT YARD_____

APPLICATION FOR: Convert flex-warehouse space to Commercial microbrewery and taproom

FOR FENCING: NEW TOTAL LENGTH CONNECTED:_____
TOTAL FENCING ON LOT (NEW AND EXISTING_____

FOR SIGNS: BUILDING FRONTAGE:_____ USAGE TYPE_____LOCATION TYPE_____

OWNER NAME: Washington Center Ltd. **OWNER ADDRESS:** 30505 Bainbridge Rd. Solon 44139

APPLICANT'S SIGNATURE _____ **DATE:** 11/18/16

PHONE: 440-591-7175

ZONING INSPECTOR having reviewed this application and blue prints finds the following action:
Referred to PC for Development Review

Signature _____ Date: 11/21/16

FORWARDED TO PLANNING COMMISSION:_____ ZONING BOARD OF APPEALS:_____

Required action of _____ on _____, 20__ was as follows:

Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____

Zoning Inspector per the above Board action, hereby takes the following action:

Approval:___ Conditional approval:___ Disapproval:___ Conditions attached:___

Signature:_____ Date:_____

File

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
October 13, 2016 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor William Koons, Andy Hitchcock

Members Absent: Jim Flaiz, Brian Kostura

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor; Lucy Jasinski, Secretary;

Visitors: John Epprecht – 102 Silver Springs Trail South Russell, OH
Barbara Toncheff – 1565 Bell Road, South Russell, OH
Ted Otero – 8559 E. Washington St, Chagrin Falls, OH
Flor /Argheta-Gomes – 1545 Bell Road

SL - Called the meeting to order at 7:30 took roll call.

Roll Call: AH – Yes; SL – Yes; WK – Yes; BK – Absent, JF - Absent

SL – Addressed minutes from the meeting of 9/8/16 any questions or comments? Solicitor mentioned only topics discussed during the meeting should be included in Minutes. Correction to initials of member listed on second page. Changes made and sent to SL for signature.

AH motioned to amend the Minutes as suggested by David Ondrey; WK - Second

Roll Call: AH – Yes; SL – Yes; WK – Yes

1st Agenda Item – Lot split at 1561 Bell Road for Shawna Napolitano/Otero Signature Homes.

SL – Gave the floor to Ted Otero of Otero Signature Homes and John Epprecht/proposed buyer of property. Gave notice to applicants

Both Barbara Toncheff and Flor Argheta-Gomes mentioned that they would also like to speak.

SL – gave the floor to Ted Otero first.

TO – Gave the proposal for the three already split lots on the property to equally parcel them with the middle parcel have 150 foot frontage and the back parcel having 20 feet frontage. They are planning for a shared driveway through both of the parcels and motioned for JE to explain his intentions on the property.

JE – gave a brief description of himself and wife. They are looking to build in South Russell and are longtime residents with a business in Geauga County. At this point in his life, they have decided to stay in Geauga and will always have a home in Geauga County. They want to build a home they can retire in. They found the property in South Russell and looking to the future, their intention is not to build a subdivision, but build a home, enjoy the property and get the lot split for his estate. His intention is to get his kids to stay in Ohio and he wants to have a place here for them. He wants it decided now so when it goes to his estate it's all set up. Only intends to build one house at this time.

SL – Understands now why the frontage is set up on the drawings.

LH – Explained why the property lines are set up as they are. Our zoning code discourages flag lots, so our code says there has to be a 75 foot setback for the building line and 150 feet frontage on the lot. That's why he shaped the property line in the front two lots the way he did. Discussed if it was a unique issue or if it was prevalent in the village. This lot has three parcels already on this property. Otero explained the process they went through in deciding how to plan the property. Question on whether approving this split would open up the additional houses could be added if the driveway were a street and lots were additionally split. Any future action would need to come back to get approval from the Zoning Board and Planning Commission. There is water space area in the back which keeps it from additional lots.

AH – so it's really only the back lot he has issues with.

More discussion on placement of driveways for the front two lots. The driveway can be located anywhere on the property; the Village does not specify where it should go. The front two lots have 150 feet of frontage and only the back lot needs a variance.

SL – Does the 20 foot, if approved, does it need a variance beyond what we do tonight?

LH – Yes, it needs to go through ZBA and we have tentatively scheduled the ZBA meeting for November 1st. Applicant will need approval from both boards to move forward.

More discussion on property history and usage.

BT – Gave her background. There is a driveway on the east side of her property, and the proposed driveway for the applicant will be on the west side of her property. This would give her no privacy and she would like to see additional landscaping screening or if he could move the elbow of the proposed driveway 20 feet back. Concerned with loss of trees with construction and water issues if

you add a driveway. Discussed conversations she had with two engineers over the last couple of years over water concerns and impervious surfaces.

More discussion between applicant, board and BT on location of driveway, water and view of drawings.

FA – Spoke about natural boundary and would not like the driveway on her property line. Is very concerned about privacy, but would like a natural screening not a fence...

JE – concerned about privacy also. There is a lot of property and is planning on keeping trees on the property, agreeing in having a natural boundary.

FA – concerned about driveway and in the future not wanting it to become a street. In 5 years, what if . . .

SL – Only can focus on what is presented to us tonight. In five years, they would have to go before boards for approval at that time.

FA – Wanted assurances that it wouldn't change in the future – There is no assurance, it would have to go through a process, technically possible. FA wanted to be on record that she doesn't want a development next door.

More discussion on location of house and property. Otero noted that this was generic locations but would have to go through topography, soil samples and other items. Barbara's concerns about light shining into her house, I'm not sure moving the house back will alleviate these issues.

Discussion between BT and applicant on effect of driveway location and position. BT made note that some of her property is being used by another neighbor.

LH – commented that the Village Engineer would have to sign off on any grading plans which would address water issues.

Solicitor - It appears that this is what is characterized as a minor subdivision, three lots. One of the requirements before Planning can approve it is the engineer reviews it and makes his comments. That has not happened so you need to take that step. Second, clearly there is a potential zoning problem because of the lot in the back. I don't think you can approve it under any circumstances. The best you can do is condition the approval based on ZBA. But before we get to that step, we need to get the engineer to weigh in on the proposal as a whole.

SL – we could approve it, ZBA one of us has to go first.

Solicitor – should not proceed until engineer looks at it.

TO – Only a surveyor has looked at it so far. The purchase is contingent on being able to split the lot and there is a time constraint on associated with that.

SL – this is a minor subdivision, what does that mean David?

Solicitor – Timewise, it doesn't really specify, it says prior to commission action, and the engineer will certify his findings and return it to the secretary. Whatever the plans are for the subdivision, it's supposed to go to the engineer's office first.

BT – asked if they have to prove hardship to ask for the variance?

Solicitor – it would be an area variance and it's a different test called practical difficulties test. So yes there would be a standard they would have to meet with a public hearing and you can register your comments about it. You don't have to show unnecessary hardship, but show practical difficulties, an eight part test including impact on neighborhood, is it consistent with the neighborhood, does it affect governmental agencies . . .a series of standards that the zoning board would look at. Would like to point out if there was no request for a subdivision, he just purchased the property and he wanted to put a house in the back, that driveway could go right down the side.

LH – I would like to go back a little – we already have three parcels, all he is doing is reshaping them, but he isn't getting any more lots that are there.

Discussion on why it's a minor subdivision – several conversations going on at once, indistinct. Changing the lots to make it into subdivision. Definition of a subdivision is a division of any parcel of land that is shown as a unit of or as contiguous units on the last preceding tax roll into two (2) or more parcels, sites or lots, any one of which is less than five (5) acres, for immediate or future transfer of ownership. Minor subdivision is defined as the subdivision of a parcel that abuts an existing public street which is not involved with opening, widening or extension of any street, which does not include more than five lots after the original parcel has been completely subdivided. We may have a hybrid with having three existing lots, but I think it falls within the minor subdivision definition.

WK – you recommend we do nothing and get the engineer to come in and look at the water issue and get back to us?

Solicitor – Yes and then I think no matter what he says, it's all favorable, the best you will be able to do is approve it contingent on the variance being approved.

Discussion on when the engineer would look at the property and if it could go to ZBA before coming back to the Planning Commission. Solicitor didn't think they could go to ZBA since Planning Commission would have to approve it as a subdivision prior to moving on.

SL – Addressed the audience on the process going forward.

More discussion between BT, FA and applicants about plans for the property and understanding why it's considered a minor subdivision.

SL – Concluded the discussion for the night. The Commission will heed their solicitor's advice before proceeding.

More discussion between the applicant and the neighbors that SL asked for them to discuss outside of the meeting.

Old Business: - None

New Business – None

Adjourn at 8:15

Roll Call: SL – Yes; AH – Yes WK – Yes

Approved.

Steve Latkovic, Chairman

Secretary

PRELIMINARY PLAN
For
OTERO SIGNATURE HOMES

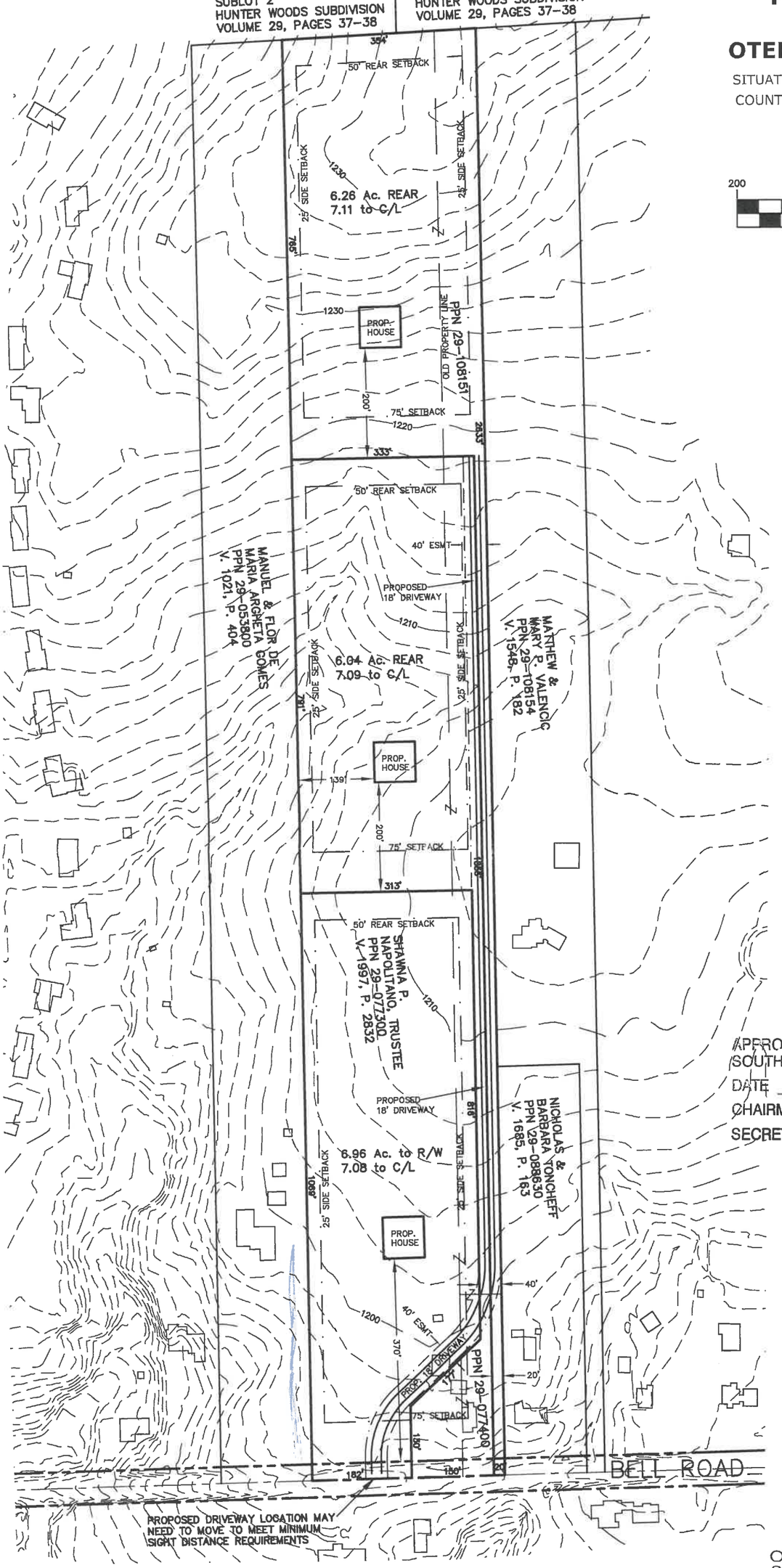
SITUATED IN THE VILLAGE OF SOUTH RUSSELL,
COUNTY OF GEAUGA AND THE STATE OF OHIO.

GRAPHIC SCALE

200 0 100 200 400

1 inch = 200 ft.

OCTOBER 3, 2016



APPROVED BY
SOUTH RUSSELL PLANNING COMMISSION

DATE _____

CHAIRMAN _____

SECRETARY _____

NOTE:

PROPERTY LINES, LOT DIMENSIONS, BUILDING LOCATIONS, ACREAGE, EXISTING TOPOGRAPHY, BASED ON GEAUGA COUNTY GIS.

STATE OF OHIO
RUDY E. SCHWARTZ
7193
REGISTERED PROFESSIONAL SURVEYOR

RECEIVED
OCT 04 2016
SOUTH RUSSELL
BLDG. / ZONING DEPT.

This plan was prepared by me, and is correct to the best of my knowledge and belief.

10-3-16

Rudy E. Schwartz, P.S. #7193 Date

PREPARED FOR:
OTERO SIGNATURE HOMES
8559 EAST WASHINGTON ST
CHAGRIN FALLS, OH 44023

PREPARED BY:
SCHWARTZ LAND SURVEYING INC.
RUDY E. SCHWARTZ
PROFESSIONAL SURVEYOR
12121 KINSMAN ROAD
NEWBURY, OHIO 44065
440-564-8174 Fax: 440-564-8285

PRELIMINARY PLAN
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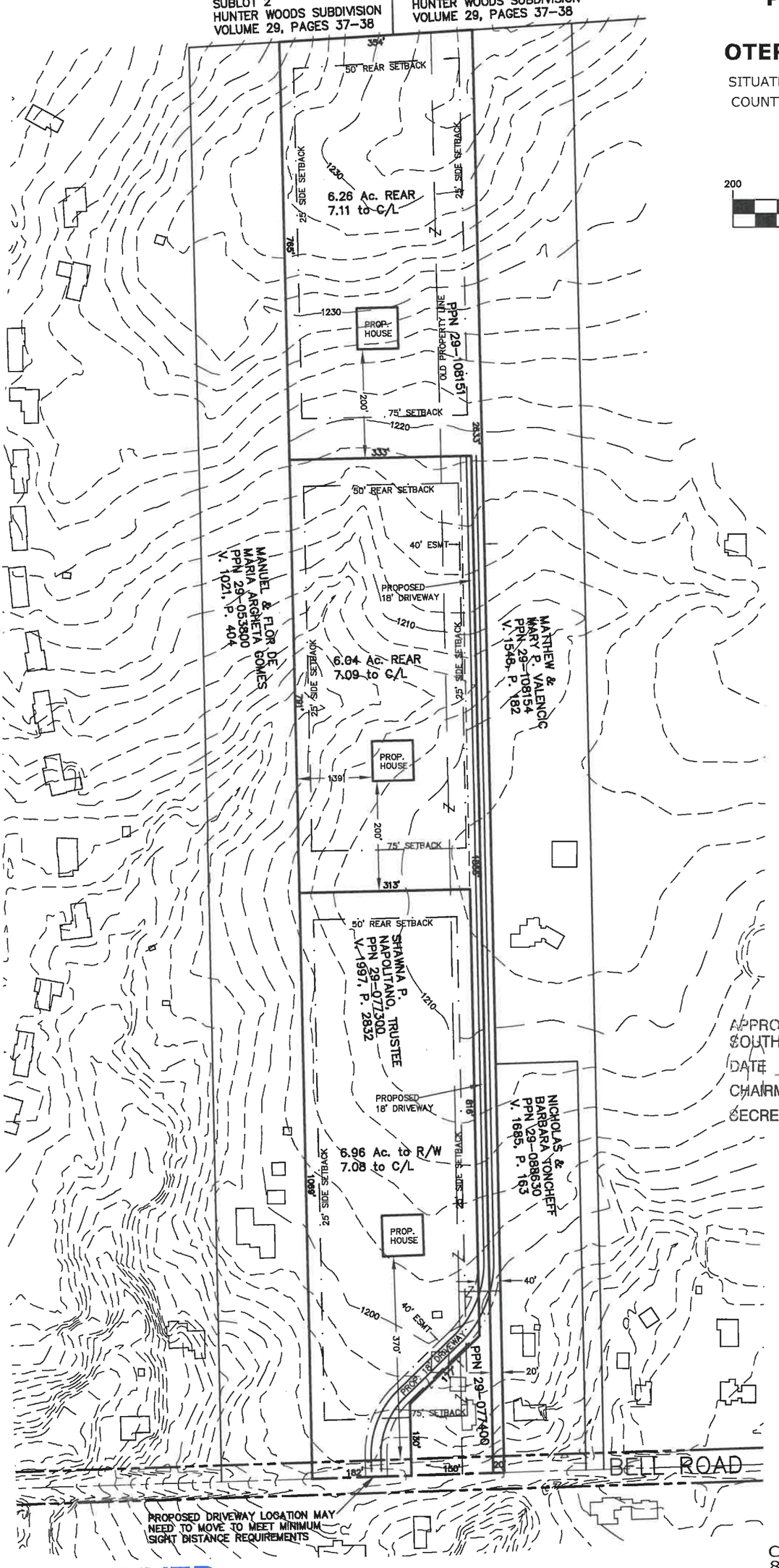

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DATE _____

CHAIRMAN _____

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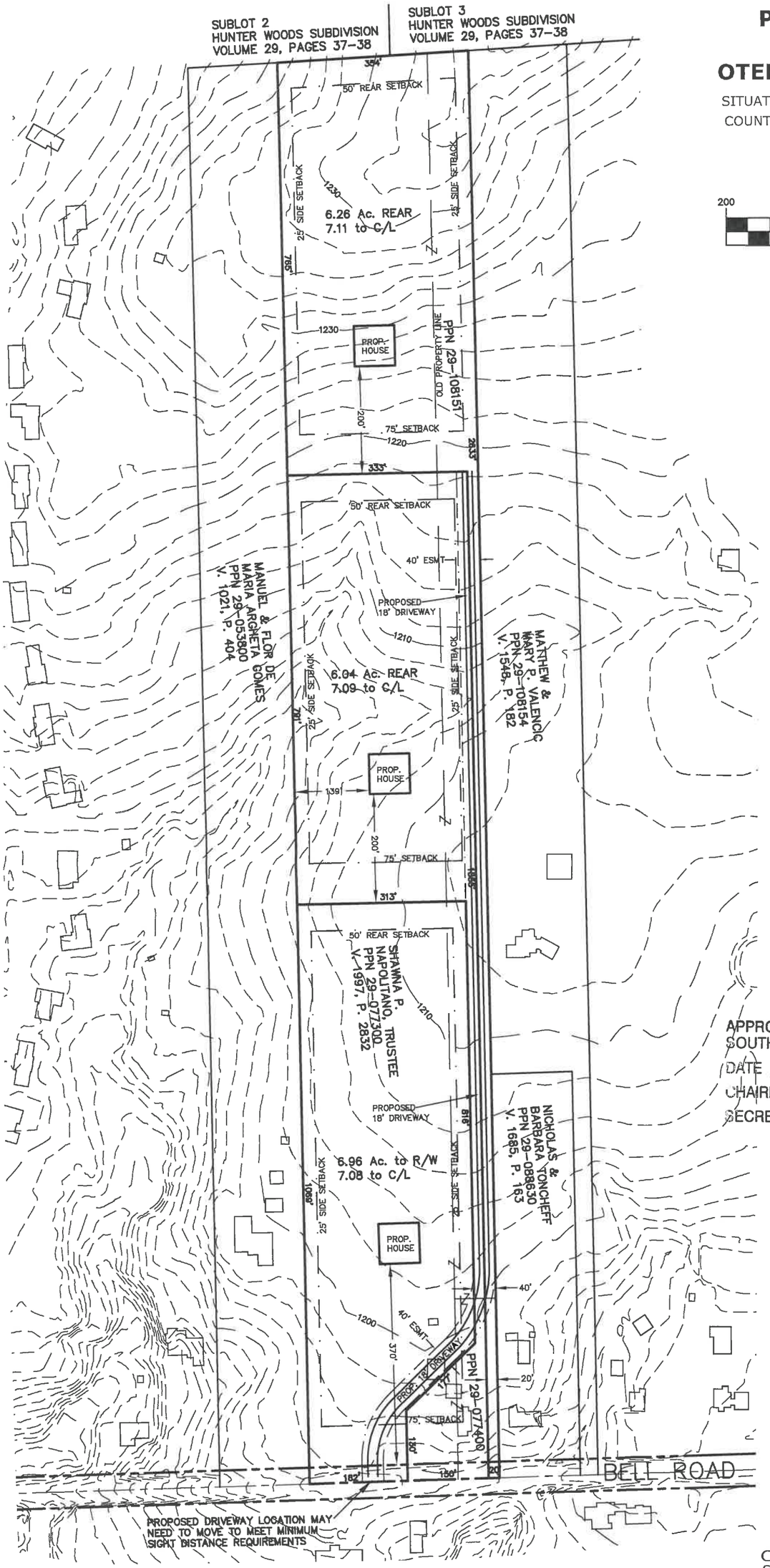

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CHAIRMAN _____

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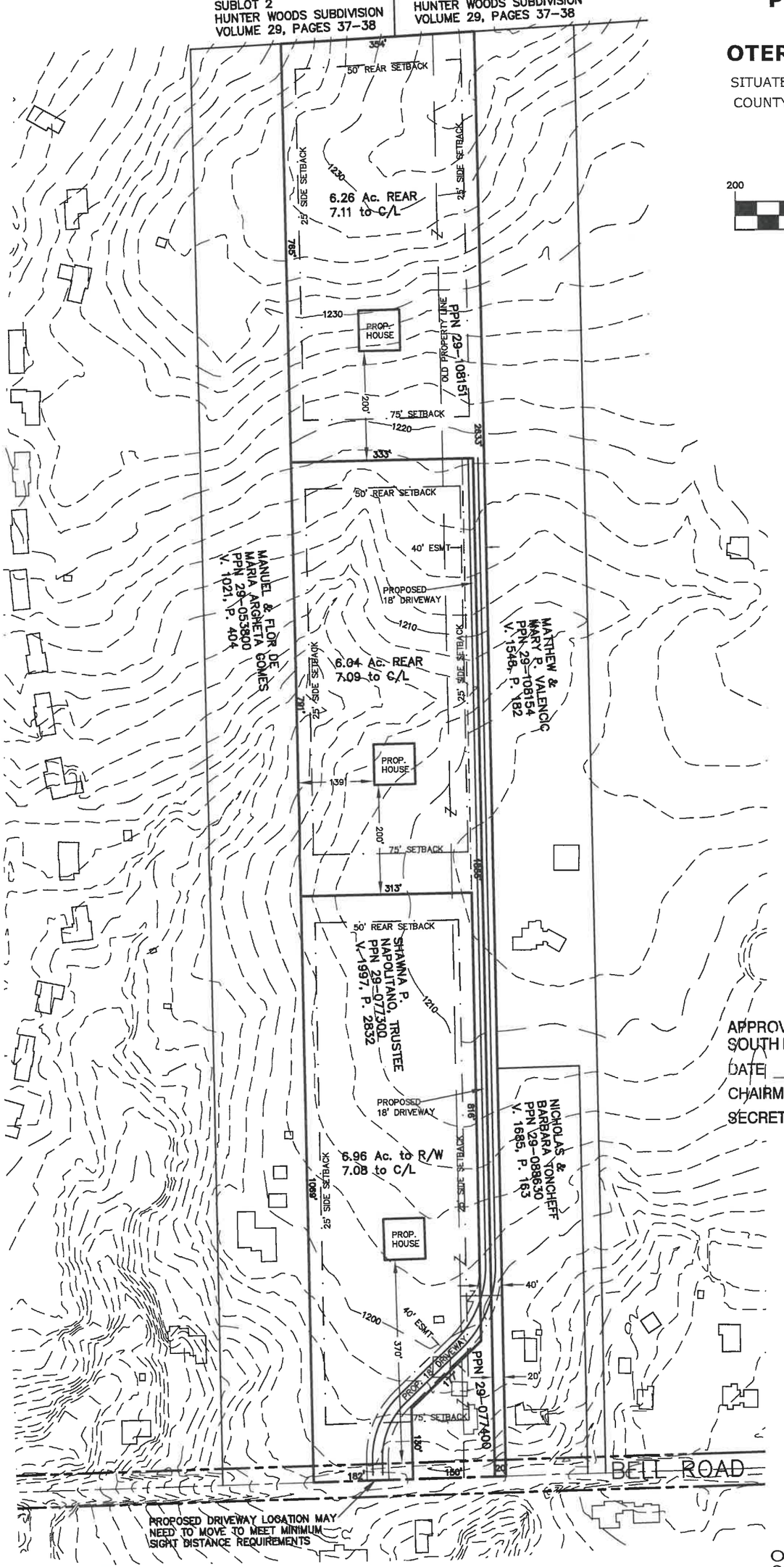

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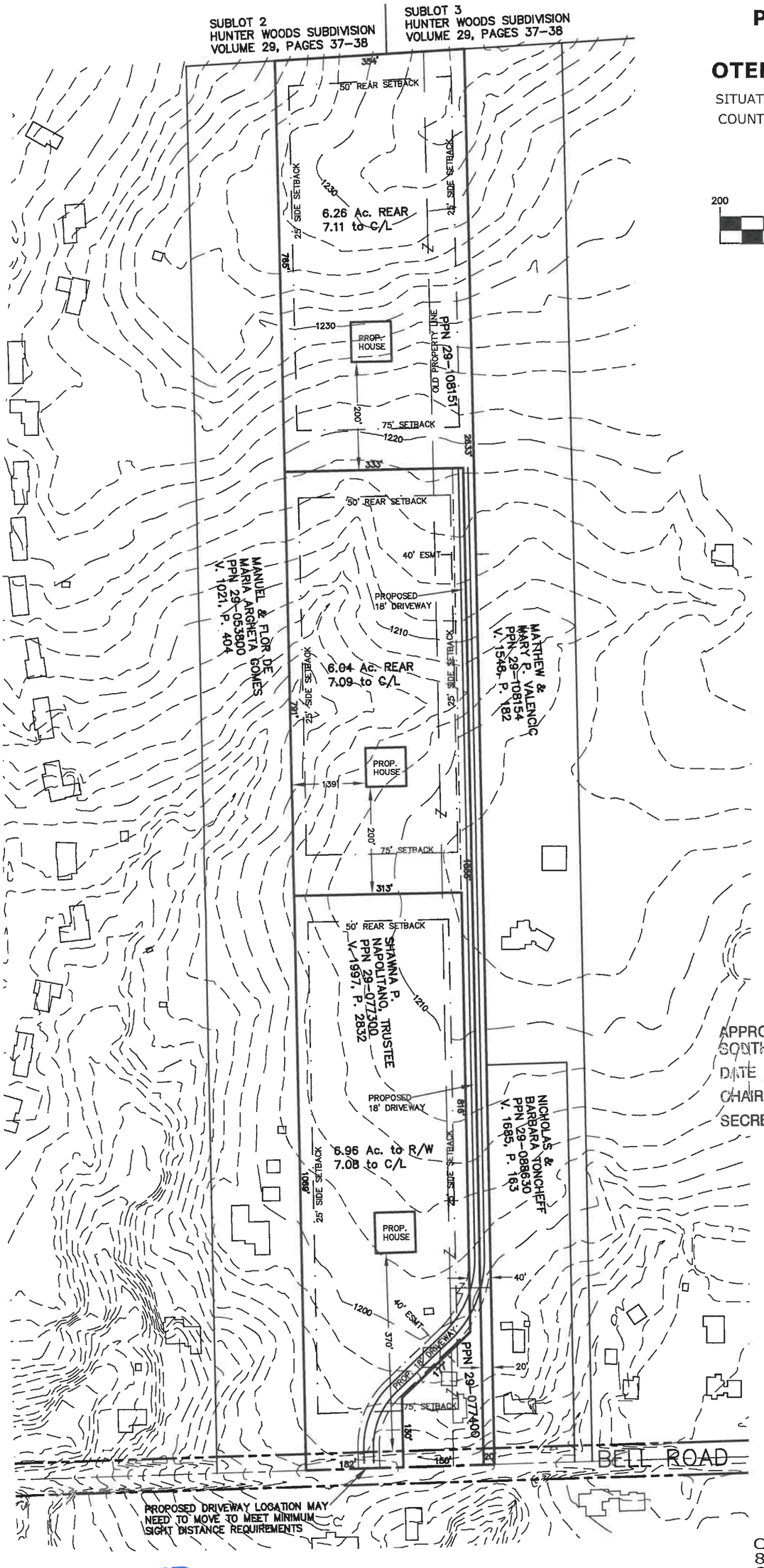

APPROVED BY
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CHAIRMAN _____

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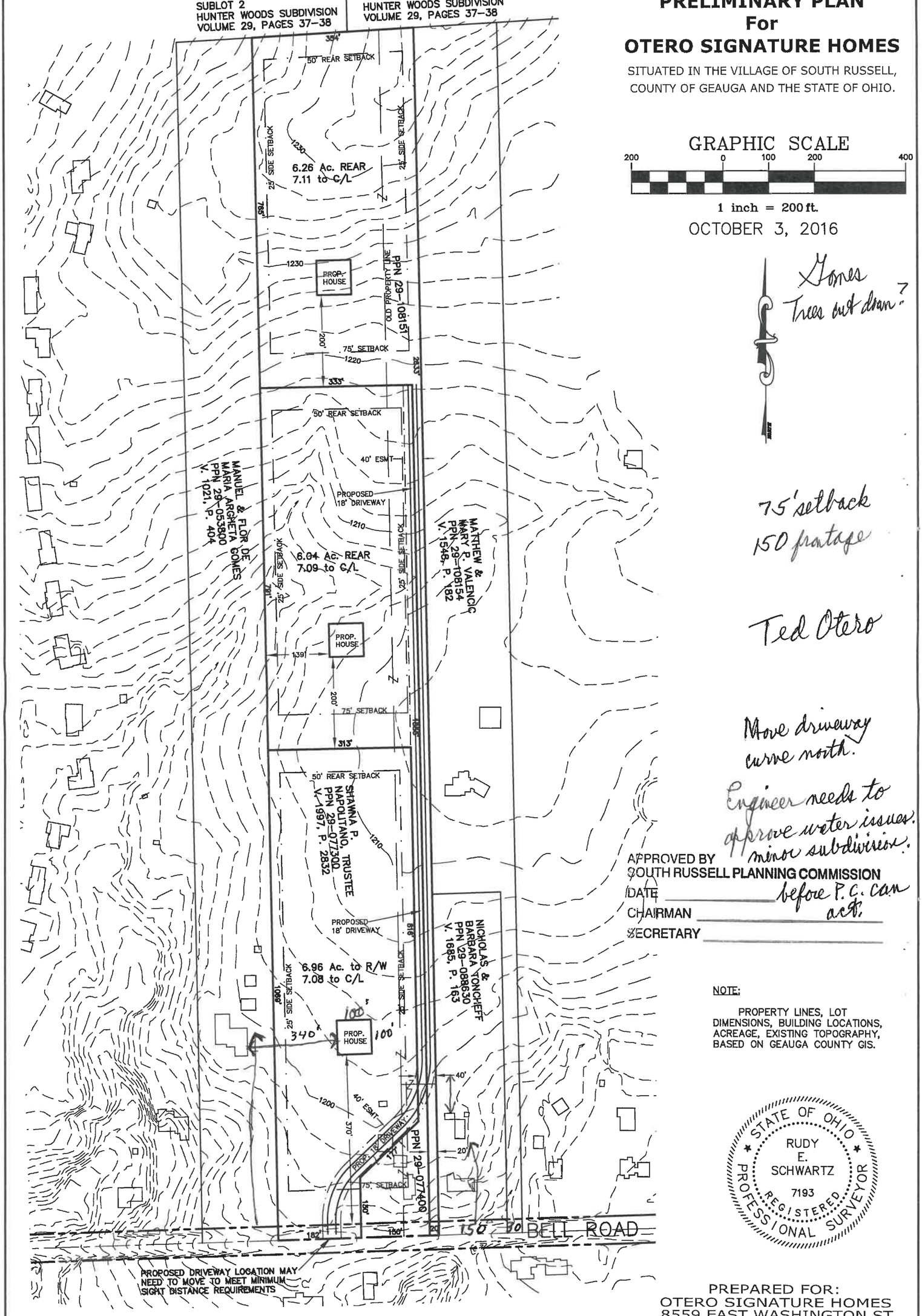
20' frontage

PRELIMINARY PLAN
For
OTERO SIGNATURE HOMES

SITUATED IN THE VILLAGE OF SOUTH RUSSELL,
COUNTY OF GEAUGA AND THE STATE OF OHIO.



GRAPHIC SCALE

200 0 100 200 400

1 inch = 200 ft.

OCTOBER 3, 2016

Gones
Trees out drain?

75' setback
150 frontage

Ted Otero

Move driveway curve north.

Engineer needs to approve water issues.
minor subdivision.

APPROVED BY SOUTH RUSSELL PLANNING COMMISSION
DATE _____ before P.C. can act.
CHAIRMAN _____
SECRETARY _____

NOTE:

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SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
September 8, 2016 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor William Koons, Andy Hitchcock, Jim Flaiz, Bryan Kostura

Members Absent: None

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor; Lucy Jasinski, Secretary;

Visitors: **None**

Chairman Latkovic called the meeting to order at 7:30PM.

Roll Call: SL-Here, JF-Here, AH-Here, WK-Here, BK-here

SL – verified that the minutes in front of him were the amended minutes from 8-11-16, they were and a vote was called to approve, and seconded.

Roll Call: SL-Yes, JF-Yes, AH-Yes, WK-Yes, BK-Yes

Agenda – Plans for a Business at 5189 Chillicothe Road for Dr. Hivik, property owned by Marshall Kidd.

Discussion on Plans for business for Dr. Hivik – a Dentist Office. The location and what the business would be for. Identified 5189 Chillicothe as the location. Discussion on the rental space and how it could be used. If it was used for anything other than its zoned for, it would have to come before the board. The old house would be torn down and the new plans would be in its place.

WK – Asked LH if there was any concern on the rental space - the lack of bathroom space for the rental. Do we need to address the rental space that is shown as a shell of space?

LH – explained that once the space is built out, plans have to go to the engineer for approval to put in the bathrooms, divide up the space or whatever it is they want.

Discussion on the Dentist and his proposed expansion.

SL - This is a pretty big change and a big office and would really like to hear from somebody.

Solicitor – questioned LH on timeliness of the request.

LH – When I spoke with the architect, he was concerned about waiting another month to come back for approval.

Solicitor – Do we want to schedule a special meeting so they don't have to wait 30 days?

Discussion on setting up another meeting.

SL – Pointed out there are no zoning issues. LH agreed.

More discussion on location and application. SF – mentioned it was the exactly the kind of thing we want over here.

BK – Moved to Approve
AH – Second

SL – Asked if it also included the landscaping that they're proposing.

Discussion on the motion being approved and rental space. The plans as submitted, which has landscaping.

More discussion on any new business needing to go through Planning Commission.

Solicitor – Commented if any new development, if it's a permitted zoning use, and if the building isn't changing, and if nothing else is changing, it's your call and you can justify calling in. If Laura gets an application, she can check with Steve if he wants it in front of Planning Commission or not. Our language is so broad we can require virtually any new business to come in. I think the issue is if there is no change in anything and if it's a permitted use, do you want to go through that extra step.

JF – There is a pretty limited downside risk, this rental space.

Solicitor – They couldn't create something that is not for instance, they couldn't open a retail store, it's not permitted.
Roll Call: SL-Yes, JF-Yes, AH-Yes, WK-Yes, BK-Yes
APPROVED

Old Business:
JF – Augies was supposed to put the fence up when they put the cooler back there and . . . It's been a long time.

LH – They have not called for a final inspection on that yet.

Discussion on Auggie's business and follow through on finalizing.

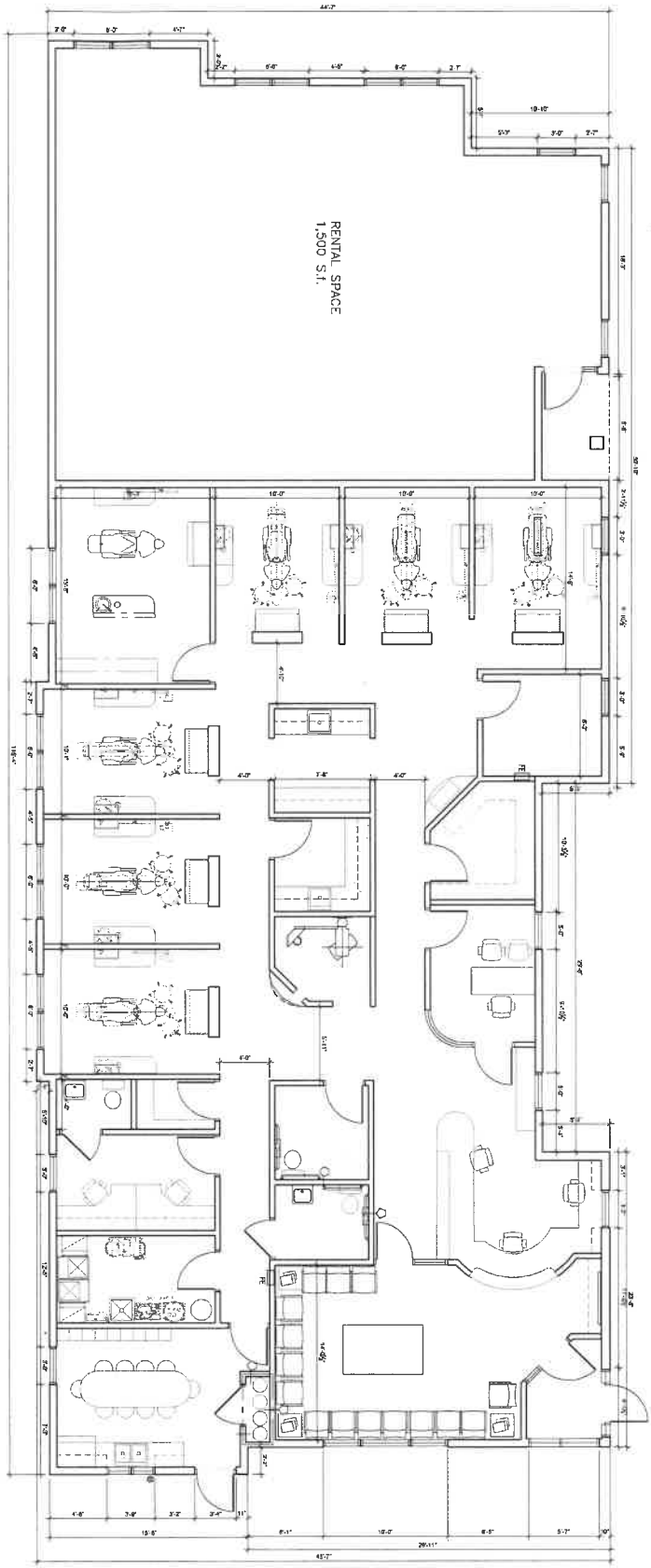
New Business:
NONE

SL – asked for roll call to adjourn.
Roll Call: SL-Yes, JF-Yes, AH-Yes, WK-Yes, BK-Yes

The meeting adjourned at 7:50PM.

Steve Latkovic, Chairman

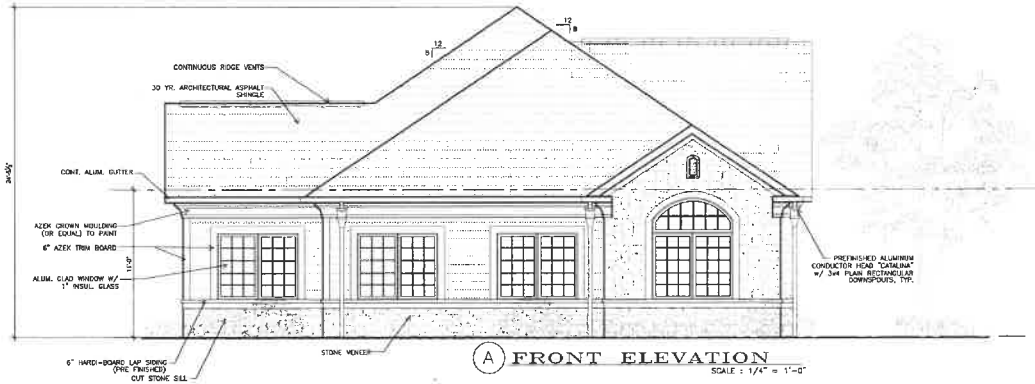
Secretary



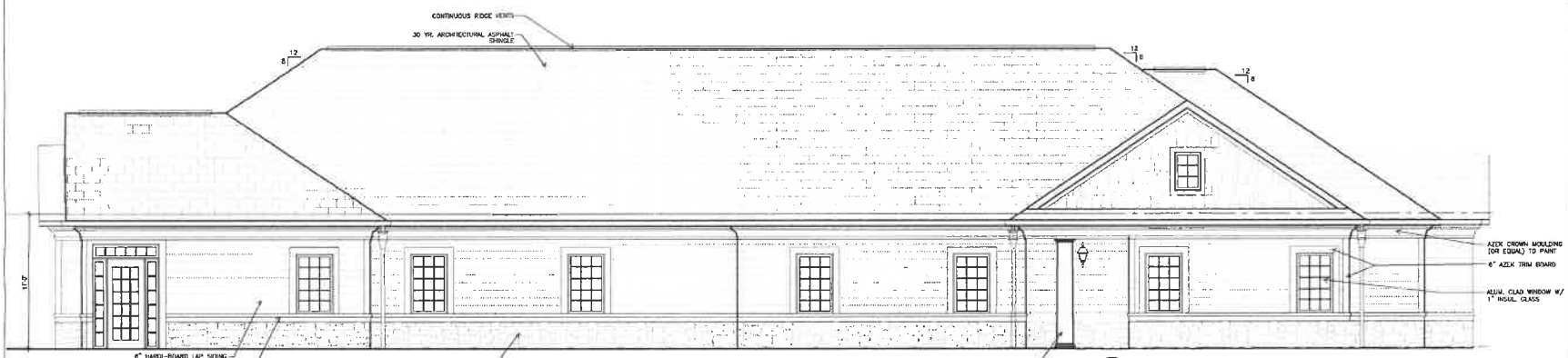
FLOOR PLAN

SCALE : 1/4" = 1'-0"

JOB NO. 16-050	INTERIOR ALTERATIONS FOR: DR. HIVICK 5189 CHILLICOTHE ROAD SOUTH RUSSELL, OHIO 44022	STATE OF OHIO LEON S. SAMPAT 13053 REGISTERED ARCHITECT	L S ARCHITECTS 22082 LORAN ROAD FAIRVIEW PARK, OHIO 44126 PHONE 26-403-9654 FAX 440-716-8837
DATE 8.30.16			
ISSUE			
SHEET A-1			



A FRONT ELEVATION
SCALE : 1/4" = 1'-0"



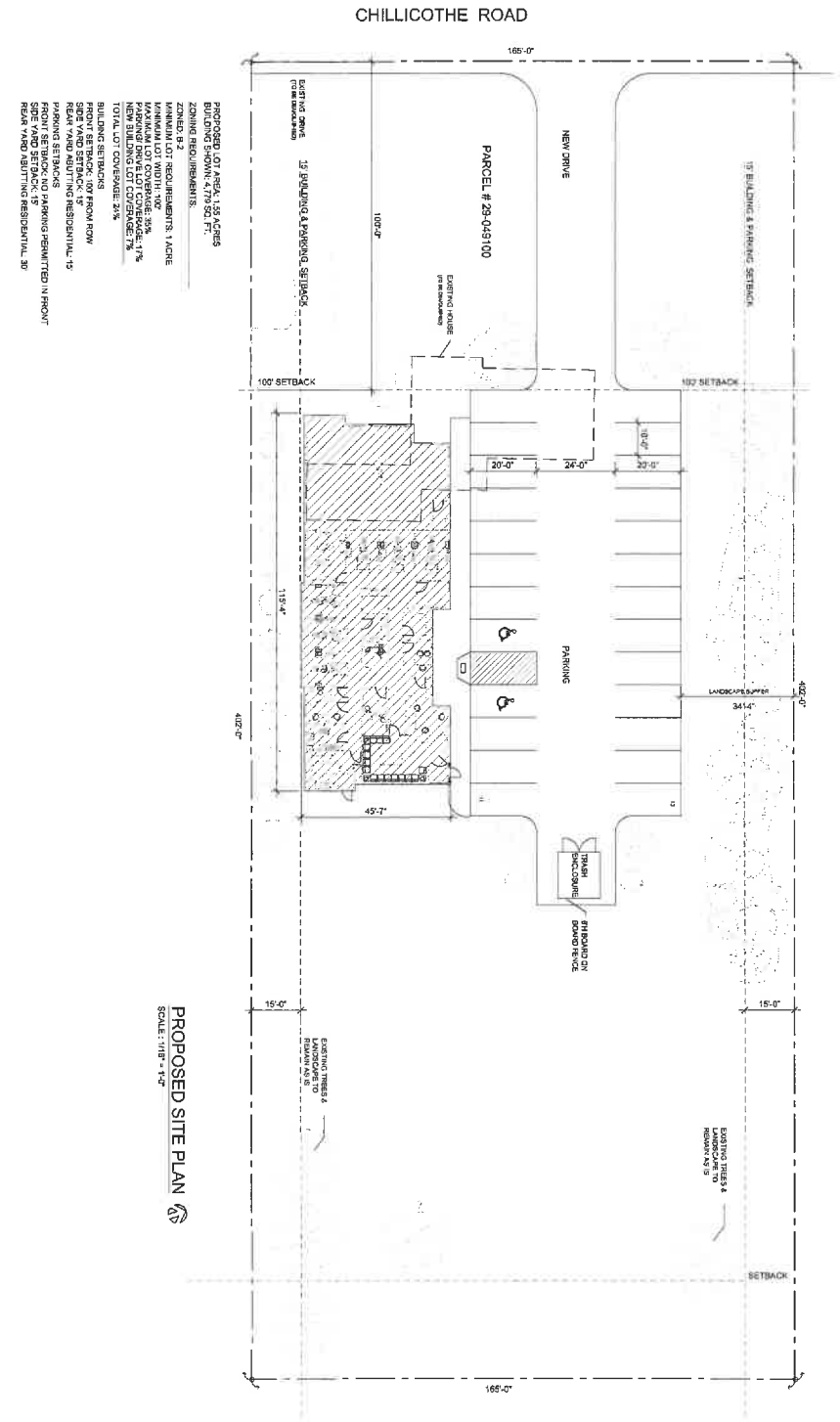
B NORTH SIDE ELEVATION
SCALE : 1/8" = 1'-0"

LS ARCHITECTS
22082 LORAN ROAD
FAIRVIEW PARK, OHIO 44126
PHONE 216-409-9654 FAX 440-716-8837

STATE OF OHIO
LEON S. SAMPAT
13053
REGISTERED ARCHITECT

INTERIOR ALTERATIONS FOR:
DR. HIVICK
5189 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022

JOB NO 16-050
DATE 6-30-18
ISSUE
SHEET
A-2



PROPOSED SITE PLAN
SCALE: 1/16" = 1'-0"

INTERIOR ALTERATIONS FOR:
DR. HIVICK
5189 CHILLICOTHE ROAD
SOUTH RUSSELL, OHIO 44022

STATE OF OHIO
LEON S. SAMPAT
13053
REGISTERED ARCHITECT

L.S. ARCHITECTS
22082 LORAIN ROAD
FAIRVIEW PARK, OHIO 44126
PHONE 216-403-9654 FAX 440-716-6837

JOB NO: 16-050
DATE: 8-20-16
ISSUE:
SHEET: SP-1

1566 Bell Rd
Beam's Backyard

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
August 11, 2016 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor William Koons, Andy Hitchcock, Jim Flaiz, Bryan Kostura

Members Absent: None

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor; Lucy Jasinski, Secretary;

Visitors:
Ann Dunning – 62 Morningside Drive, South Russell
Ronald & Linda Deresckey – 1581 Bell Road, South Russell
Caroline & Al Smith – 1566 Bell Road, South Russell
Peggy & David Kreugs – 4126 Frelding Dr, North Olm
Rhonda Spieth – 1548 Bell Road, South Russell
Jeff West – 1548 Bell Road, South Russell

SL called the meeting to order at 7:30
Roll Call: AH – Here; JF – Here; WK – Here, SL – Here, BK - Here

Approval of April 26, 2016 Minutes.
BK – asked to have his name corrected. JF – Motioned to approve Minutes; AH – Second
Roll Call: AH – Yes; JF – Yes; WK – Yes, SL – Yes, BK - Yes

1st Agenda Item – Lot split for 5197 Bell Road for Bruce Thomas

Ann Dunning represented applicant Bruce Thomas.

SL – Asked AD to address the Commission and explain the request.

AD - Explained the applicant, the size and the commercial zoning of the property. Bruce Thomas (BT) wants to sell the front part of the property and retain the barn. By splitting the property, will help make it a good solid corner for the Village. An insurance company, currently renting in Chagrin Falls is planning on purchasing the property to use as their headquarters. The new lot line would be defined by the garage. AD went on to described there will added parking spaces, three or

four for the office building and nine spaces that will be in place of the garage. There are already three next to the driveway to the barn.

Board asked about once the garage is down if they would be grassing it in. AD said the garage space would be parking area and the little block building would be gone and it would be a grass area. Conversation on if there would be lot coverage issues and if by splitting the lot does it creates a lot coverage issue for either lot? LH said the Village Engineer and Geauga County will need to sign off/approve the final drawings on the lot split. The lot requirements of commercial properties are 1 acre and both will meet these criteria. There will be a fence between the properties as a barrier or a natural barrier to keep from driving from one property to the other or cutting through to 306 when there's traffic. More questions on lot coverage, LH said they did not calculate the lot coverage. She thought it did comply but could not recollect for sure if they did the calculation. JF was concerned that if the lot coverage was not correct the Village by approving the split could cause issues in the future for the properties. LH then recollected when BT came in, they did a rough calculation and it was in compliance. The Village looks at square footage of all levels including driveways, in calculating lot coverage. So the Board was concerned that the owner of the barn lot might come back at a later date saying the lot couldn't be used commercially because of the lot coverage. AD took the responsibility of the owner to deal with the lot coverage with current zoning. Solicitor advised that if it complies with the zoning as it stands today there is not much discretion to deny the lot split. Discussed square footage some more, SF did a rough calculation that was well within the 35% lot coverage that current zoning requires. Solicitor suggested that Commission approves with contingency on their getting a variance for the barn if over the lot coverage, if that was necessary. The original lot was there before zoning so was okay as was, but by splitting the lots the new lots need to be in compliance with current zoning. Commission gave AD the option of approving the lot split tonight and then if there was a lot coverage issue to come back to the Zoning Board or to approve it contingent on getting a variance from the Zoning Board. AD preferred to have it approved and if need be they would come back. Solicitor didn't think it could be approved if it didn't meet current zoning. SL noted that it meets zoning today, if we approve it and it doesn't meet zoning is that the same thing? Solicitor – if you approve a lot split and it doesn't meet zoning they would not be able to use the building without getting a variance and I think JF's concern is if you allow the lot split you're giving the property owner almost a guaranteed approval for a variance, because then he has a lot he can't use. LH cautioned that it needed to be approved by the Village engineer and approval from the County. Solicitor questioned the County for it to be recorded. LH – County approval is the sewer tie-in and stuff like that.

SL Motioned – I move to approve the lot split subject to the Engineer approving it as well as the County if necessary.

AH Second

Roll Call: AH – Yes; JF – No; WK – Yes, SL – Yes, BK - Yes

New Business:

Caroline Smith – 1566 Bell Road – Bean's Backyard

SL – Asked if the audience were all in attendance for Bean's Backyard discussion. Sworn testimony is not needed at this meeting.

LJ – Let the board know that there were 3 emails supporting Bean's Backyard.

Solicitor – addressed the board to point out that this was set up as an informal discussion of the situation, what may or may not solve their current problems. The Smith's have not submitted a formal application for a zoning change. The idea was to have a discussion.

SL – Asked the solicitor to give a quick overview of some of the issues and then let the Smith's address Planning Commission.

Solicitor – Bean's Backyard came to the attention of the Building Department within the last 5-6 weeks. Bean's Backyard was operating as a commercial operation, taking money for hosting events there. They had not previously received any permits to do so, not just zoning permits but any building permits. It is zoned R-1-D which that means any kind of commercial operation unless it's one of the listed conditional uses. It's not a permitted use right now. The reality is that Laura had to notify them that they would not be able to continue operating and that led to a discussion of submitting a zoning permit, which did get denied. If they want to appeal to the Zoning Board, they need to do so quickly. In the meantime, the thought was is there any inclination to amend the zoning in order to attempt to solve this dilemma.

Commission discussed whether they can even seek a variance because it's a commercial use. Zoning can grant a conditional use but their using it as a commercial use is not one of the available conditional uses in a residential zone. If they were to appeal they would have to seek a use variance and have to establish an unnecessary hardship. Bean's Backyard would have to come before the Planning Commission because PC had developmental approval. Commission discussed whether the Commission can approve a commercial use in a residential property. The Conditional use is as follows: Schools, parks, public buildings, garages and nurseries, golf courses, cemeteries, gas and oil wells (which the State takes care of) lakes, club pools, churches, wireless telecommunications facility (Ord. 1997-29). PC can add to the list of uses "Outdoor Party Center" and set certain standards to that use, such as size of property, hours of operation. This could be added to only R-1-D properties. It would be amending the zoning code to create this new conditional use in an R-1-D and you would have to set up standards for this new use, such as acreage, hours of operation, etc.

SL – Asked the audience that if anyone would like to speak, give their name and address.

Al Smith (AS) – Gave his background of a longtime resident.

Caroline Smith (CS) – Address the PC referencing her email to the board with photos and wanted to add a few things. The purpose of the zoning code is outlined in Zoning Code Book 4.00 and she feels that what they have done with their property and allowing others to rent it doesn't conflict with those purposes. The property is not seen from the road and at the party center the only people that can see it are the Smith's and his mother. CS has taken measures to make sure there is no noise and deals with issues to the satisfaction of the person taking issue. There has been no impact to traffic and it's a seasonal business 5 months out of the year and believes they provide a valuable service to the residents of South Russell. It was not their intent to start a business, but to have a backyard they could share with their family and friends. Then local groups asked to use it and it showed as a great place to offer to others. Last week CS sent letters to all the near neighbors on Bell Road explained the situation, inviting them to come tonight and voice their opinions for or against or to send an email. All the ones they spoke to are behind them and support them. Also posted on Facebook page to come to the meeting or send an email. They have been operating openly for 5-6 years, paying

taxes on the income without any word from the village that they were in violation. It was someone that was not from the community, but was thinking of moving in had a problem. CS understands that every Village or municipality has to have these kinds of codes and regulations but really feel it would be a real loss to the community.

Rhonda Speith – 1548 Bell Rd. – she has 13.5 acres and has race horses that are extremely sensitive, high powered and in all these years it has not affected her horses. They have been out during parties and there are no issues. They have done a beautiful job maintaining it and they've done a great job with it and has no issue with them and want the Village to support them.

Commission discussed closest neighbors

RS – Her property runs right up to it and is not affected by it.

AS – About 85 feet and about 400 feet would be the next closest neighbor. There is a vacant property across the street.

Linda Derescky (LS) – Lives across the street. We've lived there since 1965 and we have never ever had any issues with this. We've had family reunions there and everybody loves it. Never had a problem and the property is just beautiful. It would be a shame if they were not allowed to use it.

SF – Remarked on the property to the west was for sale and when a prospective buyer looked at the property to buy he was concerned with the party center next door.

LH – The prospective buyer said he wanted to camp out in the backyard and while LH was addressing the situation, the prospective buyer lost the sale of his house and was no longer interested in the property next door.

SF – Looking at the Geauga County Auditor site sees that one of the accessory structures is less than twenty feet to the property line. LH – has not checked on any of the accessory structures. She would not do inspections unless permits were pulled. Board then discussed the lack of permits and when the structures were built if after 1981 when the Building Department was established in South Russell. Conversation on location of structures showing online and how close to lot line the structures are. AS – the closest might be about 15 feet the rotisserie cooker, the one rest room is real close but pretty sure it's beyond 20 feet. Then discussion of if they didn't take fees for the outings does that make it okay to use for gatherings? Solicitor – yes the receiving money is the bright line of using the property. There could still be an issue with a neighbor concerned about the property being used with many events. CS – doesn't understand why the money matters. But because it's being used as a commercial property, it affected the sale of the adjacent property. Commission tried to explain why there are issues with using a residential property as a business. As a Village the Commission can't support a zoning change that will affect all R-1-D properties not just Bean's Backyard. Understood that it's been in use for a long time but because it now has brought to the attention of the Building Department, it needs to be formally addressed and while it's a very nice place, by making it a conditional use, it doesn't just stay with the present owners, but it would change the essence of the property and when its sold the use stays with the property. Discussion on

whether this was a financial aspect and commercially has this become a primary source of income? What is driving to keep it as a commercial enterprise? AS – just a lot of people that need places for their events. It is a source of income that helps. Question from the audience LD on if they only took donations is that acceptable? Is there ever only a zone change for one owner? PC – Not in this situation for the zone change. WK – not for a business in a residential neighborhood and not for facilities that have not been approved. Something happens this weekend, people will come to the Village saying you knew about this facility, did you inspect it? Somebody gets hurt, the building falls down, and they're going to come to the Village. Up to us to maintain the standards, and that's what we have to do. More discussion on how a business in a residential zoning affects neighbors from the Commission view and how they can't make exceptions. CS/Bean's Backyard views that by having no issues with their neighbors.

Talking on how to define a public park? Solicitor – there are definitions in the zoning code book. (pg. 11). LH read the definition. Golf Courses? (pg. 8). More discussions on conditional uses and what is needed to meet those criteria's? Traffic patterns, structures on property? Solicitor pointed to Chapter 7 (pg. 63) Conditional uses shall not be approved unless the Commission finds that such uses comply with the following General Standards:

a) The use shall be properly located in the relation to adopted land use and street plans.

b) The use shall generate minimum traffic through residential neighborhoods.

c) The use is necessary to serve surrounding residential areas, which cannot be served satisfactorily if the same use is located in a nearby, less restrictive district where it may be permitted by right.

d) The location, design and operation of the use shall not discourage or interfere with appropriate neighborhood development or impair the value of the surrounding area.

e) The use shall comply with all applicable provisions of this Code including parking and loading, sign, development and performance regulations, and the following supplementary regulations.

Additionally on page 64. If you create a conditional use of an outdoor party center, you would have to create some supplemental regulations. Even if we did create a conditional use, it's still a difficult process.

In addressing applicant, SL admitted it was very tough to create a new condition/party center, and is this what the Village would support. Asked the Solicitor what are the paths down to have this approved changed through us, Council? What are the ways this can this happen.

Solicitor – Either change the zoning or get a variance. Changing the zoning can happen if PC initiates a specific zoning change to council. Or a property owner has the right to submit a proposed zoning amendment to the Planning Commission, but when they do that they have to make a $1000 deposit to cover cost of the Village to review and investigate it. The third thing is Council can initiate it on its own a zoning change.

The other option is to ask the Zoning Board to grant them a variance. For this they would need to create a use variance and demonstrate unnecessary hardship which means you can't use their property as residential as currently zoned. That's a pretty tough burden for them to meet.

JF – All of us have lived here a long time, you drive through other communities and see terrible residential developments, commercial developments. We're talking about zoning in our village because we want to keep it nice. The rules have to apply to everyone and we can't make special exceptions. I don't think anyone up here, all of us have been there and like it. It's not that its personal but we have to have strict standards that keep our community nice and desirable and keep our property values up. That's our job.

LD – In all the years we've lived here, I've seen nothing but improvements and they have improved it tremendously. They've made a beautiful and improved.

RS – Not like the property next door that is trying to sell, you can't even walk through the house. It's trashed.

David Kreugs - When you talk about the property value, it's detrimental to property values all around it. Bean's property is gorgeous. That is going to entice people here, their frontage, their house, it's what you want in the village.

Question on Amish community meals and how they operate using donations. Discussed how it was handled and why this wouldn't work for Bean's Backyard. Commission can't condone that being a public entity, elected officials. Can't condone a method to skirt the entire system that was set up to protect everyone. The Planning Commission can't say here is the way to get around it, cause that's not an acceptable means which we've been charged to protect the zoning and really the surroundings of South Russell.

SL - Planning Commission is not an enforcement body, we aren't going after anybody, and we aren't tracking people down within the village as it exists. It will be hard to get this body to act to get a zoning change for this. But how you use your property isn't going to be questioned by this body, but someone in the village will. You have property rights, you can use your property, and you own it. But, a formal commercial operation apparently is not one of them and I think the Planning Commission is going to have a tough time formally allowing that to move forward as part of our zoning code for a residential area. It applies to all other R-1-D districts.

WK – It came to our attention on June 16th. I was advised that we should shut it down June 17th, but I've extended it twice, but we've reached the point that if something happens this Saturday, the Village is well aware of is something were to happen it will fall back on us. Whether it's the facilities, the parking or usage. We need to take action quickly.

SL – There is nothing in front of us but a conversation, but pointing out that from what we've seen and what action we would presumably have to take. We're not formally going to vote on anything tonight. The feedback would lead you to understand that we would discourage you from spending the $1000 to have a formal vote. The other option is Council.

Solicitor – If Council wanted to entertain it they could initiate the zoning change and it would come to you for your recommendation and then it would go back to council for ultimately their decision.

ST – pointed out that two of the Planning Commission members were on Council.

Long pause – SL – Don't know what else to tell you.

CS – Asked if they could have temporary permission for the events that are planned.

SL – That's not something we can deal with here. There are violations of zoning, it's up to the Village Building Department.

CS – Asked what of the events that are planned, weddings?

JF - Said that if you didn't take the money they can have their weddings there.

Discussion on what is the procedure for something that doesn't comply with the building code? It varies with circumstance, but the Building Department would order a cease and desist and then have them go to court for a temporary restraining order, preliminary injunction, and permanent injunction all those steps could be taken. Talked about non-conforming buildings, process for variances and remedies if variance is not granted.

Planning Commission is not in a position to approve or disapprove. Bean's Backyard will have to take it up with the Building Department for next steps.

New Business:
Meeting Date Change for November 2016 Meeting from 11-10-2016 to 11-3-2016. SL Approved the change in date.

Old Business:
NONE

The meeting adjourned at 9:05 PM.

Roll Call: SL – Yes; JF – Yes; BK –Yes; AH – Yes WK – Yes

Approved.

Steve Latkovic, Chairman

Secretary

PROPOSED
LOT SPLIT PLAT

KNOWN AS PART OF SUBLOT "C" OF IRVING KRAUTHAMER'S PLEASANT ACRES SUBDIVISION NO. 2 AS A PART OF ORIGINAL RUSSELL TOWNSHIP LOT NO. 10, TRACT NO. 3. NOW SITUATED IN THE VILLAGE OF SOUTH RUSSELL, COUNTY OF GEAUGA AND STATE OF OHIO.

FOR: THE NARRAGANSETT GROUP

PARCEL NO. 29-049000

DEED REFERENCE:
VOL. 1319, PG. 1166 G.C.D.R.

ADDRESS: 517 CHILLICOTHE RD.

NORTH

GRAPHIC SCALE

40 20 0 40

(IN FEET)
1 INCH = 40 FT.

AUGUST 5, 2016

RECEIVED
AUG 8 2016
SOUTH RUSSELL
BLDG. / ZONING DEPT.

CHILLICOTHE ROAD 60' (S.R. 306)

5/8" I. PIN FD.
24.94 OFF C/L
0.05 NORTH OF P/L

N85°08'00"W 401.91 CALC. to C/L 402.38 DEED

166.20 DEED & USED

166.20 DEED & USED

MARSHALL J. KID
VOL. 793, PG. 68

I. PIN SET
STA. 1+30

N85°08'00"W
402.84 DEED
402.40 CALC. to C/L

I. PIN SET.
STA. 1+30

166.20 DEED

30.00

130.00
169.93

130.00

112.40

202.47

90°00'00"
REC. & USED

DRIVE APPROX. ON LINE

36"

REMOVE
BLOCK BLDG.

46.5

398.30 CALC. DEEDS & USED

N04°52'00"E

2.3 CONC.
WALK

NEW PARKING
AREA FOR
3-4 CARS

196.85

REMOVE
GARAGE

PARCEL B

LOT AREA	0.9039 Ac.
R.O.W. AREA	0.1399 Ac.
TOTAL AREA	1.0438 Ac.

GRAVEL DRIVE

NEW FENCE

CONC.
PAD

BARN

OLD R.O.W.

201.30

78.3

CONC.

51.9

DIRT
RAMP

2-STORY
FRAME
DWELLING

73.6

GRAVEL

388.26 DEED

387.75 CALC. to C/L

N04°42'00"E

191.54

P.N. 29-049000

CONC.
STRIPS

232.10 DEED & USED

NEW GRAVEL DRIVE

226.86 to C/L

N04°52'00"E

NEW PARKING
AREA FOR
9 CARS

NEW SAN. CONN.

EX. PARKING
AREA FOR
3 CARS

GARVEL DRIVE

PARCEL A

LOT AREA	0.7766 Ac.
R.O.W. AREA	0.2767 Ac.
TOTAL AREA	1.0533 Ac.

58.0

62.1

REMOVE
TREE

5.5' x 7.5'
GAS VAULT

5/8" CAPPED
(TEMPLE) I. PIN
FD. & USED

169.99

203.09

91°30'00"
REC. & USED

91°20'00"
SURVEY & USED

30.01

30.01

200.00

203.18

403.18 SURVEY & USED 403.60 DEED
N86°38'00"W 886.7 to ANGLE PT.

1" I. PIN MON.
FD. & USED

SUAT ARICANLI
O.R. BOOK 1834, PG. 2542

BELL STREET 60'

APPROVED BY
SOUTH RUSSELL PLANNING COMMISSION
DATE _____
CHAIRMAN _____
SECRETARY _____

HOWARD R. SELEE & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
*9701 BROOKPARK ROAD * SUITE 231 * CLEVELAND, OH 44129*
(216) 398-0280 FILE NO. 08464-LS-PRELIM
SELEE & ASSOC.

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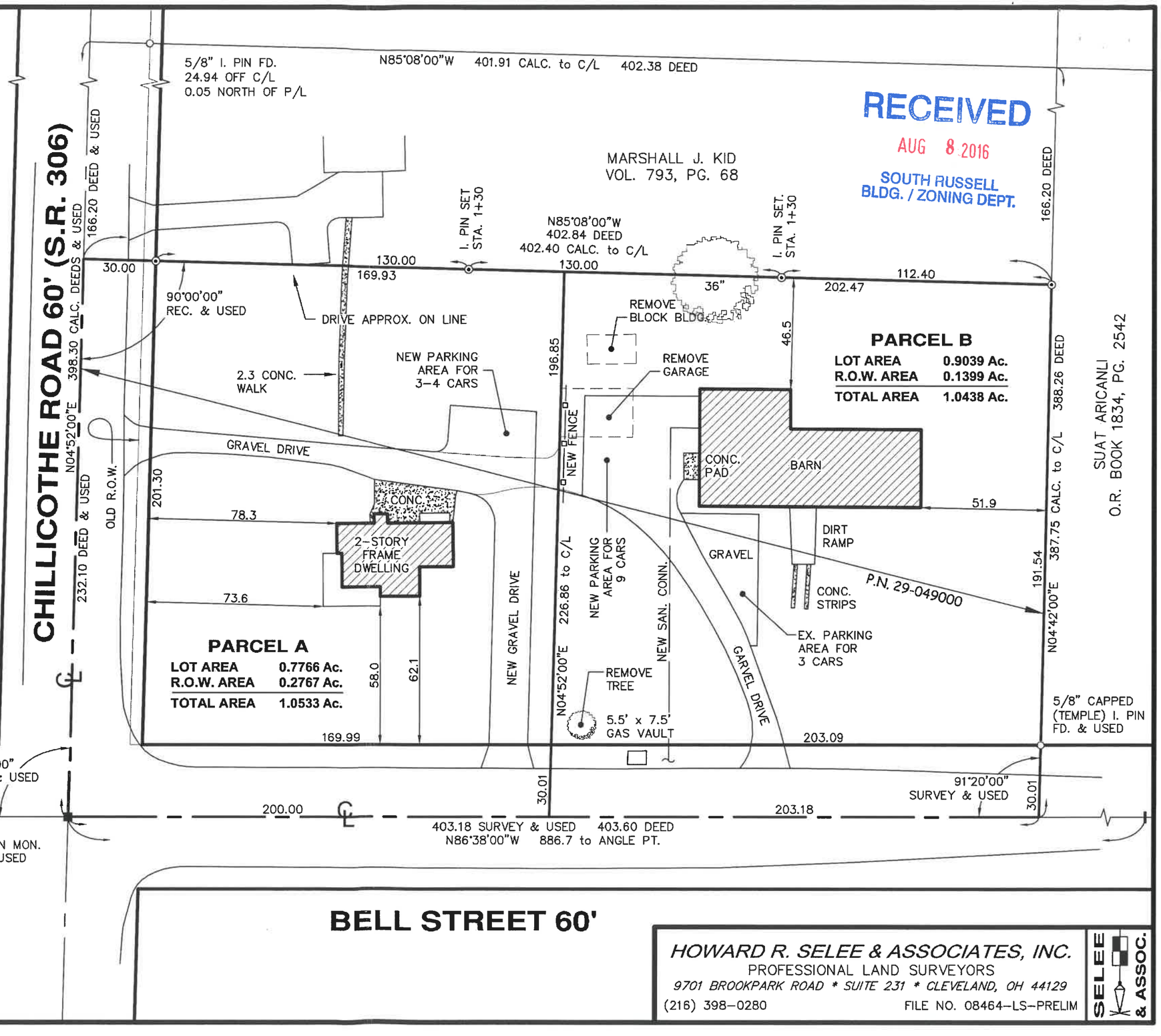

RECEIVED
AUG 8 2016
SOUTH RUSSELL BLDG. / ZONING DEPT.

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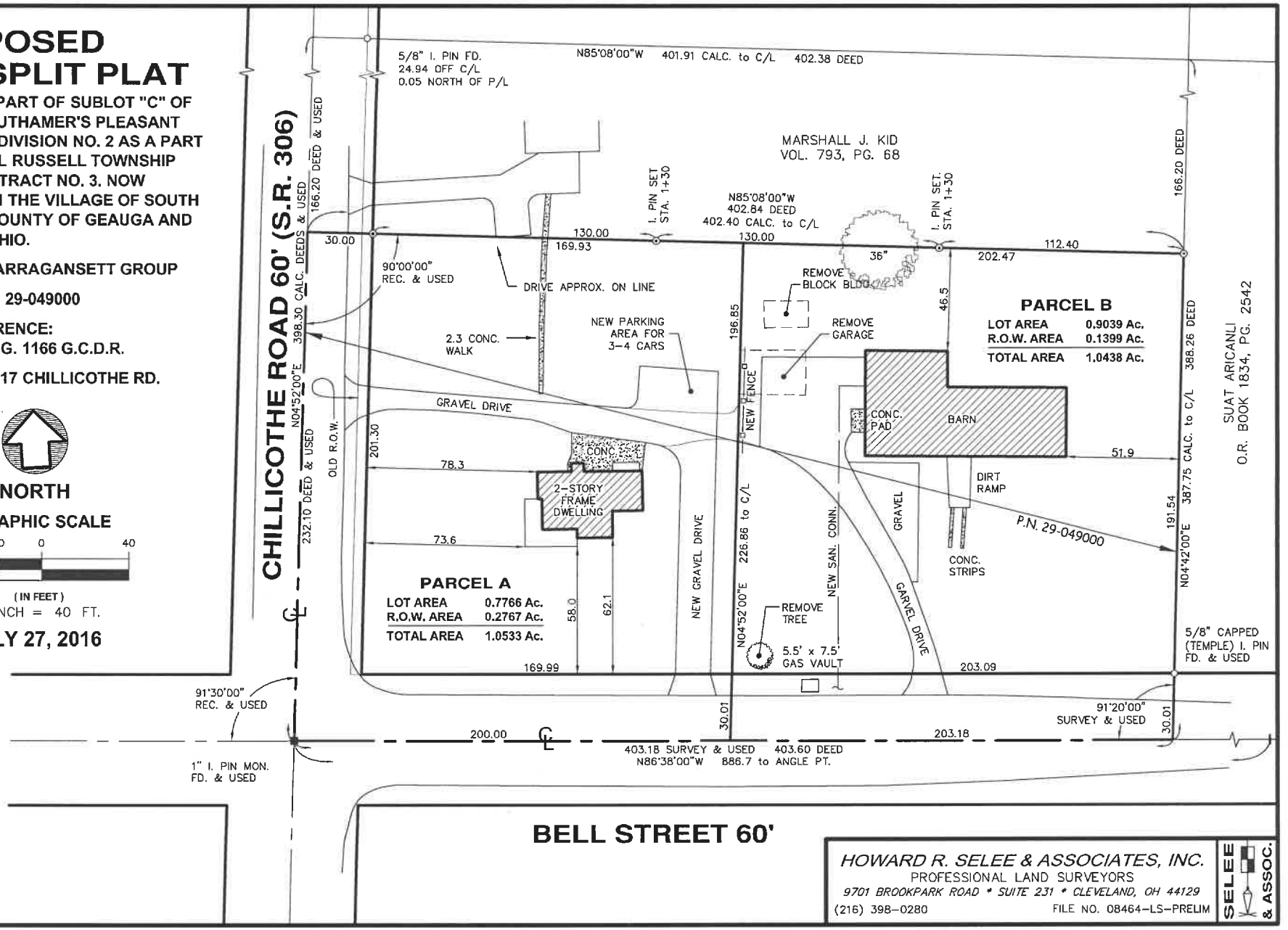
JULY 27, 2016



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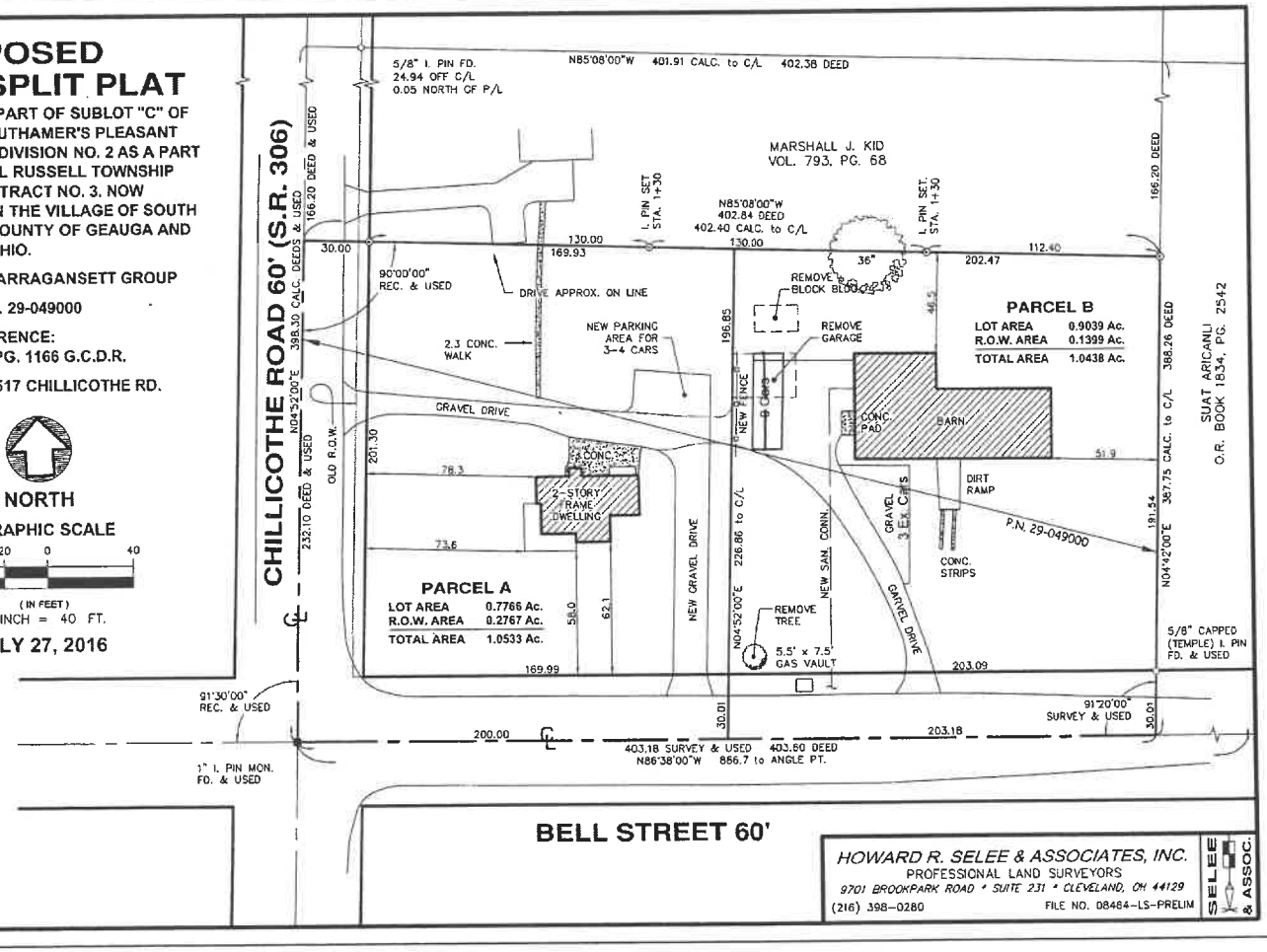
JULY 27, 2016



HOWARD R. SELEE & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
9701 BROOKPARK ROAD • SUITE 231 • CLEVELAND, OH 44129
(216) 398-0280
FILE NO. 08484-LS-PRELIM
SELEE & ASSOC.

PLAT OF SURVEY

KNOWN AS PART OF SUBLOT "C" OF IRVING KRAUTHAMER'S PLEASANT ACRES SUBDIVISION NO. 2 AS A PART OF ORIGINAL RUSSELL TOWNSHIP LOT NO. 10, TRACT NO. 3. NOW SITUATED IN THE VILLAGE OF SOUTH RUSSELL, COUNTY OF GEAUGA AND STATE OF OHIO.

FOR: THE NARRAGANSETT GROUP

PARCEL NO. 29-049000

DEED REFERENCE:
VOL. 1319, PG. 1166 G.C.D.R.

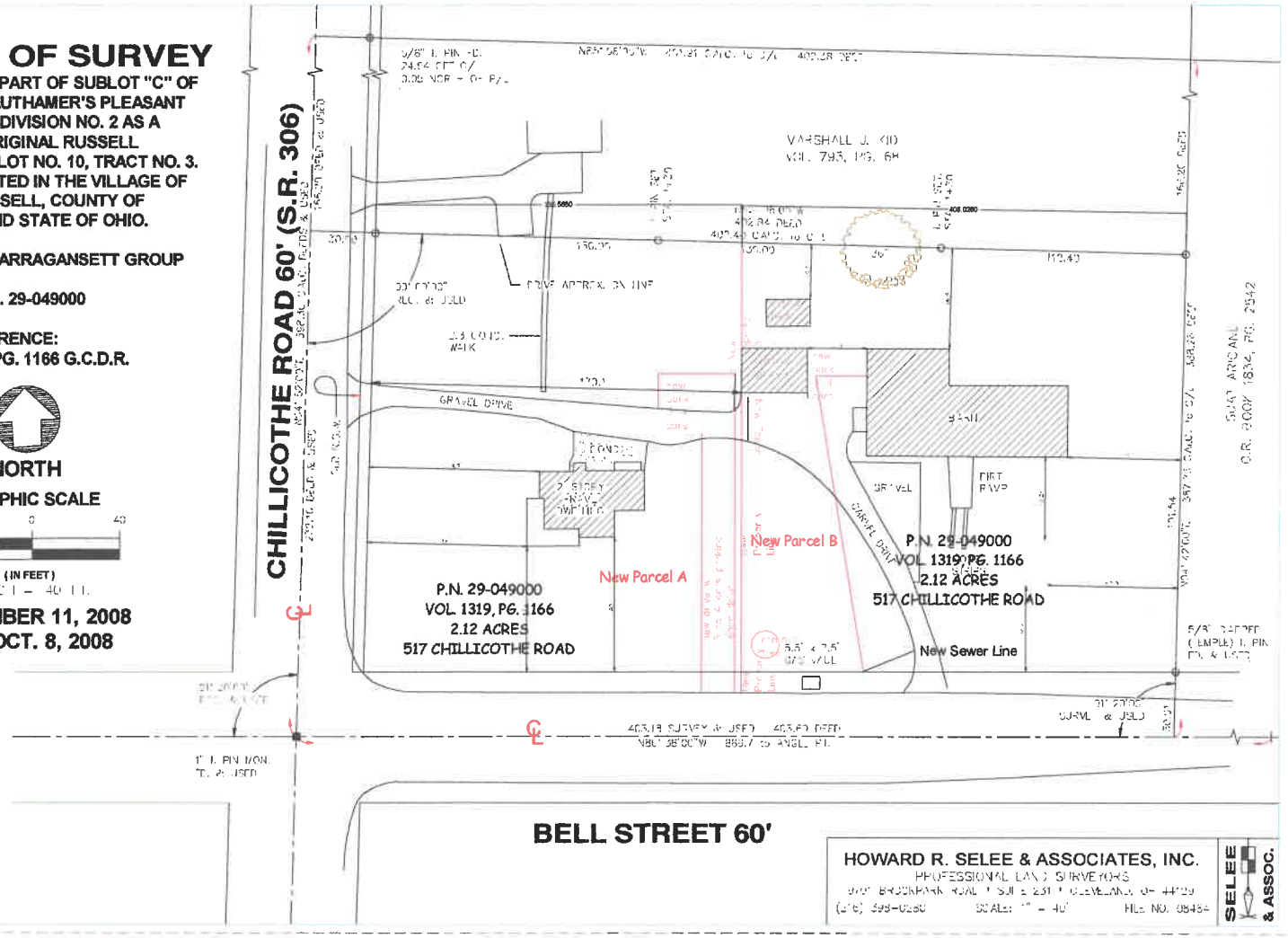
NORTH

GRAPHIC SCALE

40 20 0 40

(IN FEET)
1 INCH = 40 FT.

SEPTEMBER 11, 2008
REV. OCT. 8, 2008



HOWARD R. SELEE & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
9701 BROOKPARK ROAD • SUITE 251 • CLEVELAND, OH 44129
(216) 398-0260 SCALE: 1" = 40' FILE NO. 08484
SELEE & ASSOC.

VILLAGE OF SOUTH RUSSELL
BUILDING AND ZONING DEPARTMENT
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OH 44022
(440) 338-6700 Fax:1606
www.southrussell.com

Laura J. Heilman — Building Official

July 18, 2016

Mr. & Mrs. A. Smith
1566 Bell Road
South Russell, OH 44022

RE: Zoning Violation/Bean's Backyard

Dear Mr. & Mrs. Smith

This letter is to advise you that you are in violation of Section 4.01 of the Village of South Russell Zoning Code for operating a commercial party center in a residentially zoned area at your property at 1566 Bell Road. No zoning permit has ever been issued for such use.

The applicable code section indicating the permitted uses in the R-1-D zone is attached. I have also included a zoning permit application in the event you desire to seek a permit. Please be advised, however that since a commercial business is not permitted in this area, I will likely need to deny you a permit. You can then seek a variance or a change to zoning through the village processes.

In the meantime, please discontinue all business use of your property at once. Please be aware you may also be in violation of building code regulations as well.

Mayor Koons has indicated he is willing to meet with you at 9:00 AM on July 29th at Village Hall if you wish to discuss the matter further with him. Please let us know if you would like to do so and if this date/time is convenient.

Sincerely,

Laura Heilman
Building Official

Caroline Smith

1566 Bell Road • Chagrin Falls, Ohio 44022 • 440-338-6619 • carolinemrsmith@gmail.com

July 19, 2016

Laura Heilman, Building Official
Village of South Russell
5205 Chillicothe Rd.
South Russell, OH 44022

RE: Bean's Backyard

Dear Ms. Heilman,

Enclosed is our zoning permit application for operating my husband's and my outdoor party center at our property. I understand that we will likely need to seek a variance, but I respectfully request that you consider the following when making your determination:

1. Our business conforms to the purposes and intent of regulations as outlined in Section 4.00 of the Zoning Code.
2. The structures we rent for use to others were originally built for our personal use and it was only after several local organizations asked to be allowed to have functions there did we decide to actively rent them for profit.
3. None of the structures nor the parked cars during an event are easily, if at all, visible from the street nor from any neighbor other than my husband's mother. The only thing indicating that there is a business there is the small, simple sign on our mailbox.
4. We generally only have an event once a week, usually a Saturday afternoon and/or evening. Some weeks we have none, occasionally we have two.

We trust that if you decide to deny our application you will let us know when and how we go about seeking a variance.

Thank you.

Caroline Smith

Caroline Smith

VILLAGE OF SOUTH RUSSELL
BUILDING AND ZONING DEPARTMENT
5205 CHILLICOTHE ROAD
SOUTH RUSSELL, OH 44022
(440) 338-6700 Fax:1606
www.southrussell.com

Laura J. Heilman — Building Official

July 18, 2016

Mr. & Mrs. A. Smith
1566 Bell Road
South Russell, OH 44022

RE: Zoning Violation/Bean's Backyard

Dear Mr. & Mrs. Smith,

This letter is to advise you that you are in violation of Section 4.01 of the Village of South Russell Zoning Code. Specifically, you are not permitted to operate a business in a residential area, except under certain conditions, and only after obtaining the required permit. The applicable code section is enclosed for your reference, and the application for a zoning permit. If you wish to apply for a variance, please contact me for details about the application process. Please discontinue use of your property for business purposes immediately. Please be aware that you may be in violation of building code regulations as well.

Mayor Koons has indicated he would like to meet with you at 9:00 AM on July 29th at Village Hall. Please let us know if this time is not convenient.

Sincerely,

Laura Heilman
Building Official

CHAPTER 4

RESIDENTIAL DISTRICTS

4.00 INTENT - Residential districts and their regulations herein established to achieve among others, the following purposes:

(a) To regulate the density and distribution of population, and to avoid congestion and to maintain adequate services.

(b) To regulate the bulk and location of buildings in order to obtain proper light, air, privacy and usable open space on each lot.

(c) To protect the desirable characteristic residential development.

(d) To promote the most desirable land use and traffic patterns. (Ord. 2001-19).

4.01 USE REGULATIONS - In residential districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following regulations:

(a) The following classifications of uses shall apply in the residential districts and the uses listed hereinafter shall be permitted only in accordance with all provisions of this Zoning Code.

DISTRICT	MAIN USES	ACCESSORY USES	CONDITIONAL USES
R-1-A, R-1-B, R-1-C, R-1-D (Residential one family)	Agriculture, One Family	Structures, Home, Occupations, Rented Rooms, Fences, Landscaping, Horse areas, private garages, private pools and ponds, parking	Schools, parks, public buildings, garages and nurseries, golf courses, cemeteries, gas and oil wells, lakes, club pools, churches, wireless telecommunications facility (Ord. 1997-29)
R-2 (Residential multi-family)	One Family Dwellings, Two Family Dwellings, Private Cluster Residential Development	Structures, Home Occupations, Rented Rooms, Fences, Landscaping, Horse areas, private garages private pools and ponds, parking, one family dwellings, two family dwellings, multi-family dwellings	Schools, parks, public buildings, garages and nurseries, golf courses, cemeteries, gas and oil wells, lakes, club pools, churches, wireless telecommunications facility (Ord. 1997-29)

DISTRICT	MAIN USES	ACCESSORY USES	CONDITIONAL U'
RN-1 (Residential neighborhoods)	One Family Dwellings, One Family Dwellings, (Residential Neighborhood Development)	Structures, Home Occupations, Fences Landscaping, private pools and ponds	Lakes, Club Pools, wireless telecommunications facility (Ord. 1997-29)
R-3 (Elderly Assisted Living)	One Family Dwellings, Elderly Assisted Living Facilities	Parking, Ponds, Horse areas	wireless telecommunications facility (Ord. 1997-29)

(b) Supplementary Use Regulations: The following regulations shall apply to uses within the Residential Districts in addition to those definitions set out in Chapter 2 herein.

1. Structures. Floodlights, radio/TV towers, loud speakers or similar structures shall not be erected or used in any manner that would cause hazards or annoyance to the public generally or to the occupants of adjacent property. Permanent outside fireplaces, sheds or other enclosed structures are permitted provided the total floor area of all such structures on a lot does not exceed five hundred (500) square feet per acre of land on said lot.

Home Occupations: Home occupations may be permitted in a dwelling unit, provided:

(a) No more than one (1) assistant, other than other members of the family, limited to parents, siblings, children and spouses, residing in the dwelling unit works in the home occupation.

(b) The use does not change the exterior residential character of the dwelling unit.

(c) No sale of food or beverage, motorized vehicles or equipment shall be permitted nor shall laundries be permitted, nor shall the repair of motorized vehicles or equipment be permitted nor shall the production or assembly of products or goods be permitted, it being the intent to limit home occupations to those uses which are generally service oriented such as architects, engineers, attorneys, sales representatives, insurance agents, as encompassed in the definition of Limited Offices set forth in Section 2.01(58) of the Code. No occupational use shall be approved unless similar in use and nature to those specifically permitted by this Section and which comply with all provisions of this Section 4.01(b)(2) and Section 4.10(b)(6). Anything sold or offered for sale shall be limited to that resulting from conduct of the home occupation. (Ord. 2001-19).

(d) No equipment is used which would create any dust, noise, odor, glare, vibrations, electrical disturbances, or interfere with the occupancy of neighboring residential property or the character of the neighborhood, including radio, telephone, television or cable television reception and electric line voltage fluctuations beyond the lot, nor shall any use be engaged in, in which the use of hazardous chemicals or substance are used in the home occupation.

(e) The use does not attract any greater number of automobiles at any one time than three (3) nor more than ten (10) in any one day, other than those owned and used by the people residing in the dwelling unit and the one possible assistant permitted to work at the dwelling unit. No visitors shall be permitted between the hours of 10:00 P.M. and 8:00 A.M. except in the event of an emergency.

(f) No accessory building shall be used for home occupations nor for storage of any products, materials or other personal property related to the carrying out of the home occupation.

(g) The total floor area used for all home occupations engaged in on the lot shall not occupy more than three hundred (300) square feet of the dwelling unit.

(h) No home occupation shall be engaged in where any portion of the activity takes place other than inside the dwelling unit.

(i) More than one (1) occupant of the dwelling unit may engage in a home occupation, so long as the total square footage devoted to the home occupations of all occupants does not exceed three hundred (300) square feet of the dwelling unit.

(j) A sign shall be limited to those permitted in Residential District.

(k) Home occupations shall conform with the performance regulations of this Code.

(l) The home occupation must be clearly incidental to the main use of the dwelling unit which is the primary residence of the persons engaged in the home occupation, with the exception of one assistant who may reside elsewhere and who does not own any portion of the home occupation being engaged in by the residents of the dwelling unit. (Amended by Ord. No. 1994-54, passed 11-14-94)

3. Rented Rooms: Not more than one (1) room may be rented by the resident family in a dwelling unit to not more than one (1) person, provided:

(a) The exterior character of the dwelling is not changed.

(b) The required off-street parking is provided.

(c) Such occupancy complies with all other applicable Municipality, County and State law.

4. Fences: Fences may be permitted along the side or rear lot lines (set back at least 3' from the actual boundary line), provided at least 25 percent of the vertical surface is open to light and air. Such fences are permitted to a height not exceeding six (6) feet above the finished grade, except for fences along the side lot lines which run between the street and the front line of the residential structure, which shall not exceed three (3) feet in height. However, split-rail fences along such front side lines are permitted to a maximum height of four (4) feet. [For purposes of this Section, "boundary line" shall mean the outside perimeter line of property as set forth in the legal description contained in the deed for such property, except for property held in condominium ownership or in a private cluster residential development, where "boundary line" shall mean the outside perimeter line of the then existing common area of either the condominium development where such individual condominium is situated or the private cluster residential development where such single family detached dwelling is located]. (Amended by Ord. 1992-9, passed 02-24-92)

No fences are permitted along front lot lines with the exception of split rail fences which shall not exceed four (4) feet in height.

All fences shall be of uniform design and well maintained.

5. Landscaping: Landscaping shall be permitted but shall be regulated so that it will not substantially interfere with traffic safety or the reception of light, air or natural drainage on adjacent property. Trees, bushes, shrubs and other plantings shall not exceed thirty-six (36) inches of height when such are either within the right of way or within thirty-five (35) feet of the center line of any right of way or street.

6. Domestic Animals & Greenhouses: Commercial kennels, animal boarding facilities, veterinarian clinics and commercial greenhouses shall not be permitted in residential districts. An enclosed structure shall be provided for the housing of all horses and said structure shall be in compliance with the regulations of this Code.

7. Private Garages: A two-car private garage, attached to each one-family dwelling, and at least two (2) parking spaces per dwelling unit for any two-family or multi-family dwelling, shall be required.

8. Private Pools & Ponds: Private pools and ponds shall be permitted, provided:

1. The pool or pond shall be used solely by the occupants of the lot on which it is located and their guests.

2. The pool or pond including pump, filter and accessories thereto shall not be located in a front yard unless otherwise permitted under this Chapter.

3. The pool, or pond shall be so fenced as to prevent uncontrolled access by children from the street or adjacent properties.

4. Drainage shall be subject to approval by the Engineer.

5. Any lighting used to illuminate the pool or pond shall be so arranged as to deflect light away from adjoining property.

9. No mobile home or manufactured home shall be placed, installed, constructed, located on or occupied in a residential district. A mobile home, for the purpose of this paragraph, shall mean a structure, transportable in one or more sections, which is built on a chassis or is designed to be built on a chassis, and designed to be used as a dwelling with or without a permanent foundation. A manufactured home shall be defined, for the purpose of this paragraph, as a manufactured home is defined in Section 5402(6), Title 42, U.S. Code and Ohio Revised Code Section 4501.0(0). A manufactured home also means a structure for which a certification, as described in Section 5415, Title 42, U.S. Code, has been furnished or fixed in the form of a label or tag, whether or not such label or tag has been removed. A structure is a mobile home whether or not axles, chassis, hitches, wheels or other appurtenances of mobility have been removed and regardless of the nature of the foundation provided. A mobile home and/or a manufactured home shall not be defined to include an industrialized unit as defined in Ohio Revised Code Section 3781.10 for which a letter of certification and insignia have been issued by the Ohio Board of Building Standards pursuant to Ohio Administrative Code 4101:2-1-62(A). (Ord. 1989-1, adopted January 9, 1989).

(c) Temporary Structures: Temporary structures for construction operations, including field offices, storage of materials, and workshops for assembly of components, may be permitted on undeveloped lots, if such structures are found necessary for the construction operations for which a building permit has been issued, provided such temporary structures shall be located at least 200 feet from the nearest occupied residential dwelling and shall be removed within 30 days after the completion or discontinuance of the work.

(d) Soil Removal: Soil, sand or gravel shall not be stripped or removed in any district except in conformity with the requirements of Chapter 1466, erosion and sediment control of the Codified Ordinances for the Village of South Russell.

4.02 AREA, YARD & HEIGHT REGULATIONS - In residential districts, structures and land shall be used, and structures shall be erected, altered or moved in whole or in part, only according to the following chart and regulations:

(a) Maintenance of Lot Area & Width: A parcel of land may be divided into two or more lots, provided all lots resulting from such division conform to all lot area and width regulations of the district in which it is located. A lot of record, whether vacant or occupied by a structure, which has an area or width equal to, or less than required by this Code, and which was owned separately from adjoining lots on the effective date of this Code, shall not be further reduced in any manner. The required lot area which is provided for a dwelling or other use shall not be considered as providing any part of the required lot area for another dwelling or use.

(b) Lots of Insufficient Area or Width: A lot of record which does not comply with the lot area or width regulations of the district in which it is located on the effective date of this Code shall be non-conforming and may be used as set forth in other provisions of this Code.

(c) Maintenance of Yard Dimensions: The required yards surrounding a structure shall not be separated in ownership from the part of the lot upon which the structure is located, and no part

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
April 26, 2016 at 7:00PM

Members Present: Chairman Steve Latkovic, Mayor William Koons, Andy Hitchcock, Jim Flaiz, Brian Kostura (Bryan)

Members Absent: None

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor; Lucy Jasinski, Secretary;

Visitors: Paul Snavely, 1617 Bell Road

JF called the meeting to order at 7:04 and motioned to have AH act as Chairman, WK seconded. All were in favor.

AH – Addressed minutes from the meeting of 3/31/16 any questions or comments? WK-Moved to adopt, JF seconded.

Roll Call: AH – Yes; JF – Yes; WK – Yes

Brian Kostura (Bryan) and Steve Latkovic arrive. Steve resumed duties of Chairman.

Mayor WK swears in Bryan Kostura in as a new member of Planning Commission

1st Agenda Item – Lot split for Parcel 29-041600 for Paul Snavely

SL – Gave the floor to Paul Snavely.

PS – Outlined why the need for the lot split. He is selling his land and combining two lots into one ot. Then splitting off another lot at the end of the driveway. What I need is approval from this oard so I can sell it and get the deed.

emembered that PS had been before the commission a couple years ago with a different lot . Mr.Snavely explained he was planning on developing the property. The property on the east of the property would be saved.

Two conversations going on within the board – capturing the conversation with applicant.

PS – Sold the brown house and ten acres with that, then at the end of my driveway I want to save another lot either for future residence or to sell.

JF – so what you want to do is split off the 2 ½ acre lot that's directly behind your current home from the 29.8 and your combining it with the 10 acre.

AH – mentioned that it would be a flag lot.

PS – At the end of the driveway yes, but the other lot is for them to ride their horses.

SL – The new lot is for horses, some confusion.

PS – The larger parcel is being sold not to a developer but to the horse farm in back of us.

Ondrey – asked if it was approved for planning purposed did it meet zoning code?

LH – The only issue is this 36 foot frontage on Bell Road. Where he would be building, the building line he has the width and stuff he would need to build on a 2 ½ acre lot. What fronts on Bell Road, we were trying to discourage flag lots. This was already there so this is not making it any worse, not changing the entrance.

JF – If you wanted to put a house on it you would need a variance. But creating the flag lot doesn't violate our zoning.

Ondrey – what would cause the need for variance?

JF - Because he doesn't have frontage on Bell Road.

Ondrey – Do we have a zoning requirement that you have to have so many feet on frontage (Bell Road)?

LH – We changed our zoning code to require that all of the frontage be at the front of the lot line.

SL – If you own both lots you would have enough frontage, but PS stated that yes he would own both but in time may want to sell the one lot.

--we need to know if at this point without a variance, can he build a house on the lot.

Ondrey – we are creating a new lot that's going to be 2.5 flag lot. The easement already exists in that state so don't see how we can deny the lot split. As long as we keep the minimum.

JF - Move to approve the lot split. WK - seconded

Roll Call: SL – Yes; JF – Yes; BK –Yes; AH – Yes WK – Yes

Approved.

Discussion on if the applicant knows what the new owner will be using the property for. PS really doesn't know.

2nd Agenda Item – Zoning Code changes

SL – Chagrin Heights – David Ondrey had sent an ordinance at Jim Flaiz request to give everyone an idea of what was needed. There was no zoning code in effect when Chagrin Heights was platted in 1927.

Question on 10 foot side yard setbacks that came from the 1947 zoning code. Even though it was platted in 1927 LH verified that we go back to the first zoning code. All agreed that David's ordinance was what was needed to clarify the Chagrin Heights needs in regards to house square footage.

The board deferred to LH in the minimum size for a one floor dwelling, single story habitable space above grade not including garages or basements, at 1000 square foot and a minimum size for a two story dwelling at 1400.

She had pulled numbers from the Chagrin Heights area to get an average height for one story and two story dwellings and used that for her suggestions.

Ondrey had looked into a maximum size dwelling – there is no case law in Ohio that says a municipality could or couldn't impose a maximum size. Discussed with Dale Markowitz and a municipality has the authority to impose a maximum size of a house. But given the side yard restrictions setbacks and such we probably have pretty clear restrictions on maximum size.

More discussion on restrictions already in place for lots in Chagrin Heights.

Board agreed that 1000 for single floor and 1400 for two story dwelling.

SL – wanted to know if this came up in front of council? No but they are aware that it is in discussion on the Planning Commission. Secondly the second WHEREAS paragraph should clarify the platting and zoning for Chagrin Heights.

Ondrey clarified that it should read "WHEREAS, the Chagrin Heights subdivision was platted and approved for development prior to the enactment of zoning regulations in the Village; and"

JF – moves to approve this ordinance (as set in front of the Planning Commission with the clarification and square feet for single and two story dwelling in the Chagrin Heights subdivision).

– moves to approve this ordinance with the change in the second paragraph with specification of ne 1400 square foot for two story residences and 1000 square feet for one story residences.

AH – Seconded

Roll Call: SL – Yes; JF – Yes; BK –Yes; AH – Yes WK – Yes

Approved.

Old Business: - none

BK – mentioned discussing Washington Street.

Ondrey noted that about a decade ago they did a comprehensive review of the Zoning Code and took a set number of pages to review as a group and work through it over time. All agreed that it would be a good idea to review the part of the code in regards to the area that is both commercial and industrial. LH – mentioned at the last meeting when it was discussed that leaving the zoning code as is gives the Village the option of choosing what they as a village want. Ondrey weighed in that there are guidelines that are used and as long as they aren't arbitrary there isn't any issue. There has not been much opposition to new business so at this time may not need to be addressed.

New Business – Planning meeting is cancelled for May. All agreed

Adjourn at 7:25

Roll Call: SL – Yes; JF – Yes; BK –Yes; AH – Yes WK – Yes

Approved.

Steve Latkovic, Chairman

Secretary

CHAGRIN HEIGHTS SUBDIVISIONS
AVERAGE HOME SIZE

SINGLE STORY	MORE THAN 1 STORY
1809	2497
1548	1608
1458	1915
1508	1687
1021	1860
1666	2619
1296	2168
1080	1589
1636	1955
1242	2003
1136	2072
1852	997
1408	1479
980	1886
1326	2306
962	1866
1790	2184
1966	2080
1024	2240
1212	2252
1587	
1408	
1411	
1308	
928	
1300	
917	
1232	
1251	
1038	
2048	
AVERAGE 1366 SQ. FT.	**AVERAGE 1963 SQ. FT.**

ORDINANCE NO.: _____ FIRST READING _____

SECOND READING _____

INTRODUCED BY: _____ THIRD READING _____

ORDINANCE AMENDING THE RESIDENTIAL DISTRICT REGULATIONS OF SECTION 402 OF THE ZONING CODE OF THE VILLAGE OF SOUTH RUSSELL BY ESTABLISHING NEW REDUCED MINIMUM DWELLING UNIT DIMENSIONS FOR RESIDENCES IN THE CHAGRIN HEIGHTS SUBDIVISION.

WHEREAS, within the Village of South Russell there are two subdivisions known as Chagrin Heights No. 1 and Chagrin Heights No. 2 (hereinafter known as "Chagrin Heights subdivision")

WHEREAS, the Chagrin Heights subdivision was platted and approved for development in accordance with zoning regulations in effect at the time of such approval; and

WHEREAS, the lots in such subdivision are generally less than one half acre in size which is substantially smaller than the majority of other residential lots elsewhere in the Village; and

WHEREAS, subsequent to such subdivision approval the Village enacted certain minimum dwelling area dimensions for all residentially zoned areas which mandate larger dwelling unit sizes than can be reasonably accommodated on the smaller lots of the Chagrin Heights subdivision, thereby necessitating either variances to permit smaller dwelling units on vacant lots than currently allowed, or, when current minimums are met, resulting in the appearance of excessive size homes in comparison to existing homes and/or the appearance of a high density, crowded residential neighborhood, both of which may negatively impact property values; and

WHEREAS, a reduction in the minimum dwelling unit size in this subdivision would permit new homes in this subdivision to more closely adhere to the existing aesthetics of the neighborhood, minimize the number of variance requests necessary to build new homes therein, and to better protect the health, safety, and welfare of the residents of Chagrin Heights; and

WHEREAS, the Planning Commission has recommended and Council concurs after a public hearing held _____, 2016 that reducing the current minimum dwelling unit area in the Chagrin Heights Subdivision from 2400 square feet to 1600 square feet (for residences with more than one floor) and from 2000 square feet to 1400 square feet (for residences with one floor only) on each original single lot only would accomplish the aforesaid goals.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF SOUTH RUSSELL, GEAUGA COUNTY, OHIO THAT:

SECTION 1. The Residential District Regulations chart set forth in Section 402 of the Zoning Code of the Village of South Russell is hereby amended by adding Footnote 16 to the Minimum

Dwelling Unit Area in the R-1-A Zoning District. Footnote 16 shall read as follows:

> The Minimum Dwelling Unit Area for a one floor dwelling in the Chagrin Heights Subdivision shall be 1000 square feet. The Minimum Dwelling Unit Area for a dwelling with more than one floor shall be 1400 square feet. These minimum dwelling unit areas are applicable to single original lots only; whenever lots are consolidated in the Chagrin Heights subdivision, the minimum dwelling unit area shall remain the same as for all other R-1-A zoned lots.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after December 2, 1975, that resulted in formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance shall be effective at the earliest time allowed by law.

_____
Mayor - President of Council

Attest:

_____
Clerk

I certify that Ordinance No. _____ was duly enacted on the _____ day of _____, 2016 by the Council of the Village of South Russell and posted in accordance with the Ordinances of the Village.

_____
Clerk

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
March 31, 2016 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor William Koons, Andy Hitchcock, Jim Flaiz

Members Absent: Bryan Kostura

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor; Jennell Dahlhausen, Administrative Assistant;

Visitors: Valarie Mariola, Russell Township;

Chairman Latkovic called the meeting to order at 7:30PM.

Flaiz moved to approve the minutes of the October 8, 2015 Planning Commission meeting, seconded by Latkovic. Voice vote – all in favor. Motion carried.

The Planning Commission met to discuss several changes to the Zoning Code.

Ondrey provided the Commission with an ordinance amending section 3.07(b) of the Zoning Code of the Village of South Russell by eliminating the requirement of mailing notice of Zoning Appeal Hearings to the property owners within 500 feet of any yard of the property involved, and changing the mailing requirement to properties that are contiguous to the property to be discussed at the hearing. This change was suggested years ago but somehow wasn't added to the Zoning Code and properly approved. It was thought that this section was included in the code until recently, when it was noticed by a resident that notices weren't properly sent out for a Zoning Board of Appeals (ZBA) Hearing.

Latkovic wanted to verify that the change wouldn't eliminate the notice requirement, but would just simplify the process by just sending letters to properties that are contiguous to the property requesting a variance. Heilman replied that is correct.

Heilman stated the change would be sufficient and that sometimes 500 feet can encompass many properties. She added that in addition to the letters that are sent, a notice is sent to the newspaper to advertise for the upcoming hearing.

Hitchcock asked if the notice requirement is only for ZBA hearings. Ondrey confirmed that it is only for ZBA.

Flaiz moved to suggest to Council the drafted ordinance amending section 3.07(b) of the Zoning Code of the Village of South Russell by eliminating the requirement of mailing notice of Zoning Appeal Hearings to the property owners within 500 feet of any yard of the property involved, and changing the mailing requirement to properties that are contiguous to the property to be discussed at the hearing, seconded by Latkovic. Roll call – ayes, all. Motion carried.

Ondrey asked if the Planning Commission would like to consider any changes to the Zoning Code that would impact the Chagrin Heights area. There is a concern that homes that were built or have been requested to be built are too big for the neighborhood. Ondrey suggested changing the minimum square footage and setting a maximum.

Flaiz suggested that two members of the Planning Commission meet to tackle this issue and several others. He also brought attention to the businesses on East Washington Street that are non-conforming to the current Zoning Code.

Flaiz asked if the Commission should consider creating another Zoning District for the Chagrin Heights neighborhood, due to the smaller sized homes. Heilman explained that, if requested, current lots can be grandfathered to the regulations for setbacks from when the subdivision was originally plotted as long as the property wasn't altered since then. Alterations could be combining two lots. She suggested that a footnote be added to Residential District Regulations 4.02 (on page 35) that allows for a smaller house.

Flaiz asked if Chagrin Heights is the only area of concern or if the change should be considered for other areas of the village as well. Heilman stated Chagrin Heights is the only area of the village that the Building Department had concerns with since most of the homes are small.

Flaiz asked if notices of ZBA hearings are sent to neighbors even if the property isn't in the village. Ondrey stated the village is under no obligation to notify property owners outside the village.

Ondrey said the Village of Chagrin Falls has adopted a lengthy set of architectural standards to retain the scale of the neighborhood when someone proposes a new home or addition. The entire Village of Chagrin Falls is part of their Historic District.

Discussion followed concerning options for the new minimum requirement.

Koons asked if Joyce Builders would think the Planning Commission is trying to deny them of their application to build a home by changing the requirements. Ondrey stated the village would be making it easier for him to build a home by lowering the minimum square footage.

Hitchcock said he would like to find an average house size for the neighborhood before the Planning Commission decides on a minimum square footage standard. He said this will ensure they are doing their due diligence in making a recommendation. Heilman will have this information ready for the next Planning Commission Meeting.

Mariola said there are some homes that are in compliance within the Chagrin Heights neighborhood due to the lot size and was concerned that the larger homes may skew the numbers. This will be considered when Heilman is determining a recommendation for the minimum square footage.

Heilman also brought attention to the businesses on East Washington Street and said they aren't in compliance with their current zoned district of B1 and I1. Flaiz said he would like the commission to look at the entire business area on East Washington Street so it can be discussed further at the next meeting.

Old Business:
Ondrey updated the Planning Commission that the owners of the Bell Station were denied several variance requests from the ZBA. They weren't able to prove they can't use the property as is and there wasn't a hardship if the variances weren't approved. The owners have filed a lawsuit with the village due to the decision of the ZBA.

Latkovic asked if the request will still have to come before the Planning Commission for final approval if the court decides to uphold the variance requests from the Bell Station. Ondrey wasn't certain of the process after it goes to court.

New Business:
The next meeting was rescheduled to Tuesday, April 26, 2016 at 7:00PM.

Being that there was no further business to come before the Planning Commission, Hitchcock moved to adjourn, seconded by Latkovic. Voice vote – all in favor. Motion carried.

The meeting adjourned at 8:35PM.

Steve Latkovic, Chairman

Secretary

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
February 9, 2017 at 7:30PM

Members Present: Chairman Steve Latkovic, Mayor William Koons, Bob Brown, Jim Flaiz, Brian Kostura

Other Officials: Laura Heilman, Zoning Inspector; David Ondrey, Solicitor

Visitors: Alan Brown, 49 West Orange Street, Chagrin Falls, OH 44022

Steve Latkovic - Called the meeting to order at 7:30 pm. Mayor William Koons conducted roll call.

Roll Call: Brown – Yes; Flaiz – Yes; Latkovic – Yes; Koons – Yes; Kostura – Yes

Steve Latkovic – Addressed minutes from the meeting of 12/8/16 any questions, comments or changes? None were noted.

Brian Kostura made the motion to approve the minutes. Bob Brown seconded the motion. Minutes unanimously voted on and approved.

1st Agenda Item – Alan Brown

Steve Latkovic: "This is an application for a height variance to 110 Ashleigh Drive. Mr. Brown is presenting on behalf of the home owner."

Alan Brown: "I am the builder. The architect is Kevin White. I am pulling up a set of plans from the architect that were sent to be about 10 minutes ago. The reason that he drew it like this - his understanding of the code and what the code is, is that it's the average of the 4 sides of the building. He ran calculations. I believe when we (builder and architect) requested a variance, we thought it was 38 feet? I think your code says 35 feet?"

Steve Latkovic: "Yes. Have the neighbors have been notified?"

Laura Heilman: "Yes."

David Ondrey: "They would have been, yes."

Steve Latkovic: "Have you talked to any of the neighbors?"

Alan Brown: "So again, I have to be honest and transparent here. I'm the owner of the company…I'm not as actively involved in the day-to-day business."

Steve Latkovic: "Were you aware of any complaints by the neighbors over the potential variance?"

Alan Brown: "No."

Jim Flaiz: "Looking at the site plan, what pushes this over the average height is the walkout area, you basically have a 2-story structure where the property slopes down on the south side."

Alan Brown: "The walkout area is what's created the difficulty here."

Jim Flaiz: "Brian It fits a little over 55 feet from the south property line."

Alan Brown: "Correct."

Jim Flaiz: "That abuts actually an open space, so there is no neighbor to the south. The neighbor to the north is 25 feet from the property line. Neighbor to the north - that is the garage site."

More discussion.

Laura Heilman: "I think I should explain how we look at the drawings for the height, so that everybody understands why we have a difference of opinion on the building. We take our measurement from the lowest point to the highest point on each of the 4 sides. That is what throws this way over. His calculation is accurate - a little bit different, the way he's done it, so his calculation came up under 35 feet. I'm taking from the lowest part, drawing an imaginary line, drawing it across from the highest point, and measuring it full distance. That's how we come to our calculation.

More discussion about how Laura came up with her measurement.

Steve Latkovic: "Any comments, questions or thoughts?"

Brian Kostura: "The side that is causing the problem? There are no neighbors on that side, correct?"

Alan Brown: "That is correct."

Brian Kostura: "So, it's going out into open space."

Alan Brown: "Correct."

Brian Kostura: "A green area. In fact, if anyone had a problem, it wouldn't be a neighbor there. Whatever the issue, it's looking out into nothing."

Alan Brown: "That is correct."

More discussion.

Jim Flaiz: "I would tell you that the planning commission, 5 - 6 -7 years ago, who had an almost identical scenario to this. The average height was a little higher."

Steve Latkovic: "It wasn't quite that way. It was not in Ashleigh…we approved."

Brian Kostura moved to approve the height variance for 110 Ashleigh Drive. Jim Flaiz seconded the motion. Ayes, all. Motion passed.

2nd Agenda Item

Steve Latkovic: "Mr. Ondrey had something that circulated on a potential change to how ZBA votes. Could you give us an overview of that?"

David Ondrey: "Well, the bad news is that for about 3 decades we've been doing it wrong. We have been telling everybody who comes before the ZBA that if there are only 3 people present, they need all 3 votes. Recently, there was a 2 to 1 vote. They were told they were denied. That applicant inquired what their authority was for that position? And, it caused us to actually read our ordinances. I came to the conclusion that the Board of Zoning appeals actually says that a majority of the members' present can grant a variance. So, we granted that variance. The issue then became is that the way the village wants it? I think part of the reason we slipped into this mistake – that is a very common requirement of a lot of communities. There are always 5 member boards and many communities have a specific provision that says you have to have at least 3 votes even if there are only 3 people present. I am not necessarily advocating this because I do see some benefit to situations where we can only get 3 members present, often. And, should the person have to get a unanimous vote, or have to come back because they are unwilling to risk it. So, I am not sure we have a bad provision, it's just that we didn't recognize what we really had. So, this suggestion to you is – if you want to change it – and I think it's up for debate amongst yourselves – no rush to make a decision tonight, if you don't want to."

Steve Latkovic: "Do you know how many previous time this has been done before, maybe incorrectly?"

David Ondrey: "We haven't gone back and researched the minutes to see if we ever got it wrong. I will tell you that my own recollection is that we never got into this 2 – 1 situation. It was always a 3 – 0 denial. Or a 3 – 0 approval. Maybe that's just good luck. But I don't remember an instance where we actually .... Now if we ever did it to anybody, their appeal time is longer. I don't know that answer 100%."

Jim Flaiz: "I'm not in favor of changing it.....my experience – and I talked to one of the members of the board - there is one particular board member who seems to come to every meeting who seems to be more on the difficult side – I distinctly remember a situation where when Panini's was up. That building should have been condemned. Somebody came in and offered to sink a significant amount of money into that building, and make it into Panini's, and they wanted a variance – a side yard variance - for the patio on the side. The Planning Commission approved it - came to the zoning meeting to speak in favor of them granting the variance. Only 3 members were there. The problem is everyone always seems to show up on this board. Or at least 4 of us. They consistently have meetings where if they get a quorum, it's like only 3 people come. They often have meetings where only 3 out of the 5 members are there. I would say more often than not, only 3 of the 5 members."

David Ondrey: "I think you're right, yes."

Jim Flaiz: "So, it gives this particular person this kind of veto power over anything that the board does. I don't think that's the intention – that one person can effectively stop variances from being granted. That normally wouldn't be the case if all 5 members are there. Rarely are all 5 members of our zoning board there. That Panini situation, it was going to be 2 or more vote, and I probably improperly talked Greg from the audience into tabling it until the next meeting, so that we could get additional members there, and it ended up passing I think, 4 to 1. That would have been, in my opinion, a shame, for the village to have lost that opportunity, that was before all that was redone down there, and that part of East Washington is absolutely terrible. I think it would have been a real shame to lose that opportunity and because of that rule, we wouldn't have. I am not in favor of changing it. Unless we require them have a greater quorum than 3 to conduct business."

William Koons: "I was reading about Bainbridge – they have been going through the whole thing. They have 2 alternates to their ZBA. And it's one of the things to talk about. If we developed 2 alternates for ZBA and 2 alternates for planning commission. Because I remember 2 years ago, at

one of the ZBA meetings, the builder came in and said "Well who was going to be here: Tom, Dick and Harry? Oh, I'm pulling my application and wait until Susie and Steve are here." And that's not right. I don't know if you want to consider saying you've got to have 3, with 2 alternates we could always guarantee that there are 5 people. Here and 5 at the ZBA."

Jim Flaiz: "I would feel better about that. Just to me, it vests somebody with this incredible veto power, because they almost never meet with a full contingent of members, and I get that, people are busy and that needs to move faster than this. You don't want to make people wait a month for variances, necessarily. Adding alternates is a great idea."

Steve Latkovic: "That is a good idea. I'm probably fairly neutral. My first reaction was that whenever you have a quorum situation, it still should just require a majority vote. And this makes it feel like a super majority. If 2 people aren't there, hey, you know they're not hearing about it – you can't think how they would vote. So, if there were 5 there, would you ever require a super majority or unanimous, and I kind of view that the same way. Unless somebody had a really strong reason, I would probably look at to keep it the same way? I guess? I don't have a strong opinion about that? But that is an interesting perspective. We seem to have less of an issue on this with that."

David Ondrey: "I think the alternative argument is that variances are something important, and many communities think you better at least have 3 votes. No matter if there are just 2 people there or not. You need to get 3 votes."

Steve Latkovic: "Because if all 5 are there, you'd require the 3."

David Ondrey: "Exactly."

Steve Latkovic: "Yes, but you also have 2 other people that could potentially be against it and not have to worry about it."

David Ondrey: "Yes. If we didn't have such a difficult time getting 4 or 5 members to ZBA meeting, I would say…."

Steve Latkovic: "Let me ask you that. Why is that so difficult? Is it every month?"

David Ondrey: "No, we meet, that board meets as needed, when somebody asks for a variance. We could go 3 or 4 months without a meeting. I don't know that I could give you a rational reason, other than the last couple years, it's been tough."

Steve Latkovic: "OK. I get it."

Laura Heilman: "And also, we are off for 3 days, because we make it Tuesday, Wednesday, or Thursday, and they all get back to us, and it'll be somebody can make it Tuesday and Wednesday, that one can't make it on Wednesday, this one can only make it Tuesday - it becomes a bit of a nightmare."

David Ondrey: "And, you shouldn't think you're unique in this. You've probably seen it too, Jim, to some extent in your office. Townships have a heck of a time…"

Steve Latkovic: "Instead of this, can the planning commission adopt something that just compels them to show up?"

David Ondrey: "No."

William Koons: "But if I'm on ZBA, and I can't be there, would I feel better that somebody else would be there, or perhaps, kind of motivate me, hey, I can be replaced."

Steve Latkovic: "Has the ZBA members opined on this in any way?"

David Ondrey: "No, actually, they have not. This is all pretty brand new stuff."

Bob Brown: "The other question I have, is there a way to get a combination where you make a minimum of 3, but you do have the 2 alternates. So, in the event that the alternates can be there, it's great, if they can't you still got a 2 to 1 vote.."

David Ondrey: "We can do both."

Jim Flaiz: "Doesn't that effectively make it 7?"

David Ondrey: "No. Because they only get to serve if regular members are absent. Now, my observation is, because I think a lot of the townships have that position. My observation is it takes a lot more than coordination. And who's really not going to be there, can I get this alternate there? But, you know it's an administrative task, that can be accomplished."

William Koons: "Now, the other thought, which would be ideal, would be, if we are going to put 2 more people in ZBA, or 2 on planning, is we wouldn't do this for..we get the people and say it would take effect in 2018. So maybe to get them up to speed a little bit. I think we have 4 ZBA meeting last year? If we could say come and attend a couple of them. You're now an alternate, come and attend, so that when we need you, you don't walk in here and…Bob basically walked in here and said "Who are these people? How does this go?" It would be nice to have them like the minor leagues, work their way up."

Steve Latkovic: "What is our role in this? Why is this coming before us?"

David Ondrey: "Because the real problem is not a zoning ordinance. There's another ordinance that says this is how the ZBA is constituted and here's what it takes for them to pass – adopt motions. And, in that provision which is 262 of the codified ordinances, it says a simple majority of the members attending a meeting."

Steve Latkovic: "No, but I'm saying …"

David Ondrey: "I know, the only reason I'm bringing it up to the planning commission is that then I looked at our zoning code and the appeal process – it doesn't address this issue one way or the other. So, I thought if we are going to change this to make it – it has to be at least 3 votes. We ought not only amend 262, but we ought to amend our zoning code so we are consistent."

Steve Latkovic: "And we would amend the zoning code."

David Ondrey: "You would recommend that it be amended. It starts here."

William Koons: "This is something new to think about for a while."

Jim Flaiz: "I like the alternate idea. I think that's a great idea. My only reservation about requiring 3 votes is that if there are 5 people there, you need 3 anyway."

Bob Brown: "Do you think alternates ought to be compelled to show?"

William Koons: "What we would probably do is send out a notice that we have a meeting in 3 weeks on Thursday the 23rd of February. They could tell me that they could be there. If you can't be there, then you could do the alternate."

More discussion.

David Ondrey: "I think what you'll find is that if you make alternates show up and then they don't get to actually vote, because you have members, they lose interest."

Bob Brown: "But you just reschedule, and that way if you have 5 people say yea, we'll be there, it doesn't matter which 5 they are."

More discussion.

David Ondrey: "Yes, there will be a learning curve. But that takes council to change that because that's a, we got ordinances that say the Planning Commission is 5 members and the ZBA is 5 members, so if we want to create 2 alternate positions, council will have to.."

Steve Latkovic: "So, why don't you guys vote at the next council meeting? "

David Ondrey: "It's on the agenda. It's on the agenda. The one that came out today."

Jim Flaiz: "You might not want to do it for Planning Commission? Just because Planning Commission has an incredible amount of power in certain aspects. Especially when it comes to zoning, it's almost more powerful than council. It takes a super majority to overrule a zoning recommendation. And, I think one of the reasons that the Planning Commission, council and the mayor historically uncomfortable vesting this group with so much power is, 2 of the 5 Planning Commissions, you know, from council. So, you might not want to dilute."

David Ondrey: "Plus, your issues evolve over time, where an alternate might not contribute much."

Brian Kostura: "And, how many of these, frankly, have we missed people?"

Steve Latkovic: "I don't remember there only being 3 of us here."

William Koons: "We're fortunate with people on here. 5 years from now…."

Jim Flaiz: "I just think of you have alternates for planning commission, then all of a sudden…"

Steve Latkovic: "That's a very good point. I think like the fact that you guys, mayor, and 1 of the council member are here, and then all of sudden, start having replacements for them for some of these issues would get developed." Think about if we would have had to do the assisted living facility where you're kind of bouncing people around and stuff.

Jim Flaiz: "We recommend a zoning change that would take 5 council members to disapprove it. Either of you 2 are involved in zoning changes recommendation. I would think long and hard about it."

William Koons: "I did put it on the agenda for the next council. I hope we can again tell council, let's think about this. There's no hurry."

3rd Agenda Item

Laura Heilman: "I have one more item. Do you want to talk about the lighting?"

William Koons: "Yes."

Laura Heilman: "I have a light meter, and we were talking before the meeting about the sign of the insurance company. So, I measured the light in different locations right round this intersection, to give you an idea of exactly what we are dealing with as far as the insurance company. I'll just read our zoning code on the glare which says, "There from sources of illumination, on materials and the lot occupied by the use shall not be permitted". And, not only do we have an issue with how bright it is, but, it is throwing a significant amount of light on the neighboring property. I don't know what you want to do with this. If we can change our ordinance to be more specific, or a new zoning code, or David Ondrey could help with that."

David Ondrey: "That's one of our dilemmas here. We've never ready had to address bright lights. Now we do address them in the zoning code for parking lots. We require down lighting and it can't shine on the neighbors. But for something like this, we don't have anything other than this glare provision to try and address it. So, I was advising Laura, well, maybe it's time that you send them a letter, saying "You've got to reduce it or we will site you for an infraction". But, we decided, along with the mayor's input, that we ought to kick this around a little bit. And get some guidance for Laura, whether you think this needs to be pursued or not pursued."

Brian Kostura: "Did he reduce the light, I thought? Hasn't he?"

Laura Heilman: "What had happened was, he changed the light from floodlight to normal spotlight. Because originally the one on the south side was hanging properly so that the oncoming traffic from Bell, from the east, was being blinded as they approach the intersection. So, they took that out and thought it was, I mean, I had to ask for it to be gone. And, I thought it was gone and now, in fact, replaced it with a different type and twisted it so that it aimed more at the building. But again, this says the light can't go on to another property, so I mean, just the fact that fortunately, the house that is next door is vacant at the moment. Because it's going to get torn down for the dentist's office. But, if someone were living in that house, they certainly would have a legitimate complaint. When I talked to the insurance company, the owner of the agency, his take was that there were 70,000 cars that go by there every day, every week, and you've only received 19 complaints, so we're all right."

Steve Latkovic: "You've received 19 complaints?"

Laura Heilman: "Yes. Complaints have come from all over. But people driving by on 306 are certainly not going to complain if they live in Chesterland or Bainbridge, or wherever."

Jim Flaiz: "They're used to it now."

Laura Heilman: "The point is, I don't know if we want the guy to come back in here for his lighting? Do we have a leg to stand on?

David Ondrey: "That's the problem here. Our zoning code specifically says if someone is just occupying a building and not changing the use of the building, they don't have to come for development review. So, the twist here is that the new occupant sighted that and lighting."

Jim Flaiz: "Why doesn't he have to come in for a new business review? That's a different business use. Why wouldn't he have to come in for that?"

David Ondrey: "No, well, all it says is offices. And we specifically say that if you're not changing the use, then you don't have to come."

Steve Latkovic: Don't we have a signage rule?"

Laura Heilman: "He's calling this landscape lighting."

William Koons: "And basically, it appears that he is going to pretty tough about this".

Brian Kostura: "I guess the question is, let's say, we sit down and we draft more specifically, David drafts a wonderful ordinance, saying that we've got restrictions on lighting – up lighting, down lighting, landscape lighting, and we're all really happy with it. Is it retroactive?"

David Ondrey: "If we make it a zoning provision, then, we could not make it, there's this prior non-conforming use issue - with signage the courts have said – if you build in a time period, that everybody has to comply. That's legitimate. So, if we did this, I wouldn't make it a zoning ordinance. I think we create some sort of non-zoning ordinance by lighting. Assuming that's legit. And not run into that problem that you're worried about."

Bob Brown: "Personally, I hate the light, that's one thing. But, is it about this light, or is it about other places putting in lights like this? Because if you don't make it retroactive, and this one stays, but at least you avoid the problem going forward."

David Ondrey: "If you make a zoning change, you could avoid the problem going forward."

Jim Flaiz: "Having a light regulation separate from zoning for businesses, for commercial, it seems like a smart way to go with it."

David Ondrey: "I think you can do it."

Jim Flaiz: "I've seen them based on light meters, I've seen them based on other things, wattage, lumens, or whatever."

David Ondrey: "I think if everyone concedes that improvement must be made over there, I'd at least see what happens if Laura sends a cease and desist letter to them and see if they're really willing to challenge us on this. We do have a provision that says you can't have light so bright that the glare shines on neighboring properties. And that's why I asked Laura to kind of give us an assessment of how bright the light is compared to surrounding properties. It looks pretty darn significant."

Brian Kostura: "Could you go next door and find out what the lumens are over there? Because if that's what we are going to base it off of, at that point, your glare is going on the neighbor's property, I think we need to compare. "This is what the glare is on your property. What is it on your neighbor's property?"

David Ondrey: "I agree."

Laura Heilman: "Well, I don't think you can have any glare at all on to somebody else's property."

Brian Kostura: "I think you need to measure that. There's got to be some measurement of that."

Steve Latkovic: "Why don't we send a letter, see what happens?"

Jim Flaiz: "I would be very much in favor of working on this type of ordinance, and also working on some sign regulations."

David Ondrey: "You mean lighting of signs?"

Jim Flaiz: "No, just signs period."

David Ondrey: "It's a very, much more difficult situation than it was 2 years ago. There's been a big US Supreme Court decision about signage, which a lot of experts have interpreted it to mean you can't distinguish between any kind of signs at all anymore. And, a lot of communities are having to totally redo their signage. So, I would agree with you that it's worth taking a look at lighting and signs in our community. But it's a problem that I have sort of been putting off to the side because I'm not sure what this new decision really, how it really impacts South Russell, and other small communities. Where we do distinguish between the types of signs – traffic control signs, vs. commercial signs, vs. residential signs, and it's a different problem, Jim, than what you're talking about. If you are talking about strictly lighting, I think we can address that."

William Koons: "I think there's 2 problems".

Jim Flaiz: "There's lighting, then there is just sign regulations."

Laura Heilman: "Their sign is a lot brighter because it's new, too. Because if you look across the street at the shopping center, it was the same type of light and it was bright at one time, but over the years, it's just faded."

Jim Flaiz: "Like Kenston, up at the old high school, the middle school, they wanted to put in a sign, that has like a message center. It was like World War III over this thing. They finally agreed to a fence, screening, etc. That sign is 100 times less obnoxious than that sign, or several of our other signs in the village. Some of these message board sign, have you ever seen the one at Beachwood High School? It's blinding. Where are we on those? These LED things are getting so cheap, you can buy an 80 - inch flat screen for 1500 bucks."

Laura Heilman: "We're not allowed to have any "moving" type signs here."

William Koons: "The thing is right now, though, over the weekend, Friday night, it was lit up with both spotlights. Saturday night he had only one of the lights on. Sunday, he had both of them out, but he had a new light in the one which made it look so much better. But, if we send him a letter and he may say, "OK now, I'm going to show you – boom!" He lights up the back of it. Do we have anything we can stand on besides "Don't do this right now?"

Steve Latkovic: "Has anyone asked him why he would need to light the house up like that?"

Laura Heilman: "He thinks it looks way better. He's gotten tons of compliments on it."

Jim Flaiz: "Just file a lawsuit against him if he doesn't do it."

David Ondrey: "Ultimately, if he ignores a letter to cease and desist, we'd have to make a decision. OK. Do we want to try and enforce our glare provision"?

William Koons: "How much time and money? I could just see this going on and on… I'm wondering, should we just keep working with him and frankly just talk to the guy. I guess we have 2 issues. We've got the sign and we've got the 2 spots."

Bill Koons: "The spot situation has gotten better. But the sign is still…"

Jim Flaiz: "Do you want to come up with some lighting ideas? Sample ordinances?"

David Ondrey: "I can do that. It will take some time."

William Koons: "We may not meet for a while. If we set something maybe in April. Could we come and say, "Here's some lighting". My concern is the new dentist comes in, maybe he lights up. And the gas station comes…, they light it up. All of sudden, we're Solon, too. We could get some lighting, deal with signs and just lighting up your property. We could get that here by April. And then maybe the 3, and maybe the alternates. That's enough of a time line. Because I think we want to think about all these issues."

Steve Latkovic: "Is that enough time?"

David Ondrey: "By April? I think so. Sure."

David Ondrey: "But you're saying for the moment, gentle persuasion attempts as opposed to.."

William Koons: "Unless I have something that I'm putting in the guy's face to say.."

Bob Brown: "It looks like he's in compliance right now."

Laura Heilman: "No."

David Ondrey: "Without standards in our glare ordinance, it's subject to…"

Brian Kostura: "How do you measure glare?"

Laura Heilman: "I have pictures on my phone. But, when I drove around the back of the driveway, my car made a shadow on the other guy's garage. The whole side of the neighbor's house is all lit."

Brian Kostura: "Think about it this way though. I've got 2 houselights on the front of my house. I flip it on. You can see it in my neighbor's yard."

Bob Brown: "Is it casting a light on your neighbor's yard...it's probably not casting light on your neighbor's yard."

Brian Kostura: "Well, when I turn it off, their yard is not nearly as bright. How do you judge this?"

Jim Flaiz: "We should prohibit businesses from…there should be no spotlighting."

Laura Heilman: "Then they'll be coming here for approval, anytime they want to do anything. This is why I want to bring this up tonight. It should be on you, not me, whether or not you're going to approve that."

Brian Kostura: "You've got the safety lighting – it's all down lighting."

Jim Flaiz: "That's OK."

Brian Kostura: "Like in front of Burntwood. No, I agree, but you said …. So, there's different ways to light a building. I don't know anybody else that has spotlights."

Laura Heilman: "When 'The Lantern' came to us, we approved all their lighting, around the whole perimeter of the building and everything. There was a question about how bright it was going to be and so on. But that's what my point is. If they could come here for approval, you're going to have to say whether or not he's allowed to do this. Right now, I could only go by what's in the zoning code."

William Koons: "I think we're going to use gentle persuasion. And let him know we're working on this. Get some legs, then we have some backbone to say, "This is it".

Brian Kostura made a motion to adjourn the meeting. Bob Brown seconded the motion. Meeting adjourned at 8:12 p.m.

Steve Latkovic, Chairman

Lorraine Sevich, Secretary

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
April 13, 2017 at 7:30PM

Members Present: Chairman Steve Latkovic, Bob Brown, Jim Flaiz

Members Absent: Mayor William Koons, Bryan Kostura

Other Officials: Laura Heilman - Zoning Inspector; David Ondrey - Solicitor

Visitors: David M Scott - 5190 Stansbury Drive, Solon Ohio, 44139
Charles Riehl - (Walter & Haverfield) – 1301 East 9th St, Ste 3500
Cleveland OH 44114
Sheldon Myeroff – 7425 Edwards Landing Drive, Chagrin Falls OH 44023
Bruce W Thomas – 224 Heather Hill, Auburn Lakes, OH 44023

Chairman Steve Latkovic called the meeting to order at 7:30 pm. Lorraine Sevich conducted roll call.

Roll Call

Steve Latkovic	Present		William Koons	Absent
Bob Brown	Present		Brian Kostura	Absent
Jim Flaiz	Present			

Steve Latkovic – Addressed minutes from the meeting of February 9, 2017. Questioned the minutes, as the wording was unclear as to who said what. He understood there was some transition with the secretary position. Was that a concern for the minutes?

David Ondrey – "There was no necessity to approve the minutes tonight. Let Lorraine know what every member believes to be their own quotes. I thought they would be better minutes if the different speakers were identified. It was impossible for Lorraine to identify who the speakers were, because

she didn't know the people at the meeting. Tonight, is Lorraine's first Planning Commission meeting."

Jim Flaiz moved that the approval of the minutes be tabled until the proper names can be attached to the quotes. Steve Latkovic seconded the motion.

Voice vote: all in favor. **Motion carried to table the minutes until the next meeting, with the proper names attached to quotes.**

1st Agenda Item - Sheldon Myeroff – Chagrin Valley Custom Furniture
http://www.chagrinvalleycustomfurniture.com - at 1225 Bell Road, Chagrin Falls, OH 44022.

Chuck (Charles) Riehl introduced himself as the attorney for Sheldon Myeroff. "With me tonight is Sheldon, the operator of the business, who is planning on moving into Bruce's (Bruce W. Thomas) barn, and David Scott, who is the financial guy – the money guy. They are planning on buying Bruce's barn."

"This actually had a very interesting start. Mr. Myeroff did not start out in the custom woodworking business. He's had 2 very successful personnel businesses. Woodworking was always a hobby of his. He started out like many hobbies, in his basement. And, as he got more passionate about it, he bought more equipment. When he bought more equipment, he took additional classes, and he took additional classes and he bought more equipment, and finally, it came down to Mrs. Myeroff, saying "Shel, it's between me and your equipment in the basement." And that is the genesis of why he looked for a real barn, Bruce's barn. And Bruce's barn is actually perfect. It's just what he's looking for. It's got a rustic feel to it. He's planning on using about 2/3 of the main floor for his woodworking business. It's custom furniture. Just about all of what he does is on-line. So, it's not going to be a furniture showroom, like *Levin* or something like that. There will be an area up front where people can drop off furniture for repair, or refurnishing. You won't see retail cars over there. Most of his shipments are with FedEx, once a week they'll come and pick up furniture that's been repaired, refinished, or custom built. He plans on buying the building from Bruce. Sprucing up the outside, doing some landscaping, and probably most importantly – there will be no internal illuminated neon signs. They'll put a wall sign up, there may be an overhead light, if you will, that will show off the sign. It will not be an interior illuminated neon sign. That's very important. Maybe a couple of employees. There may be a couple of cars there for the employees. Basically, that's how the operation will look from the outside."

"The rest of the building will be reserved for future office use. It's a custom woodworking business he enjoys very much and it's kind of his second career. He's looking forward to being part of the community."

Sheldon Myeroff – "He said what I was going to say. The part that I wanted you to know, is that this is a great passion of mine. Second career. I'm not in it for the huge money. I've done that already. I have my retirement set. I do this because I really, really enjoy it. I love building beautiful furniture for people. And I like to work on super creative designs and have a lot of fun with it. I don't like the idea of retail. I don't want to do any retail, as Chuck said. I want it to be an internet based company, where I get my leads from people through the internet and then I go out and visit them. And/or people that come from out of town. And I build for them and I either send it to them or deliver it to their houses. We do a lot of refinishing as well as repairing and also building of the furniture."

"One of the things I wanted to say – I really do love barns. And I've been eyeing that barn for about…a couple years, until I found, couldn't find this guy. I didn't know where he was. So, one day I walked in, and his nephew gave me your location and we were able to come to a deal. Last and most important, I want you to know that I am going to treat this barn with great respect. It is my place of business and if you go to any of my businesses, you'll see that everything is in perfect shape. I like it that way. I wouldn't have it any other way. David and I really want to work hard on getting landscaping, some landscaping going on out there. Make sure it immediately gets painted. We're looking at putting on a roof in a year or two. Really fixing it up and want to keep the character of that barn. And, if we do have offices in there, we want to keep it in the character of that barn. Because, I think it is an icon for the city, is that something that you agree on? It is kind of a cool thing for this city?"

Bob Brown – "Personally, I've always taken note of that because I live right around the corner and drive by it about million times a day, and I do like seeing the structure there…"

Sheldon Myeroff – "I think it tells the story of South Russell. So, I'll take good care of your barn. I'll make sure everything is spruced up, looking really good all of the time. I plan to operate my business in a very responsible way. No monkey business. I've always been a straight business man. For 37 years in my other company, and I plan to keep going that way. So, do any of you have any questions?"

Steve Latkovic – "What is the specific request…?"

Laura Heilman – "That was a residential building for a very long time. When Bruce bought the property, the house became his business. But the barn was….we're putting a business into a building that was never approved for such a use."

Bruce Thomas – "Laura, I'm in there now as my business".

Laura Heilman – "You have used it as your business. As a storage area for your materials, and then you started….you moved your office over there when you split the property apart."

Bruce Thomas – "I brought it up to code".

Jim Flaiz – "It was an antique store when I was a kid."

Laura Heilman - "It's been a number of things over the years. But this is a new type of business entering into the building".

Chuck Riehl – "I think it's in a B-2 zone now."

Jim Flaiz – "What is the standard review for doing businesses, what's the effect on the surrounding areas?"

David Ondrey – "I think what they're attempting to put this in on – B2 allows personal services. We define personal services as beauty and barber shops, and interior decorating, laundries, laundromats, tailoring, pressing, and dry-cleaning in which only non-explosive and non-flammable solvents are used, provided no work is done on the premises for retail outlets elsewhere. Repair services such as shoe, hat, radio, television and household appliance repair for consumer oriented products."

"I think one of the things that is inevitable in trying to decide this is – how of much of your business is going to be repair versus assembly or manufacturing?"

Sheldon Myeroff – "Probably in the say, 60/40 repair. More repair."

David Ondrey – "In order to manufacture, what sort of equipment would you have in there?"

Sheldon Myeroff – "Your traditional saws, and planers, drills that will also be equipped with an EPA sanctioned suction system to draw all sawdust. As it's hazardous to people there and not good for the environment."

Jim Flaiz – "I understand you like the barn, but we have an industrial zoned district in the village. There is actually a furniture refinishing place there, on East Washington Street, in our industrial district. Why wouldn't you locate this business in an industrial district instead of a B2 district, adjoining a residential home?"

Sheldon Myeroff – "Because I think this is kind of a quiet business, non-intrusive. And, also the barn defines the branding of my company. I'm making furniture. I make a lot of rustic furniture and fits the brand of what my company is all about. So, this barn will be pictured on my internet and all of my literature. It defines who we are."

Chuck Riehl – "I think if he were in an industrial district, it might be perceived more as being a factory, that type of thing, and I don't think that's really what he wants to convey."

Sheldon Myeroff – "This is not a factory setting. This is not high production of anything. Everything is unique and different."

Steve Latkovic – "How many pieces do you make?"

Sheldon Myeroff – "We put out 2 to 3 pieces a month. And they could be real small pieces to big ones. So, I'd say one small/medium and one maybe larger product each month. Not a volume operation."

David Ondrey – "Just to return to your question, how we review standards – so it says the duty of the Planning Commission is to: *Investigate and ascertain the plans for the development, to comply with the following conditions:*

1. *That the proposed development is harmonious with the Subdivision regulations, if applicable, of the Village of South Russell. (So that's really not an issue).*
2. *That it will not adversely affect neighboring properties.*
3. *That the plan of the development provides for integrated and harmonious design of buildings and structures and for adequate and properly arranged facilities for internal traffic circulation, off-street parking and loading, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the applicant as well as from the standpoint of the adjoining or surrounding, existing or potential developments.*
4. *The fourth standard all has to do with ground water. They don't really affect us here.*

So, that's essentially what we're doing on development review."

Jim Flaiz – "The fact that it would probably need a zoning variance, does that play into our development review?"

David Ondrey – "Well, certainly we've got a track record of deferring decisions if it's perceived that a variance is necessary. We've often deferred decisions about development approval until an applicant gets a variance from the zoning board. There have been some occasions where, for one

reason or another, the Planning Commission went ahead and said, 'I'll approve you contingent upon you getting zoning approval.' It's kind of your call."

Steve Latkovic – "It sounds like this needs some kind of variance. You want to manufacture furniture there."

Chuck Riehl – "One of the permitted uses in the zone is 'repair services of furniture.' Whether you're repairing, refinishing or…the process is basically the same."

Steve Latkovic – "I don't know that it is. Cutting and planing is very different than repairing an existing table."

Jim Flaiz – "The other issue is the refinishing/finishing. If you're doing finishing of new products or refurbishing and refinishing other products, then you're going to have to strip it out."

Sheldon Myeroff – "I send the stripping out. I don't do any stripping. There's a place in Chagrin here where they put it in a dipping tank and they do all the stripping there."

Jim Flaiz – "You're putting on finish?"

Sheldon Myeroff – "I'll put on the finish, but I use all water-based acrylic finishes. No solvents. Nothing explosive."

Steve Latkovic – "I feel like the intent behind what's permitted with the repair is that it's primarily a place like the antique shop was. Where's there is some repair and things going on. This feels more like you're building furniture and you're repairing it, but from a variance perspective, even if it is going on, it's not a permitted use. Even if you wanted it approved, we could approve a contingent. Is there a way to side-step the variance issue?"

David Ondrey – "It's ultimately Laura's call as the Zoning Inspector. And that's part of the reason I thought it made sense to go through this exercise. Chuck's argument is that there's very little material difference between what they intend to do as far as building the furniture as opposed to repairing the furniture. But that may be a decision that is better left to the Zoning Board of Appeals.

Discussion took place as to when the Zoning meetings are scheduled, and the soonest one could be scheduled is three to four weeks.

Jim Flaiz – "We have a zoning district for this type of business, for manufacturing and refinishing furniture. It's our industrial zoning district."

Sheldon Myeroff – "The whole thing is the barn. There's nothing that I would be doing that would be intrusive in anything in the environment here. There wouldn't be any sound, there won't be any smells, as I use acrylics, instead of solvent based finishes. I use an approved spray room. EPA and all that."

Jim Flaiz – "Just as an example, about 7 or 8 years ago, somebody right up the road on Bell, in a residential area, was doing this type of work in a garage, on a much smaller scale. It was a huge problem, the neighbors complained, and we ended up enforcing code on them. Granted, that was a residential area, but this borders a residential area."

Sheldon Myeroff – "This does, but it's just too far away from anybody. The house would have to be right next to it."

Jim Flaiz – "It kind of is."

Steve Latkovic – "If Planning Commission approved this, do we approve it subject to the variance, can we approve it without the variance? And if we approve it and recognize, let's say that we don't

think that this needs a variance, does that set a precedence for…let's say that the business doesn't work out and in a couple of years it's gone. Does that set a precedence for someone else to come in and then use this in a similar way?"

David Ondrey – "My recommendation would be, that if you're hesitant about whether it's a permitted use or not, that if you are going to approve it, that you approve it contingent upon getting the variance. We're really not the board that has charge with interpreting the zoning code. It comes first from the Building Department and then if that decision gets challenged, it goes to the Zoning Board of Appeals. But that doesn't mean you don't have the authority to say 'Well, I'm not sure about this one, so I'm not going to give you full developmental approval yet.' I don't want to side-step, but we really didn't really address parking or any of those issues. What was the plan?"

Sheldon Myeroff – "The parking is basically myself and 1 to 2 other people. We could all park in that small area right in the front. And an occasional customer will visit, just to see their project going on."

David Ondrey – "So you're not anticipating paving anything more, or adding spaces?"

Sheldon Myeroff – "No."

Jim Flaiz – "One thing that gives me pause, we agreed to his lot split over here. Something was presented to us that there'd be just a small business in this barn, and that the insurance company would go into the house. This board agrees to the lot split, the corner looks absolutely hideous. I'm very unhappy with what's going on in the corner, and I feel like it's a little bit of a bait-and-switch; where, 'I'm going to move my home building business to the barn, and I'm going to sell to the insurance company, let's split the lot.' We split the lot, now the insurance company is in there, and now, we want to move in a furniture manufacturing business into the barn. From my perspective on the board, in what we've approved in the past, and what's been presented to us as uses for the corner, is changing pretty dramatically in about 12 months. I'm very hesitant."

Bruce Thomas – "Well the house is an insurance company."

Jim Flaiz – "I understand, but when you came to us with the lot split idea, did you think you were going to sell the barn to a manufacturing business? It sounds like you wanted to keep your business as a small office. Frankly, I'm not real happy about that."

Bruce Thomas – "I retired. I'm 75 years old."

Sheldon Myeroff – "Can I please tell you this is not a manufacturing business? This is – I'm just making some furniture, for private people."

Steve Latkovic - "But that is what it is. You gave us the information. I've looked you up on the internet, I've taken a look at this – it's beautiful. I think this is in general, the kinds of businesses that are great for the village. The problem is…we've taken family Christmas pictures in front of this barn. It's iconic in the village. I think it's an asset to be protected. We do take zoning very seriously here. It does give me pause. 40% of your business is manufacturing. You're going to be cutting wood with planers…. my point is – this isn't the zoning board, and if I were on the zoning board, and if it was up to me, I don't know exactly how I'd vote, I'd think real hard about it. But I'm not on the zoning board, and this isn't that. I am hesitant. Given the property and given what you want to do, it sounds like there is enough of this business that – you're not just fixing stuff. When I picture…again, going back to what the zoning is for – a shop that provides furniture for people and doing some repair work, for customers is a very different picture than the guys back there making all this furniture. It feels like you're manufacturing furniture, you're making furniture. And, that's what our zoning board is for. I feel uncomfortable trying to provide approval for something

that I feel isn't meant to fit into this space. If zoning feels that this use overall ….. and I am concerned down the road. I have no idea how long you'll be here. Obviously, you've come with great intentions. This is always difficult with what seems like businesses that should be in and around our Village. But we have a zoning code for a reason. We're not that zoning board."

Chuck Riehl – "If I could just comment. We are who we are. We can't be responsible for the sins that have happened before. I think we've come in front of you laying out exactly what we want to do and exactly what our intentions are. Certainly, if there are some conditions that you would be interested in, obviously, no interior illuminated signs, no neon … we'd be glad to check that, so that rustic feel of that barn is preserved."

Jim Flaiz – "I'm not sure that I would vote to approve this from a proper review standpoint, but I don't think that we should even consider it until the zoning board has taken a first crack at it."

Bob Brown – "I could go one of two ways. First, I think it is worthy of consideration. But I think it's going to require a zoning variance first. Then let's do that. And then let's bring it to a vote here, because I conceptually, I understand what you all are saying. I get it. The fact that it requires a variance isn't up to us. It's a fact that we do need to address".

Bruce Thomas– "Does it in fact, require a variance?"

David Ondrey – "I think so. For manufacturing, yes."

Bruce Thomas: "Really?"

David Ondrey "Yes. I want to learn more and hear more. But ultimately, I just think we're stuck."

Bob Brown – "Once that's ascertained, I think it's worthy of a vote."

Sheldon Myeroff – "How do we go about getting this variance?"

David Ondrey – "I think what we could do is have this board defer any decision as opposed to denial. Defer it until it goes in front of zoning board. Laura, you could deny the permit, and that gives them the right to appeal. You said 3 or 4 weeks. It may be possible to pull it off faster than that. It always depends on trying to get enough schedules to match up. We understand you're in a time crunch and we'll do the best."

Steve Latkovic – "For what it's worth – this isn't a decision I take lightly tonight. I totally get the position you guys are in between your deal. These are also decisions that affect the village for a long time. I think as a board, we would be doing a disservice if we tried to approve around this. The fact is – it's borderline. It really is borderline and I just feel more comfortable having our zoning board, that is specifically tasked with this stuff – have a review. So, I'm sorry, that's where I am coming from now. I think we need to take this serious. That is an important property here. And, if it is going to have something like this going into it – I'd personally feel more comfortable not making that decision. If it comes back for us and zoning approves this, I think it's a great business. And if they get comfortable with it, I certainly think I could."

Steve Latkovic – "Keep in mind, we also don't have 2 of the other members here tonight as well. Not the only reason, but…"

Chuck Riehl – "We would specifically request that you not take final action tonight."

Jim Flaiz – "And the zoning process will notify the surrounding neighbors, and they'll be able to weigh in. There could be a deeper dive as to what exactly is going in there."

Bob Brown – "I think that's the critical element. Even if it's not per se, by your business, it does meet the criteria that requires that you go in front of the zoning commission. Even if it's a small business, which it is. It's still a zoning issue.

The one question – Steve brought this up earlier – and David, I'd be interested in your input. Does that set a precedent? If this business was to be there for ….. if it's there, I hope it's there until ….. But for some reason, it if did vacate in a few years. Is there a precedent set, or does it revert back and then go to the zoned variance?"

David Ondrey – "It's kind of always on a case by case basis. It's not locked in steel. Would it be a piece of evidence that some future user would say, 'Hey look, you let somebody come in and build furniture. What's wrong with my whatever..?' Does it raise a potential problem? Yes, but it's not binding."

Jim Flaiz – "So we are just not going to take any action?"

Steve Latkovic – "I would suggest that."

Sheldon Myeroff – "Who's on the Zoning Commission? How many people are on it?"

Steve Latkovic – "There's 5."

Sheldon Myeroff – "Are you guys on that, too?"

Steve Latkovic – "No. They're separate."

Sheldon Myeroff – "And they meet once a month?"

Steve Latkovic – "As needed. Like David was suggesting, hopefully we can schedule this."

Jim Flaiz – "With the neighbor notice…"

Laura Heilman – "We have to publicize in the paper, so that's part of the problem. There is some lead time on the publications."

Steve Latkovic – "Have you talked to any of the neighbors? Have you talked to anyone around the property? Who gets notified, Laura?"

Laura Heilman – "Everybody around the property who is within 250 feet.

Jim Flaiz – "I want to make it real clear to them, that you didn't cut down the trees."

Bruce Thomas - "I had nothing to do with the trees. I came over and got Laura and said, 'Can they do this?'"

Jim Flaiz – "Yes, it's frustrating."

Steve Latkovic – "Thank you for coming in.".

Chuck Riehl – "Thank you for your time."

Steve Latkovic – "Hopefully, we see you guys back in here."

Sheldon Myeroff – "O.K. Thank you for your time."

No action taken by the Planning Commission at this time. This request will be turned over to the Zoning Board of Appeals.

New Business

Walking Path – Preserve of Chagrin

Laura Heilman had everyone walk to the large wall map of South Russell Village. Laura showed the members of the Planning Commission where the 'Preserve of Chagrin' wants to put in a 4-foot wide path. The material for the path would probably be a material very similar to what's in the tow path. They're asking for approval, and she will bring them to Planning Commission, probably within the next couple of months. There are a lot of issues associated with putting in this path:

- It would be in South Russell's right-of-way
- There are manholes to address
- There are trees that are a part of the way the subdivision was designed

Laura requested that members of the Planning Commission take a drive there to view what she is talking about, before the next meeting comes up.

Steve Latkovic – "This will be on the agenda the next time?"

Laura Heilman – "I think so."

Bob Brown – "Is this going to be a walking or biking trail?"

Laura Heilman - "Right. And they want it for the kids, etc."

Jim Flaiz -" That is a very dangerous road there. Wide turns,etc."

Laura Heilman – "I want you to be aware that there are so many other issues besides just putting in the path. May be a possible issue with the wetlands. Eric Haibach (engineer) will have to be involved. Green space issues. It will be complicated."

Jim Flaiz – "So would they be removing all of those trees? Those trees were probably planted there when they put the road in."

Laura Heilman – "They were required by Planning Commission."

Planning Commission members will take a ride in the area of the proposed pathway before the next meeting.

Medical Marijuana

Jim Flaiz – "Where are we on the medical marijuana?"

Steve Latkovic – "Is there a proposal to permit it or outlaw it?"

Jim Flaiz – "Not to outlaw the use of it. You can't do that. But to outlaw the manufacturing, cultivating, dispensing of it."

David Ondrey – "It will take an amendment of our zoning. We're going to make it a specific prohibited use all of those 3 uses (manufacturing, cultivating and dispensing) in each different zoning district. So, I drew up a proposal ordinance. Council took a look at it Monday night and voted to recommend that the Planning Commission consider it. If you like the idea, you can do it without seeing the ordinance."

Jim Flaiz – "It prohibits it?"

Bob Brown – "It outlaws the manufacture of medical marijuana in the village."

Steve Latkovic – "Manufacture, cultivation, processing and retail dispensing."

David Ondrey – "The Ohio Legislature, specifically, when they adopted all of this legislation about medical marijuana, put it there that municipalities could restrict or even prohibit any of these uses. So, I wouldn't say a lot of communities/municipalities have done it so far, but there have been some."

Steve Latkovic – "But it's been pretty recent legislation?"

David Ondrey – "Very recent legislation, and it's not going to be ready to…"

Jim Flaiz – "The regulations aren't even finalized."

David Ondrey – "So there's not like an urgency, but…"

Steve Latkovic – "Did council already approve it for us?"

David Ondrey – "No. What I said was, it's got to go to you guys…."

Steve Latkovic – "We do it first."

David Ondrey – "You make your recommendation to council. And if you recommend for it – it takes a super majority of council to change anything that you do. You're influential. Council would be hard pressed to turn you down."

Steve Latkovic – "Let's get this on the agenda for next time. When everybody's here."

Jim Flaiz – "I agree with Steve. I think that Bill and Bryan should probably be here. We could talk about the whole issue."

David Ondrey – "I'll email it to you also, so you'll have it ahead of time."

Jim Flaiz – "Every community is handling it differently. The townships are taking it up and most of the townships are doing this, they're prohibiting it, as part of their zoning. Middlefield Township is not going to. They don't really have zoning. It's controversial. Russell Township, they were the first ones. They prohibited it right away."

David Ondrey – "Painesville is considering approval for a big facility for processing. Some cities are saying – 'I want the jobs.' "

Bob Brown – "There would be all kinds of security issues. As a legitimate dispensary, it doesn't bother me as much, but I wouldn't necessarily want to see it here. It's too small a community. It's not rural enough. That's my opinion."

Jim Flaiz – "My thoughts – if someone wants to get it, go to Solon and get it."

David Ondrey – "How about Chagrin Falls?"

Jim Flaiz – "Are they going to allow it?"

David Ondrey – "I don't know. It's going to be debated".

Steve Latkovic – "The township is different from the village?"

David Ondrey – "Right. I heard that Jim's office had created some of these zoning prohibitions for the township. I asked that he provide it to me, and I used that as a model to frame our own. It's set up differently because of the differences in our zoning code, it's essentially a prohibition for everybody."

Jim Flaiz – "Is there any activity down in Chagrin Heights from Joyce builders on anything in South Russell?"

Laura Heilman – "No."

Medical marijuana to be tabled and on the agenda for the next meeting.

Steve Latkovic made a motion to adjourn the meeting. Jim Flaiz seconded the motion. Voice vote: all in favor.

Meeting adjourned at 8:10 p.m.

Steve Latkovic, Chairman

Lorraine Sevich, Secretary

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
June 22, 2017 at 7:30PM

Members Present: Chairman Steve Latkovic, Jim Flaiz, Mayor William Koons, Ph.D., Bryan Kostura

Members Absent: Bob Brown

Other Officials: Laura Heilman - Zoning Inspector; David Ondrey - Solicitor

Visitors: Ann Dunning, A.I.A., 129 Burlington Oval, Chardon, OH 44024
Charles Riehl - (Walter & Haverfield) – 1301 East 9th St, Ste 3500 Cleveland OH 44114
Linda P. Miller, 15071 Hawthorne Lane, Chagrin Falls OH 44022
Lee A. Miller, 15071 Hawthorne Lane, Chagrin Falls, OH 44022
Peter Cary, 6075 Chagrin River, Bentleyville, OH 44022
David Brent, 12591 Clairdon Troy Road, Chardon, OH 44024
Bob Battisti, 14739 River Glen Drive, Novelty, OH 44072
Sheldon Myeroff – 7425 Edwards Landing Drive, Chagrin Falls OH 44023
Mark Porter, 29 Annandale Drive, South Russell, OH 44022

Chairman Steve Latkovic called the meeting to order at 7:30 pm. Lorraine Sevich conducted roll call.

Jim Flaiz made a motion to approve the minutes from the February 9, 2017 meeting, seconded by William Koons.

Roll Call: All in favor 4 – 0. The minutes from February 9, 2017 were approved.

Mayor William Koons suggested that the minutes be reduced; minutes should be shorter. Steve Latkovic said the minutes were very thorough, but should capture most of the discussion, the bigger items.

Jim Flaiz moved to approve the minutes from the April 13, 2017, seconded by William Koons.

Roll Call: All in favor 4 – 0. The minutes from April 13, 2017 were approved.

1st agenda item – Peter Cary - Front Patio for The Gallery – 516 East Washington Street

Peter Cary introduced himself as part of the ownership group of 2 contiguous buildings at 512 & 516 East Washington Street. Some of the current businesses in these buildings include: The Cleveland

Institute of Music, an optometrist, Village Martini & Wine Bar, and more. Cary has an unused corner that connects the two buildings together and they would like to build a patio on that corner to be a common area amenity - for their tenants and for customers and guests. It will be a landscape enhancement that will serve the purpose of consolidating the identity of these 2 buildings and bring them together as a casual gathering place. This patio would be for both the 512 and 516 building.

Planning Commission board member Jim Flaiz asked if they were removing parking. Peter Cary answered that no parking would be removed.

Cary explained if you are facing the building, this patio would be on the right, the Martini bar is on the left. It is currently green space. Cary said they don't have a seating plan yet, but he is envisioning 4 or 5 café tables and chairs, perhaps umbrellas. 3 steps would go up from the front parking lot and flat from the side parking lot.

Cary noted this patio addition would add value for both buildings. The 512 building has an interior walkway; the 516 building doesn't have that. This patio would not be related to any specific tenant's use.

Planning Commission board member Mayor Williams Koons, Ph.D., asked when cars were pulling up, would there would be a chance that a car could jump up? Peter Cary said, "It is elevated."

Flaiz asked if they would have daily service in the common area for clean-up/trash collection.

Cary answered they have a cleaning service, but it is not daily, it comes 3 or 4 times a week. Flaiz asked if they saw a problem regarding trash, coffee cups, etc. Cary said this would have to be looked after, as they look after the rest of the building. They do have a problem with cigarette butts outside of the front door, from the Village Wine Bar. The landscaping crew tends to pick up after that sort of thing. The clean-up is not daily, and they haven't anticipated that they would need daily service.

Flaiz said he thought they would need the clean-up at least once or twice daily. Cary thought Wendy or Katy from the coffee shop would be looking after the customers.

Koons mentioned that 4 or 5 years ago, Arabica had a problem with teenagers. Bob Battisi said they never had a problem with that and his crew was around there several times per week. He doesn't see trash as a big issue, they are down there all the time. Cary mentioned that someone is there daily.

Cary said parents are bringing students to music lessons. Currently, they wait for them - in a little vestibule with a hard-plastic chair. Cary thinks why not have the parents grab a coffee, and if the weather is nice, sit outside? Same with the hearing aid business, someone is driving a client there, and they have to wait for an hour - why not have them wait on the patio?

South Russell Building Inspector Laura Heilman said she has seen Bob Battisi's work quite a bit. She feels he does a great job, and she has seen the coffee shop people clean up coffee cups, etc. She doesn't see anything negative about this.

Flaiz thought they do a great job maintaining the properties; they are beautiful and very nice.

Bryan Kostura moved to approve the motion, to allow Peter Cary to build a front patio at The Gallery. William Koons seconded the motion.

Roll Call: All in favor. Motion carried 4 – 0 on a roll call vote.

2nd Agenda Item – Development sign at 530 Manor Brook Drive

David Brent introduced himself – Willowleaf Sign Company in Chardon, Ohio. He was contracted by Whitetail Reserve Homeowner's Association to manufacture and install a sign in the west entrance of the Whitetail Reserve on Manor Brook Drive. He installed the sign in a designated area, one that the development chose.

Planning Commission Chairman Steve Latkovic asked if the picture was the actual sign that the Planning Commission was to approve. David Brent answered it was.

Koons asked Heilman if this sign was just like the other one. Heilman said it was.

Latkovic asked what the specifics were for the board to approve the signage in general? Heilman stated that it was a development sign that Planning Commission needed to approve. Even though the location was a designated easement at the time the development went in, there has never been a sign there. This sign is placed just 6 feet from the road. It seemed to her that it was a bit close to the edge of the road. Heilman said that is the call of the ZBA board.

Koons said signs were put on that road in advance because of visibility.

Discussion between Heilman and ZBA board, as to the location.

Latkovic questioned the placement of the sign with it being 6 feet from the road, was that a violation of setback? Or was it just for discussion within the development code?

Heilman replied that she didn't know if it was a violation in terms of setback. She was questioning if the police would have an issue with it, or if the street department have an issue with it, because of snow. It is on the other side of the road, if the snow plows hit it, it would - at the back of the sign.

Flaiz stated that the "No Parking" starts just past the sign area.

Planning Commission member Bryan Kostura said the sign looks very nice.

David Brent originally suggested that the sign be moved back away from the road a little bit, but he had a homeowner who was organizing this, and she wanted it in the spot it is on. He advised her to move it back because of the snow plows, but she wanted it at the current location.

Flaiz thought you wouldn't see the sign at all if it was any further back.

David Brent replied that there are multiple trees there which are quite large canopies now, and there is a stone column that is tucked in there, and if you are not looking, you don't see it.

Flaiz feels from a road hazard perspective, it's a lot safer than the old sign.

Steve Latkovic made a motion to approve the sign and placement of the Whitetail Reserve sign at 530 Manor Brook Drive. Bryan Kostura seconded the motion.

Roll Call: All in favor. Motion carried 4 – 0 on a roll call vote.

3rd Agenda Item – Medical Marijuana – Review of Ordinance Amending Sections 2.01, 4.01, 5.01, 6.01, and 7.01 of the Zoning Code in order to prohibit medical marijuana cultivators, processors, or retail dispensaries in the Village of South Russell in accordance with Orc 3796.29.

Agenda Item number 4 was moved to Agenda Item number 3, as this would probably not take quite as much discussion.

Solicitor David Ondrey addressed the Planning Commission and said originally, at the request of the Mayor, the notion of adopting some legislation, one way or the other, about medical marijuana was

discussed. This included cultivators, processors, and retail dispensaries. Council indicated an interest in that type of legislation prohibiting those activities. In looking at South Russell Village zoning ordinances, a zoning amendment (that's what it would take to do this), can be initiated either at Council level or Planning Commission level. Council ran with this. Ondrey prepared an ordinance that has been distributed to the members of the Planning Commission. Council adopted a motion a couple of months ago, and sent it to Planning Commission for their recommendation and action. He thought the vote was in favor 6 – 0. That doesn't necessarily mean that there would be 6 votes on council to adopt it – but they certainly wanted this discussion to start forward and have Planning Commission decide if it is willing to recommend this or not, or come up with something different. The Ohio legislature, when they adopted the legislation controlling medical marijuana, permitted municipalities specifically to prohibit any or all of these activities. It is perfectly legal if Planning Commission wants to prohibit them. A lot of communities have adopted similar legislation, some are adopting moratoriums. Some are saying (Painesville, for example) they will permit the cultivators and processors, or at least are thinking about it.

Latkovic stated to be clear, this prohibits cultivators, processors, retail dispensaries, anywhere in South Russell Village, under any use regulation, including any conditional use.

Koons said Chagrin Falls High School is 200 yards away from our business district. He doesn't want something like this in the area.

Kostura asked Heilman if there was sufficient land in South Russell for cultivators. Heilman answered that the only possible area would be in the eastern residential part of South Russell Village, in the 'bowling alley' lots. Kostura asked if this area was zoned residential. Heilman said yes. Kostura asked if you could put a farm on those lots. Heilman answered you could not.

Flaiz noted there are some strict regulations on the cultivation side of this ordinance. The state has come up with a regulatory scheme for each of the different parts of the businesses they are allowing. They are separate – there is cultivation, processing, and dispensing. The cultivating and processing – those operations are somewhat combined. In most places, you would have both of those in one site. It is mandated that it be indoors, that it have security. There is a site in South Russell Village that this could be a possibility, certainly, for a processor and possibly an indoor cultivator. They do have hydroponic indoor grow facilities – it has to be under the regulations. The old factory building could be a possible site. Flaiz is not for this at all; just pointing out that it could be a possibility. In the South Russell Village industrial district, there is some existing infrastructure that could cover the cultivating and processing as well as retail dispensing. There are probably a couple of structures in that area that could be possibilities.

Kostura questioned where South Russell Village would have a retail establishment. He is not for this, but wondered if Planning Commission needed to create a solution for a problem that we don't have yet. Does South Russell have the infrastructure here that we have to create legislation for?

Latkovic replied "Why wouldn't we, if it's not something the Village would ever want? This law was specifically put in place by Ohio to allow it, and it explicitly allows cities to do this. The issue is could somebody do this today? Maybe in some limited areas."

Kostura said that's what he wants to find out. "Do we have those areas where someone wouldn't have to get a variance, or conditional use? Or could someone just decide to buy a building and open it up. Because if that is the case, this has got some real legs."

Heilman noted that, with marijuana grown indoors, there are a few places that it could be done. The medical center is one of them.

Linda P. Miller, MSSA, LSW, introduced herself, from 15071 Hawthorne Lane, (Russell Township) Chagrin Falls, OH 44022. She is advocating the prohibition of cultivation, processing and dispensing. She put together and has had distributed a packet of information earlier in the week to all the board members. The pictures in the packet of information are from Denver Colorado, where her family lives. She gets palpitations every time she thinks about it, because she feels it is so awful. Linda Miller stated that in cultivation, 6 gallons of water are required per plant per day. She is trying to figure how many plants are in the 2 cultivation sites. She appreciates the board's thoughts about this issue and thanked the board for addressing this issue.

Flaiz thanked Linda Miller for putting the information together, and he thought the pictures were helpful. Flaiz noted that one of his best friends is an attorney in Boulder, Colorado and he has repeatedly told Jim, from his perspective, what a full-scale disaster this has become.

Jim Flaiz made a motion to recommend the Prohibition of Medical Marijuana cultivators, processors and retail dispensaries in the Village of South Russell Ordinance be adopted. William Koons seconded the motion.

Roll Call: Roll Call: All in favor. Motion carried 4 – 0 on a roll call vote.

Motion carried 4 – 0 on a roll call vote.

4th Agenda Item - Sheldon Myeroff, Chagrin Valley Custom Furniture – 1225 Bell Road

Steve Latkovic welcomed back Sheldon Myeroff, owner of Chagrin Valley Custom Furniture, and thanked him for his patience. Myeroff noted that he gave a lengthier presentation at the ZBA meeting of May 25, 2017. (Detailed minutes of his power point presentation are in the ZBA May 25, 2017 minutes).

Solicitor Ondrey noted that Planning Commission deferred any action on Chagrin Valley Custom Furniture, and it went to ZBA. There was a public hearing about this case, and the ZBA approved the use of the red barn for furniture making and refinishing. ZBA did not specify whether the board considered it to be a personal service, which was an argument that was asserted, or was so related to the service of furniture repair that they felt couldn't be turned down. It was approved by ZBA. So, Sheldon Myeroff and Chagrin Valley Custom Furniture are back now to get development approval.

Latkovic asked if conditional use was approved. Ondrey answered no. ZBA simply approved the proposed use of this building for this business as presented.

Myeroff stated that he is a businessman; he's been in business for many years. He owned a company called "Direct Recruiters". He sold most of his interests in that company after 40 years and he prides himself on being a great businessman. He started a hobby of woodworking 17 years ago and has been professional for the last couple of years.

Myeroff started his power point presentation. Myeroff said what will be done in the red barn is mostly repairs. He also does some repurposing, old furniture turned into something else, etc. 20% to 30% of his business is making new furniture.

Latkovic asked about his use of chemicals, sanding, sandblasting, etc. in his business.

Myeroff said they do not do any 'dipping' in his place, because they are not a dipping tank, nor does he want one. They do not do any "real stripping"; they send that work out to another company. When it comes back to him, they sand it and put on new coats. Myeroff explained the dipping process – putting furniture into a big vat, with nasty chemicals that removes paint. He said he will never own one of those, as long as there are places for him to take his furniture to.

Flaiz asked Myeroff if he did any stripping. Myeroff said they do stripping – sometimes, on a small piece of furniture - they do stripping, they buy a can of stripper, and they will strip the paint off.

Flaiz noted that the last time Myeroff came before Planning Commission, he stated "the finishing was done outside, and that he used all water based acrylics. No solvents, nothing explosive". Flaiz reads from the Chagrin Valley Custom Furniture website, and it says, "highest quality refinishing and painting services that include lacquer, oil, crackle, clear finishes, faux painting, chalk painting, distressing and antiquing and every type of spray and hand painting finish you can imagine". Flaiz asks Myeroff, "So, what is it, is it what your website says, or what you told us?"

Myeroff said that is what he does now, but he would be willing to, in the barn, go to water based chemicals.

Flaiz said to Myeroff, "Last time you told us that you only use acrylics. Now you are telling us that you'll change your business model?"

Myeroff said he will change it to acrylics.

Flaiz asked Myeroff why he didn't tell Planning Commission that the last time they met.

Myeroff said he didn't remember telling Planning Commission that.

Flaiz said, "Fortunately our minutes were prepared like a deposition. That is exactly what you said, several times. So, you do use all of these different chemicals."

Myeroff said he doesn't have to use solvent based chemicals.

Flaiz questioned Myeroff further, and asked Myeroff if he was not going to offer every type of spray and hand painting varnish he currently uses now.

Myeroff replied "Right, and on the other hand, it will be done in an EPA & OSHA certified and approved, fireproof booth".

Flaiz asked Myeroff why he needed that if he was just using water based chemicals?

Myeroff replied that you have to have that in any fireproof system.

Flaiz asked Myeroff if he was or was not doing stripping.

Myeroff said he was doing some stripping, a very small amount.

Flaiz asked "No dipping, but you are using solvents"?

Myeroff replied that he was not doing any dipping, but does use solvents on occasion.

Flaiz said "That's not what you told us the last time. Do you remember that?"

Myeroff replied, "No".

Flaiz further explored the furniture finishing practices of Chagrin Valley Custom Furniture. He asked Myeroff if he now uses oil, lacquer and other explosive finishing materials. "You do that currently, that is what your website says."

Myeroff replied, "Right. We are ready to go water based."

Flaiz asked Myeroff - "So you will be 100% water based in this facility?"

Myeroff replied: "We can be. Yes. We can do that".

Flaiz said, "The last time you told us that is what you do. You *can* be or you are *going* to be?"

Myeroff said he is going to be. "The fire inspector can come in any day, any time, and inspect our chemicals."

Flaiz asked Myeroff if he would be willing to make that a condition of any approval? That he wouldn't use anything other than acrylic based?

Myeroff replied yes. And water based stains, also.

Myeroff continued with his power point presentation, showing examples of repairs, finishes, business hours, an eco-friendly company. He wants to move to using water based acrylics - as much as possible. He uses only sustainable woods, and he likes to work with recycled woods. Main service is repair and refinishing, projects are small with low margins. As a result, he must build some furniture, in order to get some profit margin. Without the manufacture of furniture, he could not support the business. Myeroff said he is very serious about safety, and showed examples of machinery and his dust collection system, and his "most state-of-the art" saws.

Myeroff said he has to have a spray booth – it's not even a choice - in any location. The spray booths are about $16,000 minimum, up to $20,000. A spray booth he is looking at already has a fire suppression system build into it. That's why it wouldn't matter if he was spraying solvents, because it's in the spray booth – completely safe – all OSHA and EPA approved.

Myeroff wants the barn, as it is the icon of his business. He wants to be a small business man in a small town like South Russell. He likes the rural setting – he likes what's going on here. The barn will be a great way for him to let his creative juices flow. He showed the barn in - its present condition, and what he will make it look like, including landscaping and a new roof in 2 years, and other improvements - to include a small sign for his business. He talked to the mayor about being able to provide some vocational training to students in school - that want to know about furniture making and refinishing and the potential of being in a business like his. He wants to create signage to explain the history of the barn and of South Russell, and make the barn a historical site.

He explained why he thought it was a personal service business and not a manufacturing business. He compared himself to the man who owns the Canoe business on State Route 306. Myeroff thought his business was not any different than the Canoe business.

Myeroff said he would hate to see the barn come down, because "we can't make this happen."

Flaiz asked Myeroff what the square footage was of his operations. Myeroff answered that currently they are operating on about 1800 square feet.

Koons asked Myeroff how many full-time employees he had. Myeroff said right now he has 3, not including him. He said he would have 4 to 6 cars at the barn.

Koons asked Myeroff if he was standing by the DRY Insurance Company building, what would he smell?

Myeroff replied that he would not smell anything, even if he had a spray booth, because the ductwork would go right up to the top of the barn.

Koons asked Myeroff what would he hear? Myeroff replied that he won't hear anything, unless he would come right up to the barn, and put his ear against that barn. If he had the doors open, he might hear something.

Kostura asked what the hours of operation were. Myeroff said they are 8:30 am to 5:00 pm.

Koons asked about trucks – how many trucks did he expect to have delivering wood? Myeroff replied one a week, on average. Comes on a truck from Keim Lumber in Charm, Ohio. No Fed Ex delivery of wood.

Myeroff explained that furniture to be repaired would be dropped off, or he would pick it up.

Flaiz asked where the loading dock would be. Myeroff explained that he didn't need a loading dock. Not for 1 delivery a week. They would just put the wood in the back room of the barn. He only holds enough wood for 2 to 3 projects at a time. No inventories of wood, other that 2 to 3 projects.

Flaiz noted that most people who utilize reclaimed wood keep a pretty significant stockpile. Myeroff said he does not have to do that. Keim Lumber can get him as many board feet as he wants, at any given time. Myeroff said he would not be storing wood – only enough for 2 to 3 projects at a time.

Flaiz asked Myeroff if he was shipping furniture all over the country, custom furniture, how will the freight be handled? Myeroff replied that he is not shipping all over the country. 99% of his business is in northeast Ohio. Flaiz said he is relying on what is on Myeroff's website. Myeroff said he just gives the "illusion" on the website that he is a national company. He gets calls from out of town, but no one can afford the shipping on his furniture. As a result, he doesn't always get the order.

Flaiz wondered how Myeroff could ship if he doesn't have a loading dock. Myeroff said they take the furniture out to their vans.

Flaiz questioned Myeroff about his inventory. According to his website, it looks like a number of pages of pieces of furniture with prices are available for immediate sale. Sheldon replied that he wants to make himself look bigger and replied that a lot of those pieces of furniture are sitting in his house, and are being used for his personal use.

Flaiz is trying to understand the repair versus manufacturing part of Myeroff's business. "Today, Myeroff told us 20% to 30% was manufacturing. In his power point presentation to the zoning board, Sheldon said 20% furniture making. Last time Sheldon was in front of the Planning Commission, he told Planning Commission it was 40%. You told us it was 40%, then when you went in front of the zoning board, he said 20%." Myeroff said it varies from time to time - it depends on what type of leads he is getting called in.

Flaiz said on the website it says 95% dedicated to manufacturing. Myeroff said that is what he wants the "illusion" to be. He explained that it is really hard for him to get new pieces of furniture built, so he has to work hard and make the website look like he is bigger than he really is.

Myeroff said he just went on "Google" Ads - Google Paperclip (PPC – Pay Per Click). He explained that he pays money to Google and he comes up on the top of internet searches. He can get all the refinishing business he wants.

Flaiz asked Myeroff, "If 70% of your business is repair, then why is it 4 lines on your entire website?"

Myeroff replied it is so easy for him to get the business. He just puts the Google ads up. "It is harder for me to get new furniture business. It's harder, it's more expensive, there is more profit margin. It's just harder to get. I have to work harder for those".

Flaiz asks Myeroff about all the sawdust. Myeroff showed the Planning Commission a picture of his dust collection system from his power point presentation.

Kostura asks Myeroff what he does with the sawdust after he collects it. Myeroff replies that he bags the sawdust, then he takes it to a horse barn.

Flaiz questions how Myeroff can acquire that much sawdust, with only 20% manufacturing. Myeroff says yes, he gets a couple of bags a week.

Flaiz asks Myeroff if the refinishing part of this business is located on the east side of the building. Myeroff says the finishing area is on the right-hand side on the upper part– that's where the spray booth would be.

Ann Dunning A.I.A., the architect hired by Sheldon Myeroff, shows the Planning Commission board the 17 pages of drawings she has begun to develop – an architectural package - to get ready for any kind of building permit. They are investigating what they need to do, starting with code reviews. Some of the pictures included the signage for the business, they will be "banner" type signs, and they will not be backlit. The plans include rooms for a breakroom and lunchroom, and a "reception room" – where the potential client comes in and talks to Sheldon. Perhaps looks at a piece of furniture in that room. The work room, the spray area and an area for deliveries.

Koons asked if the ramp would be redone. Dunning replied that the ramp will be useful, and it needs work. As well as landscaping and painting.

Flaiz asked if the ramp would be utilized for deliveries. Dunning said no – nothing is on the second floor. Flaiz asked if the east side of the building would house the spray booth and deliveries? Dunning said there could be deliveries. Flaiz asked if there was a drive there? Dunning said there could be, but there isn't one currently.

Flaiz asked if the doors were new.

Dunning explained that they were not new. The doors have to serve the purpose of being exit doors. The doors will be there no matter what they decide to use them for. From what Sheldon is delivering and bringing in – there is no reason why goods can't come in through the front door and then progress.

Dunning stated they are just starting to get through fire requirements for doors and hardware on doors. The barn is basically broken into 3 individual spaces.

Koons asked if they were building 2 walls. Dunning replied "Yes, so far."

Flaiz has a concern – the double doors on the east side for deliveries, along with the manufacturing/refinishing process is on the east side, which is the part of the barn that borders the residential homes. Flaiz wondered what the thought process was for the placement.

Dunning said they are working with what they have so far. They have not made further decisions because there is too much of a zoning process to get through and to understand what they will do, before Sheldon spends the big bucks on everything else. They are working though this and it certainly will go through the Architecture Board of Review and through the Building Department.

Kostura inquired if there was current plumbing. Dunning said there are 2 toilets. More than likely, those will have to be changed to be handicapped accessible. Kostura is wondering about the flow of the building – product comes in the front, gets fixed in the center, gets finished – it would be reasonable for it to go out the other side.

Dunning thinks Kostura is trying to put this into a manufacturing flow. Dunning said she doesn't think that is what they are really looking at. They are looking at individual pieces of furniture, not a lot of them, they are not real big. They can be put on a dolly and taken out the front door. Either to be hand delivered to customers, or can be placed in their car when they pick it up. It is not the flow one would have in a manufacturing process.

Myeroff asked the members of the Planning Commission, "Why are you going over all of this, when ZBA already OK'd it?"

Flaiz explained that it was the job of the Planning Commission to see that this plan is harmonious with the surrounding uses. This barn borders a residential area. South Russell Village has an industrial zoning area, which is in the business district.

Dunning went back over the past 17 years and explained what she has done with this same piece of property. When it was first decided the area should be rezoned commercial, there were always reasons to get all of these parcels collected and put into one cover of zoning. She has done many, many drawings of how it could be. At another point in time, they tried to get housing in there, but the density was too high. 2 units per acre. When Bruce Thomas bought the property, and started looking at it, they put an office building out front, they did all sorts of studies including parking and driveway. When they did that, they knew it could fit within the zoning. Dunning feels assured however the concept works through this, she can bring the right parts of this site to work for what Sheldon is doing. Dunning said there is plenty of land to do full buffering against the residential homes.

Flaiz said even though the term "commercial zone" is being used, this is still B-2 district. Dunning said she used the wrong term. Flaiz said "We do have an industrial zoned district, and there are places in the village that would be perfect for this type of business."

Dunning said this is not industrial. If she was doing water colors in that barn, it would be the same thing.

Flaiz doesn't agree. The plans show a 2200 square-foot manufacturing floor, a commercial spray booth, - with fire suppression in a 150-year-old building that borders a residential property.

Chuck Riehl, attorney for Sheldon Myeroff said, "If refinishing of furniture is a permitted use, then why would the council re-zone this into something that is permitted and not be compatible with the neighborhood? I understand where you are coming from. We went to the ZBA, they approved the use within the meaning of the code. We have been kind of dual tracking this issue – the zoning is the one track, and the other track is the building permit. We have received some engineering reports back just today, from the Village engineer, CT and from our engineer, Osborn Engineering, who is working with your engineer. It will take us some time to work through those engineering issues. They were some things that we really didn't anticipate. So, what our request tonight is, if you would see fit, would be continue this hearing, so we can work our way through the engineering issues. Then, once we work our way through that, then we'll come back to you for a final decision. Will that be something that is appropriate to ask for?"

Ondrey said he certainly has no legal objection to that request. They are the applicants, and it is in their control, if they feel they need more time to resolve those engineering issues.

Riehl said there are significant engineering issues that they did not really anticipate.

Ann Dunning said they did get a review back which was very positive and very much expected. Now they are working through to see which ones fit and are cost effective and which ones they want to do. Until they get a structural engineer, a mechanical engineer, an electrical engineer, an architect involved, there are a lot of people that have to work this together to make a good project out of it.

Latkovic asked if this was a result of the building's age, or a result of what they are trying to fit into a building of this size.

Dunning said it is not what they are trying to fit – they have more than enough room. "It's what the Ohio building code requires when you start to do any work on any building today. It's not because of the age. When you change, when you get a new owner, when you are doing something else with the use – you have to go through the basic Ohio building code and you have to meet requirements.

Exits, hardware on the door, exhaust for the toilets, etc. All of those things have to be covered. There are different ways to look at that. We are just starting that. If we had started that 6 months ago, they would have a lot of time invested in this building before they even came to zoning. That is not fair to the owner, or someone who wants to be the owner of property, to have to completely do a set of drawings and then come back and get somewhere."

Koons asked Dunning, "If that were a steel structured building, and he was working on bicycles, he would probably be going through the same hoops? A concern of the Planning Commission is dust in an old building, boom, we have a huge fire."

Dunning feels there will not be that much sawdust. She thinks they are totally expanding the idea of sawdust. "Today, they have all of these collectors for sawdust. Nobody wants to be in that, and breathe in that sawdust. There are dust collectors under and over the table. Those are requirements that the building code requires, including air ventilation. It all works together." She doesn't think the board should be concerned about those kinds of issues.

Myeroff said they were talking to Dunning about anchoring the building down differently, for wind, and potentially rebuilding the internal structure of the building. These things could be hundreds of thousands of dollars. It's not even what the property is worth. They have to find out what the score is – they just found out about this today.

Flaiz said that a portion the Ohio Building Code was circulated among the members of the Planning Commission, and he had some questions for the Building Inspector.

Riehl asked Flaiz if that was the role of Planning Commission – to enforce the basic building code?

Flaiz responded no. "Our role is to see if this development is harmonious with the surrounding properties and that it will not adversely affect neighboring properties. This is not a township – this is completely different".

Chuck Riehl said he understands. "You are talking about somebody who is certified to administer the basic building code. That's a specialty."

Flaiz explained that the barn is not a structure that is set up for a manufacturing business - it adjoins a residential property. "Is this a harmonious use of the building, for the site and for location of a residential property? Are we not allowed to consider that the site doesn't comply at all?"

Heilman noted that the building code, as Dunning was explaining, "Once there is a change of use, you are required to bring it up to today's standards. That is a building code issue – not a development issue. It is a completely separate subject. The building cannot be occupied without being brought up to today's standards. That is his problem to address. Sheldon Myeroff is asking for more time."

Steve Latkovic wondered why this wasn't brought up at the beginning of the conversation. If they can't do what they need to do?

Dunning said they are not saying they can't do what they need to do; they need more time to understand what they have to do, because they just got a response back today. They need to step back and look at it in a little bit of a different way to again, answer those questions. They are a step ahead – they are into working on the building code issues. Zoning takes care of the property and the outside part of the property. The building code issue makes sure that the building is fire safe – that there is a separation – and all of that work, that is a really technical part of what they do.

Riehl noted if there was a problem that this was not brought up, it was his fault. He apologized.

Latkovic suggested that Chagrin Valley Custom furniture in the red barn be tabled for now. They can get back on the agenda.

Ondrey thought it was useful for them to come tonight. Riehl mentioned to Ondrey that they might need to table this based on the other issues they are facing. He agrees that it was useful to get this out, and Planning Commission has more background than they did before.

Kostura said he appreciated the fact that they were able to see everything and have a better understanding of where they are coming from and what their plans are. He liked seeing the drawings and what their vision is. Ultimately, he thinks it is a great idea to have new businesses in the village. This seems like an interesting mix that the village could benefit from. It is also the responsibility of the Planning Commission to make sure that it will fit in with the character of the village and it will not create issues with surrounding neighbors. The Planning Commission has a responsibility to the community to ask the tough questions and push back a little bit. Just to make sure that you, Sheldon Myeroff - as the business owner has thought about these things. Kostura doesn't want Myeroff and his team to leave thinking the sky is falling. He wants them to think about everything that the Planning Commission is thinking about, too.

Dunning wanted to reiterate – it has probably been about 5 or 7 years that they went through the rezoning of this one piece of property so that they could keep the house, keep the barn. Years go by, businesses change. Bruce Thomas has certainly gotten closer to retirement. It is the idea of doing something to make this property work and be good for South Russell. The house is trying to stay good for South Russell. Some things need to be monitored to make that solid. It will be the same with the barn. At least, when we promised that we would keep the barn, she thinks they are still trying to do that. She notes that on any project that she has – the hardest part is to say to the owner – do we finish the drawings? How do we get this scheduled? What stage do we stop with the drawings until we get the zoning permit? Ohio only has about 6 months of good construction time. Until we go through all of those hoops, it is really hard. So, whatever the Planning Commission can do to help us through that would be greatly appreciated.

Myeroff said he feels like he is getting resistance from everywhere.

Latkovic said he thinks Myeroff has to appreciate what he is trying to do present a number of obstacles. While Sheldon Myeroff has in his mind something that would benefit the community, he thinks what he is hearing tonight is skepticism. His perspective on this issue – he thinks it's great that a hopefully sustainable business wants to improve the barn. He has a lot of concern about this becoming more than what Myeroff has envisioned. There have been great questions, good conversation. Latkovic is trying to make a determination on what is being proposed is what is actually going to happen. If that does happen, is Planning Commission setting themselves up later for this to become something more?

Latkovic continues. "We talked about making some limited furniture. You are doing some limited refinishing. You are doing some repair work. And fixing that building up and maintaining it, sounds pretty attractive. But it sounds like it may be more than that. If you come back, be prepared to lay out a consistent line. You have done some of that tonight. The reason that you are hearing a lot different thoughts other than what you heard at zoning is - Zoning is a simple zoning issue. Planning Commission cares less about zoning and more about how this fits into the bigger picture of the community, how this is used, etc. We have a much broader perspective on this issue than the ZBA."

Myeroff posed a question to the Planning Commission board. He has already spent $16,000 at this point, just on attorneys, architect and specialty people. "Potentially, for us to go through the process of bringing an engineer, I could spend easily, another $15,000 - $20,000. If we get CT to say it's

OK to have this thing in here if you, meet these things. Are you guys going to say yes? Or are you going to come back and say that I'm a manufacturing company and that no way. Just tell me if I am spinning my wheels. Would you vote yes if CT signed off on everything and we have their blessing?"

Ondrey said the Planning Commission did not have to respond. "The issue of permitted use is behind us. The zoning board says it is. The only issues are to consider here are whether it will adversely affect neighboring properties, and then the layout – is it harmonious as far as traffic control and direction and things of that nature. There are examples in other communities where uses have been permitted. When they come to site plan review, problems come up affecting neighbors, etc. Sometimes courts have upheld Planning Commission's denial of uses, even though they are permitted uses. But they have to know if there is real evidence of any adverse effect on neighboring properties. And if the layout is harmonious as far as traffic issues and control. The Planning Commission's jurisdiction is limited to basically those 2 issues."

Myeroff said he doesn't have enough money to take this to the state of Ohio and fight this in another kind of court. "Are you guys against it? If you are against it, just tell me now and we will stop the process. If he can come through with CT and our people come up with a reasonable way to make that barn functional for his business, are you going to say yes? Or are you going to say no?"

Koons replied, "As of right now, looking at the two things David Ondrey said, harmonious with traffic – he said he will have 3 to 6 cars there. Maximum. I go back to smell, sound, parking and trucks. Sheldon said 1 truck a week". Koons doesn't think the fire issue is out there at this point. He hasn't read through the entire Osborn report. And, he doesn't think this would be affecting the neighbors.

Myeroff said he may make a deal with CT, saying he won't put a fire booth there – he will spray in a different location. His old shop is fine for doing that. "That could be a deal we could make."

Flaiz said he would feel a lot better about that, if there was absolutely no refinishing. That is his biggest reservation – because it borders residential. Hand refinishing with an acrylic is not a big deal, if you are not going to smell it.

Myeroff said that is a deal they could make.

Koons stated if you can't smell it, it is not an issue to him.

Myeroff said, "These spray booths are so fantastic. All EPA approved, they are all OSHA approved. They are made fantastic."

Flaiz noted that if this was on East Washington Street, this would have been a 5-minute discussion.

Myeroff noted there is a business, (right across the street from Corky and Lenny's) that has "One of the biggest spray booths for cars. It works all harmoniously. The stuff they make today is outstanding."

Flaiz said that is still his reservation. The refinishing area and potential delivery/pick up is on the east side of the building. Bordering residential properties. That is his number one reservation.

Dunning stated that CT's review of that is going to make all sorts of recommendations of how that spray booth is contained and what space it is in, and it's going to be in its own "fire area". "As far as the building code is concerned, there's no reason that you should know that there is even a spray booth in there."

Myeroff asked Planning Commission, "Do you hear of car shops blowing up all of the time? There are a million of them."

Flaiz said that would alleviate all his concerns. He would be in favor of it if that portion of the business was not in the barn.

Myeroff asked Latkovic what he thought.

Ondrey advised the board that nobody had to answer.

Latkovic said he appreciated that Sheldon was upset and suggested that he calm down. He thinks that the way Myeroff is laying this out makes sense, particularly given that it's been approved as a permitted use. As long as what Myeroff established happens, as long as there is not a lot of manufacturing going on, and that there is no dipping going on. It's a fairly limited furniture making process. He thinks that it will probably be okay from his perspective. He recognizes that the board doesn't usually do this, and he recognizes that Myeroff will have a lot of expense. He would like to see some numbers when Sheldon comes back. He wants to know what it will cost to refinish the barn and things like that. He thinks it is a fair question, to make sure he can actually do this.

Koons questioned if that was the role of the Planning Commission, to say that you are wasting a lot of money, or hey this is wonderful?

Myeroff asked if Planning Commission wanted the numbers for the outside or the inside?

Riehl said it was the inside and the building code issues.

Myeroff said they were talking about the restructuring of all of the beams.

Dunning said they are not asking him to do that. They are investigating the structure of the barn and what is there. None of them are structural engineers, so a structural engineer will look at it. In Chagrin Falls, 5 years ago, she removed a barn, turned it around, put it in place and put it next to a house. The structural engineer we are working with has done over 15 to 20 barns. Ann has said she has done a lot of barns around here. The one next to the high school is a barn that she redid. It is not something new, it's just you have got to go through what needs to be done to the barn to make it stand up a little straighter than it is now.

Flaiz asked if it would significantly lessen the investment necessary if they got rid of the refinishing portion.

Dunning said the refinishing booth has zero - nothing to do with what they are doing. Doesn't even cross her mind as what could be an issue as far as this building is concerned or the building code; - not an issue in the least.

Kostura asked if this was a standalone booth. Dunning said yes. It has fire suppression in itself, plus it will be in a fire safe room for its use.

Latkovic asked that they move to table this issue. Latkovic told Myeroff he will not get everyone's opinion on the board tonight. He thinks it would be worth Myeroff's time to move forward on the engineering report. He looks forward to hearing back on the engineering report.

Ondrey thought they should schedule themselves for the next meeting when they are ready.

Myeroff thanked the Planning Commission for their time and noted he wasn't angry at anybody at all.

New Business

1. Koons brought up some new business. One item that concerns him is having an alternate to the board. He saw this in Bainbridge, where if someone couldn't be there, they had an alternate. He thinks with tough situations, it would be nice to have had a fifth voice here. He thinks that person

would have to come to the next meeting. More discussion about the use of alternates. Flaiz noted some problems with alternates, and thought this was more of an issue with ZBA.

Ondrey said they could create the requirement that once an alternate begins a case, that alternate carries it through and the regular member is off of the board until that case is done. He thought it was tougher for Planning Commission as compared to the ZBA. For ZBA, most cases are a one-night session.

Kostura wondered who would keep track of what.

2. Koons asked Heilman about a sign for Founders Field. Heilman explains they have a young man that is doing an Eagle Scout project. He has about 6 months to get this project done, and then he turns 18. Heilman showed Planning Commission a picture of the sign that he wants to replace – a similar one in front of the high school and the South Russell Park – like a kiosk. He wants to put solar lighting inside the sign. The sign is for the Chagrin Falls Armory and Jaycees. They have already approved it. He will take down the old sign, cut it 6 inches or so below ground and fill it in with dirt. There are no zoning issues, because it is not in the commercial district and because it is for the Armory. He wants to move it a little closer to the road. It will be double sided and he will landscape around the base of it. He will maintain it for about 5 years. After that, he will get the kids coming up to maintain it. He is raising money to pay for the whole thing. His name is Christopher Mariola, Boy Scout Troop 177. Koons noted that his sister did the planters at the pavilion.

Jim Flaiz made a motion to approve the new sign for Founders Field. Bryan Kostura seconded.

Roll Call: All in favor. Motion carried 4 – 0 on a roll call vote.

Flaiz apologized for being confrontational. He felt like the applicant was being dishonest with the Planning Commission.

Latkovic said he was bothered that Riehl didn't start the meeting with the engineering issues.

Ondrey said that Riehl told him at the beginning of the meeting that they were going to have to ask for a continuance of this because of the significant engineering issues they have. He wanted to be able to make the presentation and not waste anybody's time that was already here.

Koons said the Planning Commission was fighting the zoning issue again. "This is not the Planning Commissions job."

Flaiz replied, "As David Ondrey said- there are cases that the Zoning Board says are permitted, and Planning Commission can still deny it because it's not a use that is harmonious."

Kostura said his concern is, and CT will have to answer this, they are looking at doing the refinishing on the east side. The ventilations for the spray booth will be on the east side, the spray booth will be on the east side. The east side is where all of the residential homes are.

Heilman said it is pretty far away from that.

Flaiz said it is 50 feet away from the property line.

Koons said, "But if he said he is never going to smell it."

Heilman said CT is making them come up with seismic calculations, how the building is built, etc.

Flaiz ended the meeting with a comment to Sevich, "Nothing against anybody else we've ever had doing your job, but you are absolutely wonderful. I have never seen anything this organized, and you were very responsive." Flaiz said the minutes were very useful when he questioned Myeroff.

Jim Flaiz made a motion to adjourn the meeting. Kostura seconded.

Roll Call: All in favor. Motion carried 4 – 0 on a roll call vote.

Meeting adjourned at 9:10 pm.

James Flaiz, Acting Chairman

Lorraine Sevich, Secretary

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
August 10, 2017 at 7:30PM

Members Present: Bob Brown, Jim Flaiz, Mayor William Koons, Ph.D.

Members Absent: Bryan Kostura, Steve Latkovic

Other Officials: Laura Heilman - Zoning Inspector

Visitors: Bill Zollinger, 300 Park Place, Chagrin Falls, OH 44022

Acting Chairman Jim Flaiz called the meeting to order at 7:36 pm. Lorraine Sevich conducted roll call.

Mayor William Koons made a motion to appoint Jim Flaiz as the temporary chairperson. Bob Brown seconded the motion. Voice vote, all in favor.

Koons made a motion to approve the minutes from the June 22, 2017 meeting, seconded by Brown. Voice vote, all in favor. Motion passed, minutes were approved.

1st agenda item – Stephen Ciciretto – 270 Park Place (200 East Washington Street) – Trash Dumpster Enclosure / Concrete Pad

Bill Zollinger introduced himself as the representative for Stephen Ciciretto. Their complex is known as "Park Place Condominium Units" at 539 East Washington Street. They are looking to enhance the properties by relocating the dumpsters from where they currently are. Reasons for doing this include:

- The vegetation and trees have overgrown, and the trash companies are having a difficult time picking up the dumpsters and emptying them. They have to "lose" the trees to make it easier for the trash companies to remove trash.
- They have neighbors that have their employee eating area close by the dumpsters. It would be nice to move the dumpsters and give those neighbors a more aesthetic area to eat in.
- They want to enhance the dumpster enclosure because the rest of the compound/campus has white fencing around the mechanical units, and they would like to make that look consistent.

The dumpsters would be moved to the west side of the property. A concrete pad would be installed, the dumpsters would be placed on the pad, and that area would be enclosed with a fence. The area won't be entirely enclosed, because the doors would get broken off with the trucks. It would be a ¾ enclosure. It would be a 6-foot vinyl fence, which is a little higher because the dumpsters are higher. It would shield the view of seeing the dumpsters.

Flaiz clarified that the dumpsters were at one end of the property, including recycle bins, and that all of the dumpsters would be consolidated into one location on the property.

Building Inspector Laura Heilman said that she received a phone call today from a jeweler who is considering buying the Centre Leasing building that is for sale and adding on to it (to the rear). They may have some concerns with the enclosure, but she doesn't feel this in an issue.

Zollinger said they do have a 3-foot offset from the building lines.

Koons asked what the trash hauling drivers thought about this. Zollinger replied that currently they come in on the east side, and back up to the west side. Now they will reverse the way they back up; they should be comfortable with that. It will make it easier for them to pick up the trash, as they won't have to worry about breaking branches.

Flaiz noted that the dumpsters were sitting in the open now and making this enclosed would make it a nice improvement. Brown said he drove through the area yesterday and he agrees with Flaiz.

The large plans for 270 Park Place were shown on the northern wall via projector.

Brown made a motion to approve the trash dumpster enclosure/concrete pad at 270 Park Place. Koons seconded the motion. Voice vote all in favor. Motion passed.

New Business

Koons brought up the idea of having an alternate on the Planning Commission and Zoning Board of Appeals, in the event that not all 5 members of those boards could be present. The good part of this idea is that the boards would have 5 people listening to the ideas of the applicant's. The bad part is if the topic would run over from one meeting to the next, then who would take care of that? He has talked to township trustees in Geauga County – it is a workable solution, and they are happy with having alternates. Bainbridge uses alternates. Koons gave an example of an incident where a builder did not come in front of ZBA because he knew there were not going to be 5 members present at that meeting. He feels the Village needs 5 people present at the Planning Commission and Zoning Board of Appeals. At the last ZBA meeting, there were 3 members present. He would like Planning Commission to think about the pros and cons of having alternates.

Brown asked how this was handled in other townships. Koons gave an example of where, in Burton, an alternate favored a certain point of view. The topic continued to the next meeting and the original board member was at that meeting. That original member's point of view was completely opposite, it was an ugly situation.

Flaiz gave an example of a situation that happened in Troy. The alternate was at a meeting and was in favor of changing the zoning for a particular issue. The issue continued to the next meeting, where the regular board member showed up, and abstained from the vote. It was a 2 – 2 tie, so the issue failed. There is still bad feeling about this situation, and they are still working through it. The trustees might end up overruling their zoning board.

Koons said he has spoken to the solicitor about having alternates. Koons thought 5 steps would be needed to implement a process of having alternates. He could see how easily a negative situation could happen here, and he doesn't know the solution.

Flaiz didn't think having alternates on Planning Commission was critical, as there is not much controversy. He thought it might make more sense for the Zoning Board of Appeals.

Koons said he would like everyone to think about alternates.

Brown made a motion to adjourn. Koons seconded the motion. Voice vote, all in favor. Motion passed.

Jim Flaiz, Acting Chairman

Lorraine Sevich, Secretary

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
December 13, 2017 at 7:30PM

Members Present: Steve Latkovic, Jim Flaiz, Mayor William Koons, Ph.D.

Members Absent: Bob Brown, Bryan Kostura

Other Officials: Laura Heilman - Zoning Inspector

Visitors: Donald R. Yert, 5197 Chillicothe Road, South Russell, OH 44022
Ann Dunning, A. I. A., 129 Burlington Oval, Chardon OH 44024

Chairman Steve Latkovic called the meeting to order at 7:32 pm. Lorraine Sevich conducted roll call.

Latkovic questioned the Board Secretary to see if the minutes that were presented were the corrected minutes; there was an incorrect business name in the original minutes that were sent out. Board Secretary said minutes were corrected.

Board Member Jim Flaiz made a motion to approve the minutes from the August 10, 2017 meeting, seconded by Board Member William Koons. Voice vote, all in favor. Motion passed, minutes were approved.

1st agenda item – RedBarn Properties, LLC – renovation plans/change of use to become offices.

Architect Ann Dunning presented plans for the renovation of the RedBarn Properties, LLC, to the Planning Commission. Dunning pointed out to the Board, that on the cover sheet of their plans, they were showing entrances on the South Side of the Barn – they are putting a new entrance on the south side of the Barn and had it approved by ABR. Dunning noted that time has progressed, and they are anxious to get started on some type of construction documents – they put a door on and got it approved by the ABR. They decided later that it would be better not to put the entrance there. They would take down the silo and put a new stairwell back where the silo is and have an entrance at the back. That was shown on the plans and rest of the drawings. This keeps the barn looking like the barn. Visually, other than using much improved materials, the look of the barn won't change.

Koons questioned the exit to the second floor, if it was gone. Dunning said yes, the south entrance – the other barn doors will have some kind of a secondary entrance out. Now they will have a stair tower at the back. The foundation of the silo is not in good shape. They had a structural engineer go through the building, and it is definitely repairable. They will do whatever they can with code to

take care of the structure and the remodeling of it. Until they get the approval for the use as an office building, they won't be able to proceed.

Flaiz clarified that they were: removing the silo and just rebuilding the frame, the same place for the stairwell, as well as the roof line on the north side - it won't project out. The roof will remain the way it was designed. Dunning answered yes, and pointed out that the newer elevation showed that – further back in the drawings. Dunning noted that the front page is the only page that does not show the elevation. Dunning explained that they kept the first page of the document, because it was approved.

Flaiz noted that it was nice to see how the building looks now, versus how it will look.

Dunning said they have also gone through the calculations using the building footprint – the second floor and first floor will be the same footprint size. The rentable area - both floors, have areas for a lunchroom and toilet rooms. The calculations for the number of cars comes out to 19.77, or 20 parking spaces, of which they will have adequate room. Until they find out if they have to use all 20 parking spaces, they want to landbank the property and keep it green until such time they know who is renting the building and how many parking spaces they truly need, rather than putting down permanent paving if they don't need to. Dunning explained what they are trying to do, environmentally, is to avoid more water runoff. If they don't need the extra parking - if they landbank it and dedicate it - that it is parking space, they should be able to maintain it as green.

Flaiz asked if they would expand the asphalt lot if they rented out more office space. Dunning answered yes. Flaiz asked if they would still contemplate removing the block building and the garage now. Donald Yert answered sure. Dunning and Yert said they are gone.

Dunning explained that as they go through this process, their final documentation would show the number of parking spaces they would have, with the building permit. Both Yert and Dunning thought parking was important to bring up at this meeting. They have 20 parking spaces now.

Flaiz asked if they had a tenant in mind. Yert said they do not – they don't know yet what the layout of the building will be, don't know if the building is structurally sound, and don't know what it will cost to make the building structurally sound. He has to figure out what the costs associated with making this barn structurally sound will be, versus tearing it down and putting a smaller building up. He would prefer to keep the barn because he feels it would be easier to rent as an office space/barn versus another modern building. It would be 2 stories and he does not like 2 stories – he likes 1 story buildings. With 2 story buildings, you need elevators.

If he built a new building, it would be smaller, about 4000 square feet, and it would be more modern. It would be just another office building in South Russell to rent.

Dunning spoke about the development around the neighborhood of South Russell – by keeping the red barn, keeping the white house and modernizing it with traditional architecture – you stop the visual flow of 'commercial' looking on down Bell Road. Both Dunning and Yert believe that is really important and is a priority in how they work on this project.

Dunning brought up that during construction, they look at the building and refer to it as a 'vanilla box' – you start with that box, then put in all the heating and electrical that is needed. Then, as the tenant comes in, they decide how the space needs to be cut up. That will be another step in the process of committing to this, after first getting the plan approved from the big 'open box' space. They would have to make sure the tenant space met code requirements.

Latkovic clarified with Dunning and Yert that tonight, they were seeking approval for the use of the Red Barn, just as an office building. Yert replied yes. Latkovic asked, "If you determined that it

will cost too much to renovate the building, would you then knock it down and build an office building? If Planning Commission approves the use of this existing building as an office building tonight, are we approving the use of the parcel so that it is done, or does it come back to Planning Commission?" He likes the use of the Barn as an office building and thinks it should stay there, and he has a concern about knocking it down and building another building. He wants to understand the oversight about what the Planning Commission will do tonight.

Solicitor David Ondrey explained that the role of Planning Commission tonight was development review approval. He explained that if they would not go forward with the use of the barn in the fashion they are presenting, they would have to come back to get new approval.

Dunning said zoning approval. Ondrey replied that it was already zoned for this use and all they were looking at tonight was development review. Ondrey showed Latkovic the Standards for Development Review.

Flaiz complemented Dunning on the plans she created for Red Barn LLC properties. He said she did a very nice job and they were some of the better plans he had seen.

Heilman told Planning Commission that South Russell Village recently passed an ordinance that said all buildings will have asphalt or hard surface parking. She noted that Yert has already paved his other properties.

Dunning said that is why they were asking about the land banking for the parking area. Yert said he doesn't want to pave it and let it sit there – if a tenant comes in and has 10 people, or between the top and bottom floors have 12 or 15 people, why pave space for 20 people.

Heilman said she didn't have a problem with the number of spaces, she just wanted everyone to be aware that at some point, it will need to be paved.

Koons asked how this process would work – he gave an example of the Red Barn needing 8 parking spaces – how would that work timing wise, and when would Yert need to pave. Heilman replied it needed to be done when he has occupancy. There is a calculation to determine the number of parking spaces needed and noted that Yert probably wouldn't want to pave it piecemeal, because it wouldn't look nice. Heilman said he will know how many tenants he'll be allowed to have in that space. It will all be calculated, and he will know exactly what he has to do.

Dunning added that when you are doing construction, you keep the paving until the very end.

Flaiz said you might get a tenant that wants 5 huge offices and they may have 7 employees. In this case it would not be a good thing to have a huge parking lot. Yert said in that case, they would make a parking lot for 10.

Latkovic asked if the ramp would just be for ascetics. Dunning replied they need to have a second-floor exit. They have one fire exit, but that door would be an ancillary exit at the top. Yert said they have to add a man door. Flaiz clarified that this would be an emergency exit. Dunning and Yert replied yes.

Dunning said they would then be ready to landscape the building. Yert was thinking about landscaping with Knockout Roses around the building. Yert said he wanted all wildflowers.

Latkovic noted that he had a family Christmas photo taken on the grass ramp going up to the barn, he feels a bit nostalgic about the barn.

Koons noted if that ramp stays forever they would all be very happy.

Latkovic clarified that the gross square footage of the barn is about 6600 square feet and asked Dunning how many square feet that would be rentable. Dunning replied she came up with 5942 square feet.

Flaiz thought the plans were very nice and thought there would be a good market for this space. Yert agreed and said that is why he is trying to get a hard cost on what it would take to make the space habitable. If they do tear the barn down, he has clients who take the barn down for him. They don't charge for that service, because they want all of the wood and beams. If he fixes the barn, he wants to keep and show all of the exposed beams; not cover them up with drywall. To do it right, they have to fix the outside to secure the barn, so it doesn't sway. He owns an office building in Chardon, next to Get Go, which he built that in 1990. He also did a rehab on a building in Willoughby – in the historical district, 5 years ago. He noted that the city loves that building.

Flaiz thinks the new plans for the Red Barn are nice and noted that there is plenty of boring new construction office space. Yert said if he would build another building with brick or stone, it would just be another office building.

Flaiz made a motion to approve the plans for office space for the Red Barn, LLC. Koons seconded the motion. Voice vote all in favor. Motion passed.

2nd agenda item – Riparian Setbacks Ordinance

Koons said he would like to discuss this issue at different meetings, have everyone there and involved - including Eric Haibach, Engineer, so they could really look and dissect the topic. Perhaps vote on the issue in May. Tonight, he noted, will be a good start of the discussion.

Flaiz said his recollection was that Planning Commission tackled this issue 7 – 9 years ago, when it was first proposed.

Heilman said she had Riparian Setbacks in the comprehensive plan.

Flaiz recalled that the Chagrin River Watershed went around to all of the communities and pushed this same issue years back. He thought a lot of communities adopted it at that time. On Planning Commission, they went through an analysis that took a lot of time to go through. When they initially read the proposal, it made sense. But as they started to look deeper into it, they had more questions - questions such as what are considered water courses in the village, what is near a water course, and how this would impact certain scenarios with the property rights of residents. His recollection was that ultimately, Planning Commission did not pass it.

Ondrey said he did not think it was quite the same pressure then, as the storm water regulations are right now.

Flaiz asked if the EPA was requiring South Russell to do this, or if this was this the Watershed Partnership trying to get this done.

Ondrey replied that it was a combination of both. What he understands from Eric Haibach is that, they are anticipating this will become mandatory at some point in the future. He doesn't think anyone could give them a time frame as to when that would be.

Latkovic asked who would make it mandatory. Ondrey thought it would probably be the Ohio EPA. The Chagrin River Watershed could counsel their communities that contract with them. As this is designed to minimize streambank erosion, Chagrin River Watershed is in favor of it.

Koons thought it would be good to have this issue resolved by May. His idea is, that between now and May, have meetings to include the solicitor, building inspector, the people from the Chagrin River Watershed. He feels it would be best to ask any questions and really see what this issue will be about - what is the intent of the Riparian Setback. He feels the intent is good, and the outcome will be good; but the Village does have a lot going on with Storm Water issues. He feels it is vital to hear from everyone involved on this topic. Koons suggested perhaps 3 different half-hour discussions.

Flaiz agreed and said he would like to see the Riparian Setback guide map, as it is referenced as exhibit A. He remembers what they talked about the last time this was looked at – some residents on certain streets were not able to put a shed in their back yard. There were a lot of issues identified with water courses and where they were draining. Some residents were not able to put a deck on the back of their house. Planning Commission will really have to look at how much this would restrict the ability to do exterior alterations on resident's homes and decks and adding sheds. If someone is on a half-acre lot, and there is a creek in the back yard and they want to put up a shed, they may not be able to. Some significant property rights can be taken away.

Koons said that is why they have to bring in the experts and know the intelligent questions to ask.

Planning Commission members viewed the Riparian Setback guide map.

Flaiz pointed out some homes on the map, homes where you would not be able to put in a deck – within 25 feet to 75 feet.

Latkovic noted that this issue was new to him, some members have already dealt with it. He asked why they needed a setback from these waterways – what were the benefits – and if the problem erosion.

Heilman said yes and gave an example of property on Snyder Road where there is a pretty good-sized stream that runs right through a residents back yard. The resident wanted to put a shed on the other side of the stream, with a bridge over it. In the summer, there is not much water that goes through there. But in the spring, that water really fills up. She feels it is not a good idea to have this residents bridge going downstream to someone else's property and getting caught in a culvert pipe, etc.; they have had those types of issues. They've had tires that got caught in culvert pipes, which caused all kinds of flooding for other people. The Riparian Setback is partly to control issues like that, but also to preserve the actual streambanks. All the plantings, all the rocks – you want to keep away from that, so the stream doesn't change its course over time.

Ondrey said all of the regulations are designed to slow down the flow of surface storm water. Because as the water is channelized, it builds and binds, the water goes down stream quicker - that is what is causing flooding in a lot of communities. If people are required to stay away from streambanks and just have natural banks with natural vegetation and trees, etc., that will help deal with storm water problems all over.

Flaiz noted that the requirements state 25 feet or 75 feet – he knows some resident's decks are within 75 feet and wondered if that meant residents in those areas would not be able to build anything in their back yards.

Ondrey noted that in a case like that, the resident would be grandfathered in. Flaiz replied, Now - but what if he/she wants to put something else in – that would be a significant change.

Latkovic read through some of the zoning code to establish regulations for riparian setbacks. With landscaping – a resident potentially would have to have someone come in to get a conditional use to landscape their back yard. He felt that this is a pretty substantial issue. He agreed with Koons, if

this is something they have to address, he thought what Koons suggested was the right way to proceed. To get everyone educated, and to hear about Riparian Setback, as it is a pretty significant issue.

Flaiz remembered when they looked into Riparian Setbacks years ago - going through some lots on Southwyck and some other areas – some areas with setback requirements cover the entire lot. They viewed some lots where residents literally could not do anything to the exterior of their home, including landscaping, if this ordinance was passed. That is why he thinks they moved away from Riparian Setbacks. He doesn't disagree that this is an important issue and South Russell does have some significant storm water issues; he doesn't know how much is attributable to building so much anymore. Maybe some of the subdivisions - when initially put in - just weren't planned out very well. He wants everyone to be aware how this would really significantly affect a number of South Russell Village residents.

Koons thought they should figure out the issues they foresee and have them ready for the next meeting.

Flaiz asked who wrote the Riparian Setback zoning code. Latkovic thought it was the Chagrin Watershed Partners.

Flaiz said he would like to see this Riparian Setback zoning code closer up – he thought when they looked at this before, they were able to visit subdivisions and see where existing structures were, and where the exclusion zones were, with a structural overlay.

Heilman said she would like to see Eric attend the meeting and give an explanation, because he is very involved with all of the storm water problems. He is developing a plan now for the Village and he is really South Russell Village's expert on soil and water and because of that, it is important that he be here.

Koons said they were going to meet with people from the Chagrin Valley Watershed tomorrow afternoon. He will ask them what other communities have done. "Maybe we should say in February we want Eric Haibach and the Watershed people here at the same time. We can tell them we want a presentation on this issue, with the good and the bad. This is nothing new to them, it should be pretty simple for them to make a presentation to us."

Latkovic asked if the Chagrin Valley Watershed was a non-profit. Multiple people answered yes.

Flaiz said he would like to see some sub-division maps that indicate structures that show the 25 – 75-foot setback areas overlaid on these subdivisions. Not all of them, probably Paw Paw, Lake Louise, Champion Lane, Snyder, Southwyck, Chagrin Lakes, Sugar Bush, Bellwood, Alderwood.

Koons said they should be able to do this. He said that they may be giving a job to the Board Secretary looking at some maps on access Geauga map system. Flaiz thought the Watershed partnership or the engineer would have to do that.

Ondrey thought they could probably take the GIS and do an overlay of exactly where the areas are.

Latkovic observed when he read through the Riparian Setback ordinance, that they define native vegetation, what is native, what is not native, without getting into much detail. It appears that there is potentially a lot of information that they could talk about and address and try to craft – a limited but effective ordinance around these regulations.

Ondrey said Planning Commission could hold a public hearing if they want to – the board could make a recommendation to do that.

Koons asked if they should start with Eric Haibach in January and the Watershed in February. Flaiz thought when they meet with Eric, they should have some better maps.

Latkovic asked if the Board Secretary could send an email to everyone and see who is available for the January 11th meeting. The meeting will have to be coordinated with the engineer and Chagrin Watershed to see if they are available to come. If not, Planning Commission can have the meeting with them on February 8th. The mayor said he would talk to the Chagrin Watershed tomorrow and see if they could come in February. He asked if Eric Haibach should come in January and Chagrin Watershed in February, or if they should both be here at the same time. Flaiz thought they should meet with Eric Haibach first; and not meet with both the engineer and Watershed at the same meeting. Latkovic agreed.

Ondrey said he would like to hear how inevitable this legislation is.

Flaiz thought they were saying that this legislation was inevitable when they reviewed this issue some years ago. They got a lot of communities to pass this legislation. Some communities tinkered with and changed the setbacks.

Koons thought Flaiz was correct when he talked about tinkering with the legislation. There may be some things that will have to change in the ordinance.

Flaiz thought an option also was not to do anything. Latkovic said that this legislation has to be very carefully crafted.

Koons said he will be in touch with Eric Haibach.

Flaiz said he didn't want to throw cold water on this issue; Koons replied Flaiz was not, and he thinks this needs to get done, but it has to be done correctly.

Latkovic said he needs some serious education. He doesn't know anything about what the harm is being caused; he looks forward to hearing from Eric Haibach.

The mayor pointed to the map on the large map of South Russell on the wall, and noted all of the sticky notes on the map. He explained that those sticky notes represented the water issues in South Russell Village. He noted that Eric Haibach will be coming on January 22, 2018 to talk about one of the water issues on the map.

Old Business

Koons said he has been talking about alternates to the Planning Commission and Zoning Board of Appeals. He has talked now to Auburn Township, Burton, Bainbridge, Chagrin Falls and Moreland Hills as to what they do or do not do with alternates. Basically, there would be 2 people that would be alternates on Planning Commission. One of them would be John Dishong. John has 18 years of service with the Village, serving on Council and ZBA. He's got an overall view of the Village. What they would do, in a meeting like tonight, they would have 2 alternates they could call. The candidates would be sworn in – probably at the end of January - because they would have to do an ordinance. He didn't want to do anything while Dishong was still on Council.

The Board Secretary would send all correspondence dealing with Planning Commission to these people. They would expect them to attend 2 to 3 Planning Commission Meetings between January and July, so they would understand what was going on. So, if they were called in for example, in July or August, it wouldn't be like they would be there and not know anyone, they would be able to talk intelligently. If an issue came up, they would stick with it until the issue was resolved. Someone actually called it a 'farm system' – the idea is to have people who are knowledgeable, who

work their way up and would be able to step in. He recalled at a ZBA meeting, where a new member was on that board, and he didn't think that member knew who the people were that were sitting on either side of him. Koons thinks this approach would be a much better situation and would be good for the community.

Latkovic clarified what Koons said, "For example – if Dishong was there tonight - would he (the alternate) stay on and sit as a Planning Commission member throughout the entire issue, for that specific issue?" Koons answered yes, if the RedBarn came back in January, he (the alternate) would be there. Latkovic questioned even if all the Planning Commission members were present? Flaiz thought that was a problem – he didn't think you could remove the regular member, and noted that was a problem they've had with Townships. Latkovic thought the idea of alternates was good – he just doesn't know how it will work.

Ondrey thought alternates would work better with ZBA, because you stick with an issue. He thinks you could force off the regular member, if they missed the earlier meeting, if it is in your legislation.

Latkovic asked if you force the member off for one issue, how that would continue. He gave an example: "Let's say Dishong is here for one issue. At the next meeting, they have multiple issues. Does Dishong just vote on one issue, then the other person votes on the other issue?" He liked the idea, just is not sure how it will work.

Koons said the only issue he has had lately is to find another type of person like John Dishong. Somebody who has the wide-view, the long-term picture of South Russell. He believes it would be nice to have 2 people.

Latkovic noted that Planning Commission does not have that many meetings. "Would it be too much to ask to come to a meeting? And then, when a member is not here, they could just sit in on the meeting?"

Koons gave an example using the RedBarn. If the RedBarn appeared at 2 meetings, so would the alternate. The alternate would be here for 2 meetings, then they would be gone. He compared it to musical chairs. Flaiz thought that would be rather odd. Koons noted that having alternates was a service too, and feels they should have 5 citizens make a decision.

Latkovic estimated that they could potentially have 7 people (5 members + 2 alternates) at a Planning Commission Meeting. Koons agreed, you could have 2 alternates sitting in the audience, waiting to come in. Latkovic stated that they would then swap chairs, they sit down for an issue, a board member goes out. Koons said he doubts that will ever happen – he doesn't know if they will use an alternate.

Latkovic asked if the Chairman of the Planning Commission was out, what would happen. Flaiz said you would have an Acting Chairman. Latkovic asked if they would be Acting Chairman just for that issue.

Flaiz noted another problem – it hasn't happened for a long time. What if an issue came up such as a subdivision? Or a comprehensive plan, or an ongoing development? There are times when the Planning Commission is very active requires a lot of time and work.

Latkovic noted that the Riparian Setback was not a small issue.

Heilman suggested adding 2 more regular members to the Planning Commission board. It still would take a majority to pass something, however, the chances of getting a quorum increase a lot. Flaiz said you would still need 4 people of the board, and Latkovic brought up the issue of a deadlock. Ondrey said in that case, the Chairman would break the tie.

Latkovic said the idea of having alternates is not a bad idea. Flaiz suggested perhaps having 1 alternate instead of 2; it would be easier to manage. Flaiz noted that when Planning Commission members miss a meeting, it is usually 1 person that might miss a meeting. What they have tonight is very unusual.

Koons said the only reason he picked 2, is because, frankly, when he went to a Bainbridge meeting, he met the 2 men that were both alternates. Ondrey asked if that meeting was a Planning Commission meeting or a ZBA Meeting. Koons said it was a ZBA meeting. Koons stated he does not have a problem with having only 1 alternate. The only problem they could have is that Dishong's job has gotten busier, he was not able to attend 2 or 3 council meetings a year. Koons still believes Dishong is the best choice.

Flaiz thought it was easier for ZBA to have alternates. He thinks alternates are important for ZBA; they were running into some problems with only having 3 people to hear variances. And normally, ZBA variances are solved with 1 meeting, very rarely do cases go to a second meeting.

Ondrey noted that the ZBA meetings have been changed to a pre-scheduled meeting day and time, the 3rd Wednesday of every month. So now that those meetings are scheduled in advance, hopefully the members will miss less meetings. Prior, meetings have been scheduled ad-hoc, whenever an issue came up.

Latkovic suggested starting with 1 alternate - they have John Dishong identified - and see what happens. Koons said he does not have any problem with that. 2 alternates for ZBA, 1 for Planning Commission, and they move on this at the end of January 2018. It would take effect in July 2018.

Koons said he will get Eric Haibach here for the January meeting, and the Watershed people here for the February meeting. Perhaps in March, both Dave and Laura Heilman.

New Business

Latkovic brought up exterior lighting. In the Gallery building, on East Washington Street, did that require special approval for someone to put exterior lighting on the building? Heilman didn't think so. Ondrey didn't think so either, noting that he has not really looked at the issue. Heilman said in the lighting ordinances and zoning code, there was nothing there. Ondrey thought you could not shine light on any neighbors.

Latkovic observed that The Tame Rabbit was pretty dark in the morning, and they have the side entrance, and it would be good to have exterior lighting there, maybe something on the wall that lights up. The owner wants it. Heilman said she has no objection, and Ondrey said you don't need a permit.

Jim Flaiz made a motion to adjourn the meeting at 8:20 pm. Koons seconded the motion. Voice vote, all in favor, motion passed.

Steve Latkovic, Chairman

Lorraine Sevich, Secretary

12-13 17



Existing West Elevation



Existing South Elevation

Issued for ABR Review 10-15-2017, Issued for Plan Review 11-17-2017
Revised 11-27-2017 Stair Location Changed.

Phase One Renovation of Entrances and Toilet Area

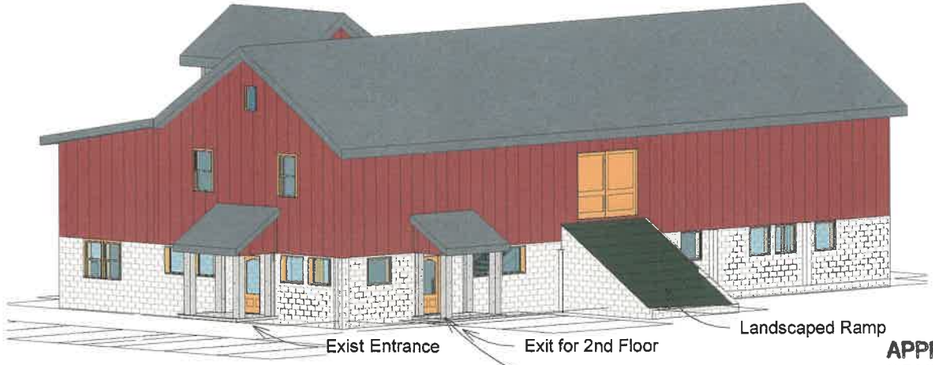
REDBARN LLC. Red Barn @ 5197 Chillicothe Road South Russell, Ohio

LIST OF DRAWINGS

100 COVER SHEET
C101 SITE PLAN
A101 GROUND FLOOR PLAN - PHASE 1
A102 2ND FLOOR PLAN - PHASE 1
A103 WEST ELEVATION
A104 SOUTH ELEVATION
A105 EAST ELEVATION
A106 BARN CROSS SECTION
A107 ENTRANCE DETAILS
A108 TYPICAL WALL SECTIONS

OHIO BASIC BUILDING CODE
B-1 Business Occupancy
TYPE VB Fire Resistance Rating
Full code analysis to be provided when tenant is known.

BUILDING INFORMATION
First floor = 3644.28 sf
Second Floor = 3028.06 sf
No change in foot print.



1 Barn View

remove





remove



APPROVED BY
SOUTH RUSSELL PLANNING COMMISSION
DATE 12/13/2017
CHAIRMAN
SECRETARY

STATE OF OHIO
ANN M. DUNNING
4200
REGISTERED ARCHITECT

Ann M. Dunning, A.I.A., Inc.
Ohio 4200 Expires 12-31-2017
Certificate No. 00074000

Ann M. Dunning, A.I.A., Inc.
62 Morningside Drive, Chagrin Falls, Ohio 44022
Tel: 440-338-4750 Email: adunning65@att.net

RedBarn Properties
1225 BELL ROA
~~5197 Chillicothe~~ Road, South Russell, Ohio

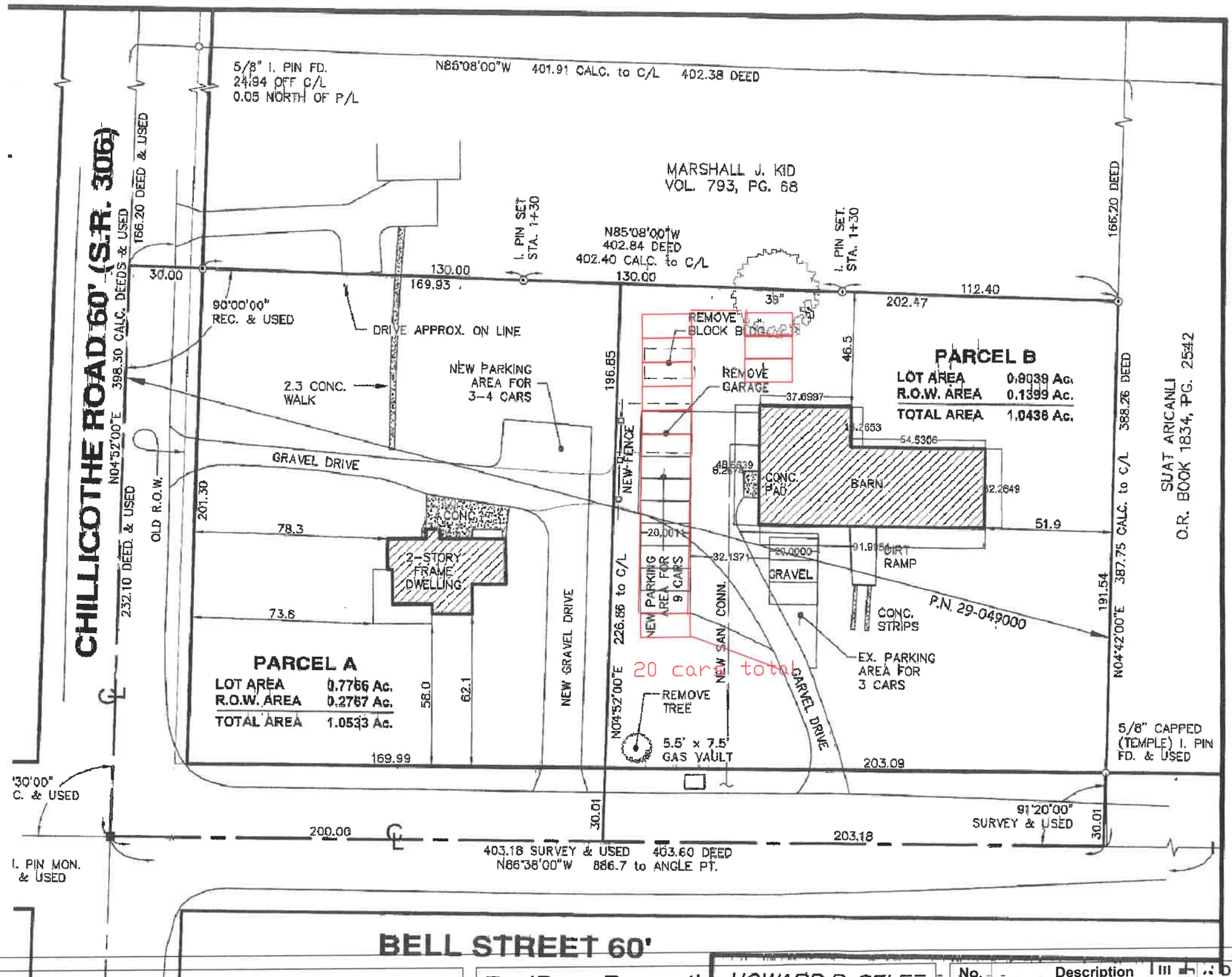
Phase One Renovations

No.	Description	Date

Barn View

Project number	12-09-2017	101
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale

11/27/2017 5:20:02 PM



Site area = 1.0438 Acres - 45,302.4 sf
Building Foot Print = 3497.53 sf. 53 sf.
Second Floor w Stair 3497.53 sf 53 sf
Net Rentable = 2966 +2966 = 5932 sf /300 sf = 19.77cars
20 parking spaces required @9'x20' = 3600 sf
Drive @ 20' wide x 176' long = 3520 sf
Total Lot coverage = 3498 + 3600 + 3520 = 14,116 sf = 31.16%
(Allowable =15,855.4 sf or 35%)

Drawing not printed to scale

Ann M. Dunning, A.I.A., Inc.
129 Burlington Oval Drive Chardon, Ohio 44024
Tel: 440-338-4750 Email: adunning65@att.net

RedBarn Properties
1225 Bell Road, South Russell, Ohio 44022

Phase One Renovations

No.	Description	Date

Preliminary Site Plan

Project number	12-09-2017		C-1
Date	Issue Date		
Drawn by	Author		
Checked by	Checker		Scale

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12-11-2017 1:43 PM



West Elevation
Replace Doors
+ New Posts



South Elevation
New Entrance
to 2nd Floor



East Elevation
New Door, Roof
And Posts

New 2x4 walls + 5/8" drywall to ceiling
Remove ceiling insul w R=30 + 5/8" drywall

Remove Silo
Install sleepers, vapor barrier and new wood floor.

Remove Existing Walls
Ceiling & Fixtures

Exist Conc Blk Walls

New Stair & Exit

Exist Conc Blk Wall

Mech

Lav

Lunch

Ex. Sliding Door Renovated

Remove existing wood ceiling between Beams. Insulate w R=30 and install 5/8" drywall ceiling between beams. Existing Beams to be exposed Trim w cedar to finish panels.

A103 2 Exist Conc Slab on Grade

New 12" sq posts + 1/2"posts @ wall Trim w traditional post cap and base trim. Posts & trim material to be Azek

Incoming Elec

1 A106

1 A104

Barn Hill to remain ans exit and be landscaped

1 Ground Floor
1/8" = 1'-0"

1 A105

Gross Square Footage
First Floor 3644.28 sf
Second Floor = 3028.06 sf

PLAN REVISED 11-27-2017
STAIR TO REPLACE SILO

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RedBarn Properties
~~5197 Chillicothe~~ Road, South Russell, Ohio
Phase One Renovations

No.	Description	Date
1	Revision 1	Date 1

Ground Floor Plan Phase 1

Project number	12-09-2017	A101
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale 1/8" = 1'-0"

11/27/2017 5:22:21 PM

37' - 8 3/8"

A B C D E F G

630 SF

Raise Floor

New Stair
replace Silo

16' - 4"

16' - 1"

13' - 10 3/4" 11' - 1" 15' - 9" 13' - 7"

1

19' - 8"

2976 SF

48' - 8"

11' - 4 5/8"

15' - 6 5/8"

Raise Floor

2

3

4

5

A103 2 32' - 4"

20' - 7 5/8"

11' - 8' - 2 3/4"

11' - 5 3/8"

15' - 6"

32' - 3 1/8"

1 A105

Exit

92' - 0"

1 A104

1 Second Floor
1/8" = 1'-0"

Min Floor area = 2944 sf
Smaller area = 109 sf.

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62 Morningside Drive, Chagrin Falls, Ohio 44022
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RedBarn Properties
5197 Chillicothe Road, South Russell, Ohio

Phase One Renovations

No.	Description	Date

Second floor plan

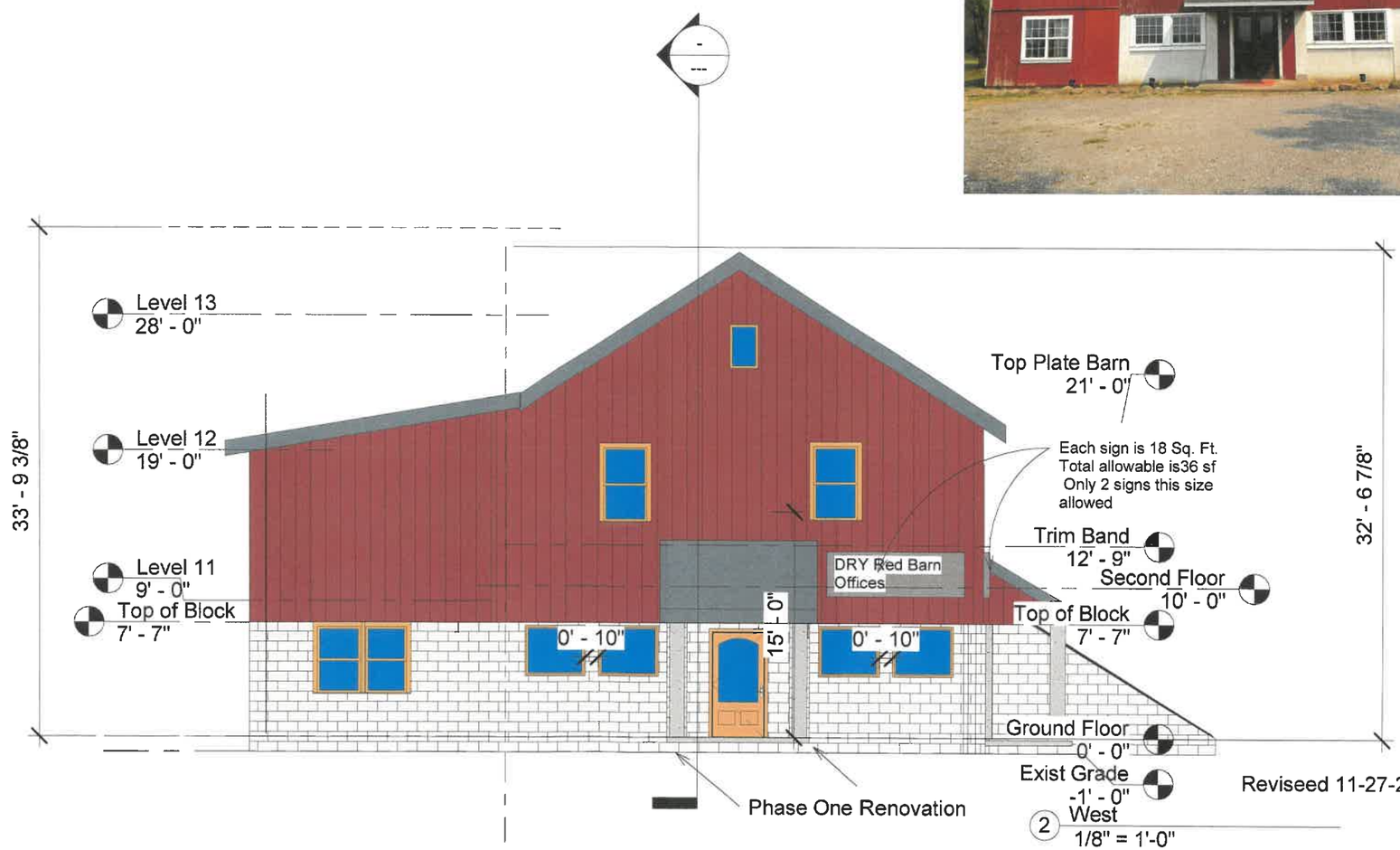
Project number	12-09-2017
Date	Issue Date
Drawn by	Author
Checked by	Checker

A102

Scale 1/8" = 1'-0"

11/27/2017 5:25:17 PM





2 West
1/8" = 1'-0"

Reviseed 11-27-2017

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62 Morningside Drive, Chagrin Falls, Ohio 44022
Tel: 440-338-4750 Email: adunning65@att.net

RedBarn Properties
5197 Chillicothe Road, South Russell, Ohio
Phase One Renovations

No.	Description	Date

West Elevation

Project number	12-09-2017	A103
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale 1/8" = 1'-0"

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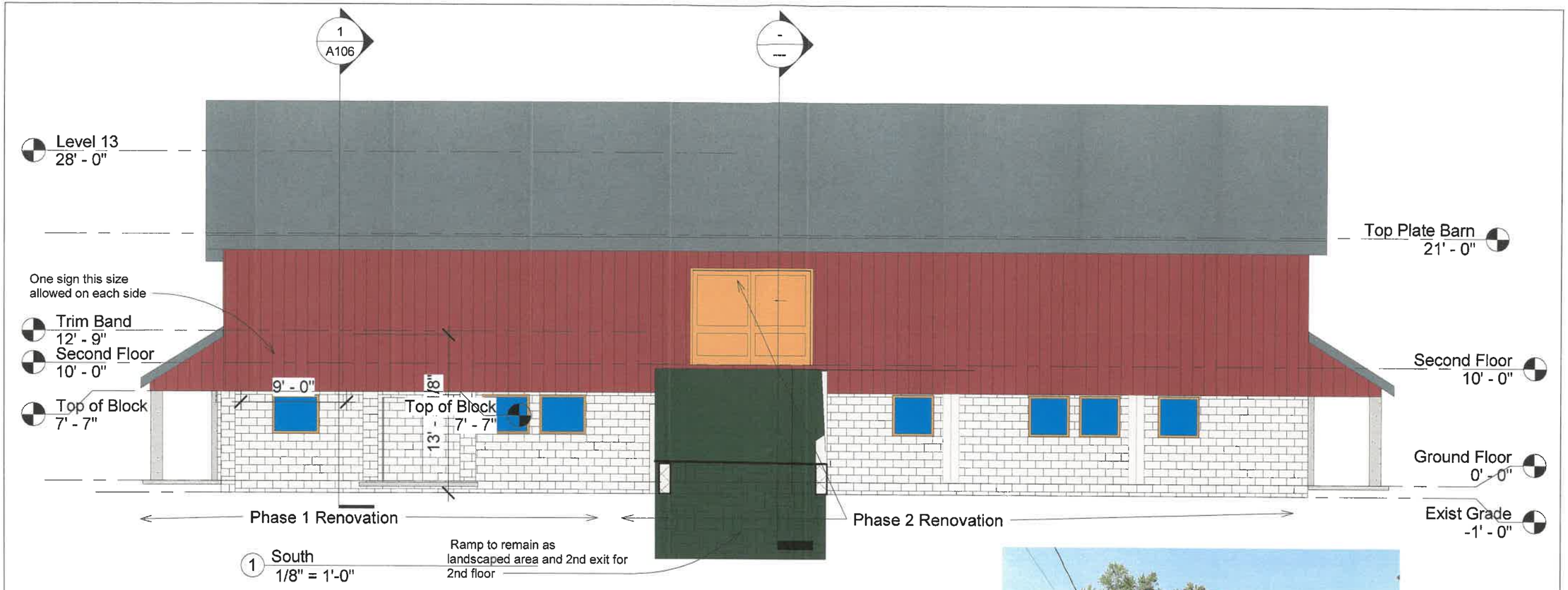



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62 Morningside Drive, Chagrin Falls, Ohio 44022

Tel: 440-338-4750 Email: adunning65@att.net

RedBarn Properties

5197 Chillicothe Road, South Russell, Ohio

Phase One Renovations

No.	Description	Date

South Elevation

Project number	12-09-2017	A104
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale 1/8" = 1'-0"

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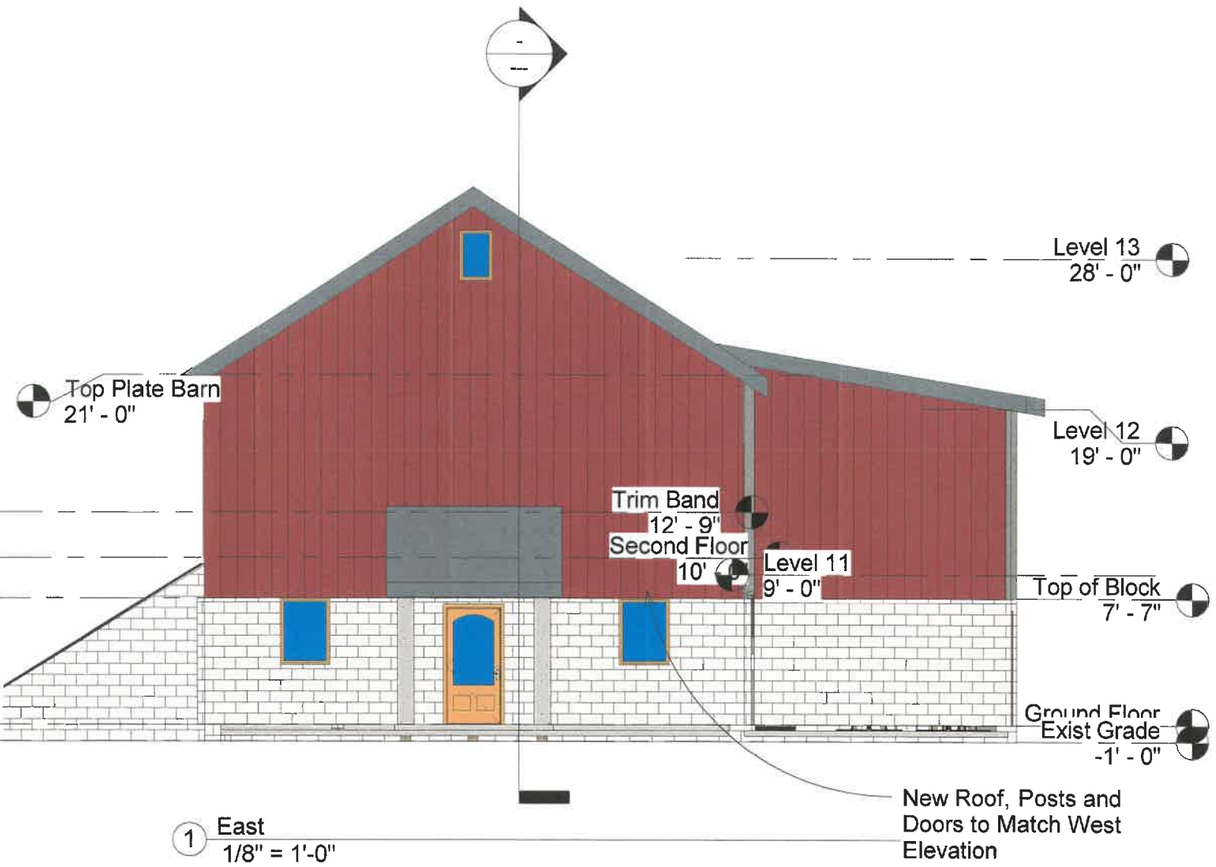

1 East
1/8" = 1'-0"



Existing East Elevation

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62 Morningside Drive, Chagrin Falls, Ohio 44022
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RedBarn Properties
5197 Chillicothe Road, South Russell, Ohio

Phase One Renovations

No.	Description	Date

East Elevation

Project number	12-09-2017
Date	Issue Date
Drawn by	Author
Checked by	Checker

A105

Scale 1/8" = 1'-0"

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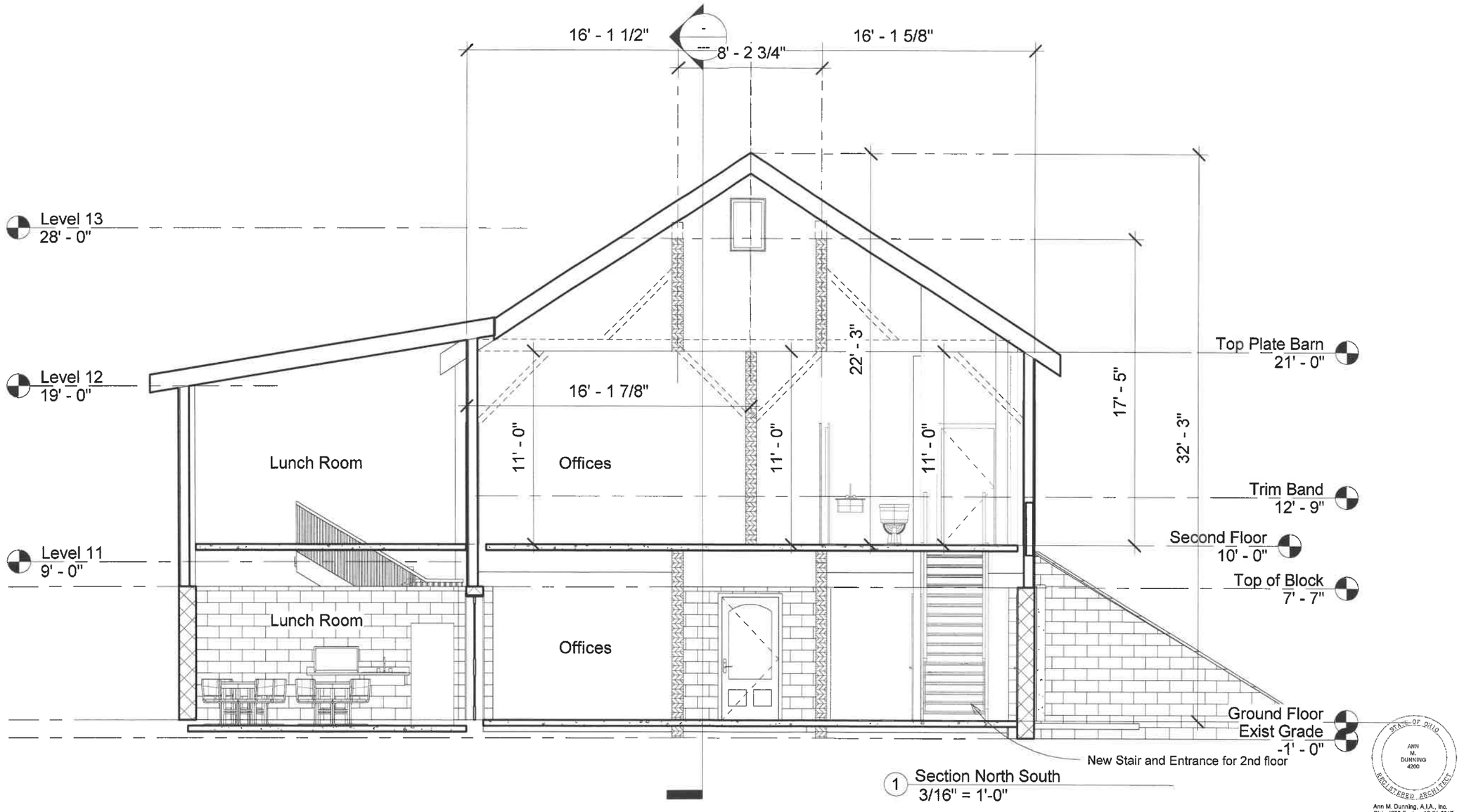

1 Section North South
3/16" = 1'-0"

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62 Morningside Drive, Chagrin Falls, Ohio 44022
Tel: 440-338-4750 Email: adunning65@att.net

RedBarn Properties
5197 Chillicothe Road, South Russell, Ohio
Phase One Renovations

No.	Description	Date

Cross Section

Project number	12-09-2017
Date	Issue Date
Drawn by	Author
Checked by	Checker

A106

Scale 3/16" = 1'-0"

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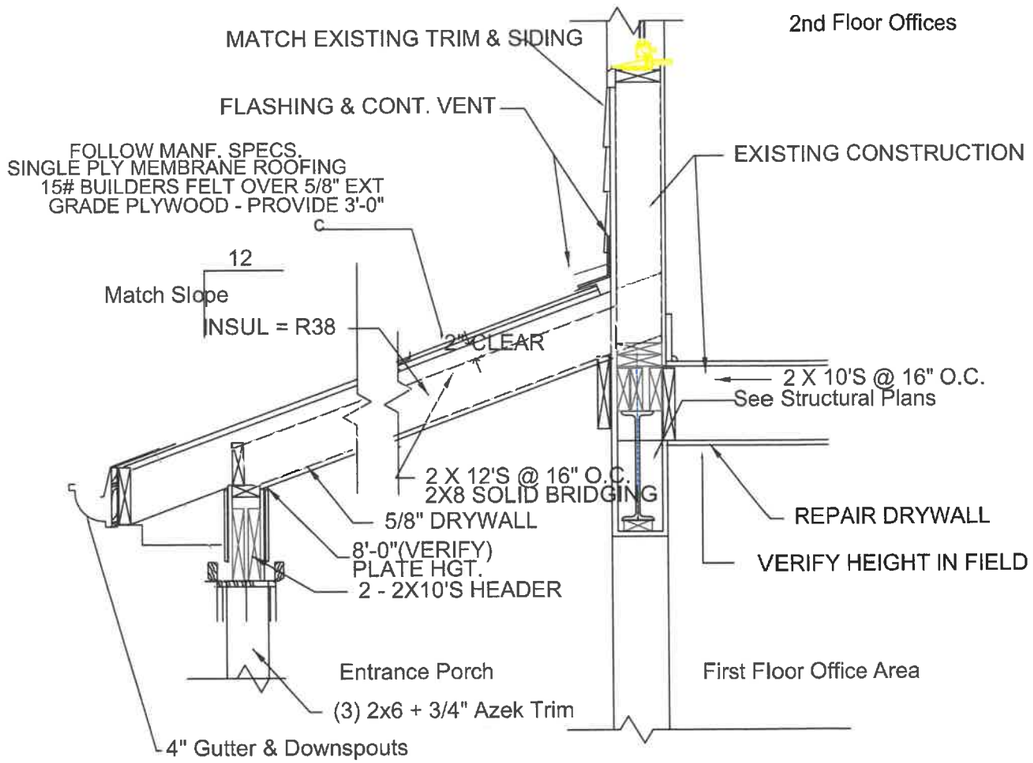

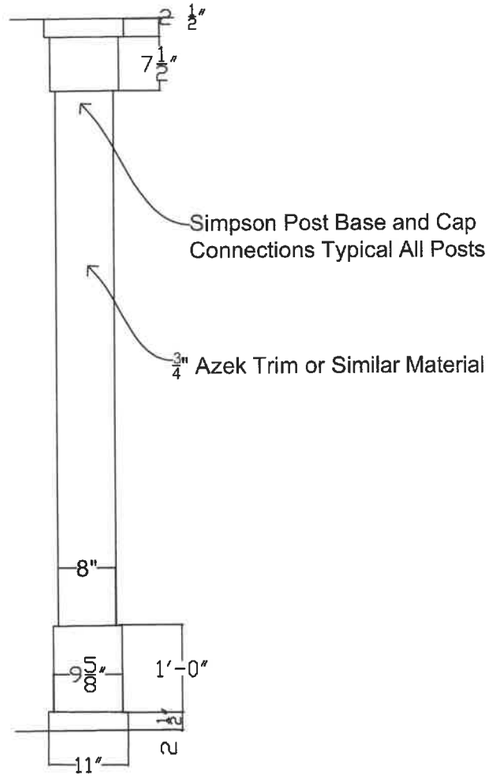

INTERIOR WALL OPENING DETAIL

SCALE: 3/4" = 1'-0"

POST PROFILE

STATE OF OHIO
ANN M. DUNNING
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Certificate No. 00074000

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62 Morningside Drive, Chagrin Falls, Ohio 44022
Tel: 440-338-4750 Email: adunning65@att.net

RedBarn Properties

5197 Chillicothe Road, South Russell, Ohio

Phase One Renovations

No.	Description	Date

Details

Project number	12-09-2017	A107
Date	Issue Date	
Drawn by	Author	
Checked by	Checker	Scale

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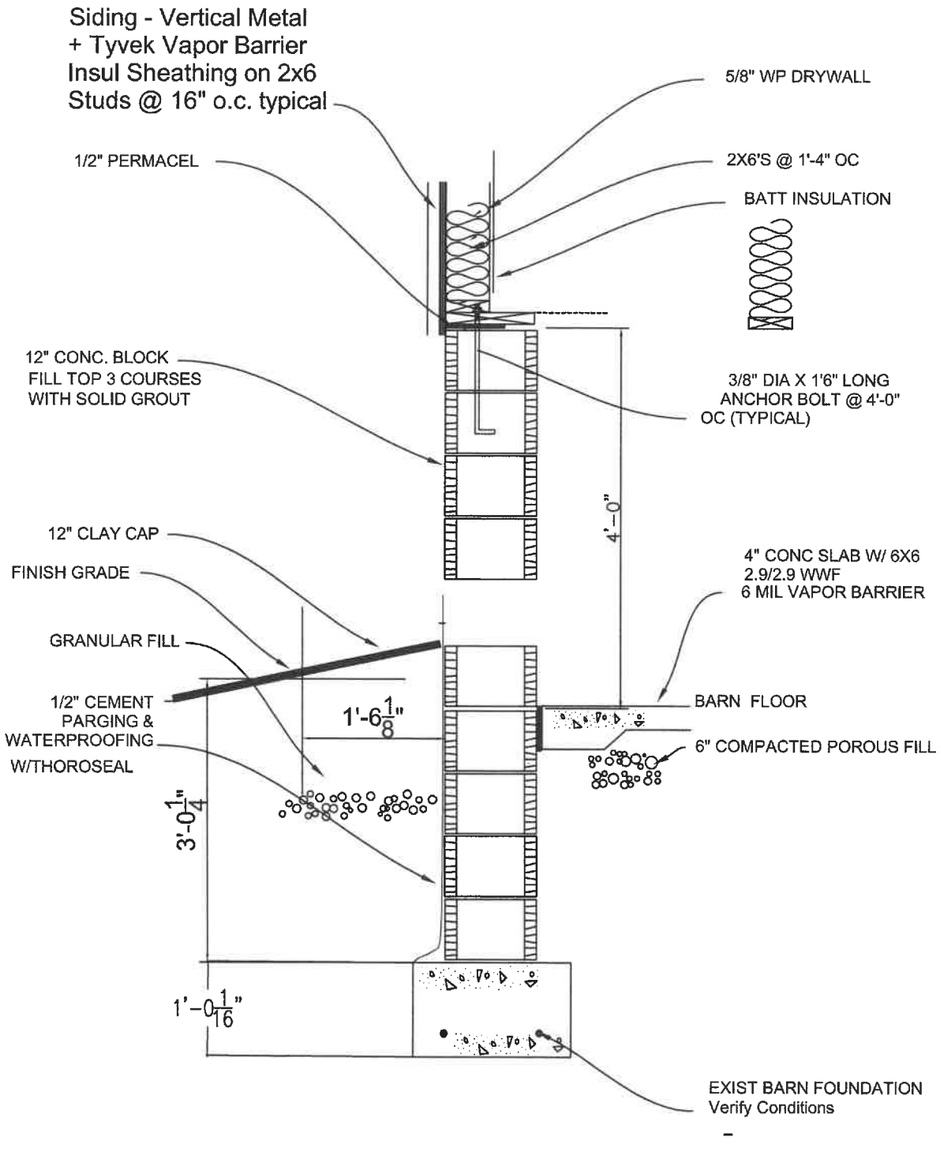
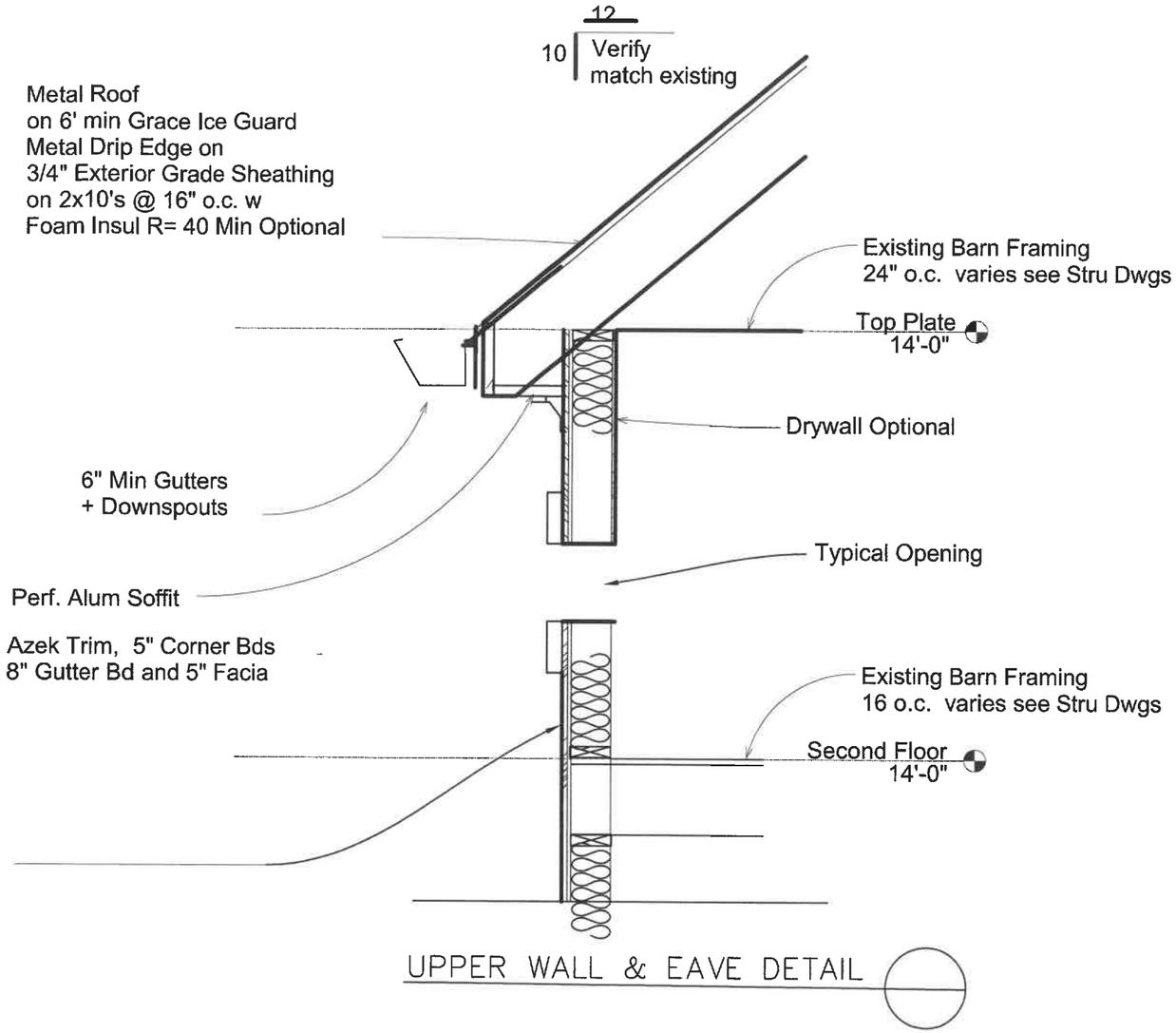


BARN FOUNDATION

SCALE: 3/4" = 1'-0"



UPPER WALL & EAVE DETAIL

Schematic design
not for construction

Ann M. Dunning, A.I.A., Inc.
129 Burlington Oval Drive, Chardon, Ohio 44024
Telephone: 440-338-4750 Email: adunning65@att.net

Red Barn LLC
1225 Bell Road, South Russell, Ohio 44022
Telephone 216-701-4327

No.	Description	Date

Wall Details

Project Number	10-23-2017	A!08
Date	10-23-2017	
Drawn by	amd	
C Ann M. Dunning, A.I.A., Inc.		Scale

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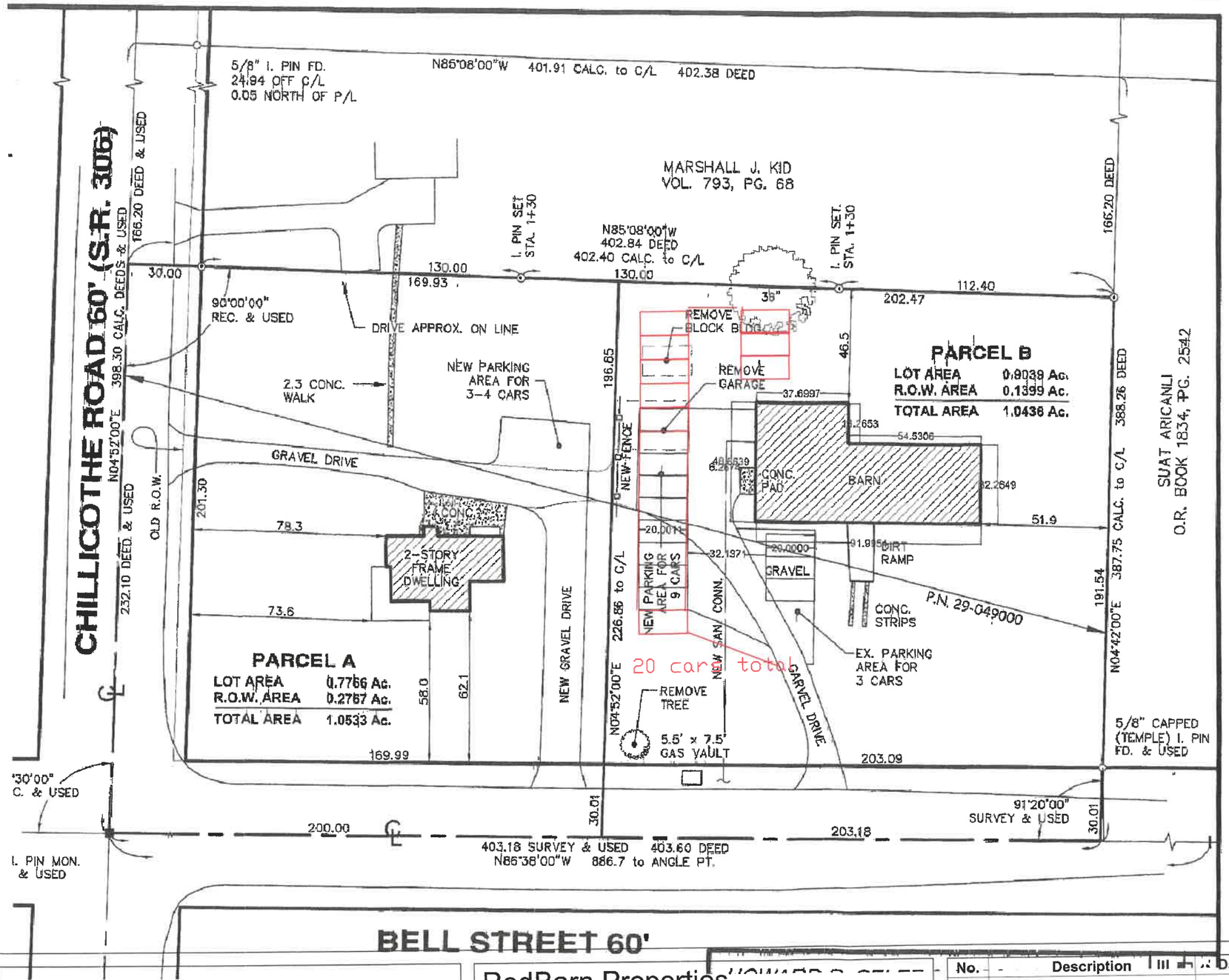

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(Allowable =15,855.4 sf or 35%)

Drawing not printed to scale

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Ohio 4200 Expires 12-31-2017
Certificate No. 00074000

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129 Burlington Oval Drive Chardon, Ohio 44024
Tel: 440-338-4750 Email: adunning65@att.net

RedBarn Properties
1225 Bell Road, South Russell, Ohio 44022
Phase One Renovations

No.	Description	Date

Preliminary Site Plan

Project number	12-09-2017		C-1
Date	Issue Date		
Drawn by	Author		
Checked by	Checker		Scale

12-11-2017 1:43 PM

ORDINANCE NO.: 2017 - _____ FIRST READING _____

SECOND READING _____

INTRODUCED BY: _____ THIRD READING _____

ORDINANCE AMENDING THE ZONING CODE TO ESTABLISH REGULATIONS FOR RIPARIAN SETBACKS

WHEREAS, flooding is a significant threat to property and public health and safety, and vegetated riparian areas lessen the damage from flooding by slowing the water velocity, enabling water to soak into the ground, and by providing temporary storage of overbank flood flow; and,

WHEREAS, streambank erosion is a significant threat to property and public health and safety, and vegetated riparian areas stabilize streambanks and provide resistance to erosive forces both within streams and on adjacent lands; and,

WHEREAS, the protection of riparian areas results in the presence of plants best suited to each individual environment along a stream, with proven capability for survival and regeneration at no cost; and,

WHEREAS, vegetated riparian areas filter and trap sediments, chemicals, salts, septic discharge, and other pollutants from runoff and floodwaters, thus protecting surface and ground water quality; and,

WHEREAS, vegetated riparian areas can provide a dense tree canopy that helps to maintain and improve the stability of watercourse temperatures, thus protecting aquatic ecosystems, and helps to reduce the presence of aquatic nuisance species; and,

WHEREAS, the protection of riparian areas can result in a diverse and interconnected riparian corridor that provides habitat to a wide array of wildlife; and,

WHEREAS, the woody debris from fallen, damaged, and cut trees increases flood levels and damage to bridges in the Village of South Russell and neighboring communities; and,

WHEREAS, sedimentation of eroded soil adversely affects aquatic communities and incurs removal costs to downstream communities; and,

WHEREAS, there are watershed-wide efforts to minimize flooding and streambank erosion in the Chagrin River watershed and to protect and enhance the water resources of the Chagrin River and its tributaries the Village of South Russell recognizes its obligation as a part of these watersheds to minimize flooding and streambank erosion by controlling runoff within its borders; and,

WHEREAS, the Chagrin River Watershed Partners, Inc.; the Cuyahoga Soil and Water Conservation District; the Geauga Soil and Water Conservation District; the Lake County Soil and Water Conservation District; the Natural Resource Conservation Service of the U.S. Department of Agriculture; the Northeast Ohio Areawide Coordinating Agency; the Ohio Department of Natural Resources, Division of Natural Areas and Preserves; the Ohio Environmental Protection Agency; and the U.S. Environmental Protection Agency recommend riparian setbacks as a valuable tool in an overall management program for flood risk reduction, erosion control, water quality control, and aquatic habitat protection; and,

WHEREAS, studies undertaken by, and reviewed by, the Ohio Environmental Protection Agency and other independent scientific bodies recommend the minimum widths for riparian setbacks; and,

WHEREAS, the Planning Commission for the Village of South Russell has recommended the adoption of zoning regulations for riparian setbacks; and

WHEREAS, the Council of the Village of South Russell has reviewed and adopted the recommendations of the above government agencies, and the Council finds that in order to minimize encroachment on watercourses and the need for costly engineering solutions to protect structures and reduce property damage and threats to the safety of watershed residents; to protect and enhance the scenic beauty of the Village of South Russell; and to preserve the character of the Village of South Russell, the quality of life of the residents of the Village of South Russell, and corresponding property values, it is necessary and appropriate to regulate though the Village's zoning code, structures and uses within a riparian setback along the banks of designated watercourses in the Village of South Russel*l*; and,

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the peace, health, safety, and general welfare of its citizens; and,

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, require designated communities, including the Village of South Russell, to develop a Storm Water Management Program to address the quality of storm water runoff during and after soil disturbing activities.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of South Russell, County of Geauga, State of Ohio, that:

SECTION 1: Chapter 12 of the zoning code, Riparian Setbacks, is hereby adopted to read in total as follows:

CHAPTER 12
RIPARIAN SETBACKS

12.01 PURPOSE AND SCOPE

A. It is hereby determined that the system of rivers, streams, and other natural watercourses within the Village of South Russell contributes to the health, safety, and general welfare of the residents of the Village. The specific purpose and intent of this regulation is to regulate uses and developments within riparian setbacks that would impair the ability of riparian areas to:

1. Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow.

2. Assist stabilizing the banks of watercourses to reduce woody debris from fallen or damaged trees, streambank erosion, and the downstream transport of sediments eroded from watercourse banks.

3. Reduce pollutants in watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in watercourses.

4. Reduce pollutants in watercourses by filtering, settling, and transforming pollutants in

runoff before they enter watercourses.

5. Provide watercourse habitats with shade and food.

6. Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system.
7.

8. Provide habitat to a wide array of wildlife by maintaining diverse and connected riparian vegetation.

9. Benefit the Village of South Russell by minimizing encroachment on watercourse channels and the need for costly engineering solutions such as gabion baskets and rip rap to protect structures and reduce property damage and threats to the safety of watershed residents; and by contributing to the scenic beauty and environment of the Village, and thereby preserving the character of the Village, the quality of life of the residents of the Village, and corresponding property values.

B. The following regulation has been enacted to protect and enhance these functions of riparian areas by providing reasonable controls governing structures and uses within a riparian setback along designated watercourses in the Village of South Russell.

12.02 APPLICABILITY, COMPLIANCE & VIOLATIONS

A. This regulation shall apply to all zoning districts.

B. This regulation shall apply to all structures and uses on lands containing a designated watercourse as defined in this regulation, except as provided herein.

C. No approvals or permits shall be issued by the Village of South Russell without full compliance with the terms of this regulation.

12.03 CONFLICTS WITH OTHER REGULATIONS & SEVERABILITY

A. Where this regulation imposes a greater restriction upon land than is imposed or required by any other provision of law, regulation, contract, or deed, the provisions of this regulation shall control.

B. This regulation shall not limit or restrict the application of other provisions of law, regulation, contract, or deed, or the legal remedies available thereunder, except as provided in Section 12.03 (A) of this regulation.

C. If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, validity of the remainder shall not be affected thereby.

12.04 DEFINITIONS

For the purpose of this Chapter 12, the following terms shall have the meaning herein indicated:

A. COMMUNITY: Throughout this Chapter 12, this shall refer to the Village of South Russell or its designated representatives, boards, or commissions.

B. DAMAGED OR DISEASED TREES: Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; lean as a result of root failure that puts the tree in imminent danger of falling; or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a watercourse or onto a structure.

C. DESIGNATED WATERCOURSE: A watercourse within the Village of South Russell that is in conformity with the criteria set forth in this regulation.

D. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency with overall responsibility for administering the National Flood Insurance Program.

E. IMPERVIOUS COVER: Any paved, hardened, or structural surface regardless of its composition including but not limited to buildings, roads, driveways, parking lots, loading/unloading areas, decks, patios, and swimming pools.

F. IN-LINE POND: A permanent pool of water created by impounding a designated watercourse.

G. NOXIOUS WEED: Any plant species defined by the Ohio Department of Agriculture as a "noxious weed" and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of this regulation shall prevail.

H. 100-YEAR FLOODPLAIN: Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent or greater chance of being equaled or exceeded in any given year.

I. OHIO ENVIRONMENTAL PROTECTION AGENCY: Referred throughout this regulation as the "Ohio EPA."

J. ORDINARY HIGH WATER MARK: The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. The ordinary high water mark defines the bed of a watercourse.

K. RIPARIAN AREA: Land adjacent to watercourses that, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.

L. RIPARIAN SETBACK: The real property adjacent to a designated watercourse located in the area defined by the criteria set forth in this regulation.

M. SOIL AND WATER CONSERVATION DISTRICT: An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s), hereinafter referred to as Geauga SWCD.

N. SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and which may result in, or contribute to, erosion and sediment pollution.

O. SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to, or would exceed, 50%

of the market value of the structure before the damage occurred.

P. WATERCOURSE: Any brook, channel, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

Q. WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (40 CFR 232, as amended).

12.05 ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS

A. Designated watercourses shall include those watercourses meeting any ONE of the following criteria:

1. All watercourses draining an area greater than ½ square mile, OR

2. All watercourses draining an area less than ½ square mile and having a defined bed and bank. In determining if watercourses have a defined bed and bank, the Village of South Russell may consult with a representative of the Geauga SWCD or other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant.

B. Riparian setbacks on designated watercourses are established as follows:

1. A minimum of 300 feet on either side of all watercourses draining an area greater than 300 square miles.

2. A minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles.

3. A minimum of 75 feet on either side of all watercourses draining an area greater than ½ square mile and up to 20 square miles.

4. A minimum of 25 feet on either side of all watercourses draining an area less than ½ square mile and having a defined bed and bank as determined by the Village of South Russell in Section 12.05 of this regulation.

C. Riparian Setback Guide Map. The Village of South Russell shall create a guide map identifying designated watercourses and their riparian setbacks. Said guide map is attached hereto and made part of this regulation and is identified as Exhibit A. The following shall apply to the Riparian Setback Guide Map:

1. It shall be used as a reference document and the information contained therein shall be believed to be accurate.

2. It shall be a guide only.

3. Nothing herein shall prevent the Village of South Russell from amending the Riparian Setback Guide Map from time to time as may be necessary.

4. If any discrepancy is found between the Riparian Setback Guide Map and this regulation, the criteria set forth in Section 12.05 (A) and (B) shall prevail.

D. The following conditions shall apply in riparian setbacks:

1. Riparian setbacks shall be measured in a horizontal direction outward from the ordinary high water mark of each designated watercourse, except for in-line ponds as addressed in Section 12.05.

2. Except as otherwise provided in this regulation, riparian setbacks shall be preserved in their natural state.

3. Where the 100-year floodplain is wider than a minimum riparian setback on either or both sides of a designated watercourse, the minimum riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA. If a FEMA defined floodplain does not exist for a designated watercourse, the Village of South Russell may require a site-specific floodplain delineation in conformance with standard engineering practices and approved by the *Village*. Any costs associated with reviewing this site-specific floodplain delineation may be assessed to the applicant.

4. Where a wetland is identified within a minimum riparian setback, the minimum riparian setback width shall be extended to the outermost boundary of the wetland. Wetlands shall be delineated through a site survey prepared by a qualified wetlands professional retained by the landowner using delineation protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation. Any costs associated with reviewing these delineations may be assessed by the Village of South Russell to the applicant.

10. The minimum riparian setback on an in-line pond existing at the time of application of this regulation shall be measured from the ordinary high water mark of the designated watercourse as it enters said pond and through the impoundment along the centerline of the designated watercourse as it flows through the in-line pond. Riparian setbacks on in-line ponds existing at the time an application is made under this regulation shall be expanded to include wetlands and floodplains as detailed in Section 12.05. The creation of new in-line impoundments shall not be permitted under these regulations.

12.06 APPLICATIONS AND SITE PLANS

A. The applicant shall be responsible for delineating riparian setbacks as required by this regulation and shall identify such setbacks on a site plan included with all subdivision plans, land development plans, and/or zoning permit applications submitted to the Village of South Russell. The site plan shall be prepared by a professional engineer, surveyor, landscape architect, or such other qualified professional as determined by the Village and shall be based on a survey of the affected land. The site plans shall include the following information:

1. The boundaries of the lot with dimensions.
2. The locations of all designated watercourses.
3. The limits, with dimensions, of the riparian setbacks.

4. The existing topography at intervals of two (2) feet.
5. The location and dimensions of any proposed structures or uses, including proposed soil disturbance, in relationship to all designated watercourses.
6. North arrow, scale, date, and stamp bearing the name and registration number of the qualified professional who prepared the site plan.
7. Other such information as may be necessary for the Village of South Russell to ensure compliance with this regulation.

B. The Village of South Russell may, in reviewing the site plan, consult with the Geauga SWCD or other such experts. Any costs associated with this review may be assessed to the applicant.

C. If soil disturbing activities will occur within 50 feet of the outer boundary of the applicable riparian setback as specified in this regulation, the riparian setback shall be clearly identified by the applicant on site with construction fencing as shown on the site plan. Such identification shall be completed prior to the initiation of any soil disturbing activities and shall be maintained throughout soil disturbing activities.

D. No approvals or permits shall be issued by the Village of South Russell prior to identification of riparian setbacks on the affected land in conformance with this regulation.

12.07 USES PERMITTED IN RIPARIAN SETBACKS

A. By Right Uses Without a Permit. Open space uses that are passive in character shall be permitted in riparian setbacks, including, but not limited to, those listed in this regulation. No use permitted under this regulation shall be construed as allowing trespass on privately held lands.

1. Recreational Activity. Hiking, fishing, hunting, picnicking, and similar passive recreational uses, as permitted by federal, state, and local laws.

2. Removal of Damaged or Diseased Trees. Damaged or diseased trees may be removed.

3. Revegetation and/or Reforestation. Riparian setbacks may be revegetated and/or reforested with native, noninvasive plant species.

B. By Conditional Use Permit Granted by the Planning and Zoning Commission: When granting Conditional Use Permits for the following uses, the Planning and Zoning Commission may, for good cause, attach such conditions as it deems appropriate. Permits issued under this regulation are issued to the applicant only, shall not be transferred, and shall be void if not implemented within one (1) year of issuance.

1. Crossings: Crossings of designated watercourses through riparian setbacks with roads, driveways, easements, bridges, culverts, utility service lines, or other means may be permitted provided such crossings minimize disturbance in riparian setbacks and mitigate any necessary disturbances.

2. Streambank Stabilization Projects. Streambank stabilization projects along designated watercourses may be allowed, provided that such measures are ecologically compatible and substantially utilize natural materials and native plant species to the maximum extent practicable.

3. Landscaping: The removal of natural vegetation within a riparian setback and the

subsequent cultivation of lawns, landscaping, shrubbery, or trees may be allowed provided that such cultivation is done in conformance with a Landscaping Plan approved by the Village. Any costs associated with review of Landscaping Plans may be assessed to the applicant. Landscaping Plans shall meet the following criteria:

a. Maintain trees in the riparian setback larger than nine (9) inches in caliper (diameter) as measured fifty-four inches above the ground to the maximum extent practicable.

b. Maintain trees, shrubbery, and other non-lawn, woody vegetation in the riparian setback to the maximum extent practicable.

12.08 USES PROHIBITED IN RIPARIAN SETBACKS

Any use not authorized under this regulation shall be prohibited in riparian setbacks. By way of example, the following uses are specifically prohibited, however, prohibited uses are not limited to those examples listed here:

A. Construction. There shall be no buildings or structures of any kind.

B. Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquid, or solid materials, except for noncommercial composting of uncontaminated natural materials and except as permitted under this regulation.

C. Fences and Walls: There shall be no fences or walls, except as permitted under this regulation.

D. Roads or Driveways. There shall be no roads or driveways, except as permitted under this regulation.

E. Disturbance of Natural Vegetation: There shall be no disturbance of natural vegetation within riparian setbacks except for the following:

1. Maintenance of lawns, landscaping, shrubbery, or trees existing at the time of passage of this regulation.

2. Cultivation of lawns, landscaping, shrubbery, or trees in accordance with an approved Landscaping Plan submitted in conformance with this regulation.

3. Conservation measures designed to remove damaged or diseased trees or to control noxious weeds or invasive species.

F. Parking Spaces or Lots and Loading/Unloading Spaces for Vehicles: There shall be no parking spaces, parking lots, or loading/unloading spaces.

G. New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian setbacks shall not be used for the disposal or treatment of sewage, except as necessary to repair or replace an existing home sewage disposal system and in accordance with recommendations of the Geauga Board of Health.

12.9 NON-CONFORMING STRUCTURES OR USES IN RIPARIAN SETBACKS

A. A non-conforming use, existing at the time of passage of this regulation and within a riparian setback,

that is not permitted under this regulation may be continued but shall not be changed or enlarged unless changed to a use permitted under this regulation.

B. A non-conforming structure, existing at the time of passage of this regulation and within a riparian setback, that is not permitted under this regulation may be continued but shall not have the existing building footprint or roofline expanded or enlarged.

C. A non-conforming structure or use, existing at the time of passage of this regulation and within a riparian setback, that has substantial damage and that is discontinued, terminated, or abandoned for a period of six (6) months or more may not be revived, restored, or re-established.

12.10 VARIANCES WITHIN RIPARIAN SETBACKS

A. The Planning and Zoning Commission may grant a variance to this regulation as provided herein. In granting a variance, the following conditions shall apply:

1. In determining whether there is unnecessary hardship with respect to the use of a property or practical difficulty with respect to maintaining the riparian setback as established in this regulation, such as to justify the granting of a variance, the Planning and Zoning Commission shall consider the potential harm or reduction in riparian functions that may be caused by a proposed structure or use.

2. The Planning and Zoning Commission may not authorize any structure or use in a Zoning District other than those authorized in the Zoning Code.

3. Variances shall be void if not implemented within one (1) year of the date of issuance.

B. In making a determination under Section 12.10 (A) of this regulation, the Planning and Zoning Commission may consider the following:

1. The natural vegetation of the property as well as the percentage of the parcel that is in the 100-year floodplain.

2. The extent to which the requested variance impairs the flood control, erosion control, water quality protection, or other functions of the riparian setback. This determination shall be based on sufficient technical and scientific data.

3. The degree of hardship, with respect to the use of a property or the degree of practical difficulty with respect to maintaining the riparian setback as established in this regulation, placed on the landowner by this regulation and the availability of alternatives to the proposed structure or use.

4. Soil-disturbing activities permitted in the riparian setback through variances should be implemented to minimize clearing to the extent possible and to include Best Management Practices necessary to minimize erosion and control sediment.

5. The presence of significant impervious cover, or smooth vegetation such as maintained lawns, in the riparian setback compromises its benefits to the community. Variances should not be granted for asphalt or concrete paving in the riparian setback. Variances may be granted for

gravel driveways when necessary.

6. Whether a property, otherwise buildable under the ordinances of the community will be made unbuildable because of this regulation.

C. In order to maintain the riparian setback to the maximum extent practicable, the Planning and Zoning Commission may consider granting variances to other area or setback requirements imposed on a property by the Zoning Code. These may include, but are not limited to, parking requirements, requirements for the shape, size, or design of buildings, or front, rear, or side lot setbacks.

D. In granting a variance under this regulation, the Planning and Zoning Commission, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of this regulation and to mitigate any necessary impacts in the riparian setbacks permitted by variance. In determining appropriate mitigation, the Planning and Zoning Commission may consult with the Village Engineer or other agencies including Geauga/ SWCD.

12.11 PROCEDURES FOR VARIANCES & APPEALS

A. Any applicant seeking a variance to the conditions imposed under this regulation or an appeal to an administrative decision made under this regulation, other than a decision by the Planning and Zoning Commission, may appeal to the Planning and Zoning Commission. The following conditions shall apply:

1. When filing an application for an appeal to an administrative decision, the applicant shall file a notice of appeal specifying the grounds therefor with the administrative official within 20 days of the administrative official's decision. Upon determining that the application is complete and upon receipt of the required fee of $100, the administrative official shall transmit to the Planning and Zoning Commission the application and a transcript constituting the record from which the administrative decision subject to appeal was based. This transmission shall occur no less than fourteen (14) days prior to a regularly scheduled meeting of the Planning and Zoning Commission in order to be placed on the agenda for that meeting.

2. When applying for a variance, the applicant shall file a variance request with the Planning and Zoning Commission.

3. Applications for appeals or variances made under this regulation shall contain the following information:

   a. The name, address, and telephone number of the applicant;

   b. Proof of ownership or authorization to represent the property owner.

   c. The location of the property, including street address and permanent parcel number.

   d. The current zoning of the property.

   e. A description of the project for which the appeal or variance is sought.

   f. A description of the administrative decision being appealed or the conditions of the regulation from which a variance is sought.

g. Names and addresses of each property owner within 500 feet of the property which is the subject of the appeal as shown in the current records of the Geauga County Auditor.

4. The Planning Commission shall schedule, advertise, and conduct a public hearing on the appeal in accordance with the requirements set forth in Section 3.07 of this zoning code, except as expressly modified in this Chapter 12.

5. Applications for variances or appeals of administrative decisions shall not be resubmitted to the Planning and Zoning Commission within one (1) year of the date of a final decision by the Planning and Zoning Commission on the original application, unless the applicant shows the Planning and Zoning Commission either of the following:

   a. Newly discovered evidence that could not have been presented with the original submission, or

   b. Evidence of a substantial change in circumstances since the time of the original submission.

B. A decision by the Planning and Zoning Commission in response to an application for a variance request or an appeal of an administrative decision filed pursuant to this regulation shall be final. Such decision may be appealed to the Geauga County Court of Common Pleas pursuant to O.R.C. Chapter 2506.

12.12 INSPECTION OF RIPARIAN SETBACKS

The identification of riparian setbacks shall be inspected by the Village of South Russell:

A. Prior to soil disturbing activities authorized under this regulation. The applicant shall provide the Village of South Russell with at least two (2) working days written notice prior to starting such soil disturbing activities.

B. Any time evidence is brought to the attention of the Village of South Russell that uses or structures are occurring that may reasonably be expected to violate the provisions of this regulation.

12.99 PENALTY

A. Any person who shall violate any section of this regulation shall be guilty of a misdemeanor of first degree and, upon conviction thereof, shall be subject to punishment as provided in Section 3.09 of the zoning code and shall be required to restore the riparian setback through a restoration plan approved by the Planning and Zoning Commission.

B. The imposition of any other penalties provided herein shall not preclude the Village of South Russell from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the South Russell Village Zoning Inspector.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

SECTION 3. This Ordinance shall be effective at the earliest time allowed by law.

_____
Mayor - President of Council

ATTEST:

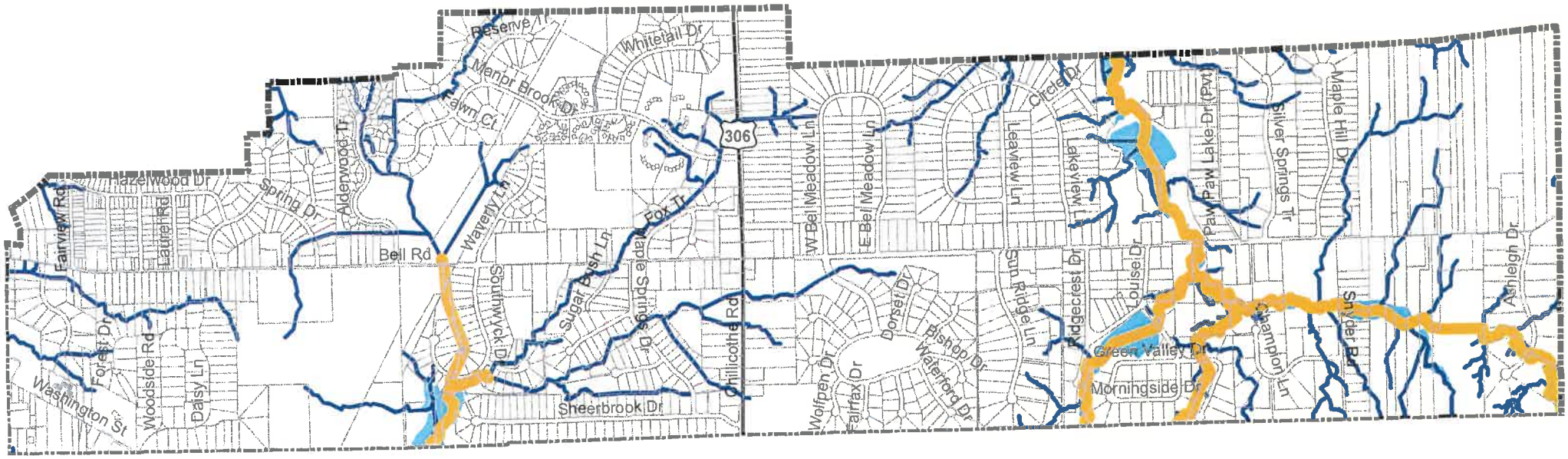
_____
Fiscal Officer

I certify that Ordinance No. 2017 - _____ was duly enacted on the _____ day of _____, 2017, by the Council of the Village of South Russell, and posted in accordance with the Ordinances of the Village.

_____
Fiscal Officer

South Russell Village Riparian Setback Guide Map

Exhibit A



Legend

Setbacks

- Wetlands and FEMA Special Flood Hazard Area
- 25 Feet
- 75 Feet

N

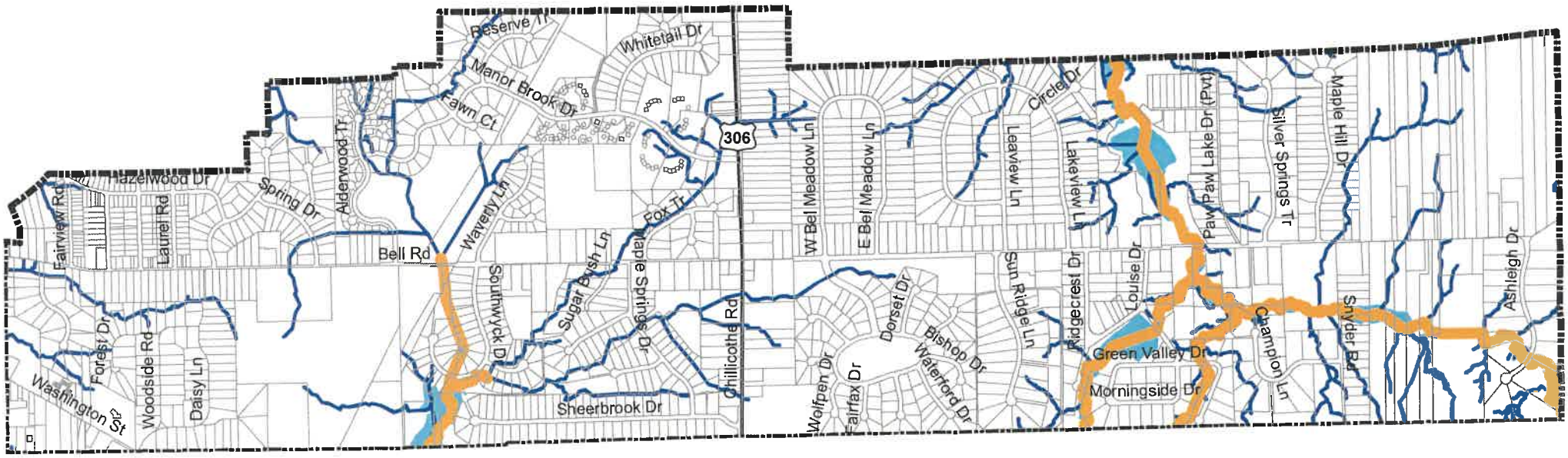
0 1,000 2,000 4,000 6,000 8,000 Feet

Prepared by: Chagrin River Watershed Partners, Inc., December 2016.
Source: Chagrin River Watershed Partners, Inc., Geauga County Auditor's Office, FEMA 2011.
Disclaimer: Chagrin River Watershed Partners, Inc. (CRWP), does not warrant the accuracy of this map. It is not based upon a land survey.
This map was prepared as a Riparian Setback Guide Map for the Village of South Russell by CRWP in accordance with Section XXXX.05 of Chapter XXXX. The Village's digital data is a representation of recorded plats, surveys, deeds, and other collected information for use within a Geographic Information System for purposes of analysis. These and other digital data not not replace or modify land surveys, deeds, and/or legal instruments defining land ownership or use. The Village and CRWP assume no legal responsibility for this information.

Note: If any discrepancy is found between the Riparian Setback Guide Map and the regulation, the criteria set forth in Section XXXX.05 (A) and (B) shall prevail.

South Russell Village Riparian Setback Guide Map

Exhibit A



Legend

Setbacks

- Wetlands and FEMA Special Flood Hazard Area
- 25 Feet
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SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
June 14, 2018 at 7:30PM

Members Present: Steve Latkovic, Jim Flaiz, Bryan Kostura, Mayor William Koons, Ph.D.

Other Officials: Laura Heilman – Building & Zoning Inspector; or; Lorraine Sevich, Planning Commission Secretary

Visitors: Eric Haibach, CT Consultants, 8150 Sterling Ct., Mentor, OH 44060
Kimberly Brewster, CRWP, 38238 Glenn Avenue, Willoughby, OH 44094
Joe Ferenczy, 48 Green Valley Drive, South Russell, OH 44022
Elisa Budoff, 55 Garden Park Drive, South Russell, OH 44022

Planning Commission Chairman Steve Latkovic called the meeting to order at 7:35 pm.

Joe Ferenczy introduced himself as a resident at 48 Green Valley Drive in Lake Louise. At the annual Lake Louise meeting, the Mayor spoke and told the group that they may be looking for an alternate for Planning Commission.

Elisa Budoff said she also lives in Lake Louise and has been a resident for 16 years. She was also interested in the position on the Planning Commission.

Lorraine Sevich conducted roll call.

Planning Commission Member Jim Flaiz made a motion to approve the minutes from the May 10, 2018 meeting. Planning Commission member Bryan Kostura seconded the motion. Roll call: Steve Latkovic, abstain. Flaiz, Kostura and Mayor William Koons - all ayes. Minutes were approved.

Latkovic asked the guests to tell a little bit more about themselves. Joe Ferenczy said he lived in South Russell Village for 2 years, before that in Chagrin Falls and Shaker Heights. He is a civil engineer for Osborne Engineering in downtown Cleveland. In a former job, he was a city engineer and has experience working with Planning Commissions.

Latkovic noted that they have spoken very little about the open position, and thought it was a great idea that the Mayor invited them. He thought tonight was a good opportunity for them to get on the record and hear the rest of the meeting.

Elisa Budoff said she has been a resident for 16 years. She is a financial adviser and a certified financial planner at Wells Fargo. She has had the opportunity to get to know a lot of residents in South Russell Village and has some familiarity with the building department, from the work she has done on her home.

Latkovic thanked Budoff and Ferenczy for coming.

1st agenda item – Riparian Setback.

Flaiz noted that in the 91-page report from Chagrin River Watershed Partners titled "Chagrin River Watershed Partners Riparian and Wetland Setback Presentation – Additional Resources", dated June 11, 2018, included in that report were the ordinances from surrounding areas.

Kostura had questions about the different ordinances in the communities listed. Some of them seemed to be a lot less restrictive and some of them were more restrictive. He noted that some of them talked about drainage areas of 20 square miles up to 300 square miles. Kostura noted that a lot of what Planning Commission was talking about was perhaps not going to impact South Russell Village (SRV) at all, even if riparian setback was in place.

Brewster told Kostura that with some of the ordinances, if the community did not have any streams that drained more than 20 square miles, they may not even mention the 300-foot setback, because it wouldn't apply in that particular watershed. Kostura gave an example – in the Village of Bentleyville, it says, "A minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles." Kostura asked how restrictive that was and if you were to overlay something like that onto South Russell, what would that look like. Brewster answered that in SRV, she did not believe that a 120-foot setback would ever apply. SRV Engineer Eric Haibach said he didn't think SRV had any areas that drain like that. Flaiz asked if that only involved the Chagrin River. Brewster replied typically; as it is the main stem of the Chagrin River.

Brewster explained that for the largest threshold of areas that drain north of 300 square miles, the Chagrin River Watershed in its entirety is 267 square miles. She noted that was a good point of reference, as "We don't even have anything in our watershed that drains that much."

Kostura asked if several of the ordinances that other communities had are basically lip service. Brewster said the thought that if it applied within that community, then they probably included that language. She noted that in Bentleyville, the main stem of the Chagrin River does go through Bentleyville, so a 120-foot setback would apply. Kostura said they have "Up to 300 square miles". Kostura said they can say, "Yes, we have riparian setbacks. Yes, we have riparian rights. But, it really doesn't apply to us because we don't have a watershed that big." Brewster said that a 120-foot setback would apply in certain cases, for watercourses that drain more than 20 square miles.

Flaiz noted that Aurora's riparian regulations are significantly less restrictive than what CRWP in proposing for SRV. It is 75-feet from the main branch of the Chagrin River, or the Aurora Branch, which is the main river - 25 feet from all watercourses. They don't really differentiate like what is proposed for SRV – SRV has a 25-foot and a 75-foot setback. Brewster said it looks like they require 75-foot setbacks from the Aurora Branch of the Chagrin River and any other watercourses draining more than a half-square mile.

Flaiz said when he had done his initial take of going through all of the different ordinances, it struck him as a generalization that few, if any other communities, have adopted what CRWP proposed to SRV. He asked Brewster if that was an accurate statement. Brewster said, "I would say that that we really encouraged communities to tailor the code and so I would say there is never a case where they…..you know, word-for-word adopted our model code. There is really a lot of tailoring that is required to fit it to that community's needs. I would say I looked through community codes, so for municipalities that have the Chagrin River Watershed – I looked at which ones most resembled our model code very closely. I would say that Kirtland is a good example." She said she did print that one out tonight, so Planning Commission can refer to that. Brewster noted, "Mayfield Village was another one. Orange Village looked pretty similar as well. Pepper Pike and Woodmere were the best examples of communities that have adopted ordinances that have very closely resembled our model code."

Planning Commission member Mayor William Koons clarified that Mayfield, Kirtland, Orange closely resembled the model code. Brewster verified the areas as Kirtland, Mayfield Village, Orange Village, Pepper Pike and Woodmere. She said that again, they really encourage communities to tailor riparian setback to best suit the communities' needs. In many cases, small things were added or changed. She noted that she did bring

Bentleyville's riparian code as well. "One change that Bentleyville made was that for permitted uses, they specifically include decks with square footage less than 300 square feet. That is something they wanted to add as a permitted use, so that a variance request or without a plan approval. That is something they decided to add. There were lots of examples like that, where small things were added, where the community was particularly concerned about, for example, adding decks."

Kostura asked the Building Inspector Laura Heilman, about how this would impact SRV - because this would impact at least 95 homes in the Village, where the watershed would actually run right through or touch the house. And the way this ordinance was drafted currently, it allows for houses to go up, but not out. They are not seeing a significant amount of new building here in SRV, but they are seeing a significant amount of renovations. Heilman answered yes. Kostura continued and asked about the renovations in SRV, if they were up or out, or are they both. Heilman said the renovations are a lot of kitchens, bathrooms, and front porches. She gave an example of Kensington Green, that would be in the front, rather than in the back. They do get some decks. Kostura asked if the footprint was being changed. Heilman said most of what she sees are inside renovations. Kostura clarified and said it was not so much of changing the footprint as it was changing the inside structure. Heilman replied, "Most of it."

Flaiz asked Heilman if SRV currently requires permits for patios. Heilman said not patios. Flaiz noted that with this riparian setback you couldn't do patios. Kostura said you could do it, but you would need to get a variance. Flaiz agreed. Flaiz noted that with a patio, a permit is not required now, but if it was within the riparian setback, you would need to get a variance. Heilman said if that is the way the ordinance is written, then it would need a variance. Flaiz thought it sounded like if there was an impermeable surface, outside of the existing footprint, it would require a variance. Brewster said yes. Haibach said if you chose to write the riparian setback that way.

Latkovic asked Heilman if there was a difference between a deck and a patio. Hielaman said yes. Latkovic clarified and stated that a deck requires approval and a patio doesn't. Heilman answered yes and explained that a deck is a structure with a footer; it has wood and it is a whole different thing. She added that although a patio does not require a permit, she always asks to do the inspection anyway, just to make sure the homeowner gets what they paid for.

Kostura asked Heilman if SRV currently requires site plans for any planting plans, vegetation, etc., that a homeowner might want to do. Heilman replied no. Kostura clarified that would be an addition with this riparian setback, that SRV could either keep or delete, - but, that is something that SRV currently do not have in the zoning and building codes. Heilman said that was correct.

Flaiz questioned driveway permits. He asked if SRV requires a permit for the driveway apron and asked if a resident would need a permit to add on to their pad on their driveway. Heilman said sort of – and explained that SRV just passed an ordinance that says you have to pave or concrete (some sort of hard surface driveway) all the way to your garage on a new house. Garage to street – all of it – will be hard surface. She gave an example and said if a resident had an asphalt driveway and they want to tear it out and put in a new driveway. They will require the contractor to get a right-of-way permit, and that is so the Building Department can make sure that part of the driveway is protected. Flaiz noted that under this riparian setback ordinance, if a resident was adding an impervious surface somewhere, which normally wouldn't require a permit, the resident would need a variance. Heilman said, yes, the way this ordinance is written. Heilman said SRV allows residents to pave right up to their property lines, so if there a creek that runs right next to a homeowner's property, they will be allowed to pave right up to it. There is currently no setback for it. Flaiz noted that his driveway is 2 feet from his side yard. Flaiz clarified with Heilman that side yard setbacks are defined for structures, not driveways or anything else. Heilman answered correct.

Flaiz thought there were 2 different issues. He thought there was an option for applying riparian setback to existing properties with existing homes and applying it to undeveloped areas in the village. To him, he would prefer to take an approach that treats those 2 circumstances differently.

Latkovic asked where on the map the undeveloped areas would be applied. Flaiz thought the northeast corridor of the village and the southeast corridor of the village, he thought there was an opportunity for development there and believes there is currently a big parcel of land for sale now. He was concerned about applying this riparian setback to – when you zoom in on the map – you see where a lot of these setback areas go through people's houses, in the middle of houses. He does not want to put an undue burden on people that have lived here for a long time. He thinks SRV should do something a little more stringent – he would not go so far as applying the model at all. But, he thinks they should do something a little more stringent for undeveloped areas and then maybe for developed areas, just limit it to structures within a stream bank, which would give a stream bank protection. He feels they should also make the standard practical difficulties on the variance; more of a lenient standard for variances – he believes that is important.

Kostura said he would go almost as far as to say that if you are going to tear down a house, then riparian setback would apply.

Haibach said more of a redevelopment and noted that they are seeing that now, where new property owners buy a house and the one next door, plan to raze everything and build their dream home. He thinks if Planning Commission is looking at a split system, a redeveloped parcel should fall under the rules of an undeveloped parcel. Flaiz agreed and thought if a homeowner would demo a house, all bets are off.

Koons asked Brewster if CRWP had this type of wording in other communities, where someone comes in and takes down a ranch home and puts in a McMansion. Brewster said they have seen that in many communities. Koons asked if there was an ordinance that addressed that. Koons said he agreed with Flaiz and what Kostura brought up. He feels they need something to address the present and future. Brewster said she is not aware of any communities that have adopted ordinances that treat redevelopment differently than undeveloped areas, but she would be happy to help SRV draft something.

Flaiz said even in the developed areas, they have had issues in the Chelsea and Sugarbush areas, where people are putting structures in the bank, in what would be defined as a streambank.

Heilman said she has a shed on her property. She noted they had a huge flood a few years back and the water came up to over her knees. Her shed acted like a wick and soaked up all the water, so halfway up her shed, she has to keep painting the shed, trying to treat it and make it work, because it is obvious it got really wet at one point. Her input in this you don't really don't want to do that, because you are going to lose whatever you built there, sooner or later, for whatever reason. It would be a mess.

Flaiz said that even in an existing house, when you start putting footers into the bed of a streambed, he thinks that is something that should be restricted, even for existing owners.

Heilman said she doesn't know of anyone who has built a deck in a creek bed. She can't think of any right now but said there may be some. Haibach said there are some backyard improvements that really encroached on streambanks. Flaiz gave the example of homes in Whitetail Preserve. Heilman said some people don't get permits. Brewster said she would love to have an Army Corps permit and would be required for that work, likely in addition to a permit from the Ohio EPA, if anyone wanted to put in a structure below the ordinary high-water mark near a stream. So that would not be not permitted without an Army Corps or Ohio EPA permit, regardless.

Flaiz explained to Brewster that the way he read the CRWP proposal ordinance, it was defining the bank a little bit differently than the Army Corps of Engineers would. Brewster said, "They consider where the setback starting from the ordinary high-water mark into the glade. The Army Corps deals with case by case situations sometimes, but if there is excavation or deposition of material or dredging or anything below the ordinary high-

water mark, they often require a permit for that work." Brewster feels they consider that the same area. Brewster said the setback is different though, and the actual setback area is a very different area than below the ordinary high-water mark. Flaiz said he understood that.

Latkovic said, "The question is - if we adopt something in the existing setback – the 25-foot setback – once you look at the zoomed in map, it is going through someone houses, there is no doubt. Even if you made it 10 or 15 feet, there are some houses where it is almost through the middle of it." Kostura said it is through the middle of it and noted that his house goes right through the middle of it – the living room, the dining room, the sunroom, and half of the kitchen.

Flaiz asked if there was a pipe between Kostua's house and the house next door and wondered if there was water that went through there.

Latkovic asked if there was a ditch with water that flowed between the lakes. Kostura confirmed there was and said it was a 3-foot culvert pipe. Latkovic asked if it was underneath the ground and Kostura said yes. Flaiz asked if there was surface water and Kostura said no. Latkovic asked if the map would necessarily control that and said he wouldn't view that as falling under riparian setback. Even though there was a blue line on a particular map – it is underground. He feels Kostura's living room would be safe.

Brewster said field conditions always prevail and today's map was to be used as a guide. CRWP would be happy to work with SRV and refine the map.

Flaiz said his thoughts were applying a practical difficulty standard and then apply something more stringent on undeveloped land or a tear-down. For existing homes, he suggested something not restrictive at all.

Koons addressed Flaiz about Chelsea Court and Sugarbush streams, 6 feet from basement windows, a mistake was made; it's over and done with. That is the old. Somebody comes in and say they want to tear one of those houses down, then SRV would have to tell them....Flaiz said, "Or we tell them they better not."

Koons said he is trying to play every angle here, because they know that was one of the biggest issues. So, you can take care of the house with the old. If somebody would want to redevelop it, how would they deal with that. He would hate to see somebody buy a house and say they are going to tear it down. Flaiz thought they would have to get a permit, so SRV would presumably warn them. Koons asked what if they would buy the house first, then they find out they can't build there. Haibach said he doesn't think riparian setback precludes any parcel from being a building parcel. Brewster said the variance procedure was meant to prevent lots from becoming unbuildable.

Flaiz thought that under practical difficulties, he doesn't think that any lot would be completely unbuildable. Someone would have to get a variance, but it would be a practical difficulty.

Latkovic asked if it would be a practical difficulty to say if you tear it down and then you can't rebuild it (if he plays devil's advocate), they then create that problem themselves. Presumably they find that out before they tear the house down. Kostura thought that was just like any other time where you go to build a house, there are some instances where you have to keep one wall up, otherwise you can't do what you want to do. Heilman said it would be more than one wall; 50%.

Latkovic felt they were headed in the right direction. Flaiz felt that the Mayor is getting aggressive with the storm water management. Part of the problem is SRV just does not have storm water infrastructure that is sufficient for what is going on. It's a problem that was 50 years in the making. It is being addressed, but it is expensive. Haibach thought Chelsea was $430,000, and it was a giant project. Flaiz thought that to fix all of storm water infrastructure problems, just the big problems would be at least 2 million dollars, Haibach thought it would be more than that. Flaiz thinks that the Mayor and Council are doing the right thing and addressing those issues aggressively. They are the mistakes from the past and he recalled when he was on council and Route 306 was paved, they asked if SRV wanted to replace the culverts and it would cost "this much", and Council said no, they did not have the money. He felt that was a mistake.

Koons asked if they were to the point where they should have Brewster go back to the drawing board to come with maybe an "old standard" with the idea of redevelopment of the old and then look at a new standard. Latkovic feels there is something to not building in the actual bank edge, or however they define it. They don't want people building on it, over it, or in it. He doesn't know how that area would actually be defined, within the riverbank, or a small 5-foot setback. He does think there is something to be said for not further deteriorating at least the minimum natural bank. Flaiz thought they need to define the bank or so close to the bank that it would undermine the stability of it.

Brewster said, "The ordinary highwater mark is to find them a regulation if they would like to refer to that. It typically would be indicated by a change in vegetation from aquatic vegetation to woody vegetation and that is easier to demarcate. The setbacks are based on CRWP's best technical recommendations for streambank stabilization. Another thing that may not be as important is wildlife habitat, but streambank stabilization, is one of the greatest benefits for maintaining a riparian setback."

Kostura read the definition of "WATERCOURSE" from the 2017 Riparian Setback ordinance: "Any brook, channel, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing." Kostura said he gets it, don't put your house in the back. Flaiz agreed and said "Or anything, a footer, a deck, etc."

Kostura said he does see this as a two-fold type of ordinance. The other thing that sticks with him is he doesn't know how he feels about the landscaping requirements in any event, whether it is in the new ordinance, or the old ordinance. That you would have to do a site plan for SRV, so you can plant things. He pointed out, if you read the ordinance, it is relatively restrictive. He is not saying that there should not be anything, but maybe not as robust as this. He doesn't necessarily think you should be tearing out your water-borne plants that are holding the bank together, but at the same time, if there is a tree of a certain caliper and it needs to come down, or it is obstructing your view, he doesn't think you should have to come to SRV and do a site plan or get approval to remove it.

Koons said he hopes that they wouldn't get that. Kostura said they way the ordinance is drafted; that's the way it is. Koons said that has to go. Kostura said there are certain items even in the more restrictive ordinance that he thinks they would have to rein in a little bit, and thinks they are on the right track with this discussion.

Koons asked Haibach what they are missing. Koons said, "We take care of the present homes, we handle redevelopment, we take care of the new with a different standard." Haibach thought that was one way to look at it because you could have a less onerous requirement that kind of governs the people who are here now in homes and in developments that are already established. And put a different stand upon redevelopment and new homes. "This is what we would have liked to have done it 50 years ago, but moving forward, this is how we are going to do it." He thought that was good. He addressed Kostura's landscaping/planting issue, he feels from a practical standpoint, the only thing that he struggles with – and he sees it not just here – but in all the communities where he works – with landscape mounds and landscape beds, people build raised landscape features a lot of times, right smack in the middle of a ditch. Or they route it around their back yard in a way that precludes any water from going through it. They really help to either block flow or severely channelize flow, that really should be more of a gradual sheet flow. A lot of times when he is looking at site plans and approves them - it pretty much fits exactly how they want it to be. Then they come out and do a final look-over, it's great. And then they go to town with landscaping and putting in raised beds and mounds. It then messes everything up. He totally agrees with Kostura with the cutting down the tree example, from a practical standpoint, that is not something he would be interested in. Especially if someone is in a sensitive zone – heavy landscaping with mounds, retaining walls and raised beds, is really terrible because they just exacerbate problems that are already there.

Flaiz thought was a great point – that a retaining wall and a huge landscaping feature is way worse than a big deck. Haibach agreed and said that absolutely was. Flaiz said the planting thing offended him, he agrees with Kostura. Just from a standpoint of "You are going to tell me where I can't put my Hosta?" That jumped out at him. He agrees with Haibach – those big landscaping projects are often more damaging than anything and wondered if there was a way then could classify them as permanent improvements. Haibach said he doesn't have a suggestion on how to differentiate those landscaping plans and that is something that he would like to see somehow addressed - with landscape beds, raised beds and mounds.

Koons asked Heilman what she is hearing from her colleagues. A building code is one thing but telling residents that they can't plant a tree because it is too big – he doesn't know if that should be her area, or do they need to get some training. Heilman said they have ordinances that address changing grade, and whenever someone seriously changes the grade or the drainage on their property, they have an ordinance about changing watercourses. She explained that she and Haibach have gone and walked on different properties in SRV with these very issues and said there are not really issues about planting Hostas, that is not what they are looking at. They are looking at serious changes in grading that affects the drainage and affects the waterflow and watercourses throughout the village. They do have requirements for that already in place.

Flaiz noted that they are really looking at new building with this code, and clarified that Heilman is saying, "It's frustrating, we approved a new build – everything works fine and then we go out there for the final and find it has changed." Haibach said that generally the final is good, then 6 months later the landscaper comes in and changes everything.

Flaiz thought that was a legitimate concern and thought maybe they do put some landscaping restrictions in the ordinance. Perhaps not so much planting so much as permanent grade and landscape improvements.
Latkovic thought a way to approach it would be anything that would impact the waterflow on a permanent nature. Because that is really what they are talking about – however they do it, however it is done. So, if a homeowner would create a plant mound or something that doesn't really impact the water flow, they are not worried about that vegetation. It is the impacting of the stream's flow that is important.

Haibach said, "Landscape features that affect the natural grade or course or natural drainage of water across the sublot." Heilman said, "But then again we have the ordinance in place that addresses that."
Latkovic felt they could always get a variance. If they had a good reason for changing the waterflow, maybe it makes sense that they change it and it at least gives SRV the opportunity to hear them out and make that decision.

Koons asked Heilman if a lot of people consider their back yard their business, and if they are trying to adjust or make some changes, they are not going to ask because what they think what they are doing they may not be allowed to do. Heilman said exactly and said what happens then is that the next-door neighbor complains. "Guess what? My yard is flooding because my neighbor dammed it up on his side, or and now he is throwing all of this water at me all of a sudden and now I am drowning here." She noted that she and Haibach see this scenario all the time. Haibach agreed with Heilman. So, when a new house goes in and a preliminary grade is approved, finalized build is approved, and everything is done; then the landscaper comes in and the homeowner goes in his backyard and changes everything. She said somebody will be screaming. If it isn't the neighbor, it's going to be because the Building Department found something, or the SRV employees have found something. They have found sometimes that people have built a little dam in their backyards, or they make a waterfall and do all kinds of things. Heilman said she and Haibach have addressed every problem they have come across and dealt with it. Haibach said it is a constant battle.

Kostura asked if they can take the first crack at redrafting the ordinance. Flaiz asked if they should have David Ondrey take some of the ideas they heard tonight and draft that, should they apply to the new building. Latkovic asked if Brewster was able to take enough away from this discussion to understand that they want a perspective between - they don't want to disrupt existing households too much, but they want to respect that there are streams and water movement that they don't want to have messed up, on a limited basis, but they want to protect that. The new building – they can't do a lot, they will treat that more restrictive, and vegetation they are not too concerned about. Was this enough to have Brewster take a crack at the first draft. Brewster said she understands the mindset and where they are coming from. She doesn't feel that she knows enough detail about what exactly Planning Commission wants and what the standards are for redevelopment versus existing structures and so forth. She said they can certainly help to draft sections. They have developed a model code so that communities may mold it to their needs and they typically help communities refine certain sections. She said she is not sure and she said she would talk to her colleagues and see if they can draft a new ordinance.

Kostura asked Brewster if they could get a copy of the ordinance in a Word form. Brewster said absolutely. Kostura said if Brewster could send it to him in a Word form, he would be happy to take the first crack at it.

Koons clarified with Flaiz and said they are talking about 2 standards for the revised ordinance.

Koons reviewed with Brewster and said he believes they are looking at a standard for present situations, which include possible redevelopment. A lower standard for existing houses. Flaiz added undeveloped and redeveloped would be a high standard and existing would have pretty limited restrictions and then the overall burden that people would have the need to come back to SRV, is for a variance that would be under practical difficulties.

Brewster said they do recommend the practical difficulties standard. They consider riparian setbacks request for variances to be an area variance request. She apologized and said it was not very clear. Flaiz said that was much more reasonable to him. Flaiz said the other issue was that these variances would be heard before the Planning Commission. He noted that they were in the process of sending what had been a Planning Commission variance request back to ZBA and wondered if this type of variance should be heard before Planning Commission. Kostura thought these variance requests should go the ZBA, as the other variance requests go to ZBA. Flaiz asked Heilman with the case of a new development, if Planning Commission would do the review. Heilman said yes, they would.

Koons asked if there should be something in the ordinance that would say in 2 years they should go back and look at this, or should they just wait until a problem comes. Or perhaps it should just be a philosophical idea and not be in an ordinance. Flaiz thought that Planning Commission could come back to it. Koons said if they never hear anything about it, why look for trouble. Flaiz agreed. Flaiz asked Heilman if she could bring up issues to the Planning Commission and Heilman said sure. Flaiz thought that was the point – they are supposed to change the zoning code if there was a problem, and Heilman agreed.

Latkovic noted that since variances are going back to ZBA, perhaps they might not hear about these again.

Brewster said CRWP does typically recommend that the Planning Commission or whatever Commission adopts the code or recommends it to council, is more knowledgeable of the process and understand the benefits of riparian setback and that they should handle their variance requests. Of course, it is up to SRV to decide that. That was something that was developed by the city of Kirtland. Latkovic thought that was a fair point. At least as long as the group that adopts riparian setback would hear the variance requests, it would make sense. As soon as that is not the case, it doesn't make sense for Planning Commission overall to do that anymore. Flaiz said the problem they run into with the notice requirement for variance requests, including the notice to

neighbors - it doesn't mix very well with the way Planning Commission operates and noted that they don't deal with variance requests except for one specific issue.

Brewster said she would be happy to talk with the other staff about perhaps helping work through a new ordinance, if she can better understand exactly what limitations they are looking for each of these areas. She asked if Planning Commission felt like they had a good understanding of what they would like for redevelopment versus existing areas or did that need more discussion. She added that Kostura said he would take the first stab at this and wondered if they could do that in partnership. Kostura said sure.

Flaiz talked about getting a good value for the dues they pay to CRWP – he said CRWP did an enormous amount of work on this presentation. He added that even though it might seem like he does not align so much with their mission sometimes – he noted they are in a different role. Part of what Planning Commission does is to protect the residents and their rights. He said that the report/presentation was very well done, and he was very impressed with it. Brewster thanked Flaiz and said they were very happy to work with SRV.

Koons asked if it would help if Brewster could come back with general statements, maybe leaving out numbers. Latkovic suggested that the model code numbers be left in and bracketed in bold. He thinks it would be helpful to see what they recommended, but then highlighted so that they could see the difference. Flaiz said that he liked the 25 and 75-foot setbacks, just so long as it was for new development. Kostura said that for new development that was fine, he thinks the impact on the existing homeowners for the people that are here and have current residence, it is a little onerous. Flaiz agreed and said that the Southwyck and Lake Louise maps were scary and noted that those were mistakes made a long time ago. To do that to some of the residents is something he doesn't want to do. Kostura agreed; he knows a lot of those people.

Latkovic and Flaiz thanked Brewster for coming back and for the presentation. Latkovic said there will not be a July meeting of the Planning Commission. The next meeting will be in August.

There was no old business.

New Business – Koons spoke about 6 different handouts by CRWP called "Life at Water's Edge", which everyone has received. He thought it was good information to have and another good example of less than $3000 in dues is being very well used.

Flaiz made a motion to adjourn the meeting. Kostura seconded the motion. Meeting was adjourned at 8:20 p.m.

Steve Latkovic, Chairman

Lorraine Sevich, Secretary

South Russell Village - Planning Commission - Action Steps from April 12, 2018 Meeting

Person Responsible	Action	Date Required
Mayor Koons	Appoint a new member for Planning Commission to fill vacancy left by Bob Brown.	Goal is to have a person appointed by July 2018.
CRWP - Kim Brewster	CRWP to research how many neighboring communities adopted the proposed South Russell Village riparian setback ordinance, word for word.	Ready for June 14, 2018 PC meeting
PC Committee	Review each item in proposed SRV riparian setback ordinance	Ready for June 14, 2018 PC meeting
CRWP - Kim Brewster	Reasoning for buffer widths - Latkovic asked CRWP to provide Planning Commission with the science that was conducted nationally on what the buffer widths are most appropriate for nutrient assimilation, sediment removal, flood mitigation, bank stabilization and wildlife habitat.	Ready for June 14, 2018 PC meeting
Jim Flaiz	Pull every riparian setback ordinance for communities in the Chagrin Valley	Ready for June 14, 2018 PC meeting
CRWP - Kim Brewster	Provide zoomed-in maps for neighborhoods in South Russell Village to include Southwyck, Lake Louise, Paw Paw, Sugarbush, Country Estates and Alderwood	Ready for June 14, 2018 PC meeting
David Ondrey	Draft a new ordinance to move height variances from the South Russell Village Planning Commission to the Zoning Board of Appeals.	Ready for June 14, 2018 PC meeting

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PO Box 229
Willoughby, OH 44096

P 440 975-3870

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Munson Township
Newbury Township
Orange Village
Pepper Pike
Russell Township
Solon
South Russell
Waite Hill
Wickliffe
Willoughby
Willoughby Hills
Woodmere

June 11, 2018

South Russell Village Planning Commission:
Steve Latkovic, Chairman
Bob Brown
James Flaiz
Bryan Kostura, Council Representative
William G. Koons, Mayor

David Ondrey, Village Solicitor

Re: CRWP Riparian and Wetland Setback Presentation – Additional Resources

Dear Mayor, Planning Commission, and Village Solicitor,

On April 12th, 2018, Chagrin River Watershed Partners, Inc. (CRWP) attended a Planning Commission meeting and discussion regarding riparian setback regulations. This meeting and discussion followed a presentation by CRWP at the Planning Commission's February 8th, 2018 meeting regarding CRWP's model riparian and wetland setback codes, potential benefits of setbacks to South Russell Village, and assistance available to the Village from CRWP regarding setback adoption and implementation.

At the April 12th, 2018 meeting, the Planning Commission requested additional resources as the Commission considers the adoption of a riparian setback ordinance. For the Commission's reference, CRWP is sharing the following resources as attachments to this letter:

- Detailed draft riparian setback maps for viewing of proposed setbacks within the following specific neighborhoods: Southwyck Drive, Lake Louise, Paw Paw Lake Drive, Sugar Bush Lane, Country Estates, and Alderwood Trail.

  As a reminder, a community's riparian setback guide map is developed with the most recently available mapping data and should be assumed to be accurate. However, the setback map is to be used as a guide for the community and landowners, and field conditions prevail. The community may amend the map as necessary as better data is available.

- Summary of riparian and wetland setback ordinances adopted by Chagrin River Watershed municipalities.

  Upon request by the Village, CRWP is glad to provide a complete list that includes additional Ohio county governments, municipal governments, and townships with riparian and wetland setback regulations both inside and outside of the Chagrin River Watershed.

- *Riparian Setbacks: Technical Information for Decision Makers*, Chagrin River Watershed Partners, Inc., Revised January 2006.

  This report focuses on introducing riparian areas and discussing the functions, services, and benefits they provide local governments and landowners. The report is designed for local decision makers – county commissioners, mayors, township trustees, council members, and planning and zoning commission members – as well as their engineers, law directors, and other professional advisors. The report provides the technical information necessary for these decision makers to adopt and implement riparian setback zoning as it relates to the authority of Ohio local governments to protect public health and safety. The report also discusses the economics of riparian setbacks and the implementation of riparian setbacks through zoning regulations in Northeast Ohio. Through its review of setback programs nationwide and the current research on riparian area functions and widths, the report concludes that CRWP's recommended minimum setback widths are accurate and pragmatic compromises between the various setback widths reported in the literature as necessary to maintain the services of riparian areas and the development patterns of the Chagrin River watershed.

- For your reference, I am enclosing a copy of CRWP's February 28th, 2018 Memorandum to the Planning Commission, including original attachments.

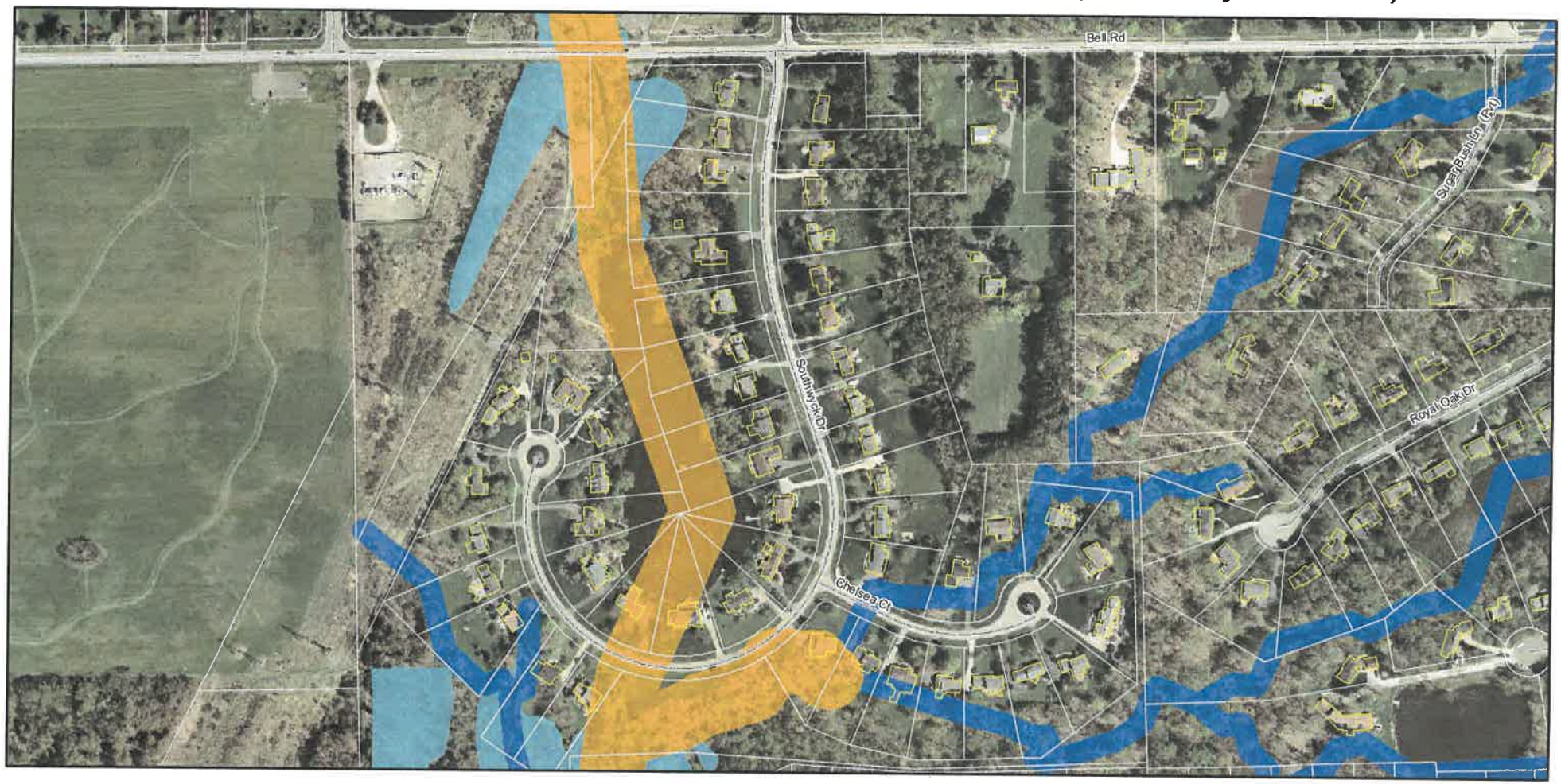
CRWP appreciates the opportunity to discuss the value of riparian and wetland setbacks for South Russell Village with the Planning Commission. Please feel free to contact Kimberly Brewster or Christina Znidarsic of CRWP at 440-975-3870 with any questions regarding this information and please let us know what additional information may be helpful as the Village considers the adoption of riparian setbacks.

Sincerely,

Kimberly Brewster

Kimberly Brewster
Senior Project Manager

Draft South Russell Village Riparian Setback Map (Southwyck Drive)



Legend

- Structures in South Russell Village
- South Russell Village Parcels
- Roads

CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Note: The CRWP model setback extends to the FEMA 100-year floodplain and the boundary of wetlands intersecting the stream path.

0 0.0375 0.075 0.15 Miles

N

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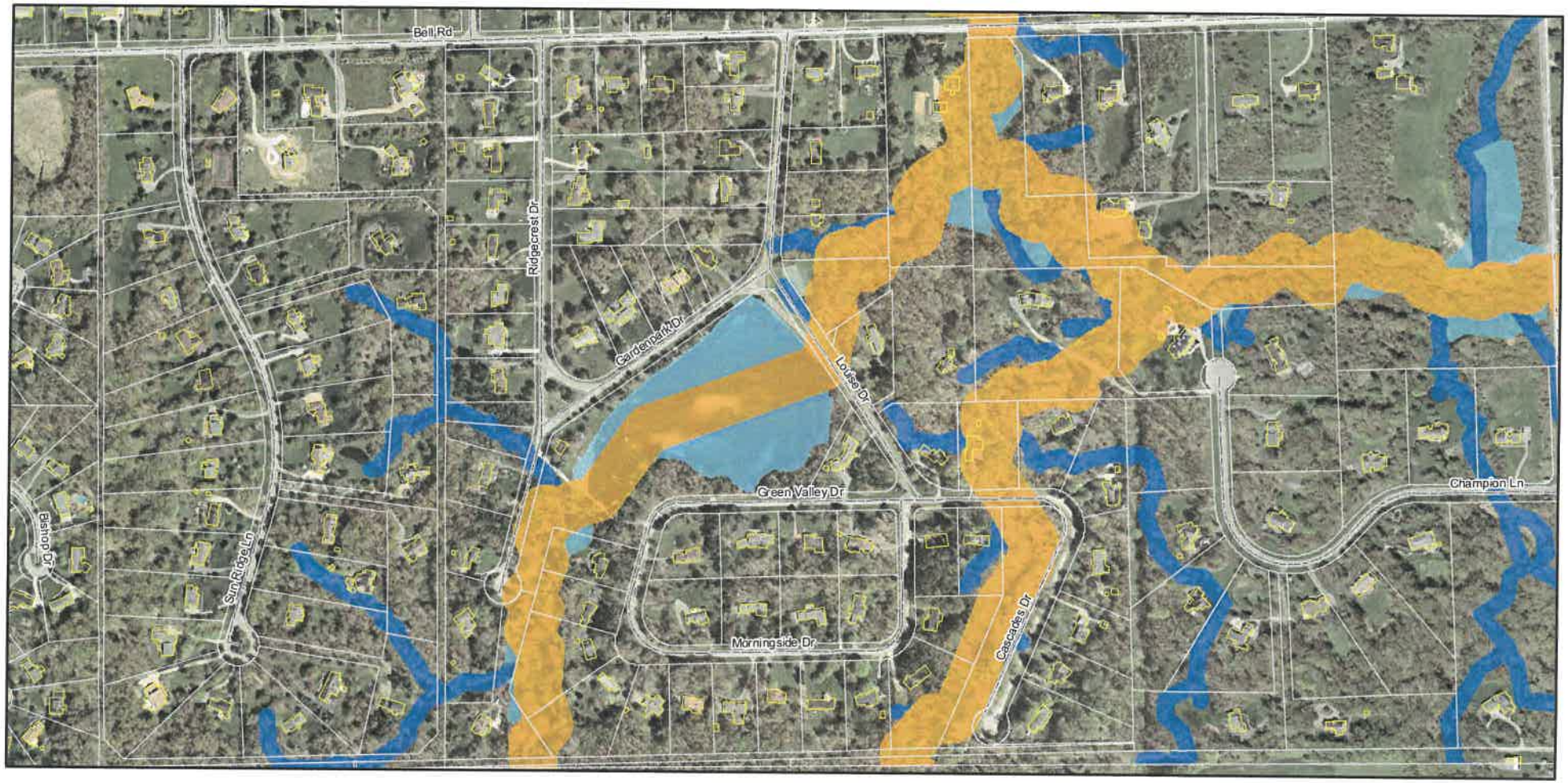
P.O. Box 229 Willoughby, OH 44096
(440) 975-3870 www.crwp.org

Draft South Russell Village Riparian Setback Map (Lake Louise)



Legend

- Structures in South Russell Village
- South Russell Village Parcels
- Roads

CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Note: The CRWP model setback extends to the FEMA 100-year floodplain and the boundary of wetlands intersecting the stream path.

0 0.05 0.1 0.2 Miles

N

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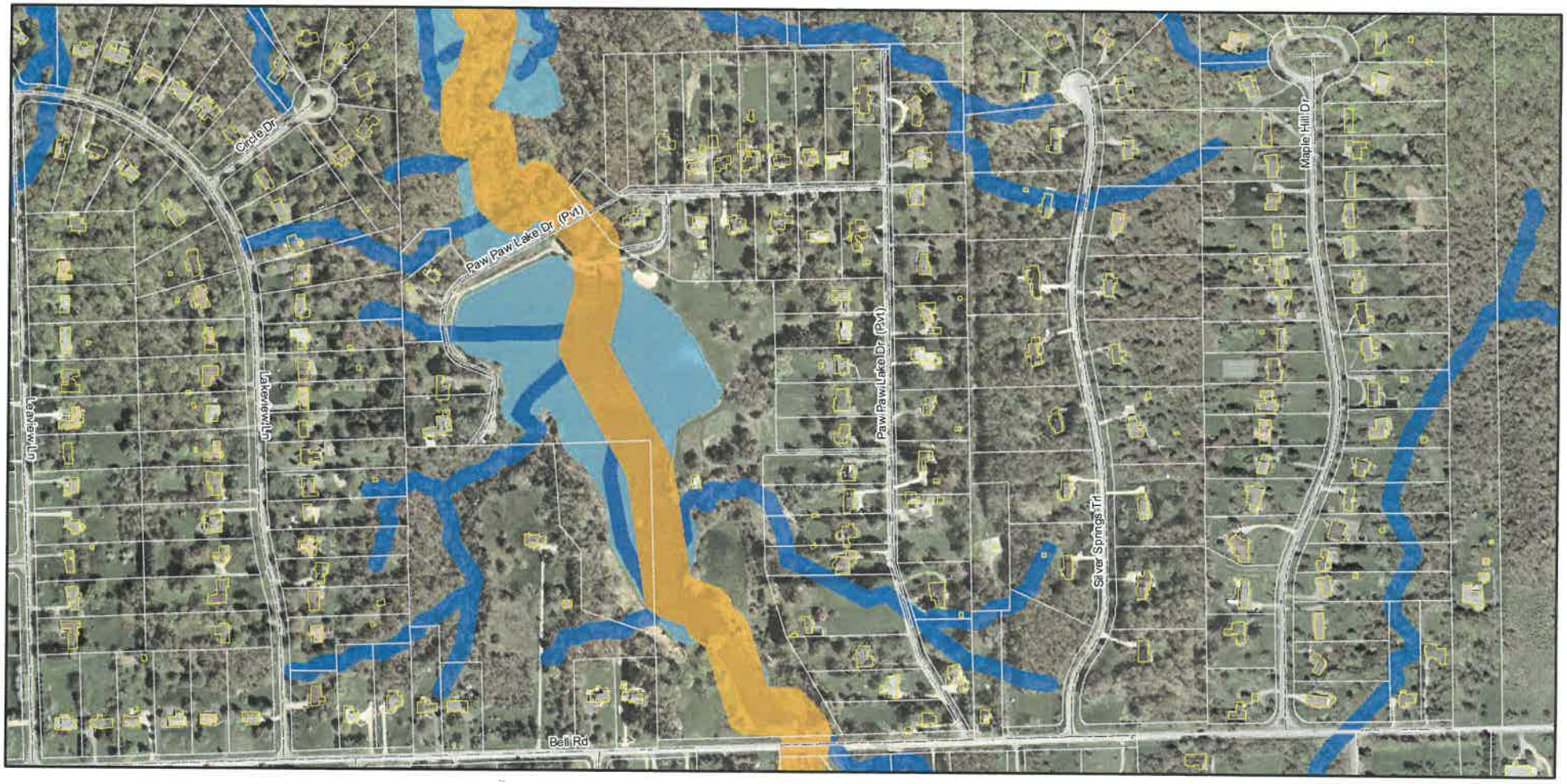
Draft South Russell Village Riparian Setback Map (Paw Paw Lake Drive)



Legend

- Structures in South Russell Village
- South Russell Village Parcels
- Roads

CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Note: The CRWP model setback extends to the FEMA 100-year floodplain and the boundary of wetlands intersecting the stream path.

0 0.05 0.1 0.2 Miles

N

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P.O. Box 229 Willoughby, OH 44096
(440) 975-3870 www.crwp.org

Draft South Russell Village Riparian Setback Map (Sugar Bush Lane)



Legend

- Structures in South Russell Village
- South Russell Village Parcels
- Roads

CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Note: The CRWP model setback extends to the FEMA 100-year floodplain and the boundary of wetlands intersecting the stream path.

0 0.0225 0.045 0.09 Miles

N

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Draft South Russell Village Riparian Setback Map (Countryside Estates)



Legend

- Structures in South Russell Village
- South Russell Village Parcels
- Roads

CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Note: The CRWP model setback extends to the FEMA 100-year floodplain and the boundary of wetlands intersecting the stream path.

0 0.0375 0.075 0.15 Miles

N

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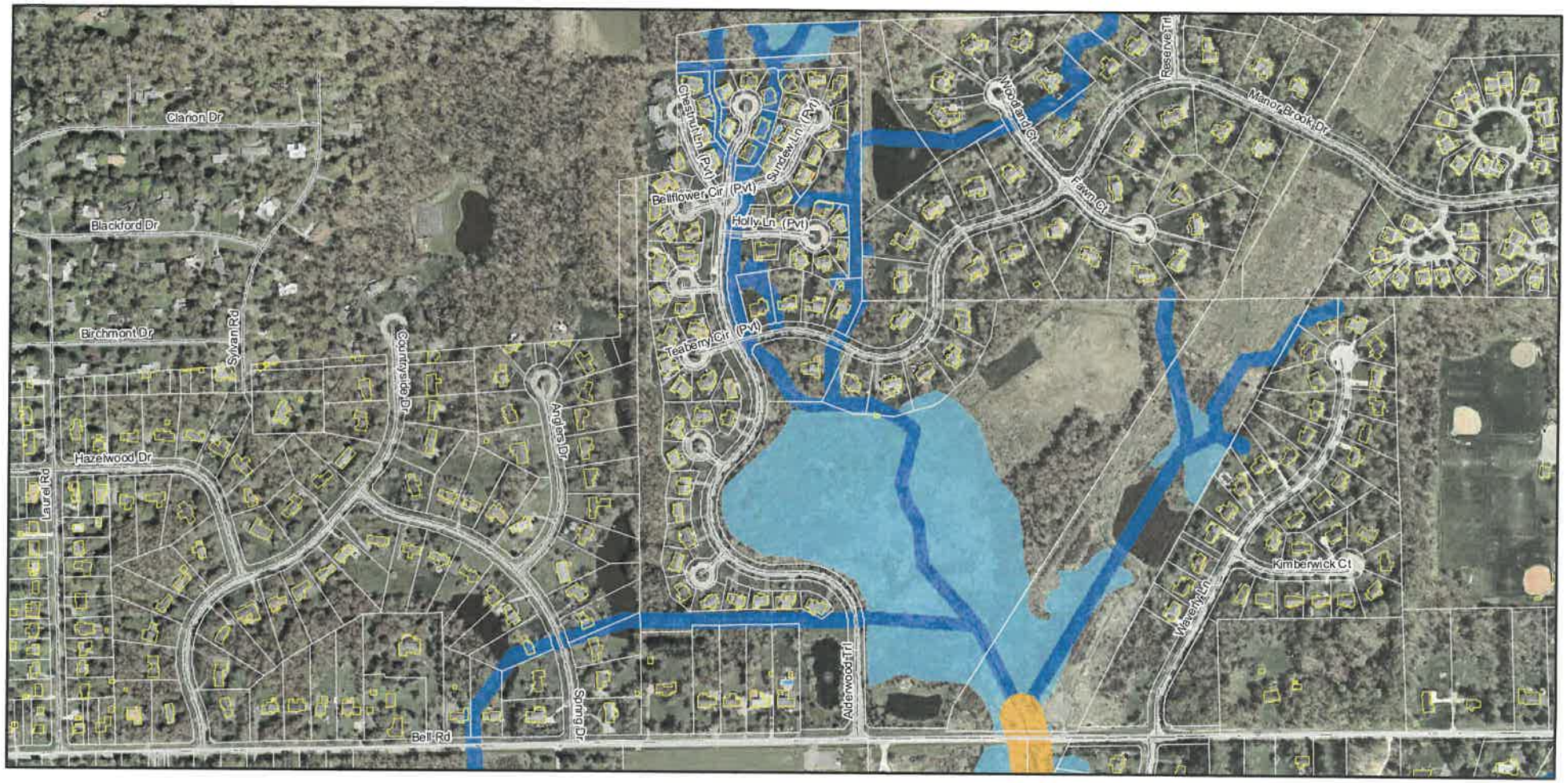
Draft South Russell Village Riparian Setback Map (Alderwood Trail)



Legend

- Structures in South Russell Village
- South Russell Village Parcels
- Roads

CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Note: The CRWP model setback extends to the FEMA 100-year floodplain and the boundary of wetlands intersecting the stream path.

0 0.05 0.1 0.2 Miles

N

CHAGRIN RIVER WATERSHED PARTNERS

Chagrin River Watershed Partners, Inc.
P.O. Box 229 Willoughby, OH 44096
(440) 975-3870 www.crwp.org

Summary of Riparian and Wetland Setback Regulations Adopted by Municipal Governments Within the Chagrin River Watershed

City of Aurora, Portage County
Minimum 75 feet riparian setback from the Aurora Branch of the Chagrin River and any other watercourses draining more than ½ square mile. Minimum 25 feet riparian setback from all watercourses, regardless of drainage area. Extended to outer edge of 100-year floodplain where 100-year floodplain is wider than riparian setback. 120 foot setback extending beyond the outer boundary of a Category 3 Wetland. Minimum 75 foot setback extending beyond the outer boundary of a Category 2 Wetland.
Adopted: June 2000, revised June 2006, Zoning Ordinances Chapter 1157.
Contact: Director of Planning and Zoning, (330) 995-5334.

Village of Bentleyville, Cuyahoga County
Minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles. Minimum of 75 feet on either side of all watercourses draining an area greater than ½ square mile and up to 20 square miles. Minimum of 25 feet on either side of all watercourses draining an area less than ½ square mile and having a defined bed and bank.
Adopted: August 2007, revised November 2009, Chapter 1271.05
Contact: Village Engineer, (440) 439-1999

Village of Chagrin Falls, Cuyahoga County
Minimum 120 feet riparian setback from either side of designated watercourses 10 feet wide or greater and extends to include floodplains, wetlands, steep slopes and wooded areas.
Adopted: 1997, Revised June 2013, Planning and Zoning Code Chapter 1151
Contact: Village Administrator, (440) 247-6106.

Village of Hunting Valley, Cuyahoga County
Regulation of construction of structures and other activities within 300 feet of the Chagrin River or 100 feet of the 100-year floodplain, whichever distance is greater. Regulation of construction of structures and other activities within 75 feet of streams with drainage areas greater than 0.5 square miles and up to 20 square miles and within 25 feet of streams with drainage areas less than 0.5 square miles.
Adopted: October 2000 initially on Chagrin River and large tributaries, Revised January 2009, Planning and Zoning Code Chapter 1155.
Contact: Building Commissioner, (440) 247-6464.

City of Kirtland, Lake County
Minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles. Minimum of 75 feet on either side of all watercourses draining an area greater than ½ square mile and up to 20 square miles. Minimum of 25 feet on either side of all watercourses draining an area less than ½ square mile and having a defined bed and bank as determined in

1294.05(A)(2) of this regulation. Minimum setbacks expanded to 100-year floodplain and riparian wetlands.
Adopted: July 2002, Planning and Zoning Code Chapter 1294.
Contact: City Engineer, (440) 951-9000.

Mayfield Village, Cuyahoga County
Minimum of 75 feet on either side of streams of draining an area greater than 0.5 square miles and up to 20 square miles. Minimum of 25 feet on either side of streams of draining an area less than 0.5 square miles and having a defined bed and bank. Minimum setbacks expanded to 100-year floodplain and riparian wetlands.

Adopted: August 2013, Codified Ordinance Chapter 1127
Contact: Mayfield Village, 440-461-2210

City of Mentor, Lake County
25 foot "conservation protection zone" present on either side of streams draining greater than 100 acres within subdivisions.
Adopted: October 2010, Planning & Zoning Code Chapter 1115.09
Contact: City of Mentor, 440-255-1100

Village of Moreland Hills, Cuyahoga County
Minimum of 300 feet on either side of all watercourses draining an area greater than 300 square miles. Minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles. Minimum of 75 feet on either side of all watercourses draining an area greater than ½ square mile and up to 20 square miles. Minimum of 25 feet on either side of all watercourses draining an area less than ½ square mile and having a defined bed and bank. Extended to 100-year floodway.
Adopted: October 2006, Updated 2012, Chapter 1131.
Contact: Village Engineer (440) 439-1999

Orange Village, Cuyahoga County
Minimum of 25 feet on each side of watercourses draining an area less than ½ square mile and having a defined bed and bank. Minimum of 75 feet on each side of watercourses draining an area greater than or equal to ½ square mile and up to 20 square miles. Extended to 100 year floodplain. Extended to the outermost boundary of wetlands within a minimum riparian setback.
Adopted: March 2006, Planning and Zoning Code Chapter 1176
Contact: Village Engineer, (216) 731-6255.

City of Pepper Pike, Cuyahoga County

Minimum of 300 feet on either side of all watercourses draining an area greater than 300 square miles. Minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles. Minimum of 75 feet on either side of all watercourses draining an area greater than ½ square mile and up to 20 square miles. Minimum of 25 feet on either side of all watercourses draining an area less than ½ square mile and having a defined bed and bank. Where the 100-year floodplain is wider than a minimum riparian setback on either or both sides of a designated watercourse, the minimum riparian setback shall be extended to the outer edge of the 100-year floodplain. Where a wetland is identified within a minimum riparian setback, the minimum riparian setback width shall be extended to the outermost boundary of the wetland.
Adopted: May 2008, Planning and Zoning Code Chapter 1540
Contact: City Engineer, (440) 439-1999

Village of Waite Hill, Lake County

"Ecologically sensitive areas" defined as "any designated area in the Village which, due to a unique or special topography, soil type or hydrology or other ecologically relevant feature which, if disturbed, may cause significant ecological harm to the developed property or neighboring property," may not be disturbed, built on, graded, clear cut or developed unless it can be proven that the activity or development will not adversely impact the "ecologically sensitive area" or any neighboring property. Properties designated as "ecologically sensitive areas" are shown on a map and mentioned in the ordinance.
Adopted: June 1995, Revised 2009, Codified Ordinances Chapter 1329
Contact: Planning and Zoning Commission (440) 942-1612

City of Willoughby Hills, Lake County

Minimum of 120 feet on either side of a watercourse draining greater than 20 square miles. Minimum of 75 feet on either side of a watercourse draining greater than ½ square miles and up to 20 square miles. Minimum of 25 feet on either side of a watercourse draining an area less than ½ square mile and having a defined bed and bank.
120 feet extending beyond the outer boundary of a Category 3 wetlands.
75 feet extending beyond the outer boundary of a Category 2 wetlands.
Adopted: June 2008 in Protected Areas Code Chapter 1167
Contact: Building Commissioner, (440) 975-3550

Village of Woodmere, Cuyahoga County

Minimum of 25 feet on each side of watercourses draining an area less than ½ square mile and having a defined bed and bank. Minimum of 75 feet on each side of watercourses draining an area greater than or equal to ½ square mile and up to 20 square miles. Setback is extended to the 100- year floodplain.
Adopted: December 2005, Chapter 1187
Contact: Village Engineer (440) 439-1999

Prepared by:
Chagrin River Watershed Partners, Inc.
P.O. Box 229
Willoughby, Ohio 44096-0229
(440) 975-3870
www.crwp.org

This list was based on an inventory of CRWP communities and input from Soil and Water Conservation Districts, Watershed Action Plans, Northeast Ohio Areawide Coordinating Agency, and various digital sources. Please contact CRWP with any updates, additions, or changes.

Chagrin River Watershed Partners, Inc. *January 2006*

Riparian Setbacks
Technical Information for Decision Makers

November 1997
Revised February 1999
Revised January 2006

CRWP's primary support comes from its Members including *Auburn Township, City of Aurora, Bainbridge Township, Village of Bentleyville, Chagrin Falls Township, Village of Chagrin Falls, Chester Township, Claridon Township, Cleveland Metroparks, Cuyahoga County, City of Eastlake, Village of Gates Mills, Geauga County, Geauga Park District, Village of Hunting Valley, City of Kirtland, Village of Kirtland Hills, Lake County, Lake County Metroparks, City of Mayfield Heights, Mayfield Village, City of Mentor, Village of Moreland Hills, Munson Township, Newbury Township, Orange Village, City of Pepper Pike, Russell Township, City of Solon, Village of South Russell, Waite Hill Village, City of Wickliffe, City of Willoughby, City of Willoughby Hills, and Village of Woodmere.*

The Chagrin River Watershed Partners, Inc (CRWP)

CRWP was formed by 16 cities, villages, townships, counties, and park districts in 1996 in response to increasing concerns about flooding, erosion, and water quality problems. These founders understood the need to improve land use decisions and to limit the impacts of development and rising infrastructure costs due to increased storm water quantities. Today CRWP's 34 members represent 90% of the watershed. CRWP provides technical assistance to members and develops cost effective solutions to minimize new, and address current, water quality and quantity problems as communities grow. CRWP's accomplishments include the on-going collaboration of 34 local governments on watershed protection; the development of model natural resource management regulations; the successful adoption and implementation of these models by communities; the review and improvement of development proposals; successful grant applications for member storm water and stream restoration projects; and a variety of other member specific services. CRWP also developed a model National Pollutant Discharge Elimination System (NPDES) "Phase II" Storm Water Management Program in use by communities across the watershed and assists members with successful implementation and annual reporting of the Phase II program. CRWP and its member communities support the adoption and implementation of riparian setback zoning as one of the most cost-effective tools to minimize the impacts of land use change in developing communities.

Acknowledgements

This report was prepared by CRWP and Stuart S. Schwartz Ph.D., with the research support of Darci Houser, under award NA03NOS4190052 from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce through the Ohio Department of Natural Resources, Office of Coastal Management. The statements, findings, conclusions and recommendations are those of the author(s) and do not necessarily reflect the views of the National Oceanic and Atmospheric Administration, Department of Commerce, Ohio Department of Natural Resources, or the Office of Coastal Management. Further funding was made possible by dues from our member communities. Photographs throughout the report were taken by CRWP with the exception of "gully erosion from storm water runoff" on page 10. This was taken by Dr. Schwartz.

Further Investigation

The literature cited in this document was obtained through review of published work as well as personal communications. Sources of information included existing bibliographies, federal and state agencies, county soil and water conservation districts, and individuals. This report is intended as a "living document." Please contact the Chagrin River Watershed Partners, Inc. with any comments, questions, or recommendations.

Terms Defined

BMP, Best Management Practices
CRWP, Chagrin River Watershed Partners, Inc.
Corps, The U.S. Army Corps of Engineers
CWW, Cincinnati Water Works
DDT, Dichloro-diphenyl-trichloroethane
FEMA, Federal Emergency Management Agency
MRB, Multi-species riparian buffer
NAPA, National Agency of Public Administration
NFIP, National Flood Insurance Program
NPDES, National Pollutant Discharge Elimination System
ODNR, Ohio Department of Natural Resources
OHIO EPA, Ohio Environmental Protection Agency
PCB's, Polychlorinated biphenyls
SWCD, Soil and Water Conservation District
USDA, United Sates Department of Agriculture

Introduction to the Third Revision of Riparian Setbacks: Technical Information for Decision Makers

This third revision of **Riparian Setbacks: Technical Information for Decision Makers** continues the commitment of the Chagrin River Watershed Partners to bring its members the best available science to support riparian setback regulations. The first edition of this work relied on scientific literature on riparian function [5-8] and seminal research on the function of riparian buffers as water quality best management practices in agriculture [9, 10] and forestry [11]. Reliance on this sound scientific literature represented the "first generation" of scientifically based riparian setback regulations.

First generation riparian setback regulations drew heavily on the analogous services reported in the scientific literature for riparian buffer function in agriculture and forestry, and proved to be an effective model that has been replicated, refined, and implemented around the country. Since the original publication of **Riparian Setbacks** by CRWP, more recent literature reviews with a broader scope have been independently assembled and continuously improved. Significant contributions include scientific review of the basis for riparian setback regulations for the Cities of Everett, Washington [12] and Renton, Washington [13], the Etowah River Habitat Conservation Plan [14] in Georgia, and a thorough widely cited literature review from the Institute of Ecology at the University of Georgia by Wenger [15]. In addition to updating results from more recent scientific research, these reviews incorporated scientific literature conveying new advances in understanding riparian processes, such as the importance of wood in streams (often referred to as large woody debris or coarse woody debris), and the far reaching influence of headwater streams on watershed hydrology and water quality.

This continually improved knowledge base validates the use of the scientific literature to support local government interests in the CRWP riparian setback regulations. The findings from the updated literature also validate the recommendations that balance riparian services and the beneficial use of private property, previously established in the CRWP setback model regulation. This revision of **Riparian Setbacks** updates our understanding of riparian function, continuing the established use of current scientific literature to support setback recommendations and provide the sound basis for local government interests and authority in promulgating riparian setback regulations in the Chagrin River watershed.

In reviewing the recent scientific literature, it is clear that the scientific understanding of riparian processes and the services they provide has undergone a dramatic transformation since this document was first published. A burgeoning literature has emerged reporting experimental site-specific effects of a wide variety of riparian management practices across a diverse array of physiographic, ecohydrologic, and hydroclimatic provinces. This growing literature reinforces the foundation for understanding the processes and factors influencing the benefits and services of riparian setbacks.

Yet, beyond richer site-specific results that offer further analogues for riparian setback function,

the synthesis of interdisciplinary research is rapidly reformulating our understanding of the far reaching extent and dynamic linkages through which robust interconnected riparian corridors affect the landscape.

This emerging scientific understanding has given rise to the second generation of integrated riparian management. We now understand that riparian services are far more pervasive and interdependent than any narrow investigations of, e.g., nitrogen removal or sedimentation in riparian buffers could have revealed. We now understand that the rich portfolio of riparian services flows directly from maintaining and enhancing the dynamic connections and exchanges between rivers and their riparian corridors. Viewed through the lens of this integrative understanding, the value of riparian setback guidelines originally advanced by CRWP in **Riparian Setbacks** are strongly validated as a simple cost-effective zoning tool to minimize encroachment and disturbance of the connected riparian corridor on which these services depend. Our current understanding reaffirms the value of the CRWP riparian setback model regulation as an effective means to maintain the vital connectivity of rivers and floodplains, while striking a prudent pragmatic balance between the valuable services derived from riparian protection, and the beneficial uses of private property by riparian landowners.

Synthesis

The scope and breadth of this second generation understanding of riparian function and services is incorporated in this revised version of **Riparian Setbacks** and reflects the synthesis of interdisciplinary research in the scientific literature, notably punctuated by:

- The American Fisheries Society's Monograph on the source, effects, and control of sediment in streams [16];

- Results from the International Workshop on Efficiency of Purification Processes in Riparian Buffer Zones, held in Hokkaido Japan in 2001, and the International Conference on Ecological Engineering for Landscape Services and Products, held in Christchurch, New Zealand in 2001, published in a special edition of the Journal *Ecological Engineering* [17];

- Research reports compiled from the International Conference on Wood in World Rivers [18];

- The National Academy of Sciences' report of the Committee on Riparian Zone Functioning and Strategies for Management [1];

As well as timely reviews and syntheses of the scientific understanding and recent research on:

- Buffers and pesticides [19, 20];
- Landuse effects on aquatic ecosystems [21, 22];
- Groundwater – surface water interactions [23-25];
- River bank filtration [26];

- Sedimentation effects on lotic food webs [27];
- Riparian nitrogen removal [28-31];
- Riparian management practices [32-34];
- Recognition of an "urban stream syndrome" affecting the world's developing watersheds [35, 36].

Implications for Riparian Management

The emerging science has not only refined our understanding of local factors that moderate specific riparian processes, but also provided a broader synthesis that guides us to far reaching conclusions on the importance of riparian protection. The implications of the current scientific literature for management are that a stream buffer, riparian setback, or forested buffer should be viewed as not only a parcel-specific best management practice, such as a stormwater management pond or a bioretention structure, but also as a watershed-scale management system.

We now recognize that the essential value of riparian services derives from maintaining the connectivity and dynamic exchanges and processes throughout the riparian system. The superposition of political boundaries and individual property rights presents the challenge of effectively managing the functional integrity and the valuable resulting services provided by this dynamic interconnected system, through the collective efforts of individual decisions by riparian landowners. It is precisely this joint coordinated management of the riparian resource that riparian setback regulations attempt to institutionalize in simple easily implemented zoning instruments.

Perhaps the most important guiding principles to emerge from the current scientific literature are the importance of contiguity in riparian protection, and the great value and importance of protecting the remaining least disturbed riparian corridors.

Stuart S. Schwartz Ph.D.

Senior Research Scientist
Center for Urban Environmental Research and Education
University of Maryland, Baltimore County
Cleveland, Ohio January 2006

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EXECUTIVE SUMMARY

Riparian areas adjoin rivers and streams, connecting aquatic and terrestrial systems across unique ecological, biogeochemical, and hydrologic gradients. If properly maintained and sized, riparian areas provide services to communities, including flood control, erosion control, and water quality protection, at little cost.

Riparian setbacks are a zoning tool local governments can use to maintain riparian functions as communities grow and land is developed. In the Chagrin River watershed and nationwide, communities recognize the need for riparian setbacks as a preventive tool to minimize encroachment on stream channels while providing a cost-effective alternative that minimizes the need for storm water infrastructure and engineered solutions to flooding, erosion, and water quality problems.

Riparian areas are the lands adjacent to rivers and streams.

Riparian areas stabilize streambanks, limit erosion, reduce flood size flows, and filter and settle out runoff pollutants.

A riparian setback is a local zoning tool that uniformly limits soil disturbing activities in riparian areas to protect public health and safety.

Riparian setbacks protect public health and safety by maintaining the flood control, erosion control, and water quality protection services of riparian areas.

Riparian setback regulations facilitate a uniform approach to riparian management in a community. An ordinance or resolution establishing a riparian setback must be justifiable in terms of its protection of public health and safety; designed with an awareness of the impacts on individual properties; and implemented with public support and understanding of what the regulation does, and more importantly what it does not, accomplish.

This report focuses on introducing riparian areas and discussing the functions, services, and benefits they provide local governments and landowners. The report is designed for local decision makers – county commissioners, mayors, township trustees, council members, and planning and zoning commission members – as well as their engineers, law directors, and other professional advisors. The report provides the technical information necessary for these decision makers to adopt and implement riparian setback zoning as it relates to the authority of Ohio local governments to protect public health and safety.

The report also discusses the economics of riparian setbacks and the implementation of riparian setbacks through zoning regulations in Northeast Ohio. Through its review of setback programs nationwide and the current research on riparian area functions and widths, the report concludes that CRWP's recommended minimum setback widths are accurate and pragmatic compromises between the various setback widths reported in the literature as necessary to maintain the services of riparian areas and the development patterns of the Chagrin River watershed.

RIPARIAN SETBACKS: TECHNICAL INFORMATION FOR DECISION MAKERS

Within the Chagrin River watershed and across the country, communities are protecting vegetated riparian areas along their rivers and streams with riparian setback regulations. If appropriately sized, these areas benefit communities by controlling flooding, erosion, and water quality as well as by protecting a community's groundwater and quality of life. Vegetated riparian areas provide these services at little cost to taxpayers. A community may protect riparian areas through a variety of mechanisms including land purchases and conservation easements. One of the most effective methods is through the adoption of local regulations establishing riparian setbacks, a zoning tool similar to front and side yard setbacks that excludes development and related soil disturbing activities within a prescribed distance from a watercourse.

To implement riparian setback regulations local officials need technical information linking riparian setbacks to the protection of public health and safety. Further, officials must have the information to design setback regulations that are reasonable and sensitive to local conditions. This report provides the technical support decision makers need to meet these challenges. The report introduces riparian setbacks; discusses their functions, benefits and economics; and explores the technical issues related to the successful implementation of a riparian setback regulation.

THE RIPARIAN CORRIDOR



Riparian refers to the organisms and their environment adjacent to or near flowing water. Riparian corridors include the stream channel and its adjacent land where vegetation may be influenced by high water tables, flooding or the ability of soils to hold water [7]. Because these corridors link terrestrial and aquatic ecosystems, their importance is far greater than their minor proportion of the land base would suggest [37]. Riparian areas extensively influence and are influenced by other areas of the landscape. It is this aspect of riparian corridors that makes their protection a useful natural resource management tool. With their unique position in the landscape, riparian areas can mitigate the impacts of one land use on another [8].

The geologic and hydrologic processes at work in a riparian corridor form its three typical components: stream channel, wetlands, and floodplain [38]. The stream channel meanders through the landscape carving through terrain, depositing and remobilizing sediments as it flows. In the Chagrin River watershed the stream's constant reworking of the channel and floodplain

may result in steeply sloped areas within the stream valley. The sediments and depressions near the edge of the stream channel often intersect the water table supporting the formation of riparian wetlands. In addition to steep slopes and wetlands, most stream channels are surrounded by a broad level area known as the floodplain. Floodplains are periodically inundated by overbank flows, and occupy the unique position in the landscape between the active stream channel and the surrounding hillslopes [37]. This is the area on which flood waters spread during periods of high flow. Floodplains can be defined by the frequency and extent of inundation. For example the "100-year floodplain" designates the area having at least a 1 percent chance of flooding in any given year. The 100-year floodplain designation is perhaps best known due to the widespread preparation of 100-year floodplain maps by the Federal Emergency Management Agency (FEMA) in support of the National Flood Insurance Program (NFIP). It is important to note, however, that the absence of a FEMA map of the 100-year floodplain, should not be misinterpreted as the absence of flood risk; most streams overtop their banks during high flows.

The components of the riparian corridor function together to provide valuable natural resource services. The National Academy of Sciences [1] emphasized the importance of the gradients in environmental conditions and the connection between rivers and riparian areas in providing these services, and cautioned against the loss of ecological function in riparian areas that become hydrologically disconnected from their adjacent stream channels. A riparian setback regulation is a flexible zoning mechanism through which communities can preserve and enhance these natural resource services by maintaining the natural connectivity between streams and riparian corridors. For example, in the Chagrin River watershed riparian setbacks provide a transitional zone between streams and the streets, houses, parking lots, and open lands they drain. This drainage contributes water, nutrients, pesticides, and sediments to streams. The impact of nonpoint pollution on water quality can be diminished if this runoff first passes through a vegetated riparian setback. Riparian setbacks also lessen the impact of streams on land by slowing erosion and minimizing flood damage.

BENEFITS OF RIPARIAN AREAS AND SETBACKS

Historically public health and safety problems associated with growth and land development, such as water quality degradation and increased flooding and erosion, have been addressed through engineered structural solutions such as dams, rip rap, channelization, and water treatment plants. Typically implemented after a problem has developed, each of these engineered infrastructure responses has associated capital, operation, and maintenance costs. The need for these costly solutions can be reduced or avoided by preserving and enhancing the natural functions and

> ***Except for support of biodiversity, some of the environmental services of riparian areas can be provided by technologies, such as reservoirs for flood control and treatment plants for pollutant removal. However, these substitutions are directed at single functions rather than the multiple functions that riparian areas carry out simultaneously and with little direct costs to society.***
> ***- National Research Council [2]***

services provided by a healthy connected riparian corridor. Riparian setbacks offer a low-cost proactive approach to maintain these valuable riparian services. By minimizing encroachment, a riparian setback maintains the connectivity between rivers and floodplains that moderates flood peaks, traps sediments and sustains the dynamic biogeochemical processes that enable riparian corridors to function as living filters. The details of these, and other, benefits of riparian setbacks are discussed below.

Flood Control Services

Flooding is a natural process, essential for the maintenance of floodplain plant and animal communities and soil fertility. However, flood waters can significantly damage public and private property and threaten human life, especially where vulnerable structures remain in the flood plain as a result of historic development. Communities along the Chagrin River have experienced significant flooding. This has included large flood events in the City of Eastlake as well as small floods throughout the watershed. Years of attempts to control floods have shown that traditional structural solutions alone are not sufficient to minimize the impacts of flooding. According to the Federal Interagency Task Force on Floodplain Management:

> *...the most sensible, least costly approach to flood hazard protection may have less to do with dams and disaster relief, and more to do with land-use patterns within floodplains. [38].*

Flooding is a natural restorative process for riparian systems that maintains the form, function, and connectivity of stream channels and their floodplains. Riparian setbacks maintain the natural connection between rivers and their adjacent floodplains and protect the floodplain's natural functions in storing and attenuating flood flows. These floodplain services offer low maintenance cost-effective solutions to community flooding. The National Park Service's review of the economic impacts from protecting rivers describes local and county government experiences with the benefits of landuse-based non-structural flood policies [39]. For example:

> *Johnson County, Kansas expected to spend $120 million on stormwater control projects. Instead, voters passed a $600,000 levy to develop a county-wide streamway park system. Development of a greenways network along streambeds will address some of the County's flooding problems, as well as provide a valuable recreation resource.*

This review similarly documented the justification of greenways as a cost-effective means to address county level flood damage by Dutchess County, New York [40]:

> *Floodplains function well as emergency drainage systems - for free - when they are left undisturbed. The public pays a high price when misplaced or poorly designed development interferes with this function. Human encroachment on the natural flood corridors often increases the risk to downstream homes and businesses by increasing the volume of runoff and altering the flood path. The resulting demands for costly drainage improvements, flood control projects, flood insurance, and disaster relief are all, ironically, preventable by conserving and respecting the floodplains from the outset.*

Rockland County's greenways acquisition program was inspired by the County's dismay over the costs of coping with drainage problems caused by encroachment into floodplain systems.

The value of non-structural flood control management from connected riparian corridors entered national flood control policy as part of a planned channel improvement project in Littleton, Colorado in 1971. The U.S. Army Corps of Engineers' (Corps) plan to channelize part of the South Platte River was challenged by the citizens of Littleton, who organized to preserve the river's scenic natural floodplain. Congress, through the Water Resources Act of 1974, enabled the Corps to contribute federal funds for the acquisition of land in the floodplain for flood protection in lieu of the traditional structural channel improvements. Searns [41] describes the events in Littleton that ultimately resulted in land acquisitions and the creation of a floodplain park, as the precedent-setting legislation that required the Corps to consider the value of non-structural alternatives in all Federal flood protection projects.



Stream disconnected from its adjacent floodplain. Only at very high flows would water reach the floodplain, removing the potential for flood attenuation for the majority of storms.

The City of Soldiers Grove, Wisconsin realized the direct benefits from restoring floodplain function choosing to relocate the entire business district out of the floodplain of the Kickapoo River at a cost of $1 million. The conventional structural alternative of a levee system proposed by the Corps would have cost $3.5 million, and imposed an annual maintenance cost that was more than twice the City's entire real estate tax base. Along with the creation of a floodplain park, the relocation is credited with annual savings of $127,000 in avoided flood damages. Similar benefits from maintaining floodplain connectivity on the Charles River in Massachusetts were realized by the purchase of full title or easements to 8,500 acres of floodplain wetlands in the upper Charles River at a cost of $10 million, as an alternative to the estimated $100 million cost for upstream levees and flood control reservoirs that had been proposed. The ***annual*** flood damages that would have resulted from the loss of flood control services provide by these wetlands has been estimated at $27 million [42].



This stream is connected to its adjacent floodplain.

Flood Control Services: *Bank storage*

In addition to the temporary storage and gradual drainage of floodwaters from inundated floodplains, rising streamflow also recharges alluvial aquifers through the bed and banks of rivers and streams. This recharge of alluvial groundwater occurs whenever river levels rise above the elevation of the water table – not just during periods of overbank flow. Bank storage reduces flood peaks by recharging surface runoff into the pore spaces of riverbank sediments and helps maintain higher baseflow through the slow release of groundwater back to the stream as river levels decline. The joint services of flood attenuation and baseflow augmentation provided by bank storage also provide favorable soil moisture conditions for riparian vegetation, and the biogeochemical processing of contaminants in riparian soils.



Stream at base flow with active stream and land connection

In a detailed study of bank storage on the Cedar River in Iowa [43] a 6.6 foot (2 m) rise in river stage induced substantial groundwater recharge of the connected alluvial aquifer. Observation wells in the floodplain clearly showed that river water, uniquely identified by its lower concentration of dissolved solids, recharged more than 98 feet (30 meters) into the stream bank, to a depth of over 13 feet (4 meters). The "new" groundwater, with the distinctive chemical signature of river water, slowly discharged back to the river over a period of five weeks as river levels fell. Bank storage thus provides flood peak reduction and incremental baseflow maintenance for relatively frequent high flow events that do not result in overbank flows. Even higher recharge of bank storage can be expected to occur with overbank flooding. The result is stable river flow and a reduction in dramatic shifts in water levels [5]. Bank storage moderates the development of high flows as well as the frequency and duration of extremely low flows. Preserving the connection and natural exchanges between rivers and floodplains provides flood attenuation services naturally, along the entire length of the stream system.

Whiting and Pomeranets [44] modeled the groundwater hydraulics of bank storage and showed that the volume of bank storage is nearly proportional to the floodplain width and bank height. Both the volume and duration of bank storage discharge increase with floodplain width. Moreover the rate and volume of bank recharge are nearly directly proportional to the hydraulic conductivity of the bank material. Drainage from bank storage may last for weeks to a few years in sandy banks, with longer drainage times and lower drainage rates for silt or clay banks.

Flood Control Services: Riparian Vegetation

Traditional flood control strategies for large waterways have promoted the clearing of vegetation from river channels. More recent investigations question whether the removal of riparian vegetation from riverbanks has increased the vulnerability of adjacent lands to erosion [45]. The active removal of riparian corridor vegetation to maintain conveyance of the floodway creates

ongoing labor intensive maintenance demands and degrades the habitat and aesthetic amenities of the riparian resource [46]. Removing riparian vegetation reduces bank strength and hydraulic roughness, and can lead to increased near-bank flow velocities, accelerated bank erosion, [45] and can increase flood damages.

Standard hydraulic analysis of riparian floodways usually considers the effect of riparian vegetation on hydraulic roughness as it affects flood heights and inundation areas. A more inclusive consideration of connected riparian corridors also accounts for the value of floodplain vegetation in protecting upland terraces and hillslopes from flood waters. Woody floodplain vegetation dissipates stream energy, reducing scour and resulting flood damage. The value of the riparian corridor and its associated vegetation is strikingly demonstrated by the flood damages following the Great Flood in the Mississippi River Basin in 1993. In Central Kansas, Geyer et al. [47] found the greatest lateral streambank erosion during the 1993 flood occurred on sandy streambanks adjoining cropland, while streambank erosion was negligible along forested streambanks. In the Missouri Basin, Allen et al.'s [48] analysis of levee failures along a 353 mile section of the Missouri River found compelling evidence of the flood protection services provided by wooded riparian corridors. The absence of woody riparian vegetation in the floodplain was consistently associated with a greater likelihood of levee failure and longer lengths of levee failure. Over 40% of the 1993 levee failures on the Missouri River occurred in areas where woody vegetation was absent from the riparian corridor and nearly 75% of the failures were associated with areas in which the width of the woody riparian corridor was less than 300 feet. Moreover, discontinuities in woody corridors were associated with more than 27% of the observed failures, reinforcing the importance of the *contiguity* of the riparian corridor as well as its width. It is particularly notable that engineered levees, designed to resist damaging flood waters, were themselves afforded flood protection by woody riparian floodplain vegetation.

Floodplain vegetation also diffuses concentrated overland flow and resists the formation of erosive rills, rivulets, channels, and gullies. Complex shallow flow paths on vegetated riparian areas encourage sedimentation and infiltration of overland flows [6]. The combined effect of these floodplain functions is reduced flow velocity, increased storage of water, and the attenuation of downstream flood impacts [38].

Riparian setbacks are an essential component of land-use management to reduce flood hazards and maintain the flood control services of floodplains. Through the implementation of a riparian setback program, a community protects its floodplain and the services floodplains provide. During high flows, floodwaters are temporarily stored as they spread across the floodplain, dissipating much of the energy of flood flows [37] and reducing downstream flood heights. Floodplain vegetation also presents a barrier to flood flow and runoff, encouraging water to move slowly and infiltrate soils reducing the contribution to downstream flood peaks.
A riparian setback program protecting floodplains also reduces potential property damage from flooding by setting development back from the stream channel and out of the floodplain area. FEMA divides the 100-year floodplain into two areas based on water velocity: the floodway and

the flood fringe. To participate in the NFIP, communities must prohibit development in the floodway and place restrictions on development in the flood fringe. While this minimizes the blockage to the free flow of flood waters downstream, it does not fully protect the storage capacity of the floodplain. A riparian protection program that prohibits development in both the floodway and the flood fringe preserves natural areas for temporarily storing flood flows and protects structures from flood damage [8]. An example of a riparian setback regulation designed with its highest priority on flood protection services is found in Garner, North Carolina, which established setbacks of 50 to 100 feet from the limits of the 100-year floodplain [49].

Riparian setbacks reduce flood hazards and contribute flood protection services by limiting development within floodplains, restoring the natural flood protection services provided by riparian floodplains, and fostering riparian vegetation that reduces erosion. Hancock [24] concludes that limiting human disruption of riparian corridors is an important cost-effective component of strategies to prevent the degradation of these essential linkages and riparian functions. Riparian setbacks provide a cost-effective zoning tool to achieve these outcomes.

Riparian Setbacks Protect Floodplains and:

- *Reduce flood flow velocity.*
- *Facilitate infiltration.*
- *Provide temporary storage and slow drainage of floodwaters.*
- *Reduce property damage.*
- *Maintain stream baseflow and recharge alluvial aquifers.*

Erosion Control Services

In addition to reducing flooding and associated property damage, riparian setbacks counteract the erosive forces of water. Stream bank erosion is a significant concern to Chagrin River watershed communities. Residents lose both land and structures as stream banks slump and soils are washed downstream. Once in streams, sediments destroy aquatic habitat and degrade water quality. Eroded sediment can also block storm water conveyance structures and is costly to remove through dredging.

Erosion at any particular point along a stream may be caused by the erosive effects of surface runoff and the erosive force of flowing water in the stream channel. Setbacks address both sources of erosion [50]. By presenting a physical barrier to overland flow, riparian vegetation slows surface runoff and disrupts concentrated flow paths, enhancing infiltration and diminishing runoff's erosive potential. The root systems of riparian vegetation, particularly trees, hold bank soils in place against the erosive force of high velocity waters [37] maintaining soil structure and bank stability [6]. The stronger the rooting system, the greater this benefit. According to the Ohio Environmental Protection Agency [51], vegetated stream banks are up to 20,000 times more resistant to erosion than bare stream banks.

In addition to altering channel hydraulics and dissipating erosive shear stresses, riparian

vegetation increases the strength of streambanks through both mechanical effects of roots [52, 53] and hydrologic effects on the pore water pressure in the soil matrix [54]. Using the U.S. Department of Agriculture Agricultural Research Service's Bank Stability and Toe Erosion Model [55], the effect of riparian vegetation on the resistive forces in a streambank can be quantified. As an example, model calculations estimate that a 30 year old stand of ash can roughly double the factor of safety (the ratio of resistive forces to driving forces in bank failure) for a prototypical 16.4 foot (5 meter) streambank with an alluvial soil profile. Abernathy and Rutherford [56] similarly quantified the geotechnical reinforcement of soil strength by the roots of native riparian tree species along the Latrobe River in Australia. They found root reinforcement could raise the factor of safety for an otherwise unstable bank section by 60%.

The long-term contribution of riparian vegetation to stream bank stability is strikingly displayed on the Sacramento River in California. From the careful evaluation of 100 years of maps and aerial photography, Micheli et al. [45] compared river meander rates between forested and agricultural floodplains below Shasta Dam. They estimated that agricultural floodplains have been 80% to 150% more erodible than forested floodplains during the latter half of the 20th century. Even the control of flood flows provided by the construction of Shasta Dam could not offset the increase in observed erodibility that accompanied the conversion of forested floodplains to agriculture.

Micheli et al. [57] also analyzed channel migration rates from 40 years of aerial photographs on California's Kern River and found migration rates for streambanks with wet meadow vegetation were 10 times lower than streambanks without wet meadow vegetation. Their results also emphasize the importance of maintaining the hydrologic connection of the riparian corridor to bank stability. They note that channel incision may reduce bank stability through both the increase in the bank height and the loss of wet meadow vegetation as channel downcutting alters the local water tables that support riparian vegetation.

Following severe flooding in British Columbia, Beeson and Doyle [58] surveyed more than 700 stream reaches using aerial photography to identify post-storm channel erosion. They found that stream bends without riparian vegetation were 30 times more likely to show some evidence of channel erosion and major channel erosion was nearly 5 times more likely on unvegetated streambanks. The greater stability of forested streambanks stems, in part, from their ability to resist the initiation of bank erosion. Along a 62 mile (100km) section of the Upper Illinois River in Oklahoma, Harmel et al [59] estimated short-term and long-term bank erosion rates using a combination of aerial photography and field measurements from erosion pins. Short-term erosion rates on banks with forested, grassed, and mixed vegetation were not significantly different. However, 20 years of aerial photography showed that significant erosion (greater than 2m) occurred along 66% of the grassed banks compared to only 16% of the forested bank length.

The dominant contribution of stream bank erosion to excess sedimentation in urbanizing watersheds has been carefully documented by Trimble [60] in Southern California. Over the 10 year period from 1983 to 1993, Trimble [61] found channel erosion contributed two-thirds of the annual sediment load of San Diego Creek and concluded bank stabilization should be a priority in managing sediment yield. The role of riparian vegetation in reducing sedimentation and bank erosion has generated varying management recommendations concerning the short-term and long-term value of different types of riparian vegetation on streambank erosion [3, 56, 61-63].



Severe stream bank erosion

Erosion Control Services: *Riparian Vegetation*

Vegetation in the riparian corridor affects the width and geometry of streams by stabilizing stream banks against bank erosion and bank failure, and trapping sediment in overland and overbank flow. The relationship between riparian vegetation and channel form is dynamic and changes with the size and scale of the watershed [64]. For small streams draining less than 4-40 square miles (10-100 km^2), forested streams tend to be wider than grassed streams; in larger watersheds streams with forested banks tends to be narrower than similarly sized watersheds with grassed banks. On the well studied Coon Creek watershed in Wisconsin, Trimble [61] estimated the stream's grassed banks were storing up to 16,800 cubic yards of sediment per mile of streambank (8,000 cubic meters per km). Based on this observation, Lyons et al. [63] suggested sediment loads in Midwest streams might be cost-effectively managed by actively converting stream bank vegetation from forest to grasses in order to store more sediment.



Gully erosion from storm water runoff

Davies-Colley [65] made similar observations comparing forested streams to streams with grass banks adjoining pasture land in New Zealand. Like Trimble, Davies-Colley[65] raised concerns about development of downstream sedimentation problems as the natural return of forest vegetation shaded out the grasses and remobilized the substantial sediment stored in the vegetated banks of narrower pasture streams. He also noted, however, that the sediment *currently* stored in the vegetated banks of these narrow pasture streams represents encroachment that followed earlier land clearance, as forest land was actively converted to managed pastures.

The empirical relationship between stream width and bank vegetation is not a static "endpoint" but represents a dynamic balance between the processes that mobilize and deposit sediment moving through stream systems. Allmendinger et al. [66] found grass cover resulted in up to 3 times greater sediment deposition compared to wider forested streams, but the erosion of cut banks in grassed streams was up to 5 times greater than forested streams. On balance, although grassed streams are less wide and store more sediment in their banks, they are also less stable than wider forested streams. Wider more stable forested streams also store sediment, associated with stable wood (sometimes referred to as coarse woody debris), which also provides habitat, structure, and refuges for aquatic biota. Hart [67] similarly considered stream width and bank vegetation in headwater streams in the Great Smoky Mountains. He also found that wider forested streams store sediment instream in deposits associated with stable wood, and the stored sediment in forested streams was up to 3 times greater than the sediment remobilized by channel widening as forest cover replaced grassed banks.

Consistent with the greater stability of vegetated streams, Zaimes et al. [68] found streams with streamside forest cover were more stable with lower erosion rates than streams adjoining either row crop or grazed agriculture land uses. They estimated that the presence of riparian forest buffers along the entire length of the roughly 7 mile (11 km) reach they studied would have reduced stream bank erosion by approximately 78% in a single year. Similar results have been reported in urban streams by Hession et al. [69]. For streams in Missouri's glacial till plain Burckhardt and Todd [70] compared bank erosion between pairs of similar streams for which the primary difference was the presence or absence of riparian forest on the streambanks. They too found that rates of lateral bank migration were 3 times greater along unforested concave banks.

The active removal of riparian vegetation can have dramatic effects on streambank erosion. Montgomery [2] describes the extensive channel widening that occurred on the Tolt River in Washington's Cascade Range following the clearing of forest vegetation down to the streambank. This widening, along with the pulse of mobilized sediment that led to filling of the channel downstream, was attributed to the loss of bank-stabilizing tree roots. Even more dramatic stream channel adjustments have been observed on the Cann River in Victoria, Australia, where Brooks et al. [71] estimated that rates of lateral channel migration have increased 150 fold, with an 860 fold increase in annual sediment yield and a 45 fold increase in bankfull discharge since European settlement. Most of these dramatic channel adjustments are estimated to have occurred in the last 40 years, in response to the removal of riparian vegetation and stable wood in the stream channel.

Riparian Setbacks Protect Streambanks and:

- *Minimize erosion from overland flow*
- *Reduce erosion from instream flow.*
- *Reduce property damage.*

- *Minimize sedimentation on streams and storm water conveyance.*

Water Quality Protection Services

Vegetated riparian areas are a cost effective best management practice (BMP) to address nonpoint source pollution and their use in this capacity is widespread [8, 72]. The term BMP refers to a practice or combination of practices that a State determines to be practical and effective in preventing or reducing the amount of pollution generated by diffuse sources to levels compatible with water quality goals [73]. The Ohio EPA and ODNR have, for example, recommended specific BMPs to meet Ohio water quality goals as established in the National Pollutant Discharge Elimination System (NPDES) General Construction Site Permit. These recommended BMPs include riparian setbacks and other non-structural planning techniques.

Connected riparian corridors function as filters that protect adjoining streams and downstream receiving waters [30]. By minimizing disturbance and encroachment, riparian setbacks protect and enhance the filtering functions through which riparian corridors sequester and remove sediments, nutrients, and a range of contaminants. These water quality services result from filtration and adsorption, uptake by riparian vegetation, and biogeochemical and microbial processes that immobilize, assimilate, and degrade dissolved contaminants. Vegetated riparian setbacks disperse concentrated or channelized runoff, increasing infiltration, slowing surface runoff, and enhancing the deposition of sediment and sediment associated contaminants from both overland flows and overbank floodwaters. Vegetative uptake and assimilation can remove nutrients, soluble ions, and some organic contaminants from shallow groundwater, incorporating these contaminants in plant biomass [74, 75]. The microbial and biogeochemical processes at work in saturated sediments, leaf litter on the forest floor, and in the thatch layer of riparian grasses, immobilize and transform dissolved nutrients, metals, and many organic contaminants.

Riparian setbacks maintain the connectivity and exchange of surface water and groundwater between rivers and uplands. The exchange of surface water and groundwater links riparian processes with the metabolism and productivity of streams through microbial processing in biofilms on the streambed and the surfaces of sediments in channels, bars, riffles, and streambanks [29, 76]. These living biofilms are dynamic ecosystems that adapt to changing conditions of flow, nutrient loading, water chemistry, temperature, etc. [3, 28, 77, 78]. The surface of sediments at the riparian interface where surface water and groundwater mix is now understood to play a central role in maintaining the chemical and microbial transformations that naturally maintain and regulate water quality [23, 24, 79]. Maintaining riparian zones and effective land use practices are widely recognized as two valuable strategies to prevent the degradation of water quality services provided by these essential riparian processes [24].

The intimate physical association between streams and their riparian corridor is self evident, but we now understand that the influence of riparian corridors on water quality is proportionately much greater than the relatively small area in the landscape they occupy. This is especially true on small first order streams that generate most of the runoff in watersheds. As a result of the strong topographic controls on runoff, riparian areas in headwater and first order streams may

intercept most of the runoff that reaches the stream system, producing water quality services that extend far downstream and enhance water quality throughout the watershed. Using topographic indexes of wetness, sediment transport, and discharge Burkhart et al. [80] mapped hydrologically-based locations for effective stream buffer placement in the Deep Loess Region of Iowa, Missouri, and Nebraska. Watershed-scale analysis demonstrated that riparian areas in small first order streams exhibited much greater potential to intercept larger fractions of runoff and affect basin-wide water quality than larger streams. Moreover, discharge through riparian areas in the smallest stream catchments was dominated by groundwater, creating very high potential for riparian processes to remove nitrate, some pathogens, and most pesticides in the region.

Water Quality Protection Services: Infiltration and Sedimentation

Vegetated riparian setbacks create complex flowpaths that slow the velocity and decrease the turbulence in overland flow. Shallow distributed flow enhances sedimentation and the removal of sediment-associated contaminants while increasing infiltration and reducing surface runoff. The effectiveness of riparian setbacks can be severely compromised by the development of concentrated flow paths that bypass the riparian zone [81, 82]. Stiff, tufted grasses have proven very effective in disrupting channelized flows and increasing infiltration rates in riparian buffer systems [83, 84]. Significant increases in infiltration rates are consistently observed in vegetated riparian buffers [85] contributing to sediment removal and carrying dissolved constituents into shallow groundwater where they may be further immobilized and metabolized by geochemical and microbial processes [86, 87]. Bharati et al. [88] found cumulative infiltration rates in a multispecies riparian buffer were five times greater than in adjoining cropland and grazed pastures. In Schmitt et al.'s [89] experimental investigations fescue filter strips infiltrated 36% - 82% of runoff and cumulative infiltration doubled as the width of the filter strip was doubled from 25 to 50 feet (7.5 m to 15 m).

On experimental plots Blanco-Canqui et al. [90] found that a dense 2.3 foot (0.7 m) switchgrass barrier was sufficient to disrupt and distribute concentrated flow into more uniformly distributed sheet flow, significantly enhancing the performance of vegetated filter strips. With a switchgrass barrier, a 24 foot (7.3 m) fescue filter strip achieved 90% removal of sediment. By interrupting and temporarily pooling concentrated flow the switchgrass barrier also increased the particulate phosphorous removal by nearly a factor of 4 and removed 2 to 5 times more nitrogen compared to fescue filter strips with no vegetated barrier.

Water Quality Protection Services: Pesticides and Organic Chemicals

With significant variability in reported results, vegetated buffers and filter strips have also proven effective in reducing the runoff of herbicides and pesticides [91-94]. The greater complexity of the processes and chemical properties that influence pesticide and herbicide fate and transport accounts for the high variability in reported results and points to the need for a

process-based understanding of riparian area effects on contaminant fate and transport [20]. Nevertheless the extent to which riparian areas trap organic compounds and prevent them from entering the stream system offers long-term preventive water quality benefits especially in urban and urbanizing streams.

Parker et al. [95] found significant concentrations of organochlorine compounds in urban stream sediments in Phoenix, Arizona even though many of these compounds are no longer in use. Despite the ban on some pesticides nearly 30 years ago, Chlordane, DDT and its decay products, dieldrin, toxaphen, and PCBs were ubiquitous in the sediments in Phoenix's urban stream channels. The persistence of these compounds, which pose very costly remediation challenges, highlights the long-term value of preventing contaminants in non-point runoff from entering streams. Riparian setbacks offer a last barrier to intercept and prevent persistent organic contaminants from entering the stream system.

An example of process-based determination of buffer widths to protect surface waters from multiple pollutants is described by Lin et al. [96] and Lin et al. [97]. To meet targeted water quality goals in the Shei Pa National Park in Taiwan, individual buffer widths were derived for over 50 different contaminants. Buffer widths for each contaminant uniquely account for the effects of slope and soil properties along the stream, as well as the specific attenuation and degradation processes affecting the fate and transport of each contaminant, such as denitrification, adsorption, and microbial degradation. From the analysis of 46 pesticides of interest, the pesticide Fenarimol required the widest buffer to protect water quality. Among the exchangeable ions of magnesium, potassium, sodium, and calcium; extractable metallic ions of copper, iron, manganese, and zinc; and soluble forms of nitrogen and phosphorous, the high mobility of potassium salts required the widest buffer width [97]. The largest buffer width was selected along each stream reach to provide protection from all the contaminants considered.

This process-based design of riparian buffers illustrates the explicit linkage between buffer width and the performance-based choice of riparian services. It also illustrates the substantial data needs required for site-specific performance-based design of varying buffer widths. The process analysis that supported these buffer calculations required site-specific data including slope, depth to water table, and the bulk density, saturated hydraulic conductivity, organic content, and saturated water content of each riparian soil along each stream segment. In addition to considering the specific services and tradeoffs provided by the choice of buffer width, consideration of site-specific setback widths creates pragmatic tradeoffs among the resources required for site assessment and data collection and the information needed for reliable setback implementation. As a result of the complexity and cost of developing site-specific setback widths, as well as the accuracy of CRWP's recommended widths as highlighted in this report, CRWP recommends fixed minimum setbacks of 25, 75, 120, or 300 feet depending on drainage area. This recommendation is discussed in more detail below.

Water Quality Protection Services: Denitrification and Nutrient Removal

The rapid growth of chemical fertilizer use and wastewater treatment discharges has dramatically

accelerated the nitrogen inputs to rivers, lakes, and the coastal ocean. From Chesapeake Bay to the Mississippi River and the Gulf of Mexico, nitrogen enrichment of surface and groundwater resources has become an ubiquitous management challenge around the world [98, 99]. Nitrogen removal in the riparian zone is unequivocally recognized as one of the most cost-effective means to control excess nitrogen losses from intensively developed watersheds [9, 29-31, 100-102] and helps to guide our expectations and management of riparian setbacks.

Riparian areas reduce nitrogen pollution through nutrient uptake and assimilation by vegetation, and the transformation of dissolved nitrogen to nitrogen gas that is returned to the atmosphere through microbial *denitrification*. The nitrogen carried in flood flows and runoff becomes available to riparian vegetation as nitrogen rich surface water enters shallow groundwater. Nitrogen loss through denitrification takes place predominantly under anaerobic soil conditions - a circumstance in which no free oxygen is present in the soils. Such conditions are common in saturated or poorly drained floodplains.

Denitrification requires a population of denitrifying bacteria, a source of carbon, and sustained conditions with low dissolved oxygen concentrations. Shallow groundwater flow paths that maintain saturated conditions in riparian floodplains can sustain anoxic or reducing conditions, conducive for denitrification. Undisturbed riparian floodplains typically combine shallow water tables, a ready carbon source in rooted riparian vegetation, and the natural occurrence of denitrifying bacteria creating persistent zones of reducing conditions that support high rates of microbial nitrogen reduction. Denitrification rates vary with the position of the water table and variation in the geochemical environment along groundwater flow paths. Deep groundwater flow paths may bypass shallow reducing zones, as do tile drains and ditches that rapidly convey groundwater and dissolved nitrate to streams [103]. Nitrogen removal also varies with the seasonal variation in water tables and the residence time of groundwater flow. Nitrogen taken up by vegetation during the growing season may be released and recycled as plants lose their leaves in fall and winter. This transient uptake is nevertheless valuable for protecting groundwater from excess nitrogen inputs. The seasonal uptake of nitrogen by deep-rooted vegetation effects a net transfer of inorganic nitrogen in groundwater to organic nitrogen as leaf litter on floodplains and riparian forest floors where it can be re-mineralized and denitrified by soil microbes [104].

In contrast to seasonal uptake and recycling by riparian vegetation, denitrification can permanently remove nitrogen from riparian groundwater throughout the year as long as suitable biogeochemical conditions are maintained. Under appropriate conditions, denitrification rates remain high throughout the year [31, 105-107] and have been observed to increase as vegetation becomes dormant in fall and winter [105, 108]. The seasonal decline in vegetative uptake leaves more nitrogen in groundwater for microbial reduction. The accompanying seasonal decline in evapotranspiration leaves more soil water available to maintain saturated reducing conditions in the soil. Together these seasonal changes can support increased winter denitrification rates and sustain nitrogen removal throughout the year.

The spatial and temporal variability in factors affecting denitrification account for much of the

site-specific variability reported in the riparian buffer literature and explain why setback width alone is insufficient to uniquely predict nitrogen removal rates. Highly permeable riparian sediments with high groundwater flow velocities require high rates of microbial transformation to achieve significant nitrogen removal. Long groundwater flow paths with residence times of 50 to 75 years have been observed to achieve nearly total nitrogen removal with very modest denitrification rates, due to the long effective reaction time [103]. Nitrogen removal efficiency reflects both the biogeochemical rate and the hydrogeologic contact time for nitrogen reducing chemical transformations. In glacial till and outwash soils in southern Ontario, Vidon and Hill [109] observed 90% removal of nitrogen in the first 50 feet (15 m) of riparian buffers in soils with sandy loam or loamy sand textures; in sand and cobble soils the distance to achieve a 90% removal of nitrogen ranged from 82 feet to over 574 feet (25 m to over 175 m) – reflecting the higher flow velocity, and therefore shorter contact times, in these more conductive soils. Groffman et al. [110] similarly suggested that gravel bars with low rates of denitrification may nevertheless be significant nitrogen sinks in urban streams due to the relatively long contact time of stream water flowing through the sediment matrix.

Despite great variability in seasonal and site-specific denitrification rates, preserving riparian corridor functions is unequivocally recognized as one of the most effective means to manage excess nutrient losses from intensively used watersheds [100]. That is one of the reasons that the National Academy of Sciences [1] concluded that:

> *Future structural development on floodplains should occur as far away from streams, rivers, and other water bodies as possible to help reduce its impact on riparian areas.... Thus, preventing unnecessary structural development in near-stream areas should be a high priority at local, regional, and national levels [1].*

Water Quality Protection Services: Stream Productivity and Nutrient Removal

Beyond biogeochemical processes in the riparian floodplain, the riparian corridor is inextricably linked to the metabolism and productivity of streams. Streams do not just convey nutrients and contaminants delivered to them, but actively process nutrients and dissolved constituents on the active biofilms on the streambed [76] and on the surfaces of sediments in the channel and streambank [29]. The highest processing rates occur on headwater streams [3] that, together with their disproportionate contribution of watershed discharge, produce cumulative water quality services that extend far downstream.

> ***Not only do forest buffers prevent nonpoint source pollutants from entering small streams, they also enhance the in-stream processing of both nonpoint and point source pollutants, thereby reducing their impact on downstream rivers and estuaries.[3]***

We now understand that surface water does not just flow through the stream channel. At the head of riffles, streamflow enters stream gravels and flows into the streambank, reentering the channel in downstream pools and upwelling zones. The high surface area, intense mixing of

surface water and ground water, and sharp chemical gradients in these mixing environments support some of the most important biogeochemical processing of nutrients, organics, and dissolved constituents in the landscape. For example, the low nutrient concentrations found in pristine headwater streams have traditionally been interpreted as merely the consequence of low nutrient inputs. We now understand that undisturbed headwater streams also have some of the highest rates of nutrient assimilation and stream metabolism in the landscape. Riparian areas are essential to maintain these highly productive interconnected systems and their integrity warrants protection. Using the radioisotope N^{15} as a tracer, Peterson et al. [111] found ammonium experimentally introduced to streams was completely assimilated over a downstream distance of only 33 to 330 feet (10m to 100m) in headwater streams, with distances typically 5 to 10 times longer for the uptake of nitrate. In contrast, ammonium uptake distances between roughly ½ to ¾ of a mile (766m to 1,349m) were observed in second order streams, in which nitrate uptake was undetectable [112]. The spatial pattern of human alteration of the landscape affects the status of rivers through variations in the length, width, and gaps of riparian buffers, all of which influence the effectiveness of buffers as nutrient sinks [113].

Streams in suburban/urban areas are impacted by pollutants from activities such as construction, road maintenance, and lawn care, as well as by streambank erosion. These pollutants, including sediments, nutrients, pesticides, and heavy metals, reduce water quality in a variety of ways. Elevated nutrient levels in urban streams reflect increased nutrient loads as well as the lower productivity and reduced capacity to assimilate nutrients. Nutrient processing of streams decreases with urbanization, characterized by an "urban stream syndrome" [4, 36] of increased nutrient and contaminant loading, increased stream flashiness, and altered biotic assemblages [4].

Elevated nutrient concentrations associated with urbanization are usually attributed to increased inputs from point and non-point sources; our results indicate that concentrations also may be elevated because of reduced rates of nutrient removal. Altered ecosystem function is another symptom of an urban stream syndrome. [4]



Urban Stream Syndrome

Riparian Setbacks Protect Water Quality and:

- *Provide for the uptake and storage of nitrogen.*
- *Facilitate the gaseous loss of nitrogen.*
- *Minimize sedimentation by controlling streambank erosion.*
- *Trap sediments, phosphorus, and some pesticides.*
- *Maintain the riparian biogeochemical processes that regulate stream water quality.*

Groundwater Purification Services

Riparian vegetation can remove certain nutrients and some metals from groundwater. Research

shows that significant pollutant removal can occur if groundwater is available to root systems and to denitrifying microbes. Desbonnet et al. [8] reported 84% to 87% removal of nitrate from groundwater in a forested riparian area. This method of groundwater purification is generally not effective at removing oils, pesticides, and the majority of metals. Groundwater purification in the riparian corridor is enhanced by the convergence of runoff and the shallow depth of the water table near the root zone of riparian vegetation [114]. Connected riparian areas play a crucial role in the purification of groundwater in alluvial aquifers. Groundwater pumping from alluvial aquifers can induce recharge along the length of hydraulically connected rivers and streambanks. Groundwater flow through alluvial aquifers results in substantial removal of dissolved particulate materials, bacteria, pathogenic parasites such as *Giardia* and *Cryptosporidium*, and a variety of reactive contaminants. In central Europe bank filtration is a widely used component of drinking water purification [26].

The passage of river water through a stream's bed and banks into adjoining alluvial aquifers provides filtration and attenuation of suspended sediment and turbidity, microbial pathogens, and a variety of constituents ranging from fecal coliform bacteria to forms of organic carbon that can form potentially carcinogenic compounds when exposed to common drinking water disinfectants such as chlorine. The water treatment value of natural riverbank filtration has long been recognized. In Germany and central Europe river bank filtration via active pumping from alluvial aquifers has been used as an integral component of the water treatment process for public water supply for decades [26]. The natural hydraulic connection between surface water and alluvial groundwater systems in healthy riparian corridors is a necessity for sustained riverbank filtration. Under the Safe Drinking Water Act, the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) requires water suppliers to meet effective removal criteria for the microscopic intestinal parasite, *Cryptosporidium*. Riverbank filtration may provide removal credits toward compliance with the LT2ESWTR at very modest cost. Bank filtration requires no chemical costs and has low maintenance costs. Moreover the diverse removal processes operating along groundwater flow paths can effectively remove a wide variety of drinking water contaminants [115].

In southwest Ohio, the Cincinnati Water Works (CWW) draws most of its water supply from the thick alluvial Great Miami Aquifer. CWW's C.M. Bolton wellfield produces about 40 million gallons per day (mgd) from a field of ten wells located within approximately 800 feet from the Great Miami River, which recharges the aquifer. Extended monitoring data from the Bolton wellfield confirmed that riverbank filtration consistently provided greater than 3 log (i.e. 3 order of magnitude) removal of pathogen surrogates, such as aerobic and anaerobic spore-forming bacteria, and neither *Cryptosporidum* nor *Giardia* were detected in any groundwater samples [116]. Similar analysis from full scale riverbank filtration facilities along the Wabash, Missouri, and Ohio Rivers also found no detectable *Cryptosporidum* or *Giardia,* and only infrequent detection of any coliform bacteria, with 5-6 log reduction in average coliform concentrations relative to river water [117].

Partinoudi et al. [118] compared the filtration performance of full scale operating riverbank

filtration systems in Pembroke, New Hampshire, Cedar Rapids, Iowa, and Louisville, Kentucky to conventional slow sand filtration. They concluded that riverbank filtration had similar performance to slow sand filtration for the removal of pathogens and turbidity, and superior performance in the removal of dissolved organic carbon and other precursors of disinfection byproducts.

Riparian Setbacks Purify Groundwater and:

- *Remove nutrients and some metals.*
- *Maintain the hydraulic connection between rivers and alluvial aquifers supporting riverbank filtration of groundwater.*

Ecosystem Protection Services

People are attracted to the Chagrin River watershed for the quality of life it provides. A critical component of this quality of life is the watershed's ecosystem features including its wildlife, streams, and open spaces. Riparian setbacks protect these ecosystem features. Setbacks are a component of a community's overall open space and support plant and animal populations in streams and throughout the watershed in a variety of ways.

Ecosystem Protection Services: Aquatic Systems and Stream Temperature

Riparian vegetation that shades streams, such as trees and large shrubs, stabilizes water temperatures and light levels [7]. Shading also minimizes the presence of aquatic nuisance species such as blue-green algae [119]. These species thrive in direct sunlight and may replace some of a stream's native food sources if riparian vegetation is removed. Stream temperature exerts important controls over chemical reaction rates in stream systems as well as the metabolism and development rates of fish eggs, fry, and macroinvertebrates [120]. Stream warming has direct effects on mortality rates, body morphology, disease resistance, and metabolic rates in fish. Changes in stream temperatures can cause eggs of spawning species, such as walleye, to mature early and disrupt the delicate synchronization between thermal and hydrologic regimes that has evolved in their reproductive behavior. The solubility of dissolved oxygen is strongly dependent on water temperature and key aspects of the life cycle of spawning fish are synchronized by stream temperatures [22].

Land transformation affects stream temperatures by removing shading from tree canopies, increasing heat inputs through direct runoff from roofs, roads, and parking lots, and increasing ambient air temperatures following the loss of shading and evaporative cooling. Changes in the inputs and connectivity to groundwater systems can also disrupt cooler groundwater inputs from alluvial aquifers, seeps, and springs that provide valuable thermal refuges for aquatic organisms under summer low flow conditions [121].

The influence of the riparian corridor on stream temperatures is not always easily quantified due to the variety of factors that contribute to the stream energy balance, the diversity of hydrologic settings in the landscape, and the limited data often available to elucidate these influences. Variation in average stream temperatures throughout the year is closely correlated with air

temperature as well as the annual cycle of streamflow and vegetative cover [122]. The empirical correlation between air temperature and stream temperatures can provide significant skill in predicting average stream temperatures [123] and has led some to conclude that air temperature exerts a greater control on stream temperature than the inputs of solar radiation and shading by riparian vegetation [124]. These issues have assumed great significance in the Pacific Northwest where temperature effects from clearcutting directly threaten salmon, and both the width and length of forested riparian buffers required to protect stream temperatures have direct economic impacts in constraining timber harvest.

The effect of riparian shading is challenging to quantify due to the variability in the shading characteristics of leaf canopies of different riparian species and the change in shading as stream orientation to the sun varies along its course. For example, in reviewing best management practices in riparian forest management Broadmeadow and Nisbet [33] describe the results of a simple stream shading model that accounted for the different shadow lengths cast on north and south facing slopes and noted that buffer widths necessary to achieve stream shading goals will vary significantly with stream reach orientation.

Stream temperatures are determined by the energy balance of heat inputs from upstream runoff, incoming solar radiation, heat exchange with the atmosphere streambed and banks, and inputs from colder groundwater seeps and springs. The relative magnitude of each of these inputs is site specific and varies with season, geology, latitude, weather, and time of day. Direct solar radiation inputs vary along the course of a stream, as the meandering channel's orientation to the sun changes, and the channel's width to depth ratio exerts a strong influence on the rate of heat exchange. Wide shallow channels are easily heated by direct solar inputs, while narrow deep channels offer relatively little surface area to collect solar energy relative to the overall volume of water absorbing the heat. This complexity and variability, along with very limited data on all the terms in the heat balance, contributes to the challenge of quantifying the effects of any individual term in the heat balance.

Nevertheless the importance of stream temperature and its relationship to riparian vegetation has motivated research that provides clearer insights into the controls of stream temperature. Direct solar radiation has a relatively small effect on average stream temperature, but is most responsible for deviations of stream temperature above the mean. Moreover, of all the factors that influence stream temperature, incoming solar radiation is the main factor that can be influenced by management of the riparian corridor and streamside vegetation [125]. Danehy et al. [126] also determined that direct solar radiation exercised the predominant effect on maximum summer stream temperatures in mountain streams in Oregon and Idaho, observing significantly lower variability in minimum temperatures.

In southwest Wisconsin, Gaffield et al. [121] used a simple screening model based on heat transport to predict steady-state temperatures for whole reaches of coldwater streams. The simple heat balance elucidated the relative importance of meteorology, channel geometry, and stream shading on summer stream temperatures and quantified the importance of cold

groundwater inputs, as well as channel width and stream shading, as the dominant variables controlling summer stream temperatures.

In one of the most carefully instrumented experimental studies of stream temperature effects, Johnson [127] developed detailed heat budgets from a shading experiment on stream reaches in the H.J. Andrews experimental forest in Oregon. Following two weeks of monitoring air and water temperature and solar radiation, a 492 foot (150 m) stream reach was experimentally shaded and monitored for two weeks. Maximum water temperatures were significantly lower with shading, with no significant change in mean or minimum daily temperature. The detailed heat budget constructed from this data clearly identified the dominant role of direct solar radiation on maximum daily stream temperature; stream shading exerted a much stronger influence on maximum stream temperature than ambient air temperature. An inferential model-based analysis of the relative effects of stream shading, wind sheltering, and hydrologic heat sources similarly concluded that the effect of stream shading was stronger than stream sheltering in a broad analysis of temperature data from 596 stream gauging stations in the eastern and central U.S. [128].

The vegetated riparian corridor provides a buffering effect on stream temperatures by moderating air temperatures, but primarily through the shading of streams. The effectiveness of vegetative shading varies with the height, density, and configuration of vegetation and tree crowns, as well as the latitude, the orientation, and width of the stream reach, the slope of the adjoining riparian lands, and the degree of canopy closure. Variation in tree canopy form, slope, and solar declination all influence the buffer width required for effective stream shading. The heat budget for a stream reach is affected by upstream stream temperatures. For this reason the *length* of the riparian area also affects stream temperatures, by influencing this significant upstream heat source. Moreover the relative importance of upstream temperature inputs and direct solar inputs result in a tradeoff between the width and the upstream length of riparian area required to maintain a specified temperature target. Broadmeadow and Nisbet [33] describe results from Barton at al.'s [129] analysis of these tradeoffs for streams in southern Ontario. The results suggest that a 459-foot (140 m) riparian area 3,281 feet (1 km) in length would be expected to keep maximum water temperatures at 22 degrees C. If the riparian area length was increased to 6,562 feet (2 km), the width necessary to maintain a 22 degree C maximum daily temperature would only need to be 164 feet (50 m) in width. This echoes Correll's [130] recommendation on the importance of continuous riparian areas and minimizing variances to riparian setback regulations in order to sustain resilient riparian function.

Ecosystem Protection Services: Aquatic Systems and Sedimentation

Perhaps the most pervasive ecological effects from riparian disruption may result from increased sedimentation and turbidity. In his review of the effects of sediment on fish, Waters [16] concluded:

> *After a half-century of the most rigorous research, it is now apparent that fine sediment, originating in a broad array of human activities (including mining) overwhelmingly*

constitutes one of the major environmental factors – perhaps the principal factor in the degradation of stream fisheries.

In documenting the effects of sedimentation on fish communities, Rabeni and Smale [131] identify the control of sedimentation dynamics as one of the most beneficial services provided by riparian areas, and conclude that proper riparian management can mitigate the undesirable effects of sedimentation.

Sediment effects on fish include direct effects, such as mortality and disease, and sublethal effects on reproduction, growth, behavior, and food supply. Elevated suspended sediment concentrations have been shown to depress growth, degrade the visual cues for fish reproduction and predation, and increase vulnerability of fish to disease and specific bacterial, viral, and protozoan pathogens. Experimental studies have documented the physiological symptoms of sediment-induced stress in fish [16]. Turbidity refers to the clarity of water, and even modest increases in turbidity lead to reduced primary productivity that can propagate through the food chain. For example, on the Colorado River Osmundson et al. [132] related the low abundance of the endangered Colorado pike minnow to the increased accumulation of fine sediments due to river regulation through withdrawals, impoundments and other reservoir control. The entire food chain was disrupted by these changes, as the accumulation of fine sediments reduced the populations of macroinvertebrates, algae, and microbes on the streambed that are, in turn, the primary food source for the Colorado pike minnow's prey species.

The reproductive cycle of spawning salmon and trout are particularly vulnerable to the effects of sedimentation and have been the focus of a large body of research on sediment effects on these highly prized fisheries [133]. With the exception of lake trout, all North American salmon and trout lay their eggs in gravel nests, called redds, whose structure alters local flow patterns to maintain the exchange of oxygenated waters over incubating eggs. Excess sediment results in high mortality by restricting the flow of oxygenated water over the eggs, smothering embryos and sac fry within the redd, and entombing emerging fry. The pervasive influence of sediment on fish is best understood by considering sediment effects throughout each stage of their life history. Fulfilling the different life history requirements for fish requires a complex mosaic of suitable aquatic and floodplain habitats [134]. Excess sedimentation can disrupt every life stage in salmonids [135] as well as the prey species that support them.

Riparian degradation and increased stream sedimentation go hand in hand. Jones at al. [136] analyzed the changes in fish communities at 12 sites with more than 85% forested land cover in the Little Tennessee watershed, at which the upstream riparian corridor had been deforested. Despite the very high levels of forested land use remaining in the contributing watersheds, one of the principal consequences of removing riparian forest was increased stream sedimentation; the longer the nonforested riparian patch, the greater the sedimentation of riffles and pools, with concomitant shifts in fish assemblages. They conclude that, in addition to width, the length and area of riparian buffers are key factors in riparian management to mitigate sedimentation and protect aquatic ecosystems.

Some of the earliest process-based guidelines for riparian setbacks were developed by Trimble and Sartz [137] to protect streams from sedimentation originating on logging roads in the Hubbard Brook Experimental Forest in New Hampshire. Their early setback guidelines were based on the observed distance sediment traveled across the forest floor and inherently accounted for the runoff volume, soil characteristics, and slope-dependent velocity of runoff. To ease implementation, recommended widths were expressed as simple "rules of thumb" based on a minimum setback of 25 feet that increased 2 feet for every 1 percent of slope - to a maximum 165 foot width on 70% slopes. They also recommended doubling these widths to protect streams that served as water supply sources. This conservative margin of safety for critical or vulnerable uses illustrates the explicit risk-based judgment about the tradeoffs between acceptable risk and the beneficial use of lands inherent in any minimum setback recommendation.

Ecosystem Protection Services: *Aquatic Systems and Invertebrates*

The complex matrix of algae and microbes attached to submerged substrate in most aquatic ecosystems is referred to as periphyton. Periphyton is an important food source for many grazing invertebrates and some fish and can be an important sink for nutrients and contaminants. Broekhuizen et al. [138] studied the effect of sediment inputs on the ability of grazing macroinvertebrates to assimilate periphyton. Using the radioisotope C^{14} as a tracer, they found that carbon assimilation by periphyton grazers decreased in direct proportion to sediment increases. Kiffney et al. [139] compared the growth of periphyton in 13 clearcut headwater streams with riparian areas ranging from 0 feet to 98 feet (0m to 30m) in width. The periphyton biomass increased with narrower riparian widths, attributed to greater inputs of direct sunlight. As the periphyton biomass increased the inorganic content of the periphyton increased as well. These changes reflected a shift in algal composition from diatoms to filamentous algae that trapped more of the increased sediment load in the periphyton, decreasing its nutritional value and making it more difficult for grazing invertebrates to attach. The observed increase in sediment and periphyton inorganic content coincided with a decrease in mayflies and an increase in more pollution tolerant midges (chironomids). Kiffney et al. [139] concluded that retaining a forested buffer of at least 98 feet (30 m) was required to minimize the sediment effects of clearcut logging on these headwater streams.

Stream macroinvertebrates are sensitive indicators of aquatic ecosystem integrity. Changes in community structure are widely used as biological water quality indicators and the relative influence of key stressors on aquatic ecosystems, including stream corridor structure, siltation, and total suspended solids, can be inferred from the observed changes in the community structure of fish and benthic invertebrates [140]. Sedimentation and turbidity increase the natural drift of aquatic insects causing them to enter the flowing current to be carried downstream to less stressful conditions [141, 142]. This is especially true for the so-called EPT taxa – the mayflies (Ephemeroptera), stone flies (Plecoptera), and caddisflies (Trichoptera) that serve as the primary taxa available for fish. Through abrasion, turbidity, and the infilling of preferred habitat in the interstices of gravel and cobble substrates, sedimentation results in a benthic macroinvertebrate community characterized by higher densities of burrowing organisms,

such as sediment tolerant midges (chironomids) and annelid worms (oligochaetes) in soft mucky sediments, offering lower food value for fish.

A remarkable natural "experiment" on the effect of siltation on stream invertebrates in northeast Ohio was reported by Dewalt and Olive [143] in Portage County, Ohio. Silver Creek, a small headwater tributary of the Mahoning River, drains glacial sediments and periodically erodes a layer of glacially deposited silts. During these erosional episodes the cool clear gravel-cobble stream takes on a milky color and a thin layer of fine silts and clays accumulates on the streambed downstream from the source of these eroding silts. Dewalt and Olive [143] sampled the macroinvertebrate fauna upstream and downstream of such an erosional event that lasted from March to October 1984. Following the introduction of silt and clay into the stream they found the species richness, number of taxa, and abundance in the depositional reach dramatically declined, compared to upstream reaches. Of interest as well is the rapid rate at which the impacted reach recovered once the eroding silt was exhausted. The ecological integrity of the impacted reach recovered within 7 months of the cessation of siltation and was attributed to recolonization by drift from upstream populations. This remarkable process of impact and recovery highlights both the sensitivity of stream ecosystems to sedimentation and the ability of stream communities to recover from transient stresses, *if* they maintain their connectivity and function as part of a dynamic resilient stream system.

In contrast to the rapid recovery reported by Dewalt and Olive [143], Zuellig et al. [144] reported a similarly episodic discharge of approximately 9,156 cubic yards (7,000 m^3) of sediment flushed from a reservoir on the North Fork of the Cache La Poudre River in Colorado during dam inspections. As the sediment pulse worked its way through the river system, macroinvertebrates rapidly recolonized the affected reaches below the dam. However, the recolonized stream fauna differed radically and represented a complete functional shift from the pre-flush macroinvertebrate community. The dramatic change in the recolonizing fauna was attributed by Zuellig et al. [144] to the *absence* of permanently flowing tributaries that could connect similar biological populations for recolonization through passive downstream drift.

Forested riparian areas can insulate aquatic ecosystems from many of the effects of upslope land transformation - even clearcut forest harvesting. Quinn et al. [145] found that forest sites that had been harvested leaving continuous forested riparian areas had macroinvertebrate communities similar to unimpacted reaches. Stream ecosystems in which discontinuous or patch riparian areas were retained suffered a loss of taxonomic and functional diversity, but were not impacted as severely as reaches without any riparian areas. Their results reiterate the need to encourage contiguity in riparian areas, and the importance of the length of setbacks as well as their widths.

More widespread degradation is observed in streams with sustained stresses such as the permanent transformation of landuse and hydrology that accompanies current land development practices. In Big Darby Creek on the Scioto River in Franklin County, Ohio biological monitoring data document the impairment of aquatic ecosystems, water quality, and habitat

associated with suburban land transformation. Primary causes of ecosystem impairment were identified as riparian and habitat degradation and excess nitrate concentrations [146].

Using the State of Ohio's exceptional biological monitoring data, Miltner et al. [147] analyzed the effects of land transformation on aquatic ecosystems in three streams in Franklin County, Ohio. Analysis of 10 years of biological monitoring data show the degradation of fish communities associated with suburbanization - including local extirpation of pollution intolerant species such as silver shiners and hornyhead chubs, at sites where they had been historically abundant. Although a general storm water construction NPDES permit requiring best management practices to minimize sediment loads is applicable statewide in Ohio, the continuing loss of sensitive species with development led Miltner et al. [147] to question the adequacy and enforcement of required site-specific practices. Among the central Ohio streams analyzed, Miltner et al. [147] found the following:

> *The few sites in our data set where biological integrity was maintained despite high levels of urban land use occurred in streams where the floodplain and riparian buffer was relatively undeveloped. An aggressive stream protection policy that prescribes mandatory riparian buffer width, preserves sensitive areas and minimizes hydrologic alteration needs to be part of the larger planning and regulatory framework.*
>
> *And...*
>
> *Together these results suggest that aggressive regulations that protect riparian buffers and preserve much of the predisturbance hydrology may be effective at maintaining aquatic life uses consistent with basic clean Water Act goals in suburbanizing watersheds, at least up to a point.*

In Washington, D.C.'s rapidly developing Maryland suburbs Moore and Palmer [148] similarly analyzed the changes in ecosystem integrity across a gradient of agricultural to suburban landuse conversion. They similarly concluded that:

> *...maintenance of riparian forests even in highly urbanized watersheds may help alleviate ecological disturbances that might otherwise limit macroinvertebrate survival.*

Ecosystem Protection Services: Aquatic Systems and Stable Wood

Our understanding of the importance of naturally occurring wood in streams has grown dramatically to the point that stable wood, often referred to as large woody debris or coarse woody debris, is recognized as a crucial element of healthy stream function and stream restoration [134]. Following the recommendation of Gregory et al. [18], here and throughout this report we refer to "wood" in streams meaning "stable wood" that stores alluvial sediments, creates hydraulic variability, habitat diversity, and the overall complex characteristics of the most diverse and productive fluvial environments. This terminology is recommended to distinguish the variety of valuable functions associated with *stable* wood [149] from the

nuisance, aesthetic, and public safety dis-amenities associated with pruning waste, tree slash, and other forms of trash or garbage often associated with the terms debris, coarse woody debris, or large woody debris. In contrast to highly mobile debris that readily clogs culverts and damages infrastructure, tree ring analysis has shown that wood in natural streams can remain in place, providing structure and complexity in the fluvial system for over a century [67, 150].

Wood in streams provides ecological benefits ranging from instream habitat and shelter for fish, to the supply and accumulation of organic material and habitat supporting invertebrates, bacteria, and insects. The diverse habitats created by wood in streams are associated with hydraulic environments that dissipate stream energy, fostering the deposition and storage of sediment, detritus, and organic debris, as well as flow resistance that stabilizes and protects streambanks. Rivers and streams continually adjust to the dynamic inputs of wood and the associated changes in flow paths, channel form, and water surface elevations due to obstructions or logjams can create backwater conditions that increase flood risks for homes and structures in the floodplain. The routine clearance and removal of wood has therefore become common practice in developed watersheds. This removal of wood from streams is also associated with simplified stream and river channels and impoverished fish communities [151].

Moreover the indiscriminant removal of stable wood from streams can trigger profound changes in channel form, sediment storage, and the character and function of the riparian corridor, potentially causing additional flooding and erosion problems downstream. Brooks and Brierley [152] have reported on extensive analysis of channel changes in Australia's Cann River attributed primarily to the removal of riparian vegetation and wood since European settlement. The loss of storage and rapid mobilization of stream sediments with the removal of stable wood has resulted in a 700% increase in channel capacity associated with a 150-fold increase in the rate of lateral channel migration, a 40-fold increase in bankfull discharge, and even more dramatic increases in the annual sediment load. Of perhaps greater significance is the observation that these rapid adjustments have crossed key physical thresholds affecting stream processes. For example, the hydraulic significance of wood in streams changes as stream width increases relative to the mean size of wood [153]. In the Cann River, the vast increase in channel capacity has so widened the channel that the hydraulic effects of pre-development wood have fundamentally changed so that the reintroduction of riparian vegetation and predevelopment wood will not achieve stream channel recovery [152, 153]. These potentially irreversible changes in riparian systems emphasize the paramount importance of efforts to protect and maintain *existing* riparian function.

Management of riparian areas should give first priority to protecting those areas in natural or nearly natural condition from future alterations. [1]

In developed watersheds, the potential costs of wood in streams, such as undesirable changes in flood heights and channel alignments, must be balanced against the range of benefits from sediment storage, storage and dissipation of flood flows, and the critical ecological functions supporting diverse foodwebs and habitats. Along with desirable services, the potential for locally increased flood risks must be considered and logjams that threaten safety should be

cautiously removed. Wood in streams can have both beneficial and deleterious effects, but all wood should not be automatically removed. These dual functions are recognized by the Ohio Department of Natural Resources (ODNR) [149, 154]. The necessary balance between environmental services and flooding and erosion costs means that, pragmatically, the density and abundance of wood in developed streams will remain lower than in streams with minimal human impact. Though less abundant in developed watersheds, the biological value of wood that is found in developed streams is especially high - due in part to its relative scarcity. [151].

On balance, wood in streams and its dynamic replenishment from riparian corridors, provides enormous value in creating stable hydraulically diverse environments, critical habitat, and supporting the base of many aquatic food webs. The stable wood in resilient streams reduces erosion by protecting and stabilizing streambanks and creates pools that store sediment, dissipate flood flows, and reduce the hydraulic slope of individual stream reaches.

Boyer et al. [155] emphasize the critical importance of the linkages between riparian forests and floodplains in maintaining the processes that support their many diverse functions. They suggest that the conservation, enhancement, and restoration of these processes may be one of the most complex land management problems of the 21st century, and conclude that the conservation of intact riparian areas may prove to be the most cost-effective management approach for initial restoration of ecological functions to watersheds, including delivery of wood.

Ecosystem Protection Services: Terrestrial Systems

In addition to their value to aquatic systems, riparian areas are commonly recognized as corridors for animal movement and plant dispersal [37]. Floodplain plant species are adapted to the conditions created by the soil types, hydrologic variability, and disturbance regime characteristic of riparian areas. Riparian plants have evolved a variety of life histories that enable them to endure, resist, or avoid the extreme conditions of flooding, erosion, abrasion, and drought they regularly experience. For example, vascular plants that are periodically flooded have adapted to anoxic root conditions by developing air spaces, called aerenchyma, in their roots and stems that allow oxygen diffusion from the aerial portion of the plant to the roots. Anoxic conditions also mobilize ions such as manganese that can be toxic to plants. Riparian plants can create a thin oxygenated layer in the soil zone immediately surrounding the roots, called the rhizospere, to reduce this threat [156]. Similar adaptations are found in reproductive modes that synchronize seed dispersal with the seasonal disturbance and retreat of flood waters, and vegetative propagation via floating propagules that opportunistically disperse and colonize sand bars, streambanks, and terraces modulated by the frequency and elevation of flood waters.

The dynamic flux and exchange of surface water, groundwater, nutrients, sediment, and organic detritus enables riparian areas to support some of the highest levels of ecological diversity in the landscape. For example, Nilsson [157] reports 13% of the entire Swedish flora of vascular plants occurring along a single river corridor. Diversity in riparian corridors results from the abundance of nutrients, energy, and water as well as regular disturbances such as floods and

landslides, characteristic of the riparian zone. It is important to note that the disturbance regime that makes the riparian zone a disproportionately diverse and productive component of the landscape, also renders riparian areas generally unsuitable for development.

These disturbances in the riparian zone reduce the potential for competitive exclusion through periodic population reductions and environmental fluctuations [7]. Diverse plant life supports diverse wildlife which is enhanced if trees and shrubs are available to offer protection to nesting and resting areas [38]. For example, nearly 70% of vertebrate species in an area will use riparian corridors in some significant way during their life time [158]. The diversity of biogeochemical cycles, life histories, and disturbance regimes led Naiman et al. [7] to the unequivocal conclusion that:

> *Natural riparian corridors are the most diverse, dynamic, and complex biophysical habitats on the terrestrial portion of the Earth.*

Our understanding of the importance of riparian corridors for terrestrial fauna including mammals and birds, as well as semiaquatic species such as reptiles and amphibians lags behind the emerging understanding of the intimate coupling of riparian and aquatic ecosystems. This limited understanding of the terrestrial environment is reflected implicitly in many riparian management measures that are primarily based on protecting water quality. To extend current understanding of riparian function for semiaquiatic species, Semlitsch and Bodie [159] reviewed the literature on amphibian and reptile use of terrestrial habitats associated with streams and wetlands to identify "core habitats" necessary to carry out essential life-history functions. They focused in particular on the distinction between habitat use and occurrence that is most commonly observed, and habitat needs for all essential life-history functions. They note, for example, that reptiles such as turtles and snakes, that migrate to upland habitats to nest or overwinter, commonly forage and live in aquatic habitats. Conversely, frogs and salamanders that spend most of the year foraging and overwintering in uplands, must return to aquatic habitats to breed and lay eggs during their short reproductive season.

From their review of distances traveled for *essential* life-history functions (i.e. excluding dispersal, out-migration, and other non-essential functions) in 25 states and 5 countries, Semlitsch and Bodie [159] concluded that setbacks of 49 to 98 feet (15m to 30m) are inadequate to protect amphibians and reptiles, which have maximum core habitat requirements extending between 466 to 948 feet (142m to 289m) from the core stream or wetland. Here, the *core habitat* used by amphibians and reptiles is not a buffer, but the minimum necessary habitat, leading to the further recommendation that an additional 164-foot (50m) buffer should be maintained beyond these distances to insulate the core habitat from adjacent land disturbance. This guidance, based on literature synthesis, indicates the fledgling state of understanding about riparian habitat needs of amphibians and reptiles, and underscores the authors' conclusion that more research is needed to understand the effect of riparian management practices on the long-term sustainability of amphibians and reptiles. Recognizing the inherent balance between habitat protection and beneficial use of land, they conclude:

A sustainable balance between continuing economic development and protecting natural resources depends on knowing and responding to species' biological requirements and knowing how tradeoffs affect the maintenance of biodiversity.

Ecosystem Protection Services: Terrestrial Systems and Birds

Avian life histories are highly variable and a remarkable array of specialized ecological behaviors allows birds to partition a resource in both time and space. On Vancouver Island, Canada, Shirley and Smith [160] observed significant shifts in bird species richness, abundance, and composition with varying riparian buffer widths. The influence of edge effects on avian communities was significant and strongest in the narrowest buffers. They observed significant declines in abundance as buffer widths decreased from 410 feet (125 m) to 135 feet (41 m), and concluded that buffers greater than 328 feet (100 m) may be necessary to conserve forest interior species. Many studies provide similar observations of incremental shifts in species composition diversity and abundance of birds with land disturbance, particularly forest harvest, and various buffer treatments [161-165]. In spruce forests Hagvar et al. [162] found bird species richness increased with buffer width up to about 98 feet (30 m), and remained constant up to about 328 foot wide (100m) wide forested buffers. They also found that basal area, tree height, and visibility were additional habitat characteristics needed to understand the full ecological value of riparian corridors for breeding birds.

Considering the effects of forest buffers that ranged from 66 feet (20 m) to over ½ mile (800 m) in width, Hannon et al. [166] found that, while total bird abundance did not significantly decrease following forest harvest, the relative abundance of forest dependent birds declined as buffer widths decreased from 656 feet (200 m) to 328 feet (100 m). They concluded that 66 to 328 foot (20m to 100 m) buffers were inadequate to serve as reserves for forest songbirds. Pearson and Manuwal [165] found that buffer widths of at least 148 feet (45 m) were necessary to maintain the entire breeding bird population along second and third order streams in managed Douglas fir forests of the Pacific Northwest. Despite the growing empirical literature on short-term changes in avian abundance associated with forest harvest effects, understanding riparian influences on the sustainability of bird populations requires a more integrated understanding of avian ecological life histories.

For example Warkentin et al [167] studied behavior of water thrush, known as a riparian specialist, in forests 5 to 10 years after harvest. In these post-harvest study areas the riparian areas consistently had higher numbers and greater biomass of insects and other arthropod prey, as well as greater crowding of water thrushes. Nevertheless, water thrush had lower attack rates and longer flight distances to forage in riparian areas adjoining harvested areas. The observed increases in crowding and decreased feeding efficiency led Warenkin et al. [167] to question the long-term sustainability of conserving riparian habitat specialists with buffer strips alone. Riparian management nevertheless offers rich opportunities for joint services that enhance wildfowl habitat. In the Katy Prairie near Houston, Texas, agricultural floodplain lands have been purchased by a local land conservancy and leased to rice farmers. The leased lands are

allowed to flood, generating seasonal flood control benefits which also provide critical habitat for migratory waterfowl and generate local recreational benefits for hunting and birdwatching [168].

The benefits of riparian areas to birds are evident in Ohio. The Ohio EPA [51] reports that more than 50% of the breeding bird species in the State use riparian wooded areas to nest and these areas are also critical migratory habitats. During Spring and Fall, migratory birds are 10 to 14 times more abundant in riparian habitats than surrounding upland habitats [51]. Riparian areas also serve as corridors connecting larger natural areas and can prevent the isolation of small, non-viable populations.

Riparian Setbacks Protect Ecosystems and:

- *Enhance aquatic habitat by moderating stream temperatures, controlling sedimentation, and other services.*
- *Provide highly productive terrestrial habitat.*
- *Create linkages between aquatic, floodplain, and upland habitats.*

ECONOMICS OF RIPARIAN SETBACKS

In addition to the flood control, erosion control, water quality protection, groundwater purification, and ecosystem protection services provided by riparian areas, decision makers should be aware of the economics of riparian protection. Efforts to quantify the economic impacts of limiting development and maintaining natural riparian functions along streams and their associated wetlands are discussed below.

Natural resource services refer to the benefits communities receive directly or indirectly from natural resource functions. This includes only renewable natural resource functions, excluding non-renewable fuels and minerals. The natural resource benefits provided by riparian setbacks include [169]:

- Flood control and disturbance regulation through the control of extremely high and low stream flows.
- Erosion control and sediment retention through streambank stabilization and slowing runoff.
- Surface and ground water quality protection through nutrient cycling by nitrogen fixation and the storage of sediment bound phosphorus.
- Ecosystem protection through refuge by providing habitats for resident and transient plant and animal populations.
- Recreational services including hiking, picnicking, and the protection of resources for sport

fishing.

- Cultural services by providing opportunities for noncommercial uses such as aesthetic, artistic, educational, or scientific uses.

Riparian setbacks provide these natural resource benefits by minimizing encroachment on stream channels, thereby preserving the community services these areas provide. If natural systems are not protected to provide these services, there is an increased likelihood that engineering solutions, such as dams, streambank hardening, expanded storm water retention and treatment systems, and dredging may be necessary to prevent property damage and the loss of use of the resource. These engineering solutions have associated costs to communities that may not be offset by an increasing tax base or outside funds. Because riparian setbacks can minimize the need for these engineering solutions, the costs of these solutions provide approximate estimates of the value of the natural resource benefits of riparian setbacks.

Determining the value of the natural resource benefits riparian setbacks provide will help decision makers to more accurately balance community development goals with the need to protect public health and safety and spend tax dollars responsibly. Development brings significant economic benefits to communities including employment and tax revenues. It can also have significant costs as natural systems are altered and flooding, erosion, and impacts on water quality threaten property and a community's quality of life. Currently, the benefits of development are quantified while the benefits of natural systems are not fully captured in commercial markets [169]. As a result, the non-market benefits to a community from the services of riparian areas are often not considered in development decisions and taxpayers must absorb the potentially significant costs for remedial efforts to mitigate the negative impacts of development such as accelerated streambank erosion and increased flooding. By valuing these preventive natural resource services through the proxy of the cost to replace them with engineering solutions, local decision makers are better equipped to balance overall community development goals.

The cost of remedial engineering solutions is at best a rough proxy for the value of the natural resource benefits of riparian setbacks and does not capture the inherent recreational or cultural services provided by these areas of the landscape. Further research is needed to accurately capture the full value of riparian areas in economic terms. Until such information is available, however, experience supports the use of the remediation cost as a lower bound on future expenditures communities may face when natural systems are not factored into land use decisions. These costs may be quantified from experience in protecting drinking water supplies and remediating excess sedimentation, increased flood damages, and damage to infrastructure from debris. The following section presents salient examples of these costs.

Value of Natural Resource Services Estimated Through Remediation Costs

Water Quality Services

A lower bound on the water quality protection services provided by New York City's water

supply watersheds in the Catskill Mountains can be inferred from the estimated costs of $6 to $8 billion in capital investment and $300 million annual operating and maintenance costs that would be needed for drinking water filtration facilities to replace the natural filtration of the City's water supply. To preserve these services, the City of New York is investing $1.5 billion in the Catskill Mountain watershed for stream setbacks, stream fencing, and a range of best management practices to preserve the natural water filtration services of the riparian landscape [170]. In taking this action, the City is recognizing that the value of these watershed filtration services is significant enough to invest in stream protection in upstate watersheds outside of New York City.

Erosion Control

Nationally, Osterkamp et al. [171] estimates the annual damages from sedimentation are at least $16 billion in 1990 dollars. The costs of sedimentation can be appreciated by considering the town of Gastonia, North Carolina which saved $250,000 in annual water treatment costs by moving its water supply intake to a lake with no surrounding development [168]. In the year 2000, $300,000 of the annual $4 million operating budget of the Cobb County-Marietta Water Authority in Georgia was spent on increased chemical costs to remove sediment from drinking water taken from Lake Altoona [172]. Warner and Collins-Camargo [173] cited property value losses for "degraded streams and ponds" of $100 million, and "ecological damage" exceeding $50 million due to erosion and sedimentation, as the primary drivers for the design of sediment control systems in Atlanta's watersheds.

For the rapidly growing Atlanta metropolitan area sedimentation is ubiquitous. Although "mud in water" has historically been accepted as the natural status quo, a regional effort to change the attitudes and practices towards excess sedimentation resulted in a multijurisdictional partnership in the Metropolitan Atlanta Area called Dirt 2. The regional partnership engaged broad expertise in land development practices, institutional and legal structures, and engineering expertise in sediment and erosion control. The regional partners enlisted the National Academy of Public Administration (NAPA) [172], which helped assess and summarize the estimated regional economic damages from erosion and sedimentation. Among the continuing damages cited were frequent lawsuits by private property owners seeking compensation from the offsite damages of excess sedimentation. Although the average damages in individual actions were typically in the range of $10,000 to $30,000, the cumulative annual awards were estimated to range between $500,000 and $1 million, providing an indication of the frequency of recurring damages severe enough to lead to legal actions each year.

Lakeside property owners in the metropolitan Atlanta area have incurred significant dredging costs due to excess sedimentation. The NAPA study reported that 5 property owners in Lake Lanier paid $100,000 to dredge lakeshore sediments reported to have come from nearby development in order to maintain access to their boats as water levels fell in 1999. Comparable dredging costs of up to $500,000 were reportedly authorized by the City Council of Roswell, Georgia towards a total estimated dredging cost of $2 million to remove sediments from Stanford Lake attributed to upstream development [172]. Regional damages from sedimentation

identified by NAPA [172] are summarized as follows:

Excess Sedimentation
Estimated Damage Costs in the Atlanta Metropolitan Area

$0.5 to $1 million in annual damage awards to downstream property owners
$1 to $5 million in additional drinking water treatment costs
$1 to $10 million in annual dredging costs
$1 to $10 million in additional maintenance costs for hydroelectric generating stations
$25 to $50 million in replacement costs for lost hydroelectric capacity.

Along with detailed site design and revised engineering practices, the Dirt 2 initiative has resulted in a profound shift in acceptable site design and construction practices in the Atlanta area. Detailed design and analysis of modified construction costs concluded that, for typical sites, the cost of these new recommended practices were comparable to costs incurred for current sediment and erosion control practices [173]. Success of the so-called "transition to performance" hinged critically on the commitment of state, county and local jurisdictions to advancing low impact design practices throughout the development process from plan recommendations, site plan approvals, and site inspections during construction.

Flood Control

The City of Isaaquah, Washington has experienced increased flood damages of over $2 million between 1993 and 2000. Increasing flood damages are attributed to lost channel capacity due to sedimentation, partial clogging of culverts, filling of the floodplain, and increased runoff associated with more urban impervious area. The region has also experienced an increase in precipitation, apparently associated with a long term trend in weather cycles. Nevertheless hydrologic modeling conducted by Kings County estimated that current flood peaks in Isaaquah have increased by 8% due to urbanization alone, and could be expected to increase by 30% with buildout to current zoning [174].

Up to 90% of all natural disaster damages, excluding droughts, are caused by floods and associated natural debris flows [175]. Debris clogs of culverts and engineered structures in rivers create frequent maintenance problems for transportation and utility infrastructure and can result in significant damage when roads and culverts fail due to clogging, overtopping, and scour. The Washington State Department of Transportation reported substantial highway damage due to debris clogs during severe storms in October 2003. At just one site, a 6-foot culvert was clogged with debris and overtopped, resulting in the washout of 200 feet of State Route 20. This road section alone required repair costs of approximately $2 million, with total reimbursable damage costs from this single storm of $9 million.

Debris clogged the emergency spillway in Canyon Lake Dam resulting in its catastrophic failure during the Rapid City, South Dakota flood of 1972. The flooding also resulted in numerous debris clogs of road culverts leading to their overtopping and failure. Washouts during the flood

resulted in $22 million in damages, in 1972 dollars. Following this devastating flood, a regional floodplain plan was developed, converting most of the floodplain to large parks, restoring the connectivity with the river, and removing the most vulnerable structures from the floodplain [176].

Value of Natural Resource Services: Costs to Local Governments

In addition to valuing the natural resource benefits of riparian setbacks in terms of remediation costs for flooding, erosion, and water quality problems, the impact of preserving open spaces, such as riparian areas, on local government tax revenues and property values has been explored. The traditional economic argument against the preservation of open space is that undeveloped land is not economically productive while developed land provides tax revenues. This argument has been questioned in a variety of studies as reported by Stephen Miller in his 1992 book **The Economic Benefits of Open Space.** Miller found that proximity to open space enhanced property values. Citing a Philadelphia study, he showed that values for properties near open space were 40% higher than for properties away from open space. Miller [177] also reviewed several studies that compared municipal tax revenues to municipal costs for specific communities in 3 categories of land use: open space, residential, and commercial. Each community reviewed in these studies received more in tax revenues from open space than it paid in services.

The American Farmland Trust [178], in conjunction with Madison Village and Township in Lake County, Ohio, produced a study similar to the work reviewed by Miller [177]. This study examined the costs to communities to provide services to three land uses: residential; commercial/industrial; and farm, forest and open land. The study compared these costs to the tax revenues generated by each land use. On average, residential development required $1.54 in services for each $1.00 in revenue generated. In other words, for every dollar raised from residential revenues, the community spent an extra 54 cents on average to provide services such as education, health and human services, public safety and public works. By comparison, commercial/industrial development required $0.23 in services for each dollar it generated, and farm, forest and open land required $0.34 in services for each dollar it generated. A study done by the Portage County Regional Planning Commission in Shalersville Township, Ohio [179] had similar results.

The work in Madison and Shalersville shows that residential land use costs communities more than it provides in revenues and that other land uses help to offset this shortfall. The cost of providing new residents with services is greater than their gross contribution to the tax base. These studies also show the positive tax benefits of preserving land in agriculture and open space as well as having a balance of land uses in a community. Such a balance is necessary because while commercial/industrial development appears to provide the greatest economic gain, a disproportionate increase in commercial/industrial development may not help a community. If not properly planned, the tax revenues generated from such development may be negated by increased demand for services, such as new housing and roads, as well as increased costs associated with traffic congestion and pollution. From the Madison and Shalersville studies, a

mix of land uses appears to be best for tax revenues. These studies also show that development, either residential or commercial/industrial, does have associated costs that must be balanced against expected revenues.

Value of Natural Resource Services: Impacts on Property Values

The economic effects of open space, riparian setbacks, and other forms of environmental zoning can be rigorously estimated from observed prices of property sales using *hedonic price* analysis. King and Mazzota [180] offer the following explanation of hedonic pricing:

> *The hedonic pricing method is most often used to value environmental amenities that affect the price of residential properties.... The hedonic pricing method is relatively straightforward and uncontroversial to apply, because it is based on actual market prices and fairly easily measured data.... In general, the price of a house is related to the characteristics of the house and property itself, the characteristics of the neighborhood and community, and environmental characteristics. Thus, if non-environmental factors are controlled for, then any remaining differences in price can be attributed to differences in environmental quality.*

The direct effect of ecosystem or environmental services on homes and property can be estimated from observed sales prices using hedonic pricing. Acharya and Bennett [181] used hedonic pricing to estimate the effects of development "form" on observed housing prices, separating the features of individual homes and lots from the price effects of surrounding land use patterns and the proximity effects of amenities such as open space. The interaction of various amenity effects is a critical component of hedonic analysis of home prices. For example the significant effect of "scenic views" on home prices is well established [182]. Any estimates of the effect of riparian setbacks or other environmental zoning regulations on property values must therefore account for the combined effects of features of the individual home, the neighborhood, and proximity to various amenities.

The effect of environmental zoning can be understood to induce both a favorable "amenity" effect through, for example, the preservation of valuable views and proximity to open space, as well as an unfavorable "development" effect that reduces individual property prices by constraining development. The development effect however may be negative or positive, as limiting development may limit the supply of developable area, thereby increasing the demand and prices for those remaining developable tracts.

Spalatro and Provencher [183] examined the effect of minimum frontage zoning on sale prices of lakefront lots in Wisconsin. They found the amenity effects from minimum frontage requirements increased the sales price of lakefront homes 18% to 21% with only a negligible decrease in home prices attributable to the development effect of the frontage requirement. Similarly, a 3-mile greenbelt around Lake Merritt, near Oakland's city center, was found to add $41 million to the surrounding property values [168]. In London, Ontario Shrubsole et al. [184] found that homeowners did not perceive Provincial floodplain regulations to have any significant

effect on home prices; a perception that was validated by their analysis of observed sales price data.

Netusil's [185] recent hedonic price analysis of the effect of environmental overlay zoning in Portland, Oregon offers an insight into the range of effects environmental zoning may have on property values. Portland has two levels of environmental zoning with strong restrictions on development of parcels in the environmental protection zone (p-zone) and somewhat more accommodation of some development in the conservation zone. (c-zone). Some properties are in both a p-zone and a c-zone. Netusil [185] estimated home price effects for each of the 3 zoning combinations in each of 5 different areas of Portland. She found properties with a c-zone designation in North Portland sell for 35% more than homes without any environmental zoning, while c-zone designations are estimated to lower the sale price of properties in Southwest Portland by 2.6%. The mixed results highlight the importance of interaction effects from the full range of amenities affecting consumer perceptions and preferences in home purchases. Consider for example, the interactions among amenities associated with proximity to trails. Convenient trail access might offer a positive amenity effect for recreational use *or* a negative effect from the reduction of perceived privacy or, in Portland's case, the fact that many trails are railroad right-of-way conversions and are located in areas with other negative amenity values associated with the old industrial rail corridor.

Preservation of scenic views and open spaces and riparian proximity have generally been shown to provide consistent significant increases in individual property values....

We are currently aware of no study that specifically identifies the effect of riparian setback regulations on property values. To address this important information need, CRWP will initiate a rigorous hedonic price analysis of the effect of riparian setbacks on property values in the Chagrin watershed in 2006.

The effect of setback regulations on property values is uncertain. Setback regulations could create a development effect that either increases or decreases home and lot prices. While both river views and forest views are consistently shown to increase property values, Mooney and Eisgruber [186] estimated the effect of Oregon's voluntary riparian buffer rules, requiring a 50 foot *forested buffer* - not just a setback - reduced property values approximately 3%, attributed primarily to the loss of river view.

Setback regulations could also be expected to contribute positive amenity value from the preservation of scenic views and water quality protection, as seen in water clarity, in waterfront properties [187]. The statistical analysis of 7,658 sales transactions of single family homes located within 1.5 miles of Tanque Verde Wash in northeast Tucson, Arizona found proximity to riparian corridors had a very significant positive effect on home prices. Homes located within 0.1 mile (528 feet) of the riparian corridor commanded a 5.9% price premium compared to identical homes 1.5 miles away. For the 25,560 homes within 1.5 miles of the riparian corridor

the cumulative increase in property values exceeds $103 million, of which 75% or $77.3 million is realized by homeowners within 0.5 miles of the riparian corridor [188]. The very tangible direct financial benefit realized by these homeowners is another component of the portfolio of goods and services resulting from riparian protection. Similar analysis of home prices in 3 California counties found urban stream restoration projects which decreased flooding, stabilized banks, and enhanced fisheries added between 3% and 13% to mean property values [189].

These results emphasize the importance of considering the full range and interaction of amenity effects at the parcel, neighborhood, and regional scales, including proximity to open space, transportation amenities, and convenience of services. Preservation of scenic views and open spaces and riparian proximity have generally been shown to provide consistent significant increases in individual property values. These amenity effects interact with development effects. We are currently aware of no study that specifically identifies the effect of riparian setback regulations on property values. To address this important information need, CRWP will initiate a rigorous hedonic price analysis of the effect of riparian setbacks on property values in the Chagrin watershed in 2006.

IMPLEMENTING RIPARIAN SETBACKS THROUGH ZONING REGULATIONS IN NORTHEAST OHIO

This report establishes the flood control, erosion control, water quality protection, ground water purification, and ecosystem protection services provided by the riparian area. In working with its member communities to minimize the impacts of land use change as communities develop, CRWP recommends that members adopt zoning regulations to prevent development and other soil disturbing activities in riparian areas and to maintain these low-cost storm water management services. The remainder of this report discusses the specifics of implementing setbacks and includes information on CRWP's model regulation for riparian setbacks, steps involved with implementation, and factors to consider in adoption.

CRWP Model Regulation for Riparian Setbacks

To maximize the low-cost benefits of riparian setbacks communities should protect riparian areas through local regulations. These regulations must be properly designed and implemented and insure long-term setback maintenance. A variety of organizations in Northeast Ohio are available to assist communities interested in riparian regulations. These include CRWP, the Cuyahoga, Lake, and Geauga County Soil and Water Conservation Districts, and the Geauga and Lake County Planning Commissions. Working with these and other watershed stakeholders, CRWP maintains a riparian setback model ordinance and model resolution.

The model ordinance and resolution are based on the public health and safety services of riparian areas including flood control, erosion control, and water quality protection. The models establish minimum setback widths to control the location of soil disturbance on a parcel. A key feature of the riparian setback model is the emphasis on providing flexibility in other setbacks, such as side, rear, and front yard setbacks, to enable landowners to place their development as far out of

the riparian setback as possible while still developing their property. The recommended setback widths in the model range from 25 to 300 feet on either side of a watercourse as measured from the ordinary high water mark. These minimum setbacks are extended to the full extent of the 100-year floodplain and to encompass riparian wetlands in the minimum setback. The model also details suggested permitted and prohibited structures and uses and includes provisions to address non-conformities and to grant variances when necessary to permit buildability.

Steps to Implementing a Local Riparian Setback Regulation

Communities considering riparian setbacks should follow these steps:

- Update community comprehensive or land use plan to include documentation of the flood control, erosion control, and water quality protection services offered by local riparian areas. This could include mapping and other inventories of the community's streams, wetlands, and open spaces as well as documentation of past storm water problems related to loss of riparian functions through development.

- Review models available from CRWP and others as well as adopted regulations from communities such as the Cities of Kirtland and Aurora. It is important for communities in Northeast Ohio to note that while there are several models available for riparian setbacks, these models are essentially the same. Start with the model recommended by the organization assisting with your community process.

- Tailor the model to community norms. Throughout this process, follow community's standard practices for regulation review, public hearing, and adoption. Provide opportunities for public education on the need for riparian setback zoning at regularly scheduled Planning and Zoning Commission, Council, and/or Trustee meetings.

- Work with CRWP and/or local SWCD to provide technical support and to develop a guide riparian setback map. Having such a map of the potential setbacks in your community will enable Planning Commission to review the number and type of parcels covered and the extent of the proposed riparian setback.

- Adopt riparian setback zoning regulation with support of Planning and Zoning Commission, Council, and/or Trustees.

Factors to Consider When Adopting Riparian Setbacks

Factors to Consider When Adopting Riparian Setbacks: *Minimum Setback Width*

CRWP's riparian setback model recommends minimum setback widths of 25, 75, 120, or 300 feet on either side of a river or stream as measured from the ordinary high water mark. Communities across Northeast Ohio have followed these recommended minimum widths and they are supported by natural resource management professionals as effective minimum widths for riparian protection. As a result, Northeast Ohio has seen a consist and uniform approach to riparian setback implementation.

As this report highlights, there are a range of recommended widths based on the desired functions of riparian areas. However, beyond individual scientific studies that identify site-specific parameters for specific functions of setbacks and buffers, a number of literature reviews and federal, state, and municipal evaluations, provide general guidance supporting riparian setbacks widths. The CRWP minimum setbacks are consistent with setback widths adopted around the country as well as state and federal guidelines for riparian buffers and stream management zones. The recommended widths are consistent with the basic information required for their implementation, and represent a prudent balance between community values of maximizing riparian services and minimizing the restrictions on beneficial uses of property. Several reviews of setback widths are highlighted below to reiterate this point. These include:

- In a quantitative analysis of buffer widths from regulatory programs in Canada and the United States, Lee et al. [34] reported that mean buffer widths implemented in the surveyed programs ranged from 50 to 100 ft depending on waterbody type.

- In a comprehensive review of riparian literature, Scheuler and Holland [190] state that the typical minimum base width recommended to provide adequate stream protection is 100 ft, noting that buffers may be expanded beyond the minimum 100 ft to incorporate the following conditions:
  - The full extent of the 100-year floodplain.
  - Steep slopes greater than 25%.
  - Adjacent delineated wetlands or critical habitats.
  - Higher order or quality streams.

- Naiman and Decamps [156] suggest a multi-species riparian buffer (MRB) to provide protection of streams against agricultural impact. The MRB model employs 3 interactive zones in successive upslope order from the stream:
  - A permanent riparian forest about 33 ft wide,
  - A section of shrubs and trees up to 13 ft wide, and
  - An area supporting herbaceous vegetation such as forbs and grasses up to 21 ft wide.

- Depending on buffer function, Castelle et al. [6] noted that appropriate buffer widths vary widely. Considering the literature reviewed, buffers less than 17ft to 33ft appear to provide little protection for aquatic resources. In general, buffers designed to protect wetlands and streams should be at least 33ft to 100ft wide, with buffers at the low end of this range designed to manage the physical and chemical functions of the resource and buffers at the high end of the range designed to manage the biological functions of the riparian zone.

- Focusing on factors significant to the implementation of riparian buffer ordinances, Wenger [15] reviewed the riparian buffer literature to compile scientifically-based recommendations

supporting effective municipal ordinance adoption. Recognizing that buffer widths vary with both the particular riparian services desired, and site-specific factors including slope, rainfall, soil condition, vegetation, land use, and size of drainage area, Wenger [15] nevertheless offered general width guidelines drawn from the scientific literature. For sediment trapping efficiency, a minimum 100 foot buffer with either grass or forest vegetation was generally recommended, while noting that forest vegetation provides additional benefits over grass buffers. For proper sediment trapping, riparian setbacks should also consider placing limits on upslope impervious areas, strictly enforcing upslope sediment controls, and ensuring continuous buffers along all streams to be protected. To emphasize nutrient removal services, buffer widths in the range of 50ft to 100ft were generally found effective, again dependent on local site characteristics and hydrology. To manage for aquatic habitat, buffers should consist of forest vegetation 33ft to 100 ft wide for most species, but may require at least 330ft to maintain particularly diverse species populations.

- The ODNR, in their **Ohio Stream Management Guide: Forested Buffer Strips, Guide No. 13**, recommends that buffer width be based on actual riparian areas that can be estimated using floodplains identified in Federal Flood Insurance Rate Maps or by using county soil survey identification of soils that are "subject to frequent flooding". When riparian areas are too small to function as adequate buffers, as occurs with highly entrenched stream channels, ODNR suggests basing setbacks on generic standards such as 2.5 times the dimension of the bankfull channel width or 50 ft, whichever is less.

- In the United States Department of Agriculture (USDA) Forest Service handbook for establishing and maintaining riparian forest buffers in the Chesapeake Bay watershed [191], criteria for determining riparian buffer width includes the value of the resource, the site and watershed traits, intensity of adjacent land uses, and desired buffer functions. The following minimum width ranges are recommended based on specific functions:
  - Bank stabilization and aquatic food web processes - 10ft to 40ft.
  - Water temperature stabilization - 10ft to 60ft.
  - Nitrogen removal - 30ft to 140ft.
  - Sediment removal - 50ft to 160ft.
  - Flood mitigation - 65ft to 225ft.
  - Wildlife habitat - 45ft to 255ft.

- In the Cuyahoga Valley National Park, the National Park Service has recommended that riparian setbacks range from 50ft to 120 ft depending on drainage area, plus an additional 2 ft for each 1% increase in slope [192].

- The City of Everett, Washington conducted a review of riparian literature [12] and, as applied to the riparian function requirements of their community, came up with the following buffer width recommendations:
  - Sediment Retention and Filtration – 100ft to 300 ft.
  - Bank Stability - 100ft to 125 ft.

- Small Woody Debris - 250 ft.
- Shade/Water Temperature – 35ft to 250ft.
- Water Quality – 13ft to 600ft.
- Wildlife Habitat – 30ft to 1000ft.

- The City of Renton, Washington conducted a similar review of riparian literature to provide the scientific support for their riparian buffer ordinance [13], and reported the following recommended minimum buffer widths for their community:
  - Pollutant Trapping – 50ft to 100 ft
  - Sediment Trapping – 50ft to 200 ft.
  - Provide Particulate Nutrients to Stream (detritus) – 50ft to 100 ft.
  - Microclimate Control – 100ft to 525 ft.
  - Shade and Temperature Control - 50ft to 250ft.
  - Human Disturbance Control – 25ft to 50ft.
  - Bank Stability- 40ft to 70ft.

Factors to Consider When Adopting Riparian Setbacks: Expansion of the Minimum Setbacks for Floodplains, Wetlands, and Steep Slopes

Floodplains and Wetlands

As components of the riparian corridor, wetlands and floodplains are critical for the flood storage and pollutant removal functions of a riparian setback [38]. Minimum setback widths should be expanded to include these components. Depending on fluvial geomorphology, floodplains can extend a great distance and several floodplains with successively higher surfaces can occur along a single transect across a river valley [37]. It may not be practical for a community to protect this entire floodplain. To ensure reasonableness of its riparian setback regulation, a community should focus protection on the 100-year floodplain.

Steep Slopes

The degree to which riparian setbacks can filter sediments and nutrients depends to a great extent on the slope of the riparian area [38]. A slope of less than 15 percent is reported to allow for a retention time long enough to remove pollutants from runoff and to absorb water [8]. A steep slope, generally considered greater than 25 percent, reduces a setback's potential to slow flow and minimizes its ability to filter nonpoint pollution [193]. Even if steep areas are thickly vegetated, their steepness may negate the velocity reducing effects of vegetation and may promote erosion and channelization [8]. As a result, setbacks areas containing steep slopes may not significantly impact runoff velocity and minimum setback widths must be increased to compensate for these steep areas.

Factors to Consider When Adopting Riparian Setbacks: Riparian Area Contiguity

We now recognize that an essential value of riparian services derives from maintaining the connectivity and dynamic exchanges and processes throughout the riparian system. The superposition of political boundaries and individual property rights presents the challenge of

effectively managing the functional integrity and resulting services provided by this dynamic interconnected system, through the collective efforts of individual decisions by riparian landowners. It is precisely this joint coordinated management of the riparian resource that riparian setback regulations attempt to institutionalize in simple easily implemented zoning instruments.

Perhaps the most important guiding principles to emerge from the current scientific literature that should be considered when implementing riparian setback regulations are:

- The importance of contiguity in riparian protection and
- The great value and importance of protecting the remaining least disturbed riparian corridors in communities.

Contiguity and aquatic biota

We know that land use influences the diversity and integrity of aquatic ecosystems and stressors associated with land disturbance from agriculture, forestry, and urbanization are inexorably associated with a shift towards pollution tolerant ecological communities. Riparian setbacks that minimize the disturbance of the riparian corridor have consistently been associated with moderating these pervasive effects. These land use effects are clearly associated with not just the width of a setback at a particular location in the stream system, but are strongly related to the upstream extent or length of riparian areas, and the "zone of influence" of riparian disturbance propagates far downstream [136, 145, 147, 194, 195].

Contiguity and stream temperature

Stream shading has been well established as a significant influence on stream temperatures, along with air temperature, cool groundwater inputs, and other terms in the heat budget. The sensitivity of cold water fisheries such as salmon and trout has driven the retention of forested buffers in forestry practices to mitigate stream temperatures in cold water fisheries.

We now understand that direct solar radiation is one of the most important controls on maximum daily stream temperatures and its effect on stream temperature is affected by both the width and the upstream length of the riparian area. Moreover the shading effects of riparian corridor vegetation is the only factor affecting stream temperatures that can be controlled by managing riparian vegetation, and the forested buffer width required to realize temperature management goals increases as the upstream length of the forested buffer declines [121, 126, 127, 129, 196].

Contiguity and sedimentation

Field scale evaluation of vegetated riparian filter strips and buffers in agriculture and harvested forests have demonstrated the influence of buffer width, along with site-specific factors such as slope, drainage area, and particle size distribution, in trapping eroded sediments before they enter the stream system. In addition to width, the contiguity of vegetated riparian areas critically influences the sediment inputs to stream systems. Even heavily forested watersheds with 85% to 90% forest cover, experience increased stream sedimentation when the riparian forest is

removed; the greater the riparian disturbance, the greater the sediment stress [27, 136, 145].

Contiguity and flood protection

Maintaining stream-floodplain connections with riparian setbacks has long been recognized as an effective means to maintain floodplain storage for overbank flows and reduce downstream flood damages. These riparian flood protection services are also extended by woody vegetation in connected riparian corridors and bank storage in alluvial floodplain sediments. Woody floodplain vegetation dissipates the energy of damaging floodwaters, and flood damages can be concentrated in areas in which gaps or discontinuities in the woody riparian vegetation are allowed to develop [47, 48, 197]. Bank storage helps dissipate flood peaks and moderate low flows for smaller more frequent storm events. Bank storage is nearly directly proportional to the width of the floodplain and helps reduce the flashiness and extremes of runoff along the entire length of the connected riparian corridor.[43, 44]

Contiguity and streambank erosion

Vegetated riparian corridors strengthen stream banks and dissipate concentrated overland flow, reducing erosion and bank failure, and promoting floodplain sedimentation. Riparian vegetation increases bank stability through both the mechanical effects from root strengthening and the hydrologic effects on soil pore water pressures. Discontinuities in the vegetated riparian corridor present vulnerable locations at which bank erosion is much more likely to be initiated, and individual stream reaches or river bends are far more likely to experience severe erosion where the contiguity of the vegetated riparian corridor has been compromised [55, 58, 59, 68, 70].

Contiguity and water quality

The capacity of riparian areas to remove sediments, nutrients, and dissolved contaminants has been well established experimentally. The surface of sediments at the riparian interface where surface water and groundwater mix is now understood to play a central role in maintaining the chemical and microbial transformations that naturally maintain and regulate water quality [23, 24, 79]. Maintaining riparian zones and effective land use practices are widely recognized as two valuable strategies to prevent the degradation of water quality services provided by these essential riparian processes [24]. These processes generate a valuable portfolio of water quality services that, once lost, are costly and difficult to replace. As Correll [130] observed,

> *Natural resource managers, having realized the values of healthy riparian zones, now face the challenge of restoration or recreation of functional riparian zones in many different settings.*

That is one of the reasons that the restoration of continuous riparian areas is an essential cost-effective component of watershed-scale efforts to protect and restore water quality from New York City's water supply watersheds and Chesapeake Bay to the control of nitrogen in the Mississippi River Basin to reduce chronic anoxia in the Gulf of Mexico.

Contiguity and groundwater purification

The riparian zone's capacity to infiltrate runoff and floodwaters and immobilize and degrade contaminants has been recognized as part of the natural system through which landscape processes protect and replenish groundwater. The hydraulic connection between rivers and streams and their adjoining alluvial aquifers provides an extremely cost effective portfolio of water treatment services that is widely relied on in Europe, and increasingly relied on for public water supply in the United States in cities from Cincinnati, Ohio and Louisville, Kentucky, to Kansas City, Missouri [116-118, 198]. The value and effectiveness of these services is directly linked to maintaining the hydraulic connection between river banks and alluvial aquifers.

The importance of contiguity in riparian protection is now clear in providing flood control services, ecological integrity, moderating stream temperatures, mitigating bank erosion and sedimentation, and modulating the landscape-level hydrologic fluxes and material loadings to fluvial systems [130, 199] The emerging knowledge and experience in managing the portfolio of beneficial riparian services at the watershed scale is crystallized in Correll's [130] conclusion that buffers along small headwater streams are most important, and that a continuous buffer is more valuable for overall waterway protection than a wide, but intermittent buffer.

The valuable portfolio of riparian services derives from the maintenance and enhancement of natural functions of the connected riparian corridor. The reliability and resilience of these functions will be maximized when the contiguity of the riparian corridor is preserved to the greatest degree possible. Setback programs should therefore emphasize the preservation of existing riparian land uses and discourage setback variances for new construction.

> ***Single-recipe approaches provide a poor foundation for management of rivers and streams, in part because they often ignore connections between physical and biological processes. .... That leaves us with two distinct choices for ecologically orientated river management: either trust that 'natural is best' and promote restoration of riparian forests, or treat each river on a case-by-case basis. 121***

Factors to Consider When Adopting Riparian Setbacks: Type of Setback Vegetation

The physical roughness, root depth, and metabolic capacity of riparian vegetation significantly influence a setback's ability to slow and filter runoff and to stabilize riverbanks. Streamside vegetation increases channel roughness during overbank flow, decreasing the erosive action of floods and retaining material in transport [37]. The greater a barrier vegetation presents to flow, the greater its ability to slow this flow.

Because the type of riparian setback vegetation is essential for setback functions, a setback regulation should have a vegetative target, or goal plant community. Riparian setback vegetation such as maintained lawns presents less resistance to flow and provides less support to stream

banks than vegetation such as unmowed grasses, shrubs and forests with leaf litter. Desbonnet et al. [8] found that both unmowed grass and forested areas effectively removed pollutants, provided that the setback was of a proper width and not particularly steep. Within theses types of "rough" vegetation, setbacks dominated by shrubs and trees are preferable to unmowed grasses for several reasons. After high flows, storage of litter on streambanks in a prairie system in Kansas was greater in forested reaches than in unmowed grassland reaches [200]. Trees and large shrubs also shade watercourses and minimize bank erosion as their roots penetrate soils and form a tight interlaced structure to hold bank soils in place against stream flow.

The vegetative target for most suburban/urban stream setbacks is the predevelopment riparian plant community [193]. In most cases this will be mature forest, however, the predevelopment plant community can be determined from reference riparian communities within the watershed or elsewhere. The native plant community is preferable because the benefits of riparian setbacks are natural functions and it is likely that native floodplain vegetation is best suited to achieve these functions at the lowest cost.

> ***Management of riparian areas should give first priority to protecting those areas in natural or nearly natural condition from future alterations. [1]***

In many areas, the riparian setback may be far from the vegetative target. A community has several options for reaching this target. If left untouched, native plants may eventually return. This takes time and delays realization of the benefits of the setback. To speed the process, a setback can be actively managed through reforestation efforts or through the removal of invasive and exotic trees, grasses and shrubs. When the setback is on private land, property owners can be encouraged through educational materials and technical assistance to undertake such management. Local county soil and water conservation districts and state agencies such as ODNR are excellent sources of such technical information.

Factors to Consider When Adopting Riparian Setbacks: Permitted & Prohibited Activities

A successful setback regulation should make clear the structures and uses allowed in the setback area. Uses that allow native vegetation to flourish and do not disturb soils are highly suitable for riparian setbacks [38]. These uses include passive recreation such as hiking, fishing and picnicking; the removal of damaged and diseased trees; and revegetation and reforestation efforts. The goal in determining suitable uses for a setback area is to allow flexibility for people to enjoy the area while not compromising the desired setback services.

Generally construction and other uses that disturb soil and vegetation should be prohibited. Construction of garages, patios and other structures adds impervious cover to the setback, decreasing its ability to slow flow and filter pollutants. However, selective timber harvesting, crossings, and erosion control projects may be appropriate and necessary in the riparian corridor. According to Lowrance et al. [9], periodic selective tree harvesting is necessary to keep forests highly productive where net nutrient uptake is high. If harvesting is done with minimum soil

disturbance during the dry season, it will have little detrimental effect on the pollution control by riparian systems [9]. Selective harvesting, crossings, and stream bank stabilization must be done under an approved plan to ensure that such requirements for minimal disruption are followed. A riparian setback regulation should detail the conditions under which harvesting, crossings, and stabilization will be allowed and should encourage erosion control projects using bioengineering techniques where appropriate.

Factors to Consider When Adopting Riparian Setbacks: Long-Term Setback Management

A long-term management plan is necessary to ensure the success of a riparian setback regulation. Based on a nationwide study by Heraty [201] of 36 local level setback programs, Schueler [193] presents several key areas necessary for successful long-term setback management. These include:

Identification

Riparian setbacks need to be delineated on all subdivision plans and construction plans. Without such delineation, encroachment on setback areas is likely during construction. It is also helpful to maintain the riparian setback map to ensure community zoning and building officials generally know which parcels have riparian setbacks.

Education

Identification of riparian setbacks is also necessary to ensure that property owners understand how they are affected by the regulation. Those living adjacent to a setback may also be interested in assistance from local officials to properly manage their portion. Desbonnet et al. [8] point out that most setbacks will require some form of maintenance to reduce channelization of flow and to increase the effectiveness of pollutant removal from runoff. This education can be done through pamphlets, stream walks, individual visits, and community presentations.

Staffing

While identification and education programs will minimize encroachment and deterioration of the setback area, staff is also necessary to assist landowners in understanding the implications of riparian setbacks during construction and other soil disturbing activities for which they may otherwise require some sort of zoning approval.

FINAL POINTS

This report presents technical information on the functions of riparian setbacks and the components necessary for the development of a successful setback regulation. This information is intended to assist decision makers in developing reasonable riparian setback regulations and highlights the strong association between riparian protection and a community's quality of life. Through riparian protection, a community preserves natural resource benefits at low cost and maintains the natural systems that make it an attractive place to live and work.

Before developing a setback regulation it is important to recognize that implementation of a riparian setback will require the commitment of community resources. Community staff will need time to delineate the setback and to provide on-going education, technical assistance, enforcement, and other long-term maintenance. In deciding to establish a riparian setback area, a community should consider issues such as the level of technical and administrative resources available; its current level of development; the specifics of affected properties; community river protection priorities; and desired services from a setback. With this self assessment, a community will be better equipped to develop a setback regulation tailored to its needs.

It is important to note that riparian setbacks are only one part of an overall watershed approach to natural resource management. When implemented in conjunction with other sound land use practices, such as storm water regulation that address both water quality and quantity, riparian setbacks can maintain riparian corridor functions such as flood control, erosion control, nonpoint pollution control and groundwater purification. Setbacks will not eliminate the need for engineered solutions to severe encroachment on riparian corridors. They are preventive steps essential to maintaining the benefits of natural resources and reducing reliance on expensive engineering solutions to protect structures and reduce property damage.

Finally, riparian setbacks are an approved best management practice by the Ohio Environmental Protection Agency (Ohio EPA) for compliance with the Agencies National Pollutant Discharge Elimination System (NPDES) Phase II permit for storm water. Local setback regulations are also not in conflict with, or preempted by, the Ohio EPA's or the U.S. Army Corps of Engineers responsibility to review and permit impacts below the ordinary high water mark of streams and the jurisdictional boundaries of wetlands.

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CHAGRIN
RIVER
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PARTNERS

PO Box 229
Willoughby, OH 44096

P 440 975-3870
F 440 975-3865

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Munson Township
Newbury Township
Orange Village
Pepper Pike
Russell Township
Solon
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Wickliffe
Willoughby
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February 28, 2018

South Russell Village Planning Commission:
Steve Latkovic, Chairman
Bob Brown
James Flaiz
Bryan Kostura, Council Representative
William G. Koons, Mayor

David Ondrey, Village Solicitor

Re: CRWP Riparian and Wetland Setback Presentation Memorandum

Dear Mayor, Planning Commission, and Village Solicitor,

On February 8th, 2018, Chagrin River Watershed Partners, Inc. (CRWP) presented information to the Planning Commission regarding CRWP's model riparian and wetland setback codes, potential benefits of setbacks to South Russell Village, and assistance available to the Village from CRWP regarding setback adoption and implementation.

During this presentation, CRWP addressed several questions from the Planning Commission. For the Commission's reference, we are summarizing many of these questions and our responses. This is not a complete list of all questions discussed; CRWP would be glad to provide written responses for any additional questions that may assist the Commission as it considers the adoption of riparian and/or wetland setbacks.

How will riparian setbacks benefit our community if most parcels are already built out?

Even if a community is already developed, riparian setbacks can protect and enhance the flood control, erosion control, and other services provided by riparian areas as parcels are redeveloped. Local communities have experienced rising property values on aging homesites, and we are seeing more examples of homes being purchased, demolished, and replaced with new and larger homes, which add impervious surface and increase stormwater runoff in areas already affected by stormwater.

Setbacks can help determine the best location for redevelopment and ensure that redevelopment takes place outside of the riparian area, which will help protect this new infrastructure from the ever-changing path of streams and add flood and erosion control services offered by healthy riparian areas.

Do setbacks apply to all streams, even intermittent streams?
CRWP's model riparian setback ordinance applies a setback to any watercourse with a defined bed and bank. The model code defines a watercourse as any brook, channel, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing. In determining if watercourses have a defined bed and bank, the community may consult with a representative of CRWP, the county SWCD, or other technical experts as necessary. Building near intermittent streams exposes structures to flooding and erosion risk.

How are setback widths determined? Does stream flow rate have anything to do with setback width?
In CRWP's model ordinance, riparian setback widths are determined by the size of the area of land draining to that point of the stream. A stream's water flow rate does not affect the width of the setback; however, in general, a stream with a larger drainage area will typically have greater flow volumes than a stream with a smaller drainage area.

CRWP's model riparian setback widths were developed based on the best available technical and scientific data and with the guidance of local, state, and federal agency partners. More information about the development of these setback widths can be found on our website: http://crwp.org/files/riparian_setbacks_why_that_width.pdf

Is a community's riparian setback map set in stone?
A community's riparian setback guide map is developed with the most recently available mapping data and should be assumed to be accurate. However, the setback map is to be used as a guide for the community and landowners, and field conditions prevail. The community may amend the map as necessary as better data is available.

Is it possible to receive zoomed in maps that allow easier viewing of proposed setbacks in specific areas of the Village?
CRWP is attaching an enlarged version of the draft setback map presented at the Planning Commission meeting that allows viewing of proposed setbacks within the Village. Please let us know if CRWP can provide enlarged maps of specific neighborhoods within the Village.

How are pre-existing buildings or structures affected by the riparian and wetland setback regulations?
Through a preliminary analysis, CRWP estimates that approximately 95 structures are currently located within the proposed riparian setbacks (out of 1,842 total structures in the Village, or 5.2% of total structures). According to CRWP's model setback ordinance, any pre-existing structures within a setback are considered pre-existing, nonconforming uses and are allowed to remain as such provided the footprint of the structure is not changed or expanded. If a landowner has a single-story home that is partially or completely in a setback, the landowner could add a second story without a variance. If the property owner wants to expand the structure further into the riparian or wetland setback a variance would be necessary for the portion that encroaches into the setback. If the landowner planned to expand a home that was partially in the setback and the expansion didn't encroach further into the setback, that would not require a variance.

If the landowner has a structure in the setback and removes its footprint (e.g. by demolishing or relocating the structure), they would need to request a variance to replace this structure in the

setback because they've removed the structure's footprint from its current location (eliminating a nonconforming use) and that "re-starts" the addition of impervious surface to the setback area as if it were undeveloped land. In this case, the landowner would have to prove that there is no other available location outside the setback to logically place the structure.

Communities with riparian setbacks are encouraged to prioritize a riparian or wetland setback over other setbacks wherever feasible, and consider granting variances instead to the side, rear, or front yard setbacks to allow for minimal encroachment into a riparian or wetland setback.

Is a practical difficulty or unnecessary hardship test required in order to obtain a variance?
Section XXXX.10 (A)(1) of CRWP's model code makes a distinction between unnecessary hardship with respect to the use of a property or practical difficulty with respect to maintaining the riparian setback. Based on CRWP's experience reviewing variance requests for its member communities, the practical difficulty test is applied as the variance is in respect to maintaining the setback rather than use of the property. CRWP can work with the Village to modify Section XXXX.10 (A) to further clarify that the unnecessary hardship standard applies only to use and that the practical difficulty standard applies to maintenance of the riparian setback, or to eliminate the unnecessary hardship test altogether and apply practical difficulty with respect to the ordinance as suggested at the Planning Commission meeting.

Section XXXX.10 (B) of CRWP's model code offers guidelines the Planning Commission may use to determine the appropriateness of a riparian variance request. CRWP would also be glad to work with the Village on referencing or incorporating its existing guidance in making a determination of practical difficulty with regards to riparian setbacks into its riparian setback ordinance.

How does the riparian setback regulation affect landscaping along the stream? Is turf grass a prohibited use within the setback?
Per CRWP's model riparian setback ordinance, maintenance of lawns, landscaping, shrubbery, or trees existing at the time of passage of the regulation is permitted. If the community includes landscaping provisions in the regulation, a landscaping plan would be required for landscaping within the setback. This condition is only activated if future landscaping activities will remove natural vegetation in the setback area. CRWP's model ordinance considers landscaping to be a conditionally permitted use so a variance would not be required, just the submittal of a landscaping plan for Village review and approval. Other conditional uses include crossings and streambank stabilization projects.

Are building improvements (e.g. siding or deck replacement) permitted for nonconforming structures within a setback?
CRWP's model riparian setback ordinance does not regulate aesthetic improvements, such as siding replacements. A community's building code applies to these types of improvements.

Deck replacements or improvements are permitted without a variance as long as the existing building footprint or roofline is not expanded or enlarged.

Do riparian setbacks constitute a "taking"?
Requirements within a community's ordinances should have the legal flexibility to avoid providing a basis for a takings claim. If the riparian setback renders a lot unbuildable which would otherwise be buildable under the Village ordinances, a variance can be granted.

Is it possible to have setbacks applied only for certain parts of the community, such as areas of potential future development?
CRWP's model riparian setback ordinance should be tailored to the specific needs of the community. It may be possible to require setbacks only in areas zoned for future subdivisions; however, CRWP recommends that setbacks be applied to the entire community in order to prevent the addition of new structures within the setback that may be damaged by flooding and to provide flooding and erosion control benefits to the community by encouraging the growth of natural vegetation within the setback.

Over 80 communities in Ohio have adopted some form of riparian and/or wetland setback regulations that have been developed to meet the needs of each specific community. For example, Chagrin Falls Village currently requires a 120-foot setback on either side of the Chagrin River but no setbacks required for other streams; however, the Village is considering a revision to their ordinance to require setbacks on smaller streams in order to preserve remaining undeveloped stream functions and reduce the effects of downstream flooding and erosion as development and redevelopment occurs.

Don't we need structural solutions to our stormwater problems and not just riparian setbacks?
CRWP recommends structural solutions, specifically those incorporating a bioengineering approach, to address stormwater problem hotspots within the community. However, CRWP and Ohio EPA also recommend the adoption of riparian and wetland setbacks as part of a community's stormwater management program for flood control, erosion control, and water quality protection. Riparian setbacks help to preserve the natural flood control services of riparian areas and minimize property damage from streambank erosion.

Have you ever had any litigation as a result of setbacks?
CRWP has not been involved in any litigation as a result of its model riparian and wetland setbacks, nor is CRWP aware of any of its member communities being involved in litigation due to their riparian or wetland setbacks.

Do you anticipate that riparian setbacks may soon become required statewide?
CRWP is not aware of any immediate plans by Ohio EPA to adopt this requirement statewide. Two watersheds in the state of Ohio, the Olentangy and the Big Darby, have special construction general permit conditions that mandate riparian setbacks. The Chagrin River and the Grand River watersheds have also been considered as candidates for special permit conditions by Ohio EPA.

Ohio EPA's current statewide construction general permit requires a 50-foot undisturbed natural buffer around surface waters for construction activities disturbing an acre or more, unless infeasible, and that stormwater be directed to vegetated areas to increase sediment removal and maximize stormwater infiltration. CRWP's erosion and sediment control model code incorporates this requirement from the general permit by requiring that a 50-foot buffer of undisturbed natural vegetation around surface waters of the state, or riparian or wetland setbacks if applicable (whichever is greater), be maintained unless it is infeasible (e.g. stream crossings for roads or utilities, or for channel and floodplain rehabilitation and restoration), and requires that stormwater be directed to vegetated areas to increase sediment removal and maximize stormwater infiltration. It should be noted that the construction general permit requires a 50-foot buffer only during construction and this buffer is not required to be maintained post-construction, unless the community has riparian setback regulations in place.

For Phase II communities, riparian setbacks are recommended by Ohio EPA as a way for a community to address all of its Total Maximum Daily Load (TMDL) recommendations for total

suspended solids/sediment, nutrients, bacteria, habitat, and low dissolved oxygen/organic enrichment.

How does the riparian setback regulation affect property values?
In 2006, CRWP worked with Cleveland State University, Maxine Goodman Levine College of Urban Affairs, to analyze the impact of riparian and wetland setbacks on the value of parcels in communities where riparian and wetland setback zoning has been implemented for a minimum of two years. Based on the analysis, property values were not negatively impacted by riparian or wetland setbacks. To view the *Hedonic Analysis of Riparian/Wetland Setbacks* report, visit: http://crwp.org/files/final_report_hedonic_analysis_riparian_wetland_setbacks.pdf

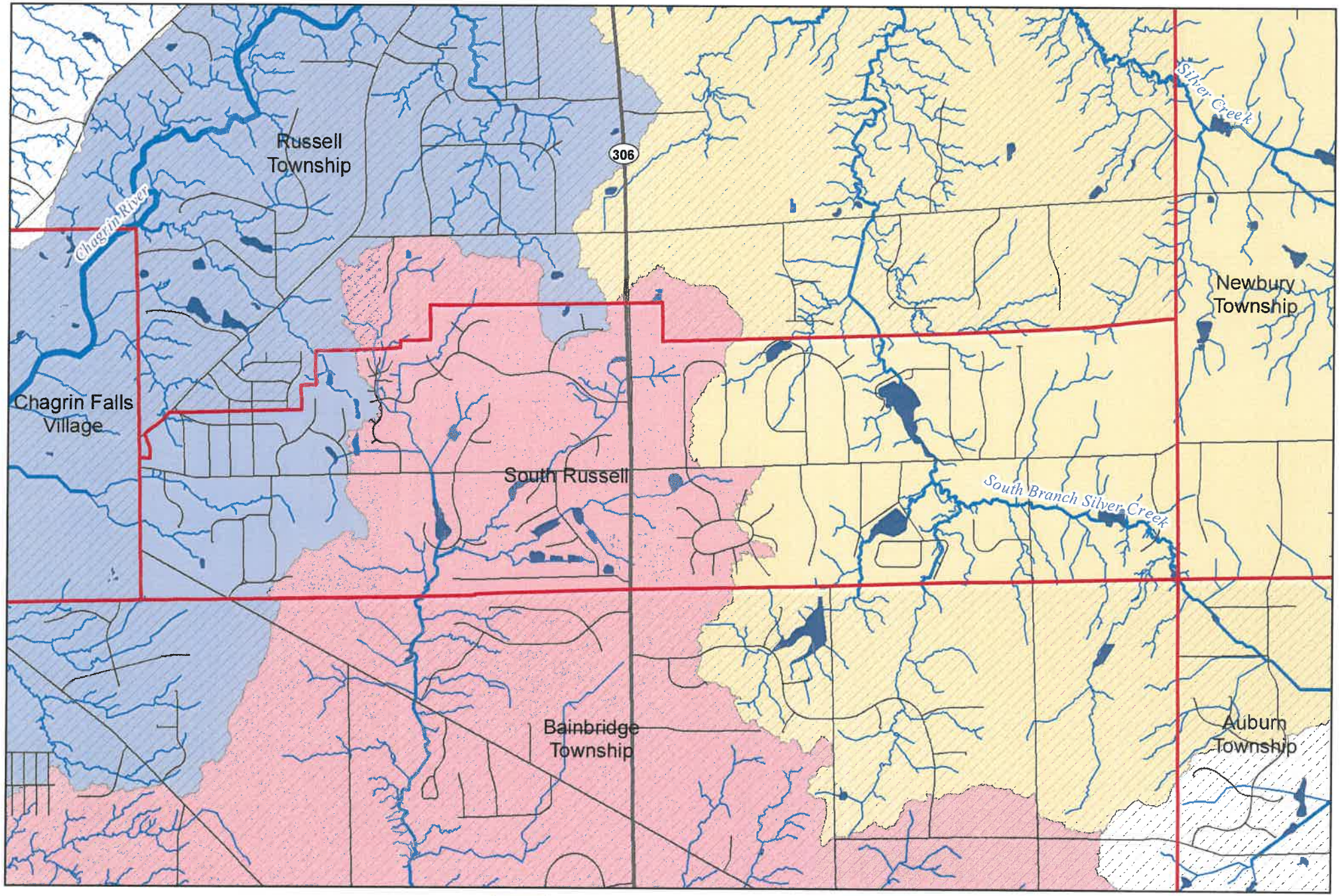
Would surrounding communities benefit if we adopt riparian setbacks? Do we benefit from neighboring communities' riparian setbacks?
CRWP is attaching a map of Chagrin River subwatersheds located within South Russell Village. This map also indicates which surrounding communities have adopted riparian setbacks. Areas within the Village both drain to riparian setback communities and accept drainage from riparian setback communities. Therefore, the Village is benefitting from setbacks in upstream communities that protect the free services of healthy riparian areas, such as flood and erosion control; however, the Village is not currently benefiting downstream communities in return through riparian setbacks.

CRWP appreciates the opportunity to discuss the value of riparian and wetland setbacks for South Russell Village with the Planning Commission. Please feel free to contact Kimberly Brewster or Christina Znidarsic of CRWP at 440-975-3870 with any questions regarding this information and please let us know what additional information may be helpful as the Village considers the adoption of riparian setbacks.

Sincerely,

Kimberly Brewster

Kimberly Brewster
Senior Project Manager



South Russell Village Drainage and Watershed Boundaries

- Beaver Creek-Chagrin River
- McFarland Creek-Aurora Branch
- Silver Creek
- Communities with Riparian Setbacks

0 0.3 0.6 1.2

Miles

CHAGRIN RIVER WATERSHED PARTNERS

N

Draft South Russell Village Riparian Setback Map



Legend

- Structures in South Russell Village
- South Russell Village Parcels
- Roads

CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Note: The CRWP model setback extends to the FEMA 100-year floodplain and the boundary of wetlands intersecting the stream path.

0 0.25 0.5 1 Miles

N

CHAGRIN RIVER WATERSHED PARTNERS

Chagrin River Watershed Partners, Inc.
P.O. Box 229 Willoughby, OH 44096
(440) 975-3870 www.crwp.org

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
May 10, 2018 at 7:30PM

Members Present: Jim Flaiz, Bryan Kostura, Mayor William Koons, Ph.D.

Members Absent: Steve Latkovic

Other Officials: Laura Heilman – Building & Zoning Inspector; David Ondrey – Solicitor; Lorraine Sevich – Planning Commission Secretary

Visitors: Wendy Leonard, 40 Riverstone Drive, Moreland Hills, OH 44022
Timothy Leonard, 40 Riverstone Drive, Moreland Hills, OH 44022
Anne Gruettner, 1405 Bell Road, South Russell, OH 44022
Ted Otero, 8559 East Washington Street, Chagrin Falls, OH 44023
Mary Milko, 164 North Street, Chagrin Falls, OH 44022
Dwight Milko, 164 North Street, Chagrin Falls, OH 44022

Planning Committee member Jim Flaiz called the meeting to order at 7:32 pm. Planning Commission Member Bryan Kostura made a motion to appoint Jim Flaiz as temporary chairman of the Planning Commission. Planning Commission member William Koons seconded the motion. Roll call: all ayes. Motion approved.

Lorraine Sevich conducted roll call.

Planning Commission Member Bryan Kostura made a motion to approve the minutes from the April 12, 2018 meeting. Planning Commission member William Koons seconded the motion. Roll call: all ayes. Minutes were approved.

1st agenda item – Height Variance for Dwight and Mary Milko residence at 1417 Bell Road.

Ted Otero introduced himself as the builder for the Dwight and Mary Milko residence, and said they were applying for a variance because the average height of the home was exceeded by 3 feet. He explained that it is a walk-out lot across the back, so they have open sides on both sides, and a full-walk out on the back. It is natural with grade, and the front portion of the lot is only around 32 feet.

Solicitor David Ondrey explained that since this is a variance hearing, testimony should be taken under oath. Jim Flaiz swore in Ted Otero.

Otero referenced the plans in front of Planning Commission members, and showed from the bottom to the top grade was 32 feet, and in the back, the walk out basement. He said that when Building Inspector Laura Heilman calculated her average square footage, she calculated from the very high point to the lowest point on the left elevation. She did the same thing on the right elevation and then obviously the rear elevation. That forced it to exceed the 33-foot ordinance.

Kostura asked about houses on either side of the Milko residence, if the front elevation was similar, or close to the elevation of the homes on either side of the Milko residence. Otero said the closest house was 700 feet in back of the Milko house. Flaiz asked Otero if they were demolishing the existing house and Otero said yes, and that the new home would be in the same spot, pretty much in the same location.

Flaiz asked Heilman if she took the average height all the way around the house, including the walk-out. Heilman replied exactly. From the street, he asked if the house would look any different than a 2-story house. Heilman replied no, it would not look any different. Otero said that it was a 9-foot footer on the first floor, nothing out of the ordinary.

Kostura asked Heilman to explain briefly how this works and why this was a problem. Kostura said from the looking at the house, it didn't look to him like they had to even be there tonight. Heilman replied that it was the walk-out basement that threw the calculations off. Going from the lowest to the highest point on a house, usually, on a normal 2-story house with an inground basement with no walk out - is not usually an issue. She doesn't count a cupola, or a chimney, or anything similar when she is doing the calculation. This walk-out basement threw the calculation off on 3 sides of the house, which is the cause for the variance.

Flaiz said it was the word "average" in the ordinance, and Heilman said yes. Flaiz noted that on everything but the front side of the house, there was a drop-off, on the other 3 sides. Heilman said exactly, because she was going from the lowest point to the highest point. So even though the grade slopes down for the walk-out, she is measuring the from the very bottom of that walk-out to the very top of the house, on all 4 sides. She said if you are walking around it, 3 sides are going to be very high. This house happened to come out around 40 feet on the 3 sides. The front dropped it back down into proportion, but when added together it came to an average height of 36 feet. 33 feet is what South Russell Village permits.

Ondrey said variances are complicated and thought that it was less complicated now, because it only kicks in when there are side yards of less than 25 feet. At least a minimum of 50 feet of separation between structures, and none of that came into play in this situation. All of the other houses are too far of a distance away.

Kostura said this house is not close to other homes; it would not look funny. Ondrey said they were looking at the normal practical difficulties – does it fit in with the neighborhood, are there any adverse impacts on government services, etc. Flaiz noted that the topography of the lot was such that caused the variance and Otero agreed and said they were sticking with the topography of the lot.

Flaiz asked if there were any neighbors in the audience who wished to speak. Anne Gruettner introduced herself, stating that she was a neighbor at 1405 Bell Road. Ondrey swore in Gruettner for her testimony. Gruettner said she tells the truth and she is all for this Milko home. She explained that she is right next door to the west on Bell Street.

Kostura made a motion to approve the height variance for the Dwight and Mary Milko residence at 1417 Bell Road, South Russell. Koons seconded the motion. Flaiz noted that they found with the topography of the lot and where the house is being built, the practical difficulties do not exceed the height limitation. Roll call: all ayes. Motion approved.

Koons asked Otero if there were any other communities that have a height ordinance like South Russell Village in terms average height. Otero said that normal ordinances state that a roof cannot exceed 35 feet. As long as the front elevation from grade to the top of the ridge does not exceed 35 feet, then it passes. Koons asked Otero if he thought South Russell Village was a little archaic. Otero said the average is the roof, not the math. Flaiz said he thought, in fairness, it was meant to protect more of a subdivision area. He gave examples of Ashleigh, Kensington, Chagrin Lakes. Ondrey noted that homes are being built larger now than they were 20 years ago.

2nd agenda item – Temporary summer outdoor seating for the Tame Rabbit at 516 East Washington Street, South Russell.

Wendy and Tim Leonard introduced themselves as the owners of the Tame Rabbit Specialty Coffee and Roaster. Wendy Leonard explained to the Planning Commission (on the drawings they provided) where they would like to have temporary outdoor seating. She said that if parking was an issue, then at the close of business at the Tame Rabbit, they would move everything back onto a sidewalk, and the parking spaces would be open again.

Flaiz asked if their landlord had some type of deal with Burntwood or other businesses, to use that parking of the Tame Rabbit. Wendy Leonard said the landlord has a sign that reads "No Burntwood Parking" and said that the entire parking lot has those signs. Timothy Leonard said, "Honestly, they come over and park. But he does have signs set up." Wendy Leonard said people don't ever park up to their building.

Flaiz said his recollection was that the owners of the building came before Planning Commission – they were talking about installing a patio, which Planning Commission approved. He asked if they were still planning on doing that patio. Wendy Leonard said no, they were not planning on building the patio, because they wanted the Tame Rabbit to pay for the whole thing. The Leonards said no to that; they would not pay for the patio. She thought it would be more of a collaborative to build that since it would not be private to the Tame Rabbit, like the Martini Bar. The Martini Bar's patio is closed off, and to access their patio, you go in through the Martini Bar. There is no way to do that from the Tame Rabbit, so it would be accessible to everybody – she thought it was a lot of money for the Tame Rabbit to pay. She went on to explain that in the winter, they wouldn't need the patio seating, it is just something to compete with downtown Chagrin – people can come, sit outside, and enjoy the nice weather.

Timothy Leonard said in talking with their customers, their biggest complaint has been that downtown Chagrin has spaces for people to sit outside. They had customers today that asked them if they could provide some outdoor seating. He feels they need something from a competitive standpoint to be able to compete. A new coffee shop is opening in Chagrin Falls, and they have been given some outdoor seating. Tim Leonard feels that they have to do something.

Kostura asked what type of screening they are considering. Wendy Leonard said something like the Lemon Falls Café has – the big planter boxes, maybe something like that on wheels. She would like planter boxes to block off the outdoor seating area, like Lemon Falls Café has in their parking lot.

Koons said it was possible somebody could back up and hit the planters. Tim and Wendy Leonard both responded and said "Yes, absolutely." Koons said other than that, there will never be anybody with speed coming into this area. They will have to slow down and park. Wendy Leonard said that the parking lot is not a pass though. Koons said that was his only concern, he thinks the outdoor seating is a great idea.

Tim Leonard said they must do something. He said the owners of the building did come in with the proposed patio, but for $25,000 – he thought that was unrealistic.

Koons clarified with the Leonards that when the weather changes, they would move everything out. Wendy Leonard said they would move everything and put the planter boxes into storage. Tim Leonard said if the planter boxes were left out all year round, they would be destroyed. Their goal, once the cold weather comes and/or snow starts, they would take them out. He did talk to Peter Cary (owner of the building) and he said that if the planters were of the rolling type, there is some storage in the back where they could store the planters during the winter months.

Flaiz said that he went out to the Tame Rabbit and looked at the location of where the outdoor patio would be. He asked about the 2 parking spots that were marked "1 and 2" on the photos, as well as the smaller lot next to the building, and asked if they were using that 3rd space. Wendy Leonard said yes, they will be using that space. That is where the seating would be, as well as around the building. She said that basically, she wants to block off the parking lot and she could get maybe 1 or 2 more tables, but mostly so nobody gets hit.

Flaiz pointed to the pictures of the door of the Tame Rabbit and the handicapped parking spot. Wendy Leonard said there was a spot, then their door, and then the handicap spot. The handicap spot is on the opposite side of the door, to the right of their door. Flaiz asked if the small spot on the photo was the handicap spot, and Wendy Leonard said no. Flaiz asked about the area she was thinking of blocking off, Wendy Leonard said she would put the planters halfway through the parking spot. So there would still be room to back up from the other cars, otherwise it would be a tight squeeze. So basically, she said, just half of that parking lot.

Kostura asked if Wendy Leonard could draw the area on his photograph, so he had an idea of the area she was talking about. She drew where the planters would be, and said they might have a rope or something there also, and where their door was, and the handicap parking spot, and the sidewalk. She showed where the tables would be – mostly on the sidewalk and around the corner by a tree. She said another good reason for this area is that you would not have a parked car, with heat being generated from the grille of the car.

Koons thought if this were a big success, theoretically, they could probably take the whole north end of the parking lot. Timothy Leonard said they are considering that, and that people just want to sit outside. Kostura said he understood, people have been inside all winter. Wendy Leonard said they don't really have windows at the Tame Rabbit, so it really makes the seating inside closed in, and it would be nice to sit outside. Timothy Leonard said that on Saturday mornings, that is all customers want to do – they just want to be outside. Wendy Leonard said she could put an Adirondack chair in the grass.

Flaiz asked if the landlord was OK with their outdoor plan and Wendy Leonard said yes. She spoke to Peter Cary, as well as all of the people that park in the spots that work in the building next to them. Everybody was OK with the idea. Flaiz said that even losing 2 parking spots there is concerning. Wendy Leonard said yes, and mostly in the evening. During the day, she is surprised at how much parking there is. Except Saturdays, when the dance class occurs, and they really have a lot of dancers. She said the front of the building, for sure.

Flaiz noted that he has never seen it not busy. He said during the week, parking is tough. Wendy Leonard said she has her employees park further back, too. Flaiz thought this was a good problem to have, because there is a lot of activity there.

Koons asked if there any issues that they are missing. Building Inspector Laura Heilman said yes. She said if you look at the site plan, it shows 64 parking spaces, 28 parking spaces, etc. A lot of this is determined by use of the building. For a restaurant, they have to allow 1 parking place for every 2 seats. She totally understands what the Tame Rabbit is trying to accomplish, but because of the Martini Bar and the way the parking lot is laid out with the number of spaces, they will have to have something mobile enough to open those 2 spots up for the Martini Bar in the evening. The Tame Rabbit closes at 5:00 pm, and the Martini Bar opens at 5:00 pm. Heilman understands they kind of have an agreement, that they have to share those parking spaces. The Tame Rabbit does not need all of those parking spaces, so taking these 2 spots for their purposes during the day is not an issue. They don't have that many seats; it is perfectly all right. What concerns Heilman is that at 5:00 pm, those 2 parking spaces have to open back up for the Martini Bar. She noted that they (Heilman and Wendy Leonard) have talked about this, and she thinks Wendy Leonard said they she would put everything on wheels and cart it inside overnight. Because of moving the equipment in every night, Heilman does not think parking will be an issue, but thinks that the Planning Commission should take that into account and probably stipulate that it has to be that way, so that South Russell Village does not have an issue with the Marini Bar in the future, because parking is at a premium.

Flaiz asked Wendy Leonard if she thinks she can put the tables on that sidewalk in front of the building and wheel the 2 planters into their door. Wendy Leonard said yes. Timothy Leonard said there is about 3 feet of a sidewalk, so at nighttime they would take the chair down then push it up against it, then that just goes on the sidewalk, so there is a sidewalk brace, then the little bumper there for the parking.

Flaiz explained to Ondrey that he would hate for people to have to come back, but he wondered if they could approve this for a year, to try it. He feels this is one of those things he agrees with, he wants to help the Tame

Rabbit out; he believes it is important for the Leonard's business to be successful. But he is also considering unforeseen issues and doesn't want to be tied to this forever.

Ondrey said that was an issue that come up in the Kirtland Shooting Range case. It was a little different; the Planning Commission was asked to approve a conditional use, but some Planning Commission members wanted to put a 1-year limit on it, and he thinks ultimately, they were advised that they could not do that. But that was different – it was a conditional use permit. Here, they are talking about basically, a permitted use. It is a question of adequate parking spaces to meet the regulations.

Koons clarified that the Tame Rabbit would have to move their equipment inside because of the Martini Bar, which is on the other side of the building, but they all share the same parking spaces. Heilman answered yes and said there were 64 parking spaces in the back and 28 in the front.

Flaiz asked Heilman if they allowed their seating numbers based on the available parking spaces, per the South Russell Village (SRV) ordinance, 2 seats per parking spot. Heilman replied exactly.

Ondrey clarified with Heilman that during the day, even if The Tame Rabbit took this parking space and used it for tables, they are OK with the zoning regulations. The problem becomes in the evening - with the Martini Bar; if these spaces were still utilized, there would not be enough parking spaces, in accordance with SRV zoning. Heilman said it is the Building Code, it was not a zoning code issue, it is a building code requirement that comes into play. The Tame Rabbit may seat 20 people, so they would need 10 parking spaces, which are available while they are open during the day. But, the Martini Bar, they have a lot of seats, and they need all of these parking spaces. The calculation was done, submitted and approved, and she doesn't know off the top of her head what the occupancy load is in the building for their space, but she knows it is significantly more. That is why taking these 2 spots away puts them in a bad situation. Wendy Leonard said, "It must not be that bad, because Burntwood still parks there, and they don't go after Burntwood."

Flaiz said he has been to all these places and The Martini Bar does get crowded. He thought years ago, they talked about opening for lunch and that was one of the reasons why they could not. They rely on all of the businesses in the Gallery being closed. Wendy Leonard said they were open for a while for lunch and it wasn't working for them. Flaiz said he doesn't know if they legally were. Flaiz thought that is how Planning Commission made it work for the Martini Bar, and the reason for their hours; because they are open are when everyone else is closed.

Flaiz said another issue a couple of people have brought up is safety issues, like what happened with The Washington Street Diner. Flaiz went to the parking lot that the Tame Rabbit wants to use, and really looked at it. He thinks it would be a legitimate concern in a lot of places, or in front of the building, or where there was through traffic. He feels if they are going to have outdoor seating, this is a good spot. Wendy Leonard said these 2 parking spaces make sense. Flaiz noted that in Chardon, they do a yearly, temporary outdoor seating. Ondrey said he thinks that under these circumstances, a 1-year kind of condition on this temporary outdoor seating, and to be able to review how it is going, is OK. Kostura said he was OK with the 1- year conditional approval.

Flaiz said perhaps the Tame Rabbit might not even have to come back before Planning Commission. The Leonards could talk to Heilman and Planning Commission could discuss it. Timothy Leonard asked if Planning Commission or the Building Department received complaints about this outdoor seating, if that would be contingent on the approval or continuation. If there were complaints, Timothy Leonard wanted to know what they would have to do to adjust or fix those complaints. Flaiz said his thoughts were to see how this goes, it may or may not work. If this works for the Tame Rabbit, perhaps they go back to Heilman next March or April and say they want to do this again. They can ask Heilman if they had any complaints or issues, and Heilman can come before Planning Commission.

Timothy Leonard asked Flaiz if the outdoor patio for The Gallery was approved and Flaiz said that it was approved.

Kostura made a motion to approve the outdoor temporary patio for the Tame Rabbit at 516 East Washington Street on a temporary basis for 1 year, to be renewed upon the request of the Tame Rabbit after review of Planning Commission in reference to any complaints that may be been received over the past year. An added condition is that at 5:00 pm, the barriers for the patio area are removed.

Koons asked Heilman if she was good with the motion. Heilman said she thought so.

Koons seconded the motion. Roll call: all ayes. Motion approved.

Ondrey asked if the umbrellas had to be blue. Wendy Leonard said the umbrellas are teal.

Kostura asked the Leonards how their business was going. Wendy Leonard said business was picking up and doing really well and noted that it has been 1 year since they started, last April. Timothy Leonard said they initially had 2% margins, and noted that retail has 2% to 3% growth, gross margins. December was a phenomenal month for them. They are starting to see 7 to 9% growth. He noted that they are selling more of the whole bean coffees. The store has almost a 32% growth, which means people are using the store to buy the packaged whole beans, which is what the Leonards want. That gets the Chagrin area more known, they would like to see more of that. Volumes of people have not really increased, but purchase power has increased.

Kostura remembered when the Tame Rabbit came to Planning Commission for the first time, they said something to the effect that they needed to sell 52 cups of coffee a day or something to that effect. Timothy Leonard said they are right on track with that number. Timothy and Wendy Leonard said they are doing 7 to 8 brews of coffee on a Saturday. Weekends are key for them. People go to church on Sundays, and the Leonards decided to use Sunday as rest for them, then open up on Mondays. They found out that Mondays are horrible. So, they are likely to switch Sundays to being open and close on Mondays, maybe look at different hours. They are also looking at getting out to fairs, like Blossom and Art by the Falls. Timothy Leonard said they are getting customers from Europe, people have blogs, and they feel like they are drinking coffee from Europe. Their feedback has comments like "Feels like I am in Europe again." He feels like the outdoor patio will have a European feel. He said they have to start competing against other coffee businesses. Timothy Leonard said, "They have discovered this area, so the area will see a lot of specialty brewing companies and they have discovered that this area is an untapped area, which will mean more competition."

Flaiz thought the patio would be good because people will notice the Tame Rabbit; he feels that is a big plus.

Timothy Leonard talked about their sign and said it cost them $7000.00. They have a staff of 5 to 6 people and have been as high as 8 or 9 people over the summer. He cut back on the employees, so he could have a profit, and noted that Wendy Leonard works more hours.

Koons said he went into the Tame Rabbit on a Tuesday, at 11:00 am, and saw 9 people there, 5 of them in line. Timothy Leonard said they are getting a lot of pre-orders, people know the number and will phone an order in. He would like to do more of the pre-orders and have a system for pre-order set-ups. That would be great for the patio area, they could just walk out back and give the customers the food. He thinks that will be another big seller for them.

Flaiz, Kostura and Koons congratulated the Leonards on their business.

Heilman informed Planning Commission that she received a phone call from someone who wanted to put a tattoo shop across the street. Tattoo shops used to be in personal services section of the SRV Zoning Code and it is not anymore. She wanted to bring this to the attention of Planning Commission in case they wanted to stop it. Flaiz thought they took it out of Personal Services. Ondrey did not have a recollection of that. Flaiz thought he remembered when he was on Council, they went through Personal Services. Flaiz asked Heilman when it was amended. Heilman did not know. Kostura asked if that fit within the general neighborhood and asked if that was one of the tasks of Planning Commission, to decide what fits in the neighborhood. Ondrey looked at Personal Services in the South Russell Village Zoning Code. He noted that there was a little bit of flexibility in that and noted that someone could interpret a tattoo business as being a personal service, which could be a

challenging dispute. He thinks it bears looking at. If it used to be in and it got removed, that is a better argument – to say, "We thought about that and got rid of it."

Kostura clarified that they defined Personal Services and did not include tattoo parlors. Heilman said correct. Flaiz said it used to be in the list, there was a list of services, of services that were approved. Flaiz asked about the location, and Heilman said the location was near Sal's. Heilman read the Personal Services from the zoning code:

(88) Services such as beauty and barber shops and interior decorating. Laundries, laundromats, tailoring, pressing and dry-cleaning in which only non-explosive and nonflammable solvents are used, provided no work is done on the premises for retail outlets elsewhere. Repair services such as shoe, furniture, household appliances, and electronics repair for consumer-oriented products. Services for personal development such as dance studios, yoga, cooking classes, fitness centers, tanning salons, and similar uses. Services for personal assistance such as daycare for children, but not the boarding of animals.

Kostura said he didn't hear 'tattoo parlor' in that group of personal services. Flaiz said it used to be. Heilman said she heard it was in there at one time. Ondrey said they should check that out. He agrees with Flaiz, if they took it out, it certainly indicates a mindset that they did not consider that to be a personal service. But, if it was taken on its face and compared it to those types of services, one might be hard pressed to distinguish what is different.

Ondrey noted that there was a tattoo parlor on Chardon Square and it hasn't hurt business. Flaiz thought a tattoo business was a lot different than getting dry cleaning done. Ondrey agreed, and said he thinks people get alarmed when they hear 'Tattoo Parlor' and he is not sure that is always justified. He wondered if it was really bringing some sort of an element to the community that they don't want. He was skeptical of that.

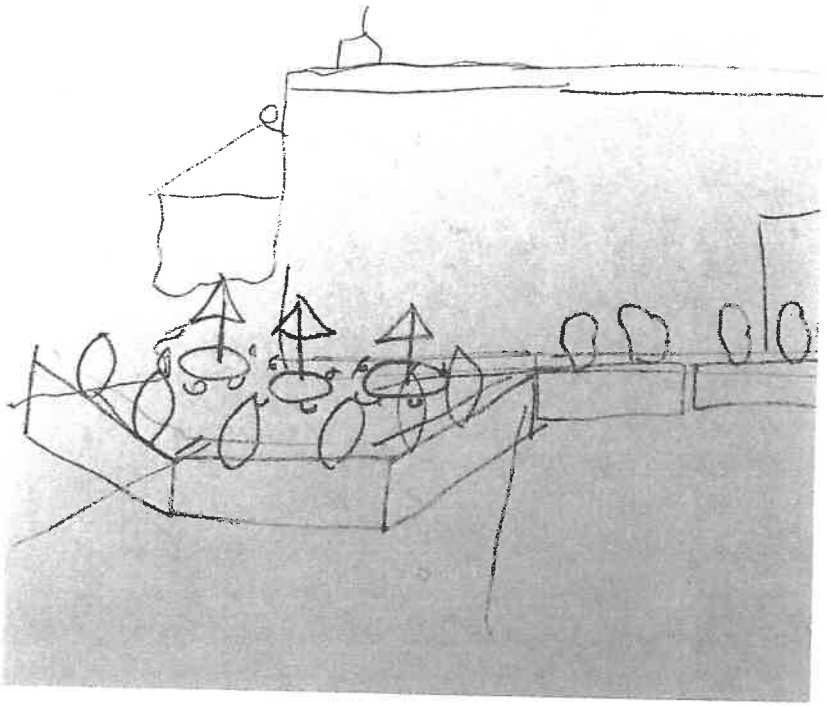
Heilman said if the application does come through, she would certainly tell them they would need Planning Commission approval. Ondrey said they should look at the history and see if that used to be in and got excluded. That would be significant.

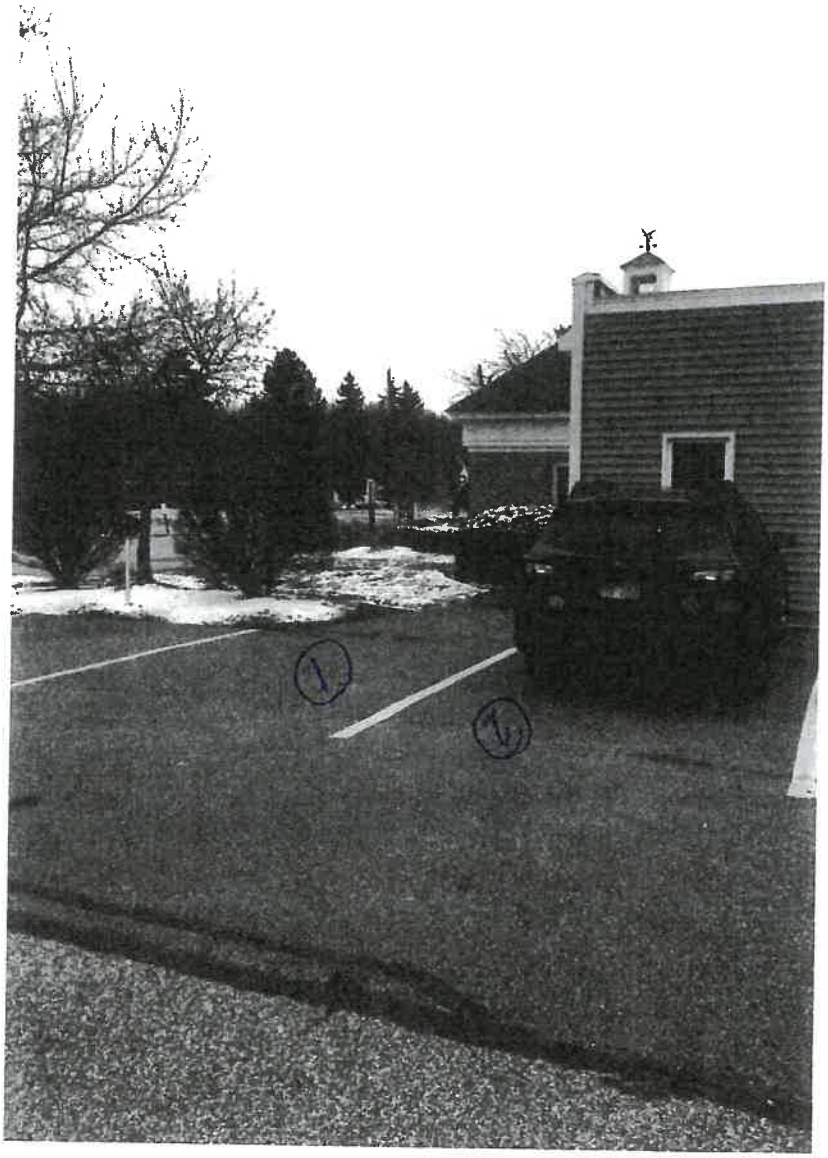
Flaiz asked if there was a vacancy in that strip mall. Heilman said the veterinarian moved out and the eye doctor moved out.

Kostura made a motion to adjourn the meeting at 8:10 pm. William Koons seconded the motion. Voice vote, all in favor.

Jim Flaiz, Acting Chairman

Lorraine Sevich, Secretary

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APPROVED BY
SOUTH RUSSELL PLANNING COMMISSION
DATE
CHAIRMAN
SECRETARY

EAST WASHINGTON STREET

28

LOADING

GALLERIES

64

TAME RABBIT

LOADING

512 WASHINGTON ST

1

2

RECEIVED
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SOUTH RUSSELL
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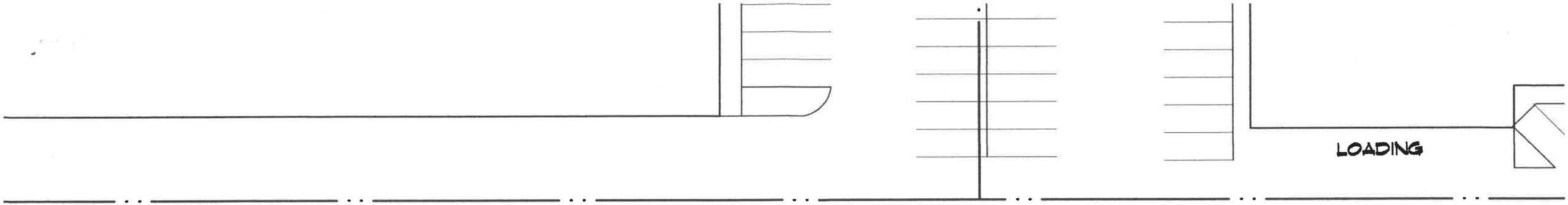


PARKING DATA:

TOTAL BUILDING AREA = 16,072 S.F.

TOTAL PARKING SPACES AT THE GALLERY BUILDING = 92 SPACES

PERSONAL SERVICE/RETAIL = 8,906 S.F. (5 PER 1,000 S.F.) = 45 SPACES
OFFICES = 3,912 S.F. (1SPACE PER 300 S.F.) : 13 SPACES
RESTAURANTS/FOOD SERVICE (INCLUDING NEW COFFEE SHOP) = 3,254 S.F. (1 PER 2 SEATS 68 TOTAL): 34
RESTAURANT AND COFFEE SHOP ARE NOT IN OPERATION AT THE SAME TIME - SHARED PARKING

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
April 12, 2018 at 7:30PM

Members Present: Steve Latkovic, Jim Flaiz, Bryan Kostura, Mayor William Koons, Ph.D.

Members Absent: Bob Brown

Other Officials: Laura Heilman – Building & Zoning Inspector; David Ondrey – Solicitor; Lorraine Sevich – Planning Commission Secretary

Visitors: Eric Haibach, CT Consultants, 8150 Sterling Ct., Mentor, OH 44060
Kimberly Brewster, CRWP, 4145 Erie St., Suite 203, Willoughby, OH 44094

Chairman Steve Latkovic called the meeting to order at 7:30 pm. Lorraine Sevich conducted roll call.

Latkovic announced that Bob Brown was no longer a member of the Planning Commission and noted that his name was not included on the roll call. He questioned if technically, he was still a member of the Planning Commission.

Planning Commission Member William Koons addressed Solicitor David Ondrey and said that Bob Brown is no longer on the Planning Commission. Koons said his departure was done through email and asked if they needed to do anything in writing, as Brown resigned. Latkovic said Brown had commitments that he couldn't keep in OH, had family in other areas and was out of town a lot. Ondrey asked if there was an email from Brown stating that he quit. Latkovic said yes. Some discussion followed and Ondrey suggested that a motion be made at tonight's meeting to accept his resignation.

Koons made a motion to accept the resignation of Planning Commission member Bob Brown. Bryan Kostura seconded the motion. Voice vote, all in favor. Motion passed.

Latkovic asked if everyone had a chance to read the minutes from the February 8, 2018 Planning Commission meeting. Latkovic thanked the Board Secretary for being thorough. Planning Commission Member Jim Flaiz made a motion to approve the minutes from the February 8, 2018 meeting. Koons seconded the motion. Roll call: all ayes. Motion approved.

1st agenda item – Riparian Setback Ordinance

Latkovic talked about the last time the Planning Commission met, they discussed Riparian Setback with Chagrin River Watershed Partners (CRWP). Some of the material discussed were the maps, the overlay maps, etc., and tonight, they wanted to get the perspective on riparian setback from the engineer, Eric Haibach.

Eric Haibach, who works as the South Russell Village Engineer from CT Consultants, had 2 distinct viewpoints on riparian setback. One is from a strictly a science, math and engineering viewpoint – if the streams are left to do what they naturally want to do, over time, they will end up with streams that are a little more sinuous and have a little bit wider of a floodplain area. The streams will spread out if they need to in the event of a big

rainfall. All streams, no matter if they are dry during dry weather, or if they are continuously flowing – they serve as a collection system for storm water and convey it through South Russell Village (SRV) and ultimately out of the Village. If the streams are left alone and let to do their natural thing – it slows the water down and, over time, it gives the Village a little more storage capacity in terms of flood plain overflow along the streams. He believes that is one thing that will not totally be remedied by a riparian setback, but he thinks it will go a long way in keeping development and encroachment away from the streams. In terms of storm water, it will help SRV long term. He knows CRWP has a different point of view on that. Haibach noted that he is a 'quantity guy' – storm water quantity, flow rates, discharge – that is what he is about. Riparian setback will have an impact on improving water quality, it will keep the water cooler, and the butterfly's, bunnies and plants will like it more, and noted that was not his area of expertise.

Another viewpoint that Haibach had on riparian setback is that in general, it promotes good conservation and stewardship of a natural resource that is in the Village. He explained he is an outdoor person who loves the outdoors, who loves parks, hiking, biking, etc. He can see how a riparian setback, if given enough time to work, would improve just the general quality of life.

Latkovic asked how much work has been done with Haibach and his firm, in this specific issue within South Russell Village. Haibach replied, "Not a lot."

Latkovic said he respected everything Haibach said, but it seemed very general. From a riparian setback perspective with SRV, he asked Haibach if they looked at this issue specifically within SRV; did they look at the overview maps and specific areas this would affect.

Haibach said riparian setback would not solve any of the water issues with SRV; it would not solve any problems immediately. He thought it would take a long time - it could be a decade, or longer before it starts impacting the flow and discharge and storage rates of stream corridors. Haibach explained the way this ordinance is written is that everything that is there now stays exactly the same. It will not – in the immediate short-term, or the medium term - have any impact at all, in terms of storage, volumes, and flow rates.

Latkovic asked Haibach what his perception was of the flip side; if SRV did nothing with riparian setbacks and left it status quo. Was there a way to look at this and say, "Given what is already in place, you are going to create issues because of……."

Haibach replied, "Again, short-term, No. What a riparian setback is really good at, from my perspective, not a science perspective is – If you have a house and driveway and some impervious surface, and there is a stream nearby (could be in the back of a property or could be 4 properties away) your water wants to go there, it will it go there eventually, because of the topography. If you can slow the water down and give it a little more time to percolate through vegetation and tall grasses, etc., before it gets into the stream corridor, it slows down the flow of water. If you look at a hydrograph, where as rain intensity increases, you see a spike in flow, then it ebbs down. It kind of takes the high peak off of that. So, you still have the same total volume of water, it takes the peak flows down and gives it a little more time to spread the water out. The start time is the same, the end time is more or less the same, it has less of a peak, in terms of peak discharge rates, because the water that is getting to the stream channel is getting there a little more slowly."

Latkovic asked how much of an opportunity there was to address riparian setback in SRV, a Village that was predominantly already developed. Haibach said that given the way the ordinance is written, it would take a long time. Latkovic asked if they should look at writing the ordinance differently.

Haibach answered no. He thought if Planning Commission was looking to address riparian setback in the short-term future, going after stream restoration projects, which kind of artificially make the stream sinuous and widen the flood plains out – that is more of a hard infrastructure improvement to a stream. He noted that he has managed a couple of those projects and he was pretty skeptical at first, but they turned out to be wildly successful. He noted that they were expensive and really labor intensive. There are grants available to help

offset the cost of a stream restoration project, which is basically taking a straight ditch and turning it into a stream corridor. The funding mechanism is primarily 319 grants that are available, but they are still expensive.

Planning Commission member Jim Flaiz asked Haibach if there were even that many places in the village where that can be accomplished. He thought there was too much high density in places. Flaiz thought if this was done 50 years ago, this would have made sense.

Haibach equated riparian setback to planting a tree. "When is the best time to plant a tree? 40 years ago was the best time to plant a tree. The second-best time to plant is now." Haibach said as SRV continues to build out and develop, development will intensify as the larger lots that remain single family lots split off. They are looking at that with the Epprecht property. In that case, he wants to build a house now, but also wants to have the ability to have his sons/daughters build behind him. Haibach can see things going that way in the village, because SRV is out of big, developable parcels, for the most part. He thinks in terms of development intensification - what will happen moving forward - is building out of parcels in SRV, so instead of one house, there will be 3 or 4.

Koons asked if a 25-foot setback is enough of a setback. Haibach said if it is a true, untouched setback that you allowed the brush, trees and tall grass to grow on, that is a long space for water to have to flow through before a drop of water makes its way into the creek. He thinks CRWP would think more space is better. Realistically, he thinks 25-feet is enough.

Kim Brewster, Project Manager from CRWP, clarified that it is a 25-foot setback on either side of a stream, if that is what the Village will consider. She noted that can be adjusted as well.

Latkovic asked Haibach how much work it would be to actually map out in more detail the entire village, how long does he think it would take.

Haibach replied that it would be quite a bit of work. They would be looking at a 25 or 50-foot overlay over everything. Latkovic asked if there was a way accomplish this map without doing that. Latkovic felt the issue is if you have an undefined setback, how do you define when somebody needs to address what their setback is.

Haibach said you were basically looking at a zoning map for a stream, or a zoning overlay. Latkovic said the map is pretty rudimentary. Flaiz wondered how correct the map was and stated that the map does not show defined riparian setback areas. Planning Commission member Bryan Kostura noted that there were missing ponds on the map which would impact riparian setback because the streams flow into the ponds.

Flaiz talked about the last time Planning Commission looked into riparian setback, it was with a completely different group. They zoomed in on Southwyck and Lake Louise, and maybe another development. They looked at the areas of where the 75-foot riparian setback was suggested, as that would have impacted more properties. Chagrin Lakes and Alderwood would have setbacks also, and those homes are pretty close to each other. He remembered the last time they did this, they were supplied with some zoom-in maps of a couple of neighborhoods. He said maybe they did not want to spend the time on money on the zoomed in maps, because it would illustrate the argument Flaiz is making. He remembered that being a big deal, because when they looked at developments, parcel by parcel, especially with the 75-foot setback areas, that really brought into perspective of how much riparian setback would be impacting individual homeowners and how hard some of these regulations would be for them.

Latkovic was aware of the potential need for riparian setbacks. Long term, they have to do something potentially now, because 50 years from now, it will be even worse. And 50 years from now, people will say, "Why didn't those guys back in 2018 do something about this?" But, he recognized that this is a balance. Even with a 25-foot setback, this would be a much easier decision if they said, "This really doesn't impact much of most people's yards at 25 feet, verses, 25 feet, you're all over everybody." He doesn't feel Planning Commission has the appropriate tools to make that balanced decision. It seems like a lot of work for the maps,

but the other side, from an adopting the setback perspective, how do they adopt something like this that isn't clear with who it actually impacts.

Ondrey noted that there was a definitional section in the ordinance that talks about 'streambank', so it would be an almost case-by-case basis. Latkovic asked if that is how it would work, and Ondrey replied yes; short of SRV spending thousands of dollars to have engineers do drawings and surveys.

Haibach cautioned and said if Planning Commission wants this to be accurate, they can't do this by looking at a Geauga County map, it would require boots on the ground. Latkovic said that the map would probably change over time.

Brewster added that the map was developed for reference only and the model does indicate that field conditions would apply. IF SRV was to adopt these ordinances, CRWP could certainly come out and do a field assessment. They do that for neighboring communities, and they have done many in Bainbridge Township. Brewster noted that they developed that map with their GIS and they are able to zoom in very closely. It is not considered a formal survey, but they are able to zoom in pretty closely and they then could make more detailed maps.

Koons asked Ondrey about the 75-foot setback, if it ran right through someone's house, how would that affect them in the future. Ondrey said it would only affect them on expansions. Everyone is grandfathered, but if they are in the 75-foot setback and they wanted to expand their home, they would have to seek a variance. Haibach noted only if the expansion was horizontal, and Ondrey confirmed and said yes. Flaiz asked if someone wanted to put in a brick walk in, they would not be able to do that. Ondrey thinks they would need to state, "any improvement." Latkovic asked about a non-porous improvement, and Ondrey said yes. Latkovic noted that would include driveway expansion, walkway, gazebo, deck. Haibach said he wouldn't be concerned with the 75-feet setback requirement and reminded Planning Commission that they are the ones who set the rules. They could make the requirement be 15 or 20 or 25 feet, everywhere.

Flaiz added that he recently looked at some ordinances from other surrounding communities. Flaiz said, "To say that all of these other communities have adopted this riparian setback ordinance, would be an incredible stretch. For example, in Chagrin Falls, they only have a buffer area for stream channels which have a mean surface width at normal low water of at least 10 feet or greater." Flaiz didn't believe SRV has a stream that would fit that definition. He asked if he was wrong, could it be the stream that goes in Southwyck lake.

Haibach thought the ditch by the red ranch house might qualify, as it was a stream at one time. That was a natural corridor at one point before it became a big trapezoidal ditch. Latkovic asked if that ordinance covered in the river in Chagrin. Members thought it might cover the river and other tributaries as well.

Flaiz stated that Gates Mill did not adopt this riparian setback ordinance, their ordinance was significantly different, and they have less homeowners than SRV. He asked Brewster if he was wrong. Brewster replied, "No, they are considering adopting this, and noted that Christina Znidarsic, Senior Project Manager for CRWP, presented the ordinance to the Planning Commission for Gates Mills on Tuesday, April 10, 2018. Gates Mills is considering adopting riparian setback ordinance." Flaiz noted that Gates Mills was much less densely populated, much less densely developed and has a lot more watershed issues just because of the Chagrin River and its tributaries flowing through there than does SRV.

Flaiz recalled CRWP showing a map of every community surrounding SRV that has adopted this riparian setback, even Newbury. But noted that when you take a deep dive, they really haven't adopted anything that he has seen so far, that is as restricting to the homeowner as does this ordinance. He said he may be wrong on that but noted that the townships couldn't adopt anything this strict, they don't have the capability. So, when you talk about what Bainbridge has adopted, it is nowhere near what this ordinance requires. Both Flaiz and Haibach thought this was the strictest recommended, and most robust form of riparian setback. He asked Brewster if he was correct in what he said, and if it was a fair characterization.

Brewster said, "Yes, this was our model code, and I would have to check into it, to see what the city of Aurora has adopted and how they changed it. I am not aware of municipalities that made significant changes to the model code, but I can certainly do a comparison, if that is something that will be helpful." Flaiz said he did not see this in the Gates Mills ordinances, nor did he see this in Hunting Valley's ordinances and Chagrin's is just basically for riverbanks. Flaiz noted that he did not bother to look at this ordinance for townships, because that is a completely different comparison. Flaiz asked Brewster how many communities adopted the model that they want SRV to use, word for word. Brewster said she imagined that every community has changed slight things, but in terms of municipalities specifically, whether or not they have made significant changes, she could do a comparison, as she doesn't know off hand. She thought that Aurora's was pretty similar to the CRWP model code, but she can check that.

Flaiz did not find a municipality in the Chagrin Valley that had adopted this model, and said it is possible that he missed one. Brewster said she would double check that.

Ondrey said that sidewalks didn't seem to be prohibited in the setback. He read in the ordinance on page 8, where it states, 'Uses prohibited', "You cannot have buildings or structures, no fences or walls, no roads or driveways." It didn't say anything about if someone wanted to put a stone patio in. Ondrey, thinks as proposed, people could put sidewalks and patios in – things of that nature. You just can't put buildings, or fences, roads, driveways. Flaiz added decks. Ondrey thought that decks would be considered a structure, so you wouldn't be able to put a deck in.

Latkovic said the point of riparian setback is to stop erosion and asked what is eroding in SRV, what is riparian setback is trying to prohibit people from doing.

Haibach said erosion is definitely a consideration and explained when you have a long straight trapezoidal shaped channel, it moves water in the most efficient and the fastest way. Long term, that is not always the best solution. Water quality is one of the primary driving forces behind riparian setback and improving the overall quality of the watershed. He can see quantitative benefits as well in terms of reducing peak discharge. He believes water quality is the primary goal of riparian setback.

Flaiz asked Haibach if water flow is slower, the more natural impediments that it has to flow through, the less sediment it will carry with it. Haibach said that is correct, it would be carrying less sediment, and the less quickly water is moving, the less likely it is to scour out the bottom of the channel and the banks. Haibach stated that erosion was definitely a factor, but definitely not the main issue. He believes water quality is the main focus of riparian setback. Flaiz noted there are runoffs everywhere, water runs off of a driveway; runoff is everywhere. Haibach agreed.

Koons asked Flaiz if he feels that the concept of riparian setback is good but is it the onerous language in the ordinance that is bothering him. Flaiz feels there a couple approaches to riparian setback. One is to apply the riparian setback ordinance everywhere and scale it way back, also changing the variance burden, lessening that. Or applying something very close to this model, which is stringent, to undeveloped parcels, and say, "We are going to put some pretty stringent regulations in and adopt the model; let's just apply to undeveloped parcels." And maybe as for developed parcels, restrict it to streambanks. Flaiz thought there were a few ridiculous situations where people have built onto a streambank. Haibach described a house that was built in the far west end of Manor Brook should have never been built. There is s stream to the left, there is a stream to the right, there is a stream in the back, and they complain about flooding.

Flaiz thinks there are 2 different approaches. "There is one of let's have something really tough, and again, 60 years ago, we should have adopted something like this. We don't want to impose a burden on our present homeowners, but if you have an undeveloped parcel, or you are going to do a tear down and build brand new, then you will be subject to the riparian setback ordinance. And perhaps address some existing parcels, some streambank issues. Or just apply to the whole Village and scale it way back and make the variance process a lot easier." He doesn't want to make people have to get a variance because they want to add 12 square feet to their

driveway, he doesn't like that concept. He thought they could perhaps also reduce the size of some of the setbacks.

Koons said he liked Flaiz's idea of being stringent on undeveloped land, although there is not much left.

Building Inspector Laura Heilman said she studied the map and noted that she travels the roads in SRV and views the houses all of the time. She feels there are so few homes that would be affected. Paw Paw has a common area that would be affected, Alderwood is almost all dedicated to common area. There are some areas around Lake Louise, the lake itself, and the streams go toward the back where no one would probably want to do anything there anyway, because of the way the land is. She doesn't know what the real, true impact would be on individual homeowners, if it would be as great of an impact as everyone might be thinking.

Kostura doesn't think the map is accurate. Heilman agreed. Kostura noted on the map, where he lives, the pond is not shown. They would have to go to the flood point of the pond, at the highest flood point, then 25-feet back from that. That puts it in the middle of his yard, and then the streambed that flows through, actually flows through the middle of his house. For himself or his neighbor, or anybody involved in the area, they are out of luck unless they want to get a variance for everything they want to do. He would have to ask for a variance to plant flowers in his yard and finds that a little offensive.

Latkovic said they have been presented with the absolute, most restrictive ordinance possible. That created a problem - it distracted Planning Commission from understanding the broader issue and how to produce a more balanced approach. He does not believe anyone on the Planning Commission disagrees with the idea that this is a long-term issue. Kostura said he thinks it is a great idea, long term and thinks that there are pieces of property this ordinance should apply to in full force. He just doesn't think the riparian setback ordinance should be applied to the village as a whole.

Koons clarified with Flaiz that he was strict on undeveloped and tear downs. Flaiz gave an example of a lot that is for sale on Bell Road and noted that although there wasn't a stream there, he would consider that undeveloped now. Koons asked Flaiz if they go strict on undeveloped or any tear downs (or other terminology), would he say a 25-foot setback for the rest of the village. Flaiz said he would still like to see the impact on some of the individual lot owners, and noted that with Kostura's house, it is 5 feet, and close to the middle of his house. Koons said that was a good example but explained that Kostura was grandfathered. Kostura said until he wanted to do something, then he was not grandfathered. Koons said he would then seek a variance. Kostura explained if he had a tree in his back yard and it was not diseased, but he doesn't want it there anymore, he would have to get a variance to remove the tree, because it is over a 9-inch caliber. Kostura said that he doesn't have to go to the Building Inspector now if wants to remove a tree in his back yard, he can just get it removed without asking permission. There are certain pieces in this ordinance Kostura believes are not wise, such as to make the homeowner go through another step to go apply for a variance, for something as simple as removing a tree. Heilman agreed. Flaiz added, or if he wanted to replace his deck. Flaiz also said if Kostura wanted to put on a family room addition onto his house, he could not. Koons asked Flaiz if an addition had not been built in 40 or 50 years, did that mean it would be built now, with riparian setback. Flaiz explained that for the homes in his neighborhood, they were built in the late 1960's to 1970's, and they can't put on additions fast enough. Heilman noted that most of the renovations she sees in the older homes are the kitchens and bathrooms, not necessarily additions. Flaiz said 50% of the houses on his street have an addition, from the original house. Latkovic agreed and said that was only a problem for half of the houses.

Latkovic said if they want to move forward with riparian setback ordinance, they would have to go through each item that would make an impact. It doesn't make any sense to him that fences are included; it seems to him like a sidewalk would be much worse than a fence. He wondered how a fence could stop groundwater. He agreed with building a wall, that would have an impact on groundwater, but not a fence. Latkovic emphasized that the riparian setback ordinance needs work. With understanding the impact of riparian setback, he questioned if 15-feet was meaningful. Haibach said it depends on the quality of the 15-feet in question. Flaiz

stated the need to get things out of streambeds. Haibach agreed and said it was a huge problem. Haibach said the more of a filtered area you have before you drop into the ditch channel / streambank, the better. He thinks 25-feet is better than zero.

Latkovic asked Brewster from her professional perspective, if there was any scientific reasoning for the number that they have looked at. Latkovic asked, "For example, if 10 feet really gets you this result, and if you add another 10-feet or 15-feet, would it exponentially make it better." Brewster replied that they have studied this, and CRWP based setback widths after a review on the science that has been conducted nationally on what buffer widths are most appropriate for nutrient assimilation, sediment removal, flood mitigation, bank stabilization, and wildlife habitat. Latkovic asked if CRWP could share that information with Planning Commission. Brewster said she could and would send the information to Mayor Koons.

Flaiz said that before the next Planing Commission meeting, he would go through every Chagrin Valley Municipality and he would pull their ordinance. He will print them out and they can see what every municipality did. He will figure out what communities constitute the Chagrin Valley. Koons wanted to see what our neighbors did, Russell and Bainbridge, because they are townships. Flaiz thinks their restrictions will be a lot less, as townships don't have the power to do anything. Koons said if they did put riparian setbacks in place and saw the light, that means they could work with it. Koons said everybody else seems to see this, and he didn't think it was that much of a struggle in other communities. Kostura noted that the riparian setback ordinance wasn't this stringent in other communities. Flaiz asked Brewster if Chagrin basically voted no for this riparian setback ordinance, except for the Chagrin Riverbanks. Brewster said that was before her time and said they decided they just wanted to have buffers on the main stem and some of larger tributaries. Latkovic thought that made sense, when you have that big river, the man thing in Chagrin Falls, and he understands that. He pointed out that SRV doesn't have anything like that, but they do have a lot of lakes and ponds and streams.

Haibach added that SRV has a lot of ditches and drainage channels, as well as some exceptional high-quality streams. "On Cascades Drive in Lake Louise, there is a stone bottom stream that winds through the property and has a storybook perfect stream. We have streams like that, the only problem is that they are in everyone's back yard or side yard. You may not see it day-to-day, driving around." Brewster added that the North Branch of McFarland Creek, has been designated a cold-water habitat stream by the Ohio EPA. This is one of the highest quality aquatic life use designations in Ohio. This stream flows through South Russell Village (just east of South Russell Village Park) before flowing to McFarland Creek and eventually to the Aurora Branch of the Chagrin River.

Ondrey reminded the Planning Commission that they are entitled to hold a public hearing, if they wanted to, to see how the residents actually feel about it. He is not sure how many people would show up. Flaiz said residents aren't going to tell Planning Commission how they feel until they want to put on a family room addition, then see this ordinance. Or they put in a driveway, and the Building Inspector tell them they weren't supposed to, because no one will think they have to see the Building Inspector to put in a driveway.

Latkovic thought the next step would be to look at ordinances from other communities and get maps that zoom-in on communities. Brewster asked if they wanted the zoomed in maps for every neighborhood. Flaiz said Southwyck, Lake Louise, Paw Paw, Sugarbush, Country Estates, Alderwood. Brewster added that data in the maps they had are from the county, so there could be some mistakes. She asked Flaiz if it was helpful for CRWP to pull the neighboring Chagrin Valley ordinances and send them to the group. Flaiz said he doesn't mind doing it, it was easy for him.

Latkovic said at the next Planning Commission meeting, they would review this material. The next meeting is on May 10th. Latkovic may not be at the next meeting, and Ondrey said only 3 members of Planning Commission are needed. Latkovic thanked Haibach and Brewster for attending.

Koons said that with the vacancy on the Board with the departure of Bob Brown, he wants to send out as much notice as he can, trying to find a replacement. He is looking for some diversity of the Planning Commission.

New Business

Latkovic said that at the May 10th meeting, they will have a height variance case to discuss. One of the issues involved with this case was the timing. He thought it might make sense to change the timing requirement of a 35-day deadline. The height variance came in too late to get in on the calendar for this month, but far enough away that it was outside of the 35-day window for the May 10th meeting.

Ondrey said he felt that if you don't have the meeting within 35 days, theoretically, they could treat that as a denial, but they can't treat it as an approval. It wouldn't be wise for them to treat it as a denial, because it would mean they would have to go to court. Since Planning Commission is giving them a hearing on May 10, if he were the resident, he would say, "Yes, that is the route I want to take." To avoid this in the future, he feels Planning Commission ought to either expand that 35 days, because this won't be the only time this happens.

Latkovic thought this might have happened, because the Planning Commission meets on a scheduled day each month and thought the 35-day limit might have come from ZBA. He asked if ZBA scheduled meetings on what needed to be addressed. Ondrey said that was how ZBA scheduled, until this current year. Now they are doing a fixed date also. Ondrey felt that ZBA was going to run into the same dilemma at some point – someone will make an application too late for the next meeting. He feels they should just expand the time frame.

Flaiz said his recollection of the height ordinance was that someone became angry that the ZBA was granting too many height ordinances, so they changed it, so that the Planning Commission granted height variances. Flaiz wondered if they should change it back and let ZBA decide on the height variances. Flaiz thought it was odd that Planning Commission decide height variances. Ondrey said the height ordinance was the only ordinance Planning Commission decided, and that Flaiz was correct, it based upon a pattern that upset somebody.

Heilman noted that the Building Department has a deadline that they post on the calendar, which can be viewed by anyone who comes in, wanting to request a variance. The deadline is 3 weeks + 3 days in advance, and if you don't have your application in by then, then you have to wait until the next month, because there would not be enough time to advertise in the newspapers and send out notices to the neighbors. Currently, the deadline for Planning Commission was always 2 weeks before the meeting. In the case of a variance, it doesn't give enough lead time for the legal ad for the newspapers. She suggested, when there is a variance for height only, extend that deadline to 3 weeks; it works.

Latkovic asked if they could give this height ordinance back to ZBA. Flaiz said it would have to be changed with Council, and it would take a long time, as an ordinance would have to be changed. Heilman said this height variance request is for Dwight Milko's house. Flaiz thought it was for a 3-foot height variance. Kostura thought it was based on the walk-out basement. Heilman explained the way it is calculated, she has to take the average height of all 4 sides from the lowest point of grade to the highest point.

Flaiz knows Planning Commission has to do this height variance because of time deadlines, he always thought it should be changed back so that ZBA does these variances, instead of Planning Commission. Latkovic said this seems to be more in line with what ZBA does. Heilman said this was a very confusing issue in the zoning code. It is the only variance that goes before Planning Commission, all other variances go to ZBA. A height variance is difficult, gets complicated, and applicants don't understand. Heilman said it is entirely possible that somebody could need a variance for the height and also need a side yard variance and would have to appear before both boards, Planning Commission and the ZBA.

Latkovic asked how this change would occur, the 35 days, if it would have to go before SRV Council. Ondrey said the Zoning Code would have to be amended, that's where you get the 35 days, and the process starts with Planning Commission. Some discussion ensued about the 35-day deadline and the changing zoning code. Flaiz clarified that Planning Commission would have to amend the zoning code to move height variances back to ZBA, then it would have to be approved, SRV Council would hold a public hearing, and vote on the recommendation of Planning Commission.

Koons asked if Planning Commission would review the variance for the Milko house in May, and then start to amend the zoning code. Flaiz agreed and thought this process would take a couple of months.

Ondrey said the old height ordinance somehow gave the ability to measure the neighbors' homes. Their concern was a homeowner with a very tall house, then a neighbor having a much shorter house. The new ordinance was designed to force the Planning Commission to look at the perspective of the immediate neighbors. Kostura thought viewing a neighbor's home was much simpler than the complicated mathematical calculations. The Building Inspector thought it involved how wide the side yard and front yard were. Ondrey said it was very complex. The Building Inspector said all of that language was still there.

Flaiz asked Planning Commission if they wanted Ondrey write up a change to the zoning ordinance, for Planning Commission to consider, that would change the task of height variances from Planning Commission back to ZBA. Ondrey asked if they wanted to extend the 35-day requirement - even though the Building Department can tell applicants they have to get in their variance request by a certain date, they won't accept the application if it is beyond a certain date. Heilman said yes, and for an applicant to be on the agenda, they would have to have their variance request in by a certain date. Latkovic asked what the reason was for the 35-day deadline and explained that he didn't want to trip this process up if there was some good reason for it. Ondrey said someone at some point thought that was a reasonable amount of time. Flaiz asked if adjacent property owners would be notified about the meeting, like any other variance hearing, and give the neighbors a chance to be heard. Heilman said yes. Latkovic said he would propose 45 days instead of the 35 days. Flaiz suggested when this goes back to ZBA, they can decide the number of days. Ondrey wondered if the 35-day time frame would mess up ZBA. Heilman said it won't, because the Building Department has already established dates of submission for ZBA meetings, so applicants wouldn't be able to come to a next meeting unless they are at least 3 weeks and 3 days ahead of time.

Flaiz thought whatever the requirements are for other variances, to do the same thing with this, so all of the variances are uniform. Ondrey said it was 35 days for all variances, for Planning Commission and ZBA. Ondrey said they haven't run into this problem with ZBA. Latkovic asked if ZBA would have an issue with the number of days, does Planning Commission change it. Ondrey said that any zoning change has to start with Planning Commission. Latkovic clarified that Planning Commission still changes the 35-days.

Ondrey suggested making the time frame 60 days. Latkovic asked if there was any reason not to use 60 days. Heilman asked if Planning Commission wanted to review height variances, or if they wanted ZBA to do it. Flaiz thought they asked Ondrey to change the variance hearing from Planning Commission to the ZBA. Koons said his thoughts are to conduct the height variance hearing for Dwight Milko on May 10th, then go with the new ordinance to change to back to ZBA. He doesn't care if the ordinance reads 35 days or 60 days, whatever everybody recommends. Kostura noted that the recommendation has to come from Planning Commission before it goes to Council. Latkovic told Ondrey he could start to put together the new ordinance and they will take it up at the next meeting. Ondrey asked if they wanted to do it now. Flaiz said they can't yet, because they have the Milko height variance on May 10th. Ondrey said the new ordinance would not pass through Council for months. If they would pass this tonight, Council would see it for the first time on April 23rd, and they will have to do 3 readings.

Flaiz thought if the ordinance is ready for the next meeting, they can see it before it goes to Council. He didn't think it had to be done tonight.

Jim Flaiz made a motion to adjourn the meeting at 8:25 pm. Bryan Kostura seconded the motion.

Jim Flaiz, Acting Chairman

Lorraine Sevich, Secretary

ORDINANCE NO.: 2017 - _____

INTRODUCED BY: _____

FIRST READING _____
SECOND READING _____
THIRD READING _____

ORDINANCE AMENDING THE ZONING CODE TO ESTABLISH REGULATIONS FOR RIPARIAN SETBACKS

WHEREAS, flooding is a significant threat to property and public health and safety, and vegetated riparian areas lessen the damage from flooding by slowing the water velocity, enabling water to soak into the ground, and by providing temporary storage of overbank flood flow; and,

WHEREAS, streambank erosion is a significant threat to property and public health and safety, and vegetated riparian areas stabilize streambanks and provide resistance to erosive forces both within streams and on adjacent lands; and,

WHEREAS, the protection of riparian areas results in the presence of plants best suited to each individual environment along a stream, with proven capability for survival and regeneration at no cost; and,

WHEREAS, vegetated riparian areas filter and trap sediments, chemicals, salts, septic discharge, and other pollutants from runoff and floodwaters, thus protecting surface and ground water quality; and,

WHEREAS, vegetated riparian areas can provide a dense tree canopy that helps to maintain and improve the stability of watercourse temperatures, thus protecting aquatic ecosystems, and helps to reduce the presence of aquatic nuisance species; and,

WHEREAS, the protection of riparian areas can result in a diverse and interconnected riparian corridor that provides habitat to a wide array of wildlife; and,

WHEREAS, the woody debris from fallen, damaged, and cut trees increases flood levels and damage to bridges in the Village of South Russell and neighboring communities; and,

WHEREAS, sedimentation of eroded soil adversely affects aquatic communities and incurs removal costs to downstream communities; and,

WHEREAS, there are watershed-wide efforts to minimize flooding and streambank erosion in the Chagrin River watershed and to protect and enhance the water resources of the Chagrin River and its tributaries the Village of South Russell recognizes its obligation as a part of these watersheds to minimize flooding and streambank erosion by controlling runoff within its borders; and,

WHEREAS, the Chagrin River Watershed Partners, Inc.; the Cuyahoga Soil and Water Conservation District; the Geauga Soil and Water Conservation District; the Lake County Soil and Water Conservation District; the Natural Resource Conservation Service of the U.S. Department of Agriculture; the Northeast Ohio Areawide Coordinating Agency; the Ohio Department of Natural Resources, Division of Natural Areas and Preserves; the Ohio Environmental Protection Agency; and the U.S. Environmental Protection Agency recommend riparian setbacks as a valuable tool in an overall management program for flood risk reduction, erosion control, water quality control, and aquatic habitat protection; and,

WHEREAS, studies undertaken by, and reviewed by, the Ohio Environmental Protection Agency and other independent scientific bodies recommend the minimum widths for riparian setbacks; and,

WHEREAS, the Planning Commission for the Village of South Russell has recommended the adoption of zoning regulations for riparian setbacks; and

WHEREAS, the Council of the Village of South Russell has reviewed and adopted the recommendations of the above government agencies, and the Council finds that in order to minimize encroachment on watercourses and the need for costly engineering solutions to protect structures and reduce property damage and threats to the safety of watershed residents; to protect and enhance the scenic beauty of the Village of South Russell; and to preserve the character of the Village of South Russell, the quality of life of the residents of the Village of South Russell, and corresponding property values, it is necessary and appropriate to regulate though the Village's zoning code, structures and uses within a riparian setback along the banks of designated watercourses in the Village of South Russel*l*; and,

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the peace, health, safety, and general welfare of its citizens; and,

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, require designated communities, including the Village of South Russell, to develop a Storm Water Management Program to address the quality of storm water runoff during and after soil disturbing activities.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of South Russell, County of Geauga, State of Ohio, that:

SECTION 1: Chapter 12 of the zoning code, Riparian Setbacks, is hereby adopted to read in total as follows:

CHAPTER 12
RIPARIAN SETBACKS

12.01 PURPOSE AND SCOPE

A. It is hereby determined that the system of rivers, streams, and other natural watercourses within the Village of South Russell contributes to the health, safety, and general welfare of the residents of the Village. The specific purpose and intent of this regulation is to regulate uses and developments within riparian setbacks that would impair the ability of riparian areas to:

1. Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow.

2. Assist stabilizing the banks of watercourses to reduce woody debris from fallen or damaged trees, streambank erosion, and the downstream transport of sediments eroded from watercourse banks.

3. Reduce pollutants in watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in watercourses.

4. Reduce pollutants in watercourses by filtering, settling, and transforming pollutants in

runoff before they enter watercourses.

5. Provide watercourse habitats with shade and food.

6. Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system.
7.

8. Provide habitat to a wide array of wildlife by maintaining diverse and connected riparian vegetation.

9. Benefit the Village of South Russell by minimizing encroachment on watercourse channels and the need for costly engineering solutions such as gabion baskets and rip rap to protect structures and reduce property damage and threats to the safety of watershed residents; and by contributing to the scenic beauty and environment of the Village, and thereby preserving the character of the Village, the quality of life of the residents of the Village, and corresponding property values.

B. The following regulation has been enacted to protect and enhance these functions of riparian areas by providing reasonable controls governing structures and uses within a riparian setback along designated watercourses in the Village of South Russell.

12.02 APPLICABILITY, COMPLIANCE & VIOLATIONS

A. This regulation shall apply to all zoning districts.

B. This regulation shall apply to all structures and uses on lands containing a designated watercourse as defined in this regulation, except as provided herein.

C. No approvals or permits shall be issued by the Village of South Russell without full compliance with the terms of this regulation.

12.03 CONFLICTS WITH OTHER REGULATIONS & SEVERABILITY

A. Where this regulation imposes a greater restriction upon land than is imposed or required by any other provision of law, regulation, contract, or deed, the provisions of this regulation shall control.

B. This regulation shall not limit or restrict the application of other provisions of law, regulation, contract, or deed, or the legal remedies available thereunder, except as provided in Section 12.03 (A) of this regulation.

C. If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, validity of the remainder shall not be affected thereby.

12.04 DEFINITIONS

For the purpose of this Chapter 12, the following terms shall have the meaning herein indicated:

A. COMMUNITY: Throughout this Chapter 12, this shall refer to the Village of South Russell or its designated representatives, boards, or commissions.

B. DAMAGED OR DISEASED TREES: Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; lean as a result of root failure that puts the tree in imminent danger of falling; or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a watercourse or onto a structure.

C. DESIGNATED WATERCOURSE: A watercourse within the Village of South Russell that is in conformity with the criteria set forth in this regulation.

D. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency with overall responsibility for administering the National Flood Insurance Program.

E. IMPERVIOUS COVER: Any paved, hardened, or structural surface regardless of its composition including but not limited to buildings, roads, driveways, parking lots, loading/unloading areas, decks, patios, and swimming pools.

F. IN-LINE POND: A permanent pool of water created by impounding a designated watercourse.

G. NOXIOUS WEED: Any plant species defined by the Ohio Department of Agriculture as a "noxious weed" and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of this regulation shall prevail.

H. 100-YEAR FLOODPLAIN: Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent or greater chance of being equaled or exceeded in any given year.

I. OHIO ENVIRONMENTAL PROTECTION AGENCY: Referred throughout this regulation as the "Ohio EPA."

J. ORDINARY HIGH WATER MARK: The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. The ordinary high water mark defines the bed of a watercourse.

K. RIPARIAN AREA: Land adjacent to watercourses that, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.

L. RIPARIAN SETBACK: The real property adjacent to a designated watercourse located in the area defined by the criteria set forth in this regulation.

M. SOIL AND WATER CONSERVATION DISTRICT: An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s), hereinafter referred to as Geauga SWCD.

N. SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and which may result in, or contribute to, erosion and sediment pollution.

O. SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to, or would exceed, 50%

of the market value of the structure before the damage occurred.

P. WATERCOURSE: Any brook, channel, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

Q. WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (40 CFR 232, as amended).

12.05 ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS

A. Designated watercourses shall include those watercourses meeting any ONE of the following criteria:

1. All watercourses draining an area greater than ½ square mile, OR

2. All watercourses draining an area less than ½ square mile and having a defined bed and bank. In determining if watercourses have a defined bed and bank, the Village of South Russell may consult with a representative of the Geauga SWCD or other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant.

B. Riparian setbacks on designated watercourses are established as follows:

1. A minimum of 300 feet on either side of all watercourses draining an area greater than 300 square miles.

2. A minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles.

3. A minimum of 75 feet on either side of all watercourses draining an area greater than ½ square mile and up to 20 square miles.

4. A minimum of 25 feet on either side of all watercourses draining an area less than ½ square mile and having a defined bed and bank as determined by the Village of South Russell in Section 12.05 of this regulation.

C. Riparian Setback Guide Map. The Village of South Russell shall create a guide map identifying designated watercourses and their riparian setbacks. Said guide map is attached hereto and made part of this regulation and is identified as Exhibit A. The following shall apply to the Riparian Setback Guide Map:

1. It shall be used as a reference document and the information contained therein shall be believed to be accurate.

2. It shall be a guide only.

3. Nothing herein shall prevent the Village of South Russell from amending the Riparian Setback Guide Map from time to time as may be necessary.

4. If any discrepancy is found between the Riparian Setback Guide Map and this regulation, the criteria set forth in Section 12.05 (A) and (B) shall prevail.

D. The following conditions shall apply in riparian setbacks:

1. Riparian setbacks shall be measured in a horizontal direction outward from the ordinary high water mark of each designated watercourse, except for in-line ponds as addressed in Section 12.05.

2. Except as otherwise provided in this regulation, riparian setbacks shall be preserved in their natural state.

3. Where the 100-year floodplain is wider than a minimum riparian setback on either or both sides of a designated watercourse, the minimum riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA. If a FEMA defined floodplain does not exist for a designated watercourse, the Village of South Russell may require a site-specific floodplain delineation in conformance with standard engineering practices and approved by the *Village*. Any costs associated with reviewing this site-specific floodplain delineation may be assessed to the applicant.

4. Where a wetland is identified within a minimum riparian setback, the minimum riparian setback width shall be extended to the outermost boundary of the wetland. Wetlands shall be delineated through a site survey prepared by a qualified wetlands professional retained by the landowner using delineation protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation. Any costs associated with reviewing these delineations may be assessed by the Village of South Russell to the applicant.

10. The minimum riparian setback on an in-line pond existing at the time of application of this regulation shall be measured from the ordinary high water mark of the designated watercourse as it enters said pond and through the impoundment along the centerline of the designated watercourse as it flows through the in-line pond. Riparian setbacks on in-line ponds existing at the time an application is made under this regulation shall be expanded to include wetlands and floodplains as detailed in Section 12.05. The creation of new in-line impoundments shall not be permitted under these regulations.

12.06 APPLICATIONS AND SITE PLANS

A. The applicant shall be responsible for delineating riparian setbacks as required by this regulation and shall identify such setbacks on a site plan included with all subdivision plans, land development plans, and/or zoning permit applications submitted to the Village of South Russell. The site plan shall be prepared by a professional engineer, surveyor, landscape architect, or such other qualified professional as determined by the Village and shall be based on a survey of the affected land. The site plans shall include the following information:

1. The boundaries of the lot with dimensions.
2. The locations of all designated watercourses.
3. The limits, with dimensions, of the riparian setbacks.

4. The existing topography at intervals of two (2) feet.
5. The location and dimensions of any proposed structures or uses, including proposed soil disturbance, in relationship to all designated watercourses.
6. North arrow, scale, date, and stamp bearing the name and registration number of the qualified professional who prepared the site plan.
7. Other such information as may be necessary for the Village of South Russell to ensure compliance with this regulation.

B. The Village of South Russell may, in reviewing the site plan, consult with the Geauga SWCD or other such experts. Any costs associated with this review may be assessed to the applicant.

C. If soil disturbing activities will occur within 50 feet of the outer boundary of the applicable riparian setback as specified in this regulation, the riparian setback shall be clearly identified by the applicant on site with construction fencing as shown on the site plan. Such identification shall be completed prior to the initiation of any soil disturbing activities and shall be maintained throughout soil disturbing activities.

D. No approvals or permits shall be issued by the Village of South Russell prior to identification of riparian setbacks on the affected land in conformance with this regulation.

12.07 USES PERMITTED IN RIPARIAN SETBACKS

A. By Right Uses Without a Permit. Open space uses that are passive in character shall be permitted in riparian setbacks, including, but not limited to, those listed in this regulation. No use permitted under this regulation shall be construed as allowing trespass on privately held lands.

1. Recreational Activity. Hiking, fishing, hunting, picnicking, and similar passive recreational uses, as permitted by federal, state, and local laws.

2. Removal of Damaged or Diseased Trees. Damaged or diseased trees may be removed.

3. Revegetation and/or Reforestation. Riparian setbacks may be revegetated and/or reforested with native, noninvasive plant species.

B. By Conditional Use Permit Granted by the Planning and Zoning Commission: When granting Conditional Use Permits for the following uses, the Planning and Zoning Commission may, for good cause, attach such conditions as it deems appropriate. Permits issued under this regulation are issued to the applicant only, shall not be transferred, and shall be void if not implemented within one (1) year of issuance.

1. Crossings: Crossings of designated watercourses through riparian setbacks with roads, driveways, easements, bridges, culverts, utility service lines, or other means may be permitted provided such crossings minimize disturbance in riparian setbacks and mitigate any necessary disturbances.

2. Streambank Stabilization Projects. Streambank stabilization projects along designated watercourses may be allowed, provided that such measures are ecologically compatible and substantially utilize natural materials and native plant species to the maximum extent practicable.

3. Landscaping: The removal of natural vegetation within a riparian setback and the

subsequent cultivation of lawns, landscaping, shrubbery, or trees may be allowed provided that such cultivation is done in conformance with a Landscaping Plan approved by the Village. Any costs associated with review of Landscaping Plans may be assessed to the applicant. Landscaping Plans shall meet the following criteria:

a. Maintain trees in the riparian setback larger than nine (9) inches in caliper (diameter) as measured fifty-four inches above the ground to the maximum extent practicable.

b. Maintain trees, shrubbery, and other non-lawn, woody vegetation in the riparian setback to the maximum extent practicable.

12.08 USES PROHIBITED IN RIPARIAN SETBACKS

Any use not authorized under this regulation shall be prohibited in riparian setbacks. By way of example, the following uses are specifically prohibited, however, prohibited uses are not limited to those examples listed here:

A. Construction. There shall be no buildings or structures of any kind.

B. Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquid, or solid materials, except for noncommercial composting of uncontaminated natural materials and except as permitted under this regulation.

C. Fences and Walls: There shall be no fences or walls, except as permitted under this regulation.

D. Roads or Driveways. There shall be no roads or driveways, except as permitted under this regulation.

E. Disturbance of Natural Vegetation: There shall be no disturbance of natural vegetation within riparian setbacks except for the following:

1. Maintenance of lawns, landscaping, shrubbery, or trees existing at the time of passage of this regulation.

2. Cultivation of lawns, landscaping, shrubbery, or trees in accordance with an approved Landscaping Plan submitted in conformance with this regulation.

3. Conservation measures designed to remove damaged or diseased trees or to control noxious weeds or invasive species.

F. Parking Spaces or Lots and Loading/Unloading Spaces for Vehicles: There shall be no parking spaces, parking lots, or loading/unloading spaces.

G. New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian setbacks shall not be used for the disposal or treatment of sewage, except as necessary to repair or replace an existing home sewage disposal system and in accordance with recommendations of the Geauga Board of Health.

12.9 NON-CONFORMING STRUCTURES OR USES IN RIPARIAN SETBACKS

A. A non-conforming use, existing at the time of passage of this regulation and within a riparian setback,

that is not permitted under this regulation may be continued but shall not be changed or enlarged unless changed to a use permitted under this regulation.

B. A non-conforming structure, existing at the time of passage of this regulation and within a riparian setback, that is not permitted under this regulation may be continued but shall not have the existing building footprint or roofline expanded or enlarged.

C. A non-conforming structure or use, existing at the time of passage of this regulation and within a riparian setback, that has substantial damage and that is discontinued, terminated, or abandoned for a period of six (6) months or more may not be revived, restored, or re-established.

12.10 VARIANCES WITHIN RIPARIAN SETBACKS

A. The Planning and Zoning Commission may grant a variance to this regulation as provided herein. In granting a variance, the following conditions shall apply:

1. In determining whether there is unnecessary hardship with respect to the use of a property or practical difficulty with respect to maintaining the riparian setback as established in this regulation, such as to justify the granting of a variance, the Planning and Zoning Commission shall consider the potential harm or reduction in riparian functions that may be caused by a proposed structure or use.

2. The Planning and Zoning Commission may not authorize any structure or use in a Zoning District other than those authorized in the Zoning Code.

3. Variances shall be void if not implemented within one (1) year of the date of issuance.

B. In making a determination under Section 12.10 (A) of this regulation, the Planning and Zoning Commission may consider the following:

1. The natural vegetation of the property as well as the percentage of the parcel that is in the 100-year floodplain.

2. The extent to which the requested variance impairs the flood control, erosion control, water quality protection, or other functions of the riparian setback. This determination shall be based on sufficient technical and scientific data.

3. The degree of hardship, with respect to the use of a property or the degree of practical difficulty with respect to maintaining the riparian setback as established in this regulation, placed on the landowner by this regulation and the availability of alternatives to the proposed structure or use.

4. Soil-disturbing activities permitted in the riparian setback through variances should be implemented to minimize clearing to the extent possible and to include Best Management Practices necessary to minimize erosion and control sediment.

5. The presence of significant impervious cover, or smooth vegetation such as maintained lawns, in the riparian setback compromises its benefits to the community. Variances should not be granted for asphalt or concrete paving in the riparian setback. Variances may be granted for

gravel driveways when necessary.

6. Whether a property, otherwise buildable under the ordinances of the community will be made unbuildable because of this regulation.

C. In order to maintain the riparian setback to the maximum extent practicable, the Planning and Zoning Commission may consider granting variances to other area or setback requirements imposed on a property by the Zoning Code. These may include, but are not limited to, parking requirements, requirements for the shape, size, or design of buildings, or front, rear, or side lot setbacks.

D. In granting a variance under this regulation, the Planning and Zoning Commission, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of this regulation and to mitigate any necessary impacts in the riparian setbacks permitted by variance. In determining appropriate mitigation, the Planning and Zoning Commission may consult with the Village Engineer or other agencies including Geauga/ SWCD.

12.11 PROCEDURES FOR VARIANCES & APPEALS

A. Any applicant seeking a variance to the conditions imposed under this regulation or an appeal to an administrative decision made under this regulation, other than a decision by the Planning and Zoning Commission, may appeal to the Planning and Zoning Commission. The following conditions shall apply:

1. When filing an application for an appeal to an administrative decision, the applicant shall file a notice of appeal specifying the grounds therefor with the administrative official within 20 days of the administrative official's decision. Upon determining that the application is complete and upon receipt of the required fee of $100, the administrative official shall transmit to the Planning and Zoning Commission the application and a transcript constituting the record from which the administrative decision subject to appeal was based. This transmission shall occur no less than fourteen (14) days prior to a regularly scheduled meeting of the Planning and Zoning Commission in order to be placed on the agenda for that meeting.

2. When applying for a variance, the applicant shall file a variance request with the Planning and Zoning Commission.

3. Applications for appeals or variances made under this regulation shall contain the following information:

   a. The name, address, and telephone number of the applicant;

   b. Proof of ownership or authorization to represent the property owner.

   c. The location of the property, including street address and permanent parcel number.

   d. The current zoning of the property.

   e. A description of the project for which the appeal or variance is sought.

   f. A description of the administrative decision being appealed or the conditions of the regulation from which a variance is sought.

g. Names and addresses of each property owner within 500 feet of the property which is the subject of the appeal as shown in the current records of the Geauga County Auditor.

4. The Planning Commission shall schedule, advertise, and conduct a public hearing on the appeal in accordance with the requirements set forth in Section 3.07 of this zoning code, except as expressly modified in this Chapter 12.

5. Applications for variances or appeals of administrative decisions shall not be resubmitted to the Planning and Zoning Commission within one (1) year of the date of a final decision by the Planning and Zoning Commission on the original application, unless the applicant shows the Planning and Zoning Commission either of the following:

   a. Newly discovered evidence that could not have been presented with the original submission, or

   b. Evidence of a substantial change in circumstances since the time of the original submission.

B. A decision by the Planning and Zoning Commission in response to an application for a variance request or an appeal of an administrative decision filed pursuant to this regulation shall be final. Such decision may be appealed to the Geauga County Court of Common Pleas pursuant to O.R.C. Chapter 2506.

12.12 INSPECTION OF RIPARIAN SETBACKS

The identification of riparian setbacks shall be inspected by the Village of South Russell:

A. Prior to soil disturbing activities authorized under this regulation. The applicant shall provide the Village of South Russell with at least two (2) working days written notice prior to starting such soil disturbing activities.

B. Any time evidence is brought to the attention of the Village of South Russell that uses or structures are occurring that may reasonably be expected to violate the provisions of this regulation.

12.99 PENALTY

A. Any person who shall violate any section of this regulation shall be guilty of a misdemeanor of first degree and, upon conviction thereof, shall be subject to punishment as provided in Section 3.09 of the zoning code and shall be required to restore the riparian setback through a restoration plan approved by the Planning and Zoning Commission.

B. The imposition of any other penalties provided herein shall not preclude the Village of South Russell from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the South Russell Village Zoning Inspector.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

SECTION 3. This Ordinance shall be effective at the earliest time allowed by law.

_____
Mayor - President of Council

ATTEST:

_____
Fiscal Officer

I certify that Ordinance No. 2017 - _____ was duly enacted on the _____ day of _____, 2017, by the Council of the Village of South Russell, and posted in accordance with the Ordinances of the Village.

_____
Fiscal Officer

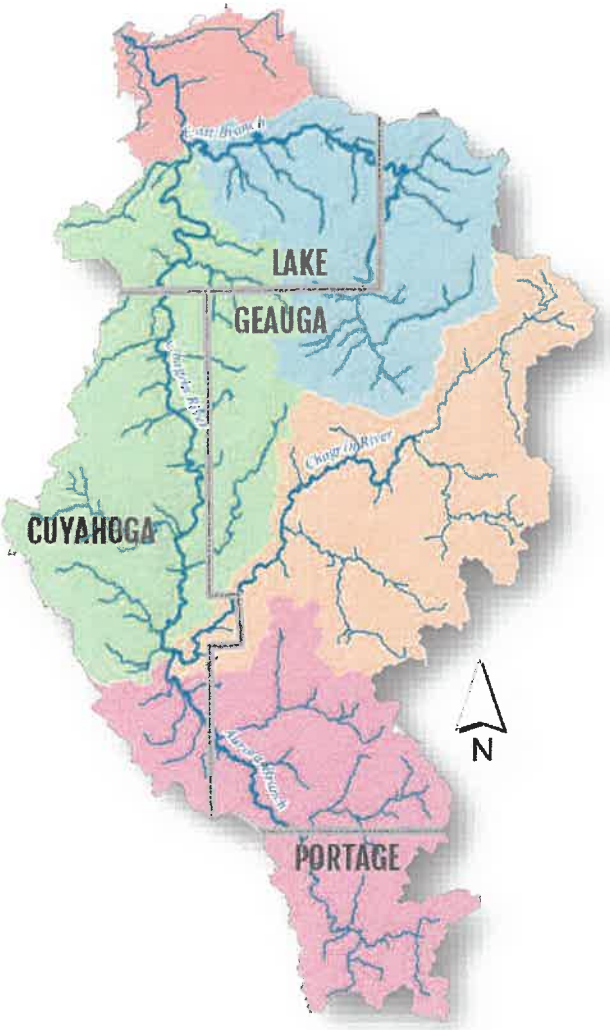


Riparian and Wetland Setbacks:

Background and Benefits

Chagrin River Watershed Partners

- Mission:
  - *The Chagrin River Watershed Partners will strive to preserve and enhance the scenic and environmental quality of the ecosystem of the Chagrin River and its watershed in a manner that assures a sustainable future for people, plants and animals.*
- Formed in 1996
- 34 member communities, counties, park districts



CHAGRIN
RIVER
WATERSHED
PARTNERS

CRWP Model Codes

- Riparian setbacks
- Wetland setbacks
- Comprehensive stormwater management
- Erosion and sediment control
- Illicit discharge detection
- Conservation/compact development
- Off street parking
- Other natural resource codes (floodplain, steep hillside protection, etc.)

CHAGRIN RIVER WATERSHED PARTNERS

Impacts of Land Use Changes

Increased impervious surfaces

Source of stormwater and pollutants







Chelsea Court, South Russell Village (same location)



Increased flooding and flood impacts



South Russell Village flooding, 2006





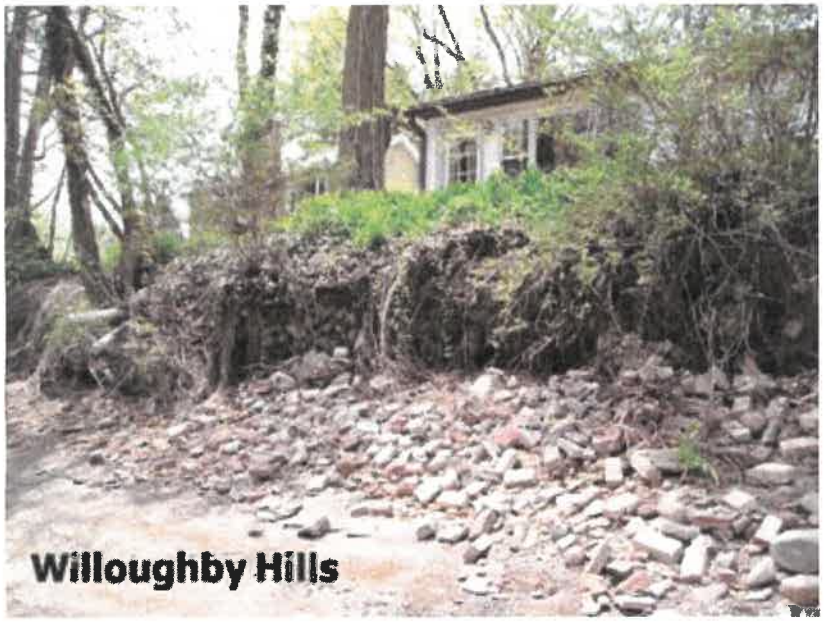


Increased erosion and water quality problems

Increase in infrastructure costs and resident complaints

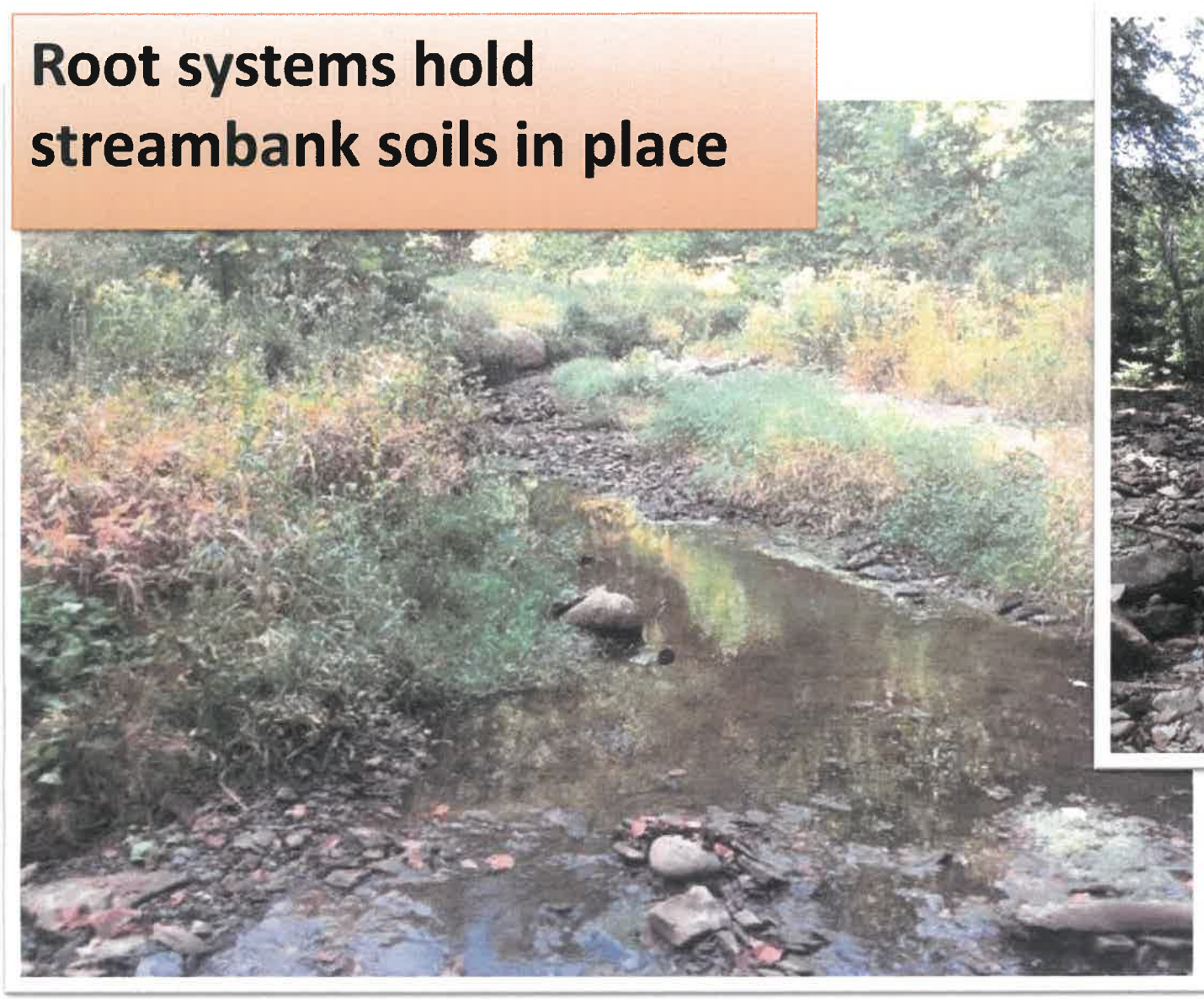
Solon

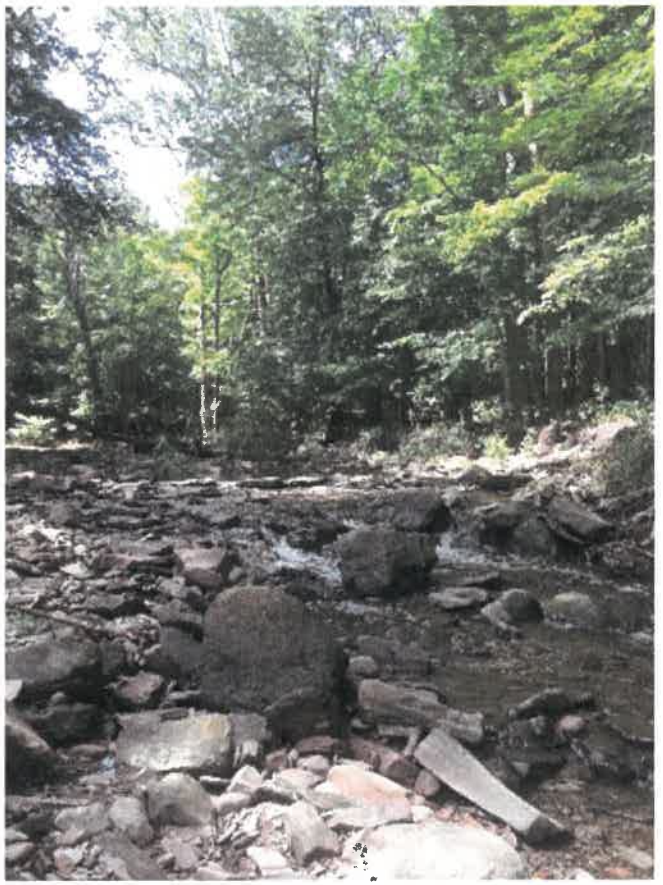




Healthy Riparian Areas Limit Streambank Erosion

Root systems hold streambank soils in place





Healthy Riparian Areas Reduce Flood Size Flows

- Slow water velocity
- Enable water to soak into the ground
- Provide temporary storage of overbank flood flow
- Minimize downstream flood impacts



Adjacent forest vegetation and litter shown to lower stream flood elevations from 32’ to 17’ during 100-year flood

Charles River Watershed (Massachusetts)

- 8,500 acres of floodplain wetlands protected
- Avoided $100 million cost of upstream levees and flood control reservoirs
- Prevented an estimated $27 million in flood damages downstream *annually*



Charles River Watershed (Photo source: USACE, New England District)

Riparian protection most cost effective solution

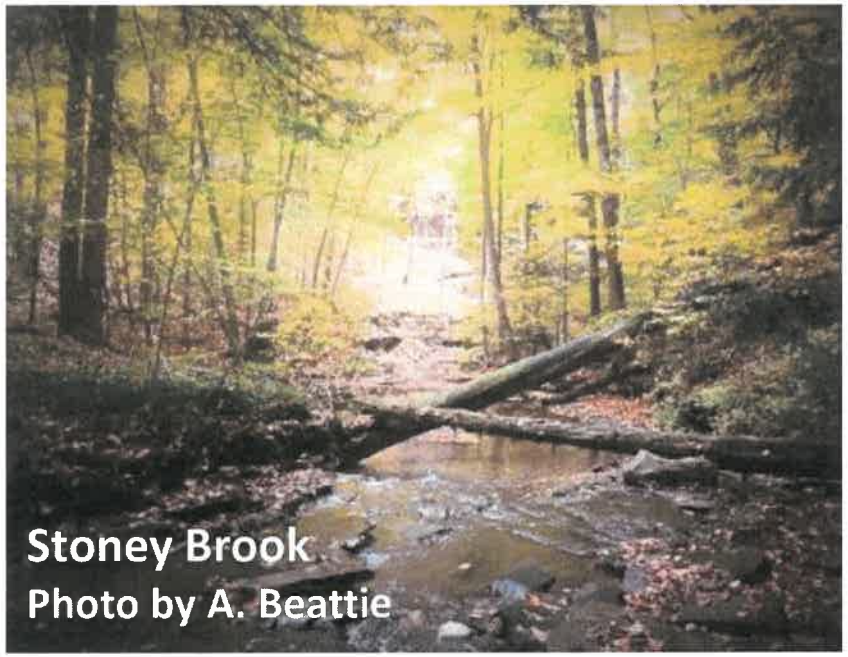
Healthy Riparian Areas Filter and Settle Out Pollutants

- Filter and trap sediments, nutrients, chemicals, salts, septic discharge, and other pollutants
- Protect surface and groundwater quality



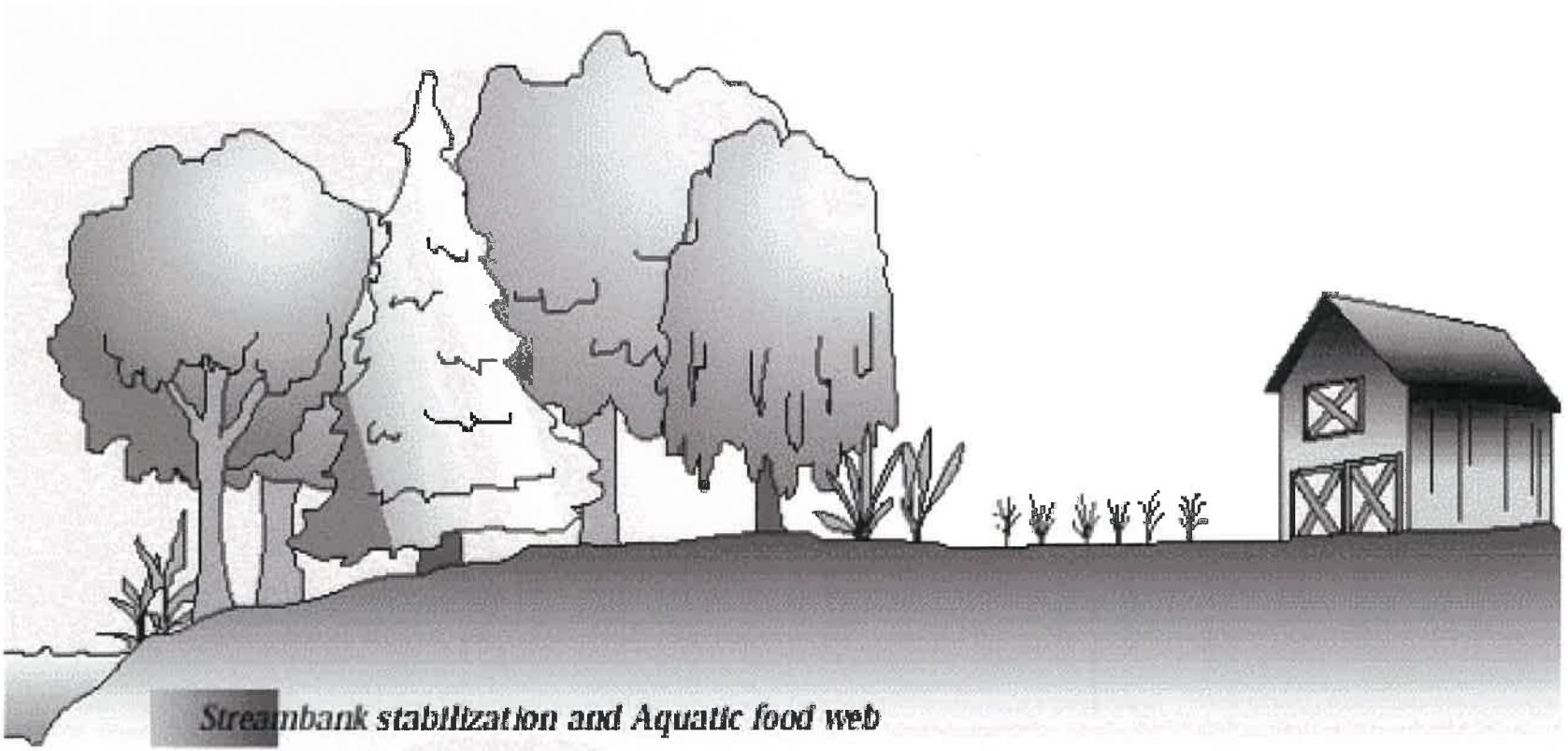
Photo source: Farm Program Cos. 2015

Riparian Areas Protect Habitat





- Influence temperature by providing shade
- Help reduce aquatic nuisance species
- Enhance wildlife habitat and biodiversity



Streambank stabilization and Aquatic food web

Water temperature moderation

Nutrient removal

Sediment control

Flood control

Wildlife habitat

0 50 100 150 200 250 300

Buffer width (feet)

Source: U.S. Dept. of Agriculture and U.S. Environmental Protection Agency. 1997. *Chesapeake Bay Riparian Forest Buffer Handbook: A Guide for Establishing and Maintaining Riparian Forest Buffers.*

Riparian and wetland preservation adds value



- Protect free services provided by riparian and wetland areas
- Cost-effective
- Protect homes, infrastructure and other property
- Raise property value


Hunting Valley

Healthy riparian areas, streams and wetlands provide many free services:

- Flood control
- Erosion control
- Water quality protection

Setback zoning is a tool to maintain these services as land is developed or redeveloped.


Chardon

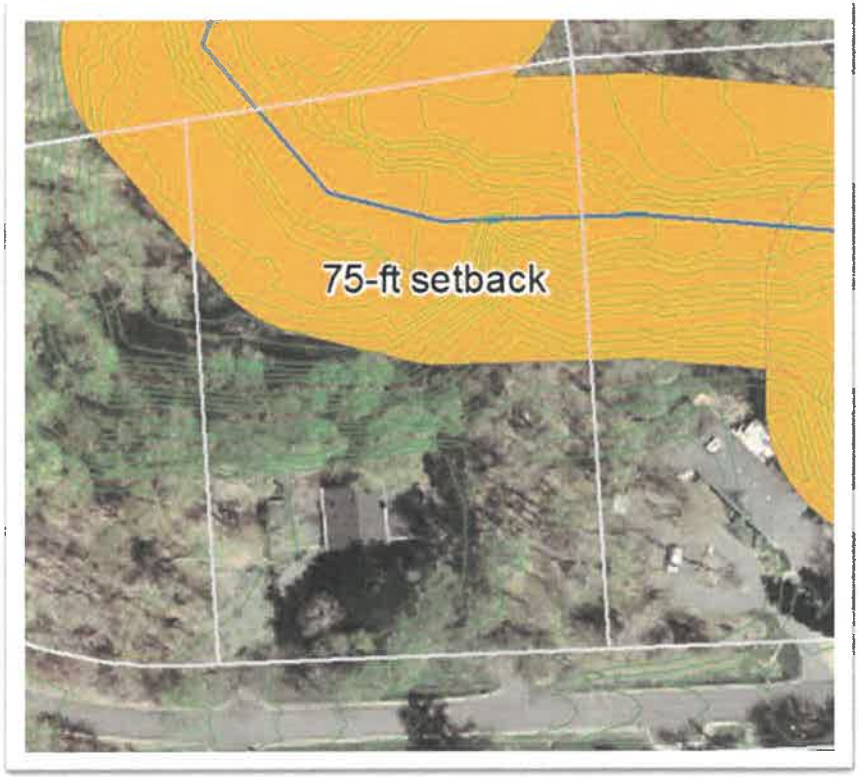
Model Riparian and Wetland Setback Codes

- Zoning tool to limit development within specific distances of streams and wetlands to maintain services of these areas
- In Phase II communities, setbacks are a non-structural BMP



CRWP Model Riparian Setback Distances

- 25 foot setback for streams draining < 0.5 mi^2
- 75 foot setback for streams draining 0.5 – 20 mi^2
- 120 foot setback for streams draining 20 – 300 mi^2



- Extend to wetlands and 100-year floodplain

CRWP Model Wetland Setback Distances



- Measured from delineated edge of wetlands
- Setbacks are determined by category of wetland
  - Category 2: 75 foot setback
  - Category 3: 120 foot setback

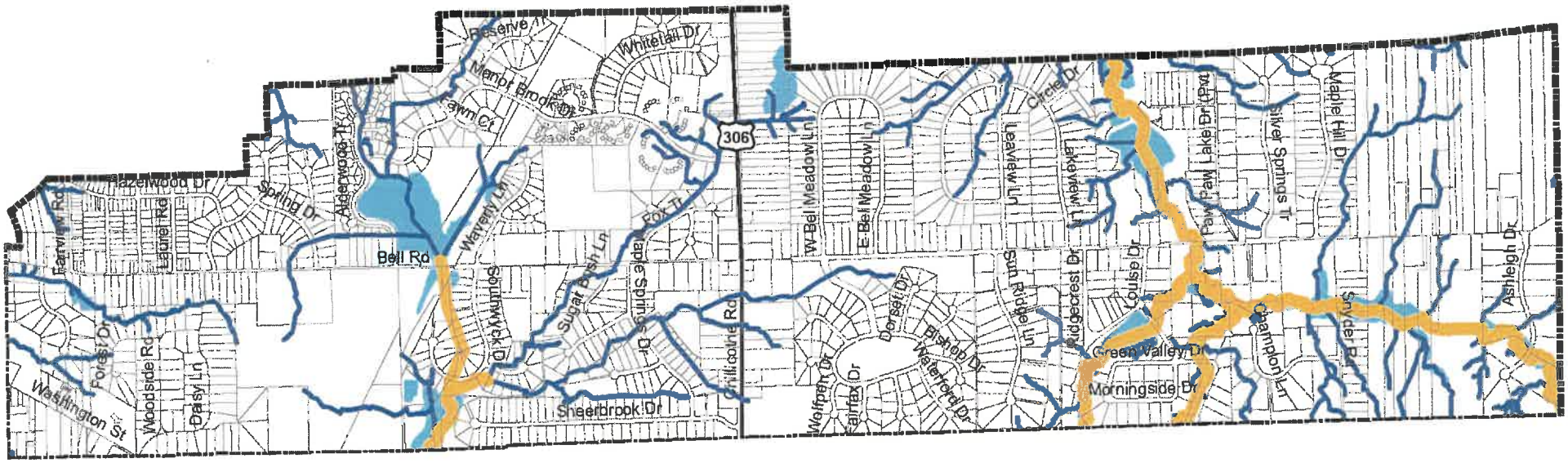
Non-Conforming Structures and Variances

- Community's existing regulations for non-conforming structures and variances apply
- Provide variances to other setbacks first
- Goal is to flex side, front, and rear setbacks to maintain riparian setbacks



Riparian setback regulations are a tool to assist community and landowners in finding the **best location** for development

South Russell Village Draft Riparian Setback Map



Legend

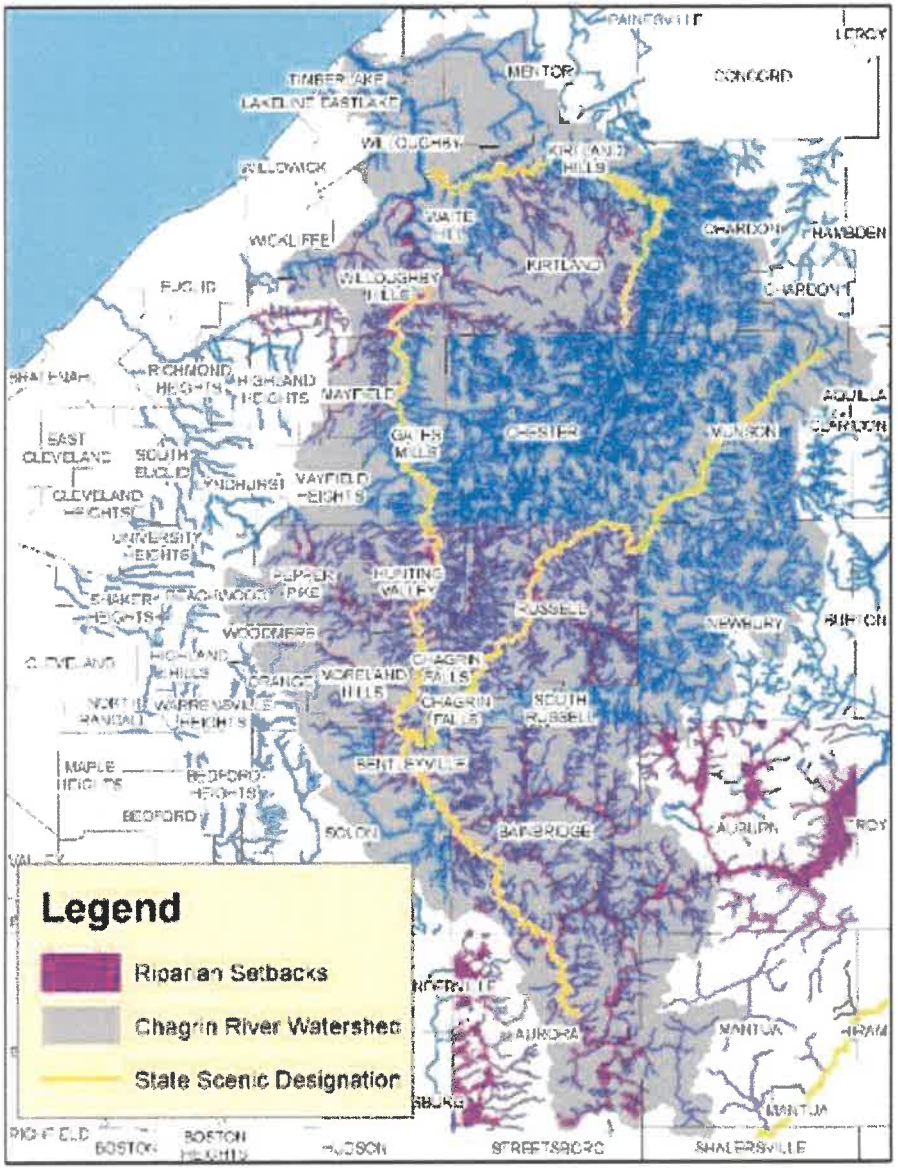
CRWP Model Setback

- Floodplains and Wetlands
- 25 Foot
- 75 Foot

Riparian Setbacks in the Chagrin River Watershed

Auburn Township
- (additional buffer on riparian wetlands)
Aurora
Bainbridge Township
Bentleyville
Chagrin Falls
Hunting Valley
Kirtland
Lake County
Mantua Township
Mayfield Village
Moreland Hills
Orange Village
Pepper Pike
Russell Township
Waite Hill (sensitive areas)
Willoughby Hills (protected areas)
Woodmere

Over 80 Ohio communities have adopted riparian setbacks



CRWP Assistance

- Adoption assistance
  - Discussions with community staff and elected officials
  - Presentations to planning and zoning commissions
  - Tailored resources (draft setback map, analysis of impacts)
  - Public education materials (factsheet, mailings, etc)
- Implementation assistance
  - Site visits
  - Plan review
  - Variance review



CRWP Model Codes

Available at www.crwp.org

CHAGRIN RIVER WATERSHED PARTNERS

HOME ABOUT US MEMBER SERVICES PROJECTS HOMEOWNERS

Model Regulations

Stormwater & NPDES Phase II

Grant Application Assistance

Presentations/Speakers Bureau

Home » Member Services

MODEL REGULATIONS



CRWP in conjunction with local and state agencies has developed a number of model ordinances/regulations and resolutions for the use of our member communities. A summary of these model ordinances/regulations can be found by clicking on the links below:

- Conservation Development
- Erosion & Sediment Control
- Flood Damage Reduction
- Illicit Discharge Detection and Elimination
- Off-Street Parking
- Riparian Setbacks
- Storm Water Management
- Wetland Setback

Adoption of these regulations provides local governments tools to maintain stream and wetland functions as lands are developed, ensures site features and water quality issues are considered early in the development process, and supports stormwater management practices that minimize water quality impacts. These regulations are the most cost effective and far reaching tools available to watershed planning organizations to improve land use because once adopted, they apply uniformly to all lands in a community.

In December 2009 CRWP produced Adoption Process for Best Land-Use Regulations (pdf 2MB). This document reviews the typical adoption process for CRWP's model comprehensive stormwater management regulation and riparian setback zoning regulation or resolution in a community. The adoption process for these two model regulations can be extended to the conservation development district and wetland setback model zoning regulations also recommended by CRWP for adoption.





Thank you! Any questions?

Kimberly Brewster

Chagrin River Watershed Partners

kbrewster@crwp.org

www.crwp.org

440-975-3870

SOUTH RUSSELL Village

Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700 Fax 440-338-8776

PLANNING COMMISSION MEETING
Record of Proceedings
February 8, 2018 at 7:30PM

Members Present: Steve Latkovic, Bob Brown, Jim Flaiz, Bryan Kostura, Mayor William Koons, Ph.D.

Other Officials: Laura Heilman – Building & Zoning Inspector; David Ondrey – Solicitor; Lorraine Sevich – Planning Commission Secretary

Visitors: Eric Haibach, CT Consultants, 8150 Sterling Ct., Mentor, OH 44060
Colin Knott, 530 East Washington Street, South Russell, OH 44022
David Jazek, 530 East Washington Street, South Russell, OH 44022
Kate Gutmann, 853 Nautilus Trail, Aurora, OH 44202
Amy Gutmann, 30505 Bainbridge Road, Solon, OH 44139
Christina Znidarsic, CRWP, 1335 W. 49th, Cleveland, OH 44102
Kimberly Brewster, CRWP, 4145 Erie St., Suite 203, Willoughby, OH 44094

Chairman Steve Latkovic called the meeting to order at 7:32 pm. Lorraine Sevich conducted roll call.

Planning Commission member Jim Flaiz made a motion to approve the minutes from the December 13, 2017 meeting, seconded by Board Member William Koons. Voice vote in favor of approving the minutes – Steve Latkovic, Bob Brown, Jim Flaiz, William Koons. Bryan Kostura abstained. Motion passed, minutes were approved.

1st agenda item – Riparian Setback Ordinance.

Kim Brewster, Project Manager and Christina Znidarsic, Associate Director, from the Chagrin River Watershed Partners, Inc. (CRWP) presented a Power Point presentation on riparian and wetland setbacks. The presentation included information on what riparian setbacks are, how they can benefit communities, and how CRWP can help communities adopt and implement riparian and wetland setback legislation. (A copy of their presentation is attached to these minutes.)

SRV (South Russell Village) has been a member of CRWP since 2002. Brewster said CRWP is grateful for SRV's membership and have enjoyed working the SRV. CRWP has developed a suite of model codes that help protect watersheds as communities develop. The model codes are cost effective, non-structural ways to minimize the impact of development on streams and wetlands and Lake Erie, as communities develop.

Brewster explained that as communities develop, natural landscapes are often replaced with hard and impervious surfaces that don't allow storm water to infiltrate into the ground as slowly as it does in natural landscapes. Some examples of these areas are roads, driveways, roofs, and parking lots, which can be a source of storm water pollutants into waterway systems. Increased storm water can also lead to flooding and flooding impacts. Brewster showed an example of flooding of a house located on Chelsea Court in SRV. She noted that

the stream near this house was flooding outside of its space and would have benefited if it was located further away from the stream.

Brewster explained that the word 'riparian' means streamside; the area directly adjacent to a stream. Streams don't stay in one place, they meander and move over time, accessing flood plains during heavy flow events. When infrastructures such as homes and roads and other types of structures are located too close to a stream, stream bank erosion can result causing a lot of damage that is very costly to repair. This is a common concern of CRWP when they do technical site visits to member communities.

The Power Point presentation showed examples of homes that were located too close to streams with eroding banks. Fixes in place to prevent flooding included the use of chicken wire and rocks. Brewster explained that these fixtures require a lot of maintenance and can fail repeatedly over time.

Another example showed a wall that was built to prevent erosion and flooding of an area around a house and driveway. The homeowner installed the wall to save their home and driveway from flooding. Those actions lowered the home's value, and when it was sold, the next homeowner had to restore the stream. They had to grade the banks all the way back to the home itself. This was another example where this home would have benefited from being outside of the Riparian Setback

Brewster noted that communities can spend a lot of money to fix costly flooding and erosion impacts on our streams. Or, a very cheap and effective solution is to protect the surfaces with healthy riparian setbacks. Benefits of healthy riparian areas include:

1. Limiting streambank erosion. The plants that grow in the riparian area adjacent to a stream are very well suited for flooded conditions, and their extensive root systems really help hold in the soil along streambanks and prevent soil from being washed away during high water flow events.

2. Healthy riparian areas also help reduce the size of the flood flow and flooding impacts. A riparian area wetland acts like a sponge soaking up water during high flow events and slowly releases it. These plants slow the water's velocity, allowing water to soak slowly into the ground and minimize the impacts to downstream areas that would have otherwise been impacted by flooding.

   Brewster showed an example of how a healthy riparian area can be the most cost-effective solution for addressing flooding. The Charles River Watershed in Massachusetts dates back to 1972. The Army Corps of Engineers conducted a study and determined that the protection of the riparian areas of this watershed was more cost effective in reducing the flooding impact than the expensive, traditional measures such as stream levees and flood control reservoirs. In the 1970's, they started protecting land in this watershed area and that protection continues to this day. They estimate that annually, 27 million dollars in flood damages are prevented. Riparian setbacks are a more cost-effective solution for preventing the impact of downstream flooding because they don't require the purchase of land.

3. Another benefit of a healthy riparian area is to help filter and settle out pollutants. These nicely vegetated areas really help to filter and trap pollutants such as sediments, nutrients, salt and other types of pollutants. Riparian areas, in particular, are very good at filtering out sediments which can really impair aquatic wildlife habitats and cause issues for navigational or recreational purposes. It can also cause maintenance concerns for local swim water systems as well.

4. Riparian areas protect aquatic wildlife habitat. The plants that grow in these zones help cool the water and provide shade. They also oxygenate the water, which is very beneficial for aquatic organisms. The plants along the stream also help to reduce aquatic nuisance species that thrive in sunny conditions. A good example is Phragmites which is a large, reed type of plant and is prolific in our area. It thrives in sunny conditions along waterways, so a nicely vegetated riparian border can help to shade out that species as well as other invasive species.

Brewster noted that SRV is in the Chagrin River Watershed (CRW) which is known statewide as having a very unique habitat quality and the most 'cold water' designated streams in the entire state. The Ohio EPA gave this designation to the CRW. This is a very unique and a very high-quality designation, which is very hard to get. This means we have cold water fish and aquatic insect species (macroinvertebrates) in our streams. These fish species have to live in cooler temperatures and very high-quality waters. Brewster noted that is a pretty high designation and people that live here, as well as people that live outside of the CRW, love to travel here for fishing, hiking and recreation. Riparian setbacks are a great way to protect those qualities.

Brewster explained that the greater the width of the Riparian zone, the more services will be provided. There are a lot of benefits to preserving these zones and it is more cost effective to prevent issues rather than reacting to issues. They can protect homes, infrastructure of property from the ever-changing path of streams, which can reduce public safety concerns and reduce the need for costly bank stabilization projects.

Healthy riparian areas can also help raise property values. Homes in naturally vegetated and wooded areas typically have higher property values. An example of this is in Lake County, where riparian setbacks were enforced in an area that was slated for development. One would think that this might be a turn-off for the developer, but the developer decided to install signs along streams in the area, indicating the riparian setback areas. The parcels that had streams and riparian setbacks were the first lots to sell. Brewster thought this showed the value of these areas.

Planning Commission member William Koons pointed out that the Riparian Area sign looked fairly close to the edge of the stream. Brewster explained that the sign was probably not located on the outer edge of what appeared to be a 25-foot setback. She did not know the code this particular community had. Christina Znidarsic, Senior Watershed Manager at the CRWP, noted that the developer probably didn't measure a full 25-feet back from the stream, and thought it was a 25-foot setback area. She explained that Lake County does have a sub setback of 50 additional feet for high-quality habitat streams, such as exceptional warm or cold-water habitat streams. In Lake County, all subdivisions have riparian setback areas. In Concord Township, they have implemented an even higher standard for riparian setback areas. The traditional riparian setback areas are 25-feet to 75-feet.

Brewster said that riparian areas provide free services, including flood and erosion control. Setback zoning is a tool to maintain these services as land is developed or redeveloped. Brewster noted that in Phase II Communities, setbacks are a nonstructural BMP.

The CRWP model code for riparian setbacks can range from 25 feet to 120 feet on either side of the stream, based on the drainage area to that stream. That also extends to the outer edge of wetlands within the riparian wetland area and the outer edge of the 100-year floodplain.

Brewster showed an example of a parcel located in a community with riparian setbacks. The stream on that parcel drains between a half-acre and 20-square miles. So, the 75-foot setback applies to either side of the stream.

Flaiz noted that in the picture Brewster showed, that the setback was imposed on land area that had already been developed, which would be about 95% of the applications in SRV. He explained that in the photo, the house that was on the right, the setback touched the home and touched or overlapped part of the deck on the home. Flaiz's concern in this case was that the homeowner can't make any changes to their deck or home without a variance. He asked Brewster if that is how she sees these setbacks being applied. Brewster replied that structures that are already located within the setback zones are grandfathered in, but they cannot be expanded.

Flaiz asked if the buildings in this example could be changed or enlarged. He noted that the wording didn't say "footprint", it said "any non-conforming use cannot be changed or enlarged." Brewster said that was correct. Flaiz asked about how changing the siding on a house could be handled. Christina Znidarsic, Associate

Director of CRWP, replied that is something that the code could be tweaked for. She said, "This isn't set up as accept as it is."

Znidarsic said CRWP would be happy to work with the Planning Commission to clarify certain points within the code that Planning Commission would want to make clear.

Flaiz asked what if he were the homeowner, and he wanted to replace his deck, would he need a variance. Znidarsic said yes. Znidarsic said they assist their communities with variance requests and they tend to look at what is reasonable. They run through the various criteria and consider what constitutes a reasonable variance request. She said if someone is looking to change the materials on their deck or add a story on their home, that doesn't actually materially change the actual footprint or expand into the setback in any way, shape or form, therefore they would probably grant the variance.

Flaiz stated that was not the standard for a variance. The standard for a variance is a hardship. Flaiz went on to say that without having done a deep dive into how this would affect each individual development, the fundamental issue he has is some of these setback areas go through the middle of homes. Under what CRWP has presented as a model ordinance, a homeowner couldn't make any changes, absent showing a hardship to their existing home, to a home built in 1970.

Znidarsic said she didn't necessarily know if you hold to the proof of hardship. She has done quite a few of variance requests for communities for years, especially in regard to proposed changes to structures, and most communities have never requested a variance for siding on a home. That is not something that they would require for this type of thing. She said generally speaking, it only comes in to play if the footprint of the home is being materially enlarged within the setback area.

Flaiz gave an example and pointed to a picture of a home. "Let's say this was my home and I wanted to replace that deck. Do you believe that I should be granted a variance to replace the deck?" Znidarsic replied if Flaiz was not materially enlarging it, he would not be changing the footprint of that deck, he would just be replacing it outright. Then she would say you probably wouldn't need to request a variance.

Ondrey noted that the house Flaiz was referring to was not in the riparian setback area. Flaiz showed where the corner of the deck was in the setback area. Flaiz said that some of the maps he has seen show that entire houses are in the riparian setback area.

Planning Commission Chairman Steve Latkovic said one of the questions he has is the math. He asked what requires the 25-foot versus the 75-foot setback. He questioned what "draining less than a half a mile" means. Brewster explained that the stream, based on the model code, would require a certain setback. Latkovic asked "When you say draining less than a half-mile, what does that mean, the amount of water it is moving, where it is coming from, where it's going to?" Planning Commission member Bob Brown asked a similar question, "Or water coming from a half-mile upstream where it is draining?"

Brewster replied it means the watershed to that location; the area of land that drains water to that location. It doesn't have anything to do with the level of flow, on any given time, or anything like that.

Latkovic clarified and said, for example, if you have 100 feet on the other side draining in, versus 200 feet on either side draining in, is that what Brewster meant. Brewster replied, "no", and explained that every location on a stream has a drainage area. Further downstream it would have a greater watershed area. They base their setbacks on that point; what area is draining to that point. If the area is between a half a mile and 20 square miles, the 75-foot setback would apply. Latkovic noted that these are mathematical calculations based on the amount of water in the stream and the area that it is flowing to. Brewster said it actually had nothing to do with the amount of water in the stream, it is the drainage.

Planning Commission member Bob Brown asked if there are communities upstream participating in riparian setback, and if not, does that impact the effectiveness of what this would be in SRV.

Brewster replied that there are upstream communities that have adopted riparian setbacks. Bainbridge and Russell Townships have adopted riparian setbacks. She said there is still a benefit to adopting riparian setbacks because the actions in your own community can make a huge impact just downstream of that location. Having a 75-foot setback on that property can improve conditions just to the parcel downstream; the impact can be that immediate. She showed an example of a forested riparian area that is providing a service to the immediate adjacent downstream property. She feels it would be a benefit not only within your property but to the community.

Brown asked if there were any impact studies on how many homes in the community this would affect.

Flaiz stated what he wanted the engineer to do - he assumes this is a multi-stage process - is be provided maps by CT Consultants by neighborhood, so they could see exactly what homeowners would be impacted. The last time the Planning Commission went through this, they were provided these maps by CT Consultants.

Brewster said they were working on an analysis of impacts of the setback and would have to crunch the numbers. She would like to review the numbers to make sure they are accurate.

Brown said he is interested in how many properties and how many physical homes would be impacted and require variances if homeowners wanted to make some adjustment to their home. Brewster said she believed that about a little over 500 parcels were affected in SRV, but she would like to look at those numbers again.

Flaiz said he understands the value to riparian setback but wondered if it was really the optimal application for already developed land. He added, "The horse is out of the barn, in our community. Most of the undeveloped land in SRV will probably not be developed." So, except for a small quadrant, the northeast part of the village, which is the only undeveloped land left, he doesn't think setbacks would affect that part of the village. He said what they are talking about - is imposing this on a bunch of developments, most of which were developed in the late 1950's to the late 1970's. The problem is developments that were put in during the late 1950's, 1960's and 1970's did not adequately put in the infrastructure for handling water.

Brewster agreed with Flaiz.

Flaiz went on to say that in a perfect world, this would be imposed on undeveloped land. He asked what real benefit SRV would see from imposing this on our residents when SRV is already developed.

Brewster said that was a good question and would consider riparian setbacks for potential redevelopment on some of these parcels. She gave an example of a structure that is located within the setback, and if it was to be torn down, or replaced with a larger home, Brewster believes this could have some benefit in terms of redevelopment of parcels. At this time, CRWP is still looking into the analysis of how this impacts the community. Brewster said parcels that have not been developed, or parcels that are large enough to be sub-divided it would be beneficial to have riparian setbacks to protect the streams and riparian area from the development and splitting up parcels.

Znidarsic added in terms of buildout and development, that has not stopped many communities from adopting riparian setbacks because they still see a value to it in redevelopment scenarios. Mayfield Village recently adopted riparian setbacks in 2014, and the Village of Woodmere has riparian setbacks. Russell Township has benefited very much from riparian setbacks because there are situations where older farmhouses are being bought and knocked down and people are building enormous homes on those lots. Being able to adequately protect stream buffers from that added impervious surface can be huge. People are putting in enormous driveways in some of these cases, as well as barns and out buildings. To protect against that additional development, a riparian setback can still be very valuable to a community as they are redeveloped.

Planning Commission Member Bryan Kostura inquired about the example ordinance from CRWP. He asked if, in a perfect world, if they were to institute an ordinance, if the one that SRV has is the one they would implement.

Znidarsic replied that is their model, the working template.

Kostura asked if other communities, having reviewed their own situations, how much of their ideal template do they actually pull in as their ordinance.

Znidarsic replied that in terms of municipalities, they have separate ordinances for townships and municipalities, because they are very different in terms of what they can and cannot impose. In terms of the municipal ordinance, which SRV would use, she said about 18 communities that live in the Chagrin River Watershed have adopted riparian setbacks in some form – only 2 of those have a modified version. She said generally speaking, they are happy to work with their existing ordinance and just adopt that. Kostura asked, "This whole thing?" Znidarsic replied "Yes" and said she couldn't think of a situation where they even have gone and tweaked it just a little bit. Chagrin Falls Village has a modified one – they only have streamside protections on the main stem of the Chagrin River, not on the adjacent tributaries; they are reconsidering adding those.

Koons asked why would Chagrin, that has been here for almost 200 years, have riparian setbacks now. Znidarsic replied that it is an older community, and they see it because of redevelopment. Because they are getting a lot of requests now for home expansions, and they see value now in protecting these tributaries. Along the Whitesburg Park area, where the old Ivex dam was, they still have significant areas of stream corridors that are undeveloped. They are especially looking at protecting that area as well.

Koons stated that the CRWP has 2.5 pages of an appeals variance process. He asked if communities go through that appeals process very often seeking variances. It seemed like a very "friendly" process.

Znidarsic said she has done several of variance requests for the City of Aurora and is personally handling 2 wetlands variance requests right now for them. They tend to get a lot of requests – mostly for commercial and industrial development where they are largely impacting wetlands. Currently, most of the undeveloped land in Aurora does have some wetlands on it. They have standalone wetland setbacks and riparian setbacks. So, wetlands that are not even a part of the riparian areas are also protected. They do get variance requests and when they send CRWP the plans for review, the developers are required to show on those plan sets where the water bodies are and what that setback would be, as well as the level of encroachment in that setback, so CRWP can accurately decide. She usually runs through a variance request looking to see if they have done everything possible to site the structure appropriately as far away from the setback as possible. She gave an example of how she has worked with the city of Aurora. Instead of, encroaching into the setback – the city has flexed the side yard setback, allowed 10 feet into the side yard setback, in this case, to be able to pull that out of the wetland setback. Having communities prioritize that type of thing can be useful. Aurora has allowed for reduced parking requirements – they have the off-street parking requirements, where you have to have so many spots per business, and they flexed the number of spots. They asked the business owner if that was something they wouldn't need, the extra parking spots, and the owners said "Sure." So, they allowed them to make the parking lot a little smaller, which then allowed them to move the entire development over and further out of the setback.

Koons asked if, in a perfect world, 50 or 60 years ago, SRV should have had this.

Znidarsic replied "We are catching up. And, as communities redevelop, this is becoming a valuable tool to them."

Brown asked if there were any instances where it is implemented only in the instance of redevelopment. Znidarsic replied that in the case of Mayfield Village, they are probably largely looking at it as a redevelopment scenario because most of those lots are already built out.

Latkovic asked if there were any ordinances adopted that only address redevelopment.

Znidarsic replied no.

Brown said that way it would not require a large number of variances for current homeowners. Znidarsic said the way their model is set up and the way it has been adopted is "any development." Whether it be new or redevelopment.

Flaiz asked Znidarsic if CRWP has experienced any litigation or lawsuits. He gave an example of living in Southwyck, and suddenly, someone can't add 5 square feet to their deck. That would be a big issue for him. He asked if they saw riparian setback as negatively impacting certain people's property values, and certainly property rights, if they fall within the setback.

Znidarsic replied they have a section in their ordinance that exclusively states - as part of the variance request process - that variances must be granted if it renders the lot unbuildable.

Flaiz noted that SRV has a lot of additions people add to their homes. Not significant, not like Chagrin, but they do, and SRV has much larger lots. He asked if someone wanted to put a family room addition on their home and their home is one of the 20 houses in a development that has fallen into this, they couldn't put a family room addition onto their house - there is no hardship, certainly. "If someone has an extra kid, and needs more room, that is not a hardship."

Znidarsic said she honestly has never been in a situation where someone would not have approved that, if there were no other way for them to do it. Most communities, and she certainly does when she conducts her reviews, are not looking to completely shut down proposed redevelopment, or expansions, or things like that. She just wants to make sure things are done in the most reasonable and environmentally viable way.

Flaiz thought that was not really a variance. The reason you have a variance process is to have standards that people either meet or don't meet. "What is this? Is this you show a hardship, or you don't? Or is this elastic – We want to let you do as much as you can, as long as we are ok with its impact on the environment."

Znidarsic replied that it was more like the later example Flaiz gave. Flaiz said that wasn't good, from a legal standpoint. If someone is challenging that in court, he sees that as a big issue. He thinks that is more a resident friendly approach – he didn't think it was a bad idea. He thinks the hardship is a very nice standard, but it concerns him. When things turn into one person's decision on the impact on the environment and what that person judges the impact on the environment to be, you are moving away from a standard and giving it a lot of subjectivity.

Znidarsic replied "Right." She wanted to stress that she has no authority to enforce a setback decision. When the communities come to them for a plan review, they provide recommendations, nothing more and nothing less. They can take that at face value – they can say, "We understand that, but we're still going to do this." That is up to the community to decide.

Solicitor David Ondrey thought SRV didn't necessarily have to go with a messy hardship standard - they could make it a practical/difficult, which is an easier standard to meet. He believes they are talking about areas as opposed to uses. That may be a tweak that would be helpful for Flaiz's concerns. Flaiz said that was a great thought.

Brown thinks it could be narrowed down so it is more subject to redevelopment areas, or for example, expansion of a home that exceeds "X", or something like that - defined a little differently. He is still most interested in how many physical homes are touched by any proposal. So, they see exactly the full scope of the number of variances that would be required or the impact upon individual homes – not just the lots – but the homes themselves.

Latkovic asked, from the perspective of South Russell, is the interest of CRWP in just having this generally applied or is there something that is going on in South Russell, specifically, that they have noticed and said, "This is a problem. We need to address this in South Russell."

Brewster replied that their organization was founded based on flooding and erosion concerns from the communities they serve. Not only is this a benefit to the environment, but it really is a benefit to residents. Last year they attended several site visits within the community, with the mayor and some others, where there are parcels having strong flooding concerns within the village. She really believes this would be a benefit for those residents and their properties.

Latkovic said his question was if there are specific areas that were of a concern with erosion issues, downstream issues that Brewster has seen in SRV, specifically that they would point to and say "That is a real problem here."

Brewster said they did identify "hot spots" with the Council and with the Mayor, specifically those landowners that they visited. Also, just before this meeting, they were discussing erosion on the stream behind SRV Hall, because of some storm water issues are happening upstream. There are "hot spots" they have identified.

Flaiz addressed Brewster and noted that SRV has significant storm water management issues in spots in the Village. The reality is, if Planning Commission passed this tomorrow, it wouldn't change the Village's flooding problem one bit.

Brewster replied maybe not immediately, but she does think over time, as properties are redeveloped, and these riparian areas are allowed to revegetate from perhaps their current management of turfgrass or other types of vegetation that aren't as good at filtering storm water and holding streambanks together, she does think this would improve some of those conditions.

Flaiz pointed out the real challenge now for Council and the Mayor is that the Village needs to install infrastructure that should have been put in place in the late 1950's through the 1970's. Brewster said she thinks that is certainly a part of the solution.

Koons pointed to the back of the room, to the large map on the wall and noted that there were 7 post-it-notes. They have resolved 3 of the issues and there are 7 issues left. He agreed, that his should have been done 60 years ago. This is something that he thinks will help as they move into the future. It will help to solve some of the storm water problems. That is why he thinks riparian setback is a good idea.

Kostura asked if there were some communities who used riparian setbacks in targeted areas, and say, "Well in this area of our community we are not going to use riparian setbacks, but in that area, we are going to use a targeted riparian setbacks approach as an overlay."

Brewster replied she was not aware of any communities who used that approach. Znidarsic said in the Chagrin proper area, that's not usually how it is applied, and that is not typically applied in most places that they have studied. They have done an analysis of over 80 communities in the state of Ohio that have adopted some form of riparian protection. She has seen an overlay district proposed and feels SRV could certainly set something up like that. She believes it does exist in some communities, like a flood control district concept.

Ondrey noted that the Village had to pass storm water regulations. He asked CRWP if they know of anything coming in the future from the Ohio EPA that might force communities to adopt riparian setbacks. Brewster replied that there are requirements for the erosion and sediment control, a general permit that requires a 50-foot buffer along streams during construction, but currently there are no protections for post construction, which riparian setbacks would provide that service of protection.

Znidarsic clarified that Ondrey asked if Ohio EPA was making any noise about potentially moving toward inserting riparian setback as a requirement in their permit. Ondrey said for some reason he had that impression, that the Ohio EPA was moving in this direction. Znidarsic said it has been done for the Olentangy and she believes The Little Birdie watersheds in Ohio. She went on to explain that watersheds in Ohio have special permits that require riparian setbacks in those watershed areas. And she knows for a fact that the Ohio EPA would like to move there, if possible. It will probably a slow process.

Flaiz asked if CRWP has ever done a statutory scheme where it just applies to undeveloped areas or unplatted lots. For unplatted and undeveloped lots, he thinks this is the greatest thing in the world. He believes in what CRWP is doing and wishes they could wave a wand and had this done a long time ago, everyone would all be much better off. Their concern now is the people that live here. Planning Commission serves the residents of SRV and he doesn't want to see them negatively impacted. He feels they should look at undeveloped and unplatted lots, so they can help this going forward, but they are not imposing an unnecessary burden on their existing residents.

Znidarsic said some communities have worked riparian setbacks into their subdivision code. So as subdivisions are plotted and developed, the setbacks apply then.

Koons asked Flaiz what burden would be put on residents. Koons stated, "What you have now, you keep. If you want to make a change, you can change it, if it fits into certain guidelines. If it doesn't fit the guidelines, you can appeal it." Koons sees this as a positive – he thinks they are afraid of this issue and he believes it is a positive thing for SRV to help in the future. Koons said he is not afraid of riparian setbacks.

Flaiz asked if in a neighborhood, someone wanted to change their driveway from gravel to concrete. If they were within the setback, they couldn't do it absent of a hardship. Flaiz has a neighbor who lives in the setback, when they moved in, they have small children; they live on a ravine edge – they wanted to put in a split-rail fence with chicken wire. That would be prohibited with riparian setback. Koons said it would be prohibited until they come and appeal it. Flaiz said again, that is his concern. Whenever you impose regulations and you leave it up to a bureaucracy to decide whether something can be permitted – you are taking away somebody's property rights.

Koons said "Yes, but it is for the greater good."

Flaiz noted that this Planning Commission saw this same proposal 12 or 13 years ago and rejected it.

Koons said he thinks Planning Commission dropped the ball, especially when you travel to all the communities around here and see the wisdom of this; he believes SRV dropped the ball. Koons said, "We have a chance to make the community better, is what I am saying. I don't think we are going to be making a hardship on our residents. You make up a little bit of paperwork, we have a little bit of a discussion, but it's not like we are going to be punitive. But we're not going to be handcuffing our people, that's not our intent."

Latkovic addressed Koons and said he would like more information. He would like to see the impact this would have on the residents. He said he thinks Koons knows everyone on the Planning Commission and he thinks Planning Commission would be reasonable. "The same people that are here today may not be sitting here in the future." And that does give him concern – as this is a lot of power over what somebody can do with their property. Notwithstanding that the variance process can be friendly; it can be unfriendly.

Latkovic asked CRWP if they study the number of variances with riparian setback and keep track of that kind of information. Znidarsic replied that she does not know the number off the top of her head in terms of the communities that have requested reviews of CRWP, but she can pull that information. Latkovic said he would be very interested to see – he doesn't want to make an issue out of something that may not be, but it certainly seems like that is the concern. Znidarsic agreed and said that in the case of the communities that do lean on CRWP, they view it as a very valuable service. It really helps communities appropriately enforce and build a scientific basis for why they enforce the code a certain way. They build case studies for when they would grant variances and not grant variances. She said they are essentially setting a good precedent that they can then follow. For every good decision they make, it sets a good precedent, to make further good decisions down the line.

Flaiz gave an example of someone who has lived in their house for 30 years. And now all of a sudden, they must ask permission from the government to change their vegetation, decide how much of their land they can

mow or make material exterior changes to their home. He feels that is a hardship; that is a burden, and he thinks they should recognize that is a significant regulation that the government is now imposing on somebody after a long period of time when they did not have those regulations.

Flaiz said to CRWP, and thinks they are admitting this, that it does not move the needle a lot on the problems SRV is facing. It would have a long time ago, but going forward, he is not sure that it moves the needle a lot of the storm water management issues that the Village has.

Brewster said she feels riparian setback would be a benefit on adjacent properties, they can be affected by lack of riparian vegetation within the riparian zone of their neighbors. They attend a lot of landowner's site visits as part of their member services to their member communities. Many of their concerns are based on bank erosion or drainage concerns, etc. They see these a lot and sometimes those situations can be attributed to the management of the riparian corridor up and down the entire stream and can affect the whole community. She does think Planning Commission should consider the potential benefits for some of the residents involved, in addition to some of the hardships that they are looking at. She thinks there could be some benefits for landowners who have erosion and drainage issues on their property.

Flaiz asked if SRV has any specific issues where erosion control is a significant issue. He knows storm water is an issue, but he is not aware of any significant erosion issues on any of the Village's stream banks.

Eric Haibach, engineer for SRV, said there are some erosion issues in SRV. He feels that Darrell Johnson Street Commissioner for SRV, would be more versed in terms of exactly which ones he's been worried about, and which ones he has taken action to beef up. Unfortunately, by the time it becomes a problem, it has affected the integrity of SRV roadways. Then they are boxed in a corner with having to put in big armour stone down a slope to fix the problems. There are several homeowners in the Lake Louise area that have meandering streams throughout their back yards, and if they are on the outside of the bank, they keep putting things in to fix, and the water keeps taking it out.

Brewster said they also recently assisted the Village with a conceptual plan for a bank stabilization project immediately south of SRV Hall, where there is erosion and head cutting due to storm water issues.

Znidarsic said that in terms of passing one of these riparian setback ordinances, education outreach goes hand in hand with this type of thing. This is something that CRWP does with walking with the Council and the Mayor in terms of going and looking at these things. But they also can do individual site visits to residents along these stream corridors and they have that face-to-face conversation with them about mowing to the edge, maintaining a healthy vegetative buffer, regardless of whether you have a setback present. These are things you should be doing to not only be a good upstream neighbor, but to save your own land. It is cost effective for residents to maintain these buffers. Otherwise that nice deck they are so proud of might go at some point if they are not maintaining a healthy vegetative cover. When CRWP does these visits, it is a constant conversation that they are having with the residents. They have been doing the education and outreach – this may be something that Planning Commission might want to ramp up. Start doing some serious education and outreach in terms of being a good stream steward so that when this does get proposed, or residents do become aware of it, they are more amenable to it because they understand the value of it.

Flaiz pointed out that in CRWP's model, there is a criminal enforcement mechanism for violating the riparian setback ordinance. Not just, "We're going to take you to court to make you modify your behavior, we are going to charge you with a crime."

Znidarsic said that she wanted to stress that in their model, the enforcement procedure can be modified by the community as they see fit.

Flaiz asked if other people have taken out the criminal penalties. Znidarsic replied that she couldn't tell Flaiz off the top of her head, it is something they can go back in and look at, what other communities have adopted and if they have taken out that portion.

Brewster continued with her Power Point presentation on riparian setback. She explained the CRWP model setback code extends to the outer edge of the wetlands in the riparian zone. Isolated wetlands outside of the riparian zone can also serve a great service to the community, as they are like sponges and soak up storm water and release it slowly over time, helping with storm water issues within the community. Their model setback code prevents soil disturbance within a certain buffered area around the wetlands and requires a natural landscape to be around that wetland. So, the setbacks are determined by the category of wetland, as determined by the Ohio EPA's wetland assessment methods. All category II wetlands which are more moderate quality wetlands would require a 75-foot setback around a wetland area. And for Category III wetlands, which are the highest quality wetlands in the state, those would require a 120-foot setback.

Brewster went on the say the CRWP's model code states that structures that are already within the setback at the time of adoption are grandfathered in – they are allowed to be maintained. However, any structure where the footprint is expanded, would require a variance. The communities' existing regulations for non-conforming structures and variances would apply to the setback codes as well. The idea with these setbacks is to be able to flex other setbacks, such as front, side and rear to allow the riparian setback to be protected. Brewster showed an example in Bainbridge Township which has riparian setbacks. A variance was allowed for the flex setback, to allow the riparian setback to be fully protected. The house was then located a little bit closer to the front of the lot to protect the riparian zone. This is a tool to allow CRWP to find the best location for development.

Brewster said as part of their assistance to SRV, they worked on and developed a riparian setback map, based on the setbacks and drainage areas. She showed a map titled "SRV Draft Riparian Setback Map." She pointed out that the blue lined streams are areas that drain less than a half-square mile and have a defined bed and bank. The areas in orange are the areas that drain between a half-square mile and 20 square miles, so a 75-foot setback on either side of that stream would apply. The setback also extends into riparian wetlands and the 100-year flood plain as well. The map is designed to use as a guide and a reference for the community, however field conditions would always prevail.

Flaiz thought the map was part of the ordinance. Latkovic thought it was too but noted that the map states it is a "rough guide." Brewster stated it is a rough guide.

Flaiz wondered how this would work, practically. Would you even know if you were in it, until you wanted to build your deck.

Brewster said you could use the map to see if you are located near a setback area. One of the services CRWP provides to member communities is going out to some properties and assisting the owner's with determining where the setback is located on a particular parcel. So, if there is any question as to whether the setback applies to the homeowner, they are happy to come out and help mark that out on the property for them.

Flaiz asked if they pass this ordinance, would there be any certainty as to exactly how it would affect each parcel, as this map was just a rough map. Brewster said the map should be assumed to be accurate. The field conditions are what really determines where the setback would apply.

Flaiz asked if CRWP prepared the map, and Brewster said yes. Znidarsic said this was made using best available GIS data. They have a "streams layer", which is what these lines (pointing to the map) represent that through various things at the National Hydrography Dataset and field observations and aerial hand delineation of stream corridors. Over time, they have built this layer. They have also plugged into this layer what the approximate drainage areas would be for these stream segments, so they can build potential setbacks out of them and show a potential setback map like the one here today. When someone wants to develop a property, they are required to show where their water bodies are and what potential setback would be there. In the case of

a very low key residential development, they can go back to the deck example given by Flaiz. Odds are, there would probably a 25-foot setback on the stream, at least – if there is a stream. So, if the deck is within 25 feet, you can be well assured that you would be in the setback.

Flaiz asked if it was possible for CRWP to provide them with maps that are zoomed in a little more, that would show the footprint of existing structures. Znidarsic replied yes – she superimposes these for certain areas on an aerial, they can do a footprint layer as well. Flaiz said that would be extremely helpful. Latkovic thought Geauga Link had a 2017 aerial map that was helpful.

Latkovic asked for clarification as to exactly what makes something fall within the setback zoning regulations. As he reads the ordinance, it says, "This shall apply to structures and uses on land containing a designated water course." Is that defined as something within the map, or what if someone is on the edge, do they have to come and ask SRV if they are in the setback. If they are on the edge and the Village doesn't say anything, are they O.K. Is the map just a best guess. Brewster said the map should be believed to be accurate.

Latkovic asked what defines whether the property is in a riparian setback – is it the map or something else. Brewster replied if the homeowner has a stream on their property or along the edge of their parcel, then it can be assumed there is a setback on their property. It must have a defined bed and bank per the code, and if it does - the setback would apply.

Flaiz said the word "stream" was a loose definition and wondered if water had to be constantly flowing to meet that definition. Brewster replied the code states it must have a defined bed and bank. They look for characteristics of a stream that is typically flowing most of the time.

Ondrey said they define "watercourse" as any brook, channel, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

In looking at the map, Flaiz said there are several blue lines on the map that don't have a defined bank. Brewster replied that field conditions would prevail, even if it didn't have a defined bed and bank. Znidarsic said if a resident wants to do something and is told, "No, it's not a defined bank, and SRV says CRWP can come out and look at this for us and let us know what they think." Then CRWP can say it is not a defined bed and bank in that particular location, and riparian setback would not apply.

Brewster went on to say that CRWP has 18 different communities that have adopted either riparian setbacks or similar types of natural resource protection into their community code. Many of these are based on CRWP's model code and they have assisted most of these communities with the adoption of this code. Over 80 communities in Ohio have adopted riparian setbacks.

Koons noted that every community surrounding SRV, except for Newbury, has implemented riparian setbacks.

Brewster said CRWP is happy to have discussions with staff, officials, Council, Planning Commission and Zoning Board of Appeals of SRV. They are also happy to provide tailored resources that can help to keep this conversation going. For example, the draft setback map which they showed or a more zoomed-in map. They have begun an analysis of impact which shows the number of structures and parcels that are affected and perhaps that would be helpful for them to share. They can also provide public educational materials, fact sheets and mailings and any other sort of materials that would be helpful to the Village. Should SRV decide to adopt riparian setbacks, they are also available to assist with implementation of those setbacks, which would include site visits and determination of the application of the setbacks on a specific property. They would come out and measure the setback with the landowner and a community representative. They can also provide review of development plans and make sure that setbacks and other natural resource protections within the code are considered early in the planning process. They are also happy to assist the community with review of any variance requests as well. CRWP's model code is available on their website along with a host of other resources.

Flaiz said some of the 25-foot setbacks go through residents mowed back yards. He said when there is a major storm event water will flow through yards into a stream somewhere, but 95% of the time there isn't water flowing. He asked if the riparian setback legislation is passed, would residents be told they couldn't continue to mow their lawns.

Znidarsic said they can continue to mow their lawns. Existing vegetation can be maintained in its current state. However, if they wanted to mow an additional 50-feet of the lawn that previously wasn't mowed, and is in the setback, then that would have to be reviewed. If it is already mowed, it is fine. Znidarsic added that SRV didn't have to have riparian setbacks for CRWP to do site visits. They do that free of charge to any resident, for whatever reason related to storm water drainage, erosion, or anything. That is provided at no charge to the residents.

The members of Planning Commission thanked representatives from CRWP for coming to the meeting, and CRWP thanked Planning Commission for their time.

2nd agenda item – Canine University – Amy Gutmann, New Indoor Dog Club for dogs and their owners at 530 East Washington Street, South Russell.

Amy Guttman introduced herself and her daughter, Kate Guttmann. Amy grew up in the Chagrin Valley, she showed and trained horses and grew up with dogs. Her passion throughout her life was animals. In 1994 She started a dog behavior business and she has also been a Labrador and Golden Retriever breeder – she has been around animals a long time. Along the way of her career path, with dog behavior, she was trying to find things to benefit dogs and their owners. With Amy, dog training has been a very big part of saving dogs' lives, making sure that they don't go to shelters – making sure that they stay in people's homes, and making sure that they are somebody's best friend. She opened Canine University in Bedford Heights in 1999 and closed that 2 years ago. She redirected herself into service dog training, just to scale back a little bit. She then developed a new concept with the goal is to make a pet a better part of someone's family.

Guttman went on further to explain about dog parks and dog day care, and why she does not like them, as she is the one that had to fix behavior problems as the result of dog day care and dog parks. She is super protective of her own dogs and there is no way she would ever take her dog to any of those facilities unless her dogs were the only ones there.

She developed a dog day school (she is not doing that currently) and has a trademark on that concept, called 'Dogessori Day School ®'. The dogs go to school all day rather than going to recess and this concept turned out quite well for her. The other concept she and her daughter have been developing over the past 2 years is to have an elite business, where people can join a social club, very similar to a country club, but instead of playing tennis, people and their dogs would play flyball or frisbee. Owners and their dogs would come to this club and do different events, different exercise and perhaps just sit down and work on their computer and remotely work at a little table. This is something that the owners participate in with their dog, to have more time with their pet, as opposed to dropping their dog off at a day care. She didn't want to insult day care facilities for dogs; she understands everybody's lives are busy and it is easy to drop your dog off at day care, get them good and tired, then pick them up and then go to bed. She, personally, would rather have the owners participate and do more with their dogs. That is one of the goals of this new business, is that people will come to the "SWAG" (her daughter's name for the business) and do things and socialize with other people and their dogs in a very safe environment. As far as behaviors – she will screen everybody, and their dog and they would have to pass her temperament test in order to be members. If there is an altercation, the membership would be terminated. It will be a very safe environment.

She doesn't know exactly how many trained clients she has now, she estimates it is somewhere around 30,000 to 40,000 in the Cleveland area. A lot of her clients truly want something like this, where they can feel safe taking their dog to and their dog won't be attacked by somebody else's dog.

She's been looking for the proper location – she wants to be in a location where people want the business and want dogs the there. She wants to be in a location where clients are excited and happy to have this facility, where they are so willing to participate. They have a laundry list of people who want this. Some of those people were going to be at the meeting tonight, but the flu struck.

Gutmann said her plans were to retire, but she is not going to retire now. This new business is another passion, and her daughter is jumping on board, as a marketing major from The Ohio State University, who also has a passion for animals.

Kate Gutmann, daughter of Amy Gutmann, said when it is cold, and you don't want to take your dog to play outside, this would be another place for you to take your dog to exercise. The social part is a big part. They are looking at two separate play areas for the dogs, one for the larger breeds, and then a puppy and small dog play area. They will also have a cat bay area. They will have tables and high-speed Wi-Fi, so people are able to telecommute, or work remotely. They would be able to come to the place and have their dog with them and exercise their dog, along with working as well, as opposed to being home all day with their dog. She's worked at Geiger's for 10 years, and knows how people are passionate about their dogs, by bringing them into the store and doing different activities with them. She knows their new business is something this community would really enjoy.

Amy Gutmann said this new facility would be a first in the country.

Latkovic asked Ondrey if Planning Commission was approving business use only. He noted that they did not have in front of them a plan of what will be set out for this business. He asked if they needed that to approve the use. Ondrey wasn't sure where the Village stood on the zoning issue and asked Building Inspector Laura Heilman about zoning, if this fit within permitted uses in that district. Heilman replied that this is B-1 and I-1; it is a whole new business for that area.

Flaiz asked if anyone heard of Camp Bow-Wow. He believes it was only 1 of about 3 things he ever saw Planning Commission not approve; an issue was they wanted to do boarding. Another big issue was a significant, large outdoor area where the dogs were going to be. He asked Gutmann if she was contemplating an outdoor area.

Kate Gutmann said they would have an outdoor potty area, but as far as a play area, that would remain inside the building. Flaiz said when Planning Commission looks at a business use, one of the issues they look at is to see if the business is harmonious with the surrounding businesses. He said the Panini's patio is right there, there is music; there are different business areas. Latkovic noted that there were two veterinarians in the area. Flaiz said one of his concerns was dogs barking outside would not really be harmonious. He said the dogs must go outside.

Amy Gutmann explained that the dogs would be outside to go to the potty and transfer from cars to the building. Kate Gutmann said they are looking to utilize the back lot of their facility, so the dogs are not in the way of oncoming traffic using the front lot, as well as the traffic that goes into Cultivate, Chagrin Yoga and those stores.

Flaiz asked if the only entrance and exit that would be used would be around the back of the building. Kate Gutmann said yes, and she didn't want anyone to get hit when they are coming in, if a dog would get out before an owner. Flaiz gave credit to the businesses in that area, they have done a great job with that development, but parking is a huge issue in the front lot. Kate Gutmann said they only want one entrance because they want to control who is coming in and out of the club at all times. The software that they are looking at actually tracks the number of dogs coming in and out, so they can regulate the number of clients they have in the building.

Latkovic was looking at an aerial and asked if the building was open on the side. He asked where the access would be. The Guttman's showed Latkovic where the entrance would be on his map, around the back of the building.

Kostura asked where the dogs would relieve themselves. Kate Gutmann said that is something they need to look at and she is talking to Colin Knott about that. They don't need a very big area, but it would be off to the side. David Jezek, owner of the building at 530 East Washington Street, said in all likelihood, the most pragmatic way is probably to take a little bit of the parking lot area in the back and turn it onto grass, or stone or whatever is appropriate. He knows she needs an area. Amy Gutmann said the area she had before used a 2-rail split fence. She thought the potty area was better outdoors than indoors. Flaiz clarified that the potty area would be in the back area. Amy Guttman said yes.

Brown noted if he were to bring his dog there, he would determine if the dog needed to relieve itself. He feels dogs will be doing what they do with their owners at different times of the day. Amy Gutmann felt most owners would probably have exercised their dogs before putting them in the car, and if they are there for an extended period of time, she is sure they would take their dog out for a break.

Flaiz asked if there would be a scenario where the dogs would be at this facility and the owners wouldn't be. Amy Gutmann said no, absolutely not.

Latkovic asked how many dogs and owners fit into the building. Amy Gutmann said it all depends on how much space they take. With her other building, she figured out what the ratio of square feet to dogs was. Latkovic asked her if she remembered what that number was, Amy Gutmann said that building was for training, so it was a little different concept, because dogs need more space to focus. This is more of a social activity. She said if there were 30 dogs, that could be the maximum, but it depends on the space. Latkovic said that is what he was looking for; it's not 100 dogs. He asked if it would be somewhere between 25 and 35 dogs. Amy Gutmann said if the membership goes up, they would have to have sign-ups where if a time slot is full, they would have to wait for the next time slot. Having too many concentrated dogs is not safe. She wants all the members to feel safe and not feel like she is cramming 200 people into the building; that is not fun. She wants it to be comfortable. She likes this space because it has a front area which is about 4000 square feet, but it also has an additional 9000 square feet, so they can potentially look at leases to go further and have more elbow room for everybody.

Brown said that he used Amy Gutmann's services 18 years ago with one of their dogs and they also bought a dog from Amy. He does remember the temperament testing that they went through and the behavior requirements of the dogs and the fact that it was a highly controlled environment. He hasn't seen Amy for 18 years, but he does know the quality of the service, as he has been around enough of them over the years to know good from bad.

Amy Gutmann told some history of when she had classes, where she might have screened a dog, and thought the dog was OK to go in, but once the dog was in a group situation and she saw inappropriate behavior - the dog was immediately pulled. She had to be the bad guy and pull people. She found that if she didn't do that, if she had 10 people in class, she would only have 1 dog, because the other 9 would leave. This is for the member's benefit – to make sure it is well controlled environment.

Koons asked Amy Gutmann what her biggest fear she would have about this business. She said the only negative is that she would have to have backbone and tell somebody that has potentially a Golden Retriever, that their dog doesn't fit. Being able to take the glaring eyes, but that is what she would be training the people to do who would be temperament testing the dogs. Really managing that. She is so confident that they do have a solid policy and procedure that the membership will be very solid. That is probably her biggest challenge, is having that quality control.

Koons asked a year from now, how many employees she would have. Amy Gutmann said probably 2 to 4 full time employees, and then anywhere from 4 to 6 part-time staff. The overhead manpower is not that high because the members are going to be participating in clean-up. On a typical day, they would have 1 full-time member and probably 2 part-time staff to supervise. She will also have security cameras. She is very much into security cameras, especially in an animal business, because of "he says, she says."

Latkovic asked what kind of insurance she carries and if it covers animal bites, etc. Amy Gutmann said she goes through Hartford Insurance which covers pet training, pet businesses, day care, and grooming. There is also an insurance company in the Carolinas that insures pet businesses. She will review coverage with them, but she thinks they will cover her under her same policy. She believes it is a 2-million-dollar policy, and she gets an umbrella as well.

Flaiz made a motion to approve Canine University, a new indoor dog club for dogs and their owners at 530 East Washington Street, South Russell, Ohio.

Ondrey suggested that they ask about hours.

Flaiz asked if there would always be an employee there, or if it would be like Snap Fitness where people can come and go. Both Gutmann's responded and said there will always be somebody on staff, 2 people at all times. Flaiz asked what the hours would be. Amy Gutmann said 8 to 8. Kate Gutmann said maybe 9 to 8. They want to be able to accommodate those people that do work full time and want to exercise their dogs after work. They have not gotten that far in determining the hours, but they will be open 7 days a week. Amy Gutmann said they will be doing a client survey, and there could be a Friday or Saturday night where they are open later, because they anticipate trying to use the arts in the area. Potentially having music time and yappy hour, people can come and listen to music. That may not be done until 10 pm or so. Weeknights, she didn't anticipate being open as long. For training classes, sometime those might last until 9 or 10 pm.

Kostura asked about the café, if they would be serving coffee and snacks. Amy Gutmann said they cannot provide anything since it is an animal business. They will have a kitchenette set up where people can bring in things in with them. They may be able to get away with a Keurig if they are not charging clients for it. There would be an area where people can bring food it. If they want to go next door and get a coffee, that is an option as well. Amy Gutmann said their hopes are to bring in the Martini Bar, Cultivate, Burntwood and maybe have some sort of arrangement where Friday night is Burntwood night and maybe have a menu where the members could actually order from. They could have food brought in, but they cannot prepare or serve food.

Amy Gutmann said she wants the community to welcome this business and believes the Chagrin environment is perfect for this.

Steve Latkovic seconded the motion. Roll Call Vote: Steve Latkovic – yes, Bob Brown – yes; Jim Flaiz – yes; Bryan Kostura – yes; William Koons – yes. Motion passed.

Jim Flaiz made a motion to adjourn the meeting at 9:00 pm. Bryan Kostura seconded the motion. All in favor, motion passed.

Steve Latkovic, Chairman

Lorraine Sevich, Secretary