

Ch. Marzullo called the June 3, 2021 Zoning Commission Regular meeting to order at 7:24 p.m.

Ch. Marzullo stated that this meeting is being recorded for transcription purposes only and the written minutes and attachments, if any, will serve as the official record of this meeting.

Roll found: Marzullo, Fischer, Schneider, Crew, Manley

Also in attendance: Alternates Wrubel and Arline, Trustee Kalina, Trustee Burns and Trustee Augustine (virtually)

Ch. Marzullo asked if everyone had received and read the minutes from the Zoning Commission regular meeting on May 6, 2021 and if there were any comments or corrections. It was noted that Trustee Augustine was not in attendance at the May 6, 2021 meeting, therefore her name should be removed from the minutes, and Trustee Burns attended virtually.

Ch. Marzullo stated he would entertain a motion to approve the May 6, 2021 Zoning Commission Regular Meeting minutes, as amended.

- Mr. Manley moved and Mr. Schneider second.
- There was no further discussion.
- Ch. Marzullo called for vote to approve.
- All were in favor.

Marzullo – yes; Fischer – yes; Schneider – yes; Crew – yes; Manley – yes

Ch. Marzullo stated that the Public Hearing for the proposed Zoning language changes was continued until July 1, 2021 at 6:30 p.m. to allow for review by the Medina County Planning Commission. Ch. Marzullo thanked the Board for all of their hard work.

### **NEW BUSINESS**

Ch. Marzullo asked if everyone had received and reviewed the Conditional Use request submitted by TireMax. Ch. Marzullo stated the property owner is requesting a Conditional Use Permit to put in a TireMax in the B-1 District. The Zoning Commission would not grant the conditional approval, the Zoning Commission provides input regarding the project and the Board of Zoning Appeals then takes into consideration the input by the Zoning Commission. Ch. Marzullo stated the pending definition changes that are currently being considered will not be considered for this project.

Ch. Marzullo opened up discussion from the Board.

Mr. Fischer stated that the proposal is well done but he doesn't think it meets the definition of auto service station but rather auto repair and service and believes it should be in an I-2 District and the conditional should not be granted. Trustee Kalina stated that the determination of use shall be decided by the Board of Zoning Appeals.

Ch. Marzullo stated it is worthwhile to note also that this is also a retail establishment and that is conditionally approved in a B-1 District. Ch. Marzullo stated the question on this project is whether this is truly retail or a service and repair.

Mr. Manley asked if service and repair would also be retail and he thinks it can be argued it is both. Ch. Marzullo pointed out with such a broad definition everything would be retail.

Mr. Fischer stated he doesn't know if retail applies here because there is such a limited amount of building devoted to general public. Discussion followed.

Mr. Schneider stated that looking at the layout based on the distance from the lot line, he suggested it would be better if the parking lot was toward the property line and move the building because it would look better if people weren't looking at garage doors when driving into Hinckley. If they reverse the location of the building, the view coming into Hinckley would be a nice building and it would give a nice buffer to the other property owner.

Mr. Fischer questioned if they are subdividing the lot.

Mr. Wolny stated that the other portion of the property will be retail, so people will see the retail when driving into Hinckley.

Mr. Fischer asked how far away the subplot will be from the retention pond, and Mr. Wolny indicated the retention pond would straddle the 2 lots, but there are options for placement of the retention pond and the building.

Mr. Schneider asked if the retention pond would be large enough to hold for the other lot and Mr. Wolny stated it's his understanding that it will cover both buildings, the second one will be built in a year or two. Further discussion followed.

Ms. Crew asked about the entrance onto 303, which is just down the street from the Buzzards Roost and the proposed senior housing. Ms. Crew feels this would be a lot of traffic on 303 at that location.

Mr. Manley stated that moving the building makes good sense and also he hopes the Board of Zoning Appeals considers the dumpster location at the site to make sure they are not in direct view of the main roads.

Trustee Kalina stated there was a question from the audience regarding whether a retention pond could straddle lots, and Ch. Marzullo stated that if it's one lot that is fine, but if 2 lots then no it needs a 15 foot setback from the lot lines. Discussion followed regarding the parcels.

Trustee Kalina shared a drawing of the proposed project, and Ch. Marzullo explained the project to the audience.

Ch. Marzullo asked if the proposed TireMax is abutting the proposed senior living project property, and Trustee Kalina stated yes and Mr. Wolny agreed.

**Shawn Pepera – 988 Westwind Trace, Hinckley**

Ms. Pepera stated her concern is the traffic and asked if ODOT is aware of the traffic at the project site and if they are aware that a senior housing project is being proposed for that area. Ch. Marzullo stated that before the project could be approved it has to go through Medina County Planning Services and they bring ODOT out to review the project.

Ms. Pepera asked if ODOT is considering the traffic situations for this project and the possible senior housing project separately or concurrently and Ch. Marzullo stated he doesn't know, but whichever plan is submitted first gets considered first.

**Matt Riley – 1090 River Road, Hinckley**

Mr. Riley asked if the parcel in question has been rezoned in the last 5 years and Ch. Marzullo stated he doesn't believe so. Ch. Marzullo stated that the parcels to the east were rezoned within the last 3 years. Mr. Riley asked if Mr. Wolny owns the parcel, and Ch. Marzullo stated yes he believes he does. Further discussion regarding the parcels and the retention pond ensued.

Mr. Wolny stated the 3 parcels have always been B-1 for the 25 years that he has been involved with them. The 4 parcels to the east were changed from Residential to B-1. Mr. Wolny stated he owned 3 of those parcels, and Dave Terry owns the other parcel. Mr. Wolny stated his understanding is they are going to turn it into 2 because the first lot is .85 acres and they want to make it a 1 acre parcel.

Ch. Marzullo stated he would like to check if the proposed retention basin will maintain 15 feet from the property line, and Mr. Manley suggested that be put in the letter the Zoning Commission prepares for the Board of Zoning Appeals.

Mr. Riley asked if Mr. Wolny is a member of the Board of Zoning Appeals, and Ch. Marzullo stated that Mr. Wolny is an alternate member of the Board of Zoning Appeals and recuses himself from any decision in this particular instance.

Mr. Schneider asked for clarification regarding whether they are taking 3 lots and making into 2, and Ch. Marzullo stated that is correct. Further discussion regarding the lots and the size of the lots and the location of the detention pond ensued. Mr. Schneider stated he would like a more defined plan showing where everything will be so it is easier to see. Discussion followed.

Mr. Schneider stated he is concerned which direction the run-off would be going, because flooding is a concern.

Ch. Marzullo stated he thinks it is flowing east. Ch. Marzullo stated that there should be a downriver water study, and Mr. Schneider asked for that to be put in the letter to the Board of Zoning Appeals.

Ch. Marzullo stated the matters he would like to cover in the letter include the retention basin compared to proposed lot setbacks and the downriver water study and the questionable interpretation of the existing zoning language and if this project fits in this area.

Mr. Manley suggested they say they are unable to make a recommendation based on the limited information received. Discussion followed.

Trustee Kalina stated it is best to look at it as a concept standpoint, and the Board of Zoning Appeals will review and make a determination. The site plan could change drastically so please keep that in mind, this project is subject to change because there will still be a lot of reviews.

Ms. Wrubel stated that it looks like the back of the proposed senior living apartments on the west side has a 30 foot setback and TireMax has a 30 foot setback, and this might not mesh well if both are right on the setback.

Ch. Marzullo stated that the proposed senior living project is still in the conditional use application process and it is ultimately up to the Board of Zoning Appeals.

Ch. Marzullo stated that if there are no other comments, he will compose a letter regarding the Zoning Commission's discussion for the TireMax project, and he will submit it to the Board of Zoning Appeals for their June 23, 2021 meeting.

Ch. Marzullo stated the next order of business is the Keep Hinckley Rural initiative, this group would like to see the R-1 minimum changed from 2 acres to 5 acres. Ch. Marzullo stated he believes the majority of what he is seeing with this initiative is strong pushback to developments that have been built in the past few years.

Ch. Marzullo explained the development and purpose of the yield plan in the Township. Ch. Marzullo stated that conservation developments were popping up and the yield plan was designed so a developer could not put more properties in a development than what would be put in a typical 2 acre development. Ch. Marzullo stated that the proposed new language for conservation developments would require that the conservation development subdivision be further into the property, which allows for more of the rural atmosphere, it allows the landowner to sell their land for development purposes. The Board is trying to keep the rural feel without creating a larger than necessary impact environmentally and allow for a nice rural atmosphere on a smaller lot.

Ch. Marzullo opened up discussion to the audience. Ms. Crew asked who is Keep Hinckley Rural. Ch. Marzullo stated he believes it is a group of residents, spearheaded by Mr. Matt Riley, that are really interested in maintaining our rural feel.

Trustee Kalina stated that regarding the Zoning Commission letter, he was asked to read that the comprehensive plan encourages permeable pavement wherever possible.

Mr. Riley thanked the Board for their due diligence and hard work. Mr. Riley stated their specific concerns are the proximity of houses to houses. Their concern is also with the Comprehensive Plan and maintaining large lots over 2 acres. The idea is to open the door to conversations with the Township governing body. Mr. Riley stated that he does feel the conservation developments are a way out for the developers.

Ch. Marzullo stated he appreciated the input, but as far as a way out for developers, since the Township instituted the yield plan there has not been one application for a conservation development. The yield plan is designed so a developer cannot squeeze more houses into a lot.

Ch. Marzullo stated that Trustee Kalina developed the idea of the yield plan and the Board is trying to do everything they can to maintain the rural character and feel of Hinckley Township.

Mr. Riley stated they have to do things according to the law. Mr. Riley stated there has been public commentary regarding 5 acres and Trustee Augustine has invited him to give his arguments for consideration.

Ch. Marzullo encouraged Mr. Riley to stay involved and make the changes that he can.

#### **Jim Larsen – 20 Carr Road, Hinckley**

Mr. Larsen stated he has lived in Hinckley for over 20 years and he wants to clarify that Mr. Riley represents a commonly held feeling by residents but when Mr. Riley speaks it is for himself, there is no group, there is a broad-based sentiment that want to maintain the character of this Township. Mr. Larsen stated he likes the new ideas for the conservation development. Mr. Larsen stated that he doesn't want everyone to be so accommodating to developers, he would like them to stand up and say no sometimes to some of the development going on.

Mr. Larsen asked for clarification on when the Comprehensive Plan can be amended and if the Zoning Commission can request that it be amended.

Ch. Marzullo stated that he doesn't know the answer to that question, but he will find an answer and report at the next meeting. Ch. Marzullo stated that the Comprehensive Plan is an idea, it's not a regulation or requirement and it was an idea that was created, drafted and written by consultants, Trustees and community input. Ch. Marzullo stated the best way to help the Zoning Commission understand what the public wants is to engage with the Board. This allows the Board to hear specifically what the people are passionate about in the Community. Ch. Marzullo stated he is happy to report next month on whether it is worth it to update the Comprehensive Plan.

Mr. Larsen stated he has read the Comprehensive Plan, and he still cannot figure out how the Senior Housing was allowed, the specifics are absent. He is concerned about the next one, and in order to prevent the next one they have to change the Comprehensive Plan because the developers will beat a path to their doors. The Township will keep losing pieces until it is almost gone. The Comprehensive Plan needs to be changed because he doesn't want the rural feel of Hinckley to change. Mr. Larsen thanked everyone for their patience.

Ch. Marzullo referred to the few properties that were rezoned from R-1 to B-1, which was done 4 years ago before the development plans that are ongoing. This wasn't a grand plan by anyone on the Zoning Commission. The reality of the senior housing is that anyone can put senior housing anywhere in the community they want to, but Ch. Marzullo doesn't think there's a lot of demand for that.

**Shawn Papera – 988 Westwind Trace, Hinckley**

Ms. Pepera stated that the new business she would like to propose is that steps should be taken to amend the Comprehensive Plan. Ms. Pepera feels they need to define senior housing. Also, exclusions like multi-family dwellings should be added. Ms. Pepera stated the Comprehensive Plan is being exploited. Ms. Pepera stated it is so broad that everyone can come in and weasel their way in. Ms. Pepera stated that she was told the Comprehensive Plan can be amended and she would like that looked into.

Ch. Marzullo stated that senior housing is defined by a Federal Statute, so we cannot further define it and the multi-family residences are defined in the Resolution. There are no multi-family residences in the R-1 or R-2 districts.

Ms. Crew stated that on page 9 of the Comprehensive Plan it states that it should be reviewed and updated regularly to ensure it meets the changing needs of the Township and continues to advance the goals of the community. Ch. Marzullo stated that probably means they can amend it, but he wants to emphasize that the Comprehensive Plan is a thought, it is not a requirement. Ch. Marzullo stated he would like to get additional input, but again the Comprehensive Plan is an idea, it is not a regulation. Ms. Crew stated it is a framework to guide the development of zoning and other local plans and policies.

Mr. Manley stated that he sat on three of these Comprehensive Plan reviews, and the original intent stated by the Prosecutor was they felt it justified the Zoning Commission and the actions they took so they were more defensible in court if there was something they could refer back to that theoretically represented the majority of the people's feelings. Mr. Manley stated that is no longer the case based on the lawsuit in Granger Township.

Trustee Kalina stated that what Mr. Manley is referring to is the *Apple Group vs. Granger Township*, the case settled that the comprehensive plan didn't have to be a separate document, it could be integrated into zoning as Granger successfully argued. Trustee Kalina stated the Comprehensive Plan is a guiding document for zoning and is basis for zoning resolution. Trustee Kalina stated that he was Chairman of the Zoning Commission of Sharon Township when they updated their Comprehensive Plan in 2006, and he was actively involved and it was done by the Zoning Commission and they had a 43% return rate and it was done by survey, which Trustee Kalina had a background in. Typically, the recommended lifespan is a decade, so it is almost time to start to think about updating.

Ch. Marzullo stated that as urban sprawl continues, it is a good idea to review the Comprehensive Plan more often than every decade. As things gets closer, it will accelerate the need to look at what the residents want.

Ms. Pepera asked, if it is a framework, why is it being used against them by the developers. Ms. Pepera is for senior housing, but doesn't think it should be apartment rentals, so she thinks a little more definition or maybe put more exclusions so not everyone is knocking on the door. Also Ms. Pepera stated that it seems counterproductive that multi-family is not allowed in R-1 and R-2 but it is in B-1.

Ch. Marzullo stated what this really comes down to is should they be limiting more businesses in the B-1 District. The only way to prevent this would be to provide further definition in their business district.

Mr. Fischer stated that dwelling units above the first floor are not permitted in the B-1 districts, the way Pride One is getting senior housing through is by senior citizen residential facilities, which are a conditional use in the B-1 just like hospitals are a conditional use in the B-1, so that could possibly be where they could look if they want to amend this. Within a business district, we allow a building up to 35 feet and we allow Senior Citizen residential facilities which goes through Board of Zoning Appeals. Further discussion followed.

Mr. Manley stated they also have to take annexation into consideration. Discussion followed.

Trustee Augustine stated that everyone brings up good points, typically the Comprehensive Plan should be updated every 10 years and it is a guideline as to what population of Hinckley would like to see. The population is everchanging and the Township is still waiting on current census results, and after they have received that information, it might be a good time to look at updating the Comprehensive Master Plan.

Mr. Riley stated that Keep Hinckley Rural movement started with him, it's not a fight just momentum. He is going to spend what he wants to spend to keep things going, he doesn't speak for anyone, there is no organized group. Mr. Riley discussed his thoughts on the Apple Group lawsuit.

Ch. Marzullo entertained a motion to extend the meeting time.

- Mr. Schneider moved and Ms. Crew second.
- No further discussion.
- All were in favor.

Marzullo yes; Fischer – yes; Schneider – yes; Crew – yes; Manley – yes

Ch. Marzullo asked for input from Ms. Wrubel based on her expertise. Ms. Wrubel stated that she is not giving a formal opinion to anyone, but she understands that the issue of annexation has gone many ways because people take advantage of the ease of annexation. Ms. Wrubel agrees with Mr. Manley's assessment that the Township should be concerned about annexation. People want the freedom of what they want to do with their property, and this will have to be considered when looking at changing the zoning code.

**Nikki Long -**

Ms. Long asked when the yield plan was formalized, and Ch. Marzullo stated in 2018 shortly after the Skyland development was approved. Ms. Long questioned if the yield plan is for properties of 100 acres or more, what about properties under 100 acres, and Ch. Marzullo stated those development would be traditional 2 acre lots. Ms. Long asked if there is a plan to extend the yield plan to lots of less than 100 acres and Ch. Marzullo stated no. Ch. Marzullo further explained the details of the Yield Plan. Discussion followed.

Ms. Long asked what is the process for increasing the acreage requirement in the Township. Ch. Marzullo stated the most likely successful course of action would be to have a referendum placed on the ballot.

Ms. Long stated that it sounds like the Comprehensive Plan needs to be updated and in terms of annexation, she understands the concept explained about businesses on the edge of the Township to protect from annexation, maybe it would be helpful to let more businesses know that tax abatement is available to make it more attractive for other businesses that residents wouldn't mind seeing in the township.

Trustee Kalina stated that for information purposes Section 519.12 of the Ohio Revised Code specifically discusses amendments to the zoning resolution which can be initiated by a motion of the Township Zoning Commission, passage of resolution by the Board of Trustees and other avenues spelled out in 519.

Mr. Riley stated that he would be happy to file a petition or application but he doesn't see a legal binding nature of a petition, he sees it as a straw man because this is a constitutional Township. He sees the Comprehensive Plan as the guiding light, but look into an update to the plan with more current feedback.

Trustee Kalina stated that he understands a lot of residents are interested in updating the Comprehensive Plan, but are they interested in updating the lot size. Trustee Kalina stated that he initiated the lot increase in Medina Township when he was there and it is still in effect, they went from 2 acres to 3 acres. Trustee Kalina led that effort with 200 feet of frontage. Trustee Kalina stated there has to be a basis for that, the Prosecutor has to have the justification for that. Ch. Kalina discussed further why the determination was made in Medina Township. Trustee Kalina stated he appreciates hearing from the residents and what their thoughts are, and he is happy to share any information or answer any questions since he has been through the change in lot size before.

Ch. Marzullo asked if any comments from the public and there were none.

There was no further business or comments.

Ch. Marzullo entertained a motion to adjourn the June 3, 2021 Zoning Commission Regular Meeting.



- Mr. Manley moved and Mr. Fischer second.
- No further discussion.
- All were in favor.

The Zoning Commission Regular Meeting was adjourned at 9:19 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2021

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Matt Marzullo, Chairman

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Marcus Fischer, Vice-Chairman

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Bruce Schneider, Member

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Michelle Crew, Member

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Dave Manley, Member