

Ch. Fischer called the October 10, 2022 Zoning Commission Public Hearing to order at 6:32 p.m.

Roll found: Fischer, Crew, Marzullo, Manley had an excused absence, Spellman, Engleman

In the audience were Trustees Augustine and Ascherl; 10 people in the audience and 8 people attended virtually

Ch. Fischer stated that Ms. Engleman would be a voting member at this meeting due to the absence of Mr. Manley.

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

Ch. Fischer stated that on behalf of the virtual audience, we ask that the public joining in person approach the podium in the event they would like to speak, they will need to announce their name and address prior to speaking, additionally we ask that the audience save personal conversation for after the meeting as additional voices cause confusion for those attending virtually.

Ms. Crew read the public hearing notice.

Ch. Fischer stated the legal notice was published in The Gazette on October 1, 2022. Although no written notification was required, due to the significance of the proposed map amendment rezoning the B-1 District to R-1, the Township also mailed notice to the affected property owners on September 30, 2022.

Ch. Fischer stated to date they have received 3 emails from concerned residents, they have also received a letter from an attorney on behalf of another concerned resident, and they have received 2 phone calls from individuals who have either sent an email or had their attorney send an email. The 3 emails and 1 letter are attached to the minutes.

Ch. Fischer stated the process for the proposed zoning amendments is outlined in the Ohio Revised Code Section 519.12, which states that map and text amendments may be initiated by motion of the Township Zoning Commission – Ch. Fischer stated this was done at the Zoning Commission’s September 1, 2022 meeting. Ch. Fischer stated that the Medina County Planning Commission reviews the proposed map and text amendments and recommends approval or denial of the proposed amendments or approval of some modification of the proposed amendments and then submits that modification to the Township Zoning Commission. Ch. Fischer stated the Zoning Commission has received some of the comments from the Medina Planning Commission. Ch. Fischer stated that upon receipt of the Medina Planning Commission comments, their recommendation is considered at the public hearing held by the Township Zoning Commission on the proposed amendment, and Ch. Fischer stated that is the purpose of this public hearing.

Ch. Fischer stated after the public hearing the Township Zoning Commission recommends the approval or denial of the proposed amendment or the approval of some modification of the proposed amendment

and then submits their recommendation and the recommendation of Medina County Planning Commission to the Township Trustee Board. The Board of Township Trustees, upon receipt of these recommendations, will conduct another public hearing and then the Board of Township Trustees adopts or denies the recommendations of the Township Zoning Commission or adopts some modification of the recommendations. Ch. Fischer stated if the Township Board of Trustees denies or modifies the Zoning Commission's recommendations, a majority vote of the Trustees is required to change or deny the recommendations.

Ch. Fischer stated for the record that Trustee Swedyk joined the meeting virtually.

Ch. Fischer stated the Medina Planning Commission has received the Zoning Commission's proposed amendments and have started their review process. Ch. Fischer stated that with respect to the text amendments, the Medina Planning Commission approved the text amendments with modifications – the Medina Planning Commission recommended in the definitions regarding short-term dwelling units adding the word *thirty* before the number 30 to maintain consistency throughout the Resolution. Ch. Fischer stated the Medina Planning Commission approved the map amendment with respect to the proposed Town Center B-2 amendment to B-3 Historic Town Center District. Ch. Fischer stated with respect to the proposal to amend B-1 at the corner of Hinckley Hills and Bellus to R-1, the Medina Planning Commission tabled that until the November 2, 2022 Medina Planning Commission meeting to allow the public the opportunity to comment on this proposed amendment. Ch. Fischer shared the Township zoning map on the tv screen and then reviewed the proposed changes to the zoning map.

Ch. Fischer stated with respect to the proposed amendment from B-1 to R-1, there are 6 parcels within that district – 3 parcels currently appear to be used as residences, which means they are legal, non-conforming, 2 of the parcels appear to be used as business for outdoor recreation and a restaurant. Ch. Fischer stated that legal, non-conforming is described in Chapter 8 of the Township Zoning Resolution. Ch. Fischer stated that he wants to note a couple sections because they are pertinent to the current residential properties that are legal non-conforming, and if the area is rezoned it will become pertinent to the Buzzards Cove property which is predominantly business. Ch. Fischer reviewed Chapter 8 of the Zoning Resolution. Additionally, Ch. Fischer stated if an alteration is made to a business, any such alteration or enlargement shall not exceed 10% of the square footage of the floor area of the building or structure, so a property owner is permitted to expand a legal, non-conforming but it can only expand up to 10% of the current square footage according to the resolution – a variance would be required if the requested alteration would be larger than that.

Ch. Fischer then briefly summarized the text amendments and suggested that if anyone would like more detail, they can visit the Township website for a complete list of the proposed amendments.

Ch. Fischer asked for comments from the attending public.

Darren Dowd – attorney representing Hinckley Properties, Inc.

Mr. Dowd stated he represents Hinckley Properties Inc. who does business as Buzzard Cove. Mr. Dowd stated he has previously submitted a written opposition to the proposed map amendment from B-1 to R-1 District to the Zoning Commission. Mr. Dowd requested that written opposition become part of the permanent record for the hearing. Mr. Dowd stated he would like to summarize some of the items in the letter – Mr. Dowd stated that the Buzzard Cove property has been operating as a business with a driving range, miniature golf and, most recently, a pizzeria business for approximately 30 years. Mr. Dowd stated this area has always been B-1 since his client has owned the property and changing this to an R-1 district would make his client’s business a non-conforming use, which would limit his client’s ability to run and modify the business as far as what he can offer. Mr. Dowd stated his client will be limited in expanding the business by the 10% square footage requirement, whereas compared to the other parcels in this location, which are single family residences, the burden on them in the B-1 is not as onerous as to someone actually operating a business, which has to constantly change for market demands. Mr. Dowd stated, additionally, if the Buzzard Cove property was converted to residential, the riparian setbacks basically make this property useless for multiple residential development in terms of how many lots could be subdivided out of it. Mr. Dowd stated it could probably be turned into one or two lots, which is not economically feasible for what the property is beneficial for. Mr. Dowd stated the property is currently using well and septic, and he doesn’t see this property being conducive to large development, because there is no public water or sewer that can be tapped into. Mr. Dowd stated that Hinckley Properties, Inc. opposes the change to the amendment, they don’t see a compelling reason for it given the number of parcels involved and the existing residential parcels have been legal, non-conforming for approximately 30 years, they are basically going to flip flop the non-conforming use to the business operator, which will limit the business owner in any future development of their business.

Nancy Lightner – 1675 Hinckley Hills Road, Hinckley

Ms. Lightner stated she has been a Hinckley resident for the past 34 years. Ms. Lightner stated she submitted a letter regarding the proposed map amendment. Ms. Lightner stated the B-1 zoning was a major factor in the purchase of her property in 1988. Ms. Lightner stated she has a pole barn on the property, and at one time it housed a small business and it is her intention, once she retires to create another small business that will be run out of that building. Ms. Lightner stated she has many concerns and this is stressful for her – she is concerned her property could be negatively affected by this proposed map amendment and would limit any future sale of the property for her. Ms. Lightner stated she doesn’t understand the reasoning for the requested change, she has many questions and doesn’t know where to get answers from. Ms. Lightner stated she would like to continue to use the property the way she has and for her future plans.

Ch. Fischer asked Ms. Lightner if she has two parcel and is the pole barn on the same parcel as her home. Ms. Lightner confirmed she has two parcels and the pole barn is on the second parcel, not on the parcel

with her home. Ch. Fischer stated he is asking because she could not have the business on the same parcel as her home, and Ms. Lightner stated she was aware of that and the pole barn is on the second parcel.

Julie Mainzer – 1727 Hinckley Hills Road, Hinckley

Ms. Mainzer stated they have been residents over 26 years and they are very actively involved in the community and she believes they have the same goal in mind. Ms. Mainzer stated they purchased their property because it was zoned B-1 and they have future plans for this property once they retire. Ms. Mainzer stated because they are neighbors to Buzzard Cove they have a unique situation and changing how this is zoned will adversely affect them – it will cause additional hardships and it will be detrimental to the value of their property. Ms. Mainzer asked the Board to take this into consideration. Ms. Mainzer stated when they received notice of the proposed change they made some calls to prepare a presentation for the Board, but they didn't have enough time to get all the information together.

Ch. Fischer stated they would welcome any information that the property owners would like to provide to them. Ch. Fischer stated the Medina Planning Commission will hear the matter on November 2, 2022, and the Zoning Commission will likely continue this public hearing until November 3 because they need the final comments from the Medina Planning Commission before they can proceed. Ch. Fischer stated they should have the Medina Planning Commission comments by their November 3 meeting, so the property owners are welcome to come back to the November 3 meeting to speak, assuming the Board has the votes to continue this Public Hearing. Ch. Fischer stated this matter will also go to the Township Trustees, and they will have a public hearing for the matter, so there will be many opportunities to provide information.

Ch. Fischer stated he finds it interesting that there are two current homeowners on the affected properties that would like to maintain the current zoning use because most residences would not want to be non-conforming due to the many restrictions on what they can do. Ch. Fischer stated this is very telling to him that two residential property owners and one business property owner would like the zoning to remain the same.

Ch. Fischer asked Ms. Mainzer what type of business she would like to have in the future. Ms. Mainzer stated they would like to open some type of business that stored supplies and delivered them - possibly party supplies. Ms. Mainzer stated they would have a website and people would place an order from that and they would deliver the order.

Ch. Fischer stated the thought behind this proposed change is B-1 is the broadest business district in terms of permitted uses, and this 17 acre B-1 District is isolated in a residential area so it doesn't make sense to have their most high traffic business district within this area. Ch. Fischer stated that different proposals were discussed for this B-1 district – one was a new business district for an outdoor recreation type of district, but one of the challenges was that some of the parcels are very small, so they need to make sure if it is a business district that they are still allowing some meaningful uses for those lots.

Ms. Mainzer stated they do have natural restrictions because of the water, but respecting the fact that they live next to residential they don't want excessive lighting or sound to affect them. Ms. Mainzer stated they have been there a long time and they don't want to do anything detrimental to the Township.

Ms. Engleman stated she would be interested to hear Ms. Lightner's plan, and Ms. Lightner stated she would like to open a pet center business, she has her own recipe for pet treats which she currently sells at farmers markets. Ms. Lightner stated she would also possibly like to have a day care center for small pets. Ms. Lightner stated this would be something with low traffic and no signs and has no interest in anything big. Ch. Fischer asked if the pet store would be manufacturing, and Ms. Lightner stated probably manufacturing, she is not looking for something where customers are coming in and out. Ch. Fischer stated it is not his intention to discourage, he is just trying to find out what kind of uses they would like to see in the area. Further discussion followed regarding Ms. Lightner's plans.

Richard Pearl, King Road, Hinckley

Mr. Pearl stated he would like to point out to the Zoning Commission that three of the six properties do not comply with the existing regulations for businesses and to develop those three properties would possibly require a variance. Mr. Pearl questioned if the half acre parcel was big enough for a business according to the current regulations. Discussion followed.

Ch. Fischer asked Mr. Pearl if he questioned this matter because it should be addressed through moving to a different business district and reducing the size, or is he suggesting that it is better in residential. Mr. Pearl stated he isn't suggesting anything, he is just pointing out to the Commission that some of the lots are substandard according to the existing B-1 regulations.

Ch. Fischer asked if there were any other public comments and there were none. Ch. Fischer stated, in addition to the emails they received from the people who spoke that evening, they also received an email from Teresa Brown, and the Board members have been provided a copy of these emails. Ms. Engleman asked if Ch. Fischer could read Teresa Brown's email into the record, which he did - a copy of which is attached hereto.

Mr. Marzullo asked if it would be possible for the Board to have the original conditional permit that Buzzard Cove is currently using. Ch. Fischer stated his understanding is they don't have one. Ch. Fischer stated he thinks Buzzard Cove currently is a legal non-conforming because they never obtained a conditional use, and when they added the restaurant, they should have come to the Zoning Department because they added a permitted use, but his understanding is that didn't happen. Mr. Marzullo stated the history of this is significant and he would like more information. Further discussion followed.

Mr. Marzullo is asking if there were any conditions placed on the property when they were first established – what is the history of the property. Ch. Fischer referred to Section 8.9 of the Zoning Regulations, which states any lawfully existing use at the time of its establishment was not classified as a

conditional use, but which now, because of the passage of the Zoning Resolution or amendment thereto, is listed as a conditional use in the district within which it is located, shall be deemed without further action to be a conditional use. Ch. Fischer stated he is wondering if this section applies to this – he would have to check from a legal standpoint. Ch. Fischer stated if this applies, then they would be a conditional use even though they didn't apply for it. Mr. Marzullo stated he believes the Zoning Commission should consider this history as they move forward, and Ch. Fischer stated he would ask Mr. Manley because he has looked into this.

Nick Anthony – 1053 Bellus Road, Hinckley

Mr. Anthony stated he is one of the owners of Buzzard Cove. Mr. Marzullo asked if he knows when Buzzard Cove opened, and Mr. Anthony stated as far as he knows it has been an ice cream stand and mini golf/driving range for over 30 years. Mr. Anthony stated the restaurant has always been there, nothing new was added, he went through the permit and inspection process that was required. Mr. Marzullo asked if Mr. Anthony has any knowledge of the business prior to 30 years ago, and Mr. Anthony stated when his partner's father bought it there was an ice cream stand and he doesn't have any information prior to that. Mr. Marzullo stated he is just trying to get as much history as possible so they could consider everything.

Ch. Fischer stated he will attempt to retrieve the old records.

Scott and Lisa Rushworth – 1006 Bellus Road, Hinckley

Mr. Rushworth stated they live across the street from Buzzard Cove – they have spoken with several of the neighbors in the area and they were told there was at least a 2 year window where there was no putt-putt golf and driving range, possibly 1987-1989 when the property was transferred to new ownership. Mrs. Rushworth stated that comments they made in prior meetings would apply here, they strongly support the rezoning of that corner to residential. Mrs. Rushworth stated this really isn't a business district in the traditional sense – this is a single business in the middle of a residential area. Mrs. Rushworth stated that looking at the permitted uses in the business zones, a lot of those are not harmonious with a residential neighborhood. Mrs. Rushworth stated that in this case there are not just one or two neighbors at the edge of a business district that are impacted, there is a large number of people surrounding this business – it makes sense to return this to a residential use where they can continue the operation they have but not be permitted all the uses that are allowed in a business district. Mrs. Rushworth prefers this be a residential so anything outside of what this business can do would require Board of Zoning Appeals approval so controls can be put in place for the surrounding residential communities. Mr. Rushworth stated that most important to them is the noise because the lights and music from Buzzard Cove are on all day and all night. Mr. Rushworth stated they have asked on many occasions for them to turn the noise down, but they refuse and they have been very unneighborly. They are allowed to be a business in a residential area and probably everyone assumed they would be

neighborly about it and they are not. There is nothing stopping them from putting in a shooting range or go carts.

Mr. Pearl offered some hearsay regarding the matter – to his knowledge in 1950 there was a farm at the location where Buzzard Cove is with a residence and a large barn, and in 1952 the first Zoning Code came into existence and there was no business district there. In 1956, the Business District developed and what was there was a very small ice cream store open seasonally and then a putt-putt course started somewhere in the late 1950s and went defunct by the 1970s. Mr. Pearl stated they continued to sell ice cream, but there was a 2 year or longer period when that ice cream shop did not open around 1984-1987. Mr. Pearl stated in 1987 he came to Township meetings where the owner of the property on the corner was asking to expand the ice cream shop and they made the claim that it had opened at least one day for one hour every year and it did not go defunct. Mr. Pearl stated to his knowledge they did not apply for a conditional use – the owner of the property at that time claimed he was a golfer and wanted to put in a driving range and the zoning and Trustees at that time agreed to it, but he doesn't believe a conditional permit was given. Mr. Pearl stated he wanted to point out it has been a business district since 1956 and none of these other 6 properties have expanded, only the Buzzard Cove on one of the 3 properties that Hinckley Hills owns, the corner lot is parking and the house to the north of the corner lot is where Hinckley Hills properties is registered as a business. Mr. Pearl stated he hopes this is helpful but it is just hearsay.

Mr. Spellman stated, in his opinion, the dormancy in the 1980s is irrelevant to this matter and hearsay cannot play a part in the decision. Mr. Spellman stated the Board considered several options as they reviewed this proposed amendment and as part of the Board's discussions they took into account parcel sizes, setbacks and other limitations, that in some cases outright precluded a business use from taking place. Mr. Spellman stated that to the two residents that spoke about having a future business use, he would say as a precaution, a mixed use of residential and business on one parcel in a B-1 is not permitted, one of the businesses described is actually permitted as a home-based business in a residential and the other business described is more of a conditional. Mr. Spellman stated that the R-1 does have provisions for home-based businesses, provided they are secondary to the primary use, which is residency, and it may be helpful to the residents to get more information from the Zoning Inspector regarding this.

Ch. Fischer stated Mr. Spellman is referring to pages 37 through 39 in the Zoning Resolution, which relates to Permitted and Conditional Uses within the Residential District.

Ch. Fischer asked if anyone else had anything, and there were no further comments from the Board or the public.

Ch. Fischer entertained a motion to continue this public hearing until November 3, 2022 at 6:30 p.m. with the Regular Zoning Commission meeting to follow.

- Mr. Marzullo moved and Ms. Crew second.
- No further discussion.
- Board was polled.
- All were in favor.

Ch. Fischer stated the motion has been approved and the Public Hearing is continued until 6:30 p.m. on November 3, 2022.

The Zoning Commission Public Hearing was continued at 7:40 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: _____, 2022

Marcus Fischer, Chairman

Michelle Crew, Vice-Chairman

Matt Marzullo, Member

(absent)
Dave Manley, Member

Bill Spellman, Member

Cindy Engleman, Member