

PERRYSBURG TOWNSHIP ZONING COMMISSION
26609 Lime City Road
Perrysburg, OH 43551

Zoning Commission Meeting
June 13, 2005

Robert S. Black, chairman, called the Perrysburg Township Zoning Commission meeting to order at 5:55 p.m and welcomed those who were present. A roll call was taken.

MEMBERS PRESENT: Robert S. Black, Jeff Schaller, Carol Warnimont, John J. Benavides, and Arthur Rometo.

MEMBERS ABSENT: Stephen J. Stanford and Jeffrey Normand.

Grant W. Garn, Zoning Inspector, present. The meeting was tape-recorded.

APPROVAL OF AGENDA: Mr. Black indicated that item D would be moved to after A and before B. Ms. Warnimont moved with a second by Mr. Benavides to approve the agenda with that change. A roll call vote was taken. Yes votes by Ms. Warnimont, Mr. Benavides, Mr. Schaller, Mr. Rometo, and Mr. Black. Motion carried 5-0-0.

APPROVAL OF 5/9/05 MINUTES: Ms. Warnimont noted that there was a mistake in the minutes on page 3 changing the name of a road. Mr. Black asked if Mr. Garn was aware of the change, and was informed he is. Ms. Warnimont moved with a second by Mr. Schaller to approve the minutes with the change to be made. There were no other comments. A roll call vote was taken. Yes votes by Ms. Warnimont, Mr. Schaller, Mr. Rometo, and Mr. Black. Mr. Benavides abstained. Motion carried 4-0-1.

Mr. Black asked if there was anyone in the audience who had any comments they would like to make to the zoning commission that were non-agenda items, and there were none.

INFORMAL DISCUSSION CONCERNING THE FALCON TRUCKING TERMINAL.

Dan Schimmoeller owns the property at 28569 Glenwood Road which he leases to Falcon Trucking. This property had previously been used as a trucking terminal. Last year Mr. Schimmoeller increased the parking area. All of the parking area is stoned. Complaints about dust had come in, and they had the stoned area coated for dust control last year. They have recently had the stone area coated for dust control, added speed bumps and slow signs. They are in the process of getting the original site plan for that site. They are eligible for a site plan review.

Next door Alvin Trucking said that they had stoned the area at the back of their lot as a security measure and also to help keep the brush down. They also cleaned the swales for better drainage.

Dan Schimmoeller addressed the commission regarding this informal discussion. He told the commission he appreciates their help tonight since they have other things going on. He showed the members what he has done to address the dust issue. He had some pictures to show the commission. They have an ongoing contract to have the dust control put down to spec. They also had speed bumps installed. He had a meeting with the corporate people from Falcon out of Akron, not the local people, and they had a meeting with their drivers insisting they slow the trucks down or they will get fined on their payroll. They plan on taking care of all the dust problems. Mr. Black said they have received some comments that some of the stone is coming out into the roadway area as a result of being dragged out with just the trucks coming out, and he asked if he was aware of that. Mr. Schimmoeller said that could have been the first day they sprayed them, it's a little tacky or sticky, but it shouldn't be after that. It needs to set up for 24 hours, but after that it shouldn't be a problem.

Mr. Black asked Mr. Garn if he had any comments. Mr. Garn said he had talked to the trucking firm next door, and they said they had taken out the brush in the back and stoned it there to keep the brush and the weeds down. They had done all that as a security measure, but they did not plan on using that stoned area as any type of parking area. Everything they did was secured measures, but they also had cleaned out the swale in between the properties on both sides because of health, water and sewage. On the Falcon Trucking there is a possibility they might be adding on to the buildings at some point.

Mr. Schimmoeller said he has to talk to them. What they would like to do possibly would be add on, he is not sure how much. They keep all their truck tires, some outside, some stored inside trailers. They would like to keep everything in the building for security reasons. And with the weather, the guys going in and out in the winter. So he has a meeting scheduled with them in the next 2 week. He informed the commission that he will go through whatever applications or formalities that they do require to add on to the building. Mr. Garn said that would probably require site plan approval for sure. Mr. Black said yes, it would.

But regarding the parking lot area, Mr. Black asked Mr. Garn if he considered this a temporary solution or a permanent solution. Mr. Garn said at this point it would be a temporary solution until they know about additions and other things. After that it would be sort of an interesting area. It will be up to the ZC about paving or whether that will be something in the near future, or something that would have to be done when an addition is put on, buildings and things like that. The area in the front where they have people park their cars, that was not coated he does not think. Mr. Schimmoeller said no, just to pull a car in and back it out, you are not going to kick up

any dust. And then again to track it out and track it on their shoes, it's not really feasible. Mr. Garn said okay. He was just mentioning that. He noticed that, but he had not been back in the property to look at it.

Mr. Black asked Mr. Schimmoeller if he was looking at this to be a permanent solution. Mr. Schimmoeller said typically that's what they do on graveled lots for trucks is use the dust bond. Mr. Black said he recognized that, but they do have some requirements in the zoning resolution that would be contrary to that. Mr. Schimmoeller said if it takes care of the dust.

Mr. Black asked if any of the members had any comments. Mr. Schaller said he thought the process was to go through this and see if that controlled the situation. And if it did, that would be acceptable for the interim if that addressed the complaints and that sort of thing to see how that process goes. But if there is an ongoing problem, then potentially you have to pave it or do whatever you have to. He would assume that once you put on an addition, if that requires him to go back through the site plan approval process, he can handle that as a separate issue.

Mr. Black asked if any other members had any comments. Ms. Warnimont said she would hate to see him put any paving down if he is going to have to turn around and dig it back up to add an addition. Mr. Black asked Mr. Schimmoeller if he would be doing this in the next 12 months, the addition, and Mr. Schimmoeller said at this point he does not know. He has a meeting in the next couple of weeks with them, and he will know more then.

Mr. Black asked if it was fair to say that the commission and Mr. Garn, they consider this a temporary solution, and Mr. Garn said he would think at this time. Ms. Warnimont asked if they could reconsider it in a year. If they don't do anything like they have done before, have them come back before the commission in a year. Mr. Black said May 1st. Mr. Garn asked if that sounded reasonable, and Mr. Schimmoeller said that would be fine.

Mr. Schimmoeller said they have a contract, and they have a gravel lot, and he has run trucks through it for 30 years, so he is used to dealing with dust issues. What they use is dust bond. It hadn't been used there, and part of the problem is when the fuel tanks and things were pulled, there was mud and dirt brought to the top, and that got tracked through the lot. And it all creates dust. He thinks part of the problem was, too, and Mr. Garn didn't realize it at the time, but he was talking to Falcon, and the people here were not relaying some of these complaints to him. He heard about it at the last moment before the meeting, so he is staying on top of it now and staying after the people he should. Mr. Black said absent any building modification or alteration or expansion, this solution will be appropriate until May 1st, 2006, and they will need to come to some other resolution prior to that day for the future. Mr. Schimmoeller said if there are any other complaints, to let him know.

Mr. Schimmoeller did acquire the original site plan, and if they want a copy, he has a copy. Mr. Black said they would like to see that and asked if he had it with him. Mr. Black asked him to give it to Mr. Garn. He had a copy and gave it to Mr. Garn.

SITE PLAN REVIEW FOR EMERALD LAKES, NUMBER SPR-2005-04. McCarthy Builders, Inc., would like to build a PUD subdivision on Eckel Junction Road. A copy of their plans was attached to last month's agenda and handout. An independent engineering firm is reviewing their plans and checklist for compliance. A copy of their partial findings concerning ponds is attached. They would like to get partial approval so that they could start construction on the ponds. They are still working on the deficiencies. They have applied to the BZA for conditional use approval of their proposed ponds. It was granted at their 5/17/05 public meeting.

Brain McCarthy addressed the commission regarding this site plan. What they would like to hopefully ask and get their approval for tonight is to start the construction of the one pond in phase 1, the one larger pond to the east. They have gone through the BZA last month, and they were granted permission to build the pond in that manner from the BZA. Right now they are currently in the process, and they had hoped to have had by this time their totally done engineered plans. It didn't work out that way. They are running a little bit behind. Perrysburg, since they are a contributory to their hookups, has required a couple lift stations in the subdivision, so the design was pretty much done, and at this point it has changed. They are in the process of changing it. They have been submitted back to the City of Perrysburg and down to Wood County, and they just have not heard back from them for their formal approval at this point. Right now they are looking, if they could, to actually start construction on the ponds, and that's one of the things they do first. Just the one pond, not ponds. Typically that's one of the first things they do in their developments is dig the pond, get the dirt distributed around the site, and they have the excavators come in and put the sewer lines and water lines in. Hopefully by the time the pond is done, the balance of the plans will be approved, and they can move forward.

Mr. Black asked Mr. Garn if he had any comments. Mr. Garn said no. He thinks they have gotten a letter from Dave Kuhn from Feller Finch concerning that one pond. He has not received any other information from him.

Mr. Black told Mr. McCarthy that as he understands, there are still some requirements that Feller Finch has to approve yet, and that all that data has not been processed. Mr. McCarthy said correct, they have technically approved the size of the pond and so on and so forth. He is not exactly sure what the total process is, but they received a list of deficiencies from Feller Finch. Those deficiencies were addressed. However, when the City of Perrysburg got involved, it then changed the whole complexity of the plans again. So the deficiencies were met, but the plans are not signed by all the powers to be since Perrysburg is involved right now. Mr. Black asked, and the lift stations that need to be added still need to be approved by the county and the city, and Mr.

McCarthy said they need to be approved by the City of Perrysburg, and they will have some review by the county also.

Mr. Garn said they are in the process of getting a legal review done at the county prosecutor's office to find out about the City of Perrysburg, and they have asked for much more extensive reviews than they ever have before. Mr. Black asked if it was Linda Holmes, and Mr. Garn said he presumed, but the trustees are the ones that have gone to Mr. Fischer and asked him, so he is presuming that Ms. Holmes would be the one. They have gone all the way back to the motel on Helen Drive and saying that they have to use a registered landscape architect for the landscaping on that. He is presuming they have done things to Mr. McCarthy also. Mr. McCarthy said basically from his understanding is reviewing it as if it's in the city is pretty much what their review is now. Mr. Black asked, and we're trying to come to a legal conclusion as to whether they can even do that as extensive as they want to. Mr. Garn said they have held up construction on Fox Cove and one other project. Mr. Black asked Mr. Garn if he was suggesting that they don't approve this. Mr. Garn said no, he was not suggesting that, but he just wanted them to know that there are problems with the City of Perrysburg. Mr. Black asked if the commission is the one that will ultimately provide the permit, and Mr. Garn said yes, we are the one to do that. The city does not do that.

Mr. Black asked if any of the members had any comments. Mr. Schaller thought he was taking a certain risk of proceeding without having things approved. If they want to get really contentious or strong arm him to a certain extent, he will be opening himself up to that in some respects. Mr. McCarthy said that is true. Yeah, there is no question about that. But they feel comfortable with the pond design, that there is adequate detention and so on and so forth. He is not saying there is a problem with the plans, it's just when they got involved, they wanted some different things. If it was actually their system, this is what they would require. So they went into their redesign phase based on what they wanted. It's not a problem. The problem with the plans were they had to be redesigned based on what they wanted, and comments that were above and beyond what the consulting engineer, Feller Finch, with their checklist was based on the initial set of plans that was submitted to the county. They are trying to abide by kind of two different jurisdictions. Well, actually three between the township as far as the site plan review, Perrysburg's site plan review, and the county's. So they are trying to mesh everything together.

Mr. Black asked Mr. McCarthy if he wanted a partial approval to begin construction subject to further approvals, Wood County and Perrysburg City, as well correcting the deficiencies that Feller Finch has already pointed out, and Mr. McCarthy said that would be correct. If they could just seek approval to build that first pond. Obviously they still have to come back before them once again when everything is settled with the county and the city, and those plans are all signed by the powers to be. So if, in fact, and he knows it's a very, very slight chance the pond won't be adequately sized. The pond is

more than adequately sized. But if that came back as a deficiency, then they would have to address it then the next time he is here. But everyone feels confident including the design engineer at Feller Finch who has looked the plans over also per their code that the pond is adequately sized. Mr. Black said so if they would give him partial approval, he would start construction. And if there is a deficiency, your problem with the city or the county, you wouldn't come back and make the statement that well, I have already done this. Mr. McCarthy said absolutely not. It has to function properly. Mr. Schaller asked if he wanted to take advantage of the weather to get this work started, he would assume, and Mr. McCarthy said that would be great if they could.

Mr. Schaller asked how long would this process takes otherwise to get the formal approval. Is it a month or two. Mr. McCarthy said that was a good question. He has probably six calls at the city and he has not had a return call yet in the past 7 days. So it's really hard to anticipate, and it's hard on his behalf to anticipate when these plans are going to be signed formally because there is just no communication there. And it's not just the city. It seems it's a lot of the jurisdictions they go to. But he would hope that if the pond was approved this evening to be constructed, they would start digging the pond next week. It would probably take three to four weeks to construct it, to dig that pond. And hopefully at next month's meeting here they would have the complete set of signed plans and documents, and that's the final plans that they build off of that are approved by all these jurisdictions. So that's what he's hopeful for. Mr. Black asked who he was dealing with at the city on this issue. Mr. McCarthy said their submittals go through the planning and zoning administration, and it's Rick Theiland. So he is kind of the point man as far as communication back, from what he understands. His consulting engineer has really been leading the charge on it. He actually designed the plans. But when things slow down and things aren't going right, that's when he gets a little bit more involved and sees if he can get some answers. Obviously communication with him is not working at this point, so he will see what he can do tomorrow to see if he can find out where it's at, and what they expect. But the comments that his consulting engineer have heard back have all been favorable, so it's just a question of going through the process, which is normal. It just takes a little bit of time.

Mr. Black asked if there were any other comments and if there was a motion to approve the beginning of the construction subject to the deficiency remedies as well as the city and the county approval. Mr. Rometo so moved with a second by Ms. Warnimont. There was no further discussion. A roll call vote was taken. Yes votes by Mr. Rometo, Ms. Warnimont, Mr. Schaller, and Mr. Black. No vote by Mr. Benavides. Motion carried 4-1-0.

INFORMAL REVIEW OF PROPOSED ZONING CHANGE ON SIMMONS ROAD.

Timothy Burns of Structure Building Company is proposing Creekside, which would be a PUD-RS adult living community located on the east side of Simmons Road and north of Wyandot Place (near SR 795) and west of I-75. He would appreciate your comments.

Timothy Burns addressed the commission regarding this informal review. He informed the commission that he has been before them before for this same project. He showed the commission the piece of property is talking about. He is sure they have copies of it. The first time he was in front of them was also informal and a lot less technical than what he has for a drawing now. What he has done is he has been working with an engineer to come up with a plan for this piece of land. As they can see, it has a lot of boundary issues because it's along Grassy Creek, and that makes it a little bit harder to develop than a square piece of land. So they are dealing with a few issues with that. In the mean time there is another piece of land that is adjacent to it that he is working on possibly purchasing as well that has kind of altered the piece to the way it is up on the board.

What he is wanting to do with the development is create more of a neighborhood and more of a design concept instead of just putting in roads and building house after house after house. He is trying to create something that kind of has flow and lends itself to the community as well as to the neighboring areas that surround it as well. What he has is a combination of three different types of living that he would like to include. The first section is basically single family. With the way the piece of land is, it does not widen up until it gets past a point. The reality is by the time he gets back to this point, he is not able to do anything with the road to really do anything other than get houses on each side of what will be the right-of-way. Once he gets past that point is where he has a little flexibility, but he has to play that with what is the ultimate goal for this piece of land which is a retirement center. This is an internal housed retirement center. It's designed for adult living but not a nursing facility. It would have internal hallways with a common area in the middle that would house game rooms, and exercise room, common living space, common kitchen which each of the units themselves would also be individual apartments having both internal and external egress. Each unit would have an exterior door going to the exterior out to the grass or patio areas, or in some cases out to parking areas, and also into internal hallways which would lead to that common area. The problem with this unit is it's so big. It takes up a lot of space that it really gets to be a situation that they have to manipulate it to squeeze it on to the property. When they did that, the way it's drawn in here, this blank piece of land as well as what's on the back side of the creek that he is having the issue to deal with, and that's mostly why he is here tonight is to try to get a feel for what his options are.

What he has come up with in brainstorming with his engineer is to maybe take this section and this section and do something that's more of cluster type development that would be private drives so the main road coming in would be public. At Wyandot Place there is a right-of-way that comes in right here that he would assume he would be required to branch street in across mainly for the egress. This street here, the problem is when he gets down here, getting turned around, that he is going to have an issue with meeting egress with the turn-around, where if he came in with a private drive and maybe did a loop around, the problem is that in order to do that, it's going to cluster

the houses in probably a little bit tighter than what is typically seen on a 65 foot wide lot. And probably creating the same thing here, maybe doing another drive in through here with some private entrances off and cluster the houses as well. He brought along some pictures of what he envisions, if they want to look through them. This is the concept of what they want so the commission can get a feel for it. They are pretty quaint. Something where each house is a little bit different, and has a nice curb appeal, and really designed more for the senior adult living more than starter families. A lot of them are one or two bedroom units. He is not asking for any type of approval as much as he wants to do something that is nice for the community, and he would like to get their input more than anything.

Mr. Black said his first comment is it seems there would be quite a bit of traffic in and out of there with the type of facility he is proposing in the upper right. He wondered if Mr. Burns thought that was the case. Mr. Burns said it's absolutely designed so it can handle that traffic. The parking would obviously be able to equalize the number of spaces, and he does not know what it is, 1.2, or 1.5, or whatever number of spaces. Mr. Black asked what type of facility he was proposing in the upper right, and Mr. Burns said it's a senior independent living. Mr. Black said assisted living, and Mr. Burns said it's not assisted, it's more or less an apartment, but it's designed with seniors in mind. Mr. Black asked Mr. Garn what zoning classification would that be. Mr. Garn said he thinks Mr. Burns is looking for a PUD classification for the whole property. Mr. Black said a mixed use, and Mr. Garn said it is a mixed use, which he could do either as a residential or an MS, but as a residential, a PRS. Mr. Black said Wyandot Place comes out, the only place it would come out 795. Mr. Burns said Wyandot Place opens up right at the light across from the entrance from southbound 75 for going southbound 75 as well.

Mr. Black asked if any of the members had any comments. Mr. Schaller said it's a good point that he has. He would assume his higher traffic area in the back. He is not sure how you get around that other than Wyandot Place is probably not the best exit out on to 795. Mr. Burns said probably not, probably Simmons Road would be. It's designed so the main drag. The main road leading to Simmons Road would be a wider type road, maybe boulevarded up at the front entrance to handle the heavier traffic. Going on experience with this retirement center, and that's what he's been calling it, another fellow that has built one in Bedford, it's not even half of the people that live in it that do have vehicles. Most of them do not. Again, they have to plan for it, through.

A question was asked, how many units. Mr. Burns said the one this fellow has is 68. This is, if he remembers right, 103. Mr. Black said when he was here last they talked about the land to the left there. Mr. Burns said the bigger parcel, they have pretty much not been inclined to talk with him. The other piece is a new parcel. Mr. Black asked about towards Simmons. He thinks that is what they talked about last time. Mr. Burns said they did. He guesses very receptive. Mr. Black asked him if he had talked to any of the neighbors at Wyandot Place, and Mr. Burns said no. Again, if he does not

have to connect into Wyandot Place, he just suspects that it will be mandated that he do. Mr. Black said he was not convinced that that type of facility should be placed in that location given that ingress and egress.

Mr. Black asked Mr. Garn if he had any comments. Mr. Garn said he does. It would be nice if there were a method to either get into Parliament Place or another road out to Simmons Road to help alleviate some of the traffic. He does not know whether you could have a traffic study done of some type to have an idea of how much traffic would actually come from this.

Mr. Black said he was just not convinced that having that traffic flow from that type of facility the way it is structured is appropriate. He asked if any of the members had any comments. One member agreed. He would be concerned about the accessibility of emergency vehicles, ambulances et cetera given the age of the people there. Mr. Black said his feeling is a facility like that needs its own ingress and egress. It should not be coming through a residential area like that to get there and have it as its only source. He asked the members if that was it, and fair to say. They agreed with that. Mr. Schaller asked on the residential side what kind of density is that per acre. Mr. Burns said it's drawn up as R-4 right now. Mr. Schaller said, and that would be adjacent to and pretty much lower density areas around there, he guesses. Mr. Burns said yes, probably the closest place is Parliament. Mr. Black asked Mr. Garn what the surrounding zoning is, R-1, and Mr. Garn said no, he would have to look, but it's probably R-2.

Mr. Burns said when he approached the commission before, because he is in this pretty good right now, and he did not have that top piece of property, but he had a similar drawing to this, the response to him was as long as it designed out and fit the requirements, that it was going to be foreseen as somewhat acceptable. That's why he came to the commission the last time before he got this far. Mr. Black said what they concluded last time, it was a different and an additional ingress and egress from that property along that. Mr. Burns said no. Someone just looked, and it still looks like there is enough, and that's been sitting there for a long time. It has a ton of fill on it. Mr. Garn said it was approved as a PUD, and there was a burrow pit in there and all kinds of stuff. Concrete. There was a roadway to get back out. Mr. Garn said there was someone that came to him in July that had an option on it.

Mr. Black said without a better ingress and egress, he would not be in favor of what he is proposing, but he is just one of five people. Mr. Burns said including that there would be an entrance on Simmons and Wyandot, and Mr. Black said yes, he just does not see this facility and having to go through as much residential as it needs to under this plan. Ms. Warnimont said she could see a lot of people at Wyandot having an argument over this. They are so used to having this all almost a dead end in and out out to 795, that having this much traffic come into that neighborhood, she thinks there would be lot of opposition to it. Mr. Garn said he knows north of Parliament Place they

have put a road back in there about half way through on that vacant property. He does not know if that satisfies what everybody is thinking. He pointed it out. There was some discussion about that road between Mr. Garn and the members. Mr. Black thought that trying to put a facility in that location is just inappropriate unless it had its own access somehow up where Mr. Garn was saying. Mr. Black told Mr. Burns that this 100-unit facility needs to have its own access which would be north of Parliament Place. He asked if that was just a field over there. Mr. Burns said from what he understands, that piece of land. He does not know for certain how much space is there, if it is enough to get a road in there. Mr. Black said if he could get an access in there and actually separate those two, that makes a better plan. Mr. Burns asked, because he is not absolutely certain that he can buy the piece of land that is that north section. When he originally designed this, this section was missing. This retirement center was sitting down here. Mr. Black said he thinks the center needs its own entrance. It should not be coming through the residential. Again, that is just his opinion. That's more or less a commercial application.

Mr. Black asked if there were any other comments, and Mr. Schaller agreed. He asked Mr. Benavides, Mr. Rometo, and Ms. Warnimont, and thanked Mr. Burns.

INFORMAL DISCUSSION CONCERNING MR. BEEFY'S AMERICAN

ROADHOUSE. Bob Herick would like to place an addition on the front of Mr. Beefy's at 27096 Oakmead Drive. They have added a fenced in patio/porch area with seating.

Bob Herick addressed the commission regarding this informal discussion. He said that they are looking to get a plan that he thinks they have before them on putting footers in for a structure that at a later date will be enclosed in. Mr. Black told Mr. Herick that as he understands it, the township has some issues with what's been done already. He asked Mr. Garn if that was right, and Mr. Garn said yes, because he stopped by last week and noticed that the patio area had been put in with seating for 70 people. They put a vinyl fence across the front, around the side, and opened it from an interior door to use it as a patio area. They also filled in an area in there that was probably dirt between. Mr. Herick said yeah, mulch and bushes. Mr. Garn said and put concrete in there and put the patio area in. Some of the other issues that have come up before that, the owner had wanted to put in a six-foot privacy type of fence in the side yard to the property to hide some things, and he thought that was going to the BZA, and then he decided not to do that. This is the next thing he saw. Mr. Black said he guesses the short issue is there were some things done there that were inappropriate without getting a permit from the township. Mr. Herick said he was just the messenger. Mr. Black said he thinks it was fully understood at the last meeting that it had to be done. The issues they wanted to do needed permitting, and they wanted to get the cart ahead of the horse for business purposes. And now he guesses they are looking for some type of medicine to take and make it all go away. Mr. Herick said yeah, they are probably looking for forgiveness instead of permission at this point, he imagines. He

said it was a dead area there. There were bushes there that were dying. He took the mulch out and concreted the patio. The fence can be removed. It's not permanent.

Mr. Black asked Mr. Garn what his recommendation was. Mr. Garn said this is purely informal at this point. The plan that they are showing is for a much larger area. He wished they would have come in a long time ago to start the process for site plan approval, and they are looking for he guesses a temporary solution in between to use an outdoor patio area. Mr. Herick said correct. Mr. Black asked if the patio was already in. Mr. Herick said it's already been poured. The fence is up. The liquor board has already issued their permits for them to use it. Mr. Black asked if he had all the permits in hand that are required to have this stuff for the work they have already done. Mr. Herick said they have from food service and liquor control, they have their permits. Mr. Black said but not from the township and the county, and Mr. Herick said no. Mr. Garn said he was not sure on the county whether they would require it. Mr. Herick said he talked to Mike Billmaier, and he said he does not require any permit at all.

Mr. Garn said the county did not require any, but there are two different issues when they did put that patio in. One, you get into the parking regulations for restaurants. They have two different codes in there. One of them is for straight restaurants is one space for every 150 square feet. But they also have drive-in restaurants that has a thing where it talks about outside tables and so on, and that requires one space for every three seats. And there were going to be about 70 seats out there, so that's 20 some parking spaces to be required just for the patio area. Mr. Herick asked where Mr. Garn was getting the 70 seats from. Mr. Garn said that was something that was mentioned to him or mentioned here one time as to how many people would be sitting there. Mr. Herick said that was for the plans that were temporarily approved for the permanent structure. Mr. Garn said okay. Mr. Herick said this is just patio furniture, so he imagines 40.

Mr. Black said to Mr. Garn that he would suggest that he and they do whatever they need to do, if they have already done it, to get the approval, but nothing else will be done at all until it's gone through its normal process. Mr. Garn said the official process. Mr. Black said he thinks it's a serious issue. How do they know that he is not going to do that again. Mr. Herick said what's that, and Mr. Black said do something without a permit. Mr. Herick said that's what he came here last time for was this structure here. He does not own the building. Mr. Black said, but you do the work. Mr. Herick said right. And he understands. Mr. Black said that's the part that concerns him. He feels he could have just as well gone back and said look, they have not given us a permit, I'm not doing it. If you want to get Mr. Smith to do it, have him do it or whoever. Mr. Herick said he understood. Mr. Black said that was the part that bothered him, because if they did it once, they will do it again. Mr. Herick said not necessarily. Mr. Black said not necessarily, the answer was no. That's the part that concerns him. Mr. Herick said no, because if that was the case, why wouldn't they have already started digging

footers and done other stuff. It's a vinyl fence. He thinks it's appealing. All the patio furniture.

Mr. Black said that's not the issue. They are willing to help any business come along. But when someone blatantly follows through on a project that they said they need more information on, that's a concern to them as a township. Because they have obligations. Mr. Herick said he works for the man, and he's the one that tells him what to do. Is he supposed to lose his job and tell him no, I'm not going to do it. The comment was he could have him here explaining it. Mr. Herick said he should be here defending himself instead of him. The members thought that was a good idea.

Ms. Warnimont had a question about the parking spaces. She knows what's there right now. She asked if that was being removed. It's a cooker. Mr. Herick said it's not that place. He said that's on the new addition that Croy's had put up previously. They have a smoker outside the back door right around the corner. Then the building jets out. Ms. Warnimont said on the right hand side. Mr. Herick said the parking spaces are not there. Ms. Warnimont said you have five new parking spaces. Mr. Garn said they are showing five spaces in the drawing. Ms. Warnimont said that is not by the patio, that's where the cooker is. There was some discussion among the commission members about the cooker and the parking spaces.

Mr. Black said to Mr. Garn that they don't have a permit for what they have done, and Mr. Garn said right. Mr. Herick asked if they have to have a permit to put a patio up like that. Mr. Garn said the one permit, the only one that he would be issuing at this time is just the fence permit for that. He had another concern going way back, but it had to do with the county because they put in a door, and made a structural alteration, and put a doorway through there, and they never got a zoning permit for that back at the start. He would only be issuing a fence permit now for this area. Mr. Black said the patio was put in, and there is no permit required. Mr. Garn said he does not have a permit for a patio like this. Mr. Black said there is not permit requirement, and Mr. Garn said there is no permit requirement.

Mr. Herick asked if there was a requirement for a permit for a patio, commercial, residential. Mr. Garn said this is where they are in an interesting area, because there is a requirement for a number of parking spaces for something like this. Mr. Herick said they will exceed the parking spaces. Mr. Garn said that is questionable. That has to be figured out. They do one way, but maybe not the other. Mr. Herick said they have 91, and they are only required 61. Mr. Garn said the other issue is they are supposed to have one space for every seat at the counter, and they have extensive interior bar area that probably seats (end of tape one) the other seating depends. There are different restaurant requirements, and it depends when it's looked at by the consulting engineer. He may go with the much more restrictive. Mr. Herick said there he has to blame the architect, because the architect is the one who drew it all up and went on the public space of the building and not the total square footage. Mr. Garn said on the total

square footage they are okay with that because he worked it out in his office. Mr. Black said on the parking issue, and Mr. Garn said on the parking issue. If you do it on the square footage. But if you do it on the seating requirements, then he is not so sure. Because he does not have the count as to what the seating capacity is inside. Mr. Black said the seating has expanded with the outside patio. Mr. Garn said the patio expanded it by 20 parking spaces.

Mr. Schaller asked Mr. Garn if there was a provision that he holds the zoning permit depending on the value of the improvement. Mr. Garn said yes, it's a minimal charge. Mr. Garn said it's a dollar a thousand. Mr. Schaller said no, it's the fact that they are improving their property and spending money on it, and once you exceed a certain value you have to apply for a permit to do that. He knows they had to in the past. Mr. Garn said right, the permit is \$25.00 for the first thousand dollars in value. It's not going to be expensive, it's just figuring out how he is going to charge for it, which way. Mr. Schaller said he meant they should have a permit in the first place, and Mr. Garn said definitely.

Mr. Herick said he was under the misunderstanding that they needed a permit to do the permanent structure. Maybe it's his fault that he thought we are just putting a patio up, the sidewalk, part of the concrete is already there. Mr. Garn said when he put the fence up, the fence became a permanent structure that he put up and never got a permit for doing anything like that. Mr. Herick said he put the fence up, and it can come down if it has to. Mr. Garn said the other part of the permanent structure that went up is the concrete that got poured.

Mr. Black asked Mr. Herick what they were seeking to do beyond what they have already done. Mr. Herick said the plans they have in front of them. Mr. Garn said coming in for a complete site plan approval for the addition to their building. That would have to have the whole site engineered, because they have not even pulled the checklist. The architect said they had seen it on the website, because there is a \$1,500.00 deposit for an engineer to look at it. A \$300.00 fee. Mr. Black asked if this was an informal review, and Mr. Garn said this is completely informal. Mr. Black said so this would require a full site plan review. Mr. Garn said yes. They have not turned anything in yet. They would have to within the next 3 weeks. Mr. Black said to make their next meeting, and Mr. Garn said yes.

Mr. Black said so the only thing they have done is install a fence that they have not given them a permit for. Mr. Garn said installed the fence and put in the concrete for the patio which at that point really triggered a site plan review because of that fence and the patio area would have said they have now increased by more than 5 parking spaces, so they were required to do a site plan review even for that small patio area. Mr. Black said so if the commission gives them approval tonight for their fence that's already installed, they need to come back and go through the full site plan review for what they want. Mr. Garn said right. Mr. Herick said for the permanent structure that

will be enclosed. Mr. Garn said he would say that the fencing is just a temporary approval. Mr. Black said if they do that, this site plan review would have to be in compliance a hundred percent before they could start doing anything. Mr. Black asked him if he agreed with that, and Mr. Herick said yes.

Mr. Black asked how the commission felt about giving him approval for the fence that's already up, they have a full site plan review, and in the process of the site plan review, everything would have to be in compliance with their engineering advisor before anything gets done. The recommendation was made that they make the approval for the fence a contingent approval, and if they do any other work beyond what they have given approval for, they can revoke the fence approval and make them take it down. Mr. Black asked Mr. Herick about that. Mr. Schaller said also tie it to site plan review, and if there are any issues there, they have to address them then or they will revoke the permit. Mr. Black asked Mr. Garn if that was fair to him. Mr. Garn said yes, because they have the ability to revoke permits.

Mr. Herick asked if he would also need a permit to put a fence in around the dumpster area, or any fencing that is installed, and Mr. Garn said yes, because in the site plan process there is a section in there for enclosing dumpsters. Mr. Herick said there is already a fence there, but it's damaged and beyond repair, and he was going to take that fence down and put up a chain link fence with the vinyl slats. Mr. Garn said usually if it's the same type of fence, replacing another one is merely a replacement, and no permit is normally required for that. But he thinks that would be a temporary type of thing because under the site plan review process they want to look at having an entirely new enclosure probably, which may be different than what he wants to do there. Because there was also talk about another fence on the property, so probably they should include all those issues in the site plan review process to get them all taken care of at one time.

Mr. Black said what they would like to do is give him permission for the fence, and as Mr. Rometo mentioned, it is contingent upon complying with everything else. Mr. Herick said so everything else needs to be approved straight across the board. Mr. Black said no more coming back in for forgiveness. Mr. Herick said no more burning the midnight oil. Mr. Garn asked how many square feet did the patio end up being. Mr. Herick said the one now is 8 feet by 50. Mr. Schaller said it's 30 by 40, and Mr. Black said that's the new one. Mr. Herick said that's the permanent structure. The fence here is 8 feet by 50 feet he thinks it is. Probably 400 square feet. Mr. Black asked Mr. Rometo to restate his recommendation in the form of a motion. Mr. Rometo moved that they approve the fence contingent upon no further alterations done to the facility without full site plan approval. Mr. Black asked if there was a second, and Mr. Schaller was the second. Mr. Black asked if there was any further discussion, and there was none. A roll call vote was taken. Yes votes by Mr. Rometo, Mr. Schaller, Mr. Benavides, Ms. Warnimont, and Mr. Black. Motion carried 5-0-0.

Mr. Garn commented that he thinks Mr. Herick is pretty lucky, and Mr. Herick agreed. He said he is caught between a rock and a hard place. Mr. Herick said they are talking any alterations to the building, even painting. Mr. Garn said physical alterations. Mr. Black said they don't want a spite color on there. He asked if Mr. Herick understood, and Mr. Herick said he is. There was a comment about Mr. Herick taking orders, and the suggestion was the next time the person giving those orders come to the meeting. Ms. Warnimont agreed, and she would have made the motion contingent on that also. Mr. Black asked him to pass that message along. Mr. Herick said he has done that personally, and he will do it from the commission, too. He asked if he had to stop by Mr. Garn's office to pay for the permit, and Mr. Garn said yes. Mr. Herick asked if he could do that tomorrow, and Mr. Garn said or in the next few days. Mr. Herick asked where his office was, and Mr. Garn said in the back of the building.

MAJOR/MINOR REVISION TO STONE GATE VILLAS AT BENNETT RANCH. It has been brought to our attention that the southerly privacy fence extends 20 feet into the right-of-way. It was approved on the site plan that way, and the PUD could be amended as our zoning does not allow any structures to be built in the right-of-way. Mr. Black told Mr. Garn that he thinks it's a minor adjustment. Mr. Black made the motion with a second by Mr. Schaller that it's a minor adjustment. There was no further discussion. A roll call vote was taken. Yes votes by Mr. Black, Mr. Schaller, Mr. Benavides, Ms. Warnimont, and Mr. Rometo. Motion carried 5-0-0.

Mr. Black asked Mr. Garn about some supplemental items that he had that are not on the agenda that he would like to discuss. Mr. Garn said this was something that he needed to check in on. Toledo Fence came in to put a fence up at Heidelberg Distribution, and he initially did not find any fence on their site plan. He did find a copy of a fax that had a fence shown on there just as an 8 foot fence where they had taken one out, and then when they did the new parking lot and everything, they went and put one in. He told them at this point that he needed to get together with the fire department to make sure that they were going to have adequate egress into the property in case there was a fire, have one of those Knox boxes put on and things like that. He is not sure. He has not told them he found that other drawing. He thinks that came in a little after the approval. Mr. Black asked when the original site plan was approved. Mr. Garn said August of '04. Mr. Black asked what the date of the fax was, and Mr. Garn said a week later after the approval. He is not sure. They had a funny hearing or something, because there were two different dates for the hearing, and they were all in the same month, and he can't find all the minutes. He is not sure what happened. He is going to talk to Miller/Valentine. They said they thought everything was all set on that fence way back. He does not know what else to do other than on a fence like that, he wants to make sure that it has all the proper fire regulations taken care of. Mr. Black asked if the fence was inappropriate, and Mr. Garn said no. Mr. Black told him to check into that, and if it's a problem, it needs to be resolved. Mr. Garn said other than that, he could not see any problem on why to bring something back. It was a fence being used where they have all their brewery trucks, and he

thinks they plan on parking them on one side and have them in a fenced area where people can't get to them. Ms. Warnimont thought they were putting all their trucks inside, and wasn't that their reasoning. Mr. Black said that's what he thought. Ms. Warnimont said to load them all inside. Mr. Garn said that could be. Ms. Warnimont did not remember anything about their trucks being on the outside. Mr. Garn said that there were parking spaces out there, and he's presuming that's what they are doing with them.

Mr. Garn said the other item is he got a drawing in the other day from First Commercial. They have the property next to Lowe's. They wanted to come in and talk about building a little strip mall in the back. And from the indications, he thinks that they are planning on building either a retail store or a restaurant. He does not know what it's going to be. Up on the corner. Mr. Black asked if that was the Walgreen's in that blank spot, and Mr. Garn said Walgreen's is the blank space there. Mr. Garn said they wanted to talk to him initially, and they were going to show him it and see. He thinks they showed them something like this a year ago, and now they evidently have most of the tenants lined up. Mr. Black said there was some issue about parking, and they might have to use parking across the access way or whatever. Mr. Garn said they were going to use some of the parking from here, would be this, but somehow maybe they wanted to have their own little parcel. Mr. Black asked if they were talking about using some parking across the street, and Mr. Garn said across the street at one time, but he can't remember if that was in the Walgreen's area. Mr. Black said he did not remember either. Mr. Black said so parking may be an issue. Mr. Garn said it may be. He has no idea yet. It's a real preliminary drawing. Mr. Black said he might point that out to them. Mr. Garn said there may be a parking issue for the little piece of land, too. Mr. Black said they sure seem to want to just stuff in as much as they can. There is a whole other out lot in there. Ms. Warnimont thought they were talking about something in here, and using the parking over here for their employees or something. Mr. Black thought it was up there and talking about coming down. Mr. Garn said weren't they having a restaurant in there or something. One member thought the issue was that it was laid out differently. It was up further. Ms. Warnimont said they were talking about Ruby Tuesday's or something like that. Mr. Schaller asked if that was a pond, and Mr. Garn said there is a detention area up there. Mr. Schaller said right along the road. Mr. Black asked if that was in, and Mr. Garn said nothing is in at all. Mr. Schaller asked didn't they make the comment about the storm sewer out there in front of Walgreen's being about 2 feet higher than the road. Mr. Garn said he got a call from a contractor who was very upset over how it was being put in. They had some comments from some people here at the trustees' meeting, and all he could say is it is on ODOT property and was looked at by all the engineers. He is presuming they knew what they were doing.

Mr. Black asked Mr. Garn if he would like to change their July meeting to the third Monday, and Mr. Garn said if that was possible. Ms. Warnimont said he wants to move it to the 18th at 5:30. Mr. Black said he did not know that. 5:30 on the 18th. Mr. Garn

said that's because the trustees meet at 7:30. Mr. Black said that was fine with him. He asked if there were any public hearings, and Mr. Garn said not that he knew of. Mr. Black said he was not sure they would. They have to have something to send down to Wood County. Mr. Garn said he has no idea on that one, Thompson and Neiderhouse. Mr. Black asked if that was the one that was withdrawn at the trustee meeting. Mr. Garn said the one that was withdrawn. He has no idea if they are going to bring it back or not. Mr. Black said it would not be a public hearing, it would have to go back to Wood County. Mr. Garn said right. Mr. Black said we aren't going to have a public hearing, and that's what he meant. Mr. Garn said yes. Mr. Black said that makes it easy.

Mr. Black asked if there was anything else that the members wished to discuss, and there was nothing.

Mr. Garn asked if they needed a motion to change the date. Mr. Black said, let's do that. Ms. Warnimont moved with a second by Mr. Benavides to change the meeting date to July 18, 2005, at 5:30. A roll call vote was taken. Yes votes by Ms. Warnimont, Mr. Benavides, Mr. Schaller, Mr. Rometo, and Mr. Black. Motion carried 5-0-0.

Mr. Schaller moved with a second by Mr. Rometo to adjourn. All members were in favor. None opposed. Motion carried 5-0-0. The meeting was adjourned at 7:00 p.m.

Respectfully submitted,

Grant W. Garn,
Recording Secretary