

Zoning Commission

1 **Zoning Application #ZON-19-07**

February 25, 2020

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4 **Zoning Application #ZON-19-07, Nova Lands, LLC.** Requesting to rezone three (3) parcels totaling
5 6.34 +/- acres from a Planned Commercial and Office (PCD) District and Neighborhood Commercial
6 (C-2) District to a Planned Commercial and Office (PCD) District. The area being amended is located at
7 6605, 6601 and _____ Columbus Pike having parcel numbers 318-220-
8 04- 024-000, 318-220-04-023-000, 318-220-04-020-000.

9
10 Roll: Mark Duell, Adam Pychewicz, Dennis McNulty, Barrett Ault, Dustin Doherty-absent

11
12 Township Officials Present: Michael McCarthy, Legal Counsel
13 Michele Boni, Planning and Zoning Director

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15 Ms. Boni: Mr. Doherty indicated he was not able to attend, and he did not have any comments at this
16 time.

17 **MOTION TO RETURN FROM RECESS FOR ZONING APPLICATION #ZON-19-07**

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19
20 Mr. Pychewicz made a motion to return from recess for Zoning Application #ZON-19-07, Nova Lands,
21 LLC; seconded by Mr. McNulty.

22
23 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Mr. McNulty-yes, Ms. Ault-yes

24
25 Mr. Duell: We have a new submission from the applicant if the applicant's representative would like to
26 make a presentation.

27 **APPLICANT PRESENTATION/COMMISSION QUESTIONS & COMMENTS**

28
29
30 Tony Eyerman, 1907 River Road, Delaware, Ohio, Andy Wecker and I are here to present the rezoning
31 application for Nova Lands which is a company owned by Daniel Miller, JDM of Lewis Center. The
32 property is located on the southeast corner of Lewis Center Road and US Route 23, more widely
33 recognized as the hot tub outdoor sales place on the southeast corner, and the house to the north is owned
34 by Mr. Miller as well. I met with a couple of the Zoning Commission members and explained Mr.
35 Miller's intentions for this property. He sells outdoor furniture, patio furniture, benches and chairs, tables,
36 play equipment, sheds and small barns, arbors, things like that. He builds them offsite and then brings
37 them in, and that's what his intentions are for this site. The intention is to have seasonally rotating
38 displays and maybe set up as patios with landscaping kept in pots so he could arrange it so seasonally he
39 could move the trees, shrubs and mulch, pavers and everything else he would use in his displays around
40 as well as the furnishings and that's what we've endeavored to try and capture. The development plan is
41 kind of combined with the landscape plan and identifies the seasonal display areas. There is currently an
42 area in the back of the southern most structure that is storage area; in fact there are several hot tubs back
43 there that still need to be removed and some other various construction equipment and waste materials.
44 We will use that area for a temporary storage and staging area for his display areas. The display areas will
45 have winding paths and the utilities and engineering infrastructure layout kind of shows how the walks
46 might work with the display areas in between. Just for the record, the vehicular areas on this site really are
47 the access off of US Route 23 and it's going to be maintained. Per the Zoning Text, we're required to
48 have 13 parking spaces, and we'll have at least 15 minimum. As you come in and park, that's the
49 vehicular area for the public. There is an easement off of Lewis Center Road that will be used for
50 deliveries that cuts through Mrs. Dempsey-Hook's property into the northern portion of ours and then

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51 goes back to that storage area on ours. It's pretty much a straight shot back there, and that is going to be
52 maintained as just that.

53

54 Mr. Duell: Is that a second parking lot behind the existing building?

55

56 Mr. Eyerman: Yes. That was drawn incorrectly. The engineer drew up all the walking paths as public
57 roads, and Andy's got a different sheet for that. It is intended as employee parking but it's not going to be
58 set up like that, so we'll correct that here in a minute with another document for you. Andy will straighten
59 that out now because the way it's shown in the book, it could be interpreted as two-way streets, and it's
60 not that at all.

61

62 Andrew Wecker, Manos, Martin, Pergram, 50 N. Sandusky Street, Delaware, Ohio, as Tony mentioned
63 earlier, when we reviewed the engineer's work, we didn't see an issue with some of the arrows that he
64 had drawn because that depicted circulation but when we saw someone could infer that we were implying
65 vehicular circulation so some of the drawings are really not distinguished as to their purpose, we had the
66 engineer shade different areas for what they were going to be used for. The dark gray area is asphalt
67 parking and drives that would be for the public and be off Route 23. There are gates in the warehouse area
68 to the back and although there are no bollards or gates depicted on the walking path area, that would be
69 simple enough to add if the Commission felt that was important. The cross-hatched area is the walking
70 path and while the radius is tried to be sized so that a delivery truck could get in there that JDM will be
71 using, in no way would we ever have vehicular traffic in there other than that. The barns would be the
72 largest things and they're moved with something called a mule which is a specialized electric or gasoline
73 delivery vehicle. It's almost like a bigger version of what you might see at Ikea pushing grocery carts
74 around and there's a dolly put in the back of the barn and that's how things are moved within the space.
75 There's a secondary access by private easement north to Lewis Center Road and that is shown in a
76 different gray than what we have for the public, so public access would only be in the gray area for their
77 cars, and the public could access the cross-hatched area by foot. Only JDM delivery trucks could access
78 on the private access easement area.

79

80 Mr. Duell: What would the walking path be constructed of?

81

82 Mr. Wecker: We are thinking at this point the general area, JDM has used a course which is not mulch but
83 is something that tends to shed water and holds up longer before it decomposes. Tony, did we talk about
84 gravel as an alternative to the paths because if we went with gravel, you couldn't alternate the paths
85 seasonally as the way it's shown on the landscape plan.

86

87 Mr. Eyerman: Correct. In the proposed development text we allowed ourselves pavers, concrete, asphalt,
88 stone, wood chips, and the reason for that is because as you get outdoor displays, we may incorporate
89 some of the landscape pavers into part of his sales package but the base is intended to be mulch and
90 compacted 304 with some fine gravel over top, similar to a metro park trail.

91

92 Ms. Boni: Is that existing building in the center going to stay there?

93

94 Mr. Eyerman: There are three existing buildings that are going to remain. The northern structure that
95 looks like a house, the southern structure and the pole barn.

96

97 Ms. Boni: In the new plan you don't have parking next to that or behind that building anymore.

98

99 Mr. Eyerman: The intention was this was going to be staff parking. I didn't look to see what Thom drew
100 up, but the intent was that there would be some head-in parking off this drive specific for the staff for the
101 use of this building.

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102 Ms. Boni: I spoke with the Fire Department today, and they hadn't seen these plans yet. I know they're
103 going to want access to that building, so when I saw there was no parking and it's just a pedestrian path,
104 that may be a concern to them.

105
106 Mr. Eyerman: This will provide them fire access.

107
108 Ms. Boni: I don't know the distance but I think it's 100' from the building.

109
110 Mr. McCarthy: I think they have to be within 100' of all portions of the building to be able to get within
111 it.

112
113 Mr. Eyerman: That's 20', 20' and 22', so it's 62', so we're probably pretty close to it.

114
115 Ms. Ault: So part of that parking lot and drive is not on that sheet; that's why I want it clarified. On the
116 new one that you gave us there isn't any staff parking or if there was a road from the access off of Lewis
117 Center Road; it's just an existing building sitting in the middle there.

118
119 Mr. Eyerman: The two structures sitting by the gates are proposed barns or sheds. There will be head-in
120 parking off of that drive where those two structures are and that's the staff parking, and that continues
121 through the gates to the outdoor storage area, so there's going to be a fair amount of asphalt already back
122 there. This area here is existing trees. There's a lot of cottonwood, dead ashes, so a fair amount of that is
123 going to have to be cut out just for safety and is going to be cleaned out. The rest of this is basically lined
124 with hot tubs.

125
126 Ms. Boni: So you can drive into where this outdoor storage is labeled?

127
128 Mr. Eyerman: You could but we're gating this off so this is not accessible to the public.

129
130 Mr. Wecker: And you mentioned the Fire Department and the 100', the key in the upper right hand
131 corner, when this is reproduced it's 1" = 20'.

132
133 Ms. Ault: So the staff will go through the gates on Lewis Center Road, park back there somewhere, the
134 Fire Department will to take access to the existing house will have to go through the gates to get to it and
135 will you guys make sure there aren't any barns or playground structures blocking access to that building
136 to the Fire Department?

137
138 Mr. Eyerman: Yes. We can put that as a condition. It's something we hadn't really considered having just
139 received this from the engineer today and we haven't had a chance to run it past Chief Noble or the
140 inspector.

141
142 Ms. Ault: Because the parking lot on that sheet works but then you don't have it on this one.

143
144 Mr. McNulty: My basic problem with this is the same problem this Township has had with outdoor
145 displays for any retail establishment. Here we have a collection of outdoor displays. I like the project but
146 the reason we haven't allowed outdoor displays is because you can never guarantee what it is going to
147 look like and what was being presented all the time. Has this kind of retail been done anywhere else?

148
149 Mr. Wecker: He has a variety of different locations and I've given Michele some of his sales materials
150 that are good for viewing the individual products he has. It may not address all of your concerns of how
151 something might actually look on the site, and we did have an artist's rendering that we brought for the

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152 last meeting that I think fairly portrays what JDM would like to have here, but if you'd like more
153 information in terms of site photos from actual sites...

154

155 Mr. McNulty: Because to me it's a gamble. If this business would always be maintained and do very well
156 as long as the business was there, but the first month or two that it didn't, you may not be able to buy
157 enough stuff for the next season to put up. I understand just the basics of how that business works, and
158 that's what I fear. If business were good, I'm sure it would be taken care of.

159

160 Mr. McCarthy: To follow through on what Dennis is saying, that's one major point I have, there are a
161 number of other things that affect it, but right now in the text you've got, we could have an endless row of
162 grills, fire pits and sheds right on the US 23 right-of-way across the entire frontage of this property and it
163 would not violate the text.

164

165 Mr. Wecker: I don't think that's our intention.

166

167 Mr. McCarthy: I'm not saying your intention but we had Backyard Outfitters then we had Going Green
168 now we have Nova Land. I'm just saying the text will be the text will be the text. Is there any way to
169 pursue locking down individual location areas that he can fiddle with however he wants but it will be
170 here, it will be here, it will be here, and will not go there?

171

172 Mr. Wecker: Would you be thinking in terms of doing that verbally or graphically?

173

174 Mr. McCarthy: I would say graphically and in the text; just make it clear these are the situations. You
175 have an A, B, C, D, E and F, and within those areas he can do what he wants but it would also allow you
176 to have a more permanent type of pedestrian pathway rather than working with wood chips; we have not
177 had a good history with wood chips over the years. The original 3242 zoning did not permit any use
178 within the 80' setback. The only use was parking and that was and still is per the Code. Right now they're
179 indicating the entirety of the 80' could be used; I think that certainly transgresses that. You may or may
180 not have heard about the litigation dispute between Ohio Mulch and Going Green and the Board of
181 Zoning Appeals, but when that was resolved, the Township passed Resolution 10-277 and it says there are
182 to be no sales or display of items for sale within the setback area. The dispute between Ohio Mulch and
183 Going Green appeared to be based on other issues, possibly drainage, but the complaint was made that
184 Going Green had morphed out toward the road and they morphed back. I think all that was left was a
185 seating wall which ultimately everyone agreed could be called landscaping but you can't sell from it, so
186 that is an issue, that right-of-way up and down 23. The Code says it's to be used to be green space with
187 the exception of 40% could be parking. The only exception I can think of is at Hidden Ravines we came
188 across that at Hidden Ravines commercial where we had a 50' setback and that was a long time ago.
189 Right now they are not asking for what they kind of got, but they're asking for quite a bit more and the
190 Commission should be aware of that because that could become a discussion point in the future with other
191 applications.

192

193 Ms. Boni: So you're concerned about the setback from the temporary storage?

194

195 Mr. McCarthy: No, I'm concerned about the 80' setback off the right-of-way of US Route 23, and right
196 now, if you read the text, anything under 15' can be put anywhere in there which would include the edge
197 of the right-of-way.

198

199 Ms. Boni: Is the 80' setback for structures and buildings only?

200

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201 Mr. McCarthy: No structure or use shall be located near the 80'; I think that is in 21.01. So is it a
202 divergence or deviation from prior practices or a practice that's recommended? I checked; Ohio Mulch
203 has 80'.
204

205 Mr. Wecker: If there's defined areas for what Tony and I sometimes refer to as small furniture, can those
206 be west of the setback or do they have to be east of the setback?
207

208 Mr. McCarthy: The practice to this point has been east, and the idea was to maintain that 80' setback right
209 up and down 23.
210

211 Mr. McNulty: That occurs only for Ohio Mulch because they don't have anything that they need to
212 display.
213

214 Mr. McCarthy: They have outdoor display, but they're required to put fence around it.
215

216 Mr. McNulty: Yes, they did and this looks to me to be a little different with respect to some of their
217 displays. It helps me to have something that is defined as far as what those defined displays for the season
218 would be, here's what it's going to look like in the fall, spring, summer, and that would be the standard.
219

220 Mr. Wecker: When you say defined, do you mean defined furniture in this area, play set in this area?
221

222 Mr. McNulty: Or just whatever type of display this is going to be for that area so that from the road I
223 know that here's what that's going to look like all year long. We try to maintain this particular
224 appearance. That's my goal.
225

226 Ms. Ault: Play set in one area, patio stuff in another area
227

228 Mr. McNulty: And that's going to eliminate some of the gamble for me if I know what this is going to
229 look like.
230

231 Mr. Wecker: In your mind that would reduce the clutter which seems to be your big concern and the idea
232 that it's just shifting all the time, but within that period, he could mix up furniture however he wants to.
233

234 Ms. Ault: Yes, like furniture and fire pits can be moved around in different areas but the large structures I
235 feel need to have a foundation because if not, it's going to turn into what it is currently, there's a hot tub
236 there, maybe a hot tub there, sometimes there's 15, sometimes there's 2.
237

238 Mr. McNulty: I think the ideal situation that we go to every year is the home show where contractors
239 come in and have their whole landscape displays which is kind of what you're selling.
240

241 Mr. Wecker: The nature of the paths come directly from the home show.
242

243 Mr. McNulty: And those home show displays absolutely look beautiful. Obviously those are summer
244 displays for the home shows so you would have something that you need for winter.
245

246 Ms. Ault: Maybe even a more permanent walking path around it would be more substantial, like asphalt
247 or paver bricks. If you're going to have play structures, you're probably going to have mulch around them
248 and that mulch is going to fade into the path and then it's where is the path? I feel a more defined path
249 will make it more substantial and give it more structure without there being structures.
250

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251 Mr. Eyerman: When we rezoned the Saturn North dealership, one thing we wrested with was the parking
252 occurring in that 80' setback and 40% of the area can be used for parking. The parking that's on the site
253 now we can pull forward towards 23 which really isn't as desirable to me. Would it be acceptable, I'm not
254 asking for a commitment but it's a proposal, if 40% of that setback area, instead of being used as parking,
255 be used for displays, and if we had those permanent areas identified where they'd be and we would agree
256 as we did in the zoning text, and Andy and I have referred to them as the smalls which are anything but
257 barns, sheds and anything larger, temporary structures like benches and firewood and Adirondack and
258 rocking chairs, the smaller stuff that can be easily moved. If we use 40% of that setback area for display
259 of the smalls with landscaping around them.

260

261 Mr. McCarthy: And that would be in a defined area?

262

263 Mr. Eyerman: Yes. If we identified smaller areas in there for small patio kind of looks with landscaping
264 between them to break it up and there'd be landscaping between the display areas and the fence that lines
265 the right-of-way as well. I'm not asking you to approve this plan but if this is the concept we're talking
266 about with the permanent walk and permanent display areas like that, we can define however meets all of
267 our collective agreement and define where those areas are. If we have to put dimensions on it and say it's
268 this size, we can do that, but it would calculate out to 40% of that area of that setback instead of using it
269 for parking. We have the parking lot in, it's up against that building and to me, the parking is far more
270 offensive than a potential display area of Adirondack chairs, or picnic tables or something low like a play
271 area of kids' play structures versus having the larger sheds and stuff back behind the setback. If that's
272 something you think would look better and would be able to be defined, captured and recorded. I agree
273 that it's good as long as the business stays a business and if you want to see what it doesn't look like, go
274 and drive by it now. We're trying to clean it up and have something that doesn't end up looking like what
275 it looks like now.

276

277 Mr. McNulty: Anything that could be in drawings, it would end up being more landscaping type of stuff
278 but still defined as to the areas, helps me a lot with respect to pushing this to a new level past something
279 that's more than just outdoor displays.

280

281 Mr. Eyerman: I think our biggest struggle in trying to write the text and draw up the plan is how do you
282 capture and define something that seasonally changes but if it's define the spaces and allowing him to
283 come in and put the furnishings out in front, I think that might be a great idea.

284

285 Ms. Ault: Recreations Outlet on Powell Road and the way that looks, I hate it. There's an outdoor place
286 on 161 just outside of Linworth that makes more sense to me as to what I would expect to see on 23.

287

288 Mr. McNulty: I forget the name of the business but that business does very well, is very successful and
289 has been there for a long time.

290

291 Ms. Ault: They have huge Adirondack chairs outside, the fireplace display outside is very nice; something
292 like that to me makes more sense. Recreations Outlet, no, and right now, that's what this feels like.

293

294 Mr. Pychewicz: The outdoor storage area in the back, is that proposed just as grass?

295

296 Mr. Eyerman: Right now a fair amount of that is concrete and asphalt, and we'll just keep it that way and
297 clean it up.

298

299 Mr. Pychewicz: There's an existing fence back by the house; is that chain link?

300

301 Mr. Eyerman: I believe it is.

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302 Karl Kuehner, 6490 Dubois Road : There is no fence. I had a fence but the hot tub place tore it down three
303 years ago. We've talked to Jeff about it for years now. One day it just disappeared. Same thing with the
304 concrete; they just poured the concrete one night. It looks like they just brought a cement mixer and
305 dumped it.

306

307 Mr. Pychewicz: So the fence you're proposing toward the back of the property and around that building is
308 going to be somewhat similar to what you're showing on this plan?

309

310 Mr. Eyerman: There are two things. One thing we left with Daniel, and he is going to be calling you. He
311 wanted to personally call the neighbors and see if you wanted the fence up behind your fence or how you
312 wanted to do that.

313

314 Mr. Kuehner: Right now I have my fence then there's a mound with trees on it and some of them are dead
315 then there was a fence on the other side of that mound.

316

317 Mr. Eyerman: Daniel wanted to meet with the neighbors and that's what he is going to be doing in the
318 next few days. With respect to the landscaping, there is a mound there and some spruces, and they are
319 probably 30-40' tall. They're branched up as spruces will, they drop their lower branches and it's
320 probably about 12' and basically from our neighbor's property to ours, they get to see everything. Our
321 proposal in this plan was to plant an evergreen hedge to fill in that space between the bottom of the
322 spruces and the ground. If the neighbors want another fence put up there, we'll agree to that as well. He's
323 already got a really nice board fence for the front and he'll probably extend that to the backside as well.
324 But the intent first and foremost is to meet with the neighbors and clean up the stuff back there. There's
325 probably a half dozen hot tubs, two vehicles and a bunch of trash back there.

326

327 Mr. Wecker: What we've discussed is because of the deadlines related to the bats, just trying to get that
328 cleared by March 31.

329

330 Mr. Eyerman: Most of the spruces I think are healthy, they're just branched up, but there are some dead
331 ashes, elms and cottonwoods that need to be removed. We didn't want to authorize it until we met tonight
332 because we wanted to make sure you guys knew it was the dead and not the healthy stuff we're removing.

333

334 Mr. Duell: It sounds like the neighbor is okay with that.

335

336 Mr. Kuehner: Yes. I've lived here for 19 years, so I've gone through this back and forth with Ohio Mulch.
337 I think I've cut down 25 of their dead ash trees in the last five years and some of these by the hot tub
338 place are just a little bit too big for me to be comfortable with.

339

340 Mr. Eyerman: He's in contact with professional clearing crews, so they're all licensed and bonded. And
341 if you want the firewood, you're welcome to have it.

342

343 Mr. Kuehner: My biggest concern with the hot tub place is their trash is always blowing over my fence so
344 I spend a lot of time cleaning that up, and my summer is taking care of the banks between the hot tub
345 place and Ohio Mulch. It's just an absolute disgrace, especially for Ohio Mulch with them being a mulch
346 company, it should be easy for them to take care of the bank.

347

348 Mr. Wecker: I was surprised at how much is still left from the hot tub business. You may know the owner
349 unfortunately died and she had no one. I thought all that property had been removed but it hasn't, so I'm
350 going to find out what the status is and what the timing is to get that site cleaned up because I think
351 Daniel's enthusiasm for the site was such that he was willing to close notwithstanding all that hadn't

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352 been removed, but I would have expected between the lenders and the hot tub suppliers/manufacturers
353 that they would have sorted something out but it sounds like they're still sorting through some things

354

355 Mr. McCarthy: Is the property subject to any lease right now?

356

357 Mr. Wecker: It was long ago in the fall because rent was not paid since before he took title to it, so it's
358 almost to the point where I wonder if there wouldn't be a situation where the creditors would have to
359 open up a probate and work their way through it.

360

361 Mr. Duell: I'm generally okay with trading the 40% that's available for parking for smaller displays as
362 long as the parking then is out of the setback. It's a trade I'd be willing to entertain as long as we can kind
363 of hammer down what those displays are going to be and we have the provisions that those are going to
364 be maintained.

365

366 Mr. McCarthy: In the language right now you've got this zoning is going to apply, but provide that the
367 only use that could be made of that 40% is that otherwise shall remain as open space, it would default
368 back, otherwise you could end up with something else there. You've got one building that you're
369 indicating you may refurbish or replace it and you don't want that sitting right up on 23 either, so either or
370 would probably be a good idea.

371

372 Mr. Pychewicz: The house that's further north, at the last meeting you mentioned you were going to
373 freshen it up or do something; has that been defined yet?

374

375 Mr. Eyerman: We wrote it up. It's a stone façade, and it will be power washed and the trim will all be
376 repaired or repainted, certainly all painted. The southern building is wood, it's kind of a dark gray with
377 cedar trim and the 44" cupola is on the elevation too. That's more of the retail site where the northern
378 structure is going to be the office; both are going to be used. The pole barn is going to have to be
379 renovated as well and that's going to be back in the storage area inside the gated area, so that will be
380 cleaned up but it won't be visible from the road.

381

382 Mr. Pychewicz: At the access point, on the previous plan it was shown more where the 5x10 sign is but
383 on the plan you just gave us there's an area indicated just south of there. Is that a storm water detention
384 pond or dry basin?

385

386 Mr. Eyerman: Dry basin. We're not getting into wet basins that close to 23.

387

388 Mr. Wecker: And the materials you saw on the 18th, there was a letter from Ohio Mulch that said they
389 haven't had any problems with drainage.

390

391 Mr. McNulty: What is right behind your property? Is that open land still?

392

393 Mr. Eyerman: To the east are three homes and to the east of the driveway coming off Lewis Center Road
394 is part of Mrs. Dempsey's property, then ours jogs over to the east and comes up against our two
395 residents.

396

397 Mr. Pychewicz: So once you have those conversations with the neighbors and have that fence defined,
398 what is the gate going to look like?

399

400 Mr. Eyerman: We'll have details of the fence and the gate, the locations, and we'll make sure that it all
401 meets with their wishes. We're confident we'll still come in with the evergreens. When they drew it up
402 they put in more spruces, but we've got spruces. We'll come in with something that's going to max out at

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403 12', not 40', so it's probably going to be more like a juniper or hedge that grows into 12' and fills in that
404 blank spot. Even though the fence is going to be there, it still gives another layer and our neighbors have
405 put up with a lot of garbage, both figuratively and visually, for a long time and our intentions are to give
406 them a little bit more aesthetic view.

407

408 Ms. Boni: Will the plantings and fencing be outside the right-of-way along 23?

409

410 Mr. Eyerman: Yes.

411

412 Mr. McNulty: The fencing around your storage area to the east, is that going to be chain link?

413

414 Mr. Eyerman: It's going to be solid board.

415

416 Mr. McNulty: So it will be covered and you won't be able to see.

417

418 Mr. Eyerman: It will be 100% opacity.

419

420 Mr. Kuehner: Are you taking down the existing fence?

421

422 Mr. Eyerman: Yes, it's a dog-eared board fence. Parts of it are in various stages of disrepair. Daniel
423 inherited a mess and he knew it when he bought it. and he's willing to fix it and make it right too.

424

425 Mr. McNulty: What's that house in the center going to become?

426

427 Mr. Eyerman: That will be the office and then the southern one is going to be more of the retail.

428

429 Mr. Wecker: We seem to have a lot of places in our county where they're selling barns and there's a sign
430 that you call a number. He'll have staff here and I've asked him how much throughout the year, he
431 doesn't sell much some times of the year, so he may just have staff 10 months of the year. As he
432 explained it, we've seen in different locations people seem to buy the small things first and second quarter
433 and then as winter starts to come in, during the 3rd and 4th quarter, then they're wondering where they're
434 going to put it and that's when he sees barn sales pick up.

435

436 Ms. Boni: How many employees will he average each season?

437

438 Mr. Wecker: I think for retail staff, they may get just six cars a day, so they'll have one person there.
439 Delivery staff, I didn't think to ask him, but I can find out. I'm guessing they probably schedule for
440 certain days of the week and then send somebody from Millersburg. If you would like me to get a better
441 idea of what he anticipates for staffing for this location, I'll be glad to do that.

442

443 Ms. Boni: I think that will eventually be a question.

444

445 Mr. McCarthy: I'm asking for full size plans, and make sure there's a copy for me because I review off
446 full size. One thing that has changed over the years is the language of the zoning disclaimer. I will give
447 that language to you. You talked about 10 months a year, etc. and I really don't care, but has he thought at
448 all about Christmas trees, pumpkins at Halloween, that sort of thing?

449

450 Mr. Wecker: If he has, it hasn't come up in our discussions. I can find out.

451

452 Mr. McCarthy: If we have the defined areas, just indicate what areas those will be in. You mentioned a
453 mule; it's like a big forklift, isn't it?

Zoning Commission

454 Mr. Wecker: I have a picture of one. The delivery trucks would have one of these on them.

455

456 Mr. McCarthy: It's on the truck?

457

458 Mr. Wecker: Yes, but it can also be on the site if they want to move barns around.

459

460 Ms. Boni: Will the mules be in the storage area in the back?

461

462 Mr. Eyerman: Yes; they will probably have one on site.

463

464 Mr. McCarthy: Right now you have something labeled as a preliminary development plan; we don't use
465 preliminary plans. Call it your development plan, site plan or whatever you call it, but give me a large
466 copy. You've got the drainage exhibits; I don't know if the Township or Zoning Office would want a full
467 size set of that. The drainage, existing and proposed, and also the existing traffic and proposed.

468

469 Ms. Boni: Just a full size scale of the site plan and the Fire Department is going to want that too.

470

471 Mr. Wecker: Of the full size, how many copies would you recommend?

472

473 Ms. Boni: Just two for our office then when you're ready to submit for review, the Fire Department needs
474 one.

475

476 Mr. McCarthy: And you're essentially going to have a sound wall at the assembly and storage area? Is
477 that the solid wood fence you were talking about and that will be along the east line?

478

479 Mr. Eyerman: It will be along the east line but there's also one separating from 23 to screen the views
480 from the 23 corridor into the storage area, so it's basically going to be enclosed.

481

482 Mr. McCarthy: So the neighbors will have that sound buffer because the Code talks about that 100' area
483 as simply being parking, so make sure that's there. The plans you have, incorporate them into the text so
484 we know which are binding and which aren't. For example, tonight the site plan that's in there is just kind
485 of a concept of what might be. We're looking for what will be. We need scaled plans with details. The
486 intended uses are solely those in the reply paragraph to 14.03?

487

488 Mr. Eyerman: Yes.

489

490 Mr. McCarthy: If you could make that a little clearer. I wasn't quite sure about commercial, offices and
491 what not. If commercial and offices were just generally permitted and specifically this other or if it's
492 simply to be outdoor displays. As far as structures, the future of the stone building is somewhat up in the
493 area but there are structure setbacks all the way around the perimeter of the property which would
494 indicate clearly there is a potential for new buildings. This is somewhat similar as to what was done with
495 the Rookery on Lewis Center Road, so specify exterior materials, four-sided architecture, dumpster
496 enclosures, mechanicals screening, roof pitch of any certain type, pitched roof for single story buildings,
497 underground utilities, service courts, waste and refuse screening, and then you get into materials and
498 colors, materials prohibition – aluminum and vinyl. Those are probably all issues if you're going to have
499 new buildings.

500

501 Mr. Duell: They've identified the location of the dumpster which is behind all the fences.

502

503 Mr. Eyerman: We're not proposing any new structures.

504

Zoning Commission

505 Mr. McCarthy: Not now but you're also not committing in the text that there will be no new structures.

506

507 Mr. Eyerman: If there were, we'd have to come in and amend the PCD, right?

508

509 Ms. Boni: Not if it complies with setbacks and design standards.

510

511 Mr. Eyerman: Then we'll just say no new structures. We're restoring what's out there, that's it. We'll
512 write that up that way.

513

514 Mr. McCarthy: I'm not objecting to it but I was confident Michele's answer was going to be if it meets
515 development standards, she's going to give you a permit.

516

517 Ms. Boni: If he does leave the property and somebody wants to put something in there, they'll have to go
518 through this process again. If you want to leave that open, then add standards.

519

520 Mr. McCarthy: Or even if you're going to retain the ability to replace the existing structures, you'll
521 probably need to address it. Also, the Township has never been a fan in commercial areas of pole
522 buildings or metal sided structures. Would it be possible to sunset or grandfather the barn but when it
523 goes, something a little more permanent goes in?

524

525 Mr. Eyerman: We could probably talk Daniel into putting a wood sided material on that pole structure and
526 he's going to have to reside it because it's in bad shape.

527

528 Mr. McCarthy: That's kind of a relic and that would probably be a nice way in dealing with it.

529

530 Mr. Eyerman: The dark gray renovated southern building with the cedar trim, he's very pleased with that
531 and the fence he proposed going around it is that same design pattern, so I suspect we can tell him that
532 pole structure has to be the same to compliment that.

533

534 Mr. McCarthy: That would be consistent with the Township's best practices. In 14.03 h), this is the one
535 for other commercial ventures not provided for in the Code, I suggest that the reply you have there be
536 moved up to 14.03 a) and to my recollection we have never approved anything other than not permitted
537 for other commercial ventures to make it clear that this is it.

538

539 Mr. Wecker: Once Ohio Mulch use stops, then 14.03 h) use stops; is that what you're saying?

540

541 Mr. McCarthy: No, I'll send you a list but just relocate your reply to a) where it fits and then not permit it
542 in h) in this district. Are you sure he doesn't want to have the ability to use construction trailers if he's
543 having construction?

544

545 Mr. Wecker: Yes.

546

547 Mr. McCarthy: 14.06 b)1), there's a reference to a site location map, Attachment A; I didn't have one.
548 The exterior materials, what is the lap siding made of?

549

550 Mr. Eyerman: It's either going to be cedar or smart siding which is a wood composite or Hardy Plank,
551 something like that, but it's a lap siding.

552

553 Mr. McCarthy: My understanding was lap siding was a style but different materials.

554

555 Mr. Wecker: We've got photos of mock ups.

Zoning Commission

556 Mr. McCarthy: I thought it was just a style of siding. I didn't think it was a particular product name.

557

558 Mr. Eyerman: There are different products. There is Cyprus which they use all over the south, or cedar or
559 smart siding which is one of the many lap siding materials we use at Evans Farm too. It's basically
560 engineered material that's wood that's compressed and it has a material that keeps bugs and such out. And
561 you have Hardy Plank which is another name brand which is a cementitious kind of siding but it's the
562 same look.

563

564 Mr. McCarthy: 10.06 b)4) talks about street light poles. I think the original text talked about street
565 lighting. The Township does not have street lighting, so we can take that out. As far as parking lots and
566 drives, that's fine if you want to light that; she'll probably make you.

567

568 Mr. Eyerman: There are two cobra heads out there. Daniel did not want to have a night kind of retail use,
569 so he thought the two cobra heads would be good security lighting and that's all we proposed for night
570 lighting. We could go into a little detail in the examples as far as types of light fixtures he may have on
571 some of the sheds and barns which have the old barn hook look to them, so it was put there intentionally
572 as a retail kind of product. He sells during the day and closes at night.

573

574 Mr. McCarthy: So these things wouldn't be glowing all night?

575

576 Mr. Eyerman: Right. Just the cobra head security light.

577

578 Mr. Wecker: He said at locations he has now he doesn't keep them on past 7:00.

579

580 Ms. Boni: There is a standard in our Code that requires a minimum lighting of .5 foot candle in all
581 parking and vehicular areas. If he would want to request a divergence to not have that, he'd have to
582 submit that.

583

584 Mr. McCarthy: Is that only when open or is that 24/7?

585

586 Ms. Boni: I believe it's 24/7. It doesn't specify during operation hours.

587

588 Mr. Duell: Before you ask for that, make sure he's not going to have any need for lighting because at 6:00
589 you probably need it in the winter time.

590

591 Mr. Wecker: He did emphasize to us this will be an important location for the business, so he may want to
592 do things a little differently than he's done before just to take advantage of the location.

593

594 Mr. Duell: Before you diverge from any lighting, you might want to make sure he doesn't want any.

595

596 Mr. McCarthy: Put that note in there about exterior LED fixtures not to exceed 2700 to 3000 Kelvin and
597 provide that all of them are to be downlighting.

598

599 Ms. Boni: The signage lighting is uplit.

600

601 Mr. Eyerman: Yes because we are going to use the same sign that is there.

602

603 Ms. Boni: Will there be landscaping and screening of the lighting?

604

605 Mr. Eyerman: Yes. We'll talk to Daniel about the downlighting on the sign and see if we can do that.

606

Zoning Commission

607 Ms. Boni: I think there are some concerns with the existing sign because I'm not sure it was approved.

608

609 Mr. McCarthy: Ohio Mulch has the same thing; they pre-date the monument requirement. It's not a
610 monument style sign and it looks like that one corner is kind of beat up, so I don't know if they would
611 entertain a divergence on that or not but you're not in accordance with the Code.

612

613 Mr. Eyerman: The actual sign itself meets the Township text as far as setback.

614

615 Mr. McCarthy: The setback and size are fine but you've got three posts poking out the bottom and it's
616 supposed to be a solid base at least as wide as the sign. It's got three 4x4's holding it up, maybe 3x5.

617

618 Mr. Eyerman: The sign that's there now?

619

620 Mr. McCarthy: Yes.

621

622 Mr. Eyerman: I'm not remembering it that way. I remember 4-6" steel posts.

623

624 Ms. Boni: Would the landscaping be sufficient enough to cover those little poles?

625

626 Mr. McCarthy: Or we've had people just fill in with stone; you're going to need something.

627

628 Mr. Duell: If you could landscape around that then we could entertain that.

629

630 Mr. McCarthy: And just fill in the bottom with stone or something. Utilities – you had an inspection
631 report for 6605; what about the 6601 building? Does it have sanitary?

632

633 Mr. Eyerman: It's on septic as well. I can get with the Health Department to provide a letter.

634

635 Mr. McCarthy: The ODOT letter simply indicated the entrance to the south and your text indicated there
636 is an entrance that's further north that's paved that you're going to maintain, I think it says as an
637 emergency access.

638

639 Mr. Eyerman: It's actually the driveway to the northern structure.

640

641 Mr. McCarthy: Is the emergency access actually going to get you over to the sales; the Fire Department
642 does like to have two accesses.

643

644 Mr. Eyerman: It's being retained because it's actually a drive to the northern lot and it could be the only
645 access that Mrs. Dempsy-Hook has to her parcel off 23.

646

647 Mr. McCarthy: ODOT was pretty clear that you're getting one cut.

648

649 Mr. Eyerman: We're not adding another cut; it's already there.

650

651 Mr. McCarthy: They say you get to keep the south; they didn't say you get to keep the northern one too.
652 That needs clarified.

653

654 Mr. Eyerman: We'll talk to ODOT. That's a separate lot so we'll get ODOT to write a letter on it. The
655 intention was that would not be a used access for the retail portion of our site if it's necessary to provide
656 access to Mrs. Hook's property to the north.

657

Zoning Commission

658 Mr. McCarthy: That's kind of between Mrs. Hook and ODOT.
659
660 Mr. Eyerman: Exactly.
661
662 Mr. McCarthy: Does she have an easement through there?
663
664 Mr. Eyerman: I don't know.
665
666 Mr. Wecker: I have a copy of the title; I was the buyer's counsel and I don't recall looking for that, so I
667 don't recall seeing anything about it.
668
669 Mr. McCarthy: It was more out of curiosity and Mrs. Hook is not before us.
670
671 Mr. Eyerman: My intentions were just in the context of the cross buck fencing is to have a gate on that
672 and have it locked, so if it were an access...
673
674 Mr. McCarthy: If it's going to be an emergency access and you're going to be talking to the fire folks
675 anyway, just hash out what the emergency access will be and provide wherever it is will be per Orange
676 Township Fire Department's requirements.
677
678 Mr. Kuehner: I noticed on the plan there is a lot here that you're missing on the drawing.
679
680 Mr. Eyerman: That's Mrs. Dempsey-Hook's property.
681
682 Mr. Kuehner: She owns that house there as well because there's another lot right here?
683
684 Mr. Eyerman: Maybe she does.
685
686 Mr. Kuehner: I just wondered if they're aware of the additional traffic that's going to be next to their
687 house.
688
689 Ms. Boni: We had notified them.
690
691 Mr. Eyerman: They're renting it from her so we'll have to contact her to make sure...
692
693 Mr. Kuehner: Something's just odd about the lots on the drawing.
694
695 Mr. McCarthy: I'm not sure what drawing you're looking at but the site plan did not even show that
696 property to the north.
697
698 Mr. Kuehner: Where you see Mark and Joann, there's actually a lot there on the corner and then there's
699 another lot adjacent to that.
700
701 Mr. Eyerman: There's two houses between Judith's property and Dubois. There's two houses, two lots;
702 the zoning map shows two lots, not including her property.
703
704 Mr. McCarthy: You're proposing a secondary access over that easement. Is that access going to be paved
705 or are the deliveries going to be made over the stone?
706
707 Mr. Eyerman: It's currently broken up asphalt.
708

Zoning Commission

709 Mr. McCarthy: Then will it be paved?

710

711 Mr. Eyerman: We'll let you know.

712

713 Mr. Wecker: On this drawing it's marked as a gravel path.

714

715 Ms. Ault: I'm looking on Google Maps and right now it looks like there's an access from the outdoor
716 storage space to Ohio Mulch where they connect. That's going to be closed off, correct?

717

718 Mr. Eyerman: We'll refer to it as a use that was there when Daniel bought it and we will maintain that
719 with Ohio Mulch. It's basically a shared dumpster and they use it for our overflow storage it appears, and
720 as part of their storage area, Daniel said he's willing to allow them to use what they've been using with
721 the previous owner.

722

723 Mr. Kuehner: So you won't have a fence going that entire distance then?

724

725 Mr. Eyerman: There's a fence there but there's a gap.

726

727 Mr. Kuehner: It's a large gap. They paved that so they have to drive up the embankment to get over to the
728 other property.

729

730 Mr. McCarthy: It looked like you were trying to do one part of it while the other part is being determined.
731 If we're going through the zoning application at the end but if he in the meantime is creating non-
732 conforming issues on that south parcel, would you want to consider leaving that south parcel where it is,
733 as it is, and just make your plan as to the two northern parcels, or do you think you can hold off on doing
734 things that might create trouble until it's all done?

735

736 Ms. Boni: Would he still be encroaching in that setback area on 23?

737

738 Mr. McCarthy: Yes. He's not to encroach in that area; that's what the litigation was about.

739

740 Ms. Boni: So if that parcel remains what is existing, then that can never....

741

742 Mr. McCarthy: That 40% would not apply there. It's like people who come in and clear cut a lot and then
743 apply for zoning.

744

745 Mr. Eyerman: He was very concerned about even coming in and proposing to cut anything down without
746 approval except, as Karl mentioned, there's some trees in there that are dangerous and when we met with
747 him yesterday, I said just give me a day to talk to these folks about we're going to need to get rid of some
748 of the dangerous conditions other than cleaning up the hot tubs, pods, vehicles, stuff like that. If he knows
749 there's a timeline that he's working on to get started, I'm sure he'd be willing to delay doing anything that
750 will cause any issues.

751

752 Mr. McCarthy: Just take that language out.

753

754 Ms. Boni: So it will still be one new PC District?

755

756 Mr. Eyerman: Yes.

757

758 Mr. McCarthy: And the language about the change of use is gone.

759

Zoning Commission

760 Mr. Eyerman: Our intention all along is to try and clean it up as one overall.

761

762 Mr. McCarthy: Was the Commission comfortable with the idea of dry laying basically a base or base like
763 appearance on the sign?

764

765 Mr. Duell: Yes.

766

767 Mr. Pychewicz: Yes, mixed with landscaping.

768

769 Mr. McCarthy: You're proposing to have landscaping and mulch for sale. Ohio Mulch was required to
770 build fences around theirs and then define where, how and what.

771

772 Mr. Eyerman: The site is various layers of concrete, asphalt and stone, so there's really no good soil to
773 plant anything in, so our thought was creating patios above the existing grade, putting the mulch in then
774 having it covered pots out there too so if he's displaying the patio and it's pavers, landscaping and mulch,
775 he may have that in there and that was our intention. It's not intended to be Oakland Nursery or Ohio
776 Mulch. There won't be bags of anything out there.

777

778 Mr. McCarthy: Just do something about that language so there's no question and suddenly we have
779 pallets of mulch showing up. You're going to have a landscape plan, right?

780

781 Mr. Eyerman: Yes, with the definition of the display areas that allows for actually creating something. I
782 think that will make a lot more sense at that point.

783

784 Mr. McCarthy: You indicated there was going to be a light buffer along the parking to keep the parking
785 from shining out on 23. Make sure that is on the landscape plan too. We've got a 45 structures, 75%
786 impervious limitation and this is indicating that 75% of the area can be used for the display of materials.
787 You're also going to have parking, drive or drives. Maybe limiting it to the 40% will get you away from
788 that because right now at least that 60% on the green space might resolve the issue. So you'll have those
789 areas defined and you'll indicate the smalls are going in there.

790

791 Mr. Eyerman: Yes, and also, one of your notes was if not used, then it will remain open space.

792

793 Mr. McCarthy: Plantings, if they're doing a landscape plan, can you put in a key so we know what we're
794 looking at?

795

796 Mr. Eyerman: Sure.

797

798 Ms. Boni: Can you provide a Sign Exhibit showing how you're going to conform with the solid base and
799 the landscaping?

800

801 Mr. Eyerman: Yes, we'll give you the details and we'll include how the downlighting is going to be
802 working.

803

804 Mr. McCarthy: Some of the pictures you have are not downlighting. The existing light poles, I saw one
805 that's got kind of an amber colored light on it. Is he going to maintain that?

806

807 Mr. Eyerman: There's actually two of them. There's one up north of the north house. Coming in with the
808 parking lot at 1/2 foot candle, let me see what we can do; we might want to bring those up to the LED
809 standards too.

810

Zoning Commission

811 Mr. McCarthy: As far as the general requirements as regards to lighting, you've got a 16' pole which is
812 different from the Code but aside from that you're going to be meeting the requirements of 21.12?

813

814 Mr. Eyerman: Yes.

815

816 Mr. McCarthy: Just out of curiosity, the little informational signs, what are they made out of?

817

818 Mr. Eyerman: They're probably going to be made out of corrugated plastic, little signs that would identify
819 the square footage, price and things like that. The intent is to keep them very low key so from 23 you
820 don't see them.

821

822 Mr. McCarthy: Are those signs going to require a permit, Michele?

823

824 Ms. Boni: No. There are certain sizes that don't require a permit. I'm assuming they are pretty small.

825

826 Mr. Eyerman: Yes. They're going to have the product number and the name and the price, square footage
827 and things like that.

828

829 Mr. McCarthy: You have what was labeled the preliminary development plan which is actually the
830 landscape plan.

831

832 Mr. Eyerman: We'll have them separated.

833

834 Mr. McCarthy: As far as Kuehner-Phillips, you're kind of the southern one?

835

836 Mr. Kuehner: Yes.

837

838 Mr. McCarthy: And they've got you with the 4' hedge that's going to 8'. You're satisfied with that
839 buffer?

840

841 Mr. Kuehner: Yes, but I'd like to see a picture.

842

843 Mr. Eyerman: We'll get something for you.

844

845 Mr. McCarthy: As far as the Herbert property which is the next one north above Mr. Kuehner, is the
846 buffering for that adequate?

847

848 Mr. Kuehner: I don't think the bank goes that far; I think it pretty much ends at my property.

849

850 Mr. Eyerman: You're right. It's kind of a wet area, a lot of dead trees and I think that's part of the reason
851 the 8' fence we were talking about running it all along that property line.

852

853 Mr. Duell: When he gets you the comments, how long do you think it would be before you'll have
854 another submission?

855

856 Mr. Eyerman: Based on our notes, we can start working on some of the comments. How long before you
857 think you can have the comments?

858

859 Mr. Kuehner: Do you think there will be another meeting?

860

861 Mr. Duell: Yes.

Zoning Commission

862 Mr. Kuehner: Can you make sure everyone gets a card? We didn't get a card this time.

863

864 Ms. Boni: We're only required to do it for the initial hearing and then we email it out to those who are
865 interested.

866

867 Mr. Duell: We'll set the date here; that's what we're working on now.

868

869 Ms. Boni: And when it gets to the Trustee level, we'll send out another set of postcards.

870

871 Mr. Eyerman: Does the Zoning Commission have time the 31st of March?

872

873 Ms. Boni: We do already have something scheduled for that meeting. We don't have anything for the 24th
874 unless you're looking for the week after the 31st.

875

876 Mr. McCarthy: I can probably shoot for the 6th to have the finalized comments to you.

877

878 Mr. Eyerman: If it works for the Zoning Commission, let's shoot for the 24th.

879

880 Ms. Boni: The only thing we have scheduled in March so far is Turkey Hill on the 3rd and then on the 31st
881 it's the diagnostics review. Turkey Hill was supposed to get us updated renderings.

882

883 Mr. Duell: And we didn't get them?

884

885 Ms. Boni: No, so I don't know what's going to happen with that.

886

887 Mr. Duell: Are you able to get something to us by the 17th so we can hear it on the 24th?

888

889 Mr. Eyerman: Yes, we'll get it done.

890

MOTION TO RECESS ZONING APPLICATION #ZON-19-07

891

892
893 Mr. Pychewicz made a motion to recess Zoning Application #ZON-19-07, Nova Lands, LLC, until
894 Tuesday, March 24, 2020, at 7:00 p.m. at Orange Township Hall; seconded by Mr. McNulty.

895

896 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Mr. McNulty-yes, Ms. Ault-absent

897 Motion carried

898

899 Ms. Boni: Just for the record, Ms. Ault did step out early because she had to leave, but I will inform her
900 of the meeting date. Also the Commission brought to my attention, and this is for you, Mike, on whether
901 or not we would like you to continue reviewing pending Zoning Commission minutes. Mark suggested it.

902

903 Mr. Duell: I didn't want to record the minutes until you had the opportunity to either review them or
904 decide you didn't need to because your comments are in them.

905

906 Ms. Boni: I brought that to the Trustees' attention, and I have not heard back from them.

907

908 Mr. McCarthy: See what the Trustees say. I would think it would be prudent on the way out that to make
909 sure there's not some misinformation.

910

Zoning Commission

911 Ms. Boni: If I don't hear from them, I will bring it up at the next Trustees' meeting. If Turkey Hill doesn't
912 go through, would you be able to review those minutes on the 3rd because I'd like to make use of that
913 meeting since we're having it, but I won't know anything until after the Trustee meeting.

914

915 Mr. McCarthy: That would be fine.

916

917 Meeting adjourned at 8:35 p.m.

918

919 Minutes prepared by Cindy Davis, Zoning Secretary

920

921 On May 5, 2020, Mr. Pychewicz made a motion to approve the minutes of the February 25, 2020 meeting
922 of the Orange Township Zoning Commission for Rezoning Application #ZON-19-07, Nova Lands LLC
923 with the following corrections:

924

- 925 • Change JBM to JDM throughout the entire document.
- 926 • Line 110: "100 feet" should read "150 feet"
- 927 • Line 251: "wrested" should read "wrestled"
- 928 • Line 302: "have" should read "has"
- 929 • Line 362 should read "...that otherwise shall remain..."
- 930 • Line 495 should read "...exterior materials, four-sided architecture..."
- 931 • Line 498: take out extra comma
- 932 • Line 555: "mach" should read "mock"
- 933 • Line 630: take out the word "driveway"
- 934 • Line 651 should read "They say you get to keep the south; they didn't say you get to keep the
935 northern one too".
- 936 • Line 738: "is" should read "was"

937

938 Seconded by Ms. Ault

939

940 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Mr. McNulty-yes, Ms. Ault-yes

941 Motion carried