

## Zoning Commission

1 **Rezoning Application #ZON-18-04**

August 14, 2018

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3  
4 **Rezoning Application #ZON-18-04, Toy Box of Columbus LLC**

5 Requesting to rezone 4.72 +/- acres from a Farm Residential (FR-1) District to a Planned  
6 Commercial and Office (PC) District. The subject property is currently owned by Robert E  
7 Broadley and Mary Lou Gott and is located at 388 East Orange Road, having permanent  
8 parcel number 318-321-01-002-000.

9  
10 Chairman Duell called the meeting to order at 7:00 p.m. for Rezoning Application #ZON-18-04, Toy Box  
11 of Columbus, LLC

12  
13 Roll: Mark Duell, Christine Trebellas, Dennis McNulty, Barrett Ault, Katie Stenman-absent

14  
15 Township Officials Present: Michael McCarthy                      Legal Counsel  
16    Jeffrey Beard                      Zoning Enforcement Officer

17  
18 **MOTION TO COME BACK FROM RECESS FOR APPLICATION #ZON-18-04**

19  
20 Ms. Trebellas made a motion to return from recess for Rezoning Application #ZON-18-04, Toy Box of  
21 Columbus, LLC; seconded by Mr. McNulty.

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

24  
25 Mr. Duell: We are back with the applicants with a new submittal.

26  
27 **APPLICANT PRESENTATION/COMMISSION QUESTIONS & COMMENTS**

28  
29 Jack Reynolds, 37 W. Broad Street, Columbus, Ohio 43215, attorney with Smith and Hale representing  
30 Toy Box. We took the 25 comments from last meeting. One thing on the list was meet with the Condo  
31 Association, our neighbors. We did and made a presentation that went a long way towards mediating  
32 some of their concerns. Last meeting there were discussions over the elevations. In working with the  
33 neighbors to make the building look more neighbor friendly, we took our hues from the color palette that  
34 is in the Ravines development and came up with what we feel is a better look because it matches their  
35 colors. We took your request to do a little wainscoting along the side of the building and are also  
36 showing the doors that can have windows if the tenant is so inclined. We tried to give you the feeling of  
37 what the door could look like with or without a window, but we'll leave that to the individual tenants to  
38 make that choice. To try and soften the view to the neighbors to the south, we added some architectural  
39 elements to the rear of the building. We had discussions with the neighbors about the layout of the  
40 property and what would be more appropriate on the site which included saving the trees at the rear rather  
41 than cutting them down to build something back up. We said we'd preserve the 25' setback area with the  
42 natural trees, clean it out and get rid of all noxious weeds, and make it a nicer area. We'd also do the  
43 same thing along side yards. Any place there's a gap, we would add spruces and firs within the tree area  
44 to provide additional passive. We wanted to provide some type of lower screening, and we came up with  
45 a Spartan juniper that grows really quick. We provided 100 of them along the south end of our detention  
46 facility so we can give a more dense screening along that portion of the property. We will maintain the  
47 dry basin and there will be no trash dumpster; each individual owner will be responsible for rolling out  
48 their individual trash can and will be picked up by a private hauler. We have been in contact to see if we  
49 can work with the contractor who picks up for the condos to the south. Our mail kiosk is on the plan;  
50 we've also added some light at the entrance and exit of the site. The neighbors wanted us to maintain the

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51 minimum amount of light we need, so we have a lighting study where all we have is the light on top of  
52 the garage door itself, so there's a divergence that asks not to put in lighting in the parking lot. We  
53 moved the parking setback up to 53' and asked for the divergence for the building setback; it should be  
54 100', we're at 75'. Previously we only had the east elevation; we've added the west elevation. We also  
55 show evergreens and junipers being added at the rear to give a perspective of what will be seen from the  
56 units to the rear of us. We also discussed, and I know it's not something you enforce, some of the items  
57 in the condo documents and were able to come to an agreement on what should and shouldn't be in the  
58 documents. We had Advance Civil Design and do a field survey and we found the site moved a little bit,  
59 and we had to slide the building down 2'; it was at 4', so we're still asking for the divergence from the  
60 100' rear setback. Again, the reason we need the 82' is to preserve the layout that Ryan needs to move  
61 forward the project. We discussed last time about cutting some parts off, but if we did, it doesn't stay  
62 viable as a project. The 18' is something we need and we're working with the neighbors to assure it's not  
63 going to make a big impact there.

64  
65 Mr. McCarthy: Item #1, there are 2 owners, get the authorization modified not just to file the application  
66 but also to agree to modifications. If that is difficult, that will be before the Trustees. Also, refer to it as **a**  
67 PCD rather than PCD District. Item #2, a number of "proposes" were taken out. Item #3, the disclaimer,  
68 Page 1, was paraphrased but I think it met the intent of the comment. Item #4, dealt with on Page 3. Item  
69 #5, the answer was given in 14.03 j); the only change that should occur is that it will be permitted in  
70 accordance with the provisions of that section, otherwise we probably want to find out where we'd be, as  
71 we discovered recently applicants sell projects, so you can't zone just to a person. Item #6, dealt with in a  
72 couple of places. Item #7 is one I think you need to consider and respond to and I'll deal with it in the  
73 parts it's laid out in. First is "Revisit the architectural design to eliminate the appearance of the structure  
74 being a warehouse or storage facility". Jack recapped changes that have been made. Is the Commission  
75 satisfied or not?

76  
77 Ms. Trebellas: I think you requested the use of EIFS, hardy or something of that nature but it wasn't  
78 labeled on the elevations; it looks like you're using hardy, but it's not clear, so what material is going  
79 where. And are those windows real or fake? How are you going to treat them?

80  
81 Ms. Ault: Especially on the back elevation. You added so much architectural detail to it, are those just  
82 going to be blacked out fake windows?

83  
84 Ms. Trebellas: Are they going to have shutters? It looks like you have an awning or overhang in the  
85 front; in the back it looks like fake half timber, so clarify that. And if you are using EIFS, let us know  
86 where you're using it.

87  
88 Mr. McCarthy: Label all exterior materials on the exhibits.

89  
90 Ms. Trebellas: That would be helpful especially for Michele if it gets to that point. She's going to have  
91 to make sure that whatever is in your drawings and is being built is what was agreed to in the Zoning  
92 Text. And it looks like hardy.

93  
94 Kathy Hunt, 7620 Alta View Boulevard, Columbus, Ohio 43215: It is; the walls are hardy or the knock  
95 off of that.

96  
97 Ms. Trebellas: You can just say fiber cement.

98  
99 Ms. Hunt: Or like materials.

100

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101 Ms. Trebellas: Or equal is fine. Colors for the roof, make sure you avoid high chroma colors; we don't  
102 want bright colors.

103 Ms. Ault: What about the windows on the back elevation wall? Are those real?

104

105 Ryan Mierau, 7620 Alta View Boulevard, Columbus, Ohio: They can be real or fake.

106

107 Ms. Hunt: It can be hardy board on the sides and then the windows on the garage doors are real as  
108 selected by the owners; we give them choices for 1, 2 or 3 rows of windows. The windows in the back  
109 will be real or fake; we'll leave that up to the owner.

110

111 Ms. Ault: I assume the north elevation windows would be real...

112

113 Ms. Hunt: Yes.

114

115 Ms. Ault: But the south one was the one I was wondering about.

116

117 Ms. Hunt: That will be up to the owner, but it will look like that. We're trying to mimic the front with  
118 trim. It won't have the porch but we're going to mimic that unique wood trim.

119

120 Ms. Ault: Just clarify that there would be 2 window options, real or fake.

121

122 Ms. Trebellas: I've seen examples of fake windows that are just like pieces of plywood painted. I don't  
123 think that's what the neighbors want to look at, so clarify if they choose the fake windows, how that  
124 treatment will occur. If you want shutters, I've seen that but I don't want to see a piece of plywood  
125 painted black.

126

127 Mr. Reynolds: We have signed authorization, signed by both of the property owners.

128

129 Mr. McCarthy: It does agree to any modifications to the application after filing, so that's dealt with. The  
130 second part of the architectural design, "Pay special attention to the numerous overhead doors and their  
131 design and materials". You've had some discussion on that; is there any further discussion? Hearing  
132 none. "Consider the use of hardiplank or EIFS as a substitute for steel as a siding material and glass as a  
133 substitute for metal overhead doors". The applicant indicated the siding material will be hardiplank or  
134 equivalent. I don't know how you feel about glass; there are windows. Any further discussion? Hearing  
135 none. "Assume metal awnings are acceptable". They are assuming and you had no problem with it.  
136 "Consider offering units without an overhead door".

137

138 Mr. Duell: That's fine.

139

140 Mr. McCarthy: Next, "Eliminate steel as a permitted exterior construction material". Steel was  
141 substituted with the word metal. Again, if exterior materials are specified in the text as being those on the  
142 rendering or elevation and the elevation is labeled, I think that solves that portion of it. The only thing I  
143 suggest be added is that it be plainly stated there would be no aluminum or vinyl as a siding material.

144

145 Ms. Trebellas: I'm good with that.

146

147 Mr. McCarthy: The exterior materials reflectivity, dealt with. Storm water pond on Page 7, dealt with.  
148 There will be a fountain if the engineer turns it into a wetland. #8, removing 4 units, Mr. Reynolds  
149 advised they do not feel it would be economically viable without that; is there any further discussion?

150

151 Ms. Trebellas: I assume that it is what it is and they're not willing to budge.

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152  
153 Mr. Mierau: The expense of the project has so changed, there was a considerable increase and loosing  
154 units is not going to be an option.  
155  
156 Mr. McCarthy: “Further consider reducing the area or the size of some of the units”. Is there any further  
157 discussion?  
158  
159 Mr. Duell: I don’t think so.  
160  
161 Mr. McCarthy: As to trash, Page 6, the statement at the end was there is no outside refuse area required;  
162 say there is no outside refuse area permitted.  
163  
164 Mr. Duell: Just change saying it’s not required to it’s not permitted. You’ve already said you’re not  
165 doing that.  
166  
167 Mr. Mierau: We’re trying to get on the same schedule with the neighbors, same company.  
168  
169 Mr. McCarthy: Item 10, consistent with resident input, the following: “Consider reducing the height of  
170 the building”; that didn’t happen but it’s still below the 50’ maximum for a PC. “Consider the possibility  
171 of a single phase of construction”; it’s still 2 phases. Is there any further discussion? Hearing none.  
172 “Consider the erection of a 6’ tall fence”. The landscaping has been adjusted; that may have been  
173 overcome by a fence; any further discussion?  
174  
175 Mr. Duell: No.  
176  
177 Mr. McCarthy: Item 11, Munsell charts, it stated that permitted exterior colors would be those on the  
178 Munsell chart on Page 6. Munsell chart is Exhibit G3; on Page 6, you’ve got a G4 reference. The color  
179 sheets from the manufacturer were still in there; any concern about that?  
180  
181 Ms. Trebellas: I’ve already mentioned the concern about high chroma metal roof.  
182  
183 Mr. Duell: Otherwise I’m ok with the actual colors.  
184  
185 Ms. Trebellas: I’m ok with the colors, the concern I had was make sure the copper was indeed a copper;  
186 it looks more like an orange. I’m pretty sure that’s not what it is but make sure the one you choose is not  
187 something that is not permitted.  
188  
189 Mr. McCarthy: #12, dealt with on Page 6, \$13 also on Page 6, the LED.  
190  
191 Ms. Trebellas: It says the hue of the bulb shall be a white metal halide lamp.  
192  
193 Mr. McCarthy: The white metal halide is separate and apart from LED.  
194  
195 Ms. Trebellas: So are they having LED’s or white metal halide?  
196  
197 Mr. Mierau: It is LED’s.  
198  
199 Mr. McCarthy: Then delete white metal halide.  
200  
201 Ms. Trebellas: As long as you do the LED’s and their within the Kelvin temperatures the Township  
202 accepts, that would be fine.

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203  
204 Mr. McCarthy: There were 2 in that range and there were others but the 2700-3000, we'll go with that.  
205 #14, dealt with on Page 6. #15, the Fire Department has agreed to a single access to the site at this point;  
206 that was in Exhibit E10. The second part of 15, "provide an explanation of how fire department will have  
207 access to this structure during phasing". That was not discussed in the text, but I think it was addressed in  
208 Exhibit E10. If there's nothing further, we'll move on; if you want it in the text, we need to put it there.  
209 #16, phasing, I thought was dealt with on Pages 8 and 9. There was more information presented to the  
210 extent it could be presented. It's on a scaled drawing, so give or take. The second portion, it was  
211 adjusted in both places, not just one. Then the fact the southern building setback was reduced from 84' to  
212 82'; any discussion on that?

213  
214 Ms. Trebellas: /the applicant mentioned financially, but I have concerns about that.  
215

216 Mr. Duell: I'm fine with it; it's been discussed with the neighbors, it's certainly screened and a pond in  
217 between.

218  
219 Ms. Ault: The fact that the neighbors are in agreement.  
220

221 Mr. McNulty: As long as the Fire Department is ok with the single access.  
222

223 Mr. McCarthy: They're fine with the single access and they're probably more concerned with turning  
224 radii than with any particular distance.  
225

226 Mr. McNulty: It sounds to me like some pluses were made by leaving the trees and making the  
227 adjustments that they made, so to me, that extra 2' is not an issue.  
228

229 Mr. McCarthy: We'll put an "x" there. "Increase the southern parking setback outside of the mounding  
230 and basin"; that was increased from 6' to 53'. I assume there was no concern about that. #18, dealt with  
231 on Page 13; #19 on Page 15. # 20, (a) was dealt with on Page 16; (b) "enhance the landscaping plan by  
232 increasing the height of the mounding and trees along the southern boundary". As Mr. Reynolds  
233 presented, a different path was taken, the natural tree line with some indicated augmentation, though not  
234 specified, was substituted for the mounding and other. Any further discussion on that?  
235

236 Ms. Trebellas: No.  
237

238 Mr. McCarthy: Item (c), they incorporated a 25' strip along the southern boundary, so that was dealt with  
239 on Page 16. Orange construction fence was included as well. #31, "provide a rendering of the rear  
240 elevation", done on Exhibit G1. #22, assuming a divergence from 21.10; it was added. Secondly,  
241 parking lot lighting divergence was added as well. Any further discussion on parking lot lighting?  
242

243 Ms. Trebellas: I have no problem with it.  
244

245 Mr. McCarthy: #23, Page 7 of the Development Plan Text, "basin will be installed in the first phase"; that  
246 was indicated and it is to accommodate the full development of the property. #24, Page 7, cross easement  
247 was provided in multiple places and listed on Page 7. It will be delivered at the time of the first phase of  
248 the development. #25, the exhibits you would care about were referenced in the text; the others were  
249 included in there which were mostly utility letters, things of that nature which are good to have in there,  
250 but there's really not much to discuss. As to the neighbors, #26 was presented by Mr. Reynolds. As to  
251 other observations, the first is simply because there is a parking divergence. Retail is still one of the uses  
252 permitted here. Is there any further discussion on retail and parking?  
253

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254 Ms. Trebellas: I have no problem.

255 Mr. McCarthy: Additional plan elevations were received. It looks like there were some new and the one  
256 Michele sent us yesterday was not, but this one is and the monument sign is back in D2. Just get those in  
257 and substitute for the ones that are in there. The 5' sidewalks showed up on Exhibits C1 and E1; I assume  
258 that was in response to the Parks letter.

259  
260 Mr. Reynolds: Yes.

261  
262 Mr. McCarthy: Does the Commission want to have included in the text that sidewalk will be provided  
263 and when, and it will be within the right-of-way as depicted?

264  
265 Ms. Trebellas: Yes, it will probably be easier for Michele.

266  
267 Mr. Duell: Yes, and you might want to make it pending on the widening of Orange Road.

268  
269 Mr. McCarthy: As far as Orange Road improvements in that area, are sidewalks included in the  
270 Engineer's plans? The percentages were slightly adjusted but even with the adjustments, they meet  
271 45/75; I wrote 40.5 and 67.5 right now. There is an error on Exhibit D1. It indicates 55' parking setback  
272 and everywhere else says 53'. On E1, all four bearings were different. The distances were slightly  
273 adjusted on the east and west legs, and you have the new survey that shows the new survey material rather  
274 than the legal description and the material from the deed. Just make it agree across the board, all exhibits,  
275 text, legal description and you don't necessarily have to use the deed for your exhibit as to the area being  
276 rezoned; you could just include your new survey. And I think you indicated that's what necessitated the  
277 2' shift on the building.

278  
279 Mr. Reynolds: Yes.

280  
281 Mr. McCarthy: Correct the exhibits and legal to conform.

282  
283 **PUBLIC COMMENT**

284  
285 Erin Myers, 180 Whistling Way Drive, Lewis Center, you guys previously dealt with Sharon who is the  
286 president of our board; she's on vacation this week, so I am representing the Condo Association of the  
287 Courtyard at Hidden Ravines. On July 18 representatives from our Board met with Ryan and other  
288 representatives from Toy Box. During that meeting Toy Box and the Board agreed to several items as  
289 part of the development in exchange for our agreement and support of the rezoning application submitted  
290 for review tonight. We appreciated and were impressed with that meeting. It was a very amicable, a lot  
291 of ideas were exchanged and we were grateful for the opportunity to work with them. Upon review of the  
292 August 7 application, we saw most of the items that were discussed with us, but we had a couple of  
293 questions. One of our biggest concerns is the trees and that's awesome they want to work with us on the  
294 trees but they mentioned having this be a tree preserve, it's mentioned in Exhibits C1 and D1; is there  
295 such a designation as a tree preserve and how does it get designated? If those trees were to die or not  
296 properly maintained, how does that 25' of tree preserve remain maintained and is it possible to add that to  
297 the declarations.

298  
299 Mr. McCarthy: First, the declarations are going to be private and normally only enforceable by the other  
300 condo owners, not by neighbors. Beyond that, the Zoning Commission and Trustees have reserved in a  
301 unique manner many treed areas, most recently in the Sanctuary. Right now, the 25' strip is indicated on  
302 those plans and on Page 16 of the text, and reads as follows: "A minimum of 25' strip along the southern  
303 end of the property shall be used to preserve the existing trees located within that area. Noxious and dead  
304 trees and brush may be removed from the area. Prior to construction activities in that area, 42" high

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305 orange construction fence shall be installed and maintained during construction and until the building is  
306 completed to final grade, and seeding, sodding and landscaping is installed. Additional landscaping shall  
307 be planted in the 25' strip to increase the screening along the rear lot line, see Exhibits D1 and D2 for  
308 planting layout". I don't know, hearing what you said, that really deals with replacement; that's more like  
309 when they come in.

310  
311 Mr. Duell: I say we do whatever we've done in the past which was left that to the private entity to handle.  
312 I don't think we've ever....

313  
314 Ms. Trebellas: Then I have issues because they're already asking for reduction from the 100' setback and  
315 part of that reduction is a tree screen, so if something happens to those trees and the Association does not  
316 maintain them, it is unfair to the....

317  
318 Mr. Duell: That's what I said, the Association needs to enforce it; I'm not sure we've done anything  
319 beyond that.

320  
321 Mr. McCarthy: We have to pull the Sanctuary text; that's the last one I recall, and the residents raised a  
322 clump of trees and over objection, it was put in with preservation rather than a classified open space but  
323 that was their decision, so as far as maintaining, Jack, what do you think?

324  
325 Mr. Reynolds: Our desire would be to replace trees if they died or something along that line. I don't  
326 know how we do that in the condo documents; simply put in if a tree dies, it will be replaced during the  
327 next growing season? I've run into problems where they've asked us to put in trees in the middle of the  
328 winter and that's not possible but you can't control when a tree dies, but I don't disagree that we would  
329 want to replace. But you can't replace a 7' tree automatically but our desire would be to get a tree in  
330 there to get growing so that you could get the canopy once again.

331  
332 Ms. Myers: I think that would be agreeable, to add to the condo documents.

333  
334 Ms. Trebellas: My concern is if it's part of the Condo Association and if the Condo Association decides  
335 they don't want the expense of maintaining these trees, they could just change those condo documents  
336 and all of a sudden that tree screen is gone. Is that correct?

337  
338 Mr. McCarthy: Yes, but it's not the zoning, and the Township has taken a steadfast position, we're not  
339 getting into the condo document enforcement. So if it's in the condo documents, that's private among the  
340 unit owners. As far as what size tree you're replacing, from my experience, if you have sassafras, you're  
341 going to have a bunch of little sassafras everywhere. You can get into quite a discussion. You could say  
342 a 25' strip shall be preserved and maintained within that area, but even then, what's maintained is a  
343 difficult thing unless you're going to get very specific.

344  
345 Ms. Ault: And if a tornado came and knocked out that whole strip, then it's gone.

346  
347 Ms. Trebellas: But again, since they're asking for reduction from the 100' setback for the tree screening  
348 and if there's no way to protect that tree screen...

349  
350 Mr. Mierau: It is our intention to protect the tree screening.

351  
352 Ms. Trebellas: That but something could happen where someone else could assume this project. And  
353 also like I said, the Condo Association, if they decide in the future they don't want to maintain it....

354

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355 Mr. Duell: We'll just add the tree preserve will be maintained and leave it. What I don't want to set up is  
356 a situation where Jeff and Michele become tree police.

357 Mr. McCarthy: You're not going to enforce the condo documents and if it's not being put in the zoning,  
358 it needs to exist somewhere if you're going to have anything. If this is more trouble than it's worth, Jack,  
359 that's your business but if it was a private agreement between the Condo Association and the owners and  
360 developer, whatever terms you work out between you, that way it can be enforced outside the zoning  
361 process.

362  
363 Mr. Reynolds: I think that would be appropriate.

364  
365 Ms. Hunt: That sounds fine and if that's agreeable to you all, we'll get that drawn up and submit that to  
366 you.

367  
368 Ms. Myers: Yes.

369  
370 Mr. McCarthy: The only thing I would say to all parties is please have that done before we're done with  
371 the zoning.

372  
373 Ms. Trebellas: Would it be included as part of the....

374  
375 Mr. McCarthy: I guess you could add it, but, again, just indicate that it's not going to be enforced by the  
376 Township.

377  
378 Mr. Reynolds: No, you don't enforce it.

379  
380 Ms. Myers: Could that agreement be part of the zoning?

381  
382 Mr. McCarthy: It could be in the file but I wouldn't make it part of the zoning.

383  
384 Cindy Dougherty, 330 Whistling Way Drive, I'm on the Board with Ms. Myers, on 2 exhibits, C and D,  
385 there is a notation for tree preserve, but tree preserve is not defined anywhere in the documentation. We  
386 would feel better if they would just define it, explain to us that trees will be saved as much as possible and  
387 if they die, then we will be ok with an agreement between the developer and the Condo Association.

388  
389 Mr. McCarthy: If they present your association with an agreement saying what you said, you would feel  
390 better?

391  
392 Ms. Dougherty: As long as in addition to that they defined tree preserve...

393  
394 Mr. McCarthy: You would do that in your contract.

395  
396 Ms. Dougherty: We're asking them to describe in their documentation.

397  
398 Ms. Ault: In our binder.

399  
400 Ms. Trebellas: In our binder because it's listed here as a tree preserve but it's not defined.

401  
402 Mr. McCarthy: On Page 16, 25' at the southern end used to preserve the existing trees within that area.  
403 Noxious and dead trees and brush may be removed and orange fence; that's the definition you've got  
404 right now.

405



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406 Mr. Duell: That's consistent with everything we've done previously with tree preserves.

407

408 Ms. Dougherty: What we want is about the replacement.

409

410 Mr. Duell: That would be an agreement between you and them.

411

412 Mr. McCarthy: Let me read this definition and I don't know if it's going to work or not. "Unmaintained  
413 passive open space means undeveloped open space area which functions to preserve a site's natural  
414 amenities and provide a cover for wildlife and preserve scenic views, jurisdictional wetlands, flood plains,  
415 or ravines. Unmaintained passive open space shall be restricted in perpetuity from development with  
416 building structures or uses and shall be preserved in its natural state. Within such areas designated as  
417 open space, natural resources shall remain undisturbed and no top soil, clay, sand, gravel, rock or mineral  
418 shall be excavated or removed therefrom and nothing shall be permitted to occur thereon which would  
419 contribute to the erosion of the land and no trees or vegetation shall be cut or removed therefrom except  
420 such dead, diseased or decayed trees or vegetation as may be required for conservation, scenic purposes  
421 or for reasons of public safety. No private encroachment, no dumping, no hunting, no roadways". I don't  
422 see anything in here that there's any requirement; it's simply you maintain it and it does whatever it does.  
423 It is used in our residential areas and I don't know it adds anything to what Jack had in there or not but  
424 again, it's not getting into the replacement.

425

426 Mr. Duell: If anything it would read against going in and replacing anything.

427

428 Mr. McCarthy: It would also be you don't cut the volunteers that show up. If they naturally grow there,  
429 fine, but if they don't naturally grow there....

430

431 Mr. Duell: So say tree preserve that it will be maintained?

432

433 Mr. McCarthy: Or unmaintained; that's kind of the question.

434

435 Ms. Trebellas: The tree preserve would have to be maintained because if it were unmaintained, it would  
436 imply there is no replacement.

437

438 Mr. McCarthy: There's no artificial replacement. If it's maintained in a natural state, trees grow. Being  
439 maintained is manicured basically.

440

441 Ms. Trebellas: Ms. Ault brought up if there's a tornado or a fire or something and they're all taken out,  
442 yes, but it would take a while for nature to re-grow itself.

443

444 Mr. McCarthy: That's the discussion you're having, is the Township getting into a position of policing  
445 individual trees. You heard the definition, it's not saying we're going to make you do anything outside of  
446 maintaining it.

447

448 Mr. Duell: I still say tree preserve and will have the agreement between the parties that when one comes  
449 down, something else goes up....

450

451 Ms. Trebellas: Or if a tree of a certain size comes down, replace it.

452

453 Mr. Duell: You can't replace a big tall one with the same size.

454

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455 Ms. Trebellas: But by the same token, if a little shrub comes down, I don't think it's necessary to replace  
456 it immediately. Trees of a certain caliper would have to be replaced with a tree of another caliper,  
457 hardwood with hardwood.

458  
459 Mr. Duell: I don't want to put Michele in a position where she is out measuring.  
460

461 Ms. Trebellas: But I want something if the tree preserve is what is willing to get the neighborhood to  
462 avoid the 100' setback they're supposed to have, I want to see something in there.

463  
464 Mr. Duell: It's to what they want; to their satisfaction, not necessarily ours.  
465

466 Ms. Myer: Again that is one of our big things and they went right to the need with us and looked at it  
467 because they understood that's...

468  
469 Ms. Dougherty: An important part of the Township.  
470

471 Ms. Myer: Yes, and we were looking at how wonderful you were for doing that but we were looking at  
472 what happens 5 years from now when we've got a Board that wasn't part of this application and process,  
473 and we just want to make sure that somehow, some way it was a documented preserve and the intent there  
474 pretty much impressed us to say we would support this is remaining.

475  
476 Mr. McCarthy: Given the price point of your units, I assume your Association has an attorney.  
477

478 Ms. Myer: Yes.

479  
480 Mr. McCarthy: I suggest you talk with them and I'm sure you and Jack can work something out.  
481

482 Mr. Mireau: We're sure we can work with the neighbors pretty reasonably and we're willing to; let us  
483 work this out and handle it. However we've got to do it, we'll do it. We'll have a separate meeting with  
484 them and get it handled.

485  
486 Ms. Myers: With regard to the color scheme, looking at the application, you see the wide variety of  
487 colors. The intent has been indicated that you will be using the colors. It was explained to us that there is  
488 a difference between commercial grade color palettes versus the color palettes they had samples for us,  
489 but we didn't really see that color was specified so we were just trying to ensure that is that still your  
490 intent to use...

491  
492 Mr. Hunt: Yes.  
493

494 Ms. Ault: Is that like Pacific blue or coastal blue or flagstone?  
495

496 Ms. Hunt: There are a variety of colors on there that are used on their units and our intention is to make it  
497 match.

498  
499 Ms. Ault: I'm just looking at the colors that you provided...  
500

501 Ms. Hunt: Those are the different colors and we really haven't gotten into exactly picking out colors but  
502 we've agreed to match them as close as we can and we assure the residents of that.

503  
504 Ms. Ault: So somewhere within that range probably then?  
505

## Zoning Commission

506 Ms. Hunt: Yes.

507

508 Laura Jenkins, 232 Whistling Way Drive, we were wondering if something like that was specified in the  
509 zoning application because right now they have circled a lot of different colors, so it wasn't clear if they  
510 were really focused on trying to match our neighborhood.

511

512 Mr. McCarthy: The colors that are in the bubbles are the colors that would be permitted under this text.

513

514 Ms. Trebellas: Or it's something you could work out with them and if they want to agree that they're  
515 going to go with a certain blue-gray range, we do not require that but if you all can work that out and put  
516 it in...it's not like Michele is going to show up and say this isn't Sherwin Williams SW151.

517

518 Ms. Myer: We just weren't sure what was required and what wasn't required, so we just need  
519 clarifications, not that it necessarily has to be....

520

521 Ms. Jenkins: We saw some purples even, so we just wanted some clarification.

522

523 Mr. McCarthy: Right now, whatever's inside the box can be used.

524

525 Mr. Mierau: We'll match the Munsell color palette as best as we can to their HOA.

526

527 Mr. Reynolds: And that can be in our agreement.

528

529 Ms. Myer: I think we discussed the presence of 8 security cameras with 2 with license plate recognition  
530 software. That was to ease our mind about not having a fence.

531

532 Mr. Reynolds: We're going to put it in.

533

534 Mr. Duell: It's nothing we've ever put in a zoning text.

535

536 Mr. McCarthy: I don't even know if Jeff or Michele could tell if it's working or not.

537

538 Mr. Duell: That's a tough one to put in the zoning text. Even narrowing down the colors really tight is  
539 not something we've typically done. They've indicated their intention to do that; perhaps they will put  
540 that in writing to you, but if we start setting a precedent for something like that, it could become a zoning  
541 nightmare for us. We're trying to do a land use rather than the details. I would just say continue with the  
542 dialogue and they've indicated their intentions, so I don't think you'll have any problem with that.

543

544 Ms. Myer: It was indicated that it was going to be a dry basin if the engineer ok's it, and this is more of  
545 an FYI, we have 2 maintained ponds and the fountains are great, but we've also discovered muskrats, so  
546 if there could be some treatment of the ponds and for mosquitoes and such because when you have stuff  
547 around it, and we are talking less than 25' between us, so that would impact the neighbors.

548

549 Mr. Mierau: It's a dry basin, and we don't want your muskrats to be honest with you.

550

551 Ms. Dougherty: But there was new language in there saying...

552

553 Mr. Duell: There's language in there that there would be a fountain if it would become wet, but the plan  
554 says it's meant to be dry as of now.

555

556 Ms. Trebellas: I thought our stance was if it was wet, it has to have a fountain or be treated to prevent...

## Zoning Commission

557  
558 Mr. McCarthy: No, historically you've simply said if it's wet, put a fountain in. We've never gotten into  
559 treatment because then you're getting into treatment by who, is it environmentally safe, so we stayed  
560 away from that.

561  
562 Ms. Myer: In Article VII, it discusses the condo sale percentages relative to creating a Board. Is the  
563 percentage you provide just for the first 20 units or for all 40?

564  
565 Mr. Mierau: It will be the first 20 units then we'll have a Board.

566  
567 Ms. Myer: It also states in Section 14.6 b)9) about a proposed time schedule, but there is no time  
568 schedule.

569  
570 Mr. Duell: Typically we have put in to get a best guesstimate, but there's nothing we can do to force a  
571 specific time schedule. It's generally the market dictates what their schedule is.

572  
573 Ms. Myer: After our meeting we were inclined to endorse or be in support of your application.  
574 Obviously you understood the trees are a huge concern, so provided that we can get that stuff ironed out,  
575 and this is what was presented to our community is that you're using the architectural, and again, that was  
576 great that they lifted that so we were able to present to our community who was very much in support of  
577 what was happening, so we'd like to make sure that is memorialized one way or another...

578  
579 Mr. Duell: It would be my expectation that the quid pro quo here and that agreement, your support and  
580 their agreeing to do a, b and c, that would be the expectation that I would have looking at it from the  
581 outside.

582  
583 Ms. Trebellas: I noted the length of the lease had been adjusted to 1 year minimum and then with Board  
584 approval the leases will be renewed every year, is there a limitation as to how many units can be leased;  
585 was there ever negotiation for that?

586  
587 Ms. Myer: No, we're happy to see that.

588  
589 Ms. Trebellas: So that is not an issue with the Condo Association?

590  
591 Ms. Myer: No. The way they presented it to us, in a lot of ways we have the same goal, the longer  
592 someone is there, the better.

593  
594 Mr. Duell: Mr. McCarthy, how do you want to proceed? I'd hate to make them do another submittal.  
595 How many items do you have? The question is, do we make them do one more submittal to clean up  
596 what we talked about tonight or do we just do stipulations next time and send it to the Trustees? We're in  
597 the gray zone; it's not an easy call because doing a new submittal is costly.

598  
599 Mr. Reynolds: We would love to re-do it and send it to the Trustees.

600  
601 Ms. Trebellas: My big concerns are the material listing and identifying what materials go where, and  
602 having the consensus of the Condo Association of the tree preserve and all that stuff.

603  
604 Mr. Duell: The private agreement which they are to work out.

605  
606 Ms. Trebellas: I don't want to approve something unless that has been worked out.

607

## Zoning Commission

608 Ms. Hunt: I think everybody's goodwill and intention is to do an agreement that addresses the 3  
609 highlighted items that are listed here and we can approve it with those stipulations, but I think we'll be  
610 able to work it out.

611

612 Ms. Trebellas: I'm assuming you'll have that agreement before you go to the Trustees?

613

614 Mr. Reynolds: Hopefully we can bring it with us to the Trustees' meeting.

615

616 Mr. Duell: We'll prepare a motion that will list all the stipulations and it's going to say they're going to  
617 be complied with 100% or else it's a denial, and we'll do the motion next time. I don't want to make you  
618 go thru this again because we're basically in agreement with everything here; it's just a matter of making  
619 sure all t's are crossed and several i's are dotted.

620

621 Ms. Hunt: When you say denial, it makes me think we have to start all over.

622

623 Mr. Duell: No. That's just to make sure that you get everything done. There's a little risk running that but  
624 that saves you from doing another submittal. You seemed to have had a good discussion with the  
625 neighbors; we want to encourage that kind of thing because we don't want to hold you up any further.

626 Mr. McCarthy, how long do you think it will take to put that motion together?

627

628 Mr. McCarthy: With everything else going on, we'll shoot for August 31; if anything opens up, I'll get it  
629 sooner than that. The Commission can review them to make sure I've got everything right.

630

631 Mr. Duell: Then meet September 4? Then you'll have a chance to review everything and gives you a  
632 little time to work on your agreement with the neighbors.

633

### **MOTION TO RECESS APPLICATION #ZON-18-04**

634

635 Ms. Ault made a motion to recess Rezoning Application #ZON-18-04, Toy Box of Columbus, LLC, until  
636 Tuesday, September 4, 2018 at 7:00 p.m. at the Orange Township Hall; seconded by Ms. Trebellas.

637

638 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Ms. Ault-yes, Mr. McNulty-yes

639 Motion carried

640

641

### **MOTION TO SET THE NEXT SPECIAL MEETING FOR THE COMPREHENSIVE PLAN UPDATE**

642

643 Ms. Ault made a motion to set the next special meeting for the Comprehensive Plan Update for Tuesday,  
644 September 11, 2018 at 7:00 p.m. at Orange Township Hall; seconded by Ms. Trebellas.

645

646 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Ms. Ault-yes, Mr. McNulty-yes

647 Motion carried

648

649 Meeting adjourned at 8:25 p.m.

650 Minutes prepared by Cindy Davis, Zoning Secretary

651

652 On September 26, 2018, Mr. McNulty made a motion to approve the July 24, 2018 minutes of the Orange  
653 Township Zoning Commission for Rezoning Application #ZON-18-04, Toy Box of Columbus, LLC, with  
654 the following corrections:

655

- 656 • Line 97: the word "fibrous" should be changed to "fiber"

657

## Zoning Commission

- 659           • Line 442: the sentence should read: "... but it would take a while for nature to re-grow itself."  
660  
661       Seconded by Ms. Trebellas  
662  
663       Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Mr. Dove-abstain, Ms. Stenman-abstain, Mr.  
664       McNulty-yes  
665       Motion carried  
666