

# GENOA TOWNSHIP ZONING COMMISSION MEETING MINUTES

**DATE:** January 9, 2017  
**TIME:** 7:00 PM  
**LOCATION:** Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082  
**AGENDA ITEMS:** ZC 2016-07 Kroger, Final Development Plan Amendment, 1<sup>st</sup> meeting

## STAFF IN

**ATTENDANCE:** Joe Shafer, Director of Development and Zoning

## CALL TO ORDER

Connie Goodman called the meeting to order at 7:02 p.m.

## ROLL CALL

MEMBERS PRESENT		MEMBERS ABSENT
Sandra Faulkner	Jo McIntosh, Alt. (voting)	Mark Antonetz
Connie Goodman, Chair	Tara Paciorek, Alt.	
Bill Jackson, Vice Chair	Shawn Priebe	

## MINUTES

The Commission reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearing held on December 12, 2016. Typographical and grammatical corrections were made to pages 2 and 4.

**MOTION:** Bill Jackson moved to *approve the December 12, 2016 meeting minutes*, with the noted corrections.

Motion was seconded by Sandra Faulkner. Roll call: Sandra Faulkner, aye; Bill Jackson, aye; Jo McIntosh, aye; Shawn Priebe, aye; Connie Goodman, aye. Motion carried.

Per a previous suggestion, all 2016 minutes were audited to ensure approval and posting to the Genoa Township Website.

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## PUBLIC HEARING

Connie Goodman called the following hearing to order at 7:04 p.m.

**THE KROGER COMPANY, ON BEHALF OF REGENCY CENTER LP, REQUESTING FINAL DEVELOPMENT PLAN AMENDMENT APPROVAL TO CONSTRUCT AN APPROXIMATELY 1,410 SQUARE FOOT EXPANSION ONTO EXISTING OR APPROVED RETAIL SPACE ON 12.46 ACRES LOCATED AT 7345 STATE ROUTE 3 (KROGER), WESTERVILLE, OHIO 43082, CURRENTLY ZONED PLANNED COMMERCIAL-OFFICE DISTRICT (PCD) (ZC 2016-07).**

Connie Goodman stated that Kroger had asked for a continuance to the February 13, 2017, Zoning Commission meeting at which time they would present an updated application. As such, there will be no staff or applicant presentations this evening and public comments will be deferred to the February meeting. As always, comments can be sent to the Zoning Office at any time.

CONTINUANCE MOTION: Jo McIntosh moved to continue the public hearing until February at 13, 2017, in the Genoa Township Hall for the Final Development Plan Amendment proposed by The Kroger Company, on behalf of Regency Center LP, requesting approval of a Final Development Plan Amendment to construct an approximately 1,410 square foot expansion onto existing or approved retail space on 12.46 acres located at 7345 State Route 3, Westerville, Ohio 43082, currently zoned Planned Commercial-Office District (PCD) (ZC 2016-07). Additional materials will be due to the Genoa Township Development & Zoning Department by January 20, 2017, at 4:00 PM.

Motion was seconded by Bill Jackson. Roll call: Sandra Faulkner, aye; Bill Jackson, aye; Jo McIntosh, aye; Shawn Priebe, aye; Connie Goodman, aye. Motion carried.

Connie Goodman announced the hearing closed at 7:06 p.m.

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## OTHER BUSINESS/DISCUSSION

- **Article 18, Sign Standards**

Mr. Shafer gave a PowerPoint presentation about the *Reed v. Town of Gilbert (2015)* decision by the United States Supreme Court and its implications on the Township's sign regulations. Following the presentation, Ms. Goodman stated that this topic was of particular importance to the Trustees and that the Zoning Commission had been charged with addressing it this year. The Zoning Commission discussed possible implications that this case would have on the Township and how they would like to proceed with this matter. It was acknowledged that due to some of the uncertainty surrounding this decision that changes to the Resolution could potentially be fluid as subsequent challenges or future decisions may provide further clarification on some matters. Mr. Jackson advocated taking a step by step approach in addressing the sign code. Ms. Paciorek advocated for writing a sign code that will work for the Township and said that should future decisions cause need to change the code, or should we find that it isn't working, that we change it. The Zoning Commission agreed that Mr. Shafer would create a rough draft copy of a zoning amendment and that said draft would be provided to the Commission in early February to serve as a starting point for future discussions on this topic at the February 13, 2017, meeting.

- **Public Records Retention**

Ms. Goodman asked Mr. Shafer for clarification on what records the Zoning Commission members were required to retain. Mr. Shafer stated the Township has a records retention schedule and clarified that the Commission is usually not the keeper of the official record as that job falls upon the Zoning Office. He further noted that material received by the Commission is typically a copy, not the actual record itself, and thus is not subject to the retention schedule. Mr. Shafer also stated that, generally speaking, correspondence and notes that were older than one (1) year and no longer of any administrative value could be disposed of per the retention schedule. Ms. Faulkner expressed that her understanding ~~that~~ was that any notes taken by a Commission member are subject to a public records request until the time in which such notes are disposed of in accordance with the retention schedule. She recommended Commission members keep notes for at least a year after a decision is made in case an appeal is filed. She further clarified that she tends to keep her notes and e-mails longer than is required but acknowledged that records that she has kept that she is no longer legally required to retain would have to be produced should a public records request be submitted. Mr. Shafer said it is really up to each individual Commission member to decide how long beyond the required retention schedule they wish to keep records and affirmed Ms. Faulkner's statement that anything that is kept would need to be produced should a public records request be submitted.

He also stated that he would provide copy of the Township's retention schedule to each commission member for reference and noted that should members have any questions about the schedule, they could contact him.

- **Freeman Road Zoning**

Mr. Shafer provided a memorandum with attachments (dated January 9, 2017) to the Zoning Commission in regards to the zoning history of certain properties along the northern side of Freeman Road, west of State Route 3 and along the eastern side of Worthington Road, between Big Walnut Road and Freeman Road. The memorandum particularly discussed nine (9) properties which currently contain two different zoning districts (aka dual zoning) along Freeman Road.

Ms. Faulkner asked for agreement that the original intent of re-zoning certain properties back in 2011 and 2012 which was to bring properties of less than two (2) acres into compliance with the Zoning Resolution's minimum acreage requirements for Suburban Residential districts. Mr. Shafer agreed and speculated that there was desire and intention to re-zone all non-planned residential properties of less than two (2) acres in Planning Area One (1) to Suburban Residential (SR). It was noted that not all properties originally intended for re-zoning were re-zoned and that the reason for not doing so was due to feedback received by the Commission from property owners. Those properties that were re-zoned were not required to pay the application fee.

Ms. Faulkner asked Mr. Shafer why he felt that this issue needed to be re-examined given that it was looked at five (5) years ago. Mr. Shafer responded that the impetus for this discussion dated back several months when he received a call from a resident asking about zoning restrictions on property he (the resident) had just purchased on Freeman Road. Mr. Shafer further explained that in looking up the zoning of the property he observed the dual zoning classifications and consulted with the County Prosecutor's Office. Mr. Shafer stated that the Prosecutor's Office recommended re-zoning the properties that were dual zoned as there was nothing in the Ohio Revised Code that permitted properties to be dual zoned nor did any known precedent exist within case law. Mr. Shafer noted that dual zoning of a single parcel makes it difficult for staff to administer the Zoning Resolution as it is unclear which regulations should be followed.

Ms. Faulkner asked how the Zoning office was currently administering zoning for these properties and Mr. Shafer responded that the portions of the subject parcels in the Rural Residential district were held to the Rural Residential zoning standards while the other portions of the subject parcels in the Suburban Residential district were held to those standards. Mr. Shafer expressed that the aforementioned solution was not a permanent solution as it would not address a scenario in which a resident proposed an improvement that straddled both districts. Mr. Shafer also noted that residents who may want clarification on the zoning of their property would have to submit an application to the Board of Zoning Appeals for a final determination and that the \$600 cost for this application was non-refundable. Mr. Shafer expressed that he was concerned that, under this scenario, residents could potentially become upset that they had to pay money to address an issue that was within the power of the Township to proactively correct.

Ms. Faulkner asked Mr. Shafer if the Commission had the power to "down zone" Suburban Residential properties to Rural Residential. Mr. Shafer responded that he didn't think that the Commission was prohibited from doing so but it would probably be difficult and wasn't advised. Ms. Faulkner replied with that being the case, the Commission really only has two options to consider, leave the zoning of the subject properties as is or re-zone them to Suburban Residential. Mr. Shafer affirmed this statement.

Ms. Faulkner stated that when this issue was previously considered that some residents expressed concerns about property tax increases. Ms. Faulkner implied that she did not feel like the opinion of the Delaware Regional Planning Commission in regards to how zoning affects property valuation was sufficient to answer these questions and expressed significant reservations about re-zoning properties without knowing the implications it could have on property owner's taxes. She continued that she was not a fan of fixing or "cleaning up" the zoning map at the expense of residents. Ms. Faulkner suggested that the Auditor's office be contacted directly for more information. Mr. Shafer responded that he would do so. Ms. Faulkner also suggested that a comparison of property values between 2011 and today for properties that had been re-zoned be completed to see if there had been any increase in valuation following the 2012 re-zonings.

Mr. Shafer suggested that, should the Commission opt to not move forward with correcting the dual zoning situation; the Commission consider amending the Zoning Resolution to at least provide clarification for staff on how to determine which zoning standards apply on a property that is dual zoned so that residents would not have to file an application with the Board of Zoning Appeals. Ms. Faulkner replied that she thought that could be a good compromise.

Mr. Jackson noted that the last time this issue was examined that there were residents who didn't care what happened to their taxes and that they just wanted the government to leave them alone, despite what the law or State of Ohio says.

Mr. Shafer stated he would reach out to the Auditor and perform a comparison of property valuations for properties that had been re-zoned back in 2012. A question was raised as to whether or not a new appraisal had been performed by the Auditor's office since 2011. Mr. Shafer responded that he would look into this matter. Mr. Shafer further stated that the memo contained a lot of information and he understood if the Zoning Commission preferred to take the memo home to further digest the information within it.

- **Trucano**

Ms. McIntosh noted that the developer of the Trucano tract was now pursuing a<sup>SR</sup> subdivision development and thought it was good alternative to what had originally been proposed. Ms. Faulkner agreed and thought it would be a good opportunity to see some different development in that location that would provide alternative options.

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**PUBLIC COMMENTS (GENERAL):** There was no general public comment.

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**NEXT MEETING(S):**

- Monday, February 13, 2017
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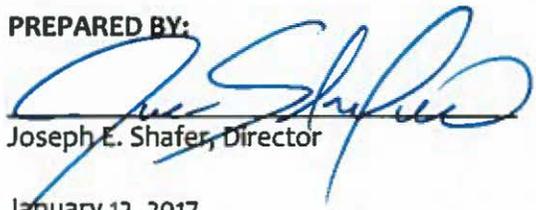
**ADJOURNMENT**

Sandra Faulkner moved to adjourn this meeting at 8:36 p.m. Motion was seconded by Bill Jackson. All voted yes. Motion carried.

Meeting was adjourned at 8:36 p.m.

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**PREPARED BY:**

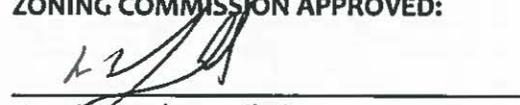


Joseph E. Shafer, Director

January 12, 2017

Date Prepared

**ZONING COMMISSION APPROVED:**



Connie Goodman, Chair

William Jackson, Vice-Chair

2/13/17

Date Approved by the Zoning Commission

OTHERS PRESENT AT MEETING	
Kenneth Davis	8343 Oxbow Road, Westerville, 43082

Audio of this meeting is available at [www.genoatwp.com](http://www.genoatwp.com).