

Held

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The Etna Township Board of Trustees met on August 23, 2005 in the Etna United Methodist Church, 500 Pike Street in Etna to hold a special meeting. The meeting was called to order at 6:45 p.m. by President Burkholder and the pledge of allegiance was recited.

Roll call showed Mrs. Siddens, Mr. George, President Burkholder and the clerk present.

ADOPTION OF THE AGENDA

Mr. George moved to adopt the agenda. Siddens seconded.

Roll Call: Siddens, yes; George, yes; Burkholder, yes.

President Burkholder read the public hearing procedures.

PUBLIC HEARING

A. Rezoning of 8941 Hazelton-Etna Road from Agriculture District (AG) to General Business District (GB)

At 7:00 p.m. Mr. George moved to open the public hearing on the rezoning request to rezone the back half of a 40.944 ± acre parcel at 8941 Hazelton-Etna Road from AG to GB. Siddens seconded.

Roll Call: Siddens, yes; George, yes; Burkholder, yes.

President Burkholder read the application, the non-binding recommendation from LCPC to approve the proposed zoning map amendment and the Etna Township Zoning Commission's recommendation to deny the zoning request from Agriculture (AG) to General Business (GB) by a 3-2 vote.

Mr. Scott Hayes, attorney for the applicant, Freda Langel, said the front portion of the property is already zoned General Business and there is no valid reason for denying the rezoning of the back portion from AG to GB. He said the Etna Township Zoning Commission ignored the Etna Township Land Use Plan and proceeded to read a portion of the plan. State Route 310 was intended to be developed as a well traveled road and is close proximity to US 40 and not far from I-70. The majority of the zoning commission relied on unsubstantiated comments on crime, emotional pleas from residents wanting peace and quiet, and preserving agricultural use in this location. The zoning commission thought by denying the request, that a certain user would not be able to locate on this property. The diagonal line splitting the property from AG to GB is incorrect and former maps show the line is parallel. Mr. Maynard, zoning inspector, in response to a question concerning using the AG adjacent land for parking, wrote an interpretation on July 20, 2005 that Section 1107 does not make a distinction as to whether a parking lot for commercial purposes has to be situated within a like zoning district boundary as the primary structure or use. The property owners feel that they can develop the property without the zoning change but believe it could be done in a more beneficial manner.

David Oakes, 1700 Lyons Road, Dayton, OH. said he was the civil engineer investigating the property. He wanted to place some businesses in the front of the property to soften the look of the box store in the rear which would face west. This would also be done for safety. The two different proposals were shown to the attendants.

Mr. Hayes said the zoning application submitted on August 22, 2005 was denied today because sufficient evidence was not provided for the water and sewage facilities. It is the trustees choice as to how the property will look.

Mr. George asked if the property would be developed regardless of the vote by the trustees to approve or deny the rezoning of the back portion. Mr. Hayes said yes. In response to Mr. George's question as to the name of the store owner, Mr. Oakes said they would like for the property to be zoned for use and not be prejudiced by a name. In response to President Burkholder's question, the size of the building is in the neighborhood of 203,000 sq ft.

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PUBLIC COMMENTS

There were no comments by adjacent property owners

Gary Martin, 255 Trail East, questioned why the name of the buyer could not be divulged. Mr. Hayes answered that the owner would not like to wave any recourse because of the assumed buyer. Zoning is about uses.

Debra Hobbs, 11751 Palmer Road, a 20 year resident was for the rezoning. The Langels have lived in this community longer than those residents in the two neighboring subdivisions and should have the choice to sell their property to whomever they wish. The two subdivisions are built off of a State Route and businesses wish to locate on such a road. The Langels are lifelong residents of the community and plan to continue to live here and would not want to ruin their community.

Betty Duncan, 8937 Hazelton-Etna Road, a lifelong resident of Etna Township was for the rezoning. She said more tax money needs to be brought into the community through businesses to help pay for all the extra children moving into the new subdivisions.

Judi Berry, 8525 Smoke Road, a long time resident said she was for the rezoning and listed the difficulty in maintaining a small farm today. She questioned why it was okay to purchase farm land for housing developments and not for commercial use. The Langel's assured residents that the big box store would not be given tax abatements so more money would flow into the community.

Kim Christman, 8625 Smoke Road, a 13 year resident was for the rezoning and said if the trustees voted for the rezoning, the construction could be done in a more pleasing and ascetic manner.

Vance Murphy, 183 Laurel Drive, was in favor of the rezoning and said by placing the store in the back, new businesses would be attracted to the area.

Jim Foor, 8561 Smoke Road, favored the rezoning and the placement of the store in the rear to alleviate traffic on SR 310, to attract more businesses on the front section and to bring in more tax money for the schools. Etna Township asked for businesses and they are here..

Kathy Johnston, 254 Trail East, is against the rezoning and said she loves to shop but does not think it is the right thing to put a big box store in a neighborhood. She bought a golf course lot in a golf course community, she did not buy SR 310. SR 310 should be developed with neighborhood friendly commercial development.

Sally Mellon, 10432 Palmer Road, is a 30 year resident who has seen a lot of changes and favors the rezoning so the building could be placed in the rear of the property.

Dick Knapp, 1081 Longwood Crossing Blvd, objects to the rezoning, said he visited many neighborhoods and heard an overwhelming response from residents that a mega store does not belong on SR 310. Concerns were voiced about safety. According to a study, there would be 750 to 850 cars in a one hour time in the evening for a mega store. The location of a store across from Cumberland Trails would be devastating to the resale and property values of those homes as well as to the homes in Cameron Chase. Crime in the area would increase. There are an average of 1 to 3 police calls per day at an average Wal-Mart. If Wal-Mart wants to come into the community and be a service, why are they trying to sneak in the back door. He encouraged the elected trustees to follow the recommendation of the zoning commission and to turn this zoning down.

Todd Sloan, 135 Purple Finch Loop, is against the rezoning and said that he has never been to a

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Wal-Mart, Target or Mejeir that does not have other businesses around it. Would one of these stores really come without being able to sell additional property. Wal-Mart should be located off Route 40. The threat that a mega store is coming regardless of the passage of the rezoning is not necessarily true, a smaller business would work there but not a Wal-Mart.

Bill Langel, 8941 Hazelton-Etna Road, is a lifelong resident and for the rezoning. Said he was not happy about the neighboring housing developments but did not oppose them. Times have changed. The buyer of the property is coming and the rezoning would allow for the best use of the site.

Linda Griffith, 1101 South Street, a 37 year resident is for the rezoning and said the township needs a tax structure and the Langels should be able to rezone the property.

Leora Conkle, 859 South Street, a 49 year resident is for the rezoning and said the schools are crowded from children in the new developments and commercial and retail businesses will help the schools with additional taxes and furnish jobs. Favors the building on the back of the property.

Sarah Foor, 8561 Smoke Road, a 30 year resident is for the rezoning and said this had been a farming community but many new housing developments have been built and commercial development follows people. Favors the location of the business in the rear.

Pam Hilgert, 86 Westview Drive, said her family has lived here 22 years and she favors the rezoning. Building the retail store in the rear would be aesthetically pleasing and conducive to a better and safer traffic flow. With growth comes change and Etna planned to have business on this piece of property.

Mike Hockman, 34 Runkle Drive, is against the rezoning and said his deck points at the planned Wal-Mart. Do not fall for the threats that the Wal-Mart will go in without the rezoning. The buyer knew up front that the back portion of the lot is not zoned GB and this is a back door approach. There are many more sites where Wal-Mart could locate.

Polly Snider, 9167 Hazelton-Etna Road, is a 60 year resident and said the Langel's have the right to sell their land and this is their retirement. She lives close to the property and felt that the increase in traffic may slow the speed of the cars on SR 310.

Jason Shirey, 206 Roma Drive, stated he was against the rezoning. He was a former employee of a big box store and said this type of retail store will not bring money into the community. Employees are not well paid, health insurance is not provided and many of these employees are dependent on government services. This type of retail establishment does not care about the community or the schools.

Rhoda Langel, 72 Wendell Road, is a 20 year resident and for the rezoning. Doesn't the property owner have the right to sell for the maximum profit as do the other home owners? Zoning is for uses and not for the company wishing to locate there. SR 310 is a designated truck route and was a truck route before the housing developments were built. With the present zoning, a bar could be on the front portion and a hog farm on the back portion. Believed the two housing developments were not part of the Etna Township Comprehensive Plan at that time.

Bart Weiler, 126 Runkle Drive, said he was speaking on behalf the Pataskala Area Chamber of Commerce as their president and the mission of the Chamber is to support economic development in southwestern Licking County. The rezoning of the Langel property would be a great asset to Etna Township and Pataskala. area. According to a study by MORPC, 19,500 people will move into Licking County in the next 10 years. SR 310 is the next interchange on I-70 to be developed. As a resident of Cumberland Trails, speed bumps are needed to thwart cut through traffic and reduce the speed. Residents move here because it is a cheap place to live and

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then spend their money in other communities to help them build better schools and a stronger community.

Barb Langel, 8941 Hazelton-Etna Road, is a 32 year resident and has seen a great deal of change. Her family has been in this community for over a 100 years and farming is hard work. Their property is their retirement. It is the hope of the entire Langel family to have the property developed in the most aesthetically and pleasing way that would benefit the Etna Township community. Opposing the rezoning will not stop the proposed development of the property.

Kimberly Dufault, 19 Milkweed Place, is a 5 year resident and opposed to the rezoning. The length of time a person has been a resident here should not matter, they pay taxes like everyone else. Trustees should consider all the cut through traffic on Trail East; the increase in traffic; the number of 18 wheelers; safety for the children; the crime issue and increased expenses for the fire department and the sheriff's office. She is for development and thinks there is a better location for this retail store.

Karl Amstutz, 11 Milkweed Place, said he was adamantly opposed to changing the zoning and opposed to a big box store across the road. This store could be placed in another area of the township. The township does not have a municipal police force so the county sheriff would have to respond and questioned how fast they could respond to any crime scene. A big box store should not be placed in a residential community.

Neil Ingle, 71 Trail East, said he was born here 70 years ago and that fact does not mean anything. He is chairman of the Etna Township Development Committee and the township needs businesses. Location is as important as the company wanting to develop. The Pataskala Area Chamber of Commerce has not been involved in bringing commerce and business into Etna Township. The 30,000 cars from Cumberland Trails and SR 310 has not been addressed. SR 310 is already over crowded. The retail store belongs on US 40 and there is land available. The only reason SR 310 was chosen is because the land is cheaper.

Teana Vickroy, 10414 York Road, said she has been part of the community for several years as a teacher. Students need a retail store in which to work, pay taxes to the community, learn responsibility and how to manage money. This rezoning needs to be looked at in a nurturing way.

Emily Langel, 72 Wendell Road read a letter from Peggy Meade Jude, 12 W. Woodstone Court. Ms. Jude wrote that as a nearly 45 year resident she has seen many changes over the years. She would have preferred the small community we once were. She is for the rezoning and sees this as an opportunity to move forward, to provide a tax base for the community and school and to provide job opportunities. By rezoning the rear portion, it would make the property appearance more pleasing and improve the traffic flow.

John Kennard, 10785 Palmer Road, said he was for the rezoning and that it appears to be recommended by LCPC. The jobs and the income is a good thing.

Dan Brown, 150 Cameron Drive, questioned if the big box store meets the requirements of the neighborhood. Would there be a buffer zone for the residents in Cameron Chase. Does not think this is the best location.

Dee Dunlop, 970 Columbus Street, said she absolutely opposes this rezoning. The Langel family does not live on her road, they live on Smoke Road, Palmer Road and all around but do not live on her corner. They do not see the semi traffic and with a box store it will become worse. She is not opposed to a retail store, just not at the proposed location on SR 310.

Trent Thurston, 3614 Headley Mills Road, said he is an adjacent landowner across the street and believes that growth and development is inevitable on SR 310. Where people move, commercial

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development follows. SR 310 basically from I-70 to the north line of Cumberland Trails has been zoned commercial for approximately 15 to 25 years. The zoning was in place before Cumberland Trails as well as other residential areas were developed. Commercial development in this area should not be a surprise to anyone. ODOT is aware of the problem and plans to widen SR 310.

Brad Hilgert, 86 Westview Drive, a lifelong (20yr) resident said he was for the rezoning and the retail store will be built even if the rezoning of the back portion is denied.

Kelley Coleman, 1190 Pike Street, said she for the rezoning; the retail store should be in the back and done right. She thinks the company would deal with traffic issues because if they do not, people will not want to shop there.

Susan Conkle, 10574 Palmer Road, said she thought the zoning commission denied the rezoning because they hoped the buyer would move somewhere else. As a community member, she feels it would be more attractive to have the building sitting on the back portion of the property.

Doug Thompson, 42 Wrens Nest Court, asked the board if they expect the community to accept this big box as a "pig in a poke". The community wants to know who the retailer is. Be honest and bring the name forward.

Kristopher Haley, 225 Purple Finch Loop, said his family have been long time residents. He had a problem with his alarm system and it took 25 minutes for the sheriff to respond.. If the community has a problem with the big box store, who will respond. The fire department is already stretched to the limit.

Mary Cambell, 136 Pebble Creek Drive, said she was for the rezoning. Opposing the rezoning will not stop the development. The opposition is primarily from new residents who did not check the zoning or they would have known that this property was zoned General Business. A retail store is much cleaner than a pig farm. There are other eyesore on SR 310 in the vicinity. There is an increase in traffic on Refugee Road with the development of Cameron Chase and Cumberland Trails and this road needs to be dealt with.

Donna Amstutz, 11 Milkweed Place, a 5-6 year resident is opposed to the rezoning. Doesn't think speed bumps in Cumberland Trails will work. There must have been a reason why the back portion was zoned agriculture. Maybe it was because the intention was not for a large commercial tract. Does not think the placement of the store in the back would improve the flow of traffic. She is not against a box store but it should not be placed on this property across from a golf course community.

Mike Gullip, 284 Trail East, thanked the Wal-Mart planning commission for their slick and smooth manipulation of the plans. He is against the rezoning.

George Gordon, 15 Milkweed Place, said he was against the rezoning for all the reasons already stated. The zoning commission has already made a recommendation to deny the rezoning and the Board should also deny the rezoning. Does not believe that Wal-Mart will build without the rezoning of the back portion because there would not be additional businesses on the lot.

Michele Habig, 10 Orchard Glen, said she was opposed to the rezoning and questioned if traffic studies had been done. She would prefer professional offices or small retail on the site.

Beth Ann Langel, 8941 Hazelton-Etna Road, said when she was a child, she used to pick apples in the apple orchard across the street which is now Cumberland Trails. Her family has been effected by the new housing developments in the area and wants the property rezoned.

Matt Langel, 8941 Hazelton-Etna Road, is for the rezoning, asked how the back portion could be

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kept agriculture when the front half is commercial.

TRUSTEE COMMENTS

Paul George said he was concerned because he does not know who the developer will be. The increased traffic on SR 310 will be there even if the property is rezoned. The front portion of the property is already zoned GB and he would have liked to have seen a plan to know what the project would look like.

Rachael Siddens said SR 310 is a minor arterial road, maintained by ODOT, the state of Ohio, not by the township. Second, US Route 40 is a federally funded limited access highway. There are limited things that can go on US 40. She can not approve or disapprove any request for rezoning based on the user, only the intended use. The zoning department requires the user to follow the intended use specifically and accurately. It is the duty of the Board to see that all requirements are met and to approve the use of the land as stated. If the Board denies the request, plan B will be built

David Oakes, engineer with CESO, said a traffic impact study has been done and is presently being reviewed by ODOT. Roadway improvements on SR 310 would need to be made so as not to impact traffic . Residential traffic from the developments impacts the traffic at the peak hours in the AM and PM and should be taken into consideration.

Scott Hayes said LCPC gave reasons for their approval of the rezoning but the township zoning commission did not give reasons for their denial. There will not be a tax abatement and he does not believe the buyer is bluffing and will build on the front portion of the property.

At 9:07 p.m., Mrs. Siddens moved to close the public hearing. George seconded.
Roll Call: Siddens, yes; George, yes; Burkholder, yes.

Mrs. Siddens moved to deny the recommendation of the Etna Township Zoning Commission concerning application #05060703 to deny the rezoning request from Agriculture to General Business District concerning 8941 Hazelton-Etna Road, Pataskala. George seconded.

Roll Call: Siddens, yes; George, no; Burkholder, no.

President Burkholder said the motion failed and the recommendation from the Etna Township Zoning Commission stands which is to deny the rezoning.

At 9:10 p.m., Mr. George moved for a 10 minute recess. Burkholder seconded and the vote in favor was unanimous.

C. Rezoning of 9038 Hazelton-Etna Road from General Business (GB) to Professional-Research-Office (PRO).

At 9:20 p.m., Mrs. Siddens moved to open the public hearing to consider the request to rezone 9038 Hazelton-Etna Road from General Business (GB) to Professional-Research-Office (PRO). George seconded.

Roll Call: Siddens, yes; George, yes; Burkholder, yes.

President Burkholder read the application, #05062003, by W. Scott Hayes, attorney for the Pataskala Banking Company and the non-binding recommendation from LCPC for approval. At the 7/25/05 LCPC meeting, the basis of the recommendation was amended to include Item #6- Access will be gained from Trails East. On August 3, 2005, the Etna Township Zoning Commission voted 5-0 to recommend to the Board of Trustees to approve the rezoning request from GB to PRO on the first five items recommended form LCPC as follows:

- 1) The parcel is of adequate size to meet the zoning requirements of the PRO District.
- 2) The parcel has adequate access to roadways.

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- 3) Sewer and water facilities service the parcel.
- 4) The parcel meets the Etna Township Zoning requirements
- 5) The proposed rezoning is in compliance with the Etna Township Comprehensive Plan.

Mr. Scott Hayes said the Pataskala Banking Company initially wants to place an ATM on the site, a drive through use. The property owner does not have access to Trail East.

Mr. George asked if the owner planned to ask for access to Trail East. Mr. Hayes replied that they were not asking for access at this time.

PUBLIC COMMENTS

Mike Hockman, 34 Runkle Drive, an adjacent property owner, said his deck is 30 feet from the property line and is opposed to any rezoning. He is concerned about the taking of his green space for an access road and the decline in his property value.

Jim Painter, 42 Runkle Drive, an adjacent property owner, said he was concerned about the green space and 100 year old oak trees.

Kimberly Dufault, 19 Milkweed Place, said she is for the rezoning because it limits the type of business that can go in there and will protect the property values.

TRUSTEE COMMENTS

Paul George said with the GB zoning in place, there could be a bar located there and PRO zoning would protect the neighborhood better than GB zoning.

Mrs. Siddens said she agreed with Mr. George's comments.

President Burkholder said he was not opposed to the changing of the zoning to PRO but has deep concerns about the LCPC recommendation of access to Trail East. He wants assurance from LCPC that they will not run an access road onto Trail East. He advised the Board and the public that once the rezoning goes through, it has been the opinion of LCPC as well as the Licking County Prosecutor that the township will have no authority to determine where the access road will go but the township could take legal action. He is concerned that once the rezoning goes through, LCPC will grant access onto Trail East and the proper access is to SR 310.

Mr. George said that at the LCPC meeting last night, he informed LCPC that they were not adhering to the county regulations, which they wrote, and that the trustees would not adhere to things that Licking County has signed off on and not approved by Etna Township.

President Burkholder expressed dismay that LCPC added the recommendation for the access road at the last minute and when it was not requested by the applicant.

Mr. Hayes said the applicant did not request access to Trail East but as a business decision they may want access in the future.

President Burkholder moved to recess the public hearing until the next regular meeting and to reconvene the public hearing at 7:15 p.m. to give the trustees the opportunity to get some assurance relative to the access. No second to the motion.

At 9:35 p.m., President Burkholder moved to close the public hearing. George seconded. Roll Call: Siddens, yes; George, yes; Burkholder, yes.

Resolution 05-08-23-01: Mrs. Siddens moved to accept the recommendation of the Etna Township Zoning Commission concerning application #05062003 to approve the rezoning request from General Business District (GB) to Professional-Research-Office District (PRO) on

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the first five items recommended from LCPC as follows:

- 1) The parcel is of adequate size to meet the zoning requirements of the PRO District.
 - 2) The parcel has adequate access to roadways.
 - 3) Sewer and water facilities service the parcel.
 - 4) The parcel meets the Etna Township Zoning requirements
 - 5) The proposed rezoning is in compliance with the Etna Township Comprehensive Plan.
- George seconded.

Discussion: President Burkholder said he was not opposed to the rezoning but would like to remind the Board, as well as the public, that the LCPC recommendation is a non-binding recommendation and he agrees with the first five items but is still concerned about the access. He would like more time to check with legal counsel as to options regarding access onto Trail East and would like to have the answer before the Board voted.

Mr. George said the township has full authority over PUD's and that includes the green space.

President Burkholder said he would like to remind the Board that the township has been unsuccessful in the past regarding green space in the PUD's

Roll Call: Siddens, yes; George, yes; Burkholder, no.

Resolution 05-08-23-02: Mr. George moved to approve road right-of-way permit #08-23-05-01 for Spring Flower Lane, Conie Construction, for street repair. Siddens seconded.

Roll Call: Siddens, yes; George, yes; Burkholder, yes.

Resolution 05-08-23-03: Mr. George moved to approve road right-of-way permit #08-16-05-04 for Columbia Road at the second entrance to Cumberland Links Apartments, contractor is Chemcote. Siddens seconded.

Roll Call: Siddens, yes; George, yes; Burkholder, yes.

At 9:45 p.m., Mr. George moved to adjourn the meeting. Burkholder seconded. The vote in favor was unanimous.


Clerk


President