

Chester Township Zoning Commission Meeting Minutes

| Wednesday, June 1, 2022 7:00 PM |

Meeting Called to Order by Mr. Oswick at: 7:00 pm

Roll Call

Members present: Mr. Chess, Mr. Kats, Mr. Lauro, Mr. Nastasi, Mr. Oswick, Mr. Peto

Members absent:

Admin present: Ms. McCarthy

Pledge of Allegiance

Mr. Oswick led the Committee in reciting the Pledge of Allegiance.

Mr. Nastasi gave the audience members an overview of the responsibilities of the Zoning Commission and the Board of Trustees when a Zoning Amendment is submitted. He also let the audience members know that the Zoning Commission members have not yet been able to discuss as a group the proposed amendment regarding Congregate Care.

Item 1. Motions to 1) Set the Date for a Public Hearing; 2) Public Notice; and 3) Transmit the Proposed Amendment to the County Planning Commission for Zoning Amendment ZC-2022-3 – Caves Rd. LLC

- Mr. Oswick read the following motion – Form No. 27

“That the Chester Township Zoning Commission conduct a public hearing on the proposed amendment, identified as number ZC-2022-3, to the Chester Township Zoning Resolution as attached hereto on the 6th day of July, 2022 at 7:00 o'clock p.m. at the West Geauga Middle School Cafeteria located at 8611 Cedar Road; Chesterland, OH.”

Moved by Mr. Nastasi; Seconded by Mr. Kats

Mr. Chess/yes; Mr. Kats/yes; Mr. Lauro/yes; Mr. Nastasi/yes; Mr. Oswick/yes

Motion passed

- Mr. Oswick read the following motion – Form No. 28

“Move to approve public noticing the public hearing for ZC-2022-3 of the Chester Township Zoning Resolution in the Legal Notices of the Geauga County Maple Leaf print edition June 16, 2022 and in the Chesterland News print edition on June 23, 2022 and to have the amendment available for public examination at the Chester Town Hall from 9:00 a.m. to 3:00 p.m. from June 6, 2022 through July 6th, 2022.”

Moved by Mr. Chess; Seconded by Mr. Lauro

Mr. Chess/yes; Mr. Kats/yes; Mr. Lauro/yes; Mr. Nastasi/yes; Mr. Oswick/yes

Motion passed

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- Move to adopt the following motion – Form No. 30

“The Chester Township Zoning Commission hereby submits the attached copy of the application for a proposed amendment, identified as number ZC-2022-3, to the Chester Township Zoning Resolution together with the attached text pertaining thereto to the Geauga County Planning Commission this 1st day of June, 2022.

Moved by Mr. Nastasi; Seconded by Mr. Lauro

Mr. Chess/yes; Mr. Kats/yes; Mr. Lauro/yes; Mr. Nastasi/yes; Mr. Oswick/yes

Motion passed

Item 2. Preliminary discussion of Congregate Care proposed amendment

- The proposed amendment for ZC-2022-3 was displayed on the monitor.
- Ms. Cotman asked when the check for the application was submitted and informed the group about the timeline that needs to be followed. Ms. McCarthy reviewed the solution agreed to by the Township and the applicant and the agreed upon timeline – beginning with a July 6, 2022 Public Hearing date.
- Mr. Nastasi reviewed that this submittal is a conditional use for the entire “C” Commercial district. He then reviewed the text changes submitted.

Below will be added to section 2.02.0 WORDS AND TERMS DEFINED

- CONGREGATE CARE FACILITY means a Nursing Home, Residential Care Facility or other similar facility that provides accommodations, supervision, personal care services and/or skilled nursing care for individuals who are dependent on such services by reason of age or physical or mental impairment. See also “Nursing Home” and “Residential Care Facility.”
- NURSING HOME means a facility licensed by the Ohio Department of Health for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care. See also “Congregate Care Facility.”
- RESIDENTIAL CARE FACILITY means a facility licensed by the Ohio Department of Health to provide accommodations, supervision and/or personal care services to individuals who are dependent on such services by reason of age or physical or mental impairment. See also “Congregate Care Facility.”

Below will be added to section 5.02.16 CONDITIONAL BUILDINGS, STRUCTURES AND USES

- D. Congregate Care Facility

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Below will be added as a new section 6.07.04

- CONGREGATE CARE FACILITIES. Subject to the provisions of Article 6, Congregate Care Facilities may be permitted by the board of zoning appeals as a conditional use in the General Commercial District with the following conditions.
 - A. MINIMUM LOT AREA. The minimum lot size for a Congregate Care Facility shall be ten (10) acres.
 - B. SEWERS. The facility shall be connected to an existing sanitary sewer subject to direct control of the Geauga County Department of Water Resources and located on a lot or lots included for sewer service in accordance with the currently Northeast Ohio 208 Water Quality Management Plan and Geauga County/Chester Township Plan for Wastewater Treatment.
 - C. PARKING. Notwithstanding any provision to the contrary, the minimum required parking spaces for a Congregate Care Facility shall be one (1) space per two (2) resident beds plus one (1) space per three (3) employees.
 - D. DRIVES. Applicant shall install concrete or asphalt access to at least three (3) sides of the facility to provide accessibility for emergency services.
 - E. LIGHTING. Applicant shall submit a proposed lighting plan that reduces, to the extent reasonably feasible, light leaving the site while still adequately illuminating the site.
 - F. NUMBER OF BEDS. The number of resident beds in the facility shall not exceed one and one-half (1.5) times the number of resident rooms.
 - G. LICENSURE. Proof of licensure by the Ohio Department of Health shall be submitted to the Zoning Inspector.
 - H. STAFFING. Applicant shall utilize on-site medical or nursing staff to assist in emergencies at the facility in order to reduce the number of emergency responses required by the Township or private emergency medical services.
 - I. LIFE SAFETY REVIEW. The plans for the facility shall be reviewed by the Township Fire Department in order to show compliance with applicable Ohio Administrative Code sections and applicable building, fire and life safety laws, rules and regulations.
 - J. OTHER REQUIREMENTS. The facility shall comply with all other zoning requirements imposed by the Resolution for the (C): General Commercial District.

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Public Comment and Questions

- Diane – Ambulances all night long, won't be able to find help, issues with sewer.
- Carol – What are the deed restrictions on property? Mr. Chess responded usually put on by the property owner.
- Mr. Dave Mitchell – Client put on deed restrictions that the property not be able to compete with any other properties that Mr. Basista owns.
- Cindy – Why amendment instead of a variance?
 - Mr. Mitchell answered there is a provision in the Chesterland Zoning Code that says, the Trustees or BZA can not grant a variance to allow a use that is not otherwise permitted in the Zoning Code.
 - Cindy concerned about facility is not needed in Chesterland. Many other sites facilities available nearby. Concerned about increased impact on EMT's.
- Cathy – challenged the fact that variances are not granted for items not specifically stated in Zoning Resolution. Says it is false. This would be an area variance and a use variance may be granted. West Geauga plaza is in the Commercial District. Drug Mart plaza is the only plaza in Chester zoning SC – Shopping Center.
- Paula – Munson Twp. paramedics go at least 3 times a day to Heather Hill. Concerned about water. How do we insure they truck in water? Tie into a sewer. How do we know the sewer system can accommodate the strain? Metzenbaum has residential care facility. Is that defined differently?
- Anonymous – Is this a 100-bed facility? No, 96-bed.
- Anonymous – How did Mr. Basista vote for this when township said no via questionnaire response?
 - Mr. Oswick explained the difference between a community survey and a questionnaire. The information from the survey is not being used in developing a response to the proposed amendment.
- Anonymous – Remember a variance goes into perpetuity. His well is 300 ft deep and poor flow on his property. I understand he (Basista-Caves Rd LLC) has proposed drilling two wells. Wants to keep community rural.
- Patty – Parking as stated does not appear to be enough. Believes a bus route will happen.
- Margaret – Need to show the community cannot sustain the proposed facility. Conditions as stated will become a permanent part of our Zoning Resolution. ZC needs to work with facts only, not emotions.
- Anonymous – Do you have to have a reason to deny this proposal.
- Fred – Concern about waterflow of septic runoff. Hockey Rink at that property found conditions not acceptable for soil. My well at Kings Automotive is 170 feet deep. At end of day, can't get four gallons of water to wash his truck.
- Steven – What is turn around time for nuisance complaint? (Not responsibility of Zoning Commission.)
- Anonymous - Is government funding involved in this in any way? Not sure.
- Mike – At what point is the county involved? Answer: Formal review scheduled for June 14, 2022. Why are there six people sitting at table? There are supposed to be five members. Finally, what are you doing – adding or changing an amendment? Answer: We are reviewing a proposed amendment.
- Anonymous – You'll need to add 2 – 3 fulltime EMT's.
- Anonymous – Look into fire suppression and the water draw. Also, what about the marsh on the property? Is that land being considered for building?

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- Cindy – Has the property owner applied for the Certificate of Need yet?
- Mr. Mitchell – Not able to at this point.
- Cathy – asked the group to request the Geauga County Planning Commission to hold their meeting at night instead of 7:30 a.m.
- Joe – Has the property already been purchased and is this a done deal? Has the Fire Dept been consulted?
- Mr. Mitchell – This is the very beginning of the process. I represent the owner. It is a condition of the purchase that the property gets zoning approval first.
- Anonymous – Concern about water. There will be at least 70 parking spaces. What will be the effect of ground water runoff?
- Penny – Helpful to write Trustees to hear from us? Yes, please add ZC to those emails also.
- Cathy – What is a Congregate Care facility? The Nursing Home definition and Residential Care Facility do not follow the ORC. I have produced a 9-page document of concerns with this amendment. Offered it to the ZC members who all accepted a copy and the electronic copy is attached to these minutes.
- Anonymous – Do we allow 24-hour businesses in commercial district? No one knew, but the Shell Station is open 24-hours a day.
- Anonymous – What is tax revenue generated by this facility?
- Anonymous – Issue on cell tower height? Answer: That is at the county level. It's filed under the telecommunication section?
- Margaret – No definition of Congregate Care Facility in ORC and very concerned about phrase, "a residential care facility or other similar facilities." It disturbs me when someone says licensed by the Ohio Dept of Health and then does not quote the ORC. They also talk about personal care services, but do not reference it fully. 5.02.16 in our ZR says these structures are permitted in the General Commercial Section. "D" has been added, Congregate Care Facilities.
- Patty – If Griswold Creek received \$200,000 from the EPA and if this creek was to be disturbed, is there an agency that might be able to help?
- Cathy – This property is seeking a Conditional use permit. Conditional use permits are granted by Board of Zoning Appeals. Consider giving this amendment to BZA members for them to consider.
- Anonymous – There are facilities in Ohio that have "Congregate Care."
- Anonymous – What would it take for you to not recommend the proposed amendment?
- Mr. Oswick – After this meeting, we will work on doing our homework. We will reach out independently. We don't know yet, until we complete the research.
- Mr. Lauro – We're not supposed to have an opinion – we need to research, do what's right and compile a factual opinion.
- Kathy – Will you produce a list of homework assignments you will be working on? Answer: We will refine the list and review. Next, we'll do our research and dig in.
- Mr. Lauro asked if we need to set up a Special Meeting so we can discuss this as a Board? No response.

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Mr. Oswick asked for any other questions and there were none. At this point, 8:40 p.m., the group in attendance mostly dispersed.

The Zoning Commission members identified the following areas for homework based on the earlier audience feedback.

- How public services will be affected – specifically EMT and Fire.
- Water – Enough ground water available. Wetland to be considered?
- Current owner – could sell property. Deed Restrictions can only be removed by current owner.
- The Weils of Bainbridge – Is it city water? Could answer the use variance. 46 acres, 40-60% of property cannot be built on. Bainbridge has a minimum of 5 acres.
- Giant Eagle currently has a water tank on it.
- Mr. Kats mentioned also looking at how Police are impacted and what revenue is generated from proposed facility.
- Mr. Oswick wants to consider traffic impact and hard look at definition of items to be added to Zoning Resolution.
- Mr. Nastasi asked if Impact fees could be generated and also wants a hard look at definitions. (Group replied Impact fees not possible in Townships.)
- Mr. Kats asked if this opens up the Township for more liabilities. Will the owner indemnify the Township?
- Mr. Chess – Doesn't believe traffic/parking an issue – especially compared to Fast Food.
- Caves Rd LLC had listed 10 conditions in proposed amendment change. Bainbridge has at least 25 conditions listed.
- Is it possible to have a Buffer Zone?

Cathy Cotman mentioned – Not in Comprehensive Land Use plan; not in compliance with mixed uses. Land Use Plan was used on Tranchita.

Mr. Nastasi – We need a legal attorney. Mr. Todd Hunt mentioned as possibility. Group felt strongly a Zoning attorney is need to help steer the continuing conversation.

Mr. Nastasi made a motion to request the Board of Trustees, in regards to ZC-2022-3 Caves Road LLC, hire legal counsel who is knowledgeable in Ohio Township zoning to represent and provide guidance in this matter. Mr. Lauro seconded the motion.

Mr. Chess/yes; Mr. Kats/yes; Mr. Lauro/yes; Mr. Nastasi/yes; Mr. Oswick/yes
Motion passed

Group determined to add an additional meeting on Monday, June 13 at 6:00 p.m. to continue discussion on Congregate Care, ZC-2022-3 and homework.

Open Items

- Mr. Kats to attend the Board of Trustees Meeting on June 2nd.

Meeting Called to Close at: 9:50 pm

Approved by:

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Chester Township Zoning Commission XXXX X, 2022

Final Review by: _____
Jon Oswick, Chair



2.02.0 WORDS AND TERMS DEFINED

"ACCESSORY BUILDING, STRUCTURE, OR USE" means a subordinate use of a building, structure, or lot or a subordinate building or structure: (1) the use of which is clearly incidental to the use of the principal building, structure, or use of a lot; (2) which is customary in connection with the principal building, structure, or use of a lot; and (3) which is located on the same lot with the principal building, structure, or use.

"ADULT ORIENTED BUSINESSES" see Article 6, Section 6.08.01A.1-26.

"AGRICULTURE" includes farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

"ANTENNA" means any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whip antennas.

"AUTOMOTIVE REPAIR" means the repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

"AUTOMOTIVE WRECKING" means the dismantling, wrecking, disassembling, or junking of used or inoperative vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

"AUTOMOTIVE WRECKING YARD" means a lot where automotive wrecking takes place.

"AVERAGE FINISHED GRADE LEVEL" is the average of the grade of the ground at all corners of a building or other structure.

"BASEMENT" means a portion of a building or structure with at least one-half of its floor to ceiling height below the adjoining exterior finished grade level and with its ceiling not covered by earth. Said portion is not a completed building or structure and shall only serve as a substructure or foundation for a building or structure.

"BEACON" means any light with one or more beams directed into the atmosphere or directed at one or more points that are not in the same zone as the light source; including any light with one or more beams that rotate or move.

"BILLBOARD" See signs, Article 9.

"BOARD" shall mean the board of zoning appeals of Chester Township.

"BREEZEWAY" means an open-sided accessory structure for the purpose of connecting the principal building on a lot with other accessory buildings. For purposes of this resolution, a "breezeway" shall not be used to connect an accessory building to a principal building if the accessory building without the

breezeway would violate any other provisions of this resolution.

"BUILDING" means a temporary or permanent structure, other than a mobile home, affixed to or resting on the ground and designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

"BUILDING, COMPLETELY ENCLOSED" is a building separated on all sides from adjacent open space or from other buildings or structures by a permanent roof and by exterior or party walls, pierced only by windows and usual doorways.

"BUILDING HEIGHT" shall be the vertical distance measured from the average finished grade level to, in the case of flat roofs, the level of the highest point of the roof or, in the case of pitched roofs, to the mean level between the eaves and the highest point of the roof.

"BUILDING LINE" see "setback line".

"BUILDING, PRINCIPAL" means a building within which the main or primary permitted use is conducted on a lot.

"CANOPY" means a free-standing open-sided roofed structure supported on one or more supports.

"CEMETERY" means land used or intended to be used for the burial of the human or animal dead.

"CHANNEL" means a natural or artificial watercourse of perceptible extent, with beds and banks to confine and conduct continuously or periodically flowing water.

"CHURCH" means a building or group of buildings, including customary accessory buildings, designed for public worship; for the purposes of this resolution, the word "church" shall include temples, cathedrals, synagogues, mosques, chapels, kingdom halls, shrines, and congregations.

"CLINIC" means any building or other structure devoted to the diagnosis, treatment and care of people as out-patients.

"COLLOCATION" means locating wireless telecommunication antennas and appurtenant equipment from more than one provider on a single wireless telecommunications tower site.

"COMMISSION" shall mean the zoning commission of Chester Township.

"CONDITIONAL USE" means a use within a zoning district other than a permitted use requiring approval by the township board of zoning appeals and the issuance of a conditional zoning certificate.

"CONDITIONAL ZONING CERTIFICATE" means a certificate issued by the zoning inspector upon approval by the township board of zoning appeals for a conditional use.

"CONGREGATE CARE FACILITY" means a Nursing Home, Residential Care Facility or other similar facility that provides accommodations, supervision, personal care services and/or skilled nursing care for individuals who are dependent on such services by reason of age or physical or mental impairment. See also "Nursing Home" and "Residential Care Facility."

"CONSTRUCTION" means the placing of construction materials in permanent position and fastened in a permanent manner.

corner lot, with lot lines on more than one (1) street. Both streets shall be deemed front lot lines.

"MANSARD ROOF" means a roof with a steep lower slope and a flatter upper portion, also known as a gambrel roof.

"MANUFACTURED HOME" means a building unit or assembly of closed construction fabricated off-site as defined in Ohio Revised Code Section 3781.06(C) (4).

"MANUFACTURED HOME PARK" means any lot upon which three (3) or more manufactured or mobile homes used for habitation are located, as defined in Ohio Revised Code 3733.01(A).

"MEDICAL MARIJUANA" means marijuana, as defined in O.R.C. Section 3796.01(A)(1), that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose per O.R.C. Section 3796.01(A)(2).

"MEMORIAL PARK" means a burial place for human beings in which above-surface monuments, tombstones, and grave markers are prohibited and where the natural setting of the land so developed is retained.

"MINERALS" means substances or materials excavated from natural deposits on or in the earth.

"MOBILE HOME" means a building unit or assembly of closed construction built on a permanent chassis as defined in Ohio Revised Code Section 4501.0(O), and which is designed to be used as a dwelling unit with or without a permanent foundation, and which does not conform to the National Manufactured Housing Construction and Safety Standards Act of 1974, 88 Stat. 700, 42 U.S.C.A. 5401, 5403 as amended. A "mobile home" does not mean an "industrialized unit", "manufactured home" or "recreational vehicle" as defined in this resolution. A building or nonself-propelled vehicle is a "mobile home" whether or not axles, chassis, hitch, wheels, or other appurtenances of mobility have been removed and regardless of the nature of the foundation provided.

"MONOPOLE" means a structure composed of a single spire used to support communications equipment.

"MONUMENT" means a statue, pillar or other non-habitable structure erected in memory of the dead or of a person or event.

"MOTEL" see "hotel or motel".

"MOTOR VEHICLE" means a motor vehicle as defined in the Ohio Revised Code.

"NONCONFORMING BUILDING OR STRUCTURE" means a building or structure which was lawfully in existence at the effective date of this resolution or amendment thereto that does not conform to the area, square footage, yard, height, or other applicable regulations for the zoning district in which it is located.

"NONCONFORMING USE" means the use of a building, structure or lot which was lawfully in existence at the effective date of this resolution or amendment thereto and which does not conform to the use regulations for the zoning district in which it is located.

"NURSING HOME" means a facility licensed by the Ohio Department of Health for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care. See also "Congregate Care Facility."

"NURSING HOME" as defined in O.R.C. 3721.01 (A)(6) means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services & skilled nursing care.

"PERSONAL CARE SERVICES" means services as defined in O.R.C. 3721.01 (A)(5)(a)

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"PRIVATE ROAD OR STREET" means a recorded easement as defined in the Geauga County Subdivision Regulations held by a private owner or established legal entity for private use as a road right-of-way and not accepted for maintenance by the state, county, or township and which provides the principal means of ingress and egress and frontage for an abutting lot.

"PRODUCE" means items such as fresh fruit, vegetables, eggs, grains, herbs, honey, maple syrup, milk, cheese, beeswax, plants, flowers and meats.

"PUBLIC ROAD OR STREET" means a road right-of-way for public use as defined in R.C. Section 5535.01 and the Geauga County Subdivision Regulations and accepted for maintenance by the state, county, or township and which provides the principal means of ingress and egress for an abutting lot.

"PUBLIC UTILITY" see Article 11, Section 11.04A.1-8.

"RADIO" means the communication of impulses, sounds, and pictures through space by electromagnetic waves.

"RECREATIONAL VEHICLE" means a portable vehicular structure designed and constructed to be used as a temporary dwelling and including travel trailers, motor homes, and truck campers as defined in Ohio Revised Code 4501.01.

"RESIDENCE OR RESIDENTIAL" means a building or any part of a building which contains a dwelling unit for permanent occupancy. "Residences" include all single family dwellings. Residences do not include (1) transient accommodations, and (2) that part of a building which is used for any non-residential uses, except accessory uses for residences, in a building containing both residences and other uses, and (3) institutional uses, as in rest homes, nursing homes, homes for the aged, orphanages, and other institutional residential uses.

"RESIDENTIAL CARE FACILITY" means a facility licensed by the Ohio Department of Health to provide accommodations, supervision and/or personal care services to individuals who are dependent on such services by reason of age or physical or mental impairment. See also "Congregate Care Facility."

O.R.C. 3721.01

"RIGHT-OF-WAY" means all land included within an area dedicated to public use as a road, or land recorded as an easement for private use as a road, for ingress and egress.

"ROAD" means a public or private road as defined in this resolution.

"ROOF" means a covering structure of rigid permanent waterproof materials.

"SCHOOL" means any public school chartered by the Ohio Board of Regents or conforming to minimum standards prescribed by the state board of education and any private or parochial school certified by the Ohio Department of Education which offers state approved courses of instruction.

"SEDIMENT" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity, or ice, and has come to rest on the earth's surface.

"SEDIMENT CONTROL" means the limiting of sediment transport by controlling erosion, filtering sediment from water, or detaining sediment-laden water allowing sediment to settle.

"SEDIMENT POLLUTION" means failure to use management or conservation practices to abate wind or water erosion of the soil, or to abate the degradation of

"SKILLED NURSING CARE" O.R.C. 3721.01 (A)(4)

O.R.C. 3721.01 (A)(7) that provides either of the following

a) Accommodations for 17 or more unrelated individuals & supervision & personal care services for 3 or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment.

b) Accommodations for 3 or more unrelated individuals, supervision & personal care services for at least 3 of those individuals who are dependent on the services of others by reason of age or physical or mental impairment and, to at least one of those individuals any of the skilled nursing care authorized by Section 3721.01 of the R.C.

5.02.16 CONDITIONAL BUILDINGS, STRUCTURES AND USES. Conditional buildings, structures and uses may be allowed in accordance with the regulations in this resolution with approval of the Board. (See Article 6.) The following are conditional uses:

A. Golf driving ranges and miniature golf courses

B. Limousine and taxi services

C. Billboard

D. Congregate Care Facility

6.07.04

CONGREGATE CARE FACILITIES. Subject to the provisions of Article 6, Congregate Care Facilities may be permitted by the board of zoning appeals as a conditional use in the General Commercial District, with the following conditions:

- Lot size reqs
Frontage
setbacks
coverage
building size
building height
Parking
Loading/unloading
driveways
- Ground water availability
Waste water Treatment
Stormwater runoff
wetlands impacts
Traffic analysis
impacts on public
service particularly
FMS)
Fire Department
- State Licensing
Other matters of
Public Health, Safety
and General Welfare
- Site specific
- A. MINIMUM LOT AREA. The minimum lot size for a Congregate Care Facility shall be ten (10) acres.
- B. SEWERS. The facility shall be connected to an existing sanitary sewer subject to direct control of the Geauga County Department of Water Resources and located on a lot or lots included for sewer service in accordance with the currently Northeast Ohio 208 Water Quality Management Plan and Geauga County/Chester Township Plan for Wastewater Treatment. 208
- C. PARKING. Notwithstanding any provision to the contrary, the minimum required parking spaces for a Congregate Care Facility shall be one (1) space per two (2) resident beds plus one (1) space per three (3) employees. check
- D. DRIVES. Applicant shall install concrete or asphalt access to at least three (3) sides of the facility to provide accessibility for emergency services. check, B21
- E. LIGHTING. Applicant shall submit a proposed lighting plan that reduces, to the extent reasonably feasible, light leaving the site while still adequately illuminating the site. check
- ✓ F. NUMBER OF BEDS. The number of resident beds in the facility shall not exceed one and one-half (1.5) times the number of resident rooms. B6
- G. LICENSURE. Proof of licensure by the Ohio Department of Health shall be submitted to the Zoning Inspector.
- H. STAFFING. Applicant shall utilize on-site medical or nursing staff to assist in emergencies at the facility in order to reduce the number of emergency responses required by the Township or private emergency medical services.
- ✓ I. LIFE SAFETY REVIEW. The plans for the facility shall be reviewed by the Township Fire Department in order to show compliance with applicable Ohio Administrative Code sections and applicable building, fire and life safety laws, rules and regulations. see Bamberley 22
- J. OTHER REQUIREMENTS. The facility shall comply with all other zoning requirements imposed by the Resolution for the (C): General Commercial District.

WATER = AVAILABLE FROM COYAHOGA COUNTY
AT CAVES ROAD SO CHECK GROUND
WATER AVAILABILITY

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- (q) The maximum lot coverage for individual lots within the following lawfully existing residential cluster developments, planned unit developments, and condominium developments recorded prior to January 1, 2018 that may be nonconforming shall be as follows:

Amber Trails: 18%
Bainbrook Condominium: 30%
Bridgeway Estates: 26%
Country Estates of Geauga Condominium: 20%
Dennis Family Condominium Association: 19%
Hawksmoor: 25%
Laurel Springs: 30%
Living Homes: 30%
Northwood Lakes Condominium: 20%
Peppermill Chase: 16%
Reserves At Brighton Park Estates: 20%
The Sanctuary: 18%
Stoneridge of Geauga: 63%
Tanglewood: 30%
The Woods of Wembley: 7,840 square feet

135.05 CONDITIONS FOR RESIDENTIAL CARE FACILITIES AS DEFINED IN 105.02 AS A CONDITIONAL USE. [Z-1997-5 – Effective 9/17/1997] [Z-2006-4 – Effective 8/23/2006]

- (a) In addition to the purposes set forth in 101.02 of this Zoning Resolution, Residential Care Facilities are allowed as conditional uses to promote compliance with the Americans with Disabilities Act (The ADA) and the Federal Fair Housing Act (FHA).
- (b) The use of a Residential Care Facility as a conditional use shall serve as a transition from a residential zone to a Professional Office District (P-O), or Convenience Business (CB) zone as shown on the official Bainbridge Township Zoning Map. As a transitional use, the RCF shall not be expanded beyond its original lot lines of record and as shown on the site plan included with the application for a conditional zoning certificate and approved by the Board of Zoning Appeals. Nor shall any use other than residential expand off of it into a residentially zoned area. The RCF shall not be adjacent to a Light Industrial Restricted (LIR) zoned area because of possible industrial hazards and nuisances.

- (c) In satisfying the purpose of this subsection, the Residential Care Facility (RCF) shall comply with Sections 117.12 and 117.13, and the following conditions. In the case of any conflict, the provisions contained in this Section of the Zoning Code shall prevail.
- (1) The RCF shall be bordered on at least one side by a lot of record zoned Professional Office District (P-O), or Convenience Business (CB) as shown on the official Bainbridge Township Zoning Map. If adjacent to a Professional Office District the Residential Care Facility shall not violate the purpose of a Professional Office District pursuant to Chapter 141 of this Zoning Resolution.
 - ✓(2) The minimum lot size for a RCF shall be five (5) acres in an R-5A district; and a minimum of three (3) acres in an R-3A district.
 - ✓(3) The RCF must be connected to an existing sanitary sewer subject to direct control of the Geauga County Department of Water Resources, ~~or an~~ [?] alternative on-lot system approved by the Ohio EPA and located on a lot included for sewer service in accordance with the current version of the Geauga County 208 Sewer Service Plan as adopted by the Board of Township Trustees.
 - (4) The RCF shall only be allowed in those areas of the Township with a connection to and served by a public water supply operated by a governmental agency or an entity subject to the jurisdiction of the Public Utilities Commission of Ohio. In addition, RCFs are permitted where ^{*} sufficient ground water is available without adversely affecting wells drawing from the same aquifers to be used by the RCF as determined by a hydrologist hired by the Township at the Applicant's expense.
 - ✓(5) The number of resident beds in the facility shall not exceed 1.5 times the number of resident bedrooms.
 - (6) The bedroom space provided for each resident shall meet the minimum criteria outlined in any application provision of the Ohio Administrative Code, or any licensing requirements.
 - (7) The minimum amount of parking spaces for any facility shall be the same as required for adult care facilities set forth in Section 169.06 of this Resolution.

- (8) Any proposal for an RCF shall include a site plan and floor plan drawn to scale, delineating the items necessary to prove compliance with Section 109.04 of this Resolution. The Applicant shall also submit architectural drawings showing the exterior building elevations, and exterior building materials, which shall be subject to review by and approval from the Board of Zoning Appeals. The Applicant shall also submit a landscaping plan and loading and unloading plan which shall be subject to review by and approval from the Board of Zoning Appeals. *check*
- ✓(9) The RCF shall comply with all other zoning requirements imposed by the Zoning Resolution, for the zoning district in which it is located including, but not limited to the signage requirements contained in Chapter 173.
- (10) The facility shall meet all the height, area, yard, and bulk requirements set forth in Chapters 135 and 139, whichever is applicable with the following exception: Maximum lot coverage shall be ten percent (10%), however, it may increase two percent (2%) per acre if the lot is over five (5) acres to a maximum of twenty percent (20%). *compare*
- (11) P-O screening regulations set forth in Section 141.03(g) along rear and side yards next to adjacent residential areas shall be required. *check*
- (12) The plans for the RCF must initially be reviewed by the Bainbridge Fire Department in order to show compliance with the requirements of the applicable Ohio Administrative Code sections, all applicable Building, Fire and other Safety Codes and the Bainbridge Township Fire Department Fire Prevention Resolution or similar local Fire Department Rules and Regulations published by the Fire Department. **[Z-2018-1 – Effective 12/26/2018]** *compare*
- (13) Parking in front of the principal building may be allowed provided landscaped islands and buffer areas are included. There shall be no parking or loading/unloading spaces within required yards. Where practical, the loading and unloading shall be in a yard adjacent to a non-residentially zoned parcel. *missing*
- (14) No outside storage or display of any materials allowed as required by Section 141.03(h). *missing*
- (15) All trash containers shall be fully screened as required by Section 141.03(i). *missing*

- (16) If an application for a Conditional Use Certificate for an RCF is granted, and thereafter a license cannot be obtained in accordance with Chapter 3721 of the Ohio Revised Code, and corresponding Chapters of the Ohio Administrative Code, after notice, the Zoning Inspector may revoke the Conditional Use Certificate. *missing*
- (17) The Applicant shall submit a traffic impact study with the application for a conditional use permit corroborating that the level of service, as a result of the addition of the RCF, will not be reduced to an unacceptable level, in accordance with standards of the Ohio Department of Transportation, or as a condition of the application pay for the installation of on and off site improvements that may be required to improve the level of service to an acceptable level in accordance with Ohio Department of Transportation Standards, as verified by the Applicant's Traffic Engineer who prepares the traffic impact study. *missing*
- (18) The Applicant shall also submit a storm water plan that will be filed with the Geauga County Soil and Water Conservation District, and shall utilize bioretention as part of its Water Management and Sediment Control plan where practical and as approved by the Geauga County Soil and Water Conservation District. *missing*
- (19) The Applicant shall submit an exterior lighting plan, in accordance with Chapter 161, which shall be reviewed and subject to the approval of the Board of Zoning Appeals. The Applicant shall, as a condition of obtaining a conditional use permit, obtain a driveway access permit from the State of Ohio or Geauga County, as the case may be. *missing*
- (20) The Applicant shall present information establishing the static and residual water pressure to provide firefighting capability to the RCF. In the event the Bainbridge Fire Department determines that either the static or residual pressure is insufficient for firefighting, the Applicant shall install booster pumps powered by either gas or diesel fuel. *missing*
- ✓ (21) The Applicant shall install concrete or asphalt access to at least three (3 sides) of the RCF in order for emergency services to gain access to the RCF. The access shall be sufficiently wide enough and connected to the main drive into the parcel for the emergency services to gain direct and immediate access to the RCF. *expand*

- (22) The Fire Department shall determine, prior to occupancy of any RCF, whether there is, as a result of the construction materials and density of the RCF building, an impediment to continuous and clearly audible communication signals when using communication equipment employed by emergency services in the Township. In the event there is such a communication problem, the Applicant shall, prior to occupancy, and as a condition of the conditional use permit issued for the RCF construct, install and maintain a passive repeater system, or similar system in accordance with the Fire Department's rules and codes that will enhance emergency service communications in compliance with this paragraph.

135.06 CONDITIONS FOR NURSING HOMES. [Z-2006-4 – Effective 8/23/2006]

Conditions for Nursing Homes as defined in Section 105.02 as a conditional use.

- (a) In addition to the purposes set forth in 101.02 of this Zoning Resolution nursing homes are allowed as conditional uses in R-5A and R-3A Districts when operated in conjunction with, and on the same lot of record as a residential care facility to promote compliance with the Americans With Disabilities Act (the ADA) and the Federal Fair Housing Act (FHA).
- (b) The use of a nursing home as a conditional use shall serve as a transition from a residential zone to a Professional Office District (P-O) or Convenience Business (CB) zone as shown on the official Bainbridge Township Zoning Map. As a transitional use, the nursing home shall not be expanded beyond its original lot lines of record and as shown on the site plan included with the application for a conditional zoning certificate and approved by the Board of Zoning Appeals. Nor shall any use other than residential expand off of it into a residentially zoned area. The nursing home shall not be adjacent to a light industrial-restricted (LIR) zoned area because of possible industrial hazards and nuisances.
- (c) In satisfying the purposes of this section, the nursing home shall comply with Sections 117.12 and 117.13 of this Resolution, and the following conditions. In the case of any conflict, the provisions contained in this section of this Resolution shall prevail:
- (1) The nursing home shall be bordered on at least one side by a lot of record zoned Professional Office District (P-O), or Convenience Business (CB) as shown on the current official Bainbridge Township Zoning Map or be on the same site as a residential care facility previously permitted as a conditional use in accordance with Section 135.05 of this Resolution. If adjacent to a Professional Office District, the nursing home shall not violate the purpose of a Professional Office District pursuant to Chapter 141 of this Resolution. The nursing home shall be located on a lot containing frontage on State Route 306

(Chillicothe Road), or Washington Street. No driveway serving a nursing home shall intersect with any other road other than State Route 306 or Washington Street.

- (2) The minimum lot size for a nursing home shall be five (5) acres in an R-5A District; and a minimum of three (3) acres in an R-3A District.
- (3) The nursing home must be connected to an existing sanitary sewer subject to direct control of the Geauga County Department of Water Resources and located on a lot included for sewer service in accordance with the currently adopted Geauga County and Bainbridge Township 208 Sewer Service Plan.
- (4) The nursing home shall only be allowed in those areas of the Township with a connection to and served by a public water supply operated by a governmental agency or an entity subject to the jurisdiction of the Public Utilities Commission of Ohio.
- (5) The number of resident beds in the facility shall not exceed one and one-half (1.5) times the number of resident bedrooms.
- (6) The bedroom space provided for each resident shall meet the minimum criteria outlined in any applicable provisions of the Ohio Administrative Code, or any licensing requirements of the State of Ohio.
- (7) The minimum amount of parking spaces for any nursing home shall as set forth in Section 169.06 of this Resolution for nursing homes.
- (8) Any proposal for a nursing home shall include a site plan and floor plan drawn to scale, delineating the items necessary to prove compliance with Section 109.04 of this Resolution. The Applicant shall also submit architectural drawings showing the exterior building elevations, and exterior building materials, which shall be subject to review and approval from the Board of Zoning Appeals. The Applicant shall also submit a landscaping plan and loading and unloading plan which shall be subject to review and approval from the Board of Zoning Appeals.
- (9) The nursing home shall comply with all other zoning requirements imposed by the Resolution, for the Zoning District in which it is located including, but not limited to, the signage requirements contained in Chapter 173 of this Resolution.

- (10) The facilities shall meet all of the height, area, yard and bulk requirements set forth in Chapters 135 or 139, as applicable, with the following exception:
 - A. Maximum lot coverage shall be ten (10%), however, it may increase two (2%) per acre if the lot is over five (5) acres, to a maximum of twenty (20%).
- (11) P-O Screening Regulations set forth in Section 141.03(g) along rear and side yards next to adjacent residential areas shall be required.
- (12) The plans for the nursing home must initially be reviewed by the Bainbridge Fire Department in order to show compliance with the requirements of the applicable Ohio Administrative Code sections, all applicable Building, Fire and other Safety Codes and the Bainbridge Township Fire Department Fire Prevention Resolution or similar local Fire Department Rules and Regulations published by the Fire Department. **[Z-2018-1 – Effective 12/26/2018]**
- (13) Parking in front of the principal building may be allowed provided landscaped islands and buffer areas are included. There shall be no parking or loading/unloading spaces within required yards. Where practical, the loading and unloading shall be a yard adjacent to a non-residentially zoned parcel.
- (14) No outside storage or display of any materials will be allowed as required by Section 141.03(h) of this Resolution.
- (15) All trash containers shall be fully screened as required by Section 141.03(i) of this Resolution.
- (16) If an application for a conditional use certificate for a nursing home is granted, and thereafter a certificate of need that may be required from the State of Ohio cannot be obtained, after notice to Applicant, the Zoning Inspector may revoke a conditional use certificate issued for the nursing home.
- (17) The nursing home operations shall be combined with, although not necessarily attached to, the residential care facility on the same lot of record and the Applicant shall, where appropriate, combine services for the residential care facility and the nursing home in order to reduce deliveries, and permit overlap of staffing to further reduce traffic in and out of the combined facilities.
- (18) The Applicant shall utilize on site medical or nursing staff at a nursing home to assist in emergencies at residential care facilities in order to reduce the number of emergency responses required by Bainbridge Township or private emergency medical services.

- (19) The Applicant shall submit a traffic impact study with the application for a conditional use permit corroborating that the level of service, as a result of the addition of the nursing home, will not be reduced to an unacceptable level, in accordance with standards of the Ohio Department of Transportation, or as a condition of the application pay for the installation of on and off site improvements that may be required to improve the level of service to an acceptable level in accordance with Ohio Department of Transportation Standards, as verified by the Applicant's Traffic Engineer who prepares the traffic impact study.
- (20) The Applicant shall also submit a Water Management and Sediment Control plan that will be filed with the Geauga County Soil and Water Conservation District, and shall utilize bioretention as part of its storm water plan where practical and as approved by the Geauga County Soil and Water Conservation District.
- (21) The Applicant shall submit an exterior lighting plan, which shall be reviewed and subject to the approval of the Board of Zoning Appeals. The Applicant shall, as a condition of obtaining a conditional use permit, obtain a driveway access permit from the State of Ohio or Geauga County, as the case may be.
- (22) The Applicant shall present information establishing the static and residual water pressure to provide firefighting capability to the nursing home. In the event the Bainbridge Fire Department determines that either the static or residual pressure is insufficient for firefighting, the Applicant shall install booster pumps powered by either gas or diesel fuel.
- (23) Where a nursing home and residential care facility are located on the same property, there shall be one alarm system servicing all of the facilities. Where the nursing home and residential care facility are attached, there shall be one sprinkler system serving the buildings. A standpipe for firefighting purposes shall be installed in the nursing home in accordance with the Bainbridge Fire Department's rules and codes.
- (24) The Applicant shall install concrete or asphalt access to at least three (3) sides of the nursing home in order for emergency services to gain access to the nursing home. The access shall be sufficiently wide enough and connected to the main drive into the parcel for the emergency services to gain direct and immediate access to the nursing home.

- (25) The Fire Department shall determine, prior to occupancy of any nursing home, whether there is, as a result of the construction materials and density of the nursing home building, an impediment to continuous and clearly audible communication signals when using communication equipment employed by emergency services in the Township. In the event there is such a communication problem, the Applicant shall, prior to occupancy, and as a condition of the conditional use permit issued for the nursing home construct, install and maintain a passive repeater system, or similar system in accordance with the Fire Department's rules and resolutions that will enhance emergency service communications in compliance with this paragraph.

“LARGE COMMERCIAL SHOPPING CENTER” means a planned retail commercial site of at least twenty (20) acres that contains either a minimum of four hundred thousand (400,000) gross square feet of building floor area or a minimum of twenty (20) individual retail stores in a coordinated design with shared parking and access provisions.

“LATTICE” means a framework or structure of cross metal strips typically resting on three (3) or more members constructed vertically to which antennas are affixed. [Z-1997-4 – Effective 8/6/1997]

“LATTICE TOWER” means a framework or structure of cross metal strips typically resting on three (3) or more members constructed vertically to which antennas are affixed.

“LIBRARY” means a public or nonprofit facility in which books, periodicals, audio or video recordings, film, and comparable materials are kept for use or loaning to patrons of the facility. Such use may also offer use of computers and the incidental or periodic sale of surplus books.

“LICENSED RESIDENTIAL FACILITY” means a facility as defined in O.R.C. Sections 5119.34(B)(1)(b) and 5123.19(A)(5)(a).

“LIGHT FIXTURE” means the physical unit that holds a lamp and that may include parts to redirect the light produced by the lamp.

“LIGHT FIXTURE, FULL CUT-OFF” means an outdoor lighting fixture with shields, reflectors, or refractor panels which direct and cut-off the light at an angle that is less than 90 degrees.

“LIGHT TRESPASS” means light emitted by a lighting installation which falls outside the boundaries of the property on which the installation is sited.

“LOADING/UNLOADING SPACE” means an area durably paved, designed and used for parking one (1) truck or delivery vehicle for bulk pickups and deliveries and which space has access to a public street. All off-street loading/unloading spaces shall be located entirely outside the right of way of any public street or private access or circulation drive and such spaces shall not be used or included in computing required off-street parking spaces.

“LOT” means a parcel or plot of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as set out in this resolution. Such lots shall have frontage on an improved public or private street and shall be a lot of record.

“LOT CORNER” means a lot located at the intersection of two (2) or more roads.

“LOT COVERAGE” means the ratio of ground floor area of all buildings and structures and all areas that are associated with driveways, parking areas, and other impervious surfaces on a lot to the total lot area, expressed as a percentage. Lot coverage shall not include retention basins, detention basins, and ponds.

"NONCONFORMING USE" means a use of land or use of a building or structure lawfully existing at the time this zoning resolution or any subsequent amendment thereto became effective which does not fully comply with the use requirements of the district in which it is located.

"NONCONFORMITY" means upon the effective date of this resolution, or any subsequent amendment thereto, a lawfully existing lot of record, building, structure, landscape area, parking lot, sign, or use which does not fully comply with the requirements currently applicable to the district in which the lot, building, structure, landscape area, parking lot, sign, or use is located.

"NURSING HOME", as defined in O.R.C 3721.01(A)(6) means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing services and of individuals who require personal care services but not skilled nursing services.

"O.A.C." means the Ohio Administrative Code.

"OCCUPANCY" means the purpose for which a building, land or premises is used or intended to be used.

"OFF-STREET PARKING SPACE" means an area for parking one (1) motor vehicle, whether in a building or in the open and which space has access to a public street. All off-street parking spaces shall be located entirely outside the right of way of any public street or private access or circulation drive, and shall not be used or included in computing required off-street loading/unloading spaces.

"OFFICIAL ZONING MAP" means the map showing the location and boundaries of the zoning districts established by this resolution as adopted by the Board of Township Trustees and currently in effect. The map is entitled, the "Bainbridge Township Zoning Map."

"OHIO ENVIRONMENTAL PROTECTION AGENCY" means the organization referred throughout this resolution as the "Ohio EPA."

"OHIO EPA CLASS I, II, III, and IV SOLID WASTE COMPOSTING FACILITIES" shall be as defined in O.A.C. Section 3745-560-02.

"OHIO REVISED CODE" means the duly enacted laws of the state of Ohio and may also be referred to as O.R.C. or R.C.

“PERMANENT FOUNDATION” means permanent masonry, concrete, or a footing or foundation. O.R.C. 3781.06(C)(5) applies to a permanent foundation for a manufactured home.

“PERMANENTLY SITED” means, as applied to a manufactured home, compliance with all of the criteria in O.R.C. 3781.06(C)(6).

“PERMITTED USE” means a use that is allowed by right in a district after the issuance of a zoning certificate (if required), provided such use is authorized as a permitted use by this zoning resolution and the Zoning Inspector determines compliance with all applicable provisions included herein.

“PERSONAL CARE SERVICES” means services as defined in O.R.C. 3721.01(A)(5)(a).

“PERSONAL WIRELESS SERVICES” means commercial mobile services, unlicensed wireless services, and common carrier wireless, exchange access services. [Z-1997-4 – Effective 8/6/1997]

“PERSONAL WIRELESS SERVICE FACILITY” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined by 47 U.S.C. 332 (c)(7). [Z-1997-4 – Effective 8/6/1997]

“PLACE OF WORSHIP” see “church.”

“POND” means a water impoundment made by constructing a dam or an embankment or by excavating a pit or dugout; and having an area of less than five (5) acres.

“PORCH” means a covered area adjoining an entrance to a building with no more than three (3) enclosed sides.

“PPN” means the permanent parcel number as assigned to a lot by the county auditor.

“PRINCIPAL BUILDING” means a building in which the main or primary use of a lot or parcel is conducted.

“PRINCIPAL STRUCTURE” means, if there is no principal building, the structure in which the main or primary use of a lot or parcel is located.

“PRINCIPAL USE” means the main or primary use to which a parcel, lot, or premises is put.

“PRIVATE ROAD” means a recorded easement as defined in the Geauga County Subdivision Regulations held by a private owner or established legal entity for private use as a road right-of-way and not accepted for maintenance by the state, county, or township and which provides the principal means of ingress and egress and frontage for an abutting lot.

A "Public Utility" does not include a person that owns or operates a solid waste facility or a solid waste transfer facility, other than a publicly owned solid waste facility or a publicly owned solid waste transfer facility that has been issued a permit under Chapter 3734. of the Ohio Revised Code or a construction and demolition debris facility that has been issued a permit under Chapter 3714. of the Ohio Revised Code.

"RADIO" means the communication of impulses, sounds, and pictures through space by electromagnetic waves. [Z-1997-4 – Effective 8/6/1997]

"RECREATIONAL FACILITIES" include public and private facilities open to the public which are used for golf courses, driving ranges, tennis courts, skating rinks, swimming pools, riding stables, riding trails for horses and bicycles, and fishing.

"RECREATIONAL VEHICLE" means a portable vehicular structure designed and constructed to be used as a temporary dwelling and including travel trailers, motor homes, and truck campers as defined in O.R.C. Section 4501.01.

"RESIDENTIAL CARE FACILITY" means a home as defined in O.R.C. 3721.01(A)(7) that provides either of the following:

- (a) Accommodations for seventeen (17) or more unrelated individuals and supervision and personal care services for three (3) or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;
- (b) Accommodations for three (3) or more unrelated individuals, supervision and personal care services for at least three (3) of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one (1) of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

"RESTAURANT" means a retail service establishment wherein the entire or substantially all of the business activity consists of the sale of food for consumption within the building.

- A. Carry-out restaurant means a retail service establishment where a substantial portion of the business activity is that of carry-out service of food for consumption outside the building.
- B. Drive-in restaurant means any premises used for the sale and service of food in motor vehicles, including those establishments where customers may serve themselves and may

"SKILLED NURSING CARE" as defined in O.R.C. 3721.01(A)(4) means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

1. Irrigations, catheterizations, application of dressings, and supervision of special diets;
2. Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;
3. Special procedures contributing to rehabilitation;
4. Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication; or
5. Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

"SLAUGHTERHOUSE" means a place where animals are slaughtered for food.

"SMALL WIND FARM" means wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five (5) megawatts as defined in O.R.C. 519.213.

"STANDARD NEIGHBORHOOD" means a residential development that consists of single-family detached housing that could include a variety of lot sizes including single-family cluster development configurations.

"STEALTH ATTACHED WIRELESS TELECOMMUNICATIONS FACILITY ("WTF")" means a wireless telecommunications facility that is:

1. Attached to or incorporated into a building or structure (including light poles and electric power poles, but not including other guyed towers, lattice towers, or monopoles, except as provided in this definition, below); and
2. Designed so that it is either not visible (*e.g.*, it is located within a tower, cupola, steeple, silo, etc.) or it appears to be part of the building or structure (*e.g.*, integrated into the facade of a building as an architectural feature).

“SEAT” means the actual seating capacity of an area based upon the number of seating units provided or one (1) seat per eighteen (18) linear inches of bench length or space of loose chairs.

“SEDIMENT” means soils or other surface materials that are or have been transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

“SEDIMENTATION” means the deposition or settling of sediment.

“SEDIMENT CONTROL” means the limiting of sediment transport by controlling erosion, filtering sediment from water, or detaining sediment-laden water allowing sediment to settle. [Z-1998-5 – Effective 11/25/1998]

“SEDIMENT POLLUTION” means degradation of waters of the state by sediment as a result of failure to apply management or conservation practices to abate wind or water soil erosion, specifically in conjunction with soil-disturbing activities on land used or being developed for commercial, institutional, industrial, residential, or other non-farm purposes.

“SELF-SERVICE STORAGE FACILITY” means a building or group of buildings on a lot consisting of individual self-contained and fully enclosed units of various sizes for self-service storage of personal property and as further defined in O.R.C. 5322.01(A).

“SETBACK” means a line established by this resolution, generally parallel with and measured from any lot line, defining the limits of a front, side or rear yard in which no building may be located.

“SEWAGE SYSTEM, ON-SITE” means a septic tank or similar installation on an individual lot which provides for the treatment of sewage and disposal of the effluent subject to the approval of health and sanitation agencies or departments having jurisdiction.

“SEWERS, CENTRAL” means a sewage disposal system which provides a collection network connected to a central treatment facility serving buildings, structures or uses subject to the approval of health and sanitation agencies or departments having jurisdiction.

“SHIELDED” means a light fixture in which the lamp is not in sight from normal viewing angles. All fully shielded and full cut-off fixtures are considered to be shielded.

“SHOPPING STRIP CENTER” means a single free standing or a collection of single free standing buildings, wherein three or more businesses are located, with no internal access thereto by patrons and employees. [Z-2000-2 – Effective 6/21/2000]

Section 5119.34 | Inspecting and licensing of residential facilities.

Ohio Revised Code / Title 51 Public Welfare /

Chapter 5119 Department Of Mental Health And Addiction Services

Effective: September 30, 2021 **Latest Legislation:** House Bill 110 - 134th General Assembly

(A) As used in this section and sections [5119.341](#) and [5119.342](#) of the Revised Code:

- (1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.
- (2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.
- (3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.
- (4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.
- (5) "Community mental health services provider" means a community mental health services provider as defined in section [5119.01](#) of the Revised Code.
- (6) "Community mental health services" means any mental health services certified by the department pursuant to section [5119.36](#) of the Revised Code.
- (7) "Operator" means the person or persons, firm, partnership, agency, governing body, association, corporation, or other entity that is responsible for the administration and management of a residential facility and that is the applicant for a residential facility license.

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(8) "Personal care services" means services including, but not limited to, the following:

- (a) Assisting residents with activities of daily living;
- (b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;
- (c) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(8) of this section to be considered to be providing personal care services.

(9) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.

(10) "Residential state supplement program" means the program established under section 5119.41 of the Revised Code.

(11) "Supervision" means any of the following:

- (a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities;
- (b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities;
- (c) Assisting a resident in making or keeping an appointment.

(12) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, Top

stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(B)(1) A "residential facility" is a publicly or privately operated home or facility that falls into one of the following categories:

(a) Class one facilities provide accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illness or one or more unrelated children or adolescents with severe emotional disturbances;

(b) Class two facilities provide accommodations, supervision, and personal care services to any of the following:

(i) One or two unrelated persons with mental illness;

(ii) One or two unrelated adults who are receiving payments under the residential state supplement program;

(iii) Three to sixteen unrelated adults.

(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.

(2) "Residential facility" does not include any of the following:

(a) A hospital subject to licensure under section [5119.33](#) of the Revised Code or an institution maintained, operated, managed, and governed by the department of mental health and addiction services for the hospitalization of mentally ill persons pursuant to section [5119.14](#) of the Revised Code;

(b) A residential facility licensed under section [5123.19](#) of the Revised Code or otherwise regulated by the department of developmental disabilities;

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Section 5123.19 | Operation of residential facilities.

Ohio Revised Code / Title 51 Public Welfare /

Chapter 5123 Department Of Developmental Disabilities

Effective: September 30, 2021 **Latest Legislation:** House Bill 110 - 134th General Assembly

(A) As used in sections [5123.19](#) to [5123.20](#) of the Revised Code:

(1) "Independent living arrangement" means an arrangement in which an individual with a developmental disability resides in an individualized setting chosen by the individual or the individual's guardian, which is not dedicated principally to the provision of residential services for individuals with developmental disabilities, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(2) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(3) "Political subdivision" means a municipal corporation, county, or township.

(4) "Related party" has the same meaning as in section [5123.16](#) of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(5)(a) Except as provided in division (A)(5)(b) of this section, "residential facility" means a home or facility, including an ICF/IID, in which an individual with a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

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(i) The home of a relative or legal guardian in which an individual with a developmental disability resides;

(ii) A respite care home certified under section [5126.05](#) of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section [3721.02](#), 5103.03, 5119.33, or division (B)(1)(b) of section [5119.34](#) of the Revised Code.

(C)(1) Subject to section [5123.196](#) of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(2) Notwithstanding sections [5123.043](#), [5123.196](#), and [5123.197](#) of the Revised Code and rules adopted under section [5123.04](#) of the Revised Code, the director shall issue a new license for a residential facility if the facility meets the following conditions:

(a) The residential facility will be certified as an ICF/IID;

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Section 3721.01 | Nursing home and residential care facility definitions and classifications.

Ohio Revised Code / Title 37 Health-Safety-Morals /
Chapter 3721 Nursing Homes; Residential Care Facilities

Effective: June 29, 2019 **Latest Legislation:** House Bill 111 - 132nd General Assembly

(A) As used in sections [3721.01](#) to [3721.09](#) and [3721.99](#) of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section [3702.51](#) of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section [3702.521](#) of the Revised Code or division (R)(7)(d) of the version of section [3702.51](#) of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections [3702.51](#) to [3702.62](#) of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section [3701.01](#) or [5122.01](#) of the Revised Code;

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- (ii) A residential facility as defined in section 5119.34 of the Revised Code;
 - (iii) A residential facility as defined in section 5123.19 of the Revised Code;
 - (iv) A community addiction services provider as defined in section 5119.01 of the Revised Code;
 - (v) A facility licensed under section 5119.37 of the Revised Code to operate an opioid treatment program;
 - (vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;
 - (vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;
 - (viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;
 - (ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;
 - (x) A county home or district home that has never been licensed as a residential care facility.
- (2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

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(3) "Mental impairment" does not mean mental illness, as defined in section 5122.01 of the Revised Code, or developmental disability, as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

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(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide sl

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TO: Chester Township Zoning Commission

FROM: Cathy Cotman

Date: June 1, 2022

RE: Review comments regarding Zoning Amendment ZC 2022-3—Caves Rd. LLC

This amendment should be denied for the following five major reasons: 1) its complete nonconformance with Chester's Comprehensive Plan; 2) the absence of the zoning commissions involvement in development of the rules; 3) the inadequacy of the text as written; 4) limitations of existing township infrastructure to support such development, specifically public water and EMS services; and 5) the wide-spread opposition to this proposal by Chester residents.

COMPLETE NONCONFORMANCE WITH CHESTER'S COMPREHENSIVE PLAN

The Ohio Revised Code (ORC) grants the power to regulate township zoning to the trustees in the interest of public health and safety, public convenience, comfort, prosperity, and general welfare. However, the ORC does not grant them unconstrained authority to do so. The ORC [519.02]] clearly stipulates that zoning regulations "be in accordance with a comprehensive plan." This amendment doesn't even come close to being in accordance with Chester's comprehensive plan. In fact, it is in complete nonconformance with the township's comprehensive plan. Here are the specifics:

1. The Chester Township Comprehensive Plan/Land Use Plan, by design, divides the township into separate and distinct districts. Based on that plan, our current zoning provides for the balanced and orderly separation of four very different types of land use and development patterns: 1) residential; 2) general commercial; 3) shopping center; and 4) industrial. This amendment would allow the inter-mixing of random housing facilities throughout our commercial district in complete disregard for Chester's primary zoning structure—uniform and compatible types of uses within a given zoning district.

The township's guide plan called "Chester toward the future- guide plan 1995" [aka the Estrin Plan], defines our commercial district as land areas developed for the primary purpose of providing retail businesses; personal services; and professional/business offices. Our comprehensive plan/land use plan makes no mention or recommendation for inclusion of congregate housing, or any other type of housing into our commercially zoned district.

2. The Estrin Plan makes specific recommendation that the "historic Central Business District" (the area in and around the intersection of Mayfield and Chillicothe Roads) remain the commercial activity center of the township and its viability be encouraged and strengthened. The West Geauga Plaza sits at the core of our central business district and serves as the anchor for retail establishments that serve Chester's residents. If passed, this amendment would allow the owner of the West Geauga Plaza (Tom Basista—the party requesting this amendment,) to construct high-density congregate housing facilities on the plaza property, which would be in complete disregard for the intent of our current zoning and our comprehensive/land use plan that stresses the importance of our central business district to our community.

Over the past several decades, the township has engaged numerous planning consultants; and planning and zoning commissions to review and update our land use plan and zoning resolution. Not one of them has made recommendation to allow housing at the center of town.

CONCLUSION: *Approval of this amendment would violate the Ohio Revised Code because it is not “in accordance with Chester’s comprehensive plan”. The fact that this amendment fails to meet that fundamental requirement, should result in its denial.*

CAVES ROAD, LLC, A PROPERTY OWNER, PREPARED THE TEXT FOR THE AMENDMENT—NOT THE CHESTER TOWNSHIP ZONING COMMISSION

While the Ohio Revised Code (ORC) allows property owners to file application for zoning amendments, a zoning amendment of this significance, should, by any reasonable persons assessment, be developed by the township zoning commission.

This amendment was initiated by a property owner- Caves Road, LLC, under the management/ownership of Tom Basista. Mr. Basista also owns several other commercial properties in Chesterland, under various business names, including the West Geauga Plaza,.

Language proposed in amendments submitted by a property owner is actually written by the property owner or a representative on their behalf. So, in this case, the Chester Township Zoning Commission was not involved in the development of the rules or its language. If our zoning commission had developed a zoning modification of this magnitude, it most likely would have taken over two years of research, discussion and review to determine 1) the extent of necessary regulations; 2) specific locations suitable for this type of development (if any); and 3) the actual text of the regulation.

This proposal is truly a monumental departure from our current zoning in both concept—the allowance for high-density housing facilities in lieu of our current semi-rural zoning based on our land-use capability; and magnitude—proposing it be allowed anywhere in our commercial districts where property owners could cobble up 10 acres of land.

In accordance with Ohio law, when a property owner makes application to amend the zoning resolution, the clock starts and our zoning commission must start the process and schedule a public hearing between 20 and 40 days of receiving the application. It’s a rush--rush process that, in my opinion, does not allow the zoning commission, planning commission, township trustees or the general public ample time to review and consider all consequences of the rules that are being proposed by the property owner/developer.

CONCLUSION: *Excluding the Chester Township Zoning Commission in the drafting of major new zoning regulations increases the likelihood of inherent mistakes and subsequent unintended consequences resulting in both 1) unplanned growth and development; and 2) the incompatibility of a mixture of land uses. The size and location of land uses based on environmental infrastructure availability (water and sewer), essential services (EMS, fire, police etc.) can be best allocated in the proper amounts and in the best locations by our own zoning commission in conjunction with their own planning/zoning consultants. There’s a high probability that allowing the landowner/developer to author the zoning regulations that govern their own desired project may serve to be in the best interest of the landowner/developer instead of in the best interest of our community and its residents. Perhaps that’s why we find so many inadequacies in the text of their proposed amendment.*

INADEQUACY OF THE AMENDMENT TEXT

The language of this amendment is wholly inadequate for proper and consistent interpretation. The vagueness of its definitions; discrepancies between proposed definitions with those clearly defined in the Ohio Revised Code (ORC); the absence of detailed regulations for occupancy maximums; the laxness of its minimum yard setbacks, maximum lot coverage, parking requirements and current Chester Township lighting regulations; its allowance of mixed-uses on a lot; and a questionable minimum lot size, fail to meet the fundamental general provisions of Article 1.02.0 of the Chester Township Zoning Resolution. Here are the specifics:

Issue #1: The definition of “congregate care facility” is vague and broad.

Consequence: The likelihood that any two individuals would come to the same conclusion as to whether a proposed facility would meet the definition of “congregate care facility” is unlikely. Would the following uses be considered congregate care facilities under the proposed definition—juvenile detention homes; a 200-unit senior apartment building with congregate dining; drug rehab centers; homeless shelters?

DISCUSSION:

What’s a congregate care facility?

Answer: That’s the million-dollar question. Here’s how the amendment defines it:

“CONGREGATE CARE FACILITY” means a Nursing Home, Residential Care Facility, **or other similar facility** that provides accommodations, supervision, personal care services **and/or** skilled nursing care for individuals who are dependent on such services by reason of age or physical or mental impairment. See also “Nursing Home” and “Residential Care Facility.”

Is there a problem with the proposed definition of what a “congregate care facility” is?

Answer: Yes, there is a big problem with their definition. You’ve all heard the saying “words matter”. Well, in zoning there is no more important aspect of rule writing than word choice. Caves Road LLC’s proposed definition of “congregate care facility” includes allowing **“other similar facilities”**. Well, what the heck would be allowed under that open door? Who in Chester government is going to interpret what that means and decide whether a request to allow something other than a nursing home or residential care facility should be permitted? Oftentimes, the zoning commission looks to the Ohio Revised Code (ORC) for definitions of terms for use in zoning regulations. The ORC contains specific definitions as well as an extensive list of regulations for both “Nursing Homes” and “Residential Care Facilities”. In stark contrast, the term “Congregate Care Facility” isn’t mentioned. Neither is a listing of what **“other similar facilities”** might or might not include.

The term “congregate care facility” doesn’t appear in Webster’s dictionary. A Google search provided the following listing of potential facilities that might be considered “congregate care facilities”:

- *Group homes*
- *Homeless Shelters*
- *Nursing homes*

- *State correctional facilities*
- *Assisted living facilities*
- *Juvenile detention facilities*
- *Multifamily development providing individual dwelling units with support services*
- *Boarding homes*
- *Adult day cares*
- *Apartment complex with congregate dining for the elderly*
- *Veterans homes*
- *Emergency shelters*
- *Psychiatric care facilities*
- *Residential child care facilities*
- *Maternity homes*
- *Developmental care facilities*

Several years ago, the Chester Township Zoning Commission adopted guidelines for the development of zoning amendments. One of the guidelines requires that all amendments be written to achieve “consistent interpretation-among say five different individuals.” It’s evident that the definition of “congregate care facility” as proposed does not meet this requirement due to the open-door language that allows for “**other similar facilities**” and the absence of a finite list of facilities that fall under the ambiguous umbrella of the term “congregate care facilities.”

CONCLUSION: *The definition of “congregate care facility” is inadequate to allow for consistent interpretation and is therefore unsuited for proper and reliable regulation of zoning in Chester. The lack of clarity in the definition of a “congregate care facility” is a fatal flaw that should result in denial of this amendment.*

Issue #2: The definition of “nursing home” is inconsistent with the definition provided for in the Ohio Revised Code and in the Geauga County Model Zoning Code.

Consequence: The Ohio Revised Code (ORC) specifically identifies requirements that a facility must meet to be considered a nursing home. It also heavily regulates them. Ensuring that a facility claiming to be a nursing home is truly a nursing home under Ohio law, and to ensure that all state regulations trickle down to any facility that may happen to locate in Chester is of significant importance.

CONCLUSION: *The definition of “nursing home” is inadequate to provide Chester with the regulatory protections and state regulations afforded under the ORC.*

Issue #3: The definition of “residential care facility” is inconsistent with the definition provided for in the Ohio Revised Code.

Consequence: The Ohio Revised Code (ORC) specifically identifies requirements that a facility must meet to be considered a residential care facility. It also heavily regulates them. Ensuring that a facility claiming to be a residential care facility is truly a residential care facility under Ohio law, and to ensure that all state regulations trickle down to any facility that may happen to locate in Chester is of significant importance.

CONCLUSION: *The definition of “residential care facility” is inadequate to provide Chester with the regulatory protections and state regulations afforded under the ORC.*

Issue #4: Minimum setbacks and maximum lot coverages are inadequate for the intensity of this use.

Criteria	Proposed Amendment	Munson Twp	Newbury Twp	Bainbridge Twp
Minimum setback from R-O-W	105 feet	200 feet	250 feet	100 feet
Minimum side yard	20 feet	200 feet	100 feet	50 feet
Minimum rear yard	60 feet	200 feet	100 feet	90 feet
Maximum lot coverage	60 %	40%	50%	20%

Issue #5: The definition of “congregate care facility” allows for “**other similar facilities**”. Neither Munson, Newbury or Bainbridge Township’s zoning regulations governing nursing homes/assisted living facilities make such an ambiguous allowance. The facilities that they allow are narrowly tailored by the definition incorporated into their rules. The phrase “**other similar facilities**” is also inconsistent with the structure of Chester’s zoning resolution. Current Chester regulations provide specific lists of uses that are permitted in a given district (i.e. antique shops, bakeries, bowling alleys, funeral homes, locksmiths) and make no allowance for uses that are not specifically listed by name.

Issue #6: Approval of the amendment as written would allow mixed-uses (housing and retail) on one property. It would permit the West Geauga Plaza property to develop high-density congregate housing on the same property as the plaza. This proposal is inconsistent with Chester’s Comprehensive Plan, Land Use Plan and the basic structure of the current zoning, which, by design, does not allow mixed-use development.

Issue #7: The minimum lot area of 10 acres is questionable. Locating this use throughout the commercial district is also questionable. A cursory review of other Geauga Township zoning regulations finds that:

- Munson Township allows nursing care/assisted living within a specific district created for this type of development called “Institutional.” The minimum size lot for this district is 100 acres.
- Newbury Township allows nursing homes (note: not congregate care facilities) on 3 acres in their commercial/business districts with the added restriction that facilities not exceed 10 beds per acre.
- Bainbridge Township allows nursing homes (note: not congregate care facilities) in their 5 and 3-acre residential districts only on lots that border either their Professional Office District or Convenience Business District.

CONCLUSION: *It's evident that the approach to zoning for nursing homes and residential facilities is unique for a given community. At a minimum, a professional planner under the direction of the Chester Township Zoning Commission should evaluate the suitability of this type of use in Chesterland.*

Issue #8: The proposed amendment offers no regulation to limit the maximum number of units or beds that any one facility may develop. This could allow a 500- room congregate care facility to be constructed at the West Geauga Plaza without limitation.

Issue #9: The proposed amendment is lax in the number of conditions listed in section 6.07.04. It proposes 10 conditions. In contrast, the Bainbridge Township zoning regulations for nursing homes contain 27 specific conditions.

Issue #10: The parking requirements are inadequate when compared with current Chester Township requirements and also when compared to other Geauga County Township regulations for similar uses. The applicant has also indicated that these facilities may include outpatient services such as physical, occupational and speech therapy. The amendment language fails to incorporate the required parking allocation for these walk-in transient services which should be additive.

Issue #11: The proposed lighting regulations do not comply with current zoning requirements that apply to all zoning districts.

THE ABSENCE OF A PUBLIC WATER SUPPLY TO ADEQUATELY SERVICE THE INTENSITY OF THIS TYPE OF DEVELOPMENT IS A NON-STARTER

This amendment makes no requirement to be located on a lot with access to an existing public water supply. Bainbridge Township requires by rule that nursing homes "...shall only be allowed in those areas of the Township with a connection to and served by a public water supply operated by a governmental agency or an entity subject to the jurisdiction of the Public Utilities Commission of Ohio." There's a reason why Chester zoning does not allow intense developments like high-density housing or unlimited sized care facilities. The basis for Chester's large-lot zoning and restrictions on development are based on the capability of the land to support specific types and intensity of development. Our zoning regulations require that development be in accordance with the capability and suitability of the land to support it. There is no public water supply in the commercial district to support the potentially intensive water quantity requirements of this proposed use.

Our zoning resolution requires conservation and protection of the natural resources of the township. It specifically cites "the supply of groundwater" as a critical natural resource for our residential and commercial establishments because we do not have a public water supply and we depend on on-site wells for our potable water. Opening up the entire commercial district to an unknown number of potential high-density congregate care housing facilities with an unlimited number of beds/rooms/apartments in each facility and their associated demand for water for laundry services, bathroom/shower facilities, kitchen/dishwashing services, fire protection sprinkler services, etc. could, very likely, be detrimental to existing residents and businesses who rely on the local aquifer for potable water.

CONCLUSION: *In the absence of a professional assessment by a hydro geologist to assess 1) the expected water demand by congregate care facilities vs. the quantity available; and 2) the impact on surrounding users by these types of intense water using facilities, this amendment should be denied.*

THE CAPACITY OF FIRE/EMS TO ADEQUATELY SERVE BOTH CURRENT RESIDENT EMS DEMANDS AND THOSE OF HIGH-DENSITY CONGREGATE CARE HOUSING FACILITIES HAS NOT BEEN EVALUATED

Years ago, the former Fire Chief of Munson Township Bernie Harchar made a statement about the intense use of EMS services by the nursing homes/assisted living facilities located in Munson. At that time, he said that 95% of the EMS calls in his township were to those facilities. To allow this type of development to occur throughout the commercial district in Chester, without a detailed assessment of its potential impact, would be irresponsible.

CONCLUSION: *At a minimum, the township should require that the applicant pay for the township to hire a professional fire/EMS consultant to evaluate the existing capacity of our EMS manpower and equipment against the potential demand from future congregate care facilities. The study should delineate 1) additional staffing and/or equipment (i.e. ambulance) requirements; 2) associated costs of same; and 3) the magnitude of new additional tax levies required to generate additional necessary monies. As a baseline, the study should define those increased assets necessary to assure that existing EMS/fire response times are not decreased from what they are today.*

RESPONSES FROM RECENT COMMUNITY QUESTIONNAIRE DO NOT SUPPORT THIS TYPE OF DEVELOPMENT

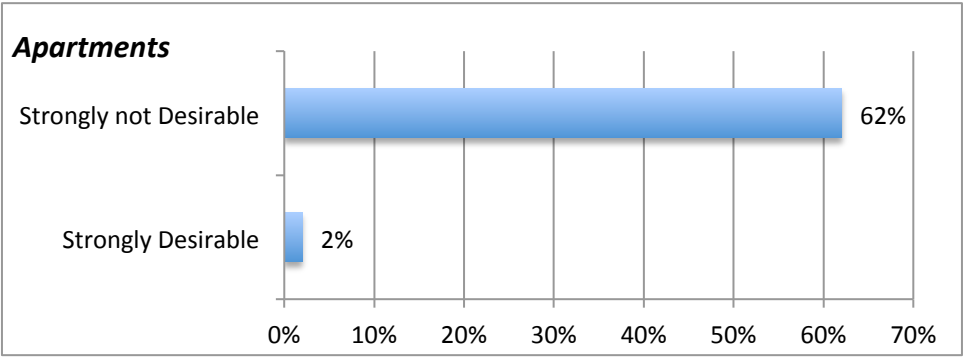
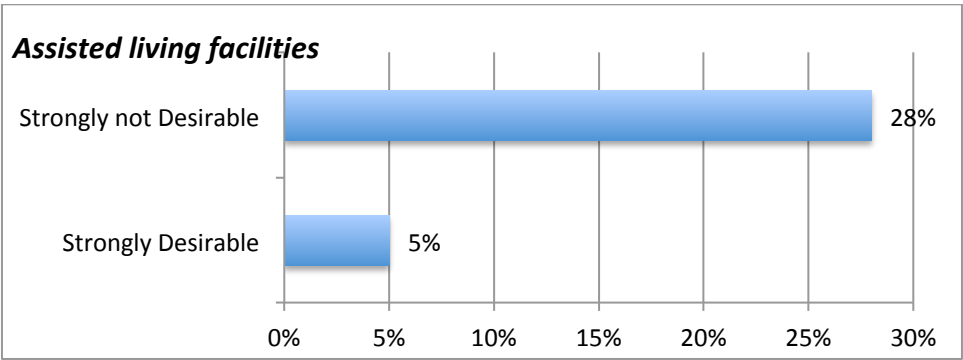
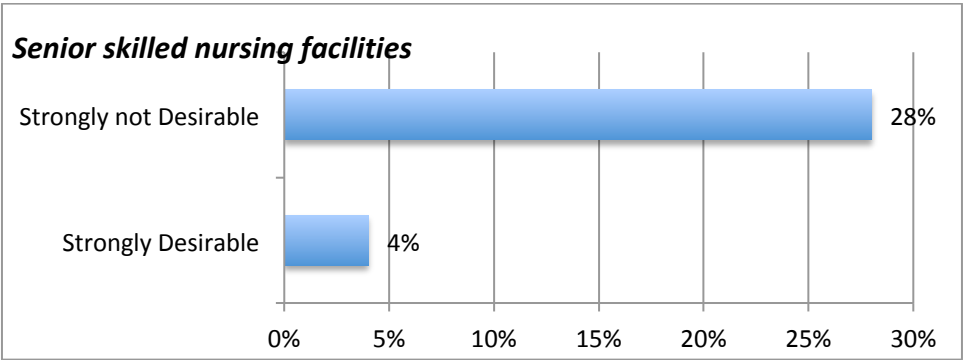
In 2020, Cleveland State University (CSU) conducted a community questionnaire to gather resident interest and desires with regard to the Township's future. 1,654 questionnaires were returned and CSU considered this a "...very solid response rate indicative of residents' high level of interest in participating in township affairs and expressing their opinion." The 35% response rate was considered excellent. According to CSU, their 'normal' response rate is around 15%.

Here is a summary of their findings:

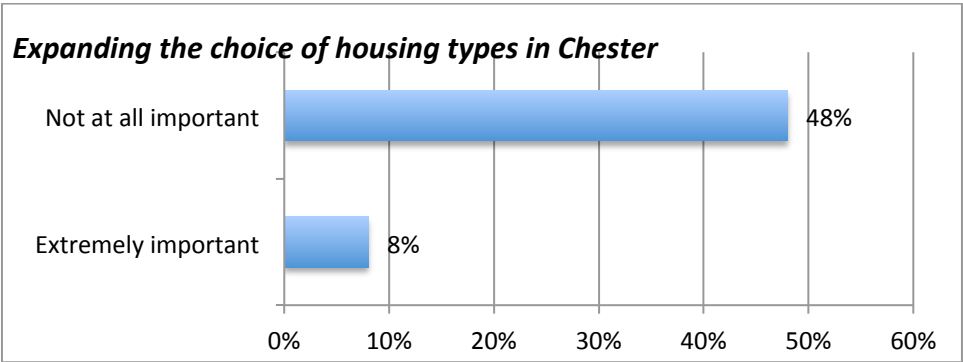
FINDING #1: 92% of respondents ranked "Rural Atmosphere" as one of their top five reasons for living in Chester.

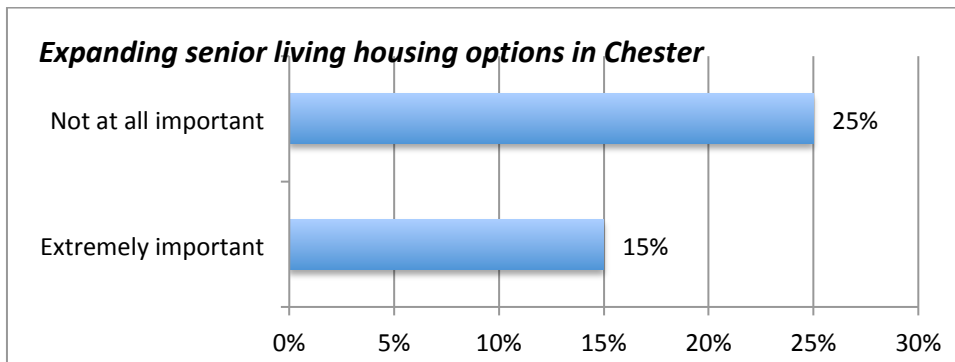
CONCLUSION: *High-density congregate care housing units are not consistent with providing a rural atmosphere and would therefore be in conflict with an overwhelming majority of resident opinion.*

FINDING #2: Respondents were asked, “Please rate the desirability to you of the following uses in the Commercial district as it is developed or redeveloped over time”



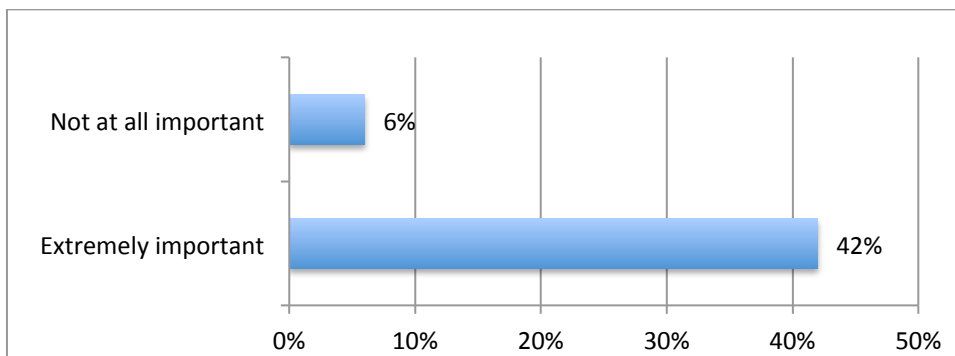
FINDING #3: Respondents were asked, “Please rate the importance to you of the following:





FINDING #4: Respondents were asked to “Please rate the importance to you of the following”:

- a) Providing a full range of daily goods and services in the commercial area (such as grocery, hardware, drug store, dry cleaning, coffee shop, bank, shipping/deliver, fitness, and beauty/barber)



CONCLUSION: *Chesterland residents find nursing homes, assisted living facilities and apartments undesirable types of development in our commercial district. Maintaining a rural atmosphere is a top priority. Expanding the choice of housing options is not important at all to almost 50% of the respondents. The survey results overwhelmingly demonstrate the desire by residents to retain our commercial district in accordance with our comprehensive plan and current zoning—as the retail center that provides goods and services to our residents and not for development of high-density congregate housing facilities.*

CLOSING

Over the past twenty years, I have been involved in zoning matters at both the township and county level. I was a past member and chair-person of the Chester Township Zoning Commission, member of the Chester Township Board of Zoning Appeals, and member of the Geauga County Planning Commission (which regularly reviewed proposed township zoning amendments). In all of those twenty-years, I’ve never seen a proposed amendment with so many reasons for denial. There is no doubt in my mind that the proposed zoning amendment, ZC-2022-3, submitted by Caves Road, LLC should be denied.