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BEFORE THE  
POWELL BOARD OF ZONING APPEALS

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IN RE:  
Board Meeting  
Proceedings before Chairman Ed Cooper and  
Board Member Joe Jester, taken at the Powell  
Village Green Municipal Building, 47 Hall  
Street, Powell, Ohio, on Thursday, July 24,  
2008, at 4:36 o'clock p.m.

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1 APPEARANCES:

2 Downes, Hurst & Fishel  
3 400 South Fifth Street  
4 Suite 200  
5 Columbus, Ohio 43215  
6 By Mr. Benjamin S. Albrecht  
7 and Mr. Rufus B. Hurst,

8 On behalf of the Board.

9  
10 Chester, Wilcox & Saxbe, LLP  
11 65 East State Street  
12 Suite 1000  
13 Columbus, Ohio 43215  
14 By Mr. Craig B. Paynter,

15 On behalf of Liberty Township.

16  
17 Loveland & Brosius, LLC  
18 50 West Broad Street  
19 Suite 3300  
20 Columbus, OH 43215  
21 By Mr. William Loveland,

22 On behalf of Liberty Township.

23 ALSO PRESENT:

24  
25 Bonnie Butcher, Reporter

26  
27 Anne Vogel, Deputy Clerk

28  
29 ADDITIONAL APPEARANCE:

30 Vorys, Sater, Seymour & Pease  
31 52 East Gay Street  
32 Columbus, Ohio 43216  
33 Mr. Bruce Ingram,  
34 On behalf of Triangle Properties.

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P R O C E E D I N G S  
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CHAIRMAN COOPER: Good afternoon. I'm bringing this meeting of July 24th of the Board of Zoning Appeals of the City of Powell to order. We're here to reconvene the Target hearing that was when we last met June 24th.

Could we have a roll call, please.  
(Roll call conducted.)

CHAIRMAN COOPER: Okay. We have, Mr. Jester, a -- and if I can find what happened to my minutes. Oh, you have them.

MR. JESTER: I've got them.

CHAIRMAN COOPER: We have a couple items to take care of, it's approval of some minutes.

MR. JESTER: Right.

CHAIRMAN COOPER: Have you had an opportunity to go through these?

MR. JESTER: Yes. I have reviewed them.

CHAIRMAN COOPER: I had a couple questions about the April 14th. There were two items in there that I noted that were asterisks where there were words missing, I believe. There's one situation,

1 and on Page 19 there were two more, and I think I'd  
2 like to ask Sue --

3 MR. JESTER: Yeah, those should be --

4 CHAIRMAN COOPER: -- to straighten that  
5 out.

6 MR. JESTER: Those should be straightened  
7 out.

8 CHAIRMAN COOPER: So with the exception of  
9 April 14th --

10 MR. JESTER: I move that the -- well,  
11 let's specifically name them. Then we'll be right.

12 CHAIRMAN COOPER: Okay, yeah. Just put  
13 one motion with all the dates.

14 MR. JESTER: Okay. I move that the  
15 February 20th, 2008 meeting; the May 12th, 2008  
16 meeting; the May 13th, 2008 meeting; May 22, 2008;  
17 June 4, 2008; the June 24, 2008, be approved.

18 CHAIRMAN COOPER: Seconded.

19 MS. VOGEL: Ed Cooper?

20 CHAIRMAN COOPER: Yes.

21 MS. VOGEL: Joe Jester?

22 MR. JESTER: Yes.

23 CHAIRMAN COOPER: And I'll supply the  
24 clerk when she comes back next week with changes for

1 this one.

2 All right. Moving on, we have a couple  
3 other items today, one of which -- I don't know if  
4 you got all this mail that I've been getting, but  
5 there's -- it's been a request for a stay filed with  
6 us. I don't believe this Board has the authority to  
7 issue a stay, and I think we should proceed with  
8 this -- finish wrapping this thing up, if you don't  
9 have a problem with that.

10 MR. JESTER: I agree.

11 CHAIRMAN COOPER: Okay. The other thing  
12 that we really wanted to do the last time we were  
13 here and I think we -- I forgot to bring up, is we  
14 never settled the issue of standing for the  
15 township, and I think that -- you know, because of  
16 that CEDA agreement, really the same reasons that I  
17 gave several meetings ago, I think the township does  
18 have standing in this situation.

19 MR. JESTER: I absolutely agree, and I  
20 think they offered their testimony. And I think at  
21 the time that we initially looked at this, there  
22 were questions, standing, no standing, and all that.

23 CHAIRMAN COOPER: Right.

24 MR. JESTER: And the property ownership.

1 And I feel that the township's, you know, done their  
2 job and stated their positions, and I think that  
3 that should all be included -- you know, that's all  
4 included and that their standing be approved.

5 CHAIRMAN COOPER: I still don't see them  
6 obtaining standing, because being a property owner  
7 but because of creation of that Community Economic  
8 Development Agreement, I believe that they should  
9 have standing.

10 MR. JESTER: Oh, yeah, no question about  
11 it.

12 CHAIRMAN COOPER: Okay. Do we need to  
13 make a motion for that?

14 MR. ALBRECHT: No.

15 CHAIRMAN COOPER: Okay.

16 MR. JESTER: Okay.

17 CHAIRMAN COOPER: All right. The next  
18 item is to approve the findings in fact and  
19 conclusions of law that Ben and Rufus --

20 MR. JESTER: I have a copy and I've read  
21 it.

22 CHAIRMAN COOPER: -- Ben and Rufus have  
23 prepared for us.

24 MR. JESTER: Right.

1           CHAIRMAN COOPER: I've been through this  
2 in painful detail. We've been trying to make it so  
3 I could read it, and I think that in its final form,  
4 that I would move to approve this draft of 7-18.

5           MR. JESTER: Have all the parties received  
6 a final draft of this yet and looked at it?

7           CHAIRMAN COOPER: No, not until we get  
8 done with it.

9           MR. ALBRECHT: Once you guys approve and  
10 adopt these written findings and sign it and it  
11 becomes official, all the parties will be  
12 distributed copies of your written findings.

13                   And just so you're aware, Joe, the most  
14 recent draft, which I think you had, did indicate --  
15 make a statement as to Liberty Township's standing,  
16 so that is included within these written findings,  
17 so that would be part of the document as well.

18           MR. JESTER: Is that what I was supposed  
19 to -- is it so ordered by the Powell -- the Board --  
20 Powell Board of Zoning Appeals, is that what you're  
21 saying?

22           CHAIRMAN COOPER: Oh, no. I'm looking at  
23 the wrong place here. Oh, right above that.

24           MR. JESTER: You want a motion on that?

1 CHAIRMAN COOPER: No. I don't -- Ben said  
2 we don't need a motion.

3 MR. JESTER: Okay, then. That's fine.

4 CHAIRMAN COOPER: What we do need a  
5 motion, though, is to approve this in its current  
6 form.

7 MR. JESTER: I move that -- what do we  
8 call it?

9 CHAIRMAN COOPER: Findings of fact and  
10 conclusions of law.

11 MR. JESTER: -- that the written findings  
12 and conclusions of the City of Powell Board of  
13 Zoning Appeals be approved.

14 CHAIRMAN COOPER: I would second that  
15 motion.

16 MS. VOGEL: Ed Cooper?

17 CHAIRMAN COOPER: Yes.

18 MS. VOGEL: Joe Jester?

19 MR. JESTER: Yes.

20 CHAIRMAN COOPER: Do we have any other  
21 business?

22 MR. ALBRECHT: The only thing we have left  
23 to do is to sign these and make it official.

24 CHAIRMAN COOPER: Do we need to do that

1 right this second?

2 MR. ALBRECHT: Sure.

3 CHAIRMAN COOPER: Let me make sure I --

4 MR. PAYNTER: Mr. Cooper, I have a point  
5 of order, if I may.

6 CHAIRMAN COOPER: Yes, sir.

7 MS. VOGEL: State your name, please.

8 MR. PAYNTER: I will. My name is  
9 Craig Paynter. I represent Liberty Township in this  
10 proceeding.

11 I'd like to enter my objection, first, to  
12 the procedure adopted by this Board in announcing  
13 its decision first and then adopting -- writing and  
14 adopting findings of fact and conclusions of law. I  
15 believe that procedure is inappropriate and  
16 unlawful.

17 Second, now that you've adopted your  
18 findings of fact and conclusions of law, I'd like to  
19 renew my request for the stay under the Powell Law  
20 of Codified Ordinances and under your charter.

21 CHAIRMAN COOPER: So noted.

22 MR. JESTER: You may not be able to read  
23 mine anyway. Will an "X" do?

24 CHAIRMAN COOPER: If you had two people

1 that know you.

2 MR. JESTER: Yeah.

3 CHAIRMAN COOPER: Sign here. How many  
4 would you like us to sign here?

5 MR. ALBRECHT: Let's just do three.

6 CHAIRMAN COOPER: Okay.

7 (Board members signing acceptance.)

8 CHAIRMAN COOPER: Anything else from your  
9 team?

10 MR. ALBRECHT: No.

11 CHAIRMAN COOPER: Any new business that we  
12 should be aware of?

13 MS. VOGEL: No, sir.

14 CHAIRMAN COOPER: Thank you. I would then  
15 move to adjourn this meeting.

16 MR. JESTER: Seconded.

17 MS. VOGEL: Ed Cooper?

18 CHAIRMAN COOPER: Yes.

19 MS. VOGEL: Joe Jester?

20 MR. JESTER: Yes.

21 CHAIRMAN COOPER: Thank you, everyone.

22 (Thereupon, the hearing was concluded at

23 4:45 o'clock p.m.)

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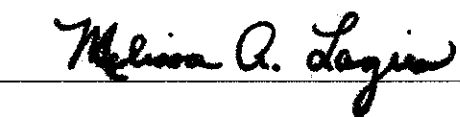
CERTIFICATE

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The undersigned do hereby certify that the foregoing proceedings were digitally recorded, electronically transmitted, and transcribed via audible playback, and that the foregoing transcript of such proceedings is a full, true and correct transcript of the proceedings as so recorded.



MICHELLE K. SALINAS  
Certified Digital Reporter



MELISSA A. LAGIES  
Certified Digital Transcriber

1 ORIGINAL

2 HEARING IN RE:

3 City of Powell Board of Zoning Appeals

4 DATE OF DELIVERY:

5 City of Powell  
6 47 Hall Street  
7 Powell, Ohio 43065  
8 By Ms. Sue D. Ross

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9 SUE D. ROSS

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