

PUBLIC HEARING
AUSTINTOWN ZONING COMMISSION
May 3, 2007

In accordance with Section 519.12 of the Ohio Revised Code, the Austintown Township Zoning Commission held a public hearing on Thursday, May 3, 2007, at the Township Hall, 82 Ohltown Road, Austintown, Ohio, for consideration of and recommendation to the Board of Township Trustees Zone Change Case Nos. 07-02-Z, 07-03-Z, 07-04-Z, 07-05-Z, 07-06-Z, 07-07-Z, 07-08-Z, 07-09-Z, 07-10-Z, and 07-11-Z.

The following Commission members were in attendance:

Eugene Benyo –Chairman
Robert Price
Brett Hendricks
Bonnie Sovik

The public hearing was opened at 7 P.M. by Chairman Benyo.

Court Reporter in attendance, complete transcript taken of the hearing.

Motion by Mr. Hendricks to **APPROVE** the minutes of the March 29, 2007 meeting. Seconded by Mrs. Sovik. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Benyo – YES.

Clerk Kurilla stated the ten (10) zone change cases were contiguous parcels represented by the same Applicant, and would be combined in one hearing setting as was done in the presentation before the Mahoning County Planning Commission.

07-02-Z – Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of Joseph Herman, 67 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of two parcels of land containing a combined total of approximately 0.26 acres, from a Residence R-2 District to a Business B-2 District. Said property, being further described as Lot Nos. 1842 and 1843, Wickliffe Commerical Subdivision, is located at the southeast corner of Lexington Place and Oakwood Avenue, have a combined frontage of 40 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

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07-03-Z – Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of John Paventi, 63 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of a parcel of land containing 0.13

acres, from a Residence R-2 District to a Business B-2 District. Said property, being further described as Lot No. 1844, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 125 feet south of the Lexington Place-Oakwood Avenue intersection, has a frontage of 40 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-04-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of John and Sandra Loveland, 61 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of a parcel of land containing 0.13 acres, from a Residence R-2 District to a Business B-2 District. Said property being further described as Lot No. 1845, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 200 feet south of the Lexington Place-Oakwood Avenue intersection, has a frontage of 40 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-05-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of Patrick and Diane Williams, 59 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of two (2) parcels of land containing a combined total of 0.19 acres, from a Residence R-2 District to a Business B-2 District. Said property, being further described as Lot No. 1846, and the northerly half of Lot No. 1847, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 225 feet south of the Lexington Place-Oakwood Avenue intersection, has a combined frontage of 60 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-06-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of Marius Hicks, 45 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of two (2) parcels of land containing a combined total of 0.19 acres, from a Residence R-2 District to a Business B-2 District. Said property, being further described as the southerly half of Lot No. 1847 and Lot No. 1848, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 275 feet south of the Lexington Place-Oakwood Avenue intersection, has a frontage of 60 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-07-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of Anthony and Peggy Protain, 41 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of a parcel of land containing 0.13 acres, from a Residence R-2 District to a Business B-2 District. Said property, being further described as Lot No. 1849, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 325 feet south of the Lexington Place-Oakwood Avenue intersection, has a frontage of 40 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

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wood Avenue intersection, has a frontage of 40 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-08-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of Howard Martin Dean and Mary Jo Dean, 37 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of a parcel of land containing 0.13 acres, from a Residence R-2 District to a Business B-2 District. Said property, being further described as Lot No. 1850, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 375 feet south of the Lexington Place-Oakwood Avenue, intersection has a frontage of 40 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-09-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of Melissa K. Miles, 35 Lexington Place Youngstown, Ohio, 44515, requests the rezoning of a parcel of land containing 0.13 acres from a Residence R-2 District to a Business B-2 District. Said property, being further described as Lot No. 1851, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 400 feet south of the Lexington Place-Oakwood Avenue intersection, has a frontage of 40 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-10-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of William and Judith Simpson, 31 Lexington Place, Youngstown, Ohio, 44515, requests the rezoning of two (2) parcels of land containing a combined total of 0.19 acres, from a Residence R-2 District to a Business B-2 District. Said property, being further described as Lot no. 1852 and the northerly half of Lot No. 1853, Wickliffe Commercial Subdivision, is located on the east side of Lexington Place, 450 feet south of the Lexington Place-Oakwood Avenue intersection, has a frontage of 60 feet, a depth of 140 feet; and is zoned as a Residence R-2 District.

07-11-Z - Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, on behalf of Uni-Marts, LLC, 477 East Beaver Avenue, State College, Pennsylvania, 16801, requests the rezoning of six (6) parcels of land having a combined total of 0.25 acres, from a Residence R-2 and Business B-2 District to a Business B-2 District in its entirety. Said property, being further described as the southerly half of Lot No. 1853, Lot No. 1854, and the northerly rear portions of Lot Nos. 1823, 1824, 1825, and 1826, Wickliffe Commercial Subdivision, is located at the northeast corner of Lexington Place and Mahoning Avenue, has a combined frontage of 110 feet on Lexington Place, a mean depth of 140 feet, and is zoned as a Residence R-2 District and Business B-2 District.

MAHONING COUNTY PLANNING COMMISSION – Planning Commission recommended **APPROVAL** as per the agenda for Case Nos. 07-02-Z thru 07-11-Z.

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Clerk Kurilla read the following letter dated March 19, 2007 filed with the application for rezoning into the case record:

RE: Zoning Change
NWC Mahoning and Meridian
Austintown, Ohio

Dear Commission members:

As discussed in previous conversations, we are proposing to develop a new retail project near the northwest corner of Mahoning and Meridian Road in Austintown, Ohio. As also discussed, the project will require a zoning change of thirteen (13) parcels (containing nine (9) residences) from R-2 to B-2 in order to proceed. . . .

The following thirteen (13) parcels, having a total of nine (9) owners, are the requested locations for zoning change (see Exhibit A):

- | | |
|------------------------|-----------------------|
| * 48-23-115 (Herman) | * 48-23-121 (Hicks) |
| * 48-23-116 (Herman) | * 48-23-122 (Hicks) |
| * 48-23-117 (Paventi) | * 48-23-123 (Protain) |
| * 48-23-118 (Loveland) | * 48-23-124 (Dean) |
| * 48-23-119 (Williams) | * 48-23-125 (Miles) |
| * 48-23-120 (Williams) | * 48-23-126 (Simpson) |
| | * 48-23-128 (Simpson) |

We hereby respectfully request the change in zoning as specified above. We feel that the change of zoning requested is reasonable and appropriate to allow the use of the property, that the granting zoning change request would be in general keeping of the intent of the Zoning Ordinance, and that the zoning change would not be detrimental to the public welfare.

The nine (9) property owners have acknowledged this understanding and approved our request for zoning change on their behalf by signing below. . . .

Regards,

VISCONSI COMPANIES, LTD.

/s/ Michael C. Lewis, Development Specialist

/s/ Joseph Herman, 67 Lexington Place

/s/ John Paventi, 63 Lexington Place

/s/ John Loveland, 61 Lexington Place

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/s/ Sandra Loveland, 61 Lexington Place

/s/ Patrick Williams, 59 Lexington Place

/s/ Diane Williams, 59 Lexington Place

/s/ Marius Hicks, 45 Lexington Place
/s/ Anthony Protain, 41 Lexington Place
/s/ Peggy Protain, 41 Lexington Place
/s/ Howard Martin Dean, 37 Lexington Place
/s/ Mary Jo Dean, 37 Lexington Place
/s/ Melissa K. Miles, 35 Lexington Place
/s/ William Simpson, 31 Lexington Place
/s/ Judith Simpson, 31 Lexington Place

Clerk Kurilla read the following letter dated March 21, 2007 filed with the application for rezoning into the case record:

RE: Zoning Change Request
NWC Mahoning and Meridian
Austintown, Ohio

Dear Commission Members:

As discussed in previous conversations, we are proposing to develop a new retail project near the northwest corner of Mahoning and Meridian Road in Austintown, Ohio. In addition to the nine (9) residences along Lexington Place, a portion of the property owned by Uni-Marts, Ohio, LLC will need to be rezoned from R-2 to B-2. . . .

Two (2) of the parcels will need to be rezoned in their entirety with the remaining four (4) parcels requiring a partial rezoning. The following six (6) parcels are the requested locations for the zoning change (see Exhibit A):

- * 48-23-127 (Uni-Marts, Ohio, LLC – entire parcel)
- * 48-23-129 (Uni-Marts, Ohio, LLC – entire parcel)
- * 48-23-130 (Uni-Marts, Ohio, LLC – partial parcel)
- * 48-23-131 (Uni-Marts, Ohio, LLC – partial parcel)
- * 48-23-132 (Uni-Marts, Ohio, LLC - partial parcel)
- * 48-23-133 (Uni-Marts, Ohio, LLC - partial parcel)

We hereby respectfully request the change in zoning as specified above. We feel that the change of zoning requested is reasonable and appropriate to allow the use of the property that the granting zoning change request would be in general keeping of the intent of the Zoning Ordinance, and that the zoning change would not be detrimental to the public Welfare.

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Uni-Marts, Ohio, LLC has acknowledged this understanding and approved our request for zoning change on their behalf by signing below. . . .

Regards,

VISCONSI COMPANIES, LTD.

/s/ Michael C. Lewis, Development Specialist

/s/ Uni-Marts, Ohio, LLC

Michael C. Lewis, Development Specialist, Visconsi Companies, Ltd, 360 Corporate Circle, 30050 Chagrin Boulevard, Pepper Pike, Ohio, 44124, Applicant for the proposed ten (10) zone change cases, introduced Sean Jurish, P.E., of Visconsi Companies, who will assist in the presentation. Lewis testified that the developers of the proposed project intend to redevelop the northwest corner of North Meridian Road and Mahoning Avenue, pending the rezoning approval by the Township. Lewis submitted two (2) exhibits for the case record: [1] an aerial photograph of the subject area of rezoning circled in "red", depicting the Mahoning Avenue, Oakwood Avenue, North Meridian Road geographic area; [2] a copy of the Austintown Zoning Map, illustrating the Lexington Place corridor as Residence R-2, with industrial zones to the west and north, and a Business B-2 zone to the east.

Mr. Lewis stated that the developer intends to unify the block bounded by Oakwood Avenue, North Meridian Road, and Mahoning Avenue in requesting the rezoning to a Business B-2 District. Lewis characterized the zoning of Lexington Place, an established old residential neighborhood, as obsolete with the passage of time; completely surrounded by industrial and businesses uses and zoning patterns. Lewis pointed out that the requested change for zoning reclassification is consistent with and in conformance with the Township Land Use Plan; and he was of the opinion that a retail classification represents the highest and best use for the property. Lewis related that the successful redevelop of this corner could spawn a revitalization of the area, and possibly a domino effect for future projects.

Lewis informed the Commission that he was not at liberty to identify the proposed retail user at this time; but assured the Commission that the tenant would be a definite asset to the community. The proposed use is reasonable and appropriate for a Business B-2 District, and would in no manner be detrimental to the community. Lewis displayed an exhibit board depicting a 14,800 square foot retail building, with the parking field directed towards North Meridian Road and Mahoning Avenue. The Applicant pointed out the green space provided on the preliminary site plan; and aware of the residences remaining at the rear property line to the west, noted a selected buffer of trees and/or fencing would provide an adequate visual buffer.

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Mr. Price asked the Applicant in reviewing the preliminary site plan, if he was suggesting that Lot Nos. 1842, 1843 and 1844 would remain residential uses. Lewis responded that the possibility exists, or these lots could be the subject of a separate redevelopment effort;

with the final decision of the proposed primary tenant dictating its use.

Mr. Price commented that the Applicant has made a persuasive argument and case for the rezoning, which would be strengthened if the actual tenant was known. Lewis answered by stating he appreciated the Commission members point, but that he would not be at liberty to reveal the identify of the tenant until after May 14, at which time the decision will be reported out of the development committee. Therefore, by the time of the Trustees final hearing, the identity of the proposed retail user should be known.

Chairman Benyo asked if the BP service station will remain undisturbed with the proposed redevelopment plan. Lewis responded in the affirmative, noting that there will be access points/interconnected driveways coming from the proposed new retailers parking lot, over the BP property to Mahoning Avenue.

Chairman Benyo asked if these access driveway agreements would be long term. Lewis answered that the access drives would be recorded as easements.

Mr. Hendricks asked the Applicant how firm or committed the tenant is to the three (3) driveway accesses onto Lexington Place depicted on the preliminary site plan. Lewis responded that the tenant would certainly desire the three (3) driveway cuts, and that this is not a final site plan. Moreover, Lewis pointed out that there are nine (9) individual driveway cuts onto Lexington Place at the present time from the nine (9) residences.

Mr. Price asked the Applicant about a projected time line for breaking ground for the project. Lewis answered that if successfully rezoned, the developer would like to close 2 months after the final June hearing; and possibly commence construction in the fall.

Mrs. Sovik asked several questions about the three (3) residential properties to the north that may not be included in the comprehensive redevelopment plan. Lewis stated that Visconsi wanted to present a unified development plan and not create a checker board zoning pattern. The residences may be maintained at some point, with Visconsi having an option to purchase all of the rezoned properties.

Chairman Benyo called for resident/witness testimony in support of the rezoning.

Jerry Dixey, 3667 Mahoning Avenue, owner of the Ohio Van business, testified that he supported the rezoning request, and applauded the efforts of a company wanting to undertake the redevelopment of this corner.

Chairman Benyo called for resident/witness testimony in opposition to the request.

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Mae Fares, owner of the property at 54 Lexington Place, stated she was half in support and half in opposition to the request. Having been involved in real estate development as a realtor and appraiser for year, Mrs. Fares was of the opinion that this area should

have been zoned business years ago given the surrounding industrial and business zoning patterns. Fares was of the opinion that the west side of Lexington Place should have been included in bringing the request forward.

Clerk Kurilla read into the case record a letter dated April 23, 2007 from Dan and Charen Fink, owners of the property located at 50 Lexington Place, stating that they believe they could be disenfranchised if the rezoning issue is not addressed collectively.

Michael Lewis, in rebuttal, stated he appreciated the comments of Mrs. Fares and Mr. and Mrs. Fink, and agreed that a comprehensive request would be an ideal situation; however, Visconsi did not have the authority to bring the rezoning of the west side of Lexington Place forward with this request. Lewis observed that the successful rezoning of the pending cases could be the impetus for future rezoning and redevelopment of the west side of the street.

Chairman Benyo asked Zoning Inspector Kurilla to share with the Commission members and those in attendance his question as to whether the Zoning Commission or Board of Township Trustees could rezone the west side of Lexington Place at the same time the east side is under consideration. Kurilla explained that at the request of Chairman Benyo, he had a discussion with the Mahoning County Prosecutor's Office concerning this question, with the following answer provided. Pursuant to ORC Section 519.12 (A) (B) (C), a Board of Township Trustees can initiate hearings to rezone more than ten parcels of land without providing abutting property owner notice or notice in a newspaper of general circulation. Kurilla noted that the Lexington Place situation is a truly unique one, with the zoning districts reflecting the original zoning map established in 1949 and voted on with the original ballot issue.

Discussion by Commission members.

07-02-Z – VISCONSI COMPANIES, LTD (HERMAN)-RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Benyo – ABSTAIN.

07-03-Z – VISCONSI COMPANIES, LTD (PAVENTI)-RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mr. Sovik – YES; Mr. Benyo – YES.

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07-04-Z – VISCONSI COMPANIES, LTD (LOVELAND)-RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by

Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Benyo – YES.

07-05-Z – VISCONSI COMPANIES, LTD (WILLIAMS)-RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Benyo – YES.

07-06-Z – VISCONSI COMPANIES, LTD (HICKS) – RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Benyo – YES.

07-07-Z - VISCONSI COMPANIES, LTD (PROTAIN) – RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mr. Sovik – YES; Mr. Benyo – YES.

07-08-Z - VISCONSI COMPANES, LTD (DEAN) – RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Benyo – YES.

07-09-Z - VISCONSI COMPANIES, LTD (MILES) – RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Price – YES.

07-10-Z – VISCONSI COMPANIES, LTD (SIMPSON) – RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Price – YES.

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07-11-Z – VISCONSI COMPANIES, LTD (UNI-MARTS, OHIO, LLC) – RECOMMENDATION

Motion by Mr. Hendricks to **ACCEPT** the Planning Commission recommendation and recommend **APPROVAL** of rezoning to a **BUSINESS B-2 DISTRICT**. Seconded by Mr. Price. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Price – YES.

Motion by Mr. Price to make a non-binding recommendation to the Board of Trustees, to invoke their authority in the Ohio Revised Code to initiate hearings to rezone the parcels on the west side of Lexington Place from Residence R-2 to Business B-2. Seconded by Mr. Hendricks. Roll call vote: Mr. Price – YES; Mr. Hendricks – YES; Mrs. Sovik – YES; Mr. Price.

There being nothing further to come before the Commission, the hearing was adjourned at 8 P.M.

AUSTINTOWN ZONING COMMISSION

Michael P. Kurilla, Jr., Clerk

APPROVED: _____
EUGENE BENYO, Chairman

DATE: _____