

IN THE COMMON PLEAS COURT
SUMMIT COUNTY, OHIO

- - -

STATE OF OHIO, EX REL.)	
MARCELLA GAYDOSH,)	
)	
Plaintiff,)	
)	
vs.)	No. CV-2012-09-5055
)	
CITY OF TWINSBURG c/o Mayor)	
PRO COP and CITY COUNCIL)	
MEMBERS,)	
)	
Defendant.)	

- - -

Deposition of LARRY FINCH, a Witness herein, called by the Plaintiff for cross-examination, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Susan M. Petro, a Stenographic Reporter and Notary Public in and for the State of Ohio, at Twinsburg City Hall, James A. Karabec Conference Room, 10075 Ravenna Road, Twinsburg, Ohio, on Friday, the 5th day of April, 2013 at 12:01 o'clock, p.m.

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1 APPEARANCES:

2 On behalf of the Plaintiff:

3 The Law Offices of Warner Mendenhall, Inc.;

4 By: Warner Mendenhall, Attorney at Law,
5 190 North Union Street, Suite 201,
6 Akron, Ohio 44304.
7 330.535.9160

8 On behalf of the Defendants:

9 Twinsburg, Ohio;

10 By: David M. Maistros, Law Director and
11 Prosecutor,
12 10075 Ravenna Road,
13 Twinsburg, Ohio 44087.
14 330.963.6248

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1 LARRY FINCH
2 of lawful age, a Witness herein, having been first duly
3 sworn, as hereinafter certified, deposed and said as
4 follows:

5 CROSS-EXAMINATION

6 By Mr. Mendenhall:

7 Q Hi, Larry.

8 My name is Warner Mendenhall, I represent
9 Marcella Gaydosh in this lawsuit.

10 And have you ever had your deposition taken
11 before?

12 A I have.

13 Q How many times?

14 A Oh, four or five.

15 Q Starting from the first lawsuit that you took a
16 deposition for, what lawsuit was that?

17 A Geez. It's been a while.

18 I've been involved in Moreland Hills.

19 Q What was that -- you said some other word there, I
20 didn't catch it.

21 A There was -- I was on -- I was deposed as the
22 Village Consultant to the Village who was working
23 with them on a comprehensive plan.

24 THE NOTARY: I'm sorry?

25 A And that's been, gosh -- it was just before I

1 started working for Twinsburg, so probably 2004.

2 Prior to that, I had been an Expert Witness in
3 a case for Chardon in '85, '87.

4 I could provide you a list probably rather --
5 easier than trying to recall it just off the top of
6 my head.

7 By Mr. Mendenhall:

8 Q Keep going. You said there were four, there's only
9 two more to go.

10 A I was deposed for a project in Parma.

11 Q Year?

12 A That was about '83.

13 Q Were you deposed in the Match House case as well?
14 Do you know what I'm talking about?

15 A No, I was not.

16 Q It was here in Twinsburg?

17 A Yes.

18 Q What was the other case that you were deposed in?

19 A Let's see.

20 Was I deposed for a Twinsburg case?

21 I don't recall now if I was deposed for any
22 Twinsburg cases or not.

23 Q I thought I read a deposition that got filed in
24 Federal Court on the Match House case.

25 A It wasn't the Match House case. The one I was

1 deposed here in Twinsburg for was the Corbet Farm
2 lawsuit.

3 Q And that lawsuit is ongoing, right?

4 A Yes.

5 Q The Moreland Hills comprehensive plan lawsuit, what
6 was the issue there?

7 A A developer had purchased a piece of property in
8 Moreland Hills, they wanted to develop the property
9 at a higher density than the current Moreland Hills
10 Code let them, and that was the issue of the case.

11 Q What was the outcome?

12 A It was found favorably to the Village.

13 Q So the developer was not allowed to develop at the
14 higher --

15 A That's correct.

16 Q -- density?

17 And then the Chardon situation, '85 to '87,
18 you were an Expert there?

19 A I was. That was for -- it was Wal-Mart wanted to
20 build a store on Water Street, they approached
21 Chardon who was in a district that did not allow the
22 size building that they wanted to build.

23 Q And did Chardon prevail in that lawsuit?

24 A Chardon did.

25 Q And in the Parma case, what was that one about back

1 in '83?

2 A That was -- Tim Grendell was the Attorney, he was
3 the opposite -- who was the opposition's Attorney.
4 It was for a parcel of property where the owner
5 wanted to develop it as an apartment complex, and
6 the zoning was single family residential.

7 Q And did Parma prevail?

8 A Yes. And ended up negotiating after about three
9 years.

10 Q Corbet Farm, that case is still going on; is that
11 correct?

12 A Yes.

13 Q And to date, has Twinsburg prevailed on that?

14 A In the lower Court we did. It was sent to the
15 Appeals Court, Appeals Court remanded it back to the
16 lower Court.

17 Q What happened in the Appellate Court then?

18 A There was some --

19 MR. MAISTROS: Objection.

20 I mean, I'm not sure Larry knows.

21 A It was -- as I understand, the Appeals Judge felt he
22 needed more clarification of the rationale of the
23 lower Court's Judge ruling.

24 By Mr. Mendenhall:

25 Q Okay. That's density issue, too, if I remember

1 correctly.

2 A Yes.

3 Q What's your educational background? I'm mainly
4 interested in college and post college.

5 A My undergraduate degree is in Geography, Urban
6 Planning specialty, University of Akron. Post
7 baccalaureate studies in Geographic Administration
8 Systems, Business Administration, both at University
9 of Akron and Ohio State. And then Master's degree
10 at University of Akron in Public Administration.

11 Q Okay. That's it?

12 A That's it.

13 Q When did you finish the Master's degree in Public
14 Administration?

15 A It was in '97.

16 Q And when did you graduate with the Geography Urban
17 Planning degree?

18 A '71.

19 Q Okay. What's your position here with Twinsburg?

20 A I'm the Director of Community Planning and
21 Development.

22 Q How long have you been in place here?

23 A Since 2005.

24 Q Okay. And going backwards, I guess, what did you
25 hold before you were here at Twinsburg?

1 A I was a consultant, I had my own business for
2 15 years.

3 Q What did you consult on?

4 A Municipal administrative and planning services.

5 Q You named a couple that you showed up in Court for,
6 who all did you work for in that time frame?

7 A In the 15 years I've worked for -- you just want to
8 know who in terms --

9 Q Who were your clients?

10 A Generally speaking?

11 Q Yes.

12 A The Akron Public Utilities Bureau, Burgess and
13 Niple, B-u-r-g-e-s-s and N-i-p-l-e, engineering and
14 architectural consulting firm. City of Wickliffe,
15 the Village of Highland Hills, the City of
16 Louisville by North Canton.

17 Q Louisville outside of Canton, east of Canton?

18 A Yes.

19 The Village of North Randall, City of Parma.
20 Did a project for the City of Cleveland Department
21 of Development. And I did couple of development
22 projects for developers.

23 Q What developers did you work for?

24 A Lake County, it was the guys that owned the -- the
25 sand and gravel out there.

1 Q Osbornes?

2 A Osbornes.

3 Q So that takes us back to about 1990 then if my
4 calculation --

5 A That would be correct.

6 Q What did you do through the Eighties?

7 A I was an employee at Burgess and Niple, Limited,
8 Engineers and Architects.

9 Q Okay. Why did you decide to go out on your own?

10 A I worked for Burgess and Niple for 20 years,
11 19 years, and started as a planner, became principal
12 planner, was doing projects throughout Ohio and the
13 Eastern U.S. and a couple projects abroad, and I
14 felt, you know, I was selling the projects, I was
15 doing the projects and I feel billing for the
16 projects, I can do it for myself. And the emphasis
17 for the company was engineering, not planning. So I
18 took advantage of -- of the fact that my wife was
19 working and started up my own company.

20 Q My understanding is that currently you work for
21 other communities as well.

22 A I work only for one other community.

23 Q Is that Twinsburg?

24 A I work for the City of Twinsburg.

25 Q And Tallmadge, is it Tallmadge?

1 A No. The Village of Highland Hills.

2 Q What do you do for Highland Hills?

3 A Grantsmanship primarily, grantsmanship and
4 administration of grants for Mayor Nash.

5 Q The Mayor?

6 A The Mayor.

7 Q And since '05, is that the only other job you've
8 held outside of -- or contract you've held outside
9 of Twinsburg?

10 A That's correct.

11 Q This is kind of vague in my memory, your name came
12 up in connection with something out in Tallmadge.

13 You don't have any involvement with Tallmadge?

14 A No. I've tried to get a number of communities along
15 the Route 91 corridor to go in on a grant to the
16 Department of Transportation, which we did, that's
17 been about two years ago.

18 Q Okay.

19 A Yeah. And I had worked for Tallmadge previously
20 when I was still self-employed on a couple of zoning
21 issues.

22 Q Okay. When did you cease work for Tallmadge?

23 A Probably about the same time I started here, about
24 2005.

25 Q All right. I assume you're familiar with the

1 Twinsburg City Charter?

2 A Yes.

3 MR. MENDENHALL: Let's go ahead and mark
4 that. (Indicating)
5 (Plaintiff's Exhibit 1 was
6 marked for identification.)

7 By Mr. Mendenhall:

8 Q We're here over the recently passed height
9 regulations, and our position is that Charter
10 Section 7A.01 would cover that, meaning that height
11 regulations change would have to go to a vote of the
12 people.

13 Are you familiar with 7A.01?

14 A I am.

15 Q Okay. In the course of your responsibilities for
16 the City, is part of what you do interpreting the
17 Zoning Code and laws that relate to the Zoning Code?

18 A Yes.

19 Q Okay. Tell me exactly what that responsibility is.

20 A Basically I provide my opinion on questions of the
21 Zoning Code that the Planning Commission or
22 Counselor or people may have, residents or others.

23 Q And explain to me then -- and did you provide an
24 opinion about the height regulations that were
25 passed last year?

1 A Yes, I did.

2 Q All right. How did 7A.01 influence that opinion?

3 A Well, certainly I'm aware of 7A.01, and I know what
4 it says in regard to the changes and district
5 boundaries and uses et cetera. And after
6 considering the 7A.01 provisions, it basically was
7 my opinion that it did not apply to building height.

8 Q Okay. And that's the opinion that you gave to the
9 Council?

10 A Yes.

11 Q And did they follow your opinion?

12 A I'm assuming they did.

13 Q Well, there has not been a vote on this, on the --

14 A That's correct.

15 MR. MAISTROS: I'm sorry, can we clarify
16 that? A vote of who?

17 By Mr. Mendenhall:

18 Q There has not been a ballot issue that the
19 electorate voted on regarding the height
20 regulations?

21 A No.

22 Q In your opinion, what in here would -- what in here
23 provides the basis for not having a vote of the
24 electorate on height regulations?

25 A Okay. Shall we do this one piece at a time?

1 Q Sure.

2 A "Any change in zoning classifications or districts."

3 If you look at our zoning regulations, we do
4 have a definition of zoning classification or use
5 classification. And if you'd like, I'd like to
6 refer to that.

7 Q Sure.

8 I'm not going to introduce this as an Exhibit
9 unless I have to, but is this the current --

10 A Yes, it should be.

11 Q June 1, 2011?

12 A Yes.

13 Q -- Twinsburg Zoning and Development Regulations.

14 Go ahead and refer to that.

15 Just for the record, he is looking at the
16 June 11, 2011 version of the Twinsburg Zoning Code.

17 A And it's Chapter 11.05 of the definitions.

18 Okay. Zoning district is defined -- I have
19 373 on Page 43. Zoning district means a portion of
20 community that is officially delineated on a zoning
21 map and is subject to a particular set of land use
22 requirements set forth in the district regulations.
23 These requirements which are uniform throughout the
24 district control permitted uses, as well as
25 intensity of development and arrangement of

1 buildings on the land.

2 Let's see if we can find also use or land use,
3 see if we can find the reference.

4 Okay. Land use. The development activity --

5 Q What's the page number?

6 A This is Page 25, Item 196.

7 The development activity or use that is
8 occurred on or is proposed for the land. Item 197
9 is land use category, that's categorization or
10 grouping of activities according to common
11 characteristics. Then in parentheses, for the
12 purposes of these regulations, land use
13 classifications are those described in the land use
14 element of the adopted comprehensive plan and shown
15 on the land use map.

16 May be one or two other definitions in here
17 that relate, also.

18 Q But you think those two exempt height regulations
19 from consideration by the electorate?

20 A They speak to zoning classifications and they speak
21 to zoning districts.

22 Q Let me go back to something here on 373.

23 Okay. 373, the definition of zoning district
24 deals in part with intensity of development.

25 Do you agree with this phrase, that increased

1 height means increased intensity of development?

2 A No, not necessarily.

3 Q Okay. Explain why.

4 A Just because a building is higher does not mean
5 necessarily that there's occupied space or that the
6 amount of activity in the building is going to be
7 increased.

8 I have a good example. An industrial
9 building -- the activity that is going to occur
10 within most industrial buildings, it requires more
11 height now for stacking space, for warehousing or
12 distribution. Nearly every industrial use now is
13 seeking higher industrial buildings so they can
14 stack things higher. The use has not changed, it's
15 still moving product in and out, they're still
16 warehousing product, they're still in many cases
17 employing fewer employees. The building may be
18 higher, but it does not change the use that's going
19 on in the building, the activity that's going on in
20 the building, not necessarily density of employment
21 within the building.

22 Q But it does change the intensity of use in the fact
23 that you can stack more boxes or more goods in that
24 building.

25 A It does not change the use.

1 Q But what we're talking about, though, in 373 is
2 intensity. So instead of stacking five boxes high,
3 you can stack 10 boxes high, for example.

4 A That's true.

5 Q I take it your position is that just because more
6 boxes can be stacked in a building does not mean
7 it's being more intensively used?

8 A It does not mean it's changing the use in the
9 district.

10 Q I'm not talking about the use.

11 Let's agree that the use we're talking about
12 right now, as an example, is for warehousing.

13 A Yes.

14 Q That you can warehouse more stuff in a higher
15 building, a taller building.

16 A True.

17 Q Wouldn't you agree that if you can warehouse more
18 stuff, that that's a more intense use of that
19 building?

20 A Perhaps as a more intense use, does not change the
21 use.

22 Q I agree with you, it does not change the overall
23 use.

24 MR. MAISTROS: Just to clarify, I mean,
25 I'm not sure if you read 373, it does not talk

1 about intensity of use, I want to clarify
2 that. It says intensity of, then there's
3 another word, you changed it to read intensity
4 of use.

5 MR. MENDENHALL: Intensity of
6 development --

7 MR. MAISTROS: Correct.

8 MR. MENDENHALL: -- and arrangement of
9 buildings on the land.

10 By Mr. Mendenhall:

11 Q All I want to know is: You can put more stuff in a
12 higher building, correct.

13 A You can put more stuff in a higher building.

14 Q And isn't that an increase in the intensity of
15 development?

16 A You know, I don't know if I can say that. It does
17 not increase the footprint of the building, it does
18 not increase the -- you know, we have -- currently
19 we have maximum land area coverage in industrial
20 districts, it's not changed the land area coverage
21 that's permitted.

22 Q Okay. We'll get to that.

23 Let's just talk generally about height of
24 buildings. There's some major cities that have
25 height limitations. And I'm going to give two,

1 Paris and Washington, D.C.

2 Do you understand that both of those cities
3 have height limitations, or do you not know that?

4 A I know they have limitations, yes.

5 Q Many planners and developers believe those height
6 limitations are crucial and central to the character
7 of those cities. Do you agree with that?

8 A In those cases, yes.

9 MR. MENDENHALL: Let's mark the
10 Ordinance 97-12 as Exhibit 2.

11 (Plaintiff's Exhibit 2
12 was marked for identification.)

13 By Mr. Mendenhall:

14 Q Okay. You're familiar with this Ordinance, correct?

15 A Yes.

16 Q This is the Ordinance that's at issue in this
17 lawsuit.

18 This Ordinance, do you remember the passage of
19 this Ordinance?

20 A I do.

21 Q I'm interested in 1148.15, and I want to compare
22 that to this next Exhibit.

23 (Plaintiff's Exhibit 3 was
24 marked for identification.)

25

1 By Mr. Mendenhall:

2 Q I'm just going to ask you generally -- I see 1148.15
3 in the Ordinance, and I see the old 1148.15. Do you
4 agree with me that 1148.15 that's Exhibit 3 is the
5 old regulation and 1148.15 in the Ordinance is the
6 new one?

7 A Yes.

8 Q What does the new one in the Ordinance actually
9 change?

10 I see the words have changed, but I want to
11 know what it specifically changes in terms of
12 regulations.

13 A The C-1 and C-2 district did not change, it's still
14 at 35 feet. C-3 district -- or pardon me, the C-3
15 district and C-4 district are basically the same at
16 35 feet with the same requirements for setbacks for
17 additional height. C-5 district is 35 feet
18 conditional use, possibility there for additional
19 height. Essentially nothing has changed.

20 Q Okay. That's what I thought when I read it, too.

21 When I look at 1148.15 in the Ordinance and
22 1148.15 that's the prior statement, that the overall
23 effect of the new language is nil.

24 A That's correct.

25 Q Okay. It's just a different way of wording it,

1 correct?

2 A I'd have to agree, yeah.

3 Q Then let's move on.

4 1149.09, you see that in the Ordinance?

5 A In the new Ordinance, yes.

6 Q In the new Ordinance, this is Ordinance 97-12, this
7 is Exhibit 2 -- first of all, was there a Public
8 Hearing about 1149.09?

9 A 1149.09?

10 Q Yes.

11 A I believe there was. I don't know because I wasn't
12 at all the Council meetings.

13 Q Did you attend a Public Hearing?

14 A I don't recall.

15 Q So if I said there wasn't a Public Hearing, you
16 wouldn't -- you don't remember that either?

17 A I would not know.

18 Q You cannot confirm or deny that there was a Public
19 Hearing?

20 A No.

21 Q And the Public Hearings, where would I find the
22 Public Hearing if there was one?

23 A I would assume you'd find it in Council Minutes.

24 Q The same Council Minutes that are available on the
25 web?

1 A That would be my understanding, yes.

2 MR. MENDENHALL: Let's mark this one as

3 Exhibit 4. (Indicating)

4 (Plaintiff's Exhibit 4 was

5 marked for identification.)

6 By Mr. Mendenhall:

7 Q Okay. You see 1149.09?

8 A I do.

9 Q And the Ordinance addresses 1149.09, and it does
10 make changes to 1149.09?

11 A Yes.

12 Q Okay. Starting with the beginning of this, is that
13 the building now can exceed 35 feet -- well, hang on
14 a second -- "height of any main or accessory
15 building shall not exceed 35 feet." What is that,
16 I-1 district?

17 A You're referring to the Ordinance 97-2012?

18 Q Right, Exhibit 2.

19 A Yes, that's an Industrial-1 district, yes.

20 Q So I-1 still can't exceed 35 feet?

21 A That's correct.

22 Q But then I-2 and I-3, there's an additional
23 limitation now, it can go up to 45 feet?

24 A That's correct.

25 Q This changes heights, it also changes setbacks,

1 correct?

2 MR. MAISTROS: What are you referring to,
3 "This"?

4 By Mr. Mendenhall:

5 Q The Ordinance, Exhibit 2, changes the heights, and
6 it also changes the setbacks in the original 1149.09
7 which is Exhibit 4.

8 A It -- the prior 1149.09 permitted heights in excess
9 of 35 feet, so they both are now in excess of
10 35 feet. The difference is that the additional
11 setback requirement that was in the prior regulation
12 was removed to allow 45 feet by right.

13 Q Without the additional setbacks?

14 A Without the conditional use for setbacks.

15 Q And you explained to me earlier that intensity --
16 that the footprints didn't change, but here the
17 footprints have changed --

18 A No.

19 Q -- correct?

20 A No. The maximum building -- the maximum building
21 coverage has not changed from the prior one or this
22 one. It's still -- the maximum building footprint
23 in the district is either 40 percent or 35 percent
24 or 45 percent depending on the district, that has
25 not changed.

1 Q But you can have a taller building with less of a
2 setback now under the new regulation?

3 A Yes, you can have a 45-foot building without
4 additional setback, still cannot exceed the building
5 coverage maximum.

6 Q The Ordinance, referring back to Exhibit 2, is
7 referred to as regulation, height regulation. Do
8 you see that?

9 A Yes.

10 Talking about the title of 1148.15 and
11 1149.09?

12 Q Right.

13 And what these changes are are changes in --
14 Section 1 and Section 2 of Exhibit 2, these are
15 changes to the regulations, correct?

16 A That's correct.

17 Q You'd agree that a height limitation of any type is
18 a regulation?

19 A Yes.

20 MR. MENDENHALL: Let's mark this as
21 Exhibit 5. (Indicating)

22 (Plaintiff's Exhibit 5 was
23 marked for identification.)

24 By Mr. Mendenhall:

25 Q What I've handed you marked as Exhibit 5 is

1 Section 1201 of the Zoning Code. Do you see that?

2 A I do.

3 Q Do you agree this is Section 1201 of the Twinsburg
4 Zoning Code?

5 A I do.

6 Q Okay. I want to go through the words on this a
7 little bit.

8 Council may change the regulations, I'm
9 skipping some words in there. Do you see that?

10 A I do.

11 Q But first it has to go to the Municipal Planning
12 Commission, correct?

13 A Yes.

14 Q All right. And then let's skip down to "D."

15 "In the event City Council should approve any
16 of the preceding changes." Do you see that?

17 A I see that.

18 Q Preceding changes would refer back in part to
19 regulation, correct?

20 A Perhaps.

21 MR. MAISTROS: Just for the record, you're
22 skipping about 250 words, not just skipping a
23 couple words.

24 MR. MENDENHALL: That's fine, we're
25 entering the Exhibit.

1 By Mr. Mendenhall:

2 Q And please read anything else you want to point out
3 to me, but it looks to me like Council has to
4 approve the changes to any regulation. Do you
5 disagree with that?

6 A Council has to approve the changes to any
7 regulation, that's true.

8 Q Okay.

9 A Yes.

10 Q And once they've passed a change, then it's
11 mandatory that the same be approved by a majority
12 vote of the qualified electors of the City. Do you
13 see that in "D"?

14 A That's not what it says.

15 Q Okay. Tell me what it says.

16 A Okay. I'm going to read the last sentence out loud.

17 Q Okay.

18 A To me, that's clarifies the whole section. Says,
19 "Said issue shall be submitted to the electors of
20 the City only after approval by Council of a change
21 in zoning classifications or districts, or in the
22 uses permitted in any zoning use classifications or
23 districts." And it says, I'll reiterate, "City only
24 after approval by Council of a change in zoning
25 classifications or districts, or in the uses,"

1 et cetera. Not all regulations changes change uses,
2 districts or classifications.

3 Q I guess I'm keying in on the word "Any" in the first
4 sentence. And so you disagree with that?

5 A I do.

6 Q The word "Any" refers to everything above that, any
7 change above that?

8 A I'm not disagreeing that Council has to approve any
9 of the preceding. What I am disagreeing with is
10 that you're also implying that this also has to go
11 to the electorate, and that's not what's stated in
12 the last sentence of this paragraph which clarifies
13 the whole paragraph.

14 Q That is a run-on sentence, though, that first
15 sentence, it does not stop.

16 If height increases, doesn't that change a
17 district?

18 A No. Doesn't change a district, district boundary,
19 uses in the district, no.

20 Q Changes the height allowable in a district?

21 A Changes the height.

22 Q And you don't think that changes a district?

23 A No, I do not.

24 (Recess taken.)

25 - - -

1 (Plaintiff's Exhibit 6 was
2 marked for identification.)

3 By Mr. Mendenhall:

4 Q Take your time and look at Chapter 1183 that I just
5 handed you, Exhibit 6 --

6 A Uh-huh.

7 Q -- and Exhibit 5.

8 Are there any differences besides the
9 numbering and lettering, any differences in the
10 wording?

11 A I don't see any differences.

12 Q Are you familiar with 1183?

13 A I'm not generally, no.

14 Q Do you see down below where it says "Passed 7-11-89"
15 and it gives an Ordinance number?

16 A Yes.

17 Q 87-1989.

18 I'm going to hand you --

19 A Yes.

20 (Plaintiff's Exhibit 7 was
21 marked for identification.)

22 By Mr. Mendenhall:

23 Q I'm going to hand you what's been marked as
24 Exhibit 7.

25 This section of your Zoning Code and the

1 wording in it was voted on by the citizens of
2 Twinsburg, and what I've handed you is a copy of the
3 ballot from back in 1989. Do you see that?

4 A I see this, yes.

5 Q Did you know that the citizens had voted on
6 Exhibit 6?

7 A On Exhibit 6?

8 Q Yes.

9 A Well, I'm assuming they did. I don't know that, I
10 was not here. I see by the results of the election
11 they must have.

12 Q And that wording is the same as 1201, correct?

13 A Yes, it appears to be.

14 Q If the wording changed in 1201, is it your opinion
15 that that would have to go to a vote of people here
16 in Twinsburg?

17 MR. MAISTROS: Objection.

18 A 1201?

19 By Mr. Mendenhall:

20 Q Yes.

21 MR. MAISTROS: Objection.

22 What wording?

23 There's plenty of words in that.

24 MR. MENDENHALL: Any of the wording.

25 THE WITNESS: I would have to say it

1 depends on the amount -- depends on what
2 changed.

3 By Mr. Mendenhall:

4 Q Well, explain that, it depends on what changed.

5 A If it would change any of the Charter, if it would
6 change any of the districts, of the district
7 boundaries, uses in a district, then it would have
8 to go to the electorate.

9 Q I'm going to hand you Minutes from 1999.

10 (Plaintiff's Exhibit 8 was
11 marked for identification.)

12 By Mr. Mendenhall:

13 Q Do you remember making the statement that the
14 citizens had to vote on regulations?

15 A I would agree that, yes, these regulations have
16 district changes, district boundary changes, use
17 changes in the district and, for that reason, they
18 needed to go to the public. Generally speaking,
19 regulations don't necessarily have to go to the
20 public for a vote.

21 Q Well, let's back up a minute.

22 Do you dispute that you said "In order to have
23 Ordinances in place governing the regulations, the
24 regulations need to go to the public for voter
25 approval"?

1 A Well, I'm assuming those -- that's what I said,
2 these are Minutes.

3 Q Well, do you dispute that you said that?

4 A I don't dispute that I said it. In terms of what
5 the context was, what the subject of the Ordinances
6 were, those are the critical issues here.

7 Q And I'm just looking back at this, you were
8 obviously working for the City of Twinsburg back in
9 1999. Were you a consultant at that time?

10 A I was from 1996 -- mid '96 to 2005 I was consultant.

11 Q And what were you brought in to consult on?

12 A Zoning regulations, changes to the zoning
13 regulations.

14 Q And did, in fact, Twinsburg pass something called
15 the UDC?

16 A Yes.

17 Q I think that stood for Unified Development Code.

18 A Yes.

19 Q Do you know what happened to that Code?

20 A Yes.

21 Q What happened to that Code?

22 A Basically it was found not to be approved by the
23 public because it was not approved by a majority in
24 each ward.

25 MR. MENDENHALL: Okay. Let me take a

1 minute with Sally.

2 (Recess taken.)

3 - - -

4 By Mr. Mendenhall:

5 Q Okay. Let's go back to the Ordinance, I think that
6 was Exhibit --

7 MR. MAISTROS: 2.

8 By Mr. Mendenhall:

9 Q It's 97-2012.

10 What Exhibit number is that?

11 A 2.

12 Q Okay. Exhibit 2.

13 One of the things that I think is missing in
14 this Ordinance is there's no mention of any Public
15 Hearing. Is there any mention that you see of any
16 Public Hearing?

17 A Not in the Ordinance, no.

18 Q Typically when a Zoning Ordinance is passed, is
19 there a mention in the Ordinance of a Public
20 Hearing?

21 A Not generally.

22 Q Okay. As far as you know?

23 A As far as I know.

24 Q Okay. Prior to the passage of the industrial height
25 changes, were some buildings built over the 35-foot

1 height limit?

2 A I know some were permitted, and I'm sure that there
3 were -- yes, there were some built.

4 Q Which ones were built over the 35?

5 A You know, I have to go back in the record to see,
6 but I'm sure that there have been some built.

7 Q I have a note here -- and since that's been passed,
8 have buildings been built over the -- up to the
9 45-foot height limit?

10 A No, nothing up to the 45-foot limit.

11 Q Okay. Let me ask you about The Cleveland Clinic
12 building. How high is that one?

13 A It is -- I believe it's 63 or something like that.

14 Q How does that conform with the Code?

15 A It conforms because they have additional setback.

16 Q Did it conform under the old regulation or the new
17 regulation?

18 A Conformed under both.

19 Q Okay. Was it passed under the old regulation or the
20 new regulation?

21 A It was passed under the old regulations.

22 Q Okay.

23 A The old regulations meaning prior to 97-2012.

24 Q Exhibit 2?

25 A Yes.

1 Q So did The Cleveland Clinic build in the setbacks in
2 order to gain that height of 65 feet?

3 A They had a huge site, it was not an issue, yes.
4 That was in a commercial district, it was not in an
5 industrial district.

6 Q I had a note to myself -- you don't remember the
7 projects prior to passage of this Ordinance, though,
8 97-2012?

9 A Specific industrial projects?

10 Q Right.

11 I'm thinking Axle --

12 MR. MENDENHALL: What was that one?

13 MS. GAYDOSH: It's at the bottom of your
14 sheet of paper.

15 MR. MENDENHALL: I know I wrote it down
16 somewhere. Probably handed it to Dave.

17 THE WITNESS: I'm sure if we had an
18 opportunity we could go back and look at the
19 Planning Commission records and see where
20 conditional uses were required.

21 By Mr. Mendenhall:

22 Q But the ones that were -- I guess that's one of the
23 issues, is of the ones that went above that height,
24 you think a conditional use permit was granted to
25 exceed that height?

1 A Yes.

2 MR. MENDENHALL: Okay. I think we're
3 done, but give me one more minute.

4 (Recess taken.)

5 - - -

6 By Mr. Mendenhall:

7 Q What was the ARCO project?

8 A I believe they had a stack or a -- it was a -- not a
9 principle part of the building, it was an
10 appurtenance for their processes.

11 Q Is what?

12 A An appurtenance for their processes. It was like a
13 tower for storing beads or dropping sand, I think is
14 what it was.

15 Q How high did that tower go?

16 A I don't recall.

17 Q Was there a conditional use granted for the tower?

18 A No. Under the -- you can only go 15 feet above the
19 district regulations for things like appurtenances,
20 towers, belfries, a number of different items, it's
21 1139.

22 Q I guess my understanding of that was that it could
23 exceed it, but it was for elevators, stairways,
24 tanks, ventilating fans, skylights, fire towers,
25 steeples.

1 A Screw pump elevator with a tank for the sand.

2 Q So I guess that falls under the tank exception then?

3 A Yes.

4 MR. MENDENHALL: Okay. That's all we've
5 have.

6 Appreciate your time. Nice to meet you.

7 THE WITNESS: Thank you.

8 - - -

9 (Deposition concluded at 12:57 o'clock, p.m.)

10 - - -

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I, LARRY FINCH, certify that I have read this transcript consisting of thirty-seven (37) pages in its entirety, and that it is a true and correct transcription of the testimony given by me.

LARRY FINCH

Subscribed and sworn to before me this _____ day of _____, 2013.

Notary Public

My commission expires: _____

C E R T I F I C A T E

STATE OF OHIO,))SS:
SUMMIT COUNTY.)

I, Susan M. Petro, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named Witness, LARRY FINCH, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the Witness was by me reduced to Stenotypy in the presence of the Witness; afterwards transcribed by computer-aided transcription, and that the foregoing is a true and correct transcription of the testimony so given by the Witness as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified, and was completed without adjournment.

I do further certify that I am not a relative, Counsel or Attorney of either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio, on this 22nd day of April, 2013.

Susan M. Petro, Notary Public
in and for the State of Ohio.
My commission expires May 7, 2017.

**ARTICLE VIIA
CHANGES TO ZONING CLASSIFICATIONS OR DISTRICTS**

SECTION 7A.01 PROCEDURE.

Any change in zoning classifications or districts, or in the uses permitted in any zoning use classifications or districts within the City of Twinsburg must first be submitted to the Planning Commission, for consideration and report. In the event the City Council should approve any of the preceding requested changes, upon the report of the Planning Commission, it shall not be approved or passed by the declaration of an emergency, and it shall not be effective, but it shall be mandatory that the same be approved by a majority vote of all votes cast of the qualified electors of the City of Twinsburg and of each ward in which the property so changed is located at the next scheduled election. Said issue shall be submitted to the electors of the City only after approval by Council of a change in zoning classifications or districts, or in the uses permitted in any zoning use classifications or districts; however, should Council disapprove any such changes, the issue shall not be submitted to the voters. However, any change in zoning classifications or districts or designation of zoning classifications or districts or in uses permitted in any zoning use classification of land hereinafter annexed to the City shall be subject to the requirements of Section 7A.05 herein.

(Amended November 3, 2009)

SECTION 7A.02 REPEAL OF CONFLICTING PROVISIONS.

All ordinances, resolutions, proclamations, motions and Charter provisions inconsistent with this amendment are hereby repealed.

(Added November 2, 1982)

SECTION 7A.03 SEVERABILITY.

This amendment shall be severable and if any section, subsection, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other section, subsection, part, word or application thereof.

(Added November 2, 1982)

SECTION 7A.04 PUBLICLY OWNED LANDS.

Notwithstanding the provisions of this Article, lands acquired by the City of Twinsburg, the Twinsburg Board of Education or the Board of Trustees of the Twinsburg Public Library shall, upon application of the acquiring entity, be zoned public facilities districts by majority vote of Council following receipt of a report and recommendation from the Planning Commission and shall be governed by the regulations of the Zoning Code pertaining to Public Facilities Districts. Approval of the electorate of the City of Twinsburg shall not be required for such zoning change.

(Added November 5, 1991)

SECTION 7A.05 ZONING OF ANNEXED LAND.

Any parcel of land hereinafter annexed to the City of Twinsburg shall, upon annexation be classified in the closest compatible City of Twinsburg zoning classification by City Council upon review and recommendation of the Planning Commission except that in the case of residentially zoned land, no annexed land shall be classified in a residential zoning district permitting a density greater than that permitted in the City of Twinsburg R-4 Planned Medium Residential District. Approval of the electorate of the City of Twinsburg shall not be required for the designation of zoning of annexed land as contemplated herein.

(Amended November 3, 2009)

**PLAINTIFF'S
EXHIBIT**

#1 4-5-13
Finch

CITY OF TWINSBURG, OHIO

ORDINANCE 97-2012

AN ORDINANCE AMENDING CHAPTER 1148 AND 1149 OF THE CODIFIED ORDINANCES OF THE CITY OF TWINSBURG REGARDING "HEIGHT REGULATIONS"

WHEREAS, Council and the Administration has established a Planning Commission to study and make recommendations Zoning and Development Regulations in the City; and

WHEREAS, on the 23rd day of January, 2012 the Planning Commission reviewed and made such recommendations as they relate to the regulation of building heights; and

WHEREAS, pursuant to Ordinance 18-2012 this Council approved the recommendations of the Planning Commission by amending Sections 1148 (regulating Commercial height) and Section 1149 (regulating Industrial height); and

WHEREAS, Council recognizes that the amendments are necessary as they relate to the Industrial Districts and Council further wants to retain the language in the Zoning and Development Regulations as it existed prior to Ordinance 18-2012 as it relates to the Commercial Districts.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Twinsburg, County of Summit and State of Ohio:

SECTION I: That Chapter 1148.15 is hereby amended to read as follows:

1148.15 HEIGHT REGULATIONS.

The height of any main building shall not exceed thirty-five (35) feet in any C-1, C-2 and C-5 zoning district. Mechanical space for building equipment placed on a flat building roof may be allowed above the maximum height specified, provided that such mechanical space is set back a minimum of fifteen (15) feet from any exterior wall, does not exceed six (6) feet in height and is adequately screened from view, and provided, further, that such mechanical space and screening are approved by the Planning Commission. The height of any main building in a C-3 and C-4 zoning district may exceed 35 feet provided that the front and rear yard depth is increased by two (2) feet for each additional foot of height over 35 feet and the side yard width is increased by one (1) foot for each additional foot of height over 35 feet and a conditional use permit is approved. In a C-5 zoning district building height may exceed thirty-five (35) feet, if a conditional use permit is acquired through the process described at Chapter 1151.

SECTION II: That Chapter 1149.09 is hereby amended to read as follows:

1149.09 HEIGHT REGULATIONS.

The height of any main or accessory industrial building in an I-1 district shall not exceed 35 feet. Building height in an I-2 and I-3 district may not exceed forty-five (45) feet.

SECTION III. Any prior ordinances in conflict herewith, specifically Ordinance 18-2012 is hereby repealed upon passage.

SECTION IV: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meeting or meetings of this Council, and that all deliberations of this Council were in meetings open

**PLAINTIFF'S
EXHIBIT**

42 4-5-13
Finch

to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

SECTION V: That this Ordinance shall take effect and be in force at the earliest period allowed by law upon its passage.

PASSED: 8/28/12

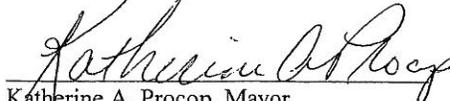
APPROVED: 8/28/12

EFFECTIVE: 8/28/12


T. Ted Yates, President of Council

Submitted to the Mayor for approval this
28th day of August, 2012

Approved by the Mayor 8/28, 2012


Katherine A. Procop, Mayor

ATTEST:


Shannon Collins
Clerk of Council

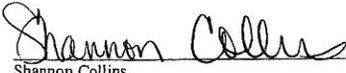
1st Rdg. 6-26-12
2nd Rdg. 7-10-12
3rd Rdg. 8-28-12

Passed: 8-28-12

Yes 7 No 0

CERTIFICATE OF POSTING

I, Shannon Collins, Clerk of Council, of the City of Twinsburg, State of Ohio, do hereby certify that publication of the forgoing ordinance, resolution was duly made by posting true copies attive of the most public places in said City as determined by Section 113.02 of the Codified Ordinances of the City of Twinsburg, each for a period of fifteen days commencing on the 31 day of August, 2012.


Shannon Collins
Clerk of Council
City of Twinsburg

STATE OF OHIO)
)
CITY OF TWINSBURG)
COUNTY OF SUMMIT)

CERTIFICATION

I, SHANNON COLLINS, do hereby certify that I am the duly appointed, qualified Clerk of Council of the City of Twinsburg, Ohio, and that the attached is a true and exact copy of ORDINANCE 97-2012 adopted by Council of the City of Twinsburg at their Regular Meeting on August 28, 2012.

That publication of ORDINANCE 97-2012 will be posted in accordance with requirements stated in the City Charter. The resolution was read on the following date, June 26, 2012, July 10, 2012 and August 28, 2012; and that such ORDINANCE is of record in the 2011 Legislation Records of the City of Twinsburg, Ohio.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the City of Twinsburg, this 30th day of August, 2012.



Shannon Collins
Clerk of Council

the side yard parking and drive setback requirements of this Chapter.

- C. Side Yards on Corner Lots: Whenever a business building is located on a corner lot, the width of the building side yard on the side street shall be not less than fifty (50) feet on major arterial streets, thirty-five (35) feet for collector streets and twenty-five (25) feet for local collector and local streets. On a corner lot, parking shall be set back at least twenty (20) feet from the side street right-of-way.
- D. Yard Screening and Landscaping: Whenever a business building is located on a lot which adjoins a Residential District, a side or rear yard of not less than set forth on the preceding schedule shall be provided on the business lot, and the Planning Commission may require a wall or fence five (5) to eight (8) feet in height and supplementary landscape planting to shield adjacent residential areas from parking lot illumination, headlights, fumes, heat, blowing papers and dust, and to reduce the visual encroachment of business buildings, signs and activities.

(Ord. 69-2008. Passed 11.04.2008)

1148.15 HEIGHT REGULATIONS.

The height of any main building shall not exceed thirty-five (35) feet in any C-1, C-2, C-3, C-4 and C-5 zoning district. Mechanical space for building equipment placed on a flat building roof may be allowed above the maximum height specified, provided that such mechanical space is set back a minimum of fifteen (15) feet from any exterior wall, does not exceed six (6) feet in height and is adequately screened from view, and provided, further, that such mechanical space and screening are approved by the Planning Commission. The height of any main building in a C-3 and C-4 zoning district may exceed 35 feet provided that the front and rear yard depth is increased by two (2) feet for each additional foot of height over 35 feet and the side yard width is increased by one (1) foot for each additional foot of height over 35 feet and a conditional use permit is approved. In a C-5 zoning district building height may exceed thirty-five (35) feet if a conditional use permit is acquired through the process described at Chapter 1151.

(Ord. 69-2008. Passed 11.04.2008)

1148.16 STREET WIDENING C-3 BUSINESS DISTRICTS.

Each site plan for improvements in a C-3 zoning district shall include a dedication for public use a parallel frontage access right-of-way of not less than ten (10) feet in width extending the full width of the lot. Additional pavement meeting the requirements of the City Engineer shall be provided if so determined by the Planning Commission.

(Ord. 69-2008. Passed 11.04.2008)

1148.17 INGRESS AND EGRESS C-3 BUSINESS DISTRICTS.

The vehicular entrances and exits to private property shall not be permitted closer than four hundred (400) feet from the centerline of the nearest interchange ramp, which ramp intersects an arterial highway or major thoroughfare. (Ord. 69-2008. Passed 11.04.2008)

1148.18 WASTE MATERIAL STORAGE.

In Business Districts, no garbage, rubbish, waste material, empty containers or waste processing equipment shall be permitted outside of any building, unless a specific outside storage area is approved by the Planning Commission. If outside storage is approved by the Commission, such storage shall be in containers approved by the Chief Building and Zoning Inspector, and the

* The required side and rear yard setback areas abutting any residential districts shall be improved with landscape planting and/or walls and fences to screen the view from adjacent residential uses.

** The required parking setback area shall be improved with landscape planting and/or low (2½ - 3') masonry walls to partially screen parked vehicles as viewed from the frontage street.

SIDE YARDS ON CORNER LOTS. Whenever an industrial building is located on a corner lot, the width of the building side yard on the side street shall be not less than 100 feet for major arterial streets and 35 feet for all other streets. On a corner lot, parking shall be set back a minimum of 20 feet from the side street right-of-way. (Ord. 87-1989. Passed 7-11-89)

1149.09 HEIGHT REGULATIONS.

The height of any main or accessory industrial building shall not exceed 35 feet. However, building height in an I-2 and I-3 district may exceed 35 feet provided the front and rear yard depth is increased two (2) feet for each additional foot of height over 35 feet and the side yard width is increased one (1) foot for each additional foot of height over 35 feet and a conditional use permit is approved. Maximum building height in an I-2 and I-3 Industrial District shall be recommended by the Mayor and Planning Commission and confirmed by City Council. (Ord. 87-1989. Passed 7-11-89)

1149.10 INDUSTRIAL PERFORMANCE STANDARDS.

All industrial uses shall comply with the performance standards set forth hereinafter for the district in which such use is located as a condition precedent to occupancy and use. Any use already established in such district shall not be altered, added to or otherwise modified so as to conflict with, or to further conflict with, the performance standards set forth hereinafter for the district in which such use is located as a condition precedent to further use. Statements that such uses comply or will comply may be required, in writing, by the Planning Commission from the owner. In cases of doubt, the City shall select and arrange for an independent survey by a professional engineer qualified in the particular field and the costs for the services shall be paid by the owner.

- A. Enclosure. All permitted main and accessory uses and operations, except off-street parking, shall be performed wholly within an enclosed building or buildings. All raw materials, finished products and mobile and other equipment shall be stored within enclosed buildings.
- B. Fire and Explosive Hazards. The storage, handling and use of flammable or explosive materials shall be permitted only in structures having incombustible exterior walls, and all operations in connection therewith shall be provided with adequate safety and protective devices against hazards of fire and explosion as well as with adequate firefighting and suppression equipment and devices standard to the operation involved.
- C. Dust; Smoke. The emission of smoke, soot, fly ash, fumes, dust and other types of air pollution borne by the wind shall be controlled so that the rate of emission and the quantity deposited at any adjacent lot shall not be detrimental to or endanger the public health, safety, comfort or welfare or adversely affect property values.
- D. Odorous Matter. The emission of odorous matter in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.
- E. Toxic or Noxious Matter. The emission of toxic, noxious or corrosive fumes or gases which would be demonstrably injurious to property, vegetation, animals or human health at or

PLAINTIFF'S
EXHIBIT
#14 4573
Fench

**CHAPTER 1201
AMENDMENTS**

1201.01 AUTHORITY AND PROCEDURE.

1201.01 AUTHORITY AND PROCEDURE.

- A. The Council may from time to time on its own motion or on petition, after public notice and hearing, amend or change the regulations, districts or, building lines herein established, but no such amendment or change shall be effective unless the ordinance or petition proposing such amendment or change shall first be submitted to the Municipal Planning Commission for approval, disapproval or suggestions, and the Planning Commission shall have been allowed a reasonable time, not more than sixty days, for consideration and report.
- B. Whoever petitions the Council for a change in zoning, such petitioner shall deposit with the Director of Finance, a fee which is prescribed elsewhere by ordinance, payable to the City of Twinsburg from which the costs of legal notices, Planning Commission expense and engineer's fees shall be paid. If the required deposit is insufficient, the Council shall require the petitioner to pay the additional. Amount as a, condition of approval. This fee shall not apply to any amendment introduced by a member of Council, the Mayor, Planning Commission or Board of Zoning and Building Code Appeals, acting in an official capacity.
- C. The Council shall hold a public hearing before the adoption of the proposed amendment. At least thirty (30) days notice of such amendment, and of the time and place of the hearing thereon, shall be given in a newspaper of general circulation, which shall include a statement that opportunity will be afforded to any person interested to be heard. If the amendment intends to re-zone or re-district ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed, by first class mail, at least twenty (20) days before the date of the public hearing, to the owners of property within and contiguous to and directly across the street from such parcel or parcels, at the addresses given on the last assessment roll. The failure of delivery of any such notice shall not invalidate any such amendment.
- D. In the event the City Council should approve any of the preceding changes, whether approved or disapproved by the Planning Commission, it shall not be approved or passed by the declaration of an emergency, and it shall not be effective, but it shall be mandatory that the same be approved by a majority vote of all votes cast of the qualified electors of the City of Twinsburg and of each ward in which the property so changed is located at the next general election or at a special election falling on the generally established day of the primary election. Said issue shall be submitted to the electors of the City only after approval of a change in zoning classifications or districts, or in the uses permitted in any zoning use classifications or districts by the Council for an applicant.
- Ord. 173-2000. Passed 12-17-2000)

**PLAINTIFF'S
EXHIBIT**

#5 4-5-13
Finch

87-1989 -2000
Confusion
3-

CHAPTER 1183
Amendments

Am.
CR

1183.01 Authority and procedure.

1183.01 AUTHORITY AND PROCEDURE.

(a) The Council may from time to time on its own motion or on petition, after public notice and hearing, amend or change the regulations, districts or building lines herein established, but no such amendment or change shall be effective unless the ordinance or petition proposing such amendment or change shall first be submitted to the Municipal Planning Commission for approval, disapproval or suggestions, and the Planning Commission shall have been allowed a reasonable time, not more than sixty days, for consideration and report.

(b) Whoever petitions the Council for a change in zoning, such petitioner shall deposit with the Director of Finance, a fee which is prescribed elsewhere by ordinance, payable to the Municipality of Twinsburg from which the costs of legal notices, Planning Commission expense, engineer's fees shall be paid. If the required deposit is insufficient, the Council shall require the petitioner to pay the additional amount as a condition of approval.
This fee shall not apply to any amendment introduced by a member of Council, the Mayor, Planning Commission or Board of Zoning and Building Code Appeals, acting in an official capacity.

- (c) (1) The Council shall hold a public hearing before the adoption of the proposed amendment. At least thirty days notice of such amendment, and of the time and place of the hearing thereon, shall be given in a newspaper of general circulation, which shall include a statement that opportunity will be afforded to any person interested to be heard.
- (2) If the amendment intends to re-zone or re-district ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed, by first class mail, at least twenty days before the date of the public hearing, to the owners of property within and contiguous to and directly across the street from such parcel or parcels, at the addresses given on the last assessment roll. The failure of delivery of any such notice shall not invalidate any such amendment.

(d) In the event the City Council should approve any of the preceding changes, whether approved or disapproved by the Planning Commission, it shall not be approved or passed by the declaration of an emergency, and it shall not be effective, but it shall be mandatory that the same be approved by a majority vote of all votes cast of the qualified electors of the City of Twinsburg and of each ward in which the property so changed is located at the next general election or at a special election falling on the generally established day of the primary election. Said issue shall be submitted to the electors of the City only after approval of a change in zoning classifications or districts, or in the uses permitted in any zoning use classifications or districts by the Council for an applicant.
(Ord. 87-1989. Passed 7-11-89.)

Ballot Nov 9, 1989

PLAINTIFF'S EXHIBIT

#6 4-5-13
Fitch

CITY OF TWINSBURG

PROPOSED AMENDED ZONING ORDINANCE & Map

TO READ: SHALL ORDINANCE 87-1989 ADOPTING AN AMENDED ZONING ORDINANCE AND MAP OF THE CODIFIED ORDINANCES OF THE CITY OF TWINSBURG AND REPEALING ANY ORDINANCES IN CONFLICT THEREWITH BE APPROVED?

1280-807-2087

OFFICIAL QUESTIONS AND ISSUES BALLOT
GENERAL ELECTION - NOVEMBER 7, 1989
SUMMIT COUNTY, OHIO

8 (34)

34

PROPOSED AMENDED ZONING ORDINANCE OF THE
CODIFIED ORDINANCES OF THE CITY OF TWINSBURG
A Majority Affirmative Vote Is Necessary For Passage.

SHALL ORDINANCE 87-1989 ADOPTING AN AMENDED ZONING OR-
DINANCE AND MAP OF THE CODIFIED
ORDINANCES OF THE CITY OF TWINSBURG
AND REPEALING ANY ORDINANCES IN
CONFLICT THEREWITH BE APPROVED?

YES 138
NO 139

00654

PLAINTIFF'S EXHIBIT #7 4-513 Finch

PUBLIC HEARING MINUTES

TUESDAY DECEMBER 14, 1999

Ms. Konsol called the Public Hearing to order at 7:00 PM.

This public hearing was held regarding Ordinance 201-1999 - Zoning Code.

Mr. Larry Finch, Planning Consultant, was present to speak to Council. He stated that he has been working to develop a revision to the zoning and subdivision regulations of the City of Twinsburg.

Mr. Finch stated that there are two things that are "There are two things that are driving the urgency of the revisions. One is the fact that the current residential district regulations have not received voter approval". The other relates to the Growth Management Moratorium on Residential Subdivision; it expires in April 27, 2000. **In order to have Ordinances in place governing the regulations, the regulations need to go to the public for voter approval.** The next opportunity for voter approval would be in March of 2000. To make the March primary, the information must go to the board of elections by December 23rd.