MEETING MINUTES

PERKINS TOWNSHIP ZONING COMMISSION MONDAY, AUGUST 12, 2024 @ 4:00 PM PERKINS TOWNSHIP SERVICES FACILITY – BIG MEETING ROOM 2610 COLUMBUS AVENUE, SANDUSKY, OH 44870

Board Members Present: Mrs. Cheryl Best-Wilke

Mr. Greg Schmid Mr. John Lippus Mr. Les Wilson

Board Members Absent & Excused: Mrs. Kula Hoty Lynch, Mr. Billy Criscione

Staff in Attendance: Ms. Charlene Watkins, Director of Community Development

Mr. Adam Panas, Planner/Zoning Inspector Mrs. Jessica Gladwell, Administrative Assistant

I. Call To Order

Mrs. Best-Wilke called the meeting to order and welcomed the audience and the Commission. Mrs. Best-Wilke led everyone in the Pledge of Allegiance.

II. Roll Call

Ms. Gladwell took Roll Call: Mrs. Best-Wilke, here; Mr. Schmid, here Mr. Lippus, here; Mr. Wilson, here.

Mrs. Gladwell swore everyone in.

III. The approval of meeting minutes from Monday, July 7th, 2024.

Mrs. Best-Wilke entertained a motion to approve the minutes from July 7, 2024. Mr. Wilson motioned, and Mr. Schmid seconded. Roll Call – All ayes, motion carried.

IV. Chairperson's Welcome and Explanation of Public Hearing & Public Meeting

Mrs. Cheryl Best-Wilke welcomed everyone to the meeting. She stated that the purpose of the meeting is to consider a request to change an item in the zoning code. The responsibility of this Commission was given to us by the Zoning Resolution to conduct this meeting. First, we will read the request then we will open a public hearing during which we will hear comments, questions, and any concerns from members of the audience. Then the public hearing will be closed,

and the public meeting will opened. During the public meeting, Commission members will discuss the request and vote to recommend approval, denial, modification, or tabling. Then, this recommendation will be forwarded to the Board of Trustees who will consider the request at a future meeting.

V. Secretary – Request for the Proposed Amendment.

<u>Case #ZC2024-07</u> - The Perkins Township Zoning Commission will consider text amendments to "Article 3 – Construction of Language & Definitions", "Article 16 – Local Commercial District (C-1)", and "Article 17 – General Commercial District (C-2)" regarding the establishment of "smoke and vape shops."

VI. Staff Report – Planning & Zoning Department.

Mr. Panas stated that in late 2022, the Community Development Office fielded several calls inquiring about the permitting process to open storefronts that primarily sold tobacco or vaping related products.

At the 2/28/2023 Board of Trustees meeting, the Board voted to establish a moratorium for zoning approval for "the establishment of so-called "smoke shops and/or vape shops" and any similar businesses within Perkins Township for a period of twelve (12) months" via Resolution 2023-45. The purpose of this moratorium was to allow staff the opportunity to study these businesses in other jurisdictions and, if appropriate, propose amendments to the Zoning Resolution that would regulate such establishments while respecting our Zoning Resolution's intent and purposes of promoting our residents' health, safety and morals, comfort, property, and general welfare.

At the 2/27/2024 Board of Trustees meeting, the Board voted to extend this moratorium through 8/28/2024 via Resolution 2024-030 to allow staff additional time to research the topic.

During the 06/10/2024 Zoning Commission Meeting, the Commission discussed its preferred approach regarding the direction of future text amendments.

During the 07/08/2024 Zoning Commission Meeting, the Commission discussed staff's research findings and confirmed their preferred approach for future text amendments.

At this 08/12/2024 Zoning Commission Meeting, the Commission will formally consider text amendments to the Perkins Township Zoning Resolution regarding

smoke and vape shops. These text amendments have been approved by our private legal counsel.

At tomorrow's Board of Trustees Meeting, a 2nd Extension of the Moratorium against the establishment of smoke and vape shops will be considered by the Board. The purpose of this extension is to allow for text amendments to become effective prior to the expiration of the moratorium.

SUMMARY OF EXISTING REGULATIONS

Currently, a "smoke and vape shop" is considered to be allowed as a principal permitted use in the General Commercial (C-2), Light Industrial (I-1), and Heavy Industrial (I-2) zoning districts.

SUMMARY OF RESEARCH

Researched the codified ordinances of the Cities of Cincinnati, Cleveland, Columbus, Dayton, Lakewood, Toledo, Huron, Port Clinton, Vermilion, and Sandusky, OH and the City of Mountain View, CA.

"Smoke and Vape Shops" are allowed primarily only in "General Business" zoning districts that exist on high-traffic roadways, away from residential land uses.

There is an association between the "retail availability of tobacco" (and by extension, vaping products) and the proximity of said retail locations to "youth-oriented land uses", such as schools, parks, etc.

Mr. Lippus inquired if waterparks were considered youth oriented, they cater to youth but are we stretching it with that?

Mr. Panas stated that yes, we would be, unless the Township had a public park that had a splash pad. In terms of private ones, unless it specifically states it but I think it would be a stretch.

PURPOSE:

Mr. Panas stated that, overall, the purpose of these amendments is to provide a definition for the new land use being introduced. Mr. Panas then proceeded to summarize the following proposed amendments, which were provided ahead of the meeting to the Commission.

<u>First</u>, Mr. Panas explained that the first proposed amendments would be to amend "Article 3 – Construction of Language & Definitions" by adding new Sections 3.136 Smoke and Vape Shops, 3.146 Tobacco Product, and 3.150 Vapor Product, and renumbering subsequent sections of that Article 3.

KEY: Green Text: Added Text

Red Line Through Text: Deleted Text

Black Text: Unamended Text

Blue Text: Comments

3.136 SMOKE AND VAPE SHOP

A smoke and vape shop is a land use that primarily sells tobacco or vapor products.

Amended Resolution #2024-

3.146 TOBACCO PRODUCT

"Tobacco product" means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. "Tobacco product" also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. "Tobacco product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g), as may be amended.

Amended _____ Resolution #2024-___

3.150 VAPOR PRODUCT

"Vapor product" means a product, other than a cigarette or other tobacco product as defined in Chapter 5743 of the Ohio Revised Code, as may be amended, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. "Vapor product" includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. "Vapor product" does not include any product that is a

drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g), as may be amended. "Vapor product" includes any product containing nicotine, regardless of concentration.

Amended _____ Resolution #2024-___

ARTICLE 3 – CONSTRUCTION OF LANGUAGE & DEFINITIONS

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3.136 SMOKE AND VAPE SHOP
3.137 3.136 SOLAR PANEL
3.138 3.137 SPECIAL DISTRICT
3.139 3.138 STORY
3.140 3.139 STRUCTURE
3.141 3.140 SUBDIVISION
3.142 3.141 SUPPLY YARDS
3.143  3.142  SWIMMING POOL
3.144 3.143 THOROUGHFARE, STREET OR ROAD
3.145 3.144 THROUGH LOT
3.146 TOBACCO PRODUCT
3.147 3.145 TRANSIENT OCCUPANCY
3.148 3.146 TRANSPORTATION, DIRECTOR OF
3.149 3.147 USE
3.150 VAPOR PRODUCT
3.151 3.148 VARIANCE
3.152 3.149 VETERINARY ANIMAL HOSPITAL OR CLINIC
3.153 3.150 VICINITY MAP
3.154 3.151 WALKWAY
3.155 3.152 WIND ENERGY CONVERSION SYSTEMS
3.156 3.153 YARD
3.157 3.154 ZERO LOT LINE DEVELOPMENT
3.158 3.155 ZONING INSPECTOR
3.160 3.157 ADULT BUSINESS DEFINITIONS
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Second, Mr. Panas stated the next amendment would be to Amend "Article 16 – Local Commercial District", "Section 1 – Principal Permitted Uses", Subsection 1 by removing "and tobacco". Mr. Panas stated this was to further prevent this land use from locating close to residential neighborhoods.

Article 16 - Local Commercial District (C-1)

16.1 Principal Permitted Uses

1) Shops for the sale of baked goods, beverages, including liquor outlets (not be consumed on the premises), books, confections, drugs, flowers,

foodstuffs including meats, gifts, hardware, hobby equipment, jewelry, notions, paint, periodicals, sundry, small household articles and tobacco except shopping centers shall comply with provisions in Section 16.3(1).

**Amended _____ Resolution #2024-____

<u>Third</u>, the final proposed amendments would amend "Article 17 – General Commercial District (C-2)," "Section 2 – Conditionally Permitted Uses" by adding a new subsection permitting "smoke and vape shops", subject to conditions backed by research.

<u>Article 17 – General Commercial District (C-2)</u>

17.2 Conditionally Permitted Uses

15) Smoke and Vape Shops

- a) Smoke and vape shops are to be located no closer than 1,000 feet from any parcel on which sits a school, church, public library, public playground, or public park.
- b) There shall be no more than one (1) smoke and vape shop per five thousand (5,000) residents of Perkins Township at any given time.
- c) Outside sales or storage is not permitted.
- d) Smoke and vape shops must have a site plan and lighting plan approved by the Community Development Department.

Mr. Panas explained that the purpose of these particular amendments is to establish new regulations for such establishments so that they may co-exist in our local economy while respecting our Zoning Resolution's intent and purposes of promoting the health, safety and morals, comfort, property, and general welfare of our residents. Per the Zoning Commission's request, staff has drafted the above amendments with conditions that mirror those for medical marijuana dispensaries.

CONCLUSION:

Mr. Panas stated that these proposed text amendments to the Perkins Township Zoning Resolution have been drafted by staff in response to the Moratorium passed by the Board of Trustees via Resolution 2023-45 and extended by Resolution 2024-030.

Discussion from two (2) public working sessions by the Zoning Commission, as well as numerous hours of research have informed the proposed amendments. This matter is hereby respectfully submitted for consideration by the Zoning Commission, which should make a recommendation of approval, denial, or modification to be considered during a meeting of the Perkins Township Board of Trustees.

If approval is recommended today, it will be requested to be heard during the 09/10/2024 Board of Trustees Meeting. During that meeting, the moratorium would also be set to expire the same date that text amendments became effective.

VII. Open Public Hearing

Mrs. Best-Wilke opened the Public Hearing and said this is the time for anyone in the audience to ask questions, make comments or raise concerns.

VIII. Close Public Hearing/Open Public Meeting

Mrs. Best-Wilke asked for a motion to close the Public Hearing & open the Public Meeting.

Mr. Lippus made the motion. Mr. Schmid seconded.

Roll Call – All ayes, motion carried

IX. Discussion from Commission

Mrs. Best-Wilke asked if there was any discussion.

Mr. Wilson stated that we seem pretty happy, I have no problem with the language.

X. Commission Motion & Second to Recommend Approval, Disapproval, Modification, or Tabling of the Zoning Commission Case – <u>Roll Call Vote</u> Mr. Wilson motioned to recommend approval, and Mr. Lippus seconded. Roll Call – All ayes, motion carried.

XI. Secretary – Reads a Summary of the Topics to be Discussed During the Public Working Session

The Perkins Township Zoning Commission will conduct a public working session to discuss its preferred approach for the drafting of future text amendments to the Zoning Resolution related to adult use cannabis.

XII. Staff Report – Planning & Zoning Department.

Mr. Panas stated a reminder that this is only a working session, there is no voting that will happen, strictly discussion.

Mr. Panas summarized the following information below, which was provided to the Commission in the form of a staff report prior to the meeting.

"BACKGROUND:

On November 7, 2023, State Issue 2 was approved by Ohio voters, adopting a resolution authorizing the cultivation, sale, and use of marijuana products in Ohio for recreational purposes. The Division of Cannabis, located within the Ohio Department of Commerce, was given nine (9) months from 12/7/2023 to implement rules and regulations concerning the Adult Use Marijuana Program.

At the 12/12/2023 Board of Trustees meeting, the Board voted to establish an immediate moratorium for zoning approval for "the establishment of businesses for the cultivation, processing or retail dispensing of marijuana for adult use for a period of twelve (12) months" via Resolution 2023-211. The purpose of this moratorium was to provide an opportunity to review and discuss whether appropriate revisions or amendments to the Perkins Township Zoning Resolution should be considered in order to more fully and properly protect the health, safety, and welfare of the Township and its residents.

08/13/2024 Board of Trustees Meeting: 1st Extension of Moratorium via Resolution 2024-110. The new Expiration Date will be 06/12/2025.

SUMMARY OF EXISTING REGULATIONS:

Currently, an adult use cannabis dispensary is considered to be allowed as a principal permitted use ("retail business establishment") in the General Commercial (C-2), Light Industrial (I-1), and Heavy Industrial (I-2) zoning districts.

PROPOSED DIRECTION OF THE NEW REGULATIONS:

The Board of Trustees believes that limiting the number to the existing total of two (2) medical marijuana dispensaries is in the best interests of the Township and its residents in order to protect their health, safety, and welfare.

Staff notes that this appears to be permitted through the Ohio Revised Code, Chapter 3780 Adult Use Cannabis Control, Section 3780.25(A) Local authority regarding adult use cannabis operators.

"Local authority regarding adult use cannabis operators."

(A) The legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution, by majority vote to prohibit, or limit the number of adult use cannabis operators permitted under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively."

Staff notes that the most effective way to do this would be through three (3) respective amendments to the text of the Zoning Resolution:

- 1. **Article 3 Construction of Language & Definitions:** Add definitions as appropriate and renumber definitions as required.
- 2. **Article 17 General Commercial District (C-2):** Add a requirement that any adult use cannabis dispensary will require the issuance of a conditional use permit, which conditions would mirror those for medical marijuana dispensaries.
- Article 25 Supplementary District Regulations: Prohibit the cultivation or processing of marijuana for adult use for business purposes.

Mrs. Best-Wilke stated that she had a few questions. First, she asked, "Are we going to limit it to C-2, not include I-2/ I-1?"

Mr. Panas stated that was correct.

Mrs. Best-Wilke stated that "Right now we have two medical dispensaries, what happens if (they said 3 to a district), is that null and void? What if one of the medical dispensaries stopped and you have a second, and they continue to do adult use, and someplace else opens for just adult use opposed to medical? Is that a possible scenario?"

Mr. Lippus stated "So you say the Forrest closed, Ascend stays open and then the Forest opens under a new name, and just sold recreational?"

Mrs. Best-Wilke stated that "Or if they decided they didn't want to deal with recreational? Say there were 2 medical and one medical was doing medical recreation and another one opened to just do recreational?"

Mr. Wilson stated "To me, we are limiting it to two places where you can get it. To me, it doesn't matter if it's recreational or medical."

Mr. Lippus stated that he agreed with Mr. Wilson.

Mr. Panas then continued to summarize the following section of the staff report, which the Commission was using as a visual aid to guide discussion.

"Article 17 – General Commercial District (C-2): Add a requirement that any adult use cannabis dispensary will require the issuance of a conditional use permit, which conditions would mirror those for medical marijuana dispensaries.

Comments: Staff notes that the current conditions for *medical* marijuana dispensaries are:

- i. A copy of a valid license to operate a Medical Marijuana dispensary from the State of Ohio must be submitted to the Community Development Department. In addition, a local emergency contact name and phone number must be on file with Perkins Township.
- ii. Dispensaries are to be located no closer than 1,000 feet from any parcel on which sits a school, church, public library, public playground, or public park.
- iii. Dispensaries must have a Security Plan approved by the Perkins Township Police Department.
- iv. Dispensaries must have a Site Plan and Lighting Plan approved by the Community Development Department.
- v. Outside sales or storage is not permitted.
- vi. There shall be no more than two (2) medical marijuana dispensaries within Perkins Township at any given time."

Mrs. Best-Wilke asked if the police department has had any issues with any of the two dispensaries.

Mr. Panas stated that he was not aware of any issues.

Mr. Wilson stated that he was surprised there hadn't been any traffic issues with the Ascend Dispensary, given that the access from E Bogart Rd is the only way in and out, but it wasn't an issue at all, there were 4 or 5 people standing outside in line and half the parking lot was full.

Ms. Watkins stated that she doesn't think that the addition of adult use cannabis sales will generate that much of an increase in on-site traffic.

Mr. Wilson stated "Only because I think it's more expensive, being adult use." He stated that a friend told him it was 5 dollars for a bag of gummies, here it was 25 dollars.

Mr. Lippus stated there is a state tax and a local tax. He asked, "So, what do we need to do?"

Mr. Lippus stated that he mentioned it before, that when the lady was here previously talking about their dispensary they opened, and they give back to the community every year with a fund or something. They set aside some money; it was for public drug abuse education/services. We talked about it, but it wasn't that serious. I remember her stating that they make a charitable donation to the community.

Mr. Panas stated that he is not sure what is required, but that he is aware of entire sections in the adult use and medical use chapters that address the addiction control programs, separate programs for each.

Ms. Watkins stated "Back to John's comment, do they have to have some type of awareness, fund, or can we institute one?" Ms. Watkins explained that part of what the State Legislature did via the resolution approved by the voters in November 2023 for adult use cannabis, was that they were instituting part of the high taxes they are paying goes to that fund to pay for that and that money goes to the local police department for those services. "That is the supposed story and if we try to oppose that on the two local entities, we are just double taxing them", she stated. She stated that "We must consider that economic development growth with that, so I would steer away from that since the government is already imposing it."

Mr. Schmid asked, "Who is enforcing it?"

Mr. Lippus stated that we will see if it trickles down.

Mr. Panas stated the State Department of Commerce is likely responsible for enforcement.

Mr. Schmid asked, "Where you have medical marijuana, you are putting adult use cannabis?"

Mr. Panas stated "That's essentially the idea, yes. I now realize that how I represented it on the PowerPoint may be a little confusing. That is something we were thinking of doing, though."

Mr. Lippus asked, "Don't they have to have an adult use cannabis license?"

Mr. Panas stated that they need both licenses and encouraged the Commission to look at the proposed direction of the amendments more broadly, because this meeting's purpose is not to formally consider the text amendments.

Mr. Schmid stated that he was curious if it was clear that we can have 4.

Mr. Panas stated that the idea was to have 2 in total, adult use could only be run out of one that already has medical use.

Discussions continued regarding the main idea of how to word potential amendments such that only 2 total dispensaries would be allowed in the Township.

Mr. Lippus stated that if recreational can only be used if it already exists as a medical use, that a situation could arise where one of the dispensaries chooses not to do recreational sales, resulting in only one recreational dispensary in the Township.

Mrs. Best-Wilke asked when staff would like the Zoning Commission to formally consider the amendments.

Mr. Panas stated September 10, 2024.

Mr. Schmid asked if it would be a good idea to add "public facilities" or "Township owned properties" to condition number two, which provides a buffer distance between dispensaries and other community-oriented land uses. Mr. Schmid said he wasn't sure if these facilities were already covered? Adding language would include facilities like our town hall, fire station, and our ball parks. Mr. Schmid

acknowledged that currently public playgrounds, public parks and public libraries are subject to the buffer distance.

Mr. Panas stated that the existing land uses in that buffer requirement are recognized as unique land uses, separate from "public facilities", within our Zoning Resolution's Land Use Matrix. Mr. Panas stated that he wasn't sure whether all land uses had a definition in Article 3, but he underscored that adding either language options would have a larger effect than one may think. Mr. Panas stated that, because each land use called out in the buffer requirement does not have its own definition, that he is hesitant to recommend another land use be added into the requirement – and one that is so broadly defined, at that. Mr. Panas asked Mr. Schmid to please clarify the reason for the potential addition. Mr. Schmid stated the situations he was thinking of the language being helpful in would be for Town Hall and our fire stations.

Mr. Wilson stated it'd be really tacky to put it next to a police station.

Mr. Schmid stated that that's not going to stop them. He commented that the police already don't regulate it, and that they haven't in five years. He stated that they can't pull you over for it.

Mr. Panas stated he's not automatically opposed to the idea, but another reason he feels hesitant about it is because it may seem overly restrictive.

Mrs. Best-Wilke asked Mr. Schmid, "Are you asking if it's necessary?"

Mr. Schmid stated that individuals are probably not allowed to smoke on public property.

Mr. Panas stated that, "Through zoning we can only regulate land use, not personal behavior. So, in this term of physical location for either use, either would have to be located on C-2. The new fire station is going to be on residentially zoned property, which is allowed as a public service facility per our land use matrix. Town Hall is zoned is I-1. Thinking about how just this building alone may affect placement, if we were to require dispensary to be 1000 ft away from our property, that could very well include area to the east on Route 250. This seems counterproductive to the purpose of that corridor. I think the thought is a good thought but in practice it would be overall negatively impactful. I'll think about it."

Mr. Schmid stated that the vacant place at the end of Woodlawn would be a great place for that. He stated, "The Fairgrounds, I mean where do you start and stop with public property?"

Mrs. Best-Wilke asked if a cemetery is considered a public facility.

Mr. Panas stated, "No, a cemetery is a cemetery. It is defined as its own land use in Article 3."

Ms. Watkins stated that she thinks is best interest if Adam did a circumference map to see how close to some of our public facilities are zoned C-2. She asked Mr. Panas, "If you did a 1000 ft circumference how many areas would it cover?" Mr. Panas replied that it would cover a lot, and the maps would be straightforward to create." Ms. Watkins stated that Adam can report those results back to the Commission and you all can use that to inform if you think adding that language would be a good idea.

Mr. Schmid said "Ideally, we don't want a bunch of these on 250, the idea is to stick them in the back corner somewhere, but they are only going to want to be on 250 to make money."

Mr. Panas stated "They are already on 250. While I wasn't here and cannot 100% confirm, having reviewed all the marijuana related land use files, it appears that the Township regulated with the knowledge in hand that the dispensaries would want to locate on 250. You also must be careful with that too, how you say with industrial zoning which is how strip clubs have traditionally been treated in every community zoning. The Ohio Revised Code states that a Township cannot, unless we follow a very specific procedure, disallow an existing medical to operate with an adult use dual license. So, we can't introduce new text amendments stating adult use is only allowed in industrial zoning districts now, since they are already operating in a commercial zoning district. I think that would cross the line and possibly put us in some legal trouble."

Mrs. Best-Wilke asked if we could have these proposed amendments at the next meeting?

Mr. Panas stated "Yes."

Mr. Panas summarized the last potential area of amendment. Mr. Panas stated that, like we have done before with medical marijuana cultivation and processing, the Board would like to prohibit the same for adult use cannabis.

"Article 25 – Supplementary District Regulations: Prohibit the cultivation or processing of marijuana for adult use for business purposes.

Comments: Staff notes that the prohibition of these two land uses is the reason why they will be defined in Article 3.

CONCLUSION:

The Zoning Commission should review this approach and provide direction as to its preferred approach regarding the drafting of text amendments for consideration at the September Zoning Commission meeting. "

XIII. Old Business

Mr. Panas stated that there was no old business to be discussed.

XIV. New Business

Mr. Panas stated that staff is considering beginning research for text amendments to accessory building regulations in residential districts and signage regulations in all districts.

Mr. Panas stated, "Regarding Signage – Temporary and Portable Signage are specifically challenging to regulate, because the way those sections read is hard to understand. Additionally, we are not sure that the requirements meet the needs of our business community. The idea in beginning to review these regulations is that, whatever we make it, we make it fair. I am going to have some information for the next meeting, but I want to have a working session on each of those topics."

Mr. Panas then introduced Charlene Watkins, the new Community Development Director.

XV. Adjournment

Mrs. Cheryl Best-Wilke entertained a motion to adjourn.

Mr. Schmid motioned, and Mr. Lippus seconded.

Roll Call – All ayes, motion carried.

The meeting was adjourned.

Respectfully Submitted,

Mr. Adam Panas, Clerk Zoning Commission

Mrs. Cheryl Best-Wilke, Chair

Zoning Commission
9/9/2034