

**WESTFIELD TOWNSHIP  
JOINT BOARD WORKSHOP WITH PLANNER AND PROS.  
OFFICE FOR THE PURPOSE OF DISCUSSION OF THE  
COMPREHENSIVE LAND USE PLAN  
JUNE 22, 2010**

Chair Sturdevant called the workshop meeting of the Westfield Township Board of Zoning Commissioners, BZA and Trustees to order at 7:35 p.m. Board members Brewer, Anderson, Kemp, Miller, Sturdevant and Zweifel were in attendance. BZA members present: Tom Micklas, Keith Simmer, Dwayne Kramer, Kathleen LeMar. Trustees present: Ron Oiler, Jim Likley, Gary Harris. Other individuals in attendance: Bill Thorne, Mark Majewski, Stan Scheetz, Carol Rumburg, Tim Kratzer and Zoning Inspector Matt Whitmer.

Heather Sturdevant stated the purpose of this workshop was to have a round table discussion with the Pros. Office and Planner to review questions that were presented to Mr. Thorne earlier regarding the Comp Plan. The three boards are present this evening to discuss, comment and ask questions about the Plan before the Commission would proceed with voting on a recommendation to adopt the Comp Plan.

**Concerns/Comments/Questions:**

1. Inclusion of soil types and densities in this current plan. Planning Commission stated they would not endorse adopting the Plan if this information was not included.

Mr. Thorne stated the purpose of a Comp Plan has planning aspects and legal aspects and sometimes they are not the same. From the legal aspect he would look for data and information that supports the concepts recommended in the Update. The soil types and densities do not have to be in this Update as it is not supposed to be a resource guide. The soil types and densities do not have any relevance as to what the Steering Committee did regarding the Update. If the Committee suggested a certain area be developed with a certain density based on soil types then it would make sense but that is not the case. The Comp Plan is not the legal document of the Township; that was the purpose of the Zoning Resolution.

2. Is this Plan a new plan or an update?

Mr. Thorne stated this was not a stand alone Plan. Therefore "background" information does not need to be in this update. The Steering Committee has made recommendations to update, tinker with, and to maintain the current Plan. The information in this Update should relate to the recommendations made and not the whole mishmash of information about the County or the Township. Mr. Thorne continued when he looked at the Update he did not see many definitive recommendations rather the "Township" should consider this or that.

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Trustee Likley stated in conversations he has had with the Planner Mr. Majewski, it was not going to the job of the Steering Committee to suggest, propose or write zoning changes. Mr. Thorne stated to propose or write zoning changes to implement some of the suggestions of the Update would be the responsibility of the Zoning Commission. Mr. Thorne recommended that it be made clear in the Update that it was just a supplement to the existing Comp Plan.

3. Under Zoning in Villages and Abutting Townships it is stated “if and when developed for uses permitted in these districts, there is potential for incompatible impacts in the “residential areas”. That being said as we already know what is planned for the Chippewa Lake area and have an idea of what property in Westfield Twp. will be affected, shouldn't the Plan include what the Township intends to do when that happens? Proactive rather than reactive.

Mr. Thorne stated the trend is the Township should acknowledge what is occurring in surrounding communities. To the extent it is inconsistent with the Township's existing zoning the Township should take necessary steps now to make the Township's zoning compatible. Is there a guarantee this will happen? No, because surrounding Townships could change their zoning as well. The Township however should at least acknowledge what is occurring in the abutting communities. Often times such as in Medina Twp. they adopt buffer zones that have a density compatible with the adjoining community i.e. the City of Medina or more lucrative to potentially prevent annexation attempts. The Zoning Commission should be aware of and continue to watch the specific zoning of the surrounding communities and how it may impact Westfield Township.

Mr. Majewski stated the Chippewa Lake plan was going on while this update was being undertaken. The uncertainty as to whether the Chippewa Lake project was actually going to happen was questionable throughout this process. Mr. Thorne responded the partners of the plan just received financing to move forward with the project. Mr. Majewski commented that it was often questioned during this update if the Chippewa Lake project was actually going to proceed and should the Township react to something that may or may not happen.

4. The resident survey that was conducted reflected 70% wanted no more industrial, 63% no more office space and 50-60% indicated no more small shopping areas and restaurants. Why then does the Comp Plan Update recommend a new zoning district of Light Industrial/Office?

Mr. Thorne stated the premise in the Update, especially regarding west Greenwich Rd. is the RR zoning in that area is not viable. If you start with that premise then that area needs to be rezoned in a way that gives a property owner an economically viable use of the property no matter what the residents say. That is the law. The fact that 100% of the residents don't like it is not relevant. If the Township does not change the zoning and the

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Township is challenged then the courts will decide what is appropriate which may not be what either party wants. Mr. Thorne added it did not matter if the property is landlocked or not as the Township would end up with those issues regardless of what the land was zoned. If the land is zoned RR there is still the access problem which is the issue of the property owner and not the Township.

Heather Sturdevant stated regarding the proposed Light Industrial/Office District what she was told was that to suggest this particular zoning was a difficult decision but was not offered any information as to how/why that particular recommendation was made. Mr. Thorne responded that was a problem with many of the recommendations in the Update that they don't relate to how they were reached. Regarding the Greenwich Rd. area, there were public hearings in which the property owner and his representatives stated the current RR zoning would not work due to the location of the interchange not being conducive for farming or even for low density residential development. The property owner probably felt those obstacles were so obvious that they did not need to support those recommendations. The property owner and his representatives did produce their case that the land be rezoned to provide an economical viable use of the property and gave a list of what uses could work on the property including residential but at different level of residential development than what currently exists.

5. Policy 1A1 of the Comp Plan Update states: Identify agricultural lands that are critical for preservation. Is this for the community to decide preservation of certain agricultural areas and not others and is that defensible?

Mr. Thorne stated yes it the Township's right to identify specific agriculture land for preservation just as the Township set up the location of the specific zoning districts. If you have a study and there is specific land critical for agricultural preservation and the Township can show this land has an economically viable use, the Township could create a truly restrictive agriculture zone. There is one Township that did this and it has been upheld in court. The Township has to provide an economically viable use of one's property not the best or highest use.

6. Policy 1B1 states, "In the areas designated in the Development Policy Plan, new development shall be compatible with the predominant rural, small town nature of the community." How is light industrial/office compatible with the RR District?

Mr. Thorne stated these uses can be compatible but it is not necessarily easy. This can be accomplished through the incorporation of zoning regulations such as large setbacks, etc. A prime example is RPM in Brunswick Hills Twp. which was developed as a farm-like rural atmosphere.

7. Policy 2A6 states, "Plan and coordinate the construction of pedestrian and bike facilities to provide useful, healthful and safe opportunities for these basic

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transportation modes. To the extent feasible, interconnect with pedestrian and bike facilities and lands in and near Westfield Township. This is what is suggested for the Chippewa Creek Recreation Conservation Corridor. The land in the corridor is currently owned by private residents in our community...How can we expect the residents will want to take the liability of public trails on their property? Who would maintain the trails, who would be liable if someone got hurt...?

Mr. Thorne stated private property rights are an issue. The Township could consider density bonuses if the developer preserves so much area around the creek. The Township could not tell a property owner they could not develop their land for anything other than a bike trail. One cannot make money or live on a trail. That is the problem with riparian setbacks in that sometimes they are so extensive that it restricts the use of the property. He added that conservation districts are usually seen in Planned Unit Developments where open space has to be maintained and can be dedicated for public or private use. Sometimes it is good in theory but then those who live in the development may complain about all the people on a walking trail going by their properties. There is also the issue of maintenance of the open space as well. Mr. Thorne continued that the Township could purchase property to maintain scenic views and historical areas as well.

Trustee Likley stated the current Zoning Resolution has language for PUD's that does set aside open space. How he added he did not know if the Resolution spelled out how the open space is maintained. Mr. Thorne usually the open space is maintained by a homeowner's association. However in order for a developer to be encouraged to develop a conservation district and/or provide open space for a development something is usually offered in return such as a density break otherwise there is no incentive to do so.

Mr. Majewski stated the conservation district mentioned in the Update is just a suggestion. It is recommended that the Township get together with property owners and talk with them as to how such a conservation district corridor could be feasible along Chippewa Lake. Partnership with the Park District and the property owners is encouraged if such a district would develop.

Heather Sturdevant asked about the liability of property owners regarding such a district. Mr. Thorne stated that free recreational use of property under Ohio law encourages no legal liability of the property owner. That is not to say that the property owner could not be sued, but legally you would win that case every time. In the case of Township owned property, the Township has governmental sovereignty. A property owner could also lease the property to the Township or give an easement for such a district to be established. The issue is there does not have to be consistency in ownership of the land but there could be a combination of several entities for establishment of a conservation district.

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8. Section 3A: Medina County has very strict guidelines for developing in the floodplain but it does not say that it cannot be done if done properly. Policy 3A2 suggests that no development at all will be allowed in these areas?

Mr. Thorne stated that he did not read the language in that section as prohibiting development in the floodplain. It says development should be consistent with the floodplain regulations and that is the law. The issue is that some communities are trying to establish stricter regulations than what the State or Federal government have established. The Township has no basis for adopting stricter regulations than the State or Federal government. In addition if the Township has regulations on top of the State and Federal government in some cases the area of land that can be developed becomes so restrictive that the property owner has no viable use of his land.

8. Policy 4A2: "Reduce or Rezone existing Commercial and Industrial zones as recommended in this Development Policy Plan" This plan does not recommend reduction of these areas but for expansions of some of them. This policy is in direct conflict of the plan and therefore should not be included.

Mr. Thorne stated in the future land use plan and the additional land use concepts in the Update; it does talk about a reduction of commercial property. Regarding the west Greenwich Rd. area it does speak about meeting with those residents to discuss ways to reduce the commercial zoning in that area. This could be accomplished by reducing the commercial uses. This is an area that if developed under the existing district language would result in many upset residents having commercial uses among their residential uses. Therefore the Township might want to consider limiting the uses or creating buffer zones to protect the residential from the commercial. Only 24% of that area is being used under the current zoning classification so studying that area and looking at what uses would be compatible should be undertaken as suggested by the Update.

Mr. Thorne continued the boards have to look at the good of the entire Township and not just individual property owners or it could be considered spot zoning. Spot zoning is generally when you zone inconsistent with the surrounding area solely for the benefit of the property owner. The Update states that the zoning in that area does not work and is not viable or compatible with the existing residential uses and should be looked at and revised. Mr. Majewski interjected that the wording "reduce or rezone" was taken from the existing plan and possibly the terminology could be changed to read "amended or modified."

Heather Sturdevant stated it was discussed in the last Comp Plan about putting restrictions on the west Greenwich Rd. area regarding the permitted uses and to discuss this with the property owners in this area to get their input. She then asked, is that something the Zoning Commission would do or the Trustees? Mr. Thorne stated that if one follows the Plan as to how it should work that would be the Zoning Commission as

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the Trustees only reach out in the last resort when they can't get the Zoning Commission to take action. If that was the case, the Trustees could then initiate a zoning amendment. If the Zoning Commission feels a change of zoning or use is necessary it does not matter what the residents want as the Plan needs to benefit the entire Township.

Trustee Likley stated he recalled the Plan suggested reducing the uses both permitted and conditionally permitted in the west Greenwich Rd. area to be more compatible with the predominantly residential nature of the area. He added he felt that was a good suggestion. Mr. Thorne interjected the Commission could also consider if commercial was even a viable use period for that area. Trustee Likley stated in the past Greenwich Rd. was the main thoroughfare for the development of commercial business. You can still see the old rest area on Greenwich Rd. More than likely that was the basis for the commercial zoning of that area.

Trustee Likley then asked if an overlay district should be developed for this area to allow for larger setbacks or a buffer zone? He added that was the problem where you get into zoning issues when looking at the Comp Plan. It's hard to consider all needs of the district without buffers that would make another parcel of property unviable. Mr. Thorne responded that could be accomplished in several ways i.e. a conditional use or a PUD, which would allow broader discretion. He added that standards would then have to be written into the zoning code for the establishment of a PUD and then a developer would present his plan accordingly. Mr. Thorne commented that the "standards" would have to be broad enough to allow the developer to make a proposal and then the Township determines if the "standards" have been met. The developer then has to build his project to what is specifically approved by the Township or the project does not move forward. One looks at a unique plan to be developed for a unique piece of property. It is up to each Township to decide if it wants to endorse PUD's or conditionals or a conservation district. Having a project come before the Township that has to request many variances for a piece of property to be developed can be considered a rezoning and is not legal. An example is if property is to be developed per the code and the code makes the development restrictive from a marketing standpoint. The developer then may ask for certain variances but if each lot in the development needs variances, then it a rezoning and should be handled as such. There is a case in Granger Township where a developer asked for conservation development and the Township said no so. Then the developer came in and asked for many variances to develop the property i.e. density and the BZA denied the requests. The case is now in court with the developer saying that his plan is better in terms of development than just the 3 acre minimum single family regulations that Granger requires to develop in their community.

Heather Sturdevant stated it has been realized that Greenwich Rd. south of the highway needs to be looked at in terms of how that area could potentially develop. She then asked Mr. Thorne if the Township should look at growth boundaries. Mr. Thorne stated there will be a proposal submitted to the Township for that area which now involved 350 acres

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on both sides of Greenwich Rd. requesting to be rezoned. Mr. Scheetz interjected that there is a growth boundary for that proposal. Mr. Thorne stated the issue with growth boundaries is that at anytime a property owner could request that his/her property be included and the growth boundary expanded or in some instances just the opposite and the growth boundary contracted. Mr. Thorne suggested not making a “donut” shaped growth boundary the Township would want to make it a consist zone of some kind.

Mr. Thorne continued even though the area on east Greenwich Rd. has been zoned Local Commercial since day one so to speak, and no one has developed their property to be used commercially. Legally per Ohio Law, the Township does not have to maintain that zoning and it can be changed at anytime. Until one would actually develop his/her property commercially they do not have any “grandfathered” rights to that commercial zoning. The Township has the right to reduce or add to a zoning district based upon the needs of the community.

Mr. Thorne reiterated the basic concepts of spot zoning. Spot zoning is not simply because there is one lot or one owner but where the zoning is inconsistent with the surrounding zoning and done simply to benefit the property owner.

In sum, Mr. Thorne stated he believed the Plan drafted by Mr. Majewski was an Update of the Comprehensive Land Use Plan. It contains a lot of recommendations to study different items such as senior housing, which appears to have support per the survey conducted and the fact that the demographics of Westfield Township show a 55 yr. old + community. In Medina County it has been shown that the 55 yr. old + population wants to remain in Medina County but also want smaller lots and accommodations for senior living.

Mr. Thorne stated that the Update as drafted is more community planning that zoning focused. There are recommendations for the Trustees and zoning boards to work with the residents but questioned whether the Township boards really had time to do that. He added that the suggestions and recommendations are very time consuming and most Trustees and zoning board members have full-time jobs.

Trustee Likley asked, “If the Township did create an agricultural zoning district would that provide additional tax incentives to the landowner?” Mr. Thorne stated CAUV was a State program. Trustee Likley stated what he meant was by promoting an agricultural zone would that be viable to the landowner? Mr. Thorne stated it could because one would be required to have a certain amount of land and a certain amount of income earned from the land. Therefore by supporting farmland that would in turn help the landowner and make his land viable against developmental pressures to continue its agricultural use.

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Heather Sturdevant stated there were many suggestions in the "Update" but no studies were included. Mr. Thorne interjected that it would be up to the Township to complete whatever studies were necessary to take action on a certain suggestion or recommendation. Ms. Sturdevant then commented, "say the Township does a study and the results do not support the recommendation. The property owner wanted to move forward with the recommendation and then sues the Township. Could the Pros. Office defend the Township even though the study was done after the suggestion/recommendation that was written into the "Update"? Mr. Thorne stated yes, the recommendations in the Update were just recommendations and they may or may not prove to be viable. On the other hand, if the Township does a study and the result says the recommendation is viable and the Township ignores it, the Township would probably lose if it were legally challenged.

Mr. Miller stated there can be biases with studies and one having an interest for a certain outcome. Mr. Thorne stated that could happen, but if one hires a company with a good reputation then the result should be as objective as it can be.

Mrs. Sturdevant asked what if the Township takes action on something pro or con and no studies have been done to support either action then what? Mr. Thorne stated most judges want to know what a certain board does at the time it takes action. The courts are not looking for after the fact studies they are looking for at the time of decision factors. Mr. Thorne commented there should be a purpose for every zoning regulation that the Township adopts. You should be able to explain to the residents why you did what you did or why you are doing what you are doing. They may not agree with the results but you need to show the logic and reasoning behind your decisions, which should be for the benefit of the Township as a whole.

Trustee Likley stated regarding the Update, it was important to have the support and commitment of the Steering Committee to support the recommendations and suggestions that have been proposed. Because the Township has made the commitment to complete such a proposal, if the Township ends up doing something contrary to the Update the Township would need to show a rationale for its decision. Ms. Sturdevant commented with that said, she felt it was fair to ask the question why a certain suggestion or recommendation was made in the Update especially in terms of the Greenwich Rd. area. Mr. Thorne responded it was stated in the Update that area did not appear viable as currently zoned, and uses were recommended as well as the statement that other uses may also prove to be viable for that area such as high-density development.

Mr. Simmerer stated the Steering Committee also discussed that not only were the older residents concerned with living in the community but so were their children who could not economically afford to stay in the community they were raised. Mr. Thorne stated that may have been a reason for the recommendation for the Greenwich Rd. area but it was



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not stated in the Update. Ms. Sturdevant commented that all she was told about the recommendation was that it was a difficult decision.

Mr. Thorne stated there is debate as to whether large lot development supports agriculture or hinders it. This would have to be studied to see if there is support in either statement. Also in regards to planning he stated do not focus the plan on utilities. Simply because the Township has water and sewer does not mean the zoning has to be changed. The Comp Plan ideally should show when the entire Township is built out this what you want your community to look like regardless of water and sewer capability.

Having no further questions, Ms. Sturdevant thanked Mr. Thorne and Mr. Majewski for their time and comments. Trustee Likley asked Mr. Majewski if he would be present at the Trustees portion of the public hearing process to consider the adoption of the Comp Plan? Mr. Majewski stated yes but he was waiting to see the process the Zoning Commission would be moving forward with. Secretary Ferencz stated the Commission has set a special meeting for July 6, 2010 for a public hearing on proposed text amendments. (Digital Signage). The Planning Commission would not be holding their meeting until July 7, 2010. Therefore the public hearing on digital signage would have to be tabled and no vote taken until the recommendation of the Planning Commission is received. Mrs. Sturdevant stated tentatively the vote of the Commission on the Comp Plan could be taken on July 6, 2010.

Trustee Likley asked if there was information from the Steering Committee that could be added to the Update in response to the suggestions made? Mr. Majewski stated there would probably be a different response from each person asked. Trustee Likley stated for example the comments of those young adults who cannot afford to live in the community that were raised because there was no housing available nor was it affordable.. Mr. Majewski commented there was no appetite by the Steering Committee to make major changes to zoning except for the Greenwich Rd. area. To start from scratch would not make sense. Mr. Kramer stated he agreed that the basis for the recommendations in the Update should be made.

### **Announcements:**

Public Hearing/Next Regular Scheduled Meeting-July 6, 2010 at 7:30 p.m.

### **Adjournment:**

Having no further business before the Commission, Mr. Anderson made a motion to adjourn and Mrs. Kemp seconded the adjourn. A roll call was taken. All members were in favor.

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Trustee Likley made a motion to adjourn. It was seconded by Trustee Oiler. All members were in favor.

BZA member Micklas made a motion to adjourn. It was seconded by Mr. Simmerer. The workshop was officially adjourned at 9:12 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary

Minutes approved by Westfield Township Trustees on 7/19/2010