

**WESTFIELD TOWNSHIP
BOARD OF ZONING COMMISSIONERS
SPECIAL MEETING/WORK SESSION
SEPTEMBER 28, 2010**

Chair Sturdevant called to order the special meeting of the Westfield Township Board of Zoning Commissioners at 7:00 p.m. Board members Brewer, Anderson, Kemp, Miller and Sturdevant were in attendance. Alternate members Brezina and Kathy Zweifel were also in attendance. Other individuals in attendance: Ron & Marlene Oiler, Stan Scheetz, Karen Fisher, Mr. and Mrs. Drake, Michael Cook, Melissa Spitzer, John Molnar, Brian West, Denise & James Gardner, Dan Clement, Bob Haight, Wirtie Kratzer, Forrest Thompson, Tommy & Katelyn Atsma, Terry & Donna Bower, Leslie Prochaska, Sue Frey, Russ Zupanic, Mike Schmidt, Carol DeCaster, Karen & Tom Micklas, Irish Blankenberg, Karen Schoonom, Rosemary & Bruce Broadbridge, Joel Sech, Jill & Kevin Daugherty, Bill Thombs, Keith Simmerer, Gayle Foster, Brian Wild, Ben & Ted Campbell, Jeff Plumer, Joe Augustine, Gary Harris, Gene Sulzener, Lyn Methlie, Lisa Henvinich, Eli & Renee Mathews, Bill Hutson, Carolyn Sims, Rocco Valent, Debbie Russell, Guillermo Carrasco, Orlando Carrasco, Mike Sweeney, Jim Likley, Glen Zuber, Josh Greenwald and Zoning Inspector Matt Witmer.

Chair Sturdevant stated the Commission was present this evening to consider the site plan application for the Cloverleaf School District. The following areas are being considered this evening:

1. The fence around the soccer field except for the front portion of the fence by the road which would require a variance;
2. The fence around the softball field except for the backstop; which would require a variance;
3. The dugout
4. Restrooms
5. Scoreboard

Chair Sturdevant stated the access road; parking lot and both ball fields were approved previously. She continued that the 6-ft. fences comply with the zoning resolution except for the front portion of the fence by the road, which would require a variance. The restrooms and scoreboard are in compliance (considered an accessory structure) with the zoning code as well as the dugout as submitted.

Mr. Terry Thress represented the Cloverleaf School District. Chair Sturdevant asked if there would be any advertising on the scoreboard? Mr. Thress stated no there would not. Chair Sturdevant stated the two dugouts would be 32'x 6' and were in compliance with the zoning code. Chair Sturdevant asked if there would be any loud speakers? Mr. Thress stated there were no immediate plans at this time. Mrs. Kemp asked about lighting. Again Mr. Thress stated there were no immediate plans to add lighting at this time. Chair

Sturdevant stated if those items were to be added in the future the school would need to come back before the Township for approval.

Chair Sturdevant made a motion to approve the site plan for the Cloverleaf School District for the following:

1. The 6-ft. fence around the soccer fields on three sides except for side bordering the public right of way;
2. The homerun fence for softball field and the two fences that are 6 ft. in height;
3. Scoreboard
4. Restrooms
5. Two dugouts

It was seconded by Mrs. Kemp.

ROLL CALL-Sturdevant-yes, Kemp-yes, Anderson-yes, Miller-yes, Brewer-yes.

Having no further business before the Commission this evening, Mrs. Kemp made a motion to adjourn the special meeting. It was seconded by Mr. Anderson.

ROLL CALL-Kemp-yes, Anderson-yes, Brewer-yes, Miller-yes, Sturdevant-yes.

The special meeting was adjourned at 7:29 p.m.

WORK SESSION –ZONING COMMISSION ,COUNTY PROSECUTOR AND ATTORNEY STAN SCHEETZ REGARDING THE PROPOSED TEXT AND MAP AMENDMENTS TO ADD A GENERAL BUSINESS DISTRICT AND A GENERAL BUSINESS DISTRICT/PUD.

Chair Sturdevant called the work session to order at 7:35 p.m. Board members Brewer, Anderson, Kemp, Miller and Sturdevant were in attendance. Alternate members Brezina and Kathy Zweifel were also in attendance. Secretary Ferencz handed out the draft minutes of the Zoning Commission's September 14, 2010 meeting to the Commission members for their review and approval.

Chair Sturdevant stated the purpose of this work session was for the Commission and applicant could ask questions of Mr. Bill Thorne from the County Prosecutor's Office regarding the proposed text and map amendments to add a General Business District and a General Business District/PUD. There would be no public comment taken this evening.

Chair Sturdevant stated there was currently an application before the Commission for a map amendment consisting of 400+ acres. Some the Commission members felt that some of the properties included in the 400 acres do not have a viable use of their land. When taking this application into account, Chair Sturdevant asked, does the Commission have to recommend approval or disapproval of the entire 400+ acres or could approval/disapproval be done in pieces/parts? Mr. Thorne responded that the Commission

had the right to make alterations to the plan. Property could be added or subtracted if the Commission had a logical reason to do so.

Chair Sturdevant asked what was the test to determine if a property has a viable use? Mr. Thorne stated the legal reason is simple; a property has to have an economical use. If there are uses under the existing code for the district that could not reasonable be applied to the land in the district then it does not have a viable use. When the Commission decides what property is to be rezoned then the Commission has to analyze the impact that would have on the rest of the properties in the area and whether in fact that land should be rezoned or not rezoned. There will always be boundaries set that will be too much for some and not enough for others. As long as the property owner who is not included in the rezoning has a viable use of his property it does not have to be rezoned.

Mrs. Kemp asked if the Commission had to approve a PUD for the land in question or if an overlay district could be considered instead? Mr. Thorne stated the application was submitted for a PUD, but the Commission could suggest an overlay district or a PUD that is not a conditional but a legislative act that would fall under the Zoning Commission's jurisdiction. Mrs. Kemp asked if an overlay district would give more control to the Township as to how the land is developed than a PUD? Mr. Thorne responded not necessarily. The control comes under the conditions and standards that are imposed. An overlay district is usually established over an existing area and would automatically apply. In many cases a PUD has to be applied for by a property owner; it is not automatic.

Mrs. Kemp stated regarding the PUD submitted in this application, a lot of the standards and conditions are under the jurisdiction of the BZA and did that need to be the case? Mr. Thorne stated no, but PUD's are generally set up as conditionals and therefore fall under the control of the BZA but they do not have to be. Mrs. Kemp stated it appeared from the application that the applicant is asking for an extended period of time (7 yrs.) for final development approval. Mr. Thorne stated the Commission had the right to modify anything the board deems necessary within reason. He continued that due to the economy, he did not think that was too long of a period of time. If a development has to start all over again for approval a lot of time and expense is again expended. Also, the amount of land is substantial so the time process would be longer to see it developed. Mrs. Kemp stated she understood but was looking at it from the opposite point of view that a lot can happen in 7 yrs. Mr. Thorne stated once the applicant would begin construction on any phase it would not matter if the zoning of the property was changed because the courts have consistently found that once a development has substantially started they have the right to develop under the previously approved plan.

Mr. Scheetz commented that the reason for the 7-yr. time frame was because of the size of the project and due to the nature of the economy currently. It is planned that the infrastructure would be placed on this property all at once which would be at least a 3-yr. process.

Chair Sturdevant stated per Mr. Scheetz, there would be multiple developers for this project and she asked Mr. Thorne how the Township could ensure a cohesive oversight of the entire project. Mr. Thorne responded a lot of that would have to do with what body would be the reviewing board and the regulations that were drafted.

Mr. Miller commented that per the application, land under 35 acres did not have to be developed under the PUD regulations. He continued, with different developers what was to stop them each of them from developing 34 acres at a time and not having to come before the Township for review and approval? Mr. Thorne stated that was the normal development process. A developer could come in and buy the minimum amount of land to develop and do so and then the next developer could buy the next minimum amount of land and develop his way and so on. He added when he read the application those uses that could be developed on 34 acres or less would be permitted uses and therefore would not require PUD review and approval. For example x amount of property could be developed as gas station, and x acreage could be developed as a grocery store. They could all be stand-alone businesses, therefore there might not have to be any coordination. Should they be coordinated? Mr. Thorne asked, should they be coordinated? He replied yes, it made sense to do so as more and more of the land is developed. An example is the Montrose/Fairlawn area. It would have been nice to see more back roads put in so one did not constantly have to pull on and off of Rt. 18. He added that would need to be written into that plan and would take some thought out planning. Mr. Scheetz interjected that was addressed in his proposed amendments that whatever board would be approving this project that they require reciprocal easements for ingress and egress. Mr. Thorne stated he meant for properties that would not be developed as a PUD. He continued that some of those property owners may not like that idea because they may not want traffic cutting across their parking lot to get to another business. Mr. Thorne stated the plan as submitted needs to go before the Trustees for approval but the Commission could make any number of recommendations for the Trustees to consider.

Chair Sturdevant stated, regarding storm water and ground water issues, the County takes care of those regulations. She then asked what should the Commission take into consideration regarding such issues as they relate to these proposed amendments and ultimate development project? Mr. Thorne responded the County regulations would apply whether they are written into the code or not. The Township, to an extent, can impose additional requirements that the Township felt should apply to this project but it would have to be justified.

Mr. Miller stated this proposed project is located on a buried river valley. What does the County think of this development being over that water aquifer? Mr. Thorne stated the County commented it could be done as long as the development meets the County's regulations. Mr. Thorne stated the Township might want to see a greater setback imposed but the County Planning Commission approved the text amendment knowing of these

issues but more than likely did so with the understanding that County, State and Federal regulations would apply.

Mr. Scheetz stated they were imposing a 100-ft. setback on either side of the Chippewa Creek, which mirrors the Muskingum Watershed's easement and implement locations. Mr. Scheetz continued that he also spoke with Jim Troike and the aquifer is 115-140 ft. below the surface and he felt there were sufficient regulatory agencies and requirements in place to make sure the development is built according to those standards. Mr. Scheetz added they were looking at retail and office uses which were relatively friendly uses to the environment.

Mr. Thorne stated if any of these issues gave the Commission concern, the board could ask those agencies to come in and speak to the Commission about these various issues and what regulations are in place to protect that area. Mr. Miller stated that is why he thought the study requirements should be in place before the Commission would consider a rezoning of property. Mr. Thorne responded it depends what Mr. Miller meant by studies. If he meant site-specific studies they would never be done because they are very expensive to do without the assurance of the property being rezoned. However the Commission could make the development contingent upon the results of certain studies like what was done with Traveler's Center of America (TA) and the multiple traffic studies and designs that were required before they were given approval.

Chair Sturdevant then asked about the fiber optic network that would come down Rt. 42 and across Greenwich Rd. to the Summit County line. She continued that the board in charge of making recommendations on this network made a recommendation that a 1000 ft. on either side of the line be zoned local commercial; and where two highways intersect she believed they are recommending it to be 2000 ft. on either side of the line to be zoned local commercial. She asked is this something the Township has to follow? Mr. Scheetz interjected the board is the Upper Chippewa Watershed Group and that was just a recommendation and the zoning was not local commercial but just "commercial". Mr. Thorne stated the reason was so that businesses would come in and utilize the fiber optic line. That does not need to be the Township's theory as the Township may find there are areas where that would not be appropriate to be zoned commercial.

Chair Sturdevant asked Mr. Thorne in his opinion, what board would best serve to oversee this proposed development project? The BZA, Zoning Commission or Trustees? Mr. Thorne responded he could not pick a particular board that would be better. It would be determined by the regulations in place and the members that sit on those particular boards. He added, you can have great regulations but if the board does not follow them then it won't get you anywhere. Regarding the conditional uses, the BZA has the ability to impose conditional standards and site specific standards. If it was done legislatively, the Commission would have to foresee the issues and determine what requirements are necessary to get to the final product and what discretion the Commission would have

before it was necessary for an applicant to go before the BZA for a variance request. In some instances a Zoning Commission could alter the density on particular properties if the overall density does not exceed X number etc. but that needs to be written ahead of time.

Mrs. Kemp stated that was the reason she brought up the concept of an overlay district where the regulations could be written out ahead of time such as what the Township wanted in terms of lot sizes and setbacks, etc. Mr. Thorne stated many developers like the overlay district better because then they know if they comply with A, B and C they get the overlay district to develop their project. He commented it was important to remember with an overlay there are not conditions that could be imposed so the Township had better been very thorough in the regulations that would be put in place for an overlay. Mr. Scheetz stated yes an overlay is the preferred process a developer would like to follow and the only reason he wrote the PUD as a conditional is because it followed the pattern of the current zoning resolution. The preference for this project would be an overlay district administered by the Zoning Commission, which would be involved in writing the regulations and requirements. Mr. Scheetz cited several examples of such overlay districts and the resulting open space developments that have or are being built using that planning tool such as Medina Country Club and Dover Highlands, which had a combination of cluster homes and single-family homes with a certain portion of open space required.

Chair Sturdevant asked if the Zoning Commission decides to re-write this whole proposal does it have to go back before Planning Services? Mr. Thorne responded, as long you don't change the overall concept, the Commission could re-write it anyway deemed necessary and appropriate as your recommendation.

Mr. Miller stated on the document from Planning Services it says that Westfield Township is the applicant and that was wrong. Mr. Scheetz is the applicant representing various property owners. Mr. Scheetz stated he questioned that as well as was told by the Director of Planning Services Ms. Patrice Theken that the Dept. of Planning Services does not work for private developers they work for the political entities of the County. Therefore when a text or map amendment is submitted to the Dept. of Planning Services/Planning Commission the Township becomes the applicant. Mr. Thorne stated the Dept. of Planning Services was aware the "application" was by a private individual and the request for review was from the Township.

Mr. Miller stated no one from the Township went to the monthly meeting of the Planning Commission when this application was reviewed. Mr. Thorne responded that was probably because there have been extensive meetings and discussions where all the changes the Township thought were appropriate were made back in May. Mr. Miller questioned if the Planning Commission would have vote differently if someone representing the Township was present and spoke up at the meeting? Mr. Thorne stated

the Planning Commission was supposed to make an impartial recommendation and voting on the merits of the proposal.

Chair Sturdevant stated that the residents of Westfield Township have stated they don't want a big box store, but the applicant is saying they need an anchor store to make the project work. She then asked could the Township regulate how many of such stores could be allowed? Mr. Thorne stated yes. If the Commission could find a viable use of the property without an anchor store the Commission has the right to do so or to limit the size of the stores that would be allowed. However, the other side is that the current regulations do not permit the ability for a store over 7500 sq. ft. to be built. Another reason the applicant states the other existing zones have not been utilized is because the store size requirement is too small for certain stores to build in those locations. The issue the Commission has to consider is there areas that cannot be viably developed under the existing regulations; and second those areas would then have to be given a viable use.

Mr. Scheetz responded the permitted uses in the existing local commercial district are expansive but the limitation of a 7500 sq. ft. building does not work in today's developments. He added that even in the covenants and restrictions provided a year ago, they were willing to put limitations on the number of "anchor stores" and even the size of the stores. One of the businesses original approached when the previous application was submitted was a 200,000 sq. ft. i.e. Cabela's. That is not the case right now, but just an alternative because it depends on which business locates in Brunswick in the "outdoor sports arena". An alternative for this development may be a Bass Pro Shop but those are very large stores as well.

Mr. Thorne stated anchor stores tend to draw other businesses and when anchor stores are lost such as K-Mart in Brunswick ,other stores leave and the shopping development is left barren. Mr. Scheetz interjected that is why they were looking at multiple anchors and added they were possibly looking at 3 anchor stores. One would be large retail and the other two would be downsized dramatically. Anything over 20,000 is considered big box but that is the size of today's Rite Aid and Walgreens. Mr. Thorne stated big box really isn't the term associated with drug stores but more with Wal-Marts or K-Marts. Mr. Scheetz stated those stores consist of 120,000-140,000 sq. ft. on average.

Mr. Miller stated that some of the homes on the properties that have proposed to be part of this General Business District and are in the floodplain and are limited even to be in the Rural Residential District already per the current zoning code. Therefore, he asked, is it even appropriate that those properties ask to be part of this proposed General Business District? Mr. Thorne stated it was entirely legal. Any resident in the Township has the right to ask for their property to be rezoned.

Chair Sturdevant asked about growth boundaries and would that be written into the text or just displayed on a map? Mr. Thorne stated it is usually just stated what zone such

boundaries would be authorized in. Mr. Scheetz stated he did provide a description of a growth boundary and envisioned it to be indicated in the text as well as on the zoning map.

Chair Sturdevant stated right now there are a lack of utilities for the proposed area however there are entities that could provide those services. Chair Sturdevant stated she was concerned with the development of the City of Brunswick with the use of inadequate pipe size installed, not contemplating the growth that would take place in that area, and the subsequent flooding that has and continues to occur. She stated she knew the County was in charge of the utilities but asked if there were additional restrictions/regulations the Township could impose so that know matter what is developed it would not adversely effect the residents that already lived in that area of the community? Mr. Thorne stated no, that would be handled by one or a combination of three entities that would provide such services i.e. the County, Seville or Westfield Center. He continued that what they typically do is size the infrastructure for what is to be the service area. That area is not to be expanded without upgrading the pipe sizing, etc. but unfortunately that has not always been the case.

Mr. Miller asked if Seville would provide services without annexation? Mr. Thorne stated legally they could but right now Seville is saying they won't annex but that has not been their case in the past. However Seville could also turn around and say if that area wants to continue to get water from them the property would have to be annexed. That is the choice of villages and cities and can be a moneymaker for them without annexation and the Supreme Court has upheld that is legal. He commented that there were also villages and cities that want the particular area they are offering services to, to become part of their community.

Mr. Miller stated if Seville annexes the property west of Greenwich Rd. it would be stepping stone for them to annex the next properties over. If you have all of these developments going in it would appear to be a plum to be picked by Seville for annexation. Mr. Thorne commented it could, however Seville is one of those communities that has never detached even though they have annexed. They pay both entities through an expedited petition which means they cannot detach from that point. If an expedited petition is used they will always remain part of the Township. The result is a double taxation scenario for that community.

Chair Sturdevant asked who determines whether tax abatements are offered? Mr. Thorne stated he could not recall what entity is responsible but added there was just a bill passed to give Townships more control when having to deal with the issue of tax abatements. He added he has not read this new bill but knew the bill was recently passed. Mr. Scheetz stated the last three annexations he has done in the Village of Seville that were successful none of those annexations detached the land from Guilford or Westfield Township. The taxes are paid to dual jurisdictions.

Mr. Miller stated the Muskingum Watershed District has a 100-ft. easement on both sides of the Creek. He added that a bridge would be required to cross the creek so who would be responsible for the approval of a bridge? Mr. Thorne stated the Muskingum Watershed would have approval just like they approved the retention pond the Village of Seville wanted to do to expand their sanitary system. Mr. Scheetz interjected that they did recognize the approving authority of the Muskingum Watershed District. Mr. Thorne stated if there were questions of any of the approving agencies the Commission should invite them to speak to the board and the public.

Mr. Miller continued that the Township was currently between Comprehensive Plans. By that he meant there is an existing Comp Plan, an update from 2003 and a current update that has been drafted and recommended by the Steering Committee. He added that the Zoning Commission recently modified that update and both versions are before the Trustees for consideration. Mr. Miller questioned if these applications should even be considered at this time? Mr. Thorne stated the applications must be considered. Once an application is submitted the Township is obligated to consider them pursuant to law. He added, if you vary from the adopted comp plan, you should explain why i.e. the Comp Plan is out of date or the Township no longer wishes to follow certain aspects of the Plan. The courts have ruled that a Zoning Resolution, if done correctly, can serve as a Township's Comprehensive Land Use Plan for the community.

Mr. Thorne continued that if the Township adopts this General Business District and General Business District PUD and it is contrary to what is stated in the Comp Plan, then it needs to be documented in meeting minutes how and why you came to that conclusion. The Commission could determine because of the new interchange that has been constructed the existing zoning does not work and that is why the Commission changed the zoning contrary to what might be stated in the Comp Plan.

Mr. Miller stated another one of his concerns was the floodplain and hidden river valley under this proposed project. He continued that it was stated at the previous meeting the capacity of the County installed wells was dropped and they were not even pumping at full capacity. He asked; if a General Business District was established would the Township be liable for fixing wells that go dry? Mr. Thorne stated no. It is entirely appropriate for a community to limit the amount of development due to the availability of water. So if the County Engineer's Office states in order not to effect wells in the community, they could only pump so many gallons to service this development area, it would be entirely appropriate for the Township to limit development potential of the area with development criteria. Guilford Township did just that as they are served by an aquifer just like Westfield Township. Mr. Thorne stated that Guilford Township spent money to determine how many homes the aquifer would serve and what area was necessary for recharge and based their density on those criteria. That would become an effective growth boundary until someone came up with another source of water.

Mr. Scheetz stated all the developers he was working with were aware of those self-imposed restrictions. The development proposed would be a mixed-use project of non-traditional residential, office and retail. The office portion of the project would be the lesser of all users in terms of water use as well as the fact they would use water at a different peak time than that of the residential and retail components of the development. Mr. Thorne commented that once Baker Sand ceases to operate, the water table should rise because they drain off more than everybody else uses because they are trying to extract the sand. This will have a significantly positive effect on the aquifer.

Mr. Miller asked about the existing Fire Departments ability to service this development project? Mr. Thorne stated it would be the Township's primary responsibility. However, legally the Township is not required to provide police or fire service. That is why some developers provide space for a fire station or hydrants to alleviate the demands on the fire department. Mr. Scheetz interjected that for a development plan such as the size of the one proposed, land is often donated as part of the development plan. This has been done for building sites for schools and fire stations.

Mr. Scheetz concluded that he has spoken with several of his clients and since the issue of the size of this proposed General Business District has come up on several occasions, and he had the consensus of his clients that are south and east of the Christopher Ford property to the Guilford Township line, to ask for consideration of a General Business District locate north and west of that area; and a Local Business District to locate south and east as a potential compromise. That would mean larger business to the north and west and smaller businesses to the south and east.

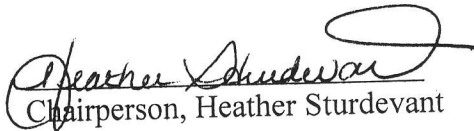
Mr. Scheetz asked for it to be part of the record that there are provisions within the general guidelines under Section 606A 34 required design standards item 22 where he inserted the supplemental conditions and safeguards for the Zoning Commission and BZA.

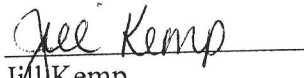
Hearing no further questions or comments, Chair Sturdevant asked the Commission members what, if any, entities would the board like to come speak to them about this development project? The Commission stated they would like the Medina County Sanitary Engineer-Jim Troike, and the Muskingum Watershed District. Chair Sturdevant stated she would try to contact those agencies and possibly others, to see if they would be available for the Commission's next meeting scheduled for October 12, 2010 or another tentative date of October 26, 2010. Mr. Thorne suggested that if a representative from those agencies could not attend, they could just put their recommendations, comments etc. in writing for the Commission's knowledge and consideration which would be acceptable as well. Mr. Thorne continued that if the Commission members had any further questions they could contact him accordingly and he would bring the responses to those questions before the entire Commission to hear.

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Having no further business before the Commission, Ms. Kemp made a motion to adjourn the work session. It was seconded by Mr. Anderson. All Zoning Commission members were in favor. The work session was officially adjourned at 8:59 p.m.

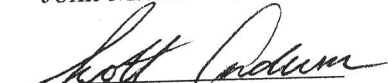
Respectfully
Kim Ferencz, Zoning Secretary


Chairperson, Heather Sturdevant


Jill Kemp

Sue Brewer


John Miller


Scott Anderson