

**WESTFIELD TOWNSHIP
BOARD OF ZONING COMMISSIONERS
PUBLIC HEARING/REGULAR MEETING
SEPTEMBER 13, 2011**

Chair Sturdevant called the regular meeting/public hearing of the Westfield Township Board of Zoning Commissioners to order at 7:30 p.m. Permanent Board members, Anderson, Brewer, Brezina, Kemp and Sturdevant were in attendance. Alternate Board member Dennis Hoops was also in attendance. Other individuals in attendance: Ron Oiler, Donna Bower & Terry Bower, Zoning Inspector Matt Witmer, Gary Harris, Tim Kratzer, The Kerrs, The Drakes, Frank Galish, Gayle Foster, Jack Greenwald, Karen Fisher, Carol Rumburg, John Miller, Carolyn Sims, Stan Scheetz and Bill Thombs.

Public Hearing on Proposed Swimming Pool text amendments

Chair Sturdevant stated opinions and recommendations had been received by the Dept. of Planning Services and the Medina County Prosecutor's Office. Chair Sturdevant asked if Commission wanted to modify the proposal as drafted. (See attached to approved meeting minutes). The Commission members stated there were no further changes.

Ms. Kemp made a motion to approve the text amendment of Section 203 C. Swimming Pools and to certify over the vote of the Commission to the Township Trustees. It was seconded by Mr. Anderson.

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

Chair Sturdevant made a motion to close the public hearing. It was seconded by Mr. Anderson.
ROLL CALL-Sturdevant-yes, Anderson-yes, Brewer-yes, Brezina-yes, Sturdevant-yes.

The public hearing was closed at 7:33 p.m.

Public Hearing-Rezoning of 23 acres from Rural Residential (RR) to Local (LC)

Chair Sturdevant opened up the public hearing at 7:34 p.m. All Commission members were present.

The following applicants are requesting to rezone the following from Rural Residential to Local Commercial:

| | | |
|----------|----------------|------------|
| Molnar | 041-15B-51-006 | depth 530' |
| Campbell | 041-15B-53-001 | depth 530' |
| Bombard | 041-15B-54-001 | depth 530' |
| Bombard | 041-15B-54-002 | depth 530' |
| Haight | 041-15B-54-003 | depth 530' |
| Haight | 041-15B-54-004 | depth 530' |

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Chair Sturdevant read the report from the Dept. of Planning Services/Planning Commission. (See attached to approved meeting minutes). In sum, the Planning Commission recommended disapproval of the map amendment request for the following reasons:

1. Site Characteristics. Approximately 12 acres (one half) of the site is within the FEMA 100 Yr. Flood Plain. The site also contains hydric soils, which are an indicator of the presence of wetlands. These characteristics could significantly impact the use of this portion of the site.
2. The land in the Flood Plain is also within the Township's Natural Hazards Overlay District. This would limit this Flood Plain portion of the site to the uses permitted in the RR District (Section 302, Westfield Township Zoning Resolution.
3. The site is not currently served by central water or sewer which could further restrict its use (There is insufficient incentive to extend public utilities)
4. Westfield Township currently has a relatively large amount of land zoned for commercial uses that is vacant or under-utilized.

Chair Sturdevant then read a letter by one of the applicants Tom Bombard replying to the decision of the Dept. of Planning Services. (See attached to approved meeting minutes). In sum, the letter stated, The explanations for denial are primarily leveled at one property, and a vacant property at that. Regarding the citation of the issue of the 100 Yr. Flood Plain wouldn't that be a question for the property owner and Army Corp of Engineers... With all due respect, that citation "is not relevant to all the applying properties, and would NOT impact the other properties, inclusive of mine, and the others who made the original request. We are NOT in the area discussed. However, be clear, I feel the stated vacant frontage should be local commercial... Why would it not be recommended that at least ½ the properties be rezoned local commercial, which appears to be the thought process utilized when the Staff proposed recommending a 'smaller' General Business District. ...Residential homes are a permitted use in Local Commercial. It is a good fit and provides "transition options." It would appear our forefathers implemented Local Commercial on "old Rt. 224 which is Greenwich Rd. in the event the area were to transition to a Business area. In ending...please be compelled to reflect once again, and find for recommendation on approval of our request."

Stan Scheetz then addressed the Commission. He stated the applicants are looking for Local Commercial since they were not granted the General Business District to insure that the entire north side of Greenwich Road would be some form of commercial. Mr. Bombard asked me to speak in his behalf since he could not adjust his schedule to make an appearance. Mr. Scheetz handed out exhibits depicting the commercial zoning in Westfield Township. He pointed out the six parcels involved in the request for local commercial and the recently rezoned areas which are the subject of the referendum. He also handed out the development issues section of the Comprehensive Plan. He noted that 280 acres of commercial zoning is occupied by three businesses. He noted that no development has occurred along Greenwich Road even though it has been zoned commercial for many years because there is no sanitary sewers. He noted that the

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350 - 400 acres of commercially zoned land which Planning Services says is undeveloped is either in use or unlikely to be developed in the current market. So what is really available for development is the 85 acres on Greenwich Road and about 40 – 55 acres in the Highway Commercial District that has not been developed yet. The Planning Services report is almost a carbon copy of the report given one year ago recommending against the map amendment for my client to General Business District and it uses the same rationale that there is too much land zoned commercial in Westfield Township. The only difference is the FEMA flood plain that takes out another 178 acres along the creek. If 178 acres of commercial is already in the flood plain it is not going to make any difference if 12 more acres are added. It is just going to be used for open space or detention since you can't build there.

Mr. Scheetz continued that what they are trying to do is plan for the future so that when this corridor does develop these clients can transition from the higher commercial. This would be a good transition. Unless the entire corridor is commercial, it will block the opportunity for grants for sewers. His clients can continue to live there but would have the option to convert to commercial in the future.

Mr. Scheetz requests a positive recommendation to the trustees based upon the following eight points:

1. The six parcels as local commercial would be a perfect transitional zone from the General Business District.
2. The six parcels are adjacent to Guilford Township on the south where they are abutted by industrial and/or commercial zoning.
3. The adjacent land to the east in Seville or Guilford Township has been zoned for industrial use for the past 30 – 35 years.
4. The smaller buildings permitted by Local Commercial are ideal for what would go on these lots.
5. Sewer and water is available to the site from Westfield Center, the County, or Seville and the 208 Water Quality Plan can be amended.
6. The watershed initiative designated this area as a Primary Development Area (PDA). This makes economic development grants accessible.
7. Westfield Township needs some strategic growth alternatives, more than just the General Business District. Yes there is 680 acres zoned commercial, but it is not all truly available for development at this time.
8. The flood plain is cited seven times within the Planning Services staff report, but that is not a zoning issue. It is merely a permitting issue with the Army Corps of Engineers.

Carolyn Sims (Mudlake Road) Planning Services and Planning Commission have recommended disapproval for good reasons and I support their recommendation. The FEMA flood plain has come up. Half of the parcels requested for rezoning are in the floodplain and the Planning Services map shows the hydraulic soils. We all remember when ODOT put in the bridge and it sunk because of the poor soils and they had to redesign it. Number one is that the Township's

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zoning code prohibits the use of flood prone areas for anything other than rural residential. How can the Zoning Commission recommend commercial zoning for property that cannot be used commercially. The proposed zoning would not be defensible based on Ohio Revised Code Section 519.02A which states that in the interest of public health and safety the Trustees may regulate in accordance with the Comprehensive Plan. The Comprehensive Plan, currently in effect, which is the 1996 plan, does not support this rezoning. Policy 2A.5 requires a traffic study for all non-residential expansions and traffic studies have not been done. In passing this rezoning the Commission would be ignoring all of the policies listed in Goal 3. Those goals are: Guide the location and timing of new development on the basis of the natural capacities and limitations of the land. Stan Scheetz says this is adjacent to industrial land, but it is actually floodplain, which is vacant. Most of the industrial land he is referring to is vacant. Ms. Sims read from Goal 3 of the Comprehensive Plan.

Ms. Sims noted that most of the parcels being requested for rezoning have existing homes on them. There is no sewer and water available and it is not anticipated in the current 208-water quality plan. Vacant land does exist and is under utilized in all of the commercial properties. She noted that the ODNR ground water pollution potential map shows this area in the 2 or 3 areas of highest potential for ground water pollution and Seville's wellhead is down stream. NOACA in its 2000 and 2007 reports indicates that retail is saturated in this area. The Township's professional land planner recommended office and light industrial in a memo dated Feb 5, 2001, which I would like to add as an attachment. Commercial zoning has existed in this area for many years. Where is the demand for spreading it? This decision is premature because you do not know the outcome of the general business district rezoning. You should revisit this after the referendum.

Ms. Sims referenced Mr. Bombard's letter of April 11, 2011 in opposition to the rezoning because it should be all or none. She stated the Secretary of State is not able to approve the ballot language submitted by the Medina County Board of Elections. (See attached to approved meeting minutes). After comparing the ballot language, the Secretary of State's office noted that it could not find a resolution adopted by the Township Trustees approving the rezoning. Therefore it is unclear what action by the Trustees is being referred to the voters and they recommend that the Election Board refer the matter to the County Prosecutor's Office to determine if it should appear on the ballot and, if so, what the language should read. The rezoning was approved with a motion instead of a resolution. She then read from the Ohio Revised Code Sections 519.09, 519.11, and 519.12.

Ms. Sims asked that the following be entered into the record: the Westfield Township Zoning District Map with the FEMA floodplain overlay prepared by the Highway Engineer's office, the 208 Water Quality Plan, and comments from Medina County Planning Services indicating a break in zoning. (See attached to approved meeting minutes).

Bill Thombs (8189 Friendsville Road) stated he did not like the idea of wetlands being included in the rezoning. It will impact the water source directly to the south. Our water supply is very important to us. I don't understand why there is a concern with waiting six weeks until the

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referendum. The election will validate a lot of things. All the development down there should be done as a unit. Set this aside for six weeks.

John Miller (6089 Seville Road) stated that there is no reason to spot zone at this time. If the referendum allows general business then there is no reason not to allow these parcels to be part of that big district. A water aquifer covered by pavement is not rechargeable. Bethany Dentler has stated several times that the area is saturated with retail and there is no need to add more when we have undeveloped land that is in better position. This only makes sense if we vote in the general business.

Stan Scheetz stated that four of the six parcels have land outside of the FEMA floodplain that could be developed for commercial purposes. The Comprehensive Plan referenced that these areas need to be addressed and would most likely be some form of commercial. Traffic studies are for site plans when a specific use is known not a precondition to a zoning change. The 208 Water Quality Plan can be amended by the request of developers and that while it is in the County service area, that could change too. Regarding spot zoning, six people are asking to be consistent with the Greenwich Road corridor. The truck stop is not in a general business zone it is in a highway commercial zone where there are only three permitted uses. That is why we are trying to make this make sense. My clients wish to have some form of commercial zoning. If the Commission wishes to defer until we get an opinion from Bill Thorne about the ballot, my clients would be amenable to that.

Ms. Sims stated the six parcels would only make a transition if the original General Business District is approved. The board needs to pay attention to the new Comprehensive Plan with regard to buffering. The Balanced Growth Initiative report is a draft and a suggestion and has some issues in the yellow zone. I disagree with Mr. Scheetz, I think floodplains are a zoning issue. The 208 Plan can only be amended by the public agencies, not by developers.

Chair Sturdevant asked if the Commission was ready to make a decision.

Ms. Kemp stated the Commission tried to provide a use for those who do not have a viable use at this time. That is why we reduced the General Business District. If this gets to large those that do not have a viable use right now, will still not have one. We need to control our development and make sure that those who do not have a good use end up with one.

Ms. Brewer agreed with Ms. Kemp and that the Commission should wait to hear from Mr. Thorne.

Mr. Brezina stated we should definitely hear from legal counsel and also wait for the vote in November. Otherwise we are just spinning our wheels.

Chair Sturdevant stated she had a couple of points. One, she agrees with Ms. Kemp the General Business District was approved because we believed there were properties that did not have a viable use. We tried to create a buffer so that the rezoning did not take away anyone else's viable

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use. When it went to the Trustees, they included the back of the Molnar property. I don't agree with that. We came up with the lines we did so that the properties to the east were protected. The floodplain in the General Business District is protected based on the text in our Zoning Resolution. If we create Local Commercial here, there is no language in the Resolution to protect the floodplain. We have only the natural hazards overlay district. If we make this land Local Commercial are we taking away their viable use. I'm not inclined to change our overlay district and I'm concerned that if we change this we will get requests to change the natural hazards overlay district because we took their viable use away. We do need to know what the community thinks from the referendum. We should look at this as a whole. We don't know if that business district is going to survive after the referendum. So the issue is do we wait to talk to Mr. Thorne and continue the public hearing or do we make a decision and then find out what the public wants.

Mr. Scheetz stated that making this Local Commercial would not take anything away from his clients because single-family homes are permitted in the Local Commercial District. He submitted a map that reflects the four theoretical PUD's to be developed. One and two are being considered for commercial office. Number three could be an office park, medical park, or non-traditional residential development. Anything we are talking about commercial would be in the rear. We respectfully defer to you meeting with Bill Thorne or until after the election. We do not want to start all over.

John Miller interjected that all of this is predicated on the General Business District passing. You can deny this now and if the referendum approves the rezoning you can consider it then. I ask you to vote no.

Tim Kratzer (5669 Greenwich Road) stated that a solution would be to continue the public hearing until a date in October. If you make a recommendation to approve the Local Commercial it would still not make it to the Trustees until after the election. Therefore the Trustees would know the results of the referendum before they voted.

There was discussion among the Commission members regarding whether to continue the hearing to the Commission's regular meeting.

Chair Sturdevant made a motion to continue the public hearing until October 11, 2011 @ 7:30 p.m. It was seconded by Ms. Kemp.
ROLL CALL-Sturdevant-yes, Kemp-yes, Brewer-yes, Anderson-yes, Sturdevant-yes.

The Commission took a short recess at 9:00 p.m. The Commission came back into session at 9:13 p.m.

Approval of July 26, 2011 meeting minutes

Mr. Anderson made a motion to approve the July 26, 2011 as written. It was seconded by Mr. Brezina.

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ROLL CALL-Anderson-yes, Brezina-yes, Brewer-yes, Kemp-abstain (not present at meeting), Sturdevant-yes.

Approval of August 9, 2011 meeting minutes

Ms. Kemp made a motion to approve the August 9, 2011 as amended. It was seconded by Ms. Brewer.

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

Approval of August 23, 2011 meeting minutes

Ms. Kemp made a motion to approve the August 23, 2011 as written. It was seconded by Mr. Anderson.

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

Approval of August 30, 2011 meeting minutes

Ms. Kemp made a motion to approve the August 23, 2011 as written. It was seconded by Ms. Brewer.

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

Comprehensive Land Use Plan Update

Chair Sturdevant passed out to the Zoning Commission members a document from the Comp Plan Steering Committee members dated August 11, 2011 regarding the adoption of the "changed version" of the Comp Plan by the Westfield Township Zoning Commission. (See attached to approved meeting minutes) She added she would be responding to that document individually and asked each Commission member to review that document and respond accordingly if each member saw fit.

Announcements

Zoning Commission continuation of public hearing/regular meeting-October 11, 2011 @ 7:30 p.m.

Trustees Meeting on Comprehensive Land Use Plan Update-September 26, 2011 @ 7:00 p.m.

Dept. of Planning Services Workshop-Fair Housing-September 21, 2011. Chair Sturdevant stated the Trustees approved to reimburse any zoning board member the \$10.00 fee for this workshop with proof of attendance.

Adjournment

Having no further business before the Commission, Ms. Kemp made a motion to adjourn. It was seconded by Ms. Brewer.

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

The meeting was officially adjourned at 9:25 p.m.