

Violet Township Board of Trustees

October 17, 2007

Public Hearing: Case Number 03-ZC-2007 – an application for rezoning for 3 acres on the West Side of Pickerington Road owned by Pickerington Church of the Nazarene

The public hearing was opened at 8:00. Mr. Weltlich asked Ms. Sarko to summarize the application.

Case No. 03-ZC-2007 is an application filed by the McKnight Group for 3 acres located on the west side of Pickerington Road, owned by and adjacent to the Pickerington Church of the Nazarene located at 11775 Pickerington Road. This application proposes to amend the Violet Township Zoning Code by amending the Violet Township Zoning map to rezone the subject 3 acres in the PD, Planned Residential District to the R-2, Single Family Residential District in order to accommodate church parking and church lay activities.

Ms. Sarko explained there had been several issues:

In speaking with Mr. Davis from the McKnight Group regarding issues with the sanitary sewer system, he indicated that the Health Department or EPA will not review the septic plans any further until zoning has been approved. She said they indicated they will be moving some of the existing parking to accommodate the septic system. They will be adding a mound system to the existing system and will be providing an area for a secondary mound system if the secondary mound is necessary. Once the portion of Springcreek, located at the rear of the church property is developed, the church plans to tie into that sanitary sewer system.

She said that she spoke to Holly Mattei of Fairfield County Regional Planning Commission regarding the removal of the 3-acre tract from the Springcreek Drainage Maintenance District. Ms. Sarko said that Ms. Mattei explained that the church needs to provide a letter to RPC agreeing the following:

1. No access points from Pickerington Road to the 3.00 acre (church) parcel shall be permitted;
2. The church shall not tie into the storm sewer on the 3.00 acre parcel that services the Sycamore Plaza (Kroger) development.

Mr. Weltlich summarized that RPC is saying they will not grant another access point and the one they have now is to be the only one and that they are not permitted to tie in to Kroger's storm sewer.

Ms. Sarko stated that in July/August time period, the developer for Springcreek requested an extension of the Springcreek Preliminary Plan. In conjunction with that request they also requested the removal of the 3-acre tract. RPC Subdivision Regulation Committee recommended approval of the extension and the removal of the 3-acre tract with the following conditions:

1. The revised preliminary plan for the realignment of Spring Creek Drive must be approved by the Regional Planning Commission before the construction drawings and/or final plat for Section 4 (as shown on the sketch plan submitted last year (shown as Section 3 on the sketch plan submitted this year)) being submitted.
2. No access points from Pickerington Road to the 3.00 acre (church) parcel shall be permitted.
3. The church shall not tie into the storm sewer on the 3.00 acre parcel that services the Sycamore Plaza (Kroger) development.

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4. A signed letter shall be submitted from the Pickerington Church of the Nazarene requesting the removal of the 3.0 acre parcel from the Spring Creek Preliminary Plan.
5. The preliminary plan extension shall expire on August 3, 2008.

Mr. Myers questioned the sanitary sewer. Ms. Sarko explained that the McKnight Group is planning on constructing an addition on to the existing church. The construction activities will disturb the existing septic system and they will be adding onto that system in a different location and adding a mound system and providing an area for a secondary mound system.

Jeff Hutcheson, Architect, the McKnight Group said that he did not have anything to add to Ms. Sarko's comments. Mr. Dunlap asked if the letter to RPC had been generated asking for the removal of the 3 acre tract. Mr. Hutchinson stated this was in the process. Mr. Weltlich asked if he had any conceptual description or drawings of the mounding. Mr. Hutcheson said they did not at this time. Ms. Sarko explained the mound system was a septic system consisting of a low mound with trees. Placement of these systems is contingent upon the soil conditions and they have to work through that with the Health Department to determine optimum locations and discharge outlets.

R.D. Sabatino, 8918 Chevington Chase, spoke in opposition to the request. Mr. Sabatino stated they do not have a problem with the church doing their project. They have a severe concern about breaking up a PD years after the fact. If they allow PD's to be broken up the citizens can no longer count on any PD that is presented to the public as this is what it is going to be. He feels they are defeating the whole purpose of the PD as this is a planned district. He would like to see the church be allowed to do everything they want to do. He does not feel they have to go out of the PD to do this. He feels their use is allowed in a PD according to our Zoning Code. Mr. Sabatino stated the last time this was done was in 1984. It was 1.623 acres of green space in a PD and adjacent to the Pickerington Health Center was allowed to go S-1 Commercial. He stated that in 1984 he put on an addition to his home and his builder called Violet Township. He was told he did not need a building permit. He feels this would be opening up a 'floodgate' if they allow this.

Norm Hopkins, 11300 Milnor Road, Pickerington was present. He asked what the reason was they wanted to take it out of the PD. Ms. Sarko stated the church was currently zoned R-2. There are two different development standards. If for someone reason they wanted to build a building on that site on the PD they have to go through a different process for approval then they would for R-2. The church should have one zoning classification. Either it is all PD or it is all R-2. There are additional steps they have to take with R-2 zoning which is a Conditional Use permit. Mr. Hopkins asked what the setbacks were. Ms. Sarko stated in the PD they are established by the developer. Mr. Hopkins asked how close Mr. Ricketts could build from the church. Ms. Sarko stated he could build his mini warehouses, which are slated for that site, 15 feet from the churches property. Mr. Hopkins stated he was for the church and for the good of Violet Township and we should leave the church in a PD. Mr. Weltlich wanted clarification that he meant to leave this parcel that we are considering rezoning in the PD because the other part of the church is already R-2. This was correct.

Roger Stinson, 8212 Night Heron Lane, Pickerington was present. Mr. Stinson stated he was a member of the committee that worked with Chevington Village that put the restrictions on the 10 acres at Milnor Road and Refugee. They wanted to protect the residents that would be building in that area and protect them from hazards that would come from development. He sees this parcel as setting a precedent where the residents' protection would be taken away. He

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would like to see a procedure be done to see if it can stay within the zoning the way it is now and not change or take it out of the PD.

Mr. Hutcheson, with the McKnight Group mentioned they are not trying to cause any hardship within the community. They are trying to make everything work out more friendly for the church and the community. The reason they are asking for this is because this board allows these conditions to be done. He believes the best thing to do would be to absorb this into the R-2 as the church already has. He explained that a hardship would be created with two separate zoning districts and the difficulty with transferring or developing property with two different zoning classifications.

Mr. Sabatino of 8918 Chevington Chase stated the McKnight Group is just 'in it for the money' and feels the residents are the ones that have to live with the ramifications of allowing PD's to be busted up 5 years, 10 years or 15 years after the fact. This is about the integrity of the community and what a developer says they are going to do.

Mr. Hutcheson said if we keep it as a PD and allow the church what they would like to do this is also setting a precedent that anyone could have a piece of property and the Board could say we will keep it as R-1 or R-2 but will allow them to do whatever else to it and this is not what the zoning is set up for. He stated the church wants to be able to leave their options open with the property and the best way to do that is to say it is going to be R-2 and have all the fall under the same restrictions as the church that is currently there.

Mr. Dunlap asked if McKnight owned the land. Mr. Hutcheson said The McKnight Group is an architectural design/build firm. They have designed the addition and noted they are not making any money on the transaction of the land.

Norm Hopkins of 113400 Milnor Road asked if when the church purchased the land did they purchase it as a PD. Mr. Surgeon stated it was. Mr. Hopkins felt the citizens of Violet Township have been 'taken over the coals' with one individual developer. They want the church to grow. In order to do the right thing for the citizens of Violet Township this should stay in the PD.

Roger Stinson of 8212 Night Heron Lane stated he has a problem if this is changed to R-2. He stated that if they sell the church property and it becomes something else, this will take the protection of the residents who live around there. The whole idea of the PD was to bring a set of ideas that would help the residents and the commercial development in that area.

Mr. Weltlich paraphrased Mr. Stinson's concerns. Once this piece of property is pulled out of the PD and changed to R-2 and there is a change in plans by the church or a change in ownership of this land from the church to another individual, which at that point in time the new property owner could come in and ask for a rezoning. Mr. Stinson stated that was correct and a concern. Mr. Weltlich asked if it was also a concern that if the church decided to move its physical location after all this but before it was fully developed and expanded with another building, parking lot and so forth so that these assets were not in fact fixed or semi rigid. Mr. Stinson stated that was correct. Mr. Weltlich asked if it was his concern that at that point in time someone else could buy the entire property that had been pulled out of the PD and come in for a rezoning with a great deal of leverage to change it to something that would not conform to the original PD restrictions. Mr. Stinson stated that was correct.

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Rocco Sabatino of 8918 Chevington Chase stated that if they allow this 3 acres to be busted out of the PD and put something totally different than what was promised and approved the next thing that would happen is the 10 acres of that

very same PD would also come out and with it goes the protective restrictions for the residents. He said it was setting a precedent 23 years later.

George Surgeon, 200 Oakview Park, Pickerington, Head Trustee of the Pickerington Church of the Nazarene said they want to get along with the community. He stated that no one from Springcreek Development who knows about this has approached or called the church. He said the only telephone call he has received was from Norm Hopkins who expressed his concern over bad blood. He noted that if precedent had been set in 1984 (removal from PD) he wonders what the conversation was back then because it may be another 23 years before the Trustees have to do this again. They just want to do what is best for the church. He said they want to be allowed to grow. He noted that 80% of their congregation is from the Pickerington area.

Mr. Dunlap stated that Mr. Sabatino mentioned something about properties with split county lines. Mr. Dunlap stated we have a building that sets on the zoning line and part of it is in the PD which allows commercial and the rest of the building is in R-2 which is residential with a conditional use for church purposes only. Some day when the church outgrows and they decide to sell the property he wanted to know what determines the use of that building. Mr. Loveland stated that in zoning you have to put a wall in the middle. It is the zoning district as to the location. There is no rule that makes the majority of square footage rule or anything else. This is the reason why a single zoning district for a piece of property is desirable. Mr. Loveland stated there is no precedent involved in this. From a legal perspective zoning is a 'case by case' process from a legislative level and each case has to stand on its own.

Mr. Dunlap asked if it stayed PD did the Trustees have the right to waive PD building requirements and allow the church to be constructed under the R-2 standards. Mr. Loveland stated that the PD standards are the standards that are approved by the Trustees and in the Development Plan. The Township's Code has a process for modifying or changing standards within a PD. They could modify the Development Standards in Springcreek to allow the proposed use. The use for these 3 acres could be changed from commercial to "church only" but this would not eliminate the problem of two zoning districts. A modification process would still be required in order to make any changes to the PD. In a PD the legislature has constant oversight.

Mr. Weltlich stated this was a legislative action; therefore it is subject to referendum. Mr. Weltlich had asked staff to list all the rezonings that have occurred since records started to be kept. He then read into the record the list of re-zonings of PD's which have occurred:

1. 1975 - Countrywood Easton Village PD - An application for approval of proposed use or modification of approved development plan" filed by Easton Village Co. for property located on the southeast side of Pickerington Road consisting of 3.197 acres to permit one single family dwelling instead of the approved development plan showing 3-5 dwelling units per acre. Trustees approved request.
2. May 1, 1979 – Application for "approval of proposed use or modification of approved development plan" was filed by the Easton Village Co for property located on the south side of Refugee Road on both the east and west sides of Education Drive – Reserves B & C to modify the PD zoning

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3. (commercial area) to allow 14 twin single residential lots. Modification approved by the Trustees. – Shown on zoning map as R-8
4. June 5, 1979 – Application for rezoning filed by K-W-C Eastern Investment Co. to rezone:
 - 65.123 acres of the Countrywood PD to R-1 Single Family Residential
 - 79.288 acres from PD to R-7, Single Family Residential
 - 2.399 & 2.776 from PD to R-8, Two Family ResidentialApplication approved by Trustees
5. August 28, 1979 - Application filed by Easton Village Co for property known as Reserve "C" of Easton Village PD. Request to rezone property from the C-2, to R-7 District. Approved by Trustees
6. 1974 – Summerfield PD - Total acreage 704.04 acres consisting of a maximum of 3173 units (343.7 acres), commercial and office complex (92.9 acres), recreational facilities (10.4 acres). 40% open space (183.4 acres). Approved by Trustees in November 1974.
7. May 13, 1977 Dollar Land Development proposed to rezone 198.5 acres from a PD to an R-7 at the southeast corner of SR204 and SR256, which is Summerfield Section 3.
8. March, 1983 application filed by Donley, Inc. to rezone 30 acres on the west side of Harmon Road backing up to Fairfield Elementary from a PD to an R-7.
9. October, 1984 application to rezone the land 1.623 acres of green space adjacent to Pickerington Health Center to S-1 commercial services. This is the one Mr. Sabatino referred to.

Mr. Weltlich concluded that there was a practice of breaking up PD's into some other zoning that started somewhere in 1975 and went on into 1984. Mr. Weltlich stated there was no precedence being established.

Mr. Weltlich also stated there were other modifications in that time period:

1. January 10, 1975 to the same 144.4 acres of PD to C-3.
2. March 6, 1979 - An application for "approval of proposed use or modification of approved development plan" filed by Easton Village Co. for property located on the southeast side of Pickerington Road consisting of 3.197 acres to permit one single family dwelling instead of the approved development plan showing 3-5 dwelling units per acre.
3. May, 1979 Application for "approval of proposed use or modification or approved development plan" was filed by Easton Village Co for property located at the southeast side of Pickerington Road consisting of 3 parcels of 5.305, 4.689, and 2.049 acres to allow one single family home instead of the approved plan showing 3-5 dwelling units per acre
4. January 24, 1983 - An application filed by K-W-C Eastern Investment Co for the northeast corner of Milnor and Refugee Road. Applicant requested a change in zoning from the R-1 to C-2 District in order to accommodate "commercial development in the future. Rocco D Sabatino intends to purchase the real estate if the rezoning is approved"
5. Summerfield PD total acreage is 704.04 acres consisting of 3173 units of commercial office complex approved November, 1974.

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Mr. Weltlich said his point was that we have had a tradition of modifying PD's before 1984 of modifying PD's after they were established in the development text and also separating parcels of land out from PD's and rezoning.

Mr. Sabatino stated his point was that you can modify the text of the PD and that would be much more desirable.

Mr. Dunlap asked if we asked to modify the PD do we have to modify or have the door open to the entire PD. Mr. Loveland stated it opens the door to the entire PD. If the applicant requests only a modification of terms that would apply to only these 3 acres but the whole thing is on the table. There would have to be an amended plan. The modification of a PD is an administrative process that cannot be referendum.

Mr. Loveland stated the Trustees decision here does not provide any compelling precedent or requirement or influence on how they decide future applications.

Mr. Weltlich stated that his concerns were the precedent of breaking up a PD, for lack of a better term to do a "bait and switch" at will. The second concern is this church takes this parcel of land and removes it from the PD, rezones it to R-2 and then the project does not go through for whatever reason and then it is sold or the church moves and this parcel is now eligible for rezoning to "heaven knows what" which would be detrimental to property values in the surrounding neighbors.

Mr. Dunlap asked if it was taken out of the PD and granted the R-2 could it be with a stipulation that the PD uses and restrictions would apply if the church discontinues the church use and it was used for other than R-2. Mr. Loveland stated you cannot place conditions to it. Our code restricts it to only single family residential uses and the conditionally permitted uses which have to go through a process. Rezoning requires the three level process and then there are referendum rights. He said there are many safeguards.

Mr. Weltlich asked what was before the Board. Mr. Loveland stated that before the Board was to rezone the 3 acres from PD to R-2. The request is R-2 because the existing church is R-2 with a Conditional Use Permit and the church has applied for a Conditional Use Permit for the 3 acres but that application is on hold pending the rezoning.

Mr. Weltlich asked if it was possible for the Trustees to grant the R-2 zoning with the condition that the Conditional Use permit has to be submitted within a certain timeframe. Ms. Sarko explained that this Conditional Use permit had been received however it could not be considered by the Board of Zoning Appeals until the applicant receives the R-2 zoning. Mr. Loveland explained the Conditional Use Permit is an administrative process. Mr. Loveland stated if the BZA does not approve the application, then they cannot expand the church use on to that strip of land as it is zoned residential use only so it would be unusable.

Mr. Weltlich asked the applicant if they would be willing to accept this zoning as R-2 with the condition that they submit and receive a Conditional Use Permit. Mr. Hutcheson said yes.

Mr. Myers made the motion to modify the recommendation of the Zoning Commission to include the provisions for submitting and obtaining a Conditional Use Permit. Mr. Weltlich seconded the motion. Roll call vote: Mr. Myers, yes; Mr. Weltlich, yes; Mr. Dunlap, yes. Motion carried.

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Mr. Dunlap made the motion to continue this public hearing until the next regular Trustees meeting on November 7, 2007 at 8:00 p.m. Seconded by Mr. Weltlich. Roll call vote: Mr. Dunlap, yes; Mr. Weltlich, yes; Mr. Myers, yes. Motion carried.

Mr. Dunlap made the motion to return to the Regular Trustee meeting. Seconded by Mr. Myers. Roll call vote: Mr. Dunlap, yes; Mr. Myers, yes; Mr. Weltlich, yes. Motion carried.

Respectfully submitted,

Jim Van Kannel, Fiscal Officer

Joniann Goldberg, Zoning Secretary

Approved By:

Gary P. Weltlich, Chairman

Date

Harry W. Myers, Jr., Vice-Chairman

Terry J. Dunlap, Sr., Trustee