

## Violet Township Board of Trustees

September 26, 2007

### **Public Hearing: Case Number 05-ZC-2006 - Violet Real Estate Ltd. and Greg and Carmen Bigus consisting of 59± acres located on the east side of Hill Road (South Hampton)**

Mr. Dunlap made the motion to open the Public Hearing for Case Number 05-ZC-2006. Mr. Myers seconded the motion. Roll call vote: Mr. Dunlap, yes; Mr. Myers, yes; Mr. Weltlich, yes. Motion carried.

Mr. Weltlich asked everyone to join in the Pledge of Allegiance and a moment of silence for our troops.

Mr. Weltlich asked Ms. Sarko to give a brief synopsis of the application.

Ms. Sarko reported that **Case Number 05-ZC-2006** is an application filed by Violet Real Estate Ltd. and Greg and Carmen Bigus for 59± acres located on the east side of Hill Road, owned by Winchester Trace II Development and Greg and Carmen Bigus. The application proposes to amend the Violet Township Zoning Code by amending the Violet Township Zoning Map to rezone property 35.2 acres to the PD, Planned Residential District and 24.4 acres to the R-3 Low Rise Apartment Residential District.

Mr. Dunlap asked if the packet he had reflected the changes that were to be made from the last meeting. Ms. Sarko stated it was and Mr. Ricketts could explain that in detail.

Richard Ricketts, 50 Hill Road South, Pickerington, Ohio, gave an overview of the full concept of the project. He provided staff with a lined and clean version of updates that were provided at the last meeting. Mr. Ricketts provided an overview of what has been done:

- There was a request and reference agreement with Mr. Loveland that before they would move into final approval, Mr. Ricketts would provide final copies of the deeds signed by the owners that would reflect the limitation text being filed of record in the public records of Fairfield County.

This will ensure the Trustees that the developer has complied with that very important provision of the R-3 limitation text. This was put in writing in the actual development text and these documents will be filed within 15 days of final approval.

- A request that signage be installed in the condominium areas that indicated the roads were private and not Violet Township maintained. A provision for this has been added to the development text.
- A request that they make sure there was a reference to the existence of the pre-annexation agreements. This has been provided in the development text, in the R-3 text and in the deed restrictions.
- A request for clarification that the installation of the trees between the homes and the condominiums would be installed at the developer's expense. This has been added to the development text.
- Mr. Ricketts indicated there were some typographical errors and noted they will continue to correct those errors.
- Mr. Ricketts said there was a question at the last meeting regarding the density of Woodstream versus the density of the South Hampton single

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- family project. Mr. Ricketts indicated the gross density for Woodstream is 2.248 units per acre and the gross density for the single family portion of South Hampton is 1.73 units per acre. Mr. Ricketts stated that Woodstream did not provide a net density number. He noted that Woodstream contains 20% green space and said that South Hampton has 39% open space. Mr. Ricketts said that their project is less dense than Woodstream.
- A request to clarify that the limitation text in the R-3 does not change the existence of the R-3 text. Mr. Ricketts explained that the Violet Township R-3 text applies in all respects, everything that is in the limitation text is in addition to the minimums provided in the zoning code. He said they have tried to provide for a more restrictive R-3 than effectively what they would have in the code.
- He said there was a question if all of the lots were 80 feet in width. Mr. Ricketts explained that some are 80 feet at the actual road frontage and some on cul-de-sac which have 80 feet at the building line. He said that all lots have a width of 80 feet at the building line

Mr. Weltlich commented that in the latest amendment it says the '6<sup>th</sup>' amendment. He thought it should say the seventh amendment. Mr. Ricketts stated all he really intended to do was to make sure staff was aware they were working on the issues that were raised at the last meeting. Mr. Ricketts stated they will supplement and include any comments they receive this evening and put into a final document that will include all changes. Mr. Weltlich stated that for the record tonight they will use the date stamp as September 26, 2007. Mr. Ricketts agreed.

Mr. R. D. Sabatino, 8918 Chevington Chase stated he has no problem whatsoever with Mr. Ricketts and company building homes in the area. He said the only thing he had to speak about was the CEDA agreement. Mr. Sabatino referred to the Violet Township Zoning Code Section 3AA-6 which is a zoning overlay for Violet Township and Canal Winchester as pertains to the CEDA district. Mr. Sabatino stated it did not look like a joint Land Use Committee had been formed yet. Ms. Sarko stated there was no joint Land Use Committee and she would defer any questions Mr. Sabatino had regarding the CEDA to Mr. Loveland.

Mr. Loveland stated It was his assumption that in lieu of that Gene Hollins, legal counsel for Canal Winchester was acting as a 'stand-in' for that committee as pertains to their interest. Mr. Loveland stated there was a meeting in December and only a portion of this project is within the CEDA. He said that Canal Winchester and Violet Township cited a number of reasons for an irregular border for this area. Initially the possibility of excluding this property from the CEDA was discussed and they thought this was going to happen. Canal Winchester came back and stated they were not going to do this. The Township did ask Canal to assist in developing and putting together a joint Land Use Committee. Mr. Loveland pointed out that there was some confusion over this as the Violet Township Zoning Code calls for this committee to be constituted differently than the CEDA agreement calls for. He said there are some inconsistencies in the CEDA. Canal Winchester's Law Director advised them that Canal had no objections to proceeding with this zoning and they would be satisfied if the Township simply kept Alan Niemeyer informed. Mr. Loveland stated we have corresponded and met with Mr. Niemeyer and the plan was changed in accordance with his comments. Mr. Niemeyer received the latest revision and indicated that he had no objections.

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Mr. Sabatino showed a copy of the Development Standards of the CEDA dated effective November, 2005. Mr. Sabatino stated that this was the actual CEDA agreement and read some of the standards. He stated there are some things that are absolutely negotiable as far as the project goes but he said the architectural standards must remain at the minimum stated within the agreement. The next item he referred to was the deviations to the CEDA agreement. He referred to where it (the development) will comply or will not comply with the CEDA agreement. He again stated where it says the standards must remain at the baseline level. He said that his calculation indicate there is a 7% compliance to the CEDA development standards and 93% non-compliance to the CEDA development standards. He said he felt that going against the CEDA now would negate a substantial portion of the CEDA agreement. He did not understand why would they take the time to develop this agreement and now vote to break it.

Mr. Sabatino read excerpts of portions of the response of the Law Director of Canal Winchester as of March 16, 2007. Mr. Sabatino stated he feels the CEDA Agreement is being overturned. He feels is it is the end of the CEDA and feels the developer should conform to the architectural standards.

Mr. Dunlap referred to the letter which Mr. Sabatino excerpted from the Law Director at Canal Winchester. He said where it stated "they will comply or will not comply" was an effort to point out those things where they wanted to justify departures. Mr. Sabatino stated this was not what the law director was saying. In referring to the CEDA development standards itself, Mr. Sabatino argued that it states there are areas where there is room for discussion, compromise and so forth but it does say: however, the architectural standards part of it must remain at the baseline level. Mr. Sabatino said there was no compromise available for architectural standards.

Mr. Weltlich asked how Mr. Sabatino came up with the 93%. Mr. Sabatino stated there were 14 architectural standards, one complies and 13 do not.

Mr. Loveland clarified that the development standards are not the CEDA Agreement. The CEDA Agreement was passed and negotiated several years before the development standards were developed and proposed in Canal Winchester. He said the Township did insist that the applicants for this rezoning prepare a lengthy, detailed document comparing what they proposed to the CEDA standards. Mr. Loveland said that his understanding of Mr. Hollins' letter was that by allowing this property to be removed from the CEDA would open "a flood gate". He said that in terms of "opening the floodgate or abandoning standards simply was not the case. Mr. Loveland said that each developer, each proposal has to show where they will deviate and justify a deviation

Mr. Dunlap referred again to the letter from Gene Hollins and stated it was dated March 16<sup>th</sup>. As he recalled this was at the time they were discussing removing the land from the CEDA. He wondered if there had been correspondence more current than March 16<sup>th</sup>. Mr. Loveland added that this letter basically says that this rezoning is a legislative matter and it is at the Trustees discretion. Mr. Loveland stated he has made a great attempt to communicate with Gene Hollins about these issues and they have been unsuccessful. The Township has kept communications with their zoning inspector. Canal Winchester has relayed that they have no objections to the project and the Board can move forward. Mr. Loveland indicated that representatives of the Township did meet with the Mayor and Mr. Hollins in December. They thought it was agreed that since this was going to stay in the Township and be residential it really should not have been in the CEDA in the first place. He wrote a letter to Mr. Hollins referring to that.

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Norm Hopkins, 11300 Milnor Road stated he spoke to Mr. Niemeyer last week. He said that Mr. Niemeyer also referred to the letter from the attorney and said that it was at the Township Trustees discretion. He would rather see the tax benefit of 61 homes that provide revenue to the Township than for farmland which does not bring in any tax revenue. Mr. Hopkins said he is for development but under the CEDA development standards that Mr. Sabatino talked about.

Mr. Ricketts pointed out some things. Our Zoning Code is effectively the 'Bible' that we must follow. He stated that the whole concept of the CEDA was to provide harmony in the area to provide for different Zoning Codes. Everything else is simply an agreement between Violet Township and Canal Winchester and all agreements are subject to discussion, amendments and modifications. This is the only residential ground in Violet Township in the CEDA District.

Mr. Ricketts stated that looking at the "big picture" when you look at the intent of the CEDA, the cooperative effort from Township staff and Canal Winchester there is no way he can see that anyone says that we are violating our code. He does not feel that the Trustees are in anyway setting precedence that is adverse to the interest of Violet Township or the CEDA

Mr. Weltlich asked what the number of condominiums that was envisioned. Mr. Ricketts stated that the maximum amount that would be allowed under the zoning application was six per acre and the total condo acreage is 24.4. The maximum amount, subject to all requirements of R-3 is 24.4 x 6, which is about 146 units. From a development perspective, Mr. Ricketts said he does not believe they will ever be able to obtain that level of density and still comply with the R-3 standards. This would be the maximum.

Mr. Weltlich also asked if all the condo units were going to be 4 units per condo? Mr. Ricketts stated it could be single unit condominiums, it could be doubles, and it could be three or four. Four has been the most popular in this area.

Mr. Weltlich asked how far north of the middle of Route 33 is the southern edge of this project. Mr. Ricketts stated it was about 1.1 miles.

Mr. Weltlich asked about the prices of homes in Woodstream. Kevin Strait, 8868 Golden Leaf Court stated that if you are looking at houses that are \$250,000 or \$300,000 today by the time this comes around it could be the other way.

Mr. Myers asked about the United Church Homes property and if this project had been approved by Canal Winchester. Mr. Ricketts stated the site plan had been approved by Canal Winchester. Mr. Ricketts said that it was their understanding that they (United Church Homes) don't have the funds to proceed. Mr. Yapple commented that Violet Real Estate and Mr. Bigus tried to coordinate efforts with United Church Homes to swap land in order to make the site plan different. It was noted that the donator of the property to United Church Homes objected to the swap and it did not occur.

Mr. Myers asked how the CEDA boundaries were drawn. Mr. Yapple stated they were just lines at that point in time and they actually left Mr. Bigus' property out and how the north piece of this property did not get in the boundary was because it was a lot adjacent to someone else. Mr. Weltlich explained that the CEDA agreement was a very dynamic and fluent process because Canal Winchester and Violet Township tried diligently to include Pickerington (who had great demands). Finally the day came when one of the parties said they would walk

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away unless everything gets done and that party was Canal Winchester. In the haste of trying to get everything in ink some of the details were not worked out.

Mr. Myers asked if the landowners in the CEDA had to sign to be part of the CEDA. Mr. Yapple said the landowners were not signatory to the CEDA. Mr. Myers stated these residents were placed in this area and did not have a say about it and now we are going to try and hold them to a stricter standard when they did not have a say about it to begin with.

Mr. Sabatino agreed that the fact that these people were dragged into the CEDA was unfair. He said he thought the problem is that the township administration came up with the CEDA agreement. He said we have a creature created by the township and Canal Winchester and asked what is going to become of this agreement.

Mr. Dunlap referring to the letter from Mr. Hollins in item No. 8 at the portion Mr. Sabatino had highlighted for the Trustees reference. Mr. Dunlap asked how Mr. Loveland's interpreted that sentence. Mr. Loveland stated that our code requires for this process to happen before the Zoning Commission. He said that he thinks Mr. Hollins is saying you need to go through the process and force the applicant to read the CEDA standards, compare what they want to do and call out all their deviations and tell the Zoning Commission why they don't believe it is appropriate that they be forced to comply with that standard.

Mr. Dunlap asked Ms. Sarko when she was dealing with Mr. Niemeyer were the concerns and questions they had dealt with and were they worked into the mix. Ms. Sarko stated they were prior to the Zoning Commissions recommendation. She said did email Mr. Niemeyer the most recent text revisions this week and they spoke and he said that he had no additional issues or problems with the plan.

Mr. Weltlich asked what the current Land Use Plan that that we presently have adopted specifically calls for. Ms. Sarko stated the Land Use Plan shows the area to be partly in the CEDA and partly out but single family use.

Mr. Weltlich requested the following:

- 1) A letter from Canal Winchester's zoning administrator saying that he has in fact received and reviewed the latest revisions presented to the Board of Trustees of Violet Township (the packet from September 5, 2007) and had no objections;
- 2) A letter from the Economic Development person at Canal Winchester stating how this property was planned to be developed;
- 3) That staff assemble the developer's identified deviations versus the standards (in simple lamen terms) what those deviations mean and whether or not they are material.
- 4) Mr. Yapple to verify the actual distance from US 33 to the southern property line of the project.

Mr. Loveland referred to ORC § 519.1 which requires the Trustees to make a decision within 20 days of the conclusion of their hearing. Mr. Loveland said he suggested continuing the public hearing to a specific time and date.

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**Mr. Dunlap made the motion to continue the hearing until October 24, 2007 at 7:30 p.m. Seconded by Mr. Myers. Roll call vote: Mr. Dunlap, yes; Mr. Myers, yes; Mr. Weltlich, yes. Motion carried.**

**Mr. Myers made the motion to adjourn the public hearing portion of the meeting at 9:04 p.m. Mr. Dunlap seconded the motion. Roll call vote: Mr. Myers, yes; Mr. Dunlap, yes; Mr. Weltlich, yes. Motion carried.**

Respectfully submitted,

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Jim Van Kannel, Fiscal Officer

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Joniann Goldberg, Zoning Secretary

Approved By:

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Gary P. Weltlich, Chairman

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Date

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Harry W. Myers, Jr., Vice-Chairman

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Terry J. Dunlap, Sr., Trustee