

Violet Township Board of Trustees

September 5, 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.

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.

The Winchester Trace property is used for agricultural purposes and the Bigus Tract contains a single family home. These tracts are bordered on the south north and west sides by property zoned R-2 Single Family Residential. The Woodstream subdivision on the east side of this property is zoned Planned Residential District. Property adjacent to the Bigus tract on the southwest side is located in the Village of Canal Winchester

The PD portion of the application proposes 61 single-family lots on 35.2 acres. Of those 35.2 acres, 13.8 or 39% of the tract is dedicated to open space. Right of Way accounts for 4.7 acres.

The applicant proposes to rezone the remaining 24± acres to the R-3, Low Rise Apartment Residential in order to accommodate a condominium development.

This application was received in June 2006, the public hearing held by the Zoning Commission commenced in July 2006 and concluded on August 6, 2007. The Violet Township Zoning Commission recommended by a unanimous vote, approval of the application with the following conditions:

1. Provisions for fencing in the Development Text be made identical to those in the deed restrictions;
2. An additional sentence shall be provided in the Development Text committing to the installation of the landscape buffer along the north boundary of the proposed PD be installed by the developer in accordance with the Plan;
3. Setbacks from side property line for driveways for homes with side loaded garages shall be shown in the development plan as 2 feet;
4. Air conditioning units shall be placed at the rear of homes unless a utility company specifies otherwise;
5. Language pertaining to the termination of the Homeowners Association shall require 100% owner vote and the approval of the Township Trustees. Modification of the restrictions shall require at least a 75% owner vote and the approval of the Township Trustees.
6. That page 5 of the development text be corrected to use the calculation 35.2 acres in order to be consistent with the Development Plan
7. Modify the development plan to designate the trees north of the King property, to be evergreens in order to create year-round screening.

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Ms. Sarko said Fairfield County Regional Planning Commission considered this application during its August 1, 2006 meeting. R.P.C. recommended approval of this application and stated the proposed development is in agreement with the Township and County development plan recommendations and would be compatible with surrounding land uses.

Ms. Sarko said that Mr. Ricketts was present to address the Board and to provide specific details about the proposed development.

Mr. Weltlich asked what has transpired since Fairfield County Regional Planning Commission recommended approval of this application August 1, 2006 until now, September 7, 2007. Ms. Sarko explained there have been several revisions of the development plan and development text. She said there were some issues with regards to the CEDA area. Mr. Weltlich asked what portion was in the CEDA and what portion was not. Ms. Sarko explained that the Winchester Trace II property is in the CEDA and the Bigus tract is not.

Mr. Weltlich wanted to know how Canal Winchester has tracked the changes. Ms. Sarko explained they were sent emails. She explained that she would defer questions regarding the CEDA area to Mr. Loveland. Mr. Loveland stated there was a long history of meetings and correspondence between Gene Hollins of Canal Winchester, Ms. Sarko and himself. There was correspondence between Holly Mattei with Regional Planning and Alan Niemeyer of Canal Winchester. Changes to the plan were made to address concerns. Mr. Loveland stated there has been an extensive effort to coordinate with Canal Winchester on this development.

Mr. Weltlich asked if this property is impinging on or part of any litigation between various government entities. Mr. Yapple stated it was part of the 387-acre annexation litigation. This annexation has been stayed pending the decision of the Snider Thornton case.

Mr. Weltlich asked if the Fire Department's concerns had been met. Ms. Sarko stated they had.

Mr. Myers asked if Mr. Butcher's questions regarding water retention had been answered. Ms. Sarko said that the applicant did provide a storm water detention study and that Mr. Butcher had indicated that he was satisfied that study had been provided.

Richard Ricketts, 50 Hill Road South, Pickerington, Ohio, presented to the Trustees an official copy of the application which was presented as a consolidated package as part of the application.

Mr. Ricketts, stated that the Bigus property is not in the CEDA and the lower two parcels owned by Winchester Trace are in the CEDA. The top parcel owned by Winchester Trace is not in the CEDA. Mr. Weltlich asked for the percentages in or out of the CEDA. Mr. Ricketts said that roughly, 70% is in the CEDA and roughly, 30% is not in the CEDA. He said they have not distinguished what property is in or what property is out they have taken the stance that it is all in the CEDA.

Mr. Ricketts displayed a map to explain the 'big picture' of what is actually going on. Mr. Ricketts stated this property is in the Canal Winchester school district. He showed where the Bigus tract was located and again noted it was not in the CEDA district. He said the Thornton property is south of the site, the

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Woodstream subdivision is located on the east side. United Church Homes has planned to build a 5-story assisted care facility. He said that a Meijers store is being built south of the site on Hill Road. Mr. Ricketts explained that the Thornton property is zoned residential but that the Violet Pointe plan contemplates the commercial/industrial uses of the Thornton tract. Mr. Ricketts said they perceive the proposed development of their site as a buffer and is shown on the Violet Pointe Plan to be mixed use residential.

Mr. Ricketts showed the Board the United Church Homes site plan. He said the property is zoned in Canal Winchester. He said that United Church homes recommended approval of the South Hampton project.

Mr. Ricketts said the project is within the Canal Winchester School District and introduced the participating parties: The landowners are Winchester Trace II Development (the Richard Strait family) and Greg, and Carmen Bigus. The coordinator for the project is Violet Real Estate Ltd., which consists of Kevin Strait, Jeff Monebrake and Mr. Ricketts. The engineering firm for the project is Watcon Civil Engineers in Reynoldsburg and legal counsel is Mr. Ricketts' firm, Ricketts & Co.

Mr. Ricketts noted that for almost one year prior to the filing of the application - June of 2006, there was an extensive effort to work with some of the adjoining property owners and the township to understand what the implementation of the CEDA meant. He said there were significant discussions with United Church Homes and they attempted to swap land with United Church Homes to reconfigure the project. The reconfiguration would have allowed for an intersection that is anticipated to be signalized. They did reach an agreement, but the contributor of the property to United Church Homes, Mrs. Pfeiffer felt that it would be better if the land stayed as it were.

Mr. Ricketts said that discussion with Township Staff indicated the project had to be able to be developed independent of one another. Neither project, the Condo portion or the single family portion would be dependant on each other in terms of storm water. He noted there were other concerns with regards to connection to Woodstream, and traffic calming. They determined that they needed to work with Mr. and Mrs. Bigus so that the Bigus property does not become an island. He said there is continuity between the "projects" which makes it a better plan.

The original application was filed in June of 2006. The very first meeting was technically on July 18, 2006 at Pickerington North High School. The bulk of the meeting consisted of coordinators talking to a number of adjoining property owners to start the process of trying to understand what concerns would be raised and incorporate them into the product that the Zoning Board ultimately approved.

Hearings continued on August 15, September 19, October 17 and November 21, 2006. He said the focus of those meetings was not so much on the project itself but the Zoning Board was concerned about what order things had to happen and what impact they would have upon the CEDA. They were then able to put focus on how to bring the project forward. As Mr. Loveland had said, at this point there needed to be a break so that everyone could go to Canal Winchester and get everyone on the same page. That occurred over a several month period and then they reconvened on April 17, 2007. Subsequently the Zoning Board moved forward in terms of the zoning application and the procedural process. On May 15, June 19 and July 10, 2007 there were meetings of the Zoning Board where they really got down to the 'nitty gritty' and there was a great deal of input by staff and legal counsel and the Zoning Commission to make sure of what they want in

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the way of green space, traffic flow, how do they want this project developed, what details need to be implemented, etc. On August 6, 2007 the Zoning Commission unanimously approved the plan subject to the revisions that Ms. Sarko had read into the record. Since that time, Mr. Ricketts has been working with Mr. Loveland and Ms. Sarko to make sure those items have been addressed. He said there still may be further input but he believes they have addressed all of the concerns.

Mr. Ricketts provided an overview of the project. He explained that there had been a request by staff to delineate and make sure everyone was clear on how these properties broke down, how many acres were in the PD, how many were in the R-3 area. He showed a drawing (in the packet) which explained where the proposed PD is located versus the proposed R-3 in a very simple scenario. The next drawing he showed (in the packet) provided the actual areas of open space and reflected that all of the open space is on the Winchester Trace property as a part of the PD and that the PD is entirely located on the Winchester Trace property. They are trying to make sure all of the properties are independent and each project is not relying on each other. Mr. Ricketts stated they have paid much attention to detail and they have tried to provide some buffer between adjoining property owners.

Mr. Ricketts said that everything they have designed in this project is to try to be a perpetuation of Woodstream. All of the PD single family is effectively a tightened up Woodstream approach. There was some concern about whether or not the fence line and some of the trees that are still out there - are they on Woodstream or are they in the back yards of some of the owners of lots in Woodstream. They did a survey to determine where the trees were. They met with the property owners and they are all on the same page with regards to the trees.

They tried to provide for a stop intersection so that they could slow traffic and have traffic calming.

Another concern raised is that people in Woodstream wondered about the buffers. They suggested trying to provide what would be a buffer for all what is perceived as Woodstream.

He said there was a question about rear access or potential emergency access to the condominiums. He said the Mr. Holcomb has said this is a platting issue and do not know at this time where the access would be appropriate. He said they have provided an area for potential emergency access.

Mr. Ricketts explained that the Thornton family has unfortunately suffered a water problem due to the development of Woodstream. He explained, the back lots in Woodstream were built up and changed the natural flow of storm water, which resulted in a problem with wetness. Mr. Ricketts explained they will try to blend in the water coming off Woodstream into their retention pond and then release it at a rate that will improve the problem.

Mr. Ricketts said they acknowledge the fact that they have 100-foot buffer along the Thornton property. He said if the Thornton property would be rezoned to something other than residential, the 100-foot buffer would not be required. It was suggested that they provide this buffer. They did incorporate this into the project under the premise that in fact it is going to be there. He said there was also a request by Regional Planning and Canal Winchester indicating that connectivity to the Thornton property might be desired. He said there is an easement area which is reserved for the benefit of connectivity to Thornton

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property and the governmental bodies. He said there is really no required buffering for the United Church Homes project because it is a commercial project. Mr. Ricketts said there is a large pitch for connectivity from a pedestrian perspective. He commented that Mr. Bigus wanted to make sure there is an option that will allow him connectivity to the United Church Homes project.

Mr. Ricketts said they have provided a 100-foot buffer along the Mike King property. Mr. King was concerned about headlights coming into the side windows. Mr. Ricketts stated they had agreed to provide a "year round" block for the King property.

Mr. Ricketts said there are 61 single-family home lots in the PD portion of the project. Mr. Ricketts showed the Board the changes of the plan as it relates to green space. The Zoning Board wanted some pocket parks that will allow the area to be accessed. The land planners improved what was going on in the property. They provided an area for walking trails, a functional pond, a gazebo and a significant ability for connectivity of walking paths and a couple acre park. He said the result is a substantial reformation. The project now contains 39.2 percent of green space which 13.8 acres in the PD. He explained that they moved lots in order to take into consideration headlights from the condominium portion of the project.

Mr. Ricketts summarized the sixth amended development text plan. He noted that the Zoning Board was concerned about the statements that they wanted to perpetuate Woodstream. Mr. Ricketts again stated there were 61 single-family lots on the plan. The PD portion of the site consists of 35.2 acres with a net density of 2 units per acre. He said the density of Woodstream is 2.25 units per acre which is denser than their project. He said it their perspective that the development is a transition.

The condominium part of the project is effectively at the same potential maximum density under the Violet Township or Canal Winchester standards. He said that the Violet Township Zoning Code allows not more than six per acre in the R-3 District and Canal Winchester allow not more than four per acre. Mr. Weltlich asked what the gross density was for Woodstream. Ms. Sarko stated the gross density for Woodstream was 2.248 (units per acre) and the gross density for the proposed PD is 1.73 (units per acre).

Mr. Ricketts highlighted some of the concerns of the Zoning Board and staff. The building lines along those areas adjacent to R-2 District are the same as the R-2 District and there is a 100-foot buffer with a 20-foot landscaped area in the buffer. He said the homeowner has the responsibility to maintain their property but if they do not maintain it, the Homeowners Association has the responsibility and the legal ability to go in and maintain it, improve it and to assess the property owner. Another major change in terms of the deed restrictions that has been made is that they have greatly enhanced the ability to effectively levy assessments to make sure these Homeowner Associations have the money to maintain themselves.

Mr. Ricketts said the architectural standards set forth are well in excess of requirements of Woodstream. They took the Woodstream deed restrictions as a baseline and then used 3 or 4 separate sets of deed restrictions that were perceived to have advantages and strengths and put it all together to make sure the deed restrictions are very tight.

With regards to the proposed R-3 District, Mr. Ricketts went through the significant issues provided in the limitation text for R-3 portion of the project.

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- no apartments will be allowed
 - property will be developed pursuant to ORC 5311.01 (condominium text)
 - all internal roads will be built to public specifications
 - structures will have 1 to 4 units at a gross density not more than 6 per acre
- Mr. Ricketts noted that all underlying R-3 standards apply with respect to setbacks and lot coverage

- each unit will have not less than 1250 square feet of living area, exclusive of the basement and garage areas
- These limitations will be placed in the public record as deed restrictions, and shall not be modified without the approval of the Trustees as a modification to the development plan. It will be a record in the title.
- there will be a requirement of at least a one car or a two-car garage for each unit
- requirements regarding the quality and colors of exterior materials in both the PD and the condominium portion of the development
- there is a requirement that there be windows on all four sides of the units
- If they felt there needed to be a secondary access for fire safety purposes that would be specifically provided for and would be constructed of materials that would be acceptable to the Fire Department. Mr. Holcomb wanted to leave this open as to how it would be done until a point in time when he can address this.
- over flow parking area be integrated into the project
- the have provided in the text that if in fact streets are not wide enough to allow unimpeded flow two way traffic then parking is not going to be allowed on the entrance road.

Mr. Ricketts stated they are moving towards having a model set of deed restrictions subject to approvals. They have a supplemental development text. The purpose of this is to try to make sure the Homeowners Association has more bite, more protection and if there is anything to be changed it has to be approved by a super majority of the people who are voting and Violet Township has to have notification of changes in advance and if in fact there is termination of the Homeowners Association it would take a 100% vote and the approval of the Violet Township Trustees.

In addition, they have provided that the developer will remain responsible for the maintenance of all the green space in the open areas until 90% of the houses have been sold. Mr. Ricketts said this provision is "over the top".

Mr. Myers asked what kind of phasing they were anticipating. Mr. Ricketts said they anticipated 2 phases in the PD and several phases in the R-3 portion.

Mr. Myers asked which direction the storm water flows in that area of the Township. There was a brief discussion regarding the flow of storm water.

Mr. Dunlap asked if there were blow-outs in the drainage tiles on the Thornton property. Mr. Ricketts said that many of them have been blown-out or are collapsed.

Mr. Dunlap asked if the condominiums would have basements and noted that if they did not have basements, that residents would tend to use the garages as storage and leave vehicles in the driveways. Mr. Ricketts stated that would be up to the developer but they would encourage it.

Mr. Myers asked to what standards the streets in the condominiums would be built. Mr. Ricketts stated they would be built to public or county standards. Mr.

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Ricketts stated he needed to verify about the width with his engineer but he understood they would be of the same width as a public street.

Mr. Dunlap asked if they could make a provision that a sign would be placed at the entry to the condos which indicates the condo street are private to alleviate

the situation where a condo resident questions why their roads weren't plowed. Mr. Ricketts stated they could do this.

Mr. Weltlich asked where the traffic light would be and whose regulations would require it. Mr. Ricketts referred to Canal Winchester's master plan of the area. They have a road coming across the condominium apartment area (west side of Hill Road) which terminates at the center of United Church Homes property (east side of Hill Road). Mr. Ricketts said this project is not part of that area.

Mr. Weltlich asked how the Township's Access Management plan affects this project. Ms. Sarko stated Hill Road is a county road and the County Engineer controls Hill Road. She said that because the development is a subdivision, the County Engineer's office also has control of subdivisions.

Mr. Weltlich asked which of this area is in the litigation. Mr. Ricketts stated all of the property is. Mr. Ricketts said they were referring to the hypothetical scenario of pre-annexation agreements with the City of Pickerington and the statement by the City of Pickerington that they do not want the property anyways. Mr. Yaple stated this annexation was set aside by the court system by mutual agreement of the attorney for the landowners, the township, the City of Pickerington and the Village of Canal Winchester. It has been stayed until Thornton Snider is settled. Mr. Yaple noted there is an outside possibility that it could be annexed to the City of Pickerington. Mr. Yaple stated that Woodstream is in that same litigation.

Mr. Weltlich asked if they had a precedent to proceed and it was noted they do. Mr. Yaple said that he cautions developers that if some of these lots sell before the annexation is released that the lots could be within the city boundary at some point. Mr. Ricketts stated they believe that this property will be developed before the City ever decides what they want and at that point in time they will annex if they want a project that is already complete.

Mr. Yaple asked about Mr. Ricketts statement about the Homeowners Association staying under the developers control until 90% of homes were sold. Mr. Ricketts stated that they have the ability to turn it over at 50% but the developer maintains legal responsibility to make sure until 90% of the homes are sold even if it is turned over earlier. This is only for the homes. Mr. Yaple asked if there was a percentage at this point for the condominium owners to maintain the green space. Mr. Ricketts stated this has not specifically been defined but he thought it would be a pro gratis share. The condominiums would be paying 2/3's of the share.

Ms. Sarko asked about the landscaping on the boundary of the western lots adjacent to the open space. She said that she would like to see some text or statement saying that trees will be planted.

Ms. Sarko commented about the 100-buffer adjacent to Mr. King's property and noted that area is not part of the PD. She noted the only enforceable buffer along the King property is the headlight buffer. Mr. Ricketts stated it was their intent that the R-3 to R-2 standards on buffering apply so that the condominium project develops and Mr. King's property is still residential then the buffering requirements are all on the R-3 side. Ms. Sarko stated there was no specific buffering requirement from R-3 to R-2 because it is residential to residential. Mr. Ricketts stated he would clarify what she wants to make sure the comfort is there

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for Mr. King as long as he is residential, but to the extent that he moves to commercial before the project is developed they will be asking him to take care of the buffer. Ms. Sarko stated that was a correct statement.

Mr. Loveland asked to get some language worked out regarding the amendment. Also on the restrictions, he proposed the restrictions are only for the PD portion. Mr. Ricketts stated he was assuming the PD would be taken care of by the development text and the R-3 they would attach deed restrictions in those documents. Mr. Loveland asked if they would incorporate the deed restrictions drafted and made part of the package in the development text, by reference, to make sure those are what go of record when they do the plat. Mr. Ricketts commented that if there was a minor tweak they do not want to have to go back to the restrictions.

Mr. Loveland wanted to clarify the timing and scope of the filing of the restrictions on the R-3; they are agreeing to restrict the R-3 portion and it would be useful to know that those restrictions will be filed sooner than later and that they will be filed and pertain to all parts of the R-3 (referring to the Bigus as well as the Winchester property). Mr. Ricketts stated they would prepare those and have Mr. Bigus and Winchester Trace II sign them and have this as part of the final presentation.

Mr. Weltlich asked what the unit price of the condominiums averaging in price. Mr. Ricketts said his perception is they would be comparable to the project next to WalMart in Canal Winchester with regards the architectural prospective. He said the range might be \$150,000 to \$175,000 for condominiums. Mr. Ricketts said for comparable prices in the PD, to look at what the homes in Woodstream are selling for and that would be what to expect.

Mr. Weltlich asked what possessed the developers to take on the task of developing this property in this matter. Mr. Ricketts said because of Dick and Darlene Strait. This is a project they want to see done before they pass.

Mr. Weltlich suggested continuing this hearing to a specific date and time because of the late hour.

Mr. Rocco Sabatino, 8987 Chevington Chase, Pickerington asked if the packet he purchased at 5:00 p.m was different that what was provided to the Trustees this evening. Mr. Ricketts provided a copy of the packet that was provided to the Trustees earlier in the meeting to Mr. Sabatino.

Mr. Dunlap asked if the Condo Association was separate from the Homeowners Association. Mr. Ricketts stated there would be two different bodies but all the members of the condominium area will have a right to use the green space areas but they also have to contribute to the overhead and maintenance.

Mr. Ricketts explained that Exhibit 5 are the deviations of the proposed development text with relation to the CEDA development standards. This is the document that Canal Winchester requested and is provided so they could review and understand to the extent that this project was or was not going to be in accordance with the CEDA standards. In simple summary, they said they want it to look like Woodstream and not like downtown Canal Winchester.

Mr. Dunlap made the motion to continue this hearing to September 19, 2007 at 8:00 p.m. at the same location. Seconded by Mr. Myers. Roll call vote: Mr. Dunlap, yes; Mr. Myers, yes; Mr. Weltlich, yes. Motion carried.

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Mr. Myers made the motion to close the public hearing portion of the meeting and reconvene to the Regular Trustees meeting at 8:10 p.m. Mr. Dunlap seconded the motion. Roll call vote: Mr. Myers, yes; Mr. Dunlap, 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