

Violet Township Board of Trustees

January 6, 2009

Public Hearing Case Number 06-ZC-2008 Proposed Text Amendments to the Violet Township Zoning Resolution

Mr. Dunlap called the Public Hearing to order at 7:30 p.m.

Mr. Yapple called roll. Mr. Dunlap and Mr. Myers and Mr. Weltlich were present. William Yapple, Director of Operations; Kelly Sarko, Zoning Inspector and Bill Loveland, Legal Counsel were also present.

Mr. Dunlap asked the audience to join with him in the Pledge of Allegiance and to remain standing for a moment of silence in honor of those who safeguard our freedoms around the world and for our public safety officers here at home.

Mr. Weltlich asked Mr. Loveland if he or his firm, now or in recent past has represented a developer in Violet Township for any pending or past lawsuits. Mr. Loveland stated they have represented a lot of those who have developed in Violet Township over the years. Mr. Loveland said that he was involved in representing Colony Development for 15 years. He has withdrawn from that representation for many reasons.

Mr. Weltlich asked if there was any pending litigation in Violet. There is no pending developing litigation in Violet Township.

Mr. Weltlich asked about the difference between administrative and legislative action. Mr. Loveland stated that legislation action is subject to referendum and administrative action is not. Mr. Loveland stated that administrative action is appealable through the common please courts as a civil action.

Ms. Sarko briefly explained that Case Number 06-ZC-2008 would, if adopted, revise the following textual provisions of the Violet Township Zoning Resolution – PD District: Revise Section 3V3-01(D) to clarify the process for subdivision plat approval and to clarify the provisions for establishing and extending the time frame for recording the required subdivision plat; Revise Section 3V3-01(F) to clarify the process for modification of a Development Plan; Revise Section 3V3-01(G) to clarify that Section IX does not apply to the approval of a subdivision plat.

Mr. Loveland explained the proposed amendment to the Trustees. He explained there is an unenforceable section in the Code which needs to be changed regarding the expiration of a development plan. The other set of tweaks recommended was that we be consistent with requiring public hearings and the associated notices to the public. There are also recommended changes in the development plans that would come up and the plats that would come in and be reviewed. It was asked that we improve upon what the Zoning Commission had asked in making sure when we get a plat in that we have a public notice and we propose an additional change to make sure there is a public hearing noticed by publication before the approval of a plat.

Mr. Loveland explained that on the development plan side, the Trustees have the ultimate control. With plats, the process is reverse. The County Engineer's office has ultimate authority/approval on plats. The Trustees' role is to make sure the plat conforms to the zoning and the development plan. If for some reason there was a difference between what the Trustees wanted and what the County Engineers office wanted it would go the way the County Engineers office wanted it.

Another area of recommended changes in the planned residential district is the need for the first phase of a development to be filed within the five years. Once

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the first phase is platted the development plan would not expire. If there a change or modification to the approved development plan requested then it would have to come back for public hearing and approval. There is ability for the Township, Zoning Commission or the citizens to file a motion to rezone the property if it has been dormant for a long period of time. They have also provided for the ability of a developer to request a different time table to plat the development.

Mr. Weltlich referring to the "confidential attorney client privilege" opinion that was written by Mr. Loveland, Mr. Weltlich said the major issue appeared to be the reversion back to original zoning. Mr. Weltlich said that RPC applauded the decision to go back to the original zoning. Mr. Loveland explained that RPC was saying that in order to get a property back to its original zoning, it would have to go back through the rezoning process and that RPC positively viewed the ability for the township to initiate the process to rezone the property back to its original or similar zoning classification instead of reverting.

Mr. Weltlich asked what specific problems have resulted recently that Mr. Loveland refers to in his memo.

Mr. Loveland stated he has received more than one call this year from Ms. Sarko regarding expirations of subdivision plat issues but he did not recall the exact number. Ms. Sarko identified those subdivisions as Meadowmoore, Springcreek, Winding Creek, Violet Meadows, Woodstream, potentially Eastern Lakes and Woodland Ranch. Mr. Weltlich stated when they did the PCD and the PBID he had asked what the motivation was and he was told they had to do it because there were issues. He said he is being told the real issue is residential and he wants to know why they did not do the residential first. He said, in his opinion, there is a very distasteful phrase in the PCD and PBID. He does not like the way it is written and feels it does not flow.

Mr. Weltlich referred to language that in addition to "the Violet Township Trustees or Zoning Commission" may initiate a zoning amendment to rezone a property to its former or other similar classification. He stated the word "or" is not the word "and" and believes this language cuts out the Board of Trustees in that specific initiative. It says "in addition" the Township Board of Trustees or the Zoning Commission may initiate a zoning amendment to rezone the property to its former or another similar classification. He said the phrase that troubles him greatly is "or another similar".

Mr. Loveland stated that the initiating of a rezoning by either the Board of Trustees or the Zoning Commission comes right out of Section 519.12 of the Ohio Revised Code which gives each of the bodies the independent power to initiate zoning amendments. It is a statutory power that both bodies have.

Mr. Weltlich asked if the ORC is not permitting them to say "and" instead of "or". Mr. Loveland explained that if the word "and" was used, then both the Township Trustees and the Zoning Commission would need to be involved at the same time to get a zoning amendment initiated and that is contrary to the revised code. The Trustees can initiate an amendment, the Zoning Commission can initiate an amendment, or a landowner can initiate an amendment.

Mr. Weltlich stated this is a problem for him as he is trying to figure out a way to get like Indiana instead of Ohio. Mr. Weltlich stated it sets a tone for economic development in a significant manner that is anti-business and he would like to accelerate the process. Mr. Weltlich feels that if the Board of Trustees are the only ones that he would have to ask to rezone property he would have complete

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faith in them. Now we have to go through all these hoops and he does not have as much control as he would like to have.

Mr. Loveland stated that these proposed amendments are strictly for the planned residential development and not commercial development.

Rocco Sabatino, 8918 Chevington Chase, Pickerington was present. He spoke about the changes to the code. He stated that he noticed in Section 519 many times it is the discretion of the Trustees as to who has the authority and asked if this was true. Mr. Loveland stated it is typically not true. Most of the structure of the Zoning Commission is part of the Ohio Revised Code.

Mr. Sabatino said there was some confusion about what he was told by Mr. Yaple and it is a result in the outcome of court cases and there has been no change in the law since 1997. He explained how some of the misunderstandings came about and stressed how important they were to the citizens. Mr. Sabatino reiterated that the citizens are ok with the way the code is written but unfortunately they do not like the process. Mr. Sabatino stated there were discrepancies with this document compared to the last document and he gave examples. He believes these discrepancies need corrected. He said that the document should flow in the same manner as the PCD's.

Arthur Koszalinski, 11953 Oystercatcher, Pickerington thanked Loveland and Brosius for the wording changes in the document. Mr. Koszalinski stated that in the past had not had a lot of luck with the Zoning Commission with getting their issues discussed.

Mr. Sabatino, 8917 Chevington Chase, Pickerington Ohio talked about "batch processing" with regards to amendments as something for the Trustees to consider. Mr. Sabatino suggested that they consider having a periodic zoning update or review.

Mr. Loveland stated that Ohio's statutory law is unique because it is patterned after people in Ohio by people in Ohio. The model codes that come out are absolutely impossible. They do not match the statutes we have in Ohio. Mr. Loveland stated we must find an efficient way to do a comprehensive revision if we are going to approach this as it is a major project.

Mr. Weltlich believes that now is the time to step back and take a different approach; be concept driven or macro driven and get a code that we are really content with and then go forward.

Mr. Myers made a motion to amend the Zoning Commission's proposal in accordance with the handouts given today –deleting 4 words (an administrative determination by) and to insert the words as presented this evening (a public hearing noticed by publication before). Seconded by Mr. Dunlap. Roll call vote: Mr. Myers, yes; Mr. Dunlap, yes; Mr. Weltlich, no. Motion carried.

Mr. Myers made the motion to accept the recommendation of the Zoning Commission as amended. Seconded by Mr. Dunlap. Roll call vote: Mr. Myers, yes; Mr. Dunlap, yes; Mr. Weltlich, no. Motion carried.

Mr. Myers made a motion to close the public hearing. Seconded by Mr. Dunlap. Roll call vote: Mr. Myers, yes; Mr. Dunlap, yes; Mr. Weltlich, no. Motion carried.

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Mr. Myers made a motion to adjourn the meeting. Mr. Weltlich seconded the motion. Roll call vote: Mr. Myers, yes; Mr. Weltlich, yes; Mr. Dunlap, yes. Motion carried. Meeting adjourned at 9:05 pm.

Respectfully submitted,

Christopher H. Smith, Fiscal Officer

Joniann Goldberg, Admin. Assistant

Approved By:

Harry W. Myers, Jr., Chairman

Date

Terry J. Dunlap, Sr., Vice-Chairman

Gary P. Weltlich, Trustee