

Violet Township Board of Trustees

April 28, 2010

Public Hearing

Case Number 02-ZC-2010 Proposed Text Amendments to the Violet Township Zoning Resolution & Case Number 01-ZC-2010 application for Rezoning including Zoning Plan and Development Plan approval for 8+ acres on North Side of Benadum Road filed by Makdrew Development

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. Also present was William Yapple, Director of Operations; Kelly Sarko, Zoning Inspector and Bill Loveland, Township Legal Counsel.

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.

Case Number 02-ZC-2010

A Motion adopted and recommended for approval by the Violet Township Zoning Commission which proposes amendments to the Violet Township Zoning Resolution. The proposed amendment is designated as Violet Township Zoning Amendment Case Number 02-ZC-2010 and would, if adopted, revise the following textual provisions of the Zoning Resolution as it pertains to Agricultural Uses: to delete Section 1, 1C in its entirety and add Section 3AA7 - to prohibit agriculture on lots of one acre or less; to regulate the setbacks, size and height of buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres; to limit certain agricultural uses in subdivisions until such time that thirty-five percent of the lots are improved and to prohibit agricultural uses in a subdivision after thirty-five percent of lots are improved; to define temporary farm markets and permanent farm markets; to regulate the location of structures for farm markets; to require parking for farm markets; to specify and allow signage for farm markets; renumber Section 1, 1.D as Section 1, 1C; and revise Section XI, 11A in order to establish a revised definition for the term "Agriculture.

Ms. Sarko explained that the Zoning Code currently has a definition of agriculture in Section 1B. It states that agriculture is permitted in all districts. It further states that all exemptions for agricultural use are expressly subject to the provisions of ORC Section 519.21 which permits the Township to regulate certain aspects of agriculture within the Township.

She said the proposed amendment will put in to textual format the aspects of agriculture townships are permitted to regulate.

She explained that townships are not permitted to regulate agricultural uses on lots greater than five acres. This amendment will not regulate agricultural uses on lots greater than five acres.

This proposed amendment will, if adopted will prohibit agricultural uses on lots one acre or less except for well maintained gardens for personal consumption.

It will provide the Township the ability to regulate structures incident to the use of agriculture on lots greater than one acre and less than five acres with respect to size, setbacks and heights

Except as part of an approved development plan, in a platted subdivision after 35% of the lots are developed, ongoing dairying and animal husbandry would be considered to be a non-conforming use - that is no new agricultural activities

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could begin and this did not included farm crops or equine activities associated with a planned district.

This amendment also provides for farm markets. It should be noted that if adopted, the definition of agriculture would include "marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production".

This amendment proposes to distinguish between temporary and permanent farm markets

Per the ORC farm markets which derive 50% of their gross income from produce raised on farms owned or operated by the farm market operator in a normal crop year would be permitted in any district.

She said that the proposed amendment will define a temporary farm market is one that operates no more than a total of 90 calendar days in a calendar year. A permanent farm market is one that operates more than 90 days in a calendar year.

Temporary and seasonal buildings, tents, trailers, structures associated with a farm market must be placed 25 feet from the edge of the pavement to safely allow for adequate ingress and egress. Parking may be grassed areas reasonably cleared. No road pavement is permitted to be used for parking for a farm market. If a farm market operator is required to obtain access they must obtain a driveway permit from the Township, the County or ODOT.

Structures for permanent farm markets must comply with the applicable setback for the underlying zoning district. Parking is to be graveled or paved at a ration of 1 space for each 100 square feet. Ingress and egress is to be in accordance with the VT Access Management Plan. Driveways permits are to be obtained from VT, the County or ODOT.

With this amendment, farm markets will be able to have one sign, not more than 24 square feet (which is the same as for schools and churches) and the sign would have to be placed at least 10 feet from the edge of the right-of-way (like commercial signage)

The definition provided is the same as that in the ORC.

Mr. Loveland added that in the 1 to 5 acre lot area that the amendment excepts equestrian activities as being acceptable in a planned development. Mr. Loveland said this amendment was fairly liberal in terms of agriculture.

Ms. Sarko asked Mr. Loveland to confirm that this amendment would only apply to platted subdivisions. She gave the example if there was a one acre lot that is not part of a platted subdivision it would be exempt from this provision. Mr. Loveland agreed. He added that it would have to be in an area consisting of 15 or more lots that has been subdivided by a no-plat subdivision.

Mr. Loveland said that there is an effort to encourage the farm market in our community as it is a nice feature of this community and that we are trying to make it flexible. Mr. Dunlap asked if someone is already doing this then they are "grandfathered" and it would not apply.

Mr. Weltlich asked where it said it was grandfathered. Mr. Loveland referred to non-conforming uses and read a portion of the code which pertains to non-conforming uses: when amendments occur "there exist lots, uses of land,

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structures, uses of structures and uses of structures and land in combination which were lawful before this Resolution was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Resolution or future amendment. It is the intent of this Resolution to permit these non-conformities to continue."

Mr. Weltlich asked where the ninety days came from. Mr. Loveland said they thought of the summer season and typically folks do it from June for the strawberries and tomatoes in the fall. This would be cumulative. Mr. Dunlap said that a market could be open Friday, Saturday and Sunday whichever weekend and go for 6 months and still not use the 90 days.

Mr. Myers asked who was counting the days. Mr. Loveland said the Zoning Officer was. Mr. Weltlich asked what method they would use to monitor this. Ms. Sarko said they could require a permit but they would not charge. It would tell the days of operation. Mr. Loveland commented that it would be complaint or problem driven.

Mr. Dunlap asked about the signage and if 24 square feet was adequate for people to be able to read the sign. Mr. Loveland said you can put any of the information on the sign listed like the name or whatever you wanted but not everything listed is required to be on the sign. He said if it becomes an issue it can always be addressed.

Mr. Myers asked why the farm market signage is to be ten feet outside the road right of way. Ms. Sarko explained this is the same as what is required for commercial signage and for real estate signage.

Steve Rudisill, 550 Hill Road South, Pickerington said he felt that 90 days was too short as tomatoes run to October. He wanted to know if this affects someone selling at Kwik Pak. It was noted that if someone was selling produce from a truck at Kwik Pak or another commercially zoned property, that it would be considered to be a retail activity and would be permitted if they had the permission of the owner. It was also noted for the record that the 90 day time period for temporary farm markets would not affect Mr. Rudisill and that he would be considered to be "grandfathered".

Mr. Weltlich made a motion to close the hearing and vote on the amendment at the May 5, 2010 regular Trustee Meeting. Mr. Myers seconded the motion. Roll call vote: Mr. Weltlich, yes; Mr. Myers, yes; Mr. Dunlap, yes. Motion carried 3-0.

Case Number 01-ZC-2010

An application for rezoning filed by Jeffrey C. Baker, Makdrew Development Company LLC, and Steve and Nancy Palsgrove for property located at 8230 Benadum Road owned by Makdrew Development Company LLC and 1.5+ acres on the north side of Benadum Road adjacent to 8230 Benadum Road, owned by Steve and Nancy Palsgrove. The application proposes to amend the Violet Township Zoning Code by amending the Violet Township Zoning Map to rezone the property located at 8230 Benadum Road from the M-3, Unlimited Manufacturing District and the 1.5+ acres from R-2, Single Family Residential District to the Planned Business and Industrial District (PBID) in order to accommodate RV and Boat Condominium Use; Automotive and Equipment Repair Use; Office use; as well as other uses permitted in the PBID and specified in the proposed Zoning Plan for the tract. This application seeks both Zoning Plan and Development Plan approval.

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Ms. Sarko explained some of the points of the application:

That the property proposed for rezoning consists of 8.902 acres on the north side of Benadum Road of which 7.3 acres is owned by Makdrew and 1.5+ is owned by Steve and Nancy Palsgrove. She said that the Makdrew property is zoned M-3 and the Palsgrove property is zoned R-2 and that they are requesting the property to be rezoned to the Planned Business and Industrial District.

She said that the existing office warehouse area is designated as Commercial Use Area in development text. This area contains three building areas (E, F, G) and Area H. All property uses allowed in the C-2 District will be permitted uses in the "Commercial Area".

The existing office area "E" will be office uses including offices for a development company, marketing office for proposed storage condominiums, management company office for RV & Boat Storage Condos, and rental office for open storage operation

Area "F" is currently Dave's Auto & Equipment Repair. In this area, it would be permissible for the repair of trucks, cars, campers, front end loaders, etc.

Area "G" currently it is used for storage and tools & equipment for Makdrew. C-2 uses would be permitted in this space

Area "H" is covered and open parking. This area shall be fully fenced. In this area the parking of RV's, campers, trailers, currently licensed vehicles less than 12,000 pounds would be permitted.

The uses permitted in Phases I through IV consist of recreational boat and other vehicle storage. No daily or manufacturing business uses are permitted in this area.

The structures in these Phases will be corrugated metal which matches the existing buildings, charcoal in color, with standing seam roofs of a lighter gray color, charcoal colored doors that are fourteen feet in width. The units would have demising walls. Brick will be on the side facing Benadum Road and US 33. Gutters will be on the door sides of the buildings (see below for correction made by Mr. Baker regarding Phase I gutters). The roof pitch will be ½:12. Wallpack lighting will be used.

The front building setback from Benadum Road is ninety feet as measured from the center line. Ms. Sarko noted that the Zoning and Development Plans state that the (front of) building is to be placed at a line parallel to the rear wall of the adjacent home. Ms. Sarko noted that it appeared the first unit extends slightly in front of this line.

Regarding signage, Ms. Sarko said they are proposing on freestanding sign along U.S. 33 and one wall mounted sign on the side facing Benadum Road. She said that they are also requesting two temporary marketing signs.

Ms. Sarko said the Zoning and Development Plan calls for Norway Spruces and Techny Arborvitae to be planted in the locations shown on the Landscaping drawing. The Norway Spruces are to be planted ten feet on center, and the Techny Arborvitae are to be planted five feet on center. She showed the Board where the landscaping was proposed on the Landscape drawing.

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She said there is an existing tree line along the western property line and that the developer or the development is responsible for maintaining that portion of the tree line which is on the property.

Landscaping is to be provided in the area between the first structure and Benadum Road and showed on Exhibit DP-9a and DP-9b. She said there is also a detention basin in the area between the first building and Benadum Road.

Ms. Sarko said the Violet Township Land Use Plan designates this area as Business and Industrial.

Fairfield County Regional Planning Commission considered this application during its March 3, 2010 meeting and recommended approval of the application.

The Violet Township Zoning Commission recommended approval of the application during its March 16, 2010 meeting.

Ms. Sarko said that Mr. Baker was present to address drainage, provisions for water for fire protection and other aspects of the proposed development.

Mr. Loveland explained that Mr. Baker had come in requesting variances from the 500-foot setback requirement. He said that Ms. Sarko saw this as an opportunity to draft his plan into a Planned Business and Industrial District that the Trustees had recently implemented. He thought it was a "neat mixed use" sort of project. An advantage of planned zoning is you know what you are going to get. He is giving up the M-3 uses of his property in exchange for permission to do specific zoning. Ms. Sarko commented that after the Zoning Commission meeting Mr. Baker brought in signs that were not included in the development text and he asked that they be included in the development text. She handed out copies of the temporary marketing signs that he was proposing to place along U.S. 33 and on Benadum Road.

Mr. Baker, 8230 Benadum Road explained the provisions for water for Fire Protection. He said that they will be installing a dry hydrant, similar to the Site Solutions project on Pickerington Road. He said that if necessary, the Fire Department will attach a hose at the hydrant at the corner of Pickerington and Benadum Roads and will run the hose to the tap for the dry hydrant at the front of the property which will run water to the rear of the property.

There was a brief discussion regarding the construction of the building, building materials and contractor.

Mr. Baker said that the existing facility is on public sewer. Regarding the dump station, his engineer has informed him that it is the EPA's decision whether it will be a holding tank or if it can be connected to the sewer system.

Mr. Baker noted the locations of the two detention basins for the site. Mr. Baker explained how the detention basin outlets.

Mr. Weltlich asked about the timing of the project. Mr. Baker explained that Phase I was the most economical to start and explained his financing plan to the Board – that essentially the first phase will finance the next phase and so on.

Mr. Baker feels his project will be an asset to the community.

Ms. Sarko commented the development plan state that the side yard setbacks are fifteen feet all sides, that the setback from U.S. 33 is a thirty foot setback, and the front setback from Benadum Rd. is ninety feet from the centerline of the road.

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She wanted to note that along the Schumacher property that side yard setback is 13 feet. Mr. Baker said that in surveying the property, they found there was a 2-foot offset. Mr. Baker explained the proposed lighting noting that the wallpack light fixtures will be located on the door side of the structures in Phases II, III and IV. He explained that the lights will shine to the edge of the driveway in Phase I.

Ms. Sarko asked if there would be a turbine vent for every building or every unit. Mr. Baker said that every unit would have a vent. He said that he wanted to note that on the Phase I Building the gutters would be located on the rear (west side) of the building.

Mr. Baker added that this will create a good tax base for the Township, Fairfield County and the schools once the whole thing is done. He said that he had conferred with the County Auditor's Office and at a preliminary estimation that the property taxes per unit would be in the range of \$648-\$650 per unit which is about \$100,000 to \$105,000 in property taxes per year.

Mr. Weltlich asked if there were any comments or response from the neighbors. Ms. Sarko said she had none. Mr. Weltlich asked if all the fees had been paid. Ms. Sarko said she wanted to note that when Mr. Baker had originally applied for a variance she had sent a copy of the entire application to Mr. Morrison who owns the property at the corner of Pickerington and Benadum Road. Mr. Morrison indicated he did not have any problems with it but he did want the side of the building which faces US 33 to be brick. Mr. Baker did incorporate that request in his plans.

Mr. Weltlich referred to an issue raised by the County Engineer regarding Access Management and he asked if Greg Butcher had made any comments about this. Ms. Sarko said that in speaking with Mr. Butcher, it was her understanding that Mr. Butcher has been in contact with Jeremiah Upp with Lockwood, Lanier, Mathias and Noland who is Mr. Baker's engineer and it also is her understanding that the apron/entrance needs to be widened. Mr. Weltlich asked to have this put in writing so it is all incorporated into the plan. Ms. Sarko said she would have Mr. Butcher put this in writing.

Mr. Weltlich also asked if Joy Davis had any input on this on an Economic Development standpoint. Ms. Sarko said that Ms. Davis said she had no comment on the proposed development and she would have Ms. Davis put this in writing as well.

Mr. Weltlich asked Mr. Yapple if this was not in our JEDD District. Mr. Yapple said it was. Mr. Weltlich asked if we should be addressing this. Mr. Yapple said because of what it is, there would be no employment tax generated. Mr. Weltlich said he understood this, but we have partners and we have formed a JEDD district and we have partners in the JEDD. Mr. Weltlich said there should be dialogue between Mr. Baker and also you put this issue to rest. Ms. Sarko said had she known about this she would have already been in contact with whomever he needed to be in contact with. Mr. Weltlich said the JEDD had been in existence for a year. Mr. Yapple said they would work on taking care of this issue. Mr. Weltlich stated that he wants all of this resolved formally before we approve this or modify it so there are no future entanglements with other political sub divisions in any way shape or form in order to protect Mr. Baker. Mr. Weltlich asked Mr. Baker if he was aware of the JEDD. Mr. Baker said he was. Mr. Weltlich thought it to be beneficial that the three of them to sit down and answer any questions. Mr. Dunlap said they needed to add all of our other partners in the JEDD to be involved in this discussion. Mr. Weltlich explained that this stands for joint economic development district and it is a cooperative agreement between Violet Township, the City of Pickerington and Canal Winchester. It goes one mile each side of SR33. Mr. Weltlich said the reason he is so upset is

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because he put 5 years of his life into this. Mr. Weltlich wants everyone to be on the same page.

Mr. Weltlich apologized to Mr. Baker for the staff not raising a flag on this when Mr. Baker first came in because they should have known that it is a mile on either side of SR33 from one end of Canal Winchester down to Violet Township.

Mr. Dunlap said that Bill, Kelly and Joy will discuss this and they will communicate the other two entities that we are partners with and say this has been presented do you want to be part of the JEDD.

Mr. Weltlich would like Kelly, Bill and Joy to brief Mr. Baker on what the JEDD is and what the confines are and what Mr. Baker's options are. Then he would like for Bill to communicate whatever he (Mr. Baker) decides to the other two political subdivisions and then to the Trustees.

Mr. Baker asked if there was any way the Trustees would allow him to put up a temporary sign on 33 and Benadum Roads just for a marketing standpoint. Ms. Sarko said he would need a variance. Mr. Dunlap said this could all come together by the 5th of May and then Mr. Weltlich said by the end of May.

Mr. Weltlich made the motion to continue this public hearing (Case Number 01-ZC-2010) until the May 5, 2010 Trustee meeting. Mr. Myers seconded the motion. Roll call vote: Mr. Weltlich, yes; Mr. Myers, yes; Mr. Dunlap, yes. Motion carried. 3-0.

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 8:45 p.m.

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