

**WESTFIELD TOWNSHIP BOARD OF ZONING COMMISSIONERS
CONTINUATION OF THE PUBLIC HEARING
KRATZER ZONING MAP AMENDMENT-5669 Greenwich Rd.
JULY 24, 2008**

Chairperson Kemp called the continuation of the public hearing of the Westfield Township Board of Zoning Commissioners to order at 7:30 p.m. Board members Sturdevant, Miller, Anderson, Brewer and Kemp were in attendance. (See attendance sheet for complete attendance).

Chairperson Kemp stated that the Commission now had a recommendation back from Planning Services regarding the reconsideration of the Kratzer property map amendment application. The action that was taken on July 2, 2008 stated:

“Planning Commission recommended approval of the map amendment subject to completion of the draft of covenants and restrictions, and approval by the Township of the document, and support of the document by the Pros. Attorney’s Office. She added that this document would contain deed restrictions that would give the Township more control over the property is developed. If the property is not developed in a time frame to be determined, the Commission will have the authority to rezone the property RR if that is action the Commission decides to take.”

Chair Kemp stated she would open up the public hearing first to adjacent property owners and wanted their opinion and comments on the covenants and restrictions.

Roger Nair (5533 Winterbrook Rd. Valley City. Owner in Deer Pass Golf Course.) My personal opinion is that growth is inevitable. This is a chance for the Township to be able to control this development and put their stamp on it. I am for the growth and not just because I have an ownership in it, I enjoy property and things like this. I hope the golf course always stays the golf course but you never know. I think this is the chance for the Township to have control of the development.

Mark Taylor (owner in Deer Pass): I am a real estate agent for Keller Williams. What I am looking at is the value of property. It is sad when one goes to sell their property and it’s worth the same as when they bought it or less. A home is probably the biggest investment most people make. If you can increase one’s property value where they have something they can use for their retirement that is good. Property values are determined by supply and demand. If you bring in a development like this you will increase the value of the properties. I think for anybody who is going to be selling in the next 10 yrs. this development will increase their property value and be a win/win situation for both the Township and the property owner. There are properties in southern Ohio and W. Virginia that they cannot sell because they lost all of their industry. I would like to see a destination location such as Cabala’s or Bass Pro Shop but that will take a lot of

cooperation between the Township, County and State. These are retailers that will stay and increase the property values and tax base and be a good thing for everybody.

The public hearing was then opened up to Township residents:

Dwayne Kramer (7363 Buffham Rd.) I have always been against this; everybody knows that. The property in question is the ideal place for development. The problem I have is this development is going to get out of hand and continue to grow and spread and I don't think the Township is ready for that. Mr. Scheetz stated before the Planning Commission that they are also looking at 18 adjacent properties, not just the Kratzer property. Anybody who is familiar with this intersection knows what a nightmare it is now what would it be then? Not only do we have Chippewa Resorts going in down the street but other developments that have been approved. This is only going to add to that mess down there. I appreciate the adjacent property owners stating their opinion but they live in Valley City. They are not going to have to deal with this to the extent Westfield Township residents will.

The only people I have heard that are for this are those who will financially gain from this development. As far as increased property values, I had the auditor's office at my house last year and my taxes increased due to my property value. This development will increase your property value and your property taxes as well. I think the real value in this community is one place in Medina County where you don't have all this development. I think property values will increase if our community is built up. I left because of the mess in Medina, such as bad planning and bad streets. This has to be looked at very carefully.

We have gone around and around with this for a long time and I believe the Commission knows that the majority of the residents are against this development. I notice the numbers in attendance during the summer months has dwindled, but I can remember a tractor rally we had here and it was standing room only and people in the parking lot were adamantly against this project. I was here at a meeting where Mr. Kratzer had a Sherriff's Officer present in the event of what the crowd was going to do.

There was an editorial that ran in the Akron Beacon Journal a few weeks ago about the saturation point regarding all this building going on and how the places that are built up are collapsing because they are starving each other out. I think we have seen this to some extent at the Lodi Outlet Mall. Look how empty that is. How many Home Depot's and Wal-Marts can one county support? You are creating an area that is interdependent on itself and has no way to support it.

There was a lot of talk about the tax base that this development will bring to the Township. The school has had a declining enrollment and is predicted to decline. I called the school board and asked them over the last 10 yrs. or so, how many school levies have been on the ballot in the last 13 yrs.? There have been 7 levies, 2 bond issues and 3

renewals. All that tax base in Medina that you want to bring here; why aren't Medina City Schools self supporting with all that tax base? Why do they have to keep going back to the people for money? Something doesn't make sense. I don't see the benefit of this development to the Township whatsoever. It is going to be a big mess and continue to grow and we are going to be left with a Medina City. I avoid Medina on the weekend because it is so hard to get in and out. All of this needs to be considered.

Tom Micklas (7360 Buffham Rd.) We have been going around with this for a 1 yr. ½. It started with Mr. Stutzman wanting to zone the Kratzer property to General Business for a high volume/high impact development. Tim has the right to develop his property. I think we are all in agreement that there needs to be something there consistent with the nature of the Township but a large shopping complex with hotels? How many Ruby Tuesday's or T G I Fridays do we need in Medina County? Realistically, the development of a large retail complex and the amenities is not consistent with the Township. We are not just dealing with Tim Kratzer's agenda, we are dealing with Stan Scheetz's agenda with additional properties looking to be rezoned and developed as well. I would say to you, "Guys, do everybody in the Township a favor, put a \$100.00 in your gas tank (that should give you a half a tank) and drive from Lake Rd. to the Township Line on Greenwich Rd. Pay special attention to what you see and what you don't see. Then drive from the square in Medina to Fenn Rd. Again, pay special attention to what you see and don't see. Then drive into Brunswick, turn Rt. on 303 to I-71. There is a big difference." What these gentleman want to give you as a gift is what you will see from the square to Fenn Rd. and Rt. 303 to 71. This is not consistent with the documents of the Township as to what we want as a Township. I know development has to be somewhere but it does not have to be here. This is a rural community. These dominos will fall and what used to be a yellow spot on the map (Tim's property) will be quite different. I think the people of the Township have spoken up and expressed that.

Brian Smith (7553 Greenwich Rd.) I agree that the Kratzer property is perfect to be developed but I am not in favor of a large retail development. I would rather see the property be developed as partly houses, commercial businesses, and factories/industrial to go along with the Beacon development. I don't want to see all the traffic which is probably everybody's biggest concern. It's not just the Kratzer property anymore, it has expanded beyond that. I was riding down Rt. 224 and there was a billboard-Beautiful Westfield-to promote one of its residential developments that still has vacancies and I thought that billboard would have to change because it won't be a beautiful Westfield anymore. I think Kratzer should be able to develop his property and make a lot of money. I am not opposed to that. I hope one day when I sell my home I make a lot of money. I have done that on a couple of occasions. I am not for the retail development but would like to see long term jobs-not short term retail jobs. I recently drove through downtown Medina and I know they are going through hard times as well. I think there were only 5 stores open. When I first moved out here the whole square was filled with businesses. I

don't think necessarily this is the time for retail development. I believe the County Commissioners do not support the whole project and the Board should look at that too.

Chair Kemp then opened up the floor to anyone who wanted to speak.

Marlene Drake (10335 Wooster Pike Rd.) I do want to say that Mr. Kratzer has the right to develop his land. I have heard so much talk about Lake Rd. Has anyone looked at the junk yard at the end of Lake Rd.? They need to build a building and put all those junk cars in it. I would much rather see a new development than all the junk cars. We went into Medina and ate and it would be nice to see a new restaurant come in. I have seen a lot and been around along time and Stan Scheetz built Seville and it is something to be proud of. I think whatever Stan will build we will be proud of too. I have attended these meetings and I think the Board should vote for this and stop all this.

Martha Evans (7998 Ryan Rd.). I would like to point out that zoning in Westfield Township was established in 1956. I was here then and even before that. I have been a resident of Westfield Township for 60+ yrs. The 100 acres that has been proposed to be developed has been so for 40 yrs. The first 500 ft. of the property is already zoned Local Commercial. In 1992 when we did the Comprehensive Plan, we discussed removing the Local Commercial. This was developed when Greenwich Rd. was Rt. 224. When we discussed removing the zoning designation the Township met much opposition so we left it alone. Now Mr. Kratzer is just asking for the remainder of his property to be rezoned which is by the highway and has no agriculture value and no frontage to LC. The property goes all the way up to the ramps of the interstate. It is in no one's backyard, or pasture field. It is not going to harm the Township. I have a picture of Rt. 3 and Rt. 224 when it was nothing but a gas station and the intersection consisted of a stop sign. I could remember where Lake Rd. crosses Rt. 224; it had nothing but stop signs.

Then the County Commissioners decided we needed a recycling facility. Many of our residents opposed it but it went in anyway. Then we did not want the highway but we had no say. What are you going to do when you travel? You want to have a place to stop and you have two intersecting areas; this is where it is going to be developed. It was poor planning for that intersection. There was supposed to be a ramp that came around in front of TA and all that would have been underneath there but that did not happen.

The one ramp has failed already and they (the State) had to put up a bridge. That is a State issue. I don't want to see development such as this to the north, south or west of town; but east is a prime location because it will head right into Seville and will be annexed into Seville whether we like it or not. I would like to see this Board make a decision and not have it dictated to us by some other entity. This development with the proposed deed restrictions and covenants is where the Township can have a say.

Ken Beckman (7583 Greenwich Rd.) I have no problem with progress but like the guy before said, supply and demand. How much do we need? You can go to Medina and find

any store you want and the schools don't have any money. You can't tell me the taxes are going to help us. Why are Medina Schools broke? In Wadsworth there are empty storefronts everywhere and strip centers partially filled. The Lodi Outlet Mall-nearly empty. Martha was saying we have the highway and off ramps and people need a place to stop. I have been here for 20 yrs. and the corner of the highway is nothing but an eyesore. Nothing has changed; now they can't do anything with it because it is being used as a construction site. They had 20 yrs. to put in restaurants and hotel and nothing. There is plenty of room in that corner. Let them develop all they want. I don't see the need for this size of development with box stores and store fronts. Go 15 miles east and you run into Wadsworth with a Home Depot and Wal-Mart. Go 15 miles north you got a Target, Kohl's, Lowes etc. Go 15 miles south in Wooster and you have the same. I knew where I was moving when I came out here. I knew I was going to have to travel. Saturation was mentioned. Saturation is right and then some of these stores will close and then what? There are not enough people to support these stores in every community. I have no problem with Mr. Kratzer wanting to develop his land and make as much as he can but the project in front of us will consist of box stores, an Applebee's etc. Develop the corner at Lake and Rt. 224. Get rid of that junk yard. There is already enough traffic at that intersection. I can't see at the proposed intersection and how the infrastructure will support this development.

Christine Kramer (7363 Buffham Rd.) I hope Mr. Kratzer sells his property and makes a lot of money. I don't think anybody here doesn't want to give him a chance. I work at Wal-Mart and I don't like Wal-Mart. I would love to see a nice restaurant or a grocery store. Everybody is scared about this development being just store after store after store and of the unknown of what will go in.

Karen Sanns (8170 Ballash Rd.). I am new to these meetings. My husband and I moved from Dallas, Texas here several years ago because how overbuilt Dallas became. I hated it and moved here. With that said however, I do believe that Mr. Kratzer has the right to develop his property and this area seems appropriate for development and from what I hear it will happen one way or another as part of our Township or not. I would prefer it stay in Westfield so we can have an impact and effect as to how it is developed. I would too would like not see another Starbucks, Applebees, TGI Friday's. Our area has a distinct value and I hope that is taken into consideration when developing this project. I would like to see whatever is built there reflect that and not be another cookie cutter development.

Brian Smith: The initial proposal was for all these big box stores. Through this whole process the audience has said it has a chance to make a difference as to what goes in this development but I think that only applies to the Zoning Commission. We are still looking at the same cookie cutter project. It would be nice for us to say, Mr. Kratzer and Mr. Scheetz, we want a Cabala's or a Bass Pro Shop, or a unique restaurant, or a park. I don't think we have ever had the opportunity to say what we want. We looked at a cookie cutter project a yr. and ½ ago and we are looking at the same plan today. I am opposed to it

because it is the same project. If Mr. Scheetz and Mr. Kratzer stated they have taken all the comments into consideration and came up with a new project, possibly scaling it down, or mixing it with industrial or making a trail to connect the park systems; I would vote for it in a heartbeat. It would be nice to have a unique restaurant and another grocery store. I agree the truck stop and truck wash is an eyesore and it needs to be addressed. I think there may be a way to develop that area and tie it into the Kratzer property. Personally I live on Greenwich Rd. and I don't want it to turn into a Rt. 3. I am concerned as to how this development would expand. That is a worse feeling than just worrying about the Kratzer property.

Mr. Scheetz: I am not the developer of the project, I am the attorney for Tim and Linda Kratzer. I would like to respond to some of the comments made this evening and have the developer, Ron Hamo, address the tenant mix and how that evolves. Mr. Kramer stated the majority of residents are against this project yet I have received 15-20 e-mails sent to the Commission and other individuals speaking in favor of this project who are not adjacent property owners such as Karen Fisher, Fiscal Officer Martha Evans, and the Oiler family. These are long term residents and families of the Township.

Regarding the declining school population, I have provided that information previously. The District went down in enrollment from 1,000 students and as a result lost \$3,000 per student but the school still has to operate. That is why they have to go back to the residents to ask for levies because they have to make up the lost funds to continue operation. People probably did move out here with the notion they will have to drive for most conveniences but over the year as gas prices continue to rise, the circumference of the location of shopping centers have shrunk to 10-12 miles away based on population and demographics.

The figures from the County Auditor's Office based on the proposed development will generate up to a million dollars a year to the Cloverleaf School system before any tax incentives and there always are tax incentives. This would increase the business tax base in the Cloverleaf School District almost 20% and the business tax base in Westfield Township by 30%. The change in the tax base will have a direct net benefit for the residents if commercial and industrial take more of the tax burden.

Originally, County Planning recommended disapproval of the zoning map amendment. There were several factors that did not come to light so I filed for a reconsideration. Once those factors were addressed, County Planning recommended approval (6-2) subject to declarations and covenants be drafted, reviewed and approved by the Township and the Pros. Office. The Planning Commission voted to recommend approval of the rezoning of the Kratzer property to Local Commercial. It was a consensus of the group that it was not suitable for the land to be RR adjacent to the Interstate especially with the volume of acreage zoned RR in Westfield Township. They conditioned approval upon the declarations and covenants being drafted and approved which would be privately put upon the owner and developer for the future development of the backland. This was done

based on the conversations that have taken place at meetings of this Board and the public of the concerns over this development. One of the concerns was if a cart blanche zoning district was given, the Township could end up with a hodge podge of businesses going in. In response to that I drafted the proposed Declarations and Covenants and Restrictions that we cannot develop any of the backland without coming before the Zoning Commission with a site specific PUD that will lay out the entire 90 acres. Therefore, we could not cut off and sell small parcels to individuals resulting in a hodge podge development. It has to be done in a uniform plan. We also conditioned it on the completion of a traffic study once we know who the prospective tenants or owners will be, so a factual traffic study could be submitted to know what improvements would need to be in place. For those of you who are new this evening, that is why I drafted the declarations covenants and restrictions so it gives more control to the Township. Regarding the additional properties to potentially be considered if the Kratzer property rezoning is successful; the vast majority of those properties are already zoned LC-500 ft. on both sides. We are talking about taking the zoning they already have and extending it to their rear property lines as their property is split between LC and RR. Essentially, there is no real impact on the amount of acreage to be included. The potential future development of these properties will be based on the outcome and success of the Kratzer property and the industrial development on the east side. These other properties could be potentially developed into additional retail, an emergency care facility, offices etc. I mentioned the other properties so that you would not just look at the one property but the entire area. The recommendation by Patrice Theken is when I devise the PUD in its site specific form it should have other components in it than just retail such as mix of residential i.e. assisted living, condos, cluster homes. Though it would be a site specific PUD it would have mixed uses and would only be imposed on the 105 acres initially. It could then be expanded solely within the grid between Chippewa Creek, I-76 and I-71 the rear of the Greenwich Rd. properties down to Hulbert Rd. These boundaries could be specified to delay some of the fear people have about uncontrollable expansion.

I would also like to respond to the negative comments made about the Lodi Outlet Mall. There is a new owner and there are plans for expansion and they are investing \$1,000,000 to lay it out in a new format. I am involved in that project and represent the landowner selling the additional property for the expansion.

Regarding the capacity of Lake Rd. and Rt. 224 interchange, there is nothing in the studies that say they will reach capacity. When I met with the County Engineer and ODOT they said it was no different then what is at I-71 and Rt. 83. There is a million sq. ft. of retail space and 2 truck stops. They have two lanes with turn lanes. They don't have a 4 lane highway. If you go into Medina, there are 2 lanes and 4 million sq. ft. of retail. We did clear with ODOT that if it were ever required, the bridges that were being built now would accommodate an additional 2 lanes under Greenwich Rd. However, nothing has come out in the preliminary studies that would be necessity. You might have 21 days out of the year from Thanksgiving to Christmas that the intersection is maxed. No matter where you go you have that same setting to deal with. That is why so many parking

spaces have to be designed to accommodate the maximum number of parking spaces needed even though the vast majority of the year ½ the parking is used. We cannot get any firm commitments regarding the tenants until we get the zoning. We can't get the grants for the infrastructure until we get the zoning. There is \$5,000,000 in grants available for sewer, water and infrastructure. None of this has to be paid back nor will the cost be placed upon the residents. The cost will be born by the developer in conjunction with the economic grants that are available.

Mr. Ron Hamo: We are not planning on doing a development that will be an embarrassment to the community. We are a local company from Akron. These developments that we have planned are very thought out and systematically done. It was mentioned that the plan that was submitted a year or so ago was the same as it is currently. This is just a preliminary plan based on the maximum square footage of retail space that can be put on the site. We tried to keep everything in the new design of development with streetscaping, keeping the buildings back by the highway, all the parking inside so it does not look like a big parking lot. We have spoken to a few prospective tenants but cannot move forward until we get zoning. We cannot misrepresent what we are doing to the tenants or the Township. Progress comes; we try to keep everyone employed. My own child will be moving to another state for employment even though I don't want him to. I spend \$125.00 a week driving around Akron but that is the economic climate we are in now. We are building LEEDS buildings and watching the cost of utilities and construction. We are hoping to have 2,000 people employed with this development both full and part-time. We have been talking to some destination retailers and I think they would be an asset to this community.

Christine Kramer: I drove down Greenwich Rd. How could we possibly put 4 lanes in?

Mr. Hamo: We just widen the road. That is something that ODOT has answered for Stan Scheetz.

Mr. Scheetz: The bridge that is operational now has a span of 60 ft. The new bridge will have a 100 ft. span. You will also be looking at a 35-40 mph speed limit. I have met with ODOT already on this and the assured me that the bridge will accommodate the traffic.

Ken Beckham: It sounds to me like this is a package deal. How then do we control this development? It seems to be like an all or nothing.

Chairperson Kemp: They need to have Local Commercial zoning before they can approach prospective tenants. They cannot go in until they present a site specific PUD to the Commission.

Ken Beckham: Let's say we don't want a Ruby Tuesdays or a Gold Circle. Can we say, "You can develop the rest of your project but not a Ruby Tuesdays or Gold Circle?"

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Mr. Scheetz: No. You are not controlling our tenants. You are controlling the facade, the parking, the landscaping, the pond and the retention/detention areas etc. Basically the layout of the plan.

Ken Beckman: You mentioned the interchange at Lake Rd/224 and compared it in capacity with I-71 and Rt. 83. When 2/3 of the outlet mall is empty there is no traffic going on there so how can it be the same?

Brian Smith: Has the architectural layout changed since it was first represented to the Township?

Mr. Hamo: It is still the same.

Mr. Smith: You're saying after all this time and all these meetings we haven't had an influence to change it?

Mr. Scheetz: It is just a conceptual plan. It won't begin to change until we get some prospective tenants.

Mr. Smith: When you state figures and tax revenue etc. don't you have some ideal of who your tenants are?

Mr. Hamo: We have a conceptual idea how much square footage we have on the property.

Mr. Smith: Wal-Mart will generate X amount of revenue in a given month. If the Township decides it does not want a Wal-Mart or wants it scaled down all those figures change. You guys have to have some idea whom your tenants will be.

Mr. Hamo: Well we know whom we would like to put in there but we have nobody under contract because we cannot misrepresent to the potential client the zoning of the property and right now the property is not zoned LC.

Mr. Miller: Stan Scheetz stated the ZC wanted a site specific PUD. As I recall we suggested the entire property be rezoned industrial and or developed as a PUD. Mr. Scheetz did not want a PUD for the entire property because it would have to be laid out as one full site plan and that was not conducive to the proposed tenants.

Mr. Scheetz: There has to be some anchor stores to attract the other smaller tenants to the development. We have to have 40% credit tenants before we can even begin this development.

Mr. Winkleman (Team 4 Architects): When we try to develop a site plan, we have to look at the zoning of that particular community. There is usually a ratio of parking spaces required based on the use and a required percentage of open space that needs to be

provided. Soil and Water and the EPA require that the storm water be managed through retention or detention areas or both. Our job is to take all the guidelines and come up with the amount of square footage that can be developed on a piece of property. This gives the developer a general concept of how much square footage he can sell. This particular property has yielded a square footage of 1 million sq. ft. at this time. The accountants then say this amount of square footage can generate X amount of money and that is how this is calculated.

It is nice to talk about a Cabala's or Bass Pro Shop or a Target but right now it is a concept. If the zoning passes, Mr. Hamo can go out and start working with prospective tenants and offering them square footage options but until then he cannot approach them. With all the items that have to be addressed to put in such a development the square footage may change. An example is the first plan we submitted with a proposed retention pond on the east side of the property near Chippewa Creek. The location and size of the pond has changed 3 times since then. So its influence on the parking area and building size is a reality and I believe we are below 900,000 sq. ft. being available. All we are looking at right now is to get the Local Commercial zoning so we can solicit prospective clients. In turn the Commission wants a site specific PUD so they will be in control of the layout of the development. We then have to follow the guidelines and parameters for parking, landscaping, lighting, open space, storm water management etc. So this is not just getting the zoning and we can do what we want. We have to come back for approval for each step in the process. We have been at this along time and our reputation is on the line as well.

Brian Smith: So let me get this straight. Once this Board gives site plan approval, they still have an option to require you to add more green space, add a bike path, etc. So the bottom line is those 5 people up there are in control.

Mr. Winkleman: They can't tell us who our tenants will be but they can say all the things that are related to the development i.e. the architecture, the parking, the landscaping. They control the layout; how it fits together. Today's developments are very environmentally oriented and we just don't go in and strip the land.

Martha Evans: Regarding the comments that the Commission is in control, the Commission has the Zoning Resolution of the Township that they must follow. They do not make up the rules as they go along. There are zoning codes for the Township that have to be followed.

Lisa Beckman (7583 Greenwich Rd.): I think we are terrified of the spread of this development and what will happen when it is 1/2 empty. We live here. We are going to drive by it everyday and see it.

Mr. Scheetz: We are working with NOACA and the Medina County Park District as they have plans for a bike trail to go right through this property along Chippewa Creek. All

this will be incorporated through easements to make this property as pedestrian friendly as possible. I would respectfully request the Zoning Commission make a recommendation to the Trustees on the map amendment before them this evening with the additions proposed and County Planning's recommendation of a final declaration of covenants and restrictions to be addressed by myself and Mr. Thorne.

Chair Kemp: Bill, if we decide we are going to work on the declarations and covenants do we close the public hearing?

Mr. Thorne: I don't suggest that you do. The public will have the right to have some input on those. However, I would like to clarify the process. We are not approving anything this evening. Even when this is done there is nothing that is going to be done on the property. The deed restrictions will prohibit anything being done on this property for potentially 5 yrs. What happens then is a submittal of a site specific PUD. It won't reflect the exact businesses that will go in but will lay out the size of the buildings, driveways etc. The Commission will then have their input on the site plan. The site specific PUD also has to go through the process of being reviewed by the Planning Commission, Zoning Commission and the Trustees. The Plan is also subject to referendum by the residents. If the public feels the Commission got it wrong the public has the right to take it to referendum and put it on the ballot. Once a specific PUD is approved by all parties that is exactly the way the development has to be built. There are no leeway or changes that can be made without going back through the entire process again to change the plan. Therefore, they will want to have a really tight plan when they present the site specific PUD.

Chair Kemp: I want to know how the Board members feel.

Scott Anderson: I think we should go ahead and work on the deed restrictions.

Heather Sturdevant: I have some questions. Regarding the draft of the deed restrictions, is this just an example?

Mr. Scheetz: Yes, it is solely a draft.

Heather Sturdevant: My biggest concern is enforceability. I would like to know the Board members feelings about hiring a third party attorney to look at the declarations and covenants once they are completed. Someone who has not been involved in the process to review for enforceability.

Chair Kemp: I think the Pros. Office can give us all the help we need regarding enforceability.

Scott Anderson: You would need to get approval of the Trustees to hire an attorney.

Heather Sturdevant: I know but that is what I would like to personally request. Not that I don't trust anyone working on this but sometimes when you are really close to a situation you may not see everything. Maybe three minds and sets of eyes would be better than two. Somebody who has not been involved in the project, just to review the enforceability of the document. Not practicing contract law in the State of Ohio frankly scares me a bit.

Mr. Scheetz: I have no problem with that whatsoever. What you are talking about is having third party opinion in relation to the document. The document covers not only Mr. Kratzer and his successors and assigns, but the developer's successors and assigns.

Heather Sturdevant: Yes. Also, as far as the comments made about the traffic and the Lodi Outlet Mall, I was crazy enough to go down there Thanksgiving night for their big blow out sales. It took 45 minutes to get off the ramp on 71 and an additional 35 minutes to get into the parking lot of the Outlet Mall. Therefore I think the two are comparable if you look at the right time of the year regarding traffic. I would like to put out food for thought.

Third, I heard a lot of comments about the control of this development. Those who spoke against the development were concerned what would happen 5-6 yrs. from now, "where would the Township be; and those who were for the development and would also be in favor of their property being rezoned at a future date. Right now we have to look at the land that is before us this evening asking to be rezoned. It has been talked about in the past by this Board and the Trustees about controlling the sprawl in the Township. I would then like to ask those who oppose the project and those in turn who are in favor and/or want their land to be rezoned at a future date; if rules were put in place that would not allow for the inclusion of their property in order to control the sprawl, would they still be in favor of the development? I think the Township needs to look at control options to prevent sprawl.

Mr. Scheetz: This was addressed by Patrice Theken from County Planning that the Township could set boundaries and I believe that makes sense to do.

Mr. Miller: I would like say that I do understand that Bill Thorne and Stan Scheetz are working together on the draft of the declarations and covenants but I agree about asking the Trustees for a third party legal opinion. The Commission is not privy to the legal terminology and its interpretation. The more eyes the better and this will keep everybody less suspicious of any kind of wrongdoing. I am concerned about the enforceability. Bill Thorne told us once that we cannot zone places non-changeable. My concern is also the tax incentives that would come about if this development takes place. The money that the Township would get or the school district would get would probably be bartered away just to get this built.

My question to the Trustees would be where does this stand in conjunction with the Comprehensive Plan?

Heather Sturdevant: I agree. Are we in favor of something like this being addressed in the Plan? We would be making a decision that will affect a lot of people. I have confidence in Bill Thorne but we don't have the legal expertise and I want to make sure we are protecting the Township.

Chair Kemp: Are you in favor of moving forward with the deed restrictions?

Susan Brewer: If we move forward there would have to be some deed restrictions but we need to know what direction we are going. I would like to see the Comp Plan in the works before we put something down on paper. There are only a hand full of people here this evening and we need to know what the Township wants. It is so confusing.

Mr. Scheetz: The Planning Commission never recommends a moratorium while a Comp Plan is being written. You are looking at a yr. or a 1 ½ or longer before a Comp Plan is completed. Usually what happens is when a consultant is chosen and begins to work on the Plan; the emphasis can be on this particular site before a complete overview is done. There will be ample opportunity when we come back 6-8 months from now with a site specific for input to be given to the Zoning Commission and Trustees based on what results or suggestions the consultant will raise. What is being done here tonight is just a recommendation of the Zoning Commission to the Trustees. There will be another public hearing by the Trustees and the Trustees will vote (there will only be 2 Trustees that can take action). After that nothing can happen with the property until we have tenants enlisted and come up with a plan. This will happen simultaneously while the work is being done on the Comp Plan. I believe it is the intention of the Trustees to begin this work on the Comp Plan this year.

Trustee Likley: We interviewed another consultant last evening which will make the third planner total. I was very impressed and I think out of the three we should be able to make a selection soon.

Chair Kemp: Have we gotten the grant?

Trustee Likley: Yes.

Heather Sturdevant: I think I have been misunderstood and maybe I wasn't clear. I think we should move forward with deed restrictions but once they are completed, have them reviewed by someone else. It's not that I don't trust anybody. For me, Bill said himself this has not been done a lot and he in the beginning was questioning whether or not we could do it, or how we could do it. I know he is confident now we can but it is only one attorney's mind. I would like another thought on that. Its not that I don't trust anybody in this room; I think Bill Thorne is doing a great job for us but he even said in the beginning that he would have to look into this and see if we could do this. I would like somebody who is not involved to look at it just as legal document and tell us if it is or is not enforceable under Ohio law.

Chair Kemp: The only way we can do that is go to the Trustees and they would have to approve that. We have no money.

Heather Sturdevant: I understand but I would like to request that of the Trustees.

Chair Kemp: Scott do you have anything to add?

Scott Anderson: No.

Bill Thorne: In terms of controlling the development its not going to happen. You have 5 members on this board and 3 Trustees. They can make a plan today and it can change tomorrow. I actually live by the Lodi Outlet Mall. When I bought that property I thought I made a smart move. It was zoned a restrictive agricultural area. I had the freeway accessibility to make an easy on and off. If you told me that 51% of Harrisville Township would have voted to change that agricultural area I would not have believed you but they did. So now I live near an outlet mall and their planning an expansion of the mall in another similar district because the voters changed their minds. People here today may not be here 5-6 yrs. from now. Plans change, the zoning changes. Don't think you are able to put a concrete border around any of the zones. It is not legally possible. You can draft and implement restrictions or better yet the Township can buy the land as some have done, but in one Township they now want to change the use of the land they bought to protect. So this being said, I have not really reviewed the draft of the declarations, covenants and deed restrictions other than cursory and I will not until the Commission says they are willing to accept something on this line for this property and then I will begin working on them. If we feel they are not legally enforceable we will tell you. I am looking to the Commission for feedback. If you feel the restrictions are not strong enough or tight enough you need to tell us. What we are going to attempt to draft is what you want. It is not my job to come up with the restrictions the Township wants. I can discuss with you certain restrictions and if they are legal or not, but ultimately the type of restrictions that will be drafted are what the Township wants and what is legal.

Heather Sturdevant: On page 2 it says, "Furthermore, once the Commercial Development commences subject to an approved Site Specific PUD, these Covenants and Restrictions shall automatically terminate or upon the expiration of six (6) years, whichever occurs first. Furthermore, for clarification, if no development has occurred within the six (6) year period, the property shall be rezoned **Rural Residential by the owners or the Township**. However, the property owners reserve the right and opportunity to apply for an alternative type of zoning, either in the form of Highway Commercial, Industrial and/or Suburban Residential, as these are the current other zoning districts available in the Westfield Township Zoning Code, fully realizing that a **Rural Residential** district would be inappropriate for a highway interchange area, and being fully aware that there are many more acres available in Westfield Township, much more desirable for a **Rural Residential** subdivision than adjacent to Interstate 71/76 interchange."

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My question is the way the draft is written right now, it seems the property would automatically revert back. Is that true?

Mr. Scheetz: No.

Heather Sturdevant: After that 6 yr. period someone would take the initiative and it would go through the whole process.

Mr. Thorne: That paragraph will probably not be there at all. If it is going to be a 6 yr. time-frame your obligation not to do anything would have to stop at 5 yrs. to give you the opportunity, while those deed restrictions are still in place, to do something with the property. I would not imagine that I would recommend you restrict it to anything. You will have a Comp Plan and will have it open to do whatever the Comp Plan would allow you to do. Don't look at the draft before you because a lot of that wording will not even be there.

They're going to need to give you a timeframe they feel they can develop the property in and you should probably add another year to that because if they don't develop that property you would still have a year while the deed restrictions are still in place to enact whatever zoning the Township feels is appropriate for that property.

Mr. Miller: Even when the restrictions are drafted, if the Commission feels they are still unacceptable we can reject them?

Mr. Thorne: Yes. You need to let me know if you want me to move forward with the deed restrictions.

Heather Sturdevant: I make a motion to proceed with working on the restrictions and covenants for the Kratzer property to be developed for the Board's review.

Scott Anderson: I second the motion.

ROLL CALL-Sturdevant-yes, Anderson-yes, Miller-yes, Brewer-yes, Kemp-yes.

Mr. Thorne: I would suggest the Board advise me as to what restrictions you think are appropriate. I will then draft the document and present it to the Board for your review. We can have a work session on this if you chose. The public hearing can then be continued. Therefore, the continuation of the public hearing cannot be set at this time and will need to be re-advertised.

Mr. Miller: Can you provide other instances in which declarations, covenants and deed restrictions have been written?

Mr. Thorne: Yes. We have lots of instances we have done this in i.e. subdivisions and PUD's. What makes this different is you are actually getting a moratorium with these deed restrictions until they come up with a plan and then they have to get the plan approved.

Chair Kemp: Should we go ahead and plan a work session?

Mr. Thorne: Let me review these first and then we can set a meeting.

Mr. Scheetz: We would like to get a recommendation by the Commission on the map amendment subject to declarations, covenants and restrictions being put in place.

Mr. Thorne: I would not suggest that until the declarations and covenants are prepared. You as a board need to be comfortable with these declarations and covenants because if the Trustees vote and it results in a tie, what the Commission recommends becomes code. Therefore the Commission needs these restrictions to be satisfactory to you. I will review the draft and call Jill and a work session can then be set.

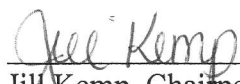
Secretary Ferencz: The continuation of the public hearing will be placed on the website and a legal notice will run in the Gazette a minimum of 10 days prior to the date set. The Gazette will also be asked to publish the hearing date under page 2 Public Meeting Notices. Any interested individual may also call the Township to inquire when the continuation has been scheduled for.

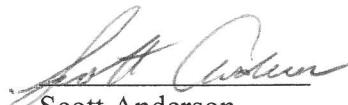
Mr. Thorne: A work session is still a public meeting but public participation does not have to occur.


Having no further business before the Commission, Mr. Miller made a motion to adjourn. It was second by Mr. Anderson. All members were in favor. The meeting was officially adjourned at 9:25 p.m.

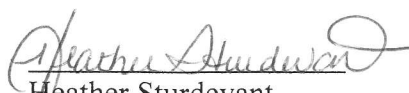
Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Jill Kemp, Chairperson


Scott Anderson


John Miller


Heather Sturdevant


Susan Brewer

Zoning Comm.

July 24, 2008

PLEASE SIGN IN

NAME:

ADDRESS:

PHONE #

MUCE SWEENEY 8809 LAKE AN SEMIN 330 769-7622

Ron Harro ACOIT 3303 383 561

Pete Hamo Avon 330 414 7688

Tom Kaul Sewell 769 3569

STAN SCHEETZ 225 Edibat St Medina 330-222-2636

Henschel + Munsler Drake 10335 W.P. 330-435-6725

Tom Michals 7360 Buffam Rd

Geoff Winkler Akron 330-253-9900

Joe + Kim Becken 7503 Greenack 330 949 0109

Archie Sals 8170 Ballast 330-769-3545

Dianne + Christine Kramer 7363 Buffham

Don Allen 6964 Buffham Rd

Andy Eby 55 Pleasant St Seville 769-2614

Jeff Eby 55 PLEASANT ST SEVILLE 769-2614

Winnie + Gary 5129 Greenwich Seville

Chad 5543 GREENWICH

ROYAL SMITH 7553 Greenwich Rd Seville

LAN SANDLES PO Box 5001 Westfield Center 44251

Vim Kiklay

Roger Neis 5886 Greenwich Rd Seville Oh

Dan Clement 2090 S. Be Intion Rd

Mark Taylor 75 Valley Brook Hocking Ohio

Bill Hutz 9323 S. Larry Westfield Lake 887-5240

PLEASE SIGN IN

NAME:

ADDRESS:

PHONE #

Lyn Yunkle 9238 S. Leroy Westfield 330/725-6649
WILLIE CARRASCO 8809 LAKE RD 330 769 7622
Marianne Enam 7998 Ryan Rd.