

Minutes of Zoning Commission

June 30, 2020

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. John Lateulere, Chairman at 7:02 P.M. Members present were: Ms. Kristina Alaei; Ms. Marion Perry; Ms. Marlene Walkush and Mr. Dennis Williams. Ms. Karen Endres, Zoning Inspector and Mr. David Dietrich, Assistant Zoning Inspector/Zoning and Planning Coordinator were present in person.

Secretary's note: The meeting was held in accordance with COVID-19 Social Distancing guidelines and also held as a "Zoom" meeting.

PLEDGE OF ALLEGIANCE

The Zoning Commission recited the Pledge of Allegiance.

GUESTS: Those present in person were Mr. Ted Otero, Mrs. Kelly Otero, Mr. Jared Flynn and Ms. Bridey Matheny.

Those present via Zoom were Mr. Dale Markowitz; Mr. Michael Cooper; Mr. Todd Lewis; Mr. Glenn Knific, Ms. Linda Nolan; Mr. Cliff Hershman and Mr. Jeffrey Markley, Township Trustee.

PUBLIC COMMENTS: None.

MINUTES

Ms. Walkush moved to adopt the minutes of the May 26, 2020 meeting as written.

Ms. Perry seconded the motion that passed unanimously.

NEW BUSINESS

PROPOSED ZONING AMENDMENT Z-2020-5

Mr. Lateulere noted that proposed Zoning Amendment Z-2020-5 marked Exhibit A have some modifications to the zoning map that do not deal with pending cases in front of the Zoning Commission under Old Business that have a hearing tonight.

Mr. David Dietrich, Assistant Zoning Inspector/Zoning and Planning Coordinator stated that it is a housekeeping amendment with very minor adjustments and in some cases they were caused by some lot splits etc. The area to be rezoned from CB to R-3A is the parcel where the town hall and fire department are located. The police department is zoned residential and the properties were consolidated so it caused a split lot situation which in part was caused by some changes in parcel lines so it will rezone the town hall area to R-3A to conform to what we have with the police department. It would not become non-conforming because township and governmental uses are permitted uses in the R-3A zone through a recent text change. The LIR to

CB is so miniscule it hardly shows up on the map, it is in the Knowles Industrial area and it is a very small piece and is more suited to be in CB than LIR. The PO to LIR is a left-over piece basically surrounded by LIR, it is part of the abandon railroad right-of-way. The R-3A to CB is a piece on Rt. 306 currently zoned residential but it is part of a parking lot area for the Drug Mart plaza, owned by Bainbridge Associates. The R-3A to PO are two lots owned by the Fraternal Order of Eagles and part of that may have been caused by some road right of way work actually done on Chagrin Road some years ago. There is another R-3A to PO split lot scenario where the building is used for an insurance agency, most of the building is in PO but there is a little corner of it that is zoned R-3A. The R-3A to R-5A will simply make the area that is in Canyon Lakes all R-5A that is a relic from the past and it wouldn't matter what it is zoned because the judgment entry controls everything, it is just part of the map clean-up. A good amount of area in Laurel Springs is R-3A but there is a little piece to the westerly part that is R-5A and then there is an additional area in green there, there is no property line there, the boundary splits the parcel of record 50/50 so that would be re-zoned to R-3A. The last one is just a small parcel on Brewster Road zoned R-5A all by itself so it will change to R-3A.

After a discussion, the Zoning Commission members were in agreement to postpone initiating proposed amendment Z-2020-5 at this time for the purpose of additional review.

PROPOSED ZONING AMENDMENT Z-2020-4

Ms. Perry moved to recess the regular meeting.

Ms. Walkush seconded the motion that pass unanimously.

The regular meeting was recessed at 7:41 P.M.

PUBLIC HEARING

Mr. Lateulere, Chairman, called the public hearing to order at 7:41 P.M. He noted that this public hearing is being recorded on Zoom with a regular audio recording as well.

Zoning Commission members present were: Ms. Alaei; Mr. Lateulere; Ms. Perry; Ms. Walkush and Mr. Williams.

Proposed Zoning Amendment Z-2020-4 is an application by Signature Square of Bainbridge, LLC which proposes to rezone PPN# 02-262000 (16832 Chillicothe Road) and PPN# 02-261900 (Chillicothe Road) from R-3A Rural Residential District to CB Convenience Business District.

The public hearing was advertised in the News Herald on June 19, 2020. Mr. Lateulere read the public notice into the record.

Mr. Lateulere read into the record the recommendation of the Geauga County Planning Commission in a letter dated June 10, 2020 in which the planning commission recommended approval of Z-2020-4.

Mr. Lateulere explained the proposed amendment. It is a request to rezone two parcels of property on generally the northern side of Bainbridge on Rt. 306, it is known by most people as the two pieces of property south of Dunkin Donuts.

Mr. Ted Otero and Mrs. Kelly Otero, Applicants; Mr. Jaredd Flynn, Attorney for the applicants and Mr. Andrew Comar, Traffic Engineer with TMS Engineers were present in person to represent this proposed zoning amendment.

Mr. Otero stated that he and his wife are business partners and they purchased the property next to Dunkin Donuts with the intention of moving their office to that location, they looked all over including outside of Bainbridge as well as other cities and in looking at the parcels in this location they started to think about what it could be. He said his background is civil engineering and he and his wife own Otero Signature Homes and his wife is an interior designer and realtor as well. He said they have been in business for 16 years and have been in an office in Bainbridge since 2010 and he was President of the Homebuilders Association in Cleveland in 2017 and they have kids in the Kenston School District, they are part of this community and they love this community and they are real happy to be here. He said Mr. Dale Markowitz is present via Zoom and Mr. Jaredd Flynn is present along with Mr. Andy Comar who did the traffic study. He gave a Power Point presentation and stated the reasons for the rezoning are listed here, the adjacent properties to the north and east are zoned convenience business and the whole goal as they started this process was to work with all of the stakeholders in and around the property including Key Bank, Dunkin Donuts and especially Dalebrook Estates and work with them to create an agreement that we have in place right now, it is recorded and we will restrict certain uses on the parcels but also allow some uses on the parcels, it creates screening, buffers and certain setbacks that are part of the site plan and right now they tend to adhere to those setbacks. He said Mr. Comar will get into the intersection but it is somewhere around 25,000 cars at that intersection on a daily basis and they will get more into the plans of it. He said there was a dilapidated building on it, one he thinks was burnt down and one was torn down way before they owned the parcels. He said Bainbridge Township has pre-conditions for a commercial business as well as the 208 Plan with future consideration towards the extension of water and sewer and sewer is on the northeast corner of the property right by Dunkin Donuts. He said the traffic study does indicate that it improves with the exits and entrances that they are proposing and they did a very detailed residential and tax study and it did not show any adverse effects to the residential property and that would be the key component in working with Dalebrook Estates and we don't want to negatively affect anyone's parcel. He said they met with all of the homeowners and even as they go through this process, even beyond zoning, they truly want to work with all of the neighboring parcels to make sure that the properties are not getting devalued and they are not negatively affecting them in any way shape or form and then lastly, they spoke at the last zoning commission meeting that they are more than willing to make Bainbridge Township a party to the deed restrictions which he thinks Mr. Flynn has a copy of that as well, similar in nature to the Dalebrook agreement so for enforcement rights of the Dalebrook agreement it is not just the subdivision, that Bainbridge has a party to that as well and they are okay with that, it is going to be a great project.

Mr. Otero referred to the next slide and continued by saying these are the two most recent support letters that he got from Dunkin Donuts and Key Bank, they both state that they support the project, Dunkin Donuts clearly states that they are willing to adjust their entrance and exit and they are willing to pay for portions of that as well and they are very excited about having that connection there because obviously you see the traffic problems happening with their increased business. He said what they have discussed is making a south driveway entrance and a south exiting portion almost similar to the Heinen's feature there so you can't cut across in that area and they were happy to come either down through his exits which would be two out and one in or go through Key Bank over to E. Washington if they are heading to Chagrin Falls.

Mr. Lateulere said it would be a right in and right out only.

Mr. Otero replied yes and right now their hardship is getting a semi-truck in there so by giving their traffic another way to get out is going to greatly affect them and Key Bank was excited from day one and they would much rather be part of something a little bit larger than having their standalone structure. He said the one thing that both of these business owners state is that they just don't want any of our adjoining easements or anything of that nature to affect their zoning so we will have to take that into consideration as we are looking at this as a whole and they are all in support as long as it doesn't affect their current zoning lot coverage and so forth. He referred to the next slide and said these are parcels that are in question here, the parcels that they own and right now their offices are over in this building here. He referred to the next slide and said this is Discount Drug and referred to the next slide. He said the main purpose of the design is to have a state of the art design center that is going have all of their companies in one general location and the place of their choice and the place where their kids go to school and where they have the best name recognition and he has done commercial in the past as well but they really want to bring out an amazing architecture to this area and they feel this area needs it and he doesn't know how many times they drive by and go to Eaton and go to different places down in Chagrin Falls or go to ML, they go to Flower or go over to Aurora and they want to stay right here. He said we've got some very good businesses in this area but he thinks the clientele and the residents deserve it. He said they are not looking for a strip center, his best comparison as to what they want to do is ML or Flower, they want a high-end boutique that is going to not only compliment the work that they do and they think this is the best use of this lot. He said they want to protect all of the stakeholders and he thinks it is good for Dalebrook and he thinks it is good for the township to not have a vacant parcel right there. He referred to the next slide and said they feel it is the right time. He said they have a video fly over rendering that he would like to show what they can do. He identified the Dunkin Donuts building, Key Bank and Discount Drug. He said they are proposing to put in a new entrance over here with one in and two out, you will be able to go around the building this way or this way and then cut though over into the Key Bank area if you are heading to Chagrin Falls or E. Washington. He said this is a rendering, they haven't started construction drawings yet, they want to get through the zoning process first but the footprint of the building, the location of where the building is going to reside, the style etc.

Mr. Otero referred to the next slide and continued by saying this is the proposed site plan, Discount Drug is about 45' off the residential properties that our property adjoins as well and our proposed building is about 250' from there and they will be building a mound through here with trees and when their final landscaping plan comes out they will be working with the neighbors of this back property to make sure that those trees are adequately positioned so that we are not adversely affecting them. He said this is not the landscaping plan but there is a row of trees that Dalebrook requested that they are more than happy to do, some of the very large evergreens run the risk of falling on one of the neighboring properties so they are looking to re-landscape this in a high quality manner so you can see that this is the exit that is leading out to Key Bank, Key Bank currently owns this parcel here and we are just showing this as an option for additional parking that we could potentially use but obviously it is not on their property and then this is how Discount Drug will be reworking their parcel and when you go through over here and circulate out, or come through here and exit south or come on out and wait to go north on the other side.

Mr. Williams asked what the distance is on the bottom of the screen there to the residential lot line.

Mr. Otero said it is 174' from the building to the lot line.

Ms. Walkush said she is thinking about a potential problem for you (Mr. Otero) with traffic coming from E. Washington using that cut-through to avoid the light.

Mr. Otero said that is a potential, Heinen's had the same scenario, some people are doing that and Mr. Comar will address that further. He referred to the next slide and said this is the landscaping plan that shows a little bit more clearly the mound, this will all get defined with the types of trees and size of the trees when they get into the final rendering and then further defined when they get into the construction drawings.

Mr. Andy Comar stated that he is a Senior Traffic Engineer with TMS Engineers in Twinsburg and has been there since 2006 and has been working in traffic since 1999 with a big focus on traffic impact studies involved with land use. He referred to the next slide and said they conducted a traffic impact study for this project with the project being on State Route 306 with access on Rt. 306, they follow the guidelines set forth from ODOT and their State Highway Access Manual. He explained that they do a field visit and then they do a traffic count there and for this site they took traffic counts at Rt. 306 and Washington as well as the two existing access driveways, the Dunkin Donuts one will be impacted by the shared access as well as on Washington and the Key Bank location. He said they take that data and they forecast it through the open year when they expect the development to be open as well as to a design year in the future. He said it is based on traffic, over 500 trips, it is a 20 year design period and under 500 trips it is a 10 year design period so from this study they looked to forecast the traffic from 2020 to 2030, that traffic is forecasted based on growth rates using stored traffic data at count stations along the state routes in the vicinity of the project. He explained how they forecast the data with and without development and they want to forecast what the development will generate. He said the development is office, restaurant and little bit of unknown and they were able to generate the total number of trips.

Mr. Comar continued by explaining the Land Use/Expected Trip Generation chart shown in the Power Point presentation and noted that the traffic counts were performed on Tuesday, April 16, 2019.

Mr. Williams said the day they picked for that being just before Easter and vacation and asked Mr. Comar if he knew what schools were in session and what schools weren't, it would be a little weaker traffic week there if what he is seeing is correct if Good Friday would have been that Friday.

Mr. Comar said in 2019.

Mr. Williams said April 19th was Good Friday.

Mr. Comar said he would have to go back and look but he believes the schools were in session at the time.

Mr. Williams said he is thinking that was a very light week traffic wise and he wonders if that was a particular date picked or was it truly random.

Mr. Comar said the date was picked based of their ability to use the traffic counters and as he mentioned the design hour factor, that is the factor based on the day of the week that is counted and based on the classification of the roadway so they feel even if the volumes may have been low because of a pending holiday in the future, say a week or two or coming off of one, take those factors and their number and forecast it accordingly so they are not analyzing it or basing it on that actual data, they are taking that data and making a forecast so he feels their forecast is representative of future volumes for a typical weekday so he would have no worries about traffic data. He said they need to come up with what their development traffic is going to be so they want to basically forecast what they expect a development to generate. There is a trip generation manual to study the land uses and they come up with rates and equations for forecast traffic based on the assumed land use. He said the development here is a multi-use with office, boutique, restaurant, a little bit of unknown so he feels this is a worst case scenario with a combined use of the site and then they were able to develop what they expect based on the size of the total number of trips generated and referred to the bottom chart 99 trips entering and 61 exiting in the morning and 72 and 72 in the PM peak hour. He said these are the peak hours of the day and based on the study those hours of the traffic count are from seven to eight and five to six. He said a portion of the trips that are coming to the shopping center are already on the roadway, they are either stopping off on the way home from work to get something to eat or they are on the roadway driving to get the coffee and take it to work so the top chart shows the percentages for shopping centers a low of 8% to a high of 72% so they applied the conservative average of 34% so about 24 trips in the PM, there is no data in the AM so there may be pass-by trips, there is no available data so they are assuming all AM trips are brand new trips originating to and from the site. He referred to the next slide and said this is an example of the Dunkin Donuts driveway but what we calculate is the average delay of someone sitting in the intersection waiting to make their turn movement, it is covered up on the right side and both delays are given letter grades A through F, A is best, F is the worst.

Mr. Comar continued by saying because of shared access they are able to relocate some of that Dunkin Donuts traffic to the new access on Rt. 306 as well as to the Washington access so by removing some of the traffic they are able to improve the level of service by providing an alternate access from a Level of Service F for exiting vehicles of Dunkin Donuts these are the people waiting to leave. He said with the alternative access they are able to improve that by over 20 seconds and improve it by a letter grade. He said the intersection of Rt. 306 and Washington and with the access on Washington they are able to bring the cars from the west that don't have to travel through that intersection which is big at that intersection because people that are exiting don't have to make a left onto Rt. 306 and another left at the signal so that intersection won't be impacted by development traffic. He said the cut-through thing was mentioned earlier but we find a lot of times when people want to use side streets or parking lots they are trying to avoid a situation where the intersection doesn't operate adequately so in this situation we don't think there will be a significant amount of people that will find their way through that parking lot and then turn back onto Rt. 306 as opposed to just coming down to the intersection. He said in the peak hours people might try to do it but if they find out they can't get through there as fast.

Ms. Walkush said it is illegal.

Mr. Comar said that is true and the only other finding that they found is at the proposed driveway on Rt. 306, it warrants a left-turn lane so Rt. 306 would be widened to account for a left-turn lane at about 175' which would then basically be based on the length of the existing turn lane, the roadway width they would basically widen Rt. 306 to extend that turn lane through the access driveway to provide additional storage for Rt. 306 and Washington as well. He said the study will have to be reviewed and approved by ODOT and they will have to issue an access permit to construct the new driveway and with the study showing that left-turn lane is warranted ODOT would not issue an access permit if the left-turn lane is not constructed and put in.

Mr. Otero said that ODOT has been sent that traffic study and they are in contact with ODOT.

Ms. Perry asked about the proposed tenants.

Mr. Otero said when he brings back the construction drawings and they being one of them that will be committed that they will know what is going on that property, he is not going to build a building and have it be vacant so they will know who the main tenants will be and they will be designing the structure around that, they will have the footprint of what they are looking to do and the parameters of the Dalebrook and the Bainbridge deed restrictions. He said the main focus is their design center.

Mr. Lateulere solicited additional comments for the proposed amendment.

Mr. Lateulere solicited comments against the proposed amendment.

Mr. Michael Cooper of 8428 Eaton Drive said he wants to say that the design is very pretty and if something is going to go in he doesn't have an objection to what it is he just wanted to make it clear he is not naïve enough to think that nothing is ever going to go in there. He said he has several concerns and one is the precedent that this is going to set, not just for his development but what happens next time when someone wants to take a chunk out of Pilgrim Village or Lake Lucerne to put in another building, he does think that the zoning commission and the trustees should consider that because you are not just making a decision on this, he knows precedents are set for the future. He said he sees a couple things in Mr. Otero's presentation that need a little clarification, the Dalebrook Homeowner's Association did make an agreement with them but it wasn't because we wanted to, quite frankly he threatened to sue each individual homeowner for their deed restrictions if we didn't cooperate knowing full well that none of us can afford that kind of legal issue and he does think that it is important that you realize that that type of negotiating was done and he would also like to say that right now Dalebrook is used as a u-turn all of the time for people coming out of Dunkin Donuts, he doesn't think the no u-turn signs are really effective because it happens constantly, he thinks this would make it worse. He said he also thinks it is very naïve to think that during the high traffic hours people will not cut through this development to get from Washington Street to Rt. 306 south. He said the number of people who use the plaza across the street to avoid the intersection is considerable and frankly that is a very rough parking lot to get through and people do it anyway but if you have a nice brand new road coming through this development there is going to be a lot of cut through. He said he realizes that he is probably fighting a losing battle here but he felt it necessary to speak his mind and he does want to say that he does appreciate the fact that in spite of everything he does appreciate that Mr. Otero is considering using landscaping and such to make it user friendly and his last comment would be to the zoning commission and the trustees if they approve it he does think there should be language stating that it must be as it is planned, our other biggest fear that it would get rezoned and then something would happen that it wouldn't work out and we would end up with an Arby's and a check cashing place sitting there so this is all he has to say and he will yield.

Mr. Lateulere thanked Mr. Cooper and asked if there is anybody else who would like to speak against this proposed amendment.

Mr. Cliff Hershman stated that he owns where the Drug Mart building is on East Washington and he doesn't see any connection to all our customers that visit our building and if we are going to have something that helps the traffic connect Rt. 306 and East Washington then he thinks all of the traffic that the Drug Mart customers bring should be included in the plan and if this is our chance to do this then he thinks they should be included to make this right if you are going to go ahead and rezone this property. He said he thinks not to include them and go through Key Bank which doesn't have a lot of customers and if the Drug Mart customers can't get onto the access road on East Washington we are missing an opportunity.

Mr. Otero said he would agree with him and he would welcome that and he can't speak for Key Bank but they had mentioned that they spoke to Discount Drug Mart but they didn't want to go through the whole thing at that time because they didn't know about this project but when he brought it to them they had expressed some interest in having that happen.

Mr. Lateulere said Mr. Hershman, you are the owner of record for the old Sears which is now the Drug Mart, correct.

Mr. Hershman replied yes. He said Drug Mart wouldn't have anything to do with any discussions about the site plan as it would be us, not them. He said they haven't been contacted and he thinks they should be included in the conversations.

Mr. Lateulere asked if there is anyone else who would like to speak on this application at this moment. He said he wanted to commend the applicants on what they presented here, he knows that it has been a long time coming for them and what they presented, provided it gets built, will be one of the nicest commercial if not the nicest commercial building that Bainbridge has, he can't think of one that is quite that nice and he respects their comments about ML and Flower in that plaza and certainly was a contentious development when it was done and he thinks most people in that community recognizes it for the value that it brings. He said this is very well done, the Oteros should be congratulated for that and he knows it has taken awhile to get here, lots of studies, lots of correspondence and people to talk to. He said he appreciates Mr. Comar's comments about how the numbers are normalized based on the April 16th date, going through the ODOT traffic manual to be able to get those normalized to an average daily traffic count. He said as you were going through this in your report, we talked a little about in the initial part of the presentation how Dunkin Donuts would be turned into right in and right out and no left turn in, in the report you have, and he is bringing it up because he wants to make sure it is at least discussed, it shows Dunkin Donuts with a left out and a left in in the recommended land use traffic control plan on page 61 and he brings it up only to question Mr. Comar what might change in any of the scenarios at East Washington and Chillicothe Road if we had different turning movements moving further south.

Mr. Comar said at the time of the study we hadn't finalized the access issue so from a worst case scenario we left those movements available so removing those turn movements isn't going to affect the volumes at Rt. 306 and Washington, the left turns would just be pushed further south to the new traffic light so they wouldn't be as close in the que, Rt. 306 and Washington so a car stopping right now at Dunkin Donuts sometimes they block somebody from getting in that left turn lane and then if the through traffic is backed up that far as well now he can't get to that left turn lane so if the arrow comes on for that and there is no car there he is blocking and wasting his turn at Rt. 306 so by moving that further away from the que and what they consider to be a functional area of Rt. 306 and E. Washington intersection they feel that it will allow people to better utilize the left turn lane at Rt. 306 and Washington from an access standpoint but it provides extra storage and extra distance but from a capacity standpoint we wouldn't expect any changes in volumes.

Mr. Lateulere said so what it might do differently, it will improve the operation of the Dunkin Donuts driveway because you won't have people turning left into it.

Mr. Comar said the Dunkin Donuts drive would go to a level of service of probably B or better as a right turn only, right turn in and right turn out so it would be one gap as opposed to two gaps in the traffic stream so their access point would be cleaned up.

Mr. Lateulere said your thought with this driveway to the south then the left turn out would still operate at a better level of service because you would have two lanes of stacking traffic all the way up to the traffic signal so it is less likely to have a car that is sitting waiting to turn left that the light is impeding their ability to turn.

Mr. Comar said they don't want to create a situation where that que is so long that if there is a stop in the left turn lane you don't want people leaving a gap so the more we keep that further away and keep that open it allows people to make a better decision and judgment of the gaps in the traffic stream.

Mr. Lateulere said that actually helps because when he looked at the traffic report he had that question so he appreciates that. He said this has been shared with ODOT and he assumes it has been discussed with the county engineer, the access out onto E. Washington you would be changing the interaction on E. Washington, would that be something that has to be discussed with the county engineer, you are adding traffic to it.

Mr. Comar said he is not sure what their exact procedure would be but typically when they have done studies and ODOT has approved it the county engineer goes along with the recommendation so they haven't seen much discrepancy in the findings once it has been approved by ODOT.

Mr. Lateulere said obviously our concern as we look at this is that because we are a township Rt. 306 and Washington are under the jurisdiction of two other government bodies and if those intersections are already at a level of service E or below obviously the way that we interact with that, he believes that this development might actually help that to a certain extent but we still don't have any control on what is done on those roads so as we go through this he thinks any communication that has had with those two jurisdictions, the overall picture is what helps the whole thing happen so any indications that we have that show that there has been advanced communication, any indication that they looked at the study that they concur with the findings and generally speaking this is agreeable for them in the county as well, any of those are very helpful to us to have these conversations.

Mr. Otero said they went to ODOT basically because we are on Rt. 306 so we have not gone to the county, our direction was more towards ODOT which they have looked at it so we communicated as much as we can and they are at the point where they want construction drawings and we can't take it any further with them.

Mr. Lateulere said he thinks the discussion with Mr. Hershman actually could help your conversation with the county because that intersection is already designed to handle a 45,000 sq. ft. commercial building and the amount of traffic on that so the amount of additional traffic that you would contribute or Key Bank or Dunkin Donuts coming out that way gets watered down a little bit more but he does think that that is an important conversation because the county does own that road, they are the ones that own the problem with that right turn lane and that has an interaction in expansion of commercial uses in the area, that is kind of where the imbalance happens, we are being asked to make land use decisions at the same time those land use decisions impact roads that we don't have any control over so any information we have about those communications helps.

Mr. Comar said it is worth knowing that when ODOT receives these studies, ODOT is the one that maintains the traffic signal at that intersection he believes so when they get these studies the findings on that intersection they then have it in their records for a potential further study so from their standpoint they can use in their file.

Mr. Lateulere said to justify future improvements.

Mr. Comar said they could look in their files and say they had a study done for an access drive and we have that data and it does open up a dialogue for other things as well when they get these things on file and keep them as a matter of their records.

Mr. Otero said and leaving this parcel as is right now doesn't necessarily affect that so they have had discussions with and obviously they are not in control with the speed limit coming through there, all of those things could help but he thinks this can spur some of that going forward.

Mr. Lateulere said just reiterating because it is not on the site plan and the site plans are from 2019 or 2018, the commitment that you are working with Dunkin Donuts and their access is going to be provided, this all goes through a right in and right out.

Mr. Otero replied yes.

Mr. Lateulere said the next one is probably more for Mr. Flynn, you had indicated that Mr. Flynn had some deed restrictions that the township could be a party to as we are going through this and he thinks as Mr. Cooper noted his interest in this is to make sure that you build what you are going to build.

Mr. Otero said sure.

Mr. Lateulere said in the interest of open and honesty from his standpoint that is his interest too and we are going to rezone two parcels of land in the township in an area that probably will only happen that way if we are able to mitigate some of the off-site issues that would make it acceptable, we need to make sure that you are going to build what you are going to build so his question to Mr. Flynn, if he could give the board an overview of what those look like. He said he knows what was done with the homeowner's association, it was filed, it is a matter of public record, he did look at it and read through it, if we could just get a brief on that.

Mr. Jared Flynn stated that he is giving Mr. Lateulere a copy of the draft that they put together which mirrors the amended deed restrictions with Dalebrook. He said obviously Dalebrook has redone their deed restrictions that he has taken the critical pieces out. He said they have met with Dalebrook about a year and one-half ago and to Mr. Cooper's point about threatening to sue, the threat to sue each and every homeowner, that wasn't the intent, the reality of the situation was we might have been forced to if we couldn't come to an agreement if we weren't able to ultimately reach an agreement with Dalebrook and the reason was if Dalebrook's HOA was no longer registered through the State of Ohio, the Secretary of State, their registration lapsed so there wasn't an HOA active that we could of even if needed to sue to challenge the deed restrictions. He said the deed restrictions had been in place since the fifties when Dalebrook was established, it required Mr. Otero's property, the two parcels to be residential and we didn't view this as economically feasible and that is why we started the whole process but we started it with the Dalebrook committee, the last thing Mr. Otero wanted to do was go in and sue so he reached out to me and asked what the process is, how do we navigate this process so we went to the committee, we took donuts, bagels, we met with the committee members and they seemed okay with it and then we provided them with renderings, we invited the entire community, we had 40 people there, Mr. Comar showed up, we had our appraiser there, again taking into consideration their comments, we started drafting things. He said this took about almost a year to really materialize so we started putting things in place and our options were again, come to an agreement or we would have to file a lawsuit, we didn't threaten, we didn't go in there saying we are going to sue you, Mr. Otero is not that type of person. He said when push came to shove his only other option would have been unfortunately a friendly lawsuit that would have to name every single homeowner because there was a committee but with respect to them the agreement that they drafted it lays out protections, it talks about the commercial land use so it puts parameters where the building needs to be situated, it talks about the site plan and the landscaping plan, it talks about where the buffering would be and it refers back to exhibits that were attached to the deed restrictions that were filed and ultimately would be filed in this case. He said the landscaping plan, the footprint of the building, light restrictions, the ingress/egress are all addressed in those restrictions, they were also addressed in the deed restrictions that are recorded on record with the Dalebrook HOA and there is also an architectural design review so everyone's concern is they didn't want it to look like the green building across the street and we don't want it to look like that either so we put in some parameters and they have some review rights and ultimately we have prohibited uses, they said they don't want a fast food restaurant, they don't want drive through restaurants and we put all of those restrictions in. He said what they are proposing to the township is to mirror these restrictions so if something happens to Dalebrook in the future, they have lapsed before, at least the township would be able to enforce and move forward.

Mr. Flynn continued by saying they met with the trustees and that was the suggestion in the discussion point with the trustees, they thought that would be a good way to give the township the same type of protections as Dalebrook so that is kind of generally what it is, those have not been recorded that you have in front of you but if you look at what we did and take what was recorded you will see a lot of the same language, obviously some things have to change just based upon the parties and definitions, it is a lot shorter than the other document.

Mr. Lateulere said 25 pages. He said what he doesn't see in here necessarily, he thinks it was recorded with the property owners, the homeowner's association was a reference to the architectural plans, he doesn't see that same reference in here, he has ingress and egress, lighting, site plan and landscaping plan. He said he doesn't have Exhibit B so it might be in that.

Mr. Otero said he thinks the architectural and it won't be 100%, be that exact architecture but it is going to be close, it might be all white, we don't know right now but the idea was to give them one last look at it and say okay here is the picture of what we are supposed to do, it is pretty good what you are proposing to do and here is the construction drawings to deal with it so.

Mr. Lateulere said so in the spirit of open and honesty he thinks that he would like to see the architectural plans in here with some indication of what the materials might look like because he doesn't want a repeat of what happened across the street so from that standpoint if that is something we can work on getting through here as an Exhibit D.

Mr. Otero said they are going to give the township architectural review of the building at that point when we come with the construction drawings and if the commission doesn't like the colors or the architecture on that then you would be able to give him that feedback.

Mr. Lateulere said you are right insofar we have an architectural review board which we don't have.

Mr. Flynn said he would need to look, if that is not in there and it needs to be in there.

Mr. Otero said they are okay with architectural review, we want to build something, but he doesn't want to commit to it being a white building or a tan building or whatever at this point.

Mr. Flynn said the other thing we need to be careful of is Dalebrook wants it to look a certain way, they approve or want something and then we have to come back here, we could be going back and forth, everyone has got a little bit of a different view, we were going to follow the zoning code and a lot of references in the architectural review was to follow Chapters 141, 143 and then but we can certainly talk, the trustees haven't looked at those provisions, he figured they would have some drafts if needed.

Mr. Otero said if we are coming back before this board we won't have any surprises.

Mr. Lateulere said that is what he is getting to as well is he thinks if we can get through any of those early comments, this looks great, if you draw that he thinks you have no problems, if you draw something different than that there could be discussions so he doesn't think it is the zoning commission's desire to stand between you and the Dalebrook HOA and mediate that or even get in between the two, our interest is if we are making a decision from a land use standpoint to rezone two parcels in a residential district, to allow that we want to make sure we get that.

Mr. Flynn said he knows in discussing with the township their concern was what happens in the future 20 years down the road so we are assuming a lot that this is being built that Dalebrook wanted certain things in there, we have to follow that, down the road we don't know if Dalebrook is going to be able to enforce so design features of the initial design wasn't at the forefront of that but we can certainly look at that.

Mr. Lateulere said he thinks it is part of the thinking about 20 years down the road as well, the concern being that the agreement between you and Dalebrook could be modified between you and Dalebrook at any time and the township wouldn't have any knowledge or ability to help to enforce that and if Dalebrook is no longer there, whether you own it or not, 20 years down the road if they are no longer a valid homeowner's association everybody is standing out in the parking lot when we are having zoning commission in here and asking why didn't anybody think about this and that is why our interest is getting the township vested in this that has similar rights and protections to what is going on so they can't be modified outside of this forum, they have to be modified within this forum as well so that we have that and Ms. Endres or her predecessor or whoever that might be at some point happens to open up the file and go yep you can do that, we've got it it is right here and he thinks we have the same right intent and alignment there it is just he thinks getting some of those architectural details in there and how that is going to be worked out will be very helpful working through that. He said just a comment on the site plan, just the completeness of it, he knows these are from 2018, the site plan that is attached to this for the township he would like to see include the proposed modifications to Chillicothe Road so where that left turn lane is, the right in and right out for Dunkin Donuts and the reason behind that is if ever you are going through the ODOT process and it needs to change it should come back through the process with the township to talk about how that is progressing so he would like to see that updated on that and obviously unless Key Bank tells you you can use that for overflow parking but remove it from this and maybe hatch it for future overflow parking.

Mr. Otero said one of the drawings they have does show it as future or optional.

Mr. Lateulere said that way it can be added in the future, Key Bank or any successors if you can do it then we are good with that. He said the site plan has been given to us tonight and he doesn't know that anybody has really had a lot of chance to look at it but this is just in front of us right now. He said obviously sewer and water, 208 Plan, you will need the township trustees to amend that, the only statement with that is he does see that Mr. Markowitz's hand is up if he wants to make a statement.

Mr. Dale Markowitz stated that he was just going to mention that in the recorded deed restrictions there is an architectural and design review process with the homeowner's board so they do have the right to review and approve our exterior elevations and drawings. He said they didn't think that the township would want to have that protection as well because typically you are not doing architectural review and secondly we thought the homeowner's association would have the greatest interest in that and we would be able to protect those interests.

Mr. Lateulere said he thinks the only statement in that is what happens in 20 years.

Mr. Williams said they already lapsed once.

Mr. Lateulere said back to the statement you will need to have the trustees amend the 208 Plan, that is not in our purview but it does need to be considered by this board because the Land Use Plan does say that CB is meant for areas that are in the 208 Service area, this is in a future service area so it is just a statement for the consideration of people here that that process has to be gone through.

Mr. Dietrich said he would suggest that at the appropriate time that we have our legal counsel review the restrictions.

Mr. Lateulere said he had a conversation with one of the trustees prior to coming here tonight about trying to get through some of this review with legal counsel and any comments that we have so when it goes to the trustees it is not a painful process here and there so he would absolutely like to pass this by our legal counsel in the next 30 days to be able to get a yes we are good at that approach so that we don't get to this process and then have a hiccup in the future.

Mr. Dietrich stated that the 208 map was mentioned and of course that should be examined by the Board of Trustees and presumably get in contact on a preliminary basis with Water Resources. He said we would want to see the two sublots consolidated so that would be a re-plat and a legal description and a survey map with ingress/egress easements obviously and the easement document that goes with it as well and we would want our legal counsel to review that and he thinks at one point a variance was mentioned maybe on setbacks.

Mr. Otero said on the front portion, they are trying to stay away from residential property as far as possible.

Mr. Dietrich said there would be a variance for Dunkin Donuts as well.

Ms. Endres said there is probably going to be a couple of variances involved with the front setback from the road and also for driveways crossing lot lines, we don't have that many scenarios where we have shared driveway situations.

Mr. Otero said they would have to get an adjoining easement with them and that would all be part of the construction drawings.

Ms. Endres said based on Mr. Hershman's comments it might be modified a little bit to include that connectivity.

Mr. Otero said right now it is up in the air.

Ms. Endres said just be aware that our zoning provides for shopping strip centers where there is a shopping center that has more than three tenants, it is a conditional use permit that is approved through the board of zoning appeals, make sure you have that on your radar. She said the other comment she had is to be sure our zoning secretary has copies of all the exhibits that are being passed out tonight because they are public records. She said she would suggest giving us hard copies of everything.

Mr. Dietrich said the county contacts are Mr. Nick Gorris of the Engineer's Office and Mr. Brien Croff of Water Resources when you get to that stage and we would like to be kept in the loop a little bit, we would appreciate that.

Ms. Endres said she actually heard from ODOT, they were questioning how far in the process we were with this and she told them she would have more information for ODOT after tonight's meeting.

Mr. Lateulere said he also recognizes that some of this is detailed stuff that is going to require the construction drawings just like you said so he would throw out there for your consideration that if we at least get it as part of this agreement with the township it is contemplated that this is the site plan, right in and right out all subject to going through the proper channels and presenting the construction plans, if we stall all of that out that will reduce any hiccups in the future when something happens, we will at least then know what the plan is and we can react relative to that plan so he encourages that we include as much as these types of things.

Mr. Otero said without getting into the construction drawings.

Mr. Lateulere said that is right, he is not asking you to provide full dimension construction drawings for this necessarily, you need to have an accurate site map and whatever boundaries we can draw around it to include in here would be very helpful without having to get into the expense of full blown construction drawings, he respects that so he would just encourage you to think about how we can include some of this into this agreement and then pass it through legal counsel prior to the next meeting so if we can get that in the next couple of five days or so, get a draft in and we can get that to legal counsel and then have it in front of this committee potentially for the next meeting if that is agreeable. He said he thinks this board will review this too to see if we have any other comments, he did read what was recorded, what is in here is reasonably close, he can't warrant if it is exactly the same, it is reasonably close.

Ms. Perry said this is absolutely lovely and it will be a great addition to Bainbridge. She asked what is the expected timeframe.

Mr. Otero said they would like to be under construction next year, that would be the goal, COVID put a little bit of a wrinkle on that with the process but the first plan is to solicit some tenants that we've got an eye on right now and then move towards the construction drawings once we have those agreements in place, we will be designing the building not only for us but also the two main tenants.

Ms. Perry said it looks very nice.

Mr. Otero said that is their intent and it is everything that they have done.

Ms. Perry said she would like it to be very much like the drawings. She said it was mentioned you might be coming back with changes which she would like to see and she thinks an all white or all black building would not look very good.

Mrs. Otero said it will be very classy.

Mr. Lateulere said the hearing will be held open because there will be additional information next month, that would be his desire to do that. He asked if there are any other questions or comments for the applicant prior to.

Ms. Walkush said her question was answered so she is good.

Mr. Lateulere asked Mr. Markowitz if he had anything additional to say.

Mr. Markowitz said no.

Mr. Flynn asked Mr. Lateulere to go over what additional items the zoning commission would like to see prior to the next meeting so we are all on the same page.

Mr. Lateulere said we would like to see this updated to reference a couple of items, a current site plan that shows the right in, right out, the left turn lanes. He said you may or may not know the outcome with Mr. Hershman so maybe show a potential connection there, keep your options open. He said he would encourage you to, if you can even take what you got, that rendering is based on something, you can even get a white line drawing of what that was based on.

Mr. Otero asked the actual building.

Mr. Lateulere said yes.

Mr. Otero said it is in the packet that you have right there.

Mr. Lateulere said the elevations, yes. He said if it is not possible for the next meeting that is okay but he would like to at least have a discussion about adding language into here that that would be revisited by the township at that point, that it would look generally similar to that. He said the site plan would be updated, statement about adding this into the 208 Plan area as part of the agreement.

Mr. Flynn said that would be the county, we would certainly request it be added and he doesn't want that to hold up, he doesn't see any reason for it to be denied.

Mr. Lateulere said is it feasibly buildable or any other commercial piece would be buildable if it is not in that 208 Plan, he doesn't know that answer. He said he will talk to one or two of the trustees involved to get their feeling on that.

Mr. Dietrich said we will need the trustees to consider making a motion recommending it to the county.

Mr. Flynn said we could put it in the deed restrictions.

Mr. Lateulere said he thinks the intent of our Land Use Plan is that areas are to be in the 208 Plan so he thinks it is consistent with our Land Use Plan.

Ms. Endres said typically it is a request of the property owner to have the 208 Plan amended.

Mr. Lateulere said the services are there and as long as you guys build it it is fine, it is the what if. He said those are the only comments he has that he would like to see in here and then maybe some language about, there is no language in here about it coming back through with construction plans to determine their consistency with what has been presented, through the zoning department with Ms. Endres and for her to look at it and say it is generally consistent with part of this we need to have enough definition that she could say it is generally consistent with this. He said the more vague we leave the exhibits the less likely it is she can make a determination of general consistency so the more vague we leave the exhibits the more desirous it would be of him and potentially the trustees that it go back through a process to make sure it is consistent and the more specific we get on these exhibits he thinks the more comfortable everybody is that Ms. Endres can just review it for general consistency.

Mr. Otero asked if it needs to be presented to the zoning commission prior to putting in for a zoning permit.

Ms. Endres said she would just do similar to what Market Place does, there is an agreement with Market Place where the Board of Trustees reviews the design of the buildings like when Party City and Gordmans went in, the board reviewed those and approved them so she would likely run it past the Board of Trustees as part of her due diligence for them to at least look at it.

Mr. Flynn asked Ms. Endres if she would do that or they would present to them.

Ms. Endres said the way it works with Market Place is you would present her with what you are proposing to do and then she puts it on the trustees' agenda and they look at it for general agreement that it is in conformance with the design standards that were agreed upon.

Mr. Lateulere said he is generally okay with it going straight to the trustees and not coming here, at least putting in here and that is a reasonably easy modification, if they say no they want it to go back to the zoning commission and it won't come to us at all, whatever they want to do he is reasonably okay with that determination being made as a modification.

Ms. Endres said she thinks one of the reasons for the trustees, the zoning commission only meets once a month and we could run into some time restraints.

Mr. Lateulere said it is a catch-22, we need the checks and balances and then some language in here relative to if a change is requested what that process is to go through, a major change, you build it and you want to knock it down and build something else there should be some language in here relative to how changes occur, they would have to go back through the process, that is his own personal opinion, counsel may disagree with that, he doesn't know but he would like to have some sort of language in here about how that gets changed.

Mr. Flynn said that one he has to think through because they have other deed restrictions and he doesn't want conflicting language.

Mr. Lateulere said he respects that.

Mr. Flynn said he will certainly look at it, the intent which obviously gets the stakeholders next door and as we move forward, again, 30 years down the road, we can't predict what might work for there, so he doesn't want to get too bogged down in the details but he will look at it and he wants to make sure it is consistent.

Ms. Walkush said she has a question, the very first paragraph states the two parcels, if you are going to consolidate the properties what will that do to the agreement.

Mr. Flynn said it would be subject to those two parcels at the time, if it is consolidated they will update the agreement, he thinks they have language in there that references the consolidation or the possibility of a consolidation.

Mr. Dietrich said it would have to have a replat and go to the Planning Commission.

Ms. Endres said there are no more lot splits by affidavit.

Mr. Otero said he thinks the Planning Commission also made a recommendation that they have to be consolidated.

Mr. Lateulere said there is language he knows in the deed restrictions with the homeowner's association, it is between you and the county how it all gets re-platted, he is not an expert in that, he is not a surveyor, just know there is probably some conversations to have with the county to make sure you get through all of that because the language is in the document which is great but there might still be a hurdle or two to get them consolidated.

Ms. Endres said there are no more provisions for vacating a subdivision, it has to be re-platted.

Mr. Lateulere said with that he will take a motion to recess the public hearing and continue it to the next regularly scheduled meeting on July 28, 2020.

Mr. Williams made a motion to recess the public hearing.

Ms. Alaei seconded the motion

Vote: Ms. Alaei, aye; Mr. Lateulere, aye; Ms. Perry, aye; Ms. Walkush, aye; Mr. Williams, aye.

The public hearing was recessed at 9:12 P.M.

The regular meeting was reconvened at 9:12 P.M.

PROPOSED ZONING AMENDMENT Z-2020-3

Ms. Perry moved to recess the regular meeting.

Mr. Williams seconded the motion that pass unanimously.

The regular meeting was recessed at 9:13 P.M.

PUBLIC HEARING

Mr. Lateulere, Chairman, called the public hearing to order at 9:13 P.M. He noted that this public hearing is being recorded on Zoom with a regular audio recording as well.

Zoning Commission members present were: Ms. Alaei; Mr. Lateulere; Ms. Perry; Ms. Walkush and Mr. Williams.

Proposed zoning amendment Z-2020-3 is a text amendment to Chapter 105 – Definitions; Chapter 135 – R-5A Rural Open Residential District; Chapter 139 – R-3A Rural Residential District; Chapter 143 – Convenience Business District; Chapter 161 – General Provisions and Chapter 165 – Nonconformities.

The public hearing was advertised in the News Herald on June 19, 2020. Mr. Lateulere read the public notice into the record.

Mr. Lateulere read into the record the recommendation of the Geauga County Planning Commission in a letter dated June 10, 2020 in which the planning commission recommended approval of Z-2020-3 with modifications.

Mr. Lateulere stated that we have talked about these chapters at multiple meetings and we can go through the public comments and then we can go through the Geauga County Planning Commission letter if the zoning commission so desires. He said the definitions are largely being cleaned up to make them consistent with both Ohio Revised Code and revisions we have made previously to other chapters and revisions that are currently in front of us. He said Chapter 135 – Rural Open Residential District, this had some of the more significant changes that related to how lot requirements are applied, lot coverage and things of that nature also had the revision for conditions of a tennis club removed. He said Chapter 139 which is the R-3A Rural Residential District, the changes in Chapter 139 were reasonably small as a result of most of the regulations being in Chapter 135. He said Chapter 143 had some changes throughout to how we regulate things like kiosks and ATMs as noted by the Planning Commission. He said Chapter 161 which is general provisions, we had some revisions that were brought it into compliance with the Ohio Revised Code and we also revised some of the requirements for temporary uses and accessory buildings and permitted yard obstructions as well as lot coverages. He said Chapter 165, non-conformities was modified to add language in predominantly to deal with legally non-conforming lots of record that were created prior to 1978 and then deal with a few issues we had relative to lot frontage and things of that nature.

Mr. Lateulere solicited comments for the proposed amendment.

Mr. Todd Lewis stated that he is the Vice Chair to the Bainbridge Township Board of Zoning Appeals and he wants to begin by expressing thanks for many, many hours of tedious work in refreshing and bringing our zoning resolution and zoning code to a current state and tweaking them and doing the best you can to debug and remove conflicts. He said he wanted to go on the record that the Board of Zoning Appeals Chairman Mr. Michael Lamanna did send an email out today to the trustees, to the zoning commission, to the board of zoning appeals, to our board secretary, our zoning inspector and our Assistant Zoning Inspector Mr. Dave Dietrich. He said the expression was that the board of zoning appeals has some conflicts on this and he believes the memo expressed some of them, he does not intend to belabor this and go through all of those points again as everybody has it in writing, it might be nice to enter that document into the record.

Mr. Lewis continued by saying as the board of zoning appeals applies code to the applicants in our real life situations, we have discovered some ambiguity, conflicts and quite frankly would love to request more time to our board to review some of those chapters particularly when we are dealing with lot coverages, recreational structures, non-conforming lots, setbacks and a lot of things that go with it so he thinks that the board of zoning appeals is gently asking, we don't see a rush in getting these amendments through the system and adopted, we are more concerned about getting them right and being able to apply it as we do in fact represent the residents of the township as well as the township government so he hopes that you will all take that under advisement and he just wanted to make that statement along with some thank yous for a lot of hard work by a lot of people so enough said.

Mr. Lateulere said he will recognize the correspondence from Mr. Lamanna and thanked Mr. Lewis for his comments and we will have a discussion on the direction the zoning commission wants to go once we get into this hearing and get all of the public comments. He asked if there is anybody else who would like to speak for the amendment as proposed.

Mr. Lateulere solicited comments against the proposed amendment.

Ms. Bridey Matheney stated that she represents the Woods of Wembley Homeowner's Association Board and she seconds what Mr. Lewis said, the Vice Chair of the BZA. She said the issue with respect to the Woods of Wembley Homeowner's Association is that there are actually three sections or three chapters you are proposing to amend that are very much a concern for the board, one is Chapter 135, the second is Chapter 139 and the third is Chapter 165. She said the reason is that currently as she understands it, the New Wembley Club LLC is an applicant who is seeking a renewal of a conditional use permit and that application has been pending now for some time before the BZA and that mostly due because of COVID, they were due in May and then with COVID that hit we have not had that review yet scheduled. She said there are many concerns as to whether or not the conditions are already imposed by the BZA plus actually the zoning resolution are being followed so that is a concern to the residents and to the board so she would champion what Mr. Lewis said and piggyback on that and say if there is any way we can get more time and to continue this public hearing to give more time to review it and also perhaps until we actually have a time to consider and rule on that renewal of the conditional use permit because she thinks anything before that can cause some issues with respect to the treatment of a non-conforming use and perhaps with the conditions that have actually been imposed by the BZA.

Mr. Lateulere stated that Mr. Glenn Knific has some questions.

Mr. Glenn Knific of 8460 Woodberry Boulevard said good evening and stated that given Mr. Lewis' comments as well as Ms. Matheney's he is not even certain that his questions are relevant so he will make them quick and for them it may be more in the form of concern. He said the principal concern or a principal concern is that the amended chapters 135, 139, 165 continue to obligate private tennis clubs residing within R3 and R5 districts with the obligation to remain fully compliant with all of the existing conditions that are set forth in 135 and 139 today as well as and importantly all of the conditions set forth by the board of zoning appeals that are manifest in its minutes and records, past, present and perhaps future as well as any existing legally binding writings if any so that is sort of the heart of it and he won't get into any detail but just for example one minor condition that exists, maybe not so minor within 135.05 today is the condition that private tennis clubs cannot have more than 700 members. He said protecting the safety and well being of the residents remains of paramount importance in our neighborhood, there is an abundance of children playing, residents walking, running, bicycling and in that vein Section 135.05 provides some degree of vehicle traffic protection by limiting the number of members and that is just one of the conditions that he thinks is important that we be able to see continue and whatever the amended chapters might be so that was it.

Mr. Lateulere asked if there is anybody else that would like to comment or have questions on the proposed amendment. He stated that we had a couple of comments that we had made the last time relevant to your initial question which was continuing to obligate tennis clubs to remain fully compliant with all current and past conditions that were both part of the zoning resolution and part of the conditional use permit. He said we had a discussion about adding some language into Chapter 165.14 and this is something for the commission to consider as sent to the Planning Commission because when we had this comment it was after we initiated was that we would add into that final sentence, it would read something along the lines of "however the conditions applicable to such nonconforming conditional use shall remain in effect, including **ADD - "all conditions imposed by the board of zoning appeals and"** the general standards and specific criteria in Section 117.13" so we will add the words "all conditions imposed by the Board of Zoning Appeals and" which is a revision that we could elect to make as we have our deliberations tonight. He said he believes from his viewpoint that actually does a lot to vest the previous actions that have happened, not suggesting that it is the position of everybody on this body but he would certainly advocate that we add that language - "all conditions imposed by the Board of Zoning Appeals" between the words "including" and "the". He said was the biggest comment that Mr. Knific had on that he wrote down, if he missed something please bring it to his attention. He said certainly the comments about New Wembley LLC and the pending conditional use permit application and Mr. Lewis' comments about the BZA's input into this, he would like to, without closing the public hearing, he would like to have a discussion about where the conditional falls on that topic. He said the Board of Zoning Appeals does have a, what he would like to say, sometimes thankless job of sitting in front of the general population of Bainbridge dealing with the application of our resolution. He said he knows Mr. Lewis was here a number of months ago with Mr. Gutoskey, we had some conversations at that point and he thinks we did make some modifications to these chapters based on the feedback that they gave us. He said on the request to continue this for another thirty days to allow the BZA and he is going to handle this question specifically first, to allow the BZA time to review and provide us comments back relative to their application of that and asked what is the feeling of the board.

Ms. Walkush said by adding the extra language into this she thinks protects the Woods of Wembley.

Mr. Lateulere said in review of Mr. Lamanna's email he thinks there were more issues than just that one and he had asked for time to take a look at this and provide comments to us and is that something that this board is desiring to provide.

Mr. Williams said he has been there a long time and has seen quite a bit.

Ms. Walkush said we can consider comments which she thinks we should and we do but she thinks we have done our due diligence on preparing this so should Mr. Lamanna come in at our next meeting or as soon as possible to put forth his spin so we can hear it because we did send things the Planning Commission, we have input from Mr. Dietrich and Ms. Endres and she thinks we are doing the best we can, she doesn't want to delay this, she thinks we need to go forward.

Ms. Alaei stated that she is open to the BZA input, she would love for them to come and give their feedback here but as far as just leaving 30 days open for them to tear it apart and rewrite it and resubmit it to us she doesn't think that is productive.

Ms. Walkush said that is along the lines of what she wanted to say, thank you.

Mr. Lateulere said where he falls on it is not dissimilar to everyone else he just wanted to see where everybody else was so that he didn't skew this. He said he is empathetic to the desire to have 30 days to take a look at this, he does think that they bring value, he does think that the application of this is important and they are going to deal with the ramifications of what we put in place however he thinks it is important to keep time on our brain and his desire would be to have that feedback in the next 30 days.

Ms. Walkush said absolutely.

Mr. Lateulere said he would even invite the Board of Zoning Appeals, not that he wants to add another meeting to them or attend another meeting but he would certainly invite any of them and he would be okay with this being a joint work session on July 28th, it would be a continuation of this hearing and his expectation would be that what would come back would be constructive revision oriented comments.

Ms. Walkush asked if we could ask Ms. Zimmerman to respond for us to Mr. Lamanna to get any comments or suggestions prior to July 28th.

Mr. Lateulere said yes and what he would ask when he says revision oriented is he would like for the Board of Zoning Appeals to be part of the solution, not just present the problem and have us come up with another solution.

Ms. Walkush said we are not perfect and the more information we have the better job we can all do.

Mr. Lateulere said that is right so in the interest of working together he would like to provide and he thinks time is critical.

Mr. Williams said he would like to inject one thing, he is sure with the timeframe and the length that Mr. Lewis and Mr. Lamanna and everyone has been on the BZA they are well aware of coming up at the last minute like this and they probably considered very heavily before they sent the email out so that probably wasn't an easy task and there is a lot behind it if they felt it was that necessary to do it, he is more than willing to take the time and hear their concerns and review it with them.

Ms. Walkush said sounds good.

Mr. Lateulere said ultimately we all have to make this zoning work so it is a concerted effort on all fronts. He said on the topic of New Wembley LLC he thinks where we are at right now is we are kicking the can down the road 30 more days, he thinks it helps the plea that was made and he thinks that relative to the commission, relative to the BZA and relative to what our policies are of the township he hopes the 30 days help in getting everything wrapped together but what we are looking at tonight are polices for the township and those policies need to be unilaterally applicable and specific cases, although considerations for us are difficult when looking at the overall policy of the township so he doesn't want to poll the commission tonight about Ms. Matheney's request, he thinks that we have satisfied part of that request tonight and he thinks we will pick it back up if and when hopefully the 30 days is meaningful.

Ms. Endres said just to keep things moving she would maybe recommend trying to have a meeting with the BZA to resolve any concerns they might have in maybe two weeks instead of 30 days otherwise you are going to be trying to draft possibly text changes during the public hearing and she doesn't think that is what you want to do. She said it might be helpful to have a special meeting.

Mr. Dietrich said right because the way he would see it you would get their input in 30 days and then we would have to assimilate all of that and figure it out so we would be into August, the end of August then with regards to making the modifications.

Ms. Endres said right and it would be difficult to draft text changes during a public hearing.

Mr. Dietrich said it is a tough thing to do so it is either that or if a special meeting doesn't work at least get the comments to us in writing in an email.

Ms. Endres said within two weeks, not 30 days.

Mr. Lateulere said he is open to that, he is open to a request for a public meeting. He reviewed his schedule and said he would make time.

Mr. Dietrich said if they could get an earlier start with us and then go into their meeting. He said it may or may not be a necessity to send it to legal counsel again.

Mr. Lateulere said he thinks it might still be possible if the comments are substantial that we would request that a handful of them come for a joint meeting on July 28th and it depends on how substantial the comments are.

Ms. Endres said she would welcome that the BZA set up a meeting with Mr. Dietrich and her.

Mr. Dietrich said very early on we suggested that they come in.

Mr. Lateulere said he thinks that is a great opportunity for you guys if there is even a one on one with the two of you to talk about the whys, the where's and the difficulties and all of the information that we have been privy to which isn't necessarily what goes in front of the BZA but some of the administrative difficulties, he thinks that that would be a great thing if any of the BZA members could find the time to come and do that with you, via zoom or in person. He said comments by the 17th and encourage that they meet with Mr. Dietrich and Ms. Endres prior to that if possible to go through the stuff with them and depending on the day he might be able to come in as well, he wouldn't have a problem coming in for an hour.

Mr. Dietrich said that would be great.

Ms. Walkush said she could too, let her know.

Mr. Dietrich said as long as we have no more than two, then we are good. He said we went through the Planning Commission's comments but if you have anything else we can address before the July meeting but he thinks we have it pretty well taken care of except for the last comment, he doesn't know what they meant by that.

Mr. Lateulere asked for a motion to recess the public hearing and we will continue this at our next regular meeting to be held on July 28, 2020.

Ms. Perry made a motion to recess the public hearing.

Ms. Walkush seconded the motion.

Vote: Ms. Alaei, aye; Mr. Lateulere, aye; Ms. Perry, aye; Ms. Walkush, aye; Mr. Williams, aye.

The public hearing was recessed at 9:50 P.M.

The regular meeting was reconvened at 9:50 P.M.

CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated April 24, 2020; May 11, 2020; May 26, 2020; June 8, 2020.
2. Bainbridge Township Board of Zoning Appeals Meeting Minutes, dated April 16, 2020 and May 14, 2020.
3. Memo from the Geauga County Planning Director, dated May 21, 2020. RE: Re-subdivision Plat for Bridgeway Estates Sublot 6 and Lake Lucerne Subdivision No. 1, Sublot 2, and Part of Sublot 3, Block C, Final Plat located in Bainbridge Township, submitted to the County Planning Commission for review.

Since there was no further business to come before this meeting of the Bainbridge Township Zoning Commission, Ms. Walkush made a motion to adjourn.

Ms. Perry seconded the motion that passed unanimously. The meeting was adjourned at 9:51 P.M.

Respectfully submitted,

Linda L. Zimmerman
Zoning Commission Secretary

John Lateulere, Chairman

Date Approved: July 28, 2020