

## Minutes of Zoning Commission

April 24, 2003

The regular meeting of the Bainbridge Township Zoning Commission was called to order by Mr. David Weiss, Chairman at 7:30 P.M. Members present were: Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy.

### MINUTES

Mr. Weiss made a motion to approve the minutes of the March 27, 2003 meeting as written.

Ms. Fine seconded the motion that passed unanimously.

### NEW BUSINESS

#### Storm Water Management Educational Meeting

Mr. Weiss reported that the meeting at Westwoods Park in Russell Township will be held May 1, 2003 instead of April 24, 2003 as previously scheduled.

### OLD BUSINESS

#### Proposed Zoning Amendments

##### Riparian Setbacks

Mr. Weiss reported on the status of the riparian setback amendment.

##### Adult Entertainment

Mr. Weiss reported on the status of the proposed adult entertainment amendment.

##### Conditional Use Zoning Regulations

Ms. Sass reported on the status of the proposed zoning amendment regarding conditional use regulations and submitted a draft for the zoning commission members to review.

### CORRESPONDENCE

1. Bainbridge Township Board of Trustees Meeting Minutes, dated March 10, 2003, March 22, 2003 and March 24, 2003.
2. Bainbridge Township Board of Zoning Appeals Meeting Minutes, dated March 20, 2003.
3. Zoning Inspector's Report, dated March 2003.

4. Memo from the Geauga County Planning Commission, dated April 7, 2003. RE: Directors of Township and Municipality Officials (2003).
5. Memo from the Geauga County Planning Commission, dated April 16, 2003. RE: Revisions to Model Township Zoning Resolution.
6. Letter from Residents Mr. and Mrs. Riccuiti of 8300 Bainbridge Road, dated April 23, 2003. RE: Proposed Zoning Amendment Z-2003-1.

Mr. Weiss made a motion to recess the regular meeting at 7:46 P.M.

Ms. Sass seconded the motion that passed unanimously.

### PUBLIC HEARING

#### Proposed Zoning Amendment Z-2003-1

Mr. Weiss called the public hearing to order at 7:46 P.M. Members present were Ms. Chris Fine, Mr. Raymond Richards, Ms. Lorrie Sass and Mr. Donald Sheehy. A court reporter from K. K. Foxx Court Reporters was present.

Proposed amendment Z-2003-1 by application of The Winbury Group proposes to rezone Permanent Parcel Numbers 02-412700, 02-412800, 02-419931, 02-421000 at Bainbridge Road and State Route 422 from (R-3A) Residential to (CB) Convenience Business District.

Mr. Weiss noted that this public hearing is a continuation from March 27, 2003.

Mr. Mark Snider and Mr. David Best, Business Development Director were present to represent this application.

Mr. Snider stated that he has met with the township trustees to formally make a recommendation for what might be done with this property on the south side and the suggestions were not well received by the trustees. He said we (Winbury Group) are now focused on rezoning this property to something that is economically viable and that is to re-zone it to Convenience Business (CB). He said he was asked to locate a formal record to the township to request that he be informed of any township meetings but was unable to locate any formal record. He said he has had conversations with the zoning department and township trustees on several occasions but is not able to locate written dialog. He said they (Winbury Group) were asked to confer with the Geauga County Sanitary Engineer, but did not do that directly. He said that Ms. Sass spoke with Mr. Gus Saikaly on how or why sewers would be able to be provided and it would require the township trustees to make a request to the county for final approval. He continued by saying that the EPA is concerned about the failure of septic systems and would favor a connection to the sewer at Rt. 306. He said the other question that was asked is when Service Road C will be dedicated. He said Mr. Hart of ODOT stated that it would be dedicated in three to six months.

Mr. Snider said they obtained a copy of the D.B. Hartt report and this is what they learned from the Bainbridge Township Land Use and Zoning Report. He continued by presenting a power point presentation to the zoning commission as follows.

- Bainbridge Township Land Use and Zoning Report
- Policies and Recommendations Formulated by the Bainbridge Township Citizens Advisory Council Committee (CAC) and modified by the Bainbridge Township Zoning Commission and Bainbridge Township Trustees.
- Technical Assistance and Report Writing Provided by D. B. Hartt, Inc.
- Receipt of this Report was acknowledged and forwarded to the Township Trustees on January 13, 2001.
- This report reflects the policies and recommendations of the Bainbridge Township Citizens Advisory Council Committee (CAC) with technical assistance and report writing provided by D. B. Hartt, Inc.
- On July 9, 1999, the CAC formally transmitted this report to the Township Zoning Commission for its consideration.
- III. Proposed Township Wide Policies
  - E. Consider the limited expansion of economic development within and contiguous to the existing “mixed use” or commercial areas.
    - 2) This policy primarily confines non-residential uses to the existing or industrially zoned land. **However, non-residential development should also be permitted in adjacent or nearby vacant or “underdeveloped” areas that meet at least one or more of the following:**
      - a) The land is not suited for three-area single-family residential lots (or cluster development at this density) because of the marketability of the parcels for large lot residential uses. The following factors impact the marketability of the parcels for large lot residential uses.
        - The parcel is surrounded by nonresidential uses, major roads, and/or utility lines.

Mr. Snider presented a photo of the property bordered by the highway and a photo of the only other home located on Service Road C which has a mound and the house cannot be seen from the freeway. He added that they cannot create a mound on this property.

Ms. Sass asked why not.

Mr. Snider said the terrain is too low to mound, but supposed some type of total restructuring of the entire terrain is possible, but it would require the removal of every tree. He said the ten acres the township is planning to purchase is a vacant use but the land will not be purchased as a residential use and it proves that the Mutual Security property is not residential.

Mr. Snider continued with the power point presentation.

The quality and characteristics of the existing uses are not conducive to or supportive of the type of high-end housing that is characteristic of residential development that is currently being constructed on three-acre and five-acre lots in the Township.

Mr. Snider said they tried to super-impose a house on this lot to show the zoning commission. He said he has seen houses much larger in scale but a high-end house is not suitable bordering an interchange. He said there is one house off of Service Road C and another was located on Bainbridge Road and when that drive was installed, it may have not been approved because its original drive was on Bainbridge Road. He added that there will be minimal impact to the home at the end of Service Road C and the only impact would be to the four residential properties and he does not consider that a major impact to a residential area.

Mr. Snider continued with the power point presentation.

The size and shape of the vacant parcels are similar to the size and shape of the surrounding nonresidential development, and/or are smaller than required by the residential zoning district.

- a) The non-residential development will have minimum impact on existing single-family areas;
- b) The land is adequately buffered from existing single-family areas by natural features.

**However, non-residential development should also be permitted in adjacent or nearby vacant or “underdeveloped” areas that meet at least one or more of the following:**

- A) The land is not suited for three-acre single family residential lots...
- B) The non-residential development will have minimum impact on existing single-family areas;
- C) The land is adequately buffered from existing single-family areas by natural features.

Mr. Snider said they meet three out of the three criteria.

Mr. Snider continued by stating the similarities between the Winbury Professional Center and the Bainbridge Road Property:

**Winbury Professional Center**

**Bainbridge Road Property**

Located at the US 422 SR 306 Interchange  
Contiguous to the entrance ramp

Located at the US 422 and SR 306 Interchange  
Contiguous to the entrance ramp

Property to the north and west is residential

Property the south and west is residential

Same soil rated severe with regard to drainage

Same soil rated severe with regard to drainage

Ground water estimated at 25 GPM

Ground water estimated at 25 GPM

Property not in sewer area but was added

Property not in sewer area

Chagrin Road not built to commercial std's  
according to county

Service Road "C" not built to commercial std's  
according to county

Property fronts on Chagrin Road  
ODOT owns sliver of property at entrance

Property fronts on Service Road "C"  
ODOT owns sliver of property at entrance

**The characteristics of these properties are almost identical!**

Mr. Snider said that they are in disagreement that Service Road C is not built to county standards and we would like to address that Service Road C is a residential street.

Mr. Snider showed a 1977 tax map showing the original Millbrook Drive, a 1979 map showing the existing road coming through, a map showing the right-of-way and the parcels and a map depicting the four parcels owned by the Winbury Group that are subject to this proposed zoning amendment.

Mr. Snider explained Service Road C and said it was taken from the adjacent property to create a haul road for materials and equipment and to create an access to properties that were totally cut off. He said Service Road C is currently being used as a little parking lot by the state and by current residents to park non-residential cars every day. He said they go to a pseudo-type business in that area to a residential type use and it has non-residential parking for a substantial amount of time, so he disagrees that this road is a residential street. He said even if the zoning commission defines it as a residential street, their land is no longer suitable for residential and it needs to be changed although the government thought it had some value or they would have paid for it. He said he appeals to the zoning commission to make a judgment if a house on that land is suitable and based on evidence we think to build a residence would not work on this land. He said they considered POD, and if they were to install POD, and referred to the map provided, the area in yellow would be all that could be built on because we have a terrain issue too. He said the area in the green is compatible with CB except for the area against the highway. He referred to the site plan and said they show a 35' setback and even if we got it re-zoned to CB we would require a variance.

Mr. Snider said they don't have 150' frontage on the right-of-way and cannot pull the footprint away from the highway and if placed 35' from the right-of-way of the highway, it will not diminish the value of the building and we believe CB will work there. He continued by saying there are a number of undesirable uses in CB zoning and said, because, if there was fast-food, there would be more traffic, but an office, dance studio or photography studio would be less than that.

Mr. Snider submitted a copy of deed restrictions that were prepared for this property and said they could be followed if the amendment is granted. He referred to the deed restrictions and said they eliminated banks, all restaurants, drug/retail stores and indoor theaters and added that they are not trying to create an Office Max. He said the permitted uses would be restricted to the following:

- a. Professional, medical, administration, business and sales offices and office buildings.
- b. Business, trade or vocational schools and classes or instruction involving music, dance, exam preparation, self-improvement and weight loss.
- c. Specialty businesses selling surgical, medical, dental and optical material; musical instruments and supplies; athletic equipment; drapery, fabrics, floor and/or wall coverings; lamps and lighting fixtures; flowers, plants and gifts; hobbies and crafts; artwork; and antiques.
- d. Personal service establishments including dressmaking or sewing; photo and art studios; photocopying and printing; travel bureaus; picture framing; interior decorating; custom signs and lettering and locksmiths, alarm and security systems.

Mr. Snider referred to the site plan for the proposed church that they had applied for and said it would have required a variance even though they were going to put the building closer to the freeway. He said the parking for convenience business would be moved closer to the building and added that there would have been 106 parking spaces for the church and 72 parking spaces for CB as the maximum. He referred to the footprint of the building for the proposed church and said it would have been 9,500 sq. ft. and zoning would have limited the size of the building to 18,000 sq. ft. as a two story or 12,000 sq. ft. as a single story. He said they were thinking about a mom and pop stationery store but no Office Max or Staples but we included an athletic store but no Dick's Sporting Goods, it would be more for selling high school jerseys and equipment.

Mr. Snider said they did include drapery, floor and wall coverings for interior decorating which we feel is a pretty good use because it is not an intensive use but did include lamps and lighting which would generate about 15 customers per day and custom sign companies, locksmiths and alarm and security system companies. He said he did not know if their thought was to combine several types of uses on this property but they did make deed restrictions to authorize Bainbridge Township so any township trustee could change these deed restrictions approved by the township trustees.

Mr. Snider said they will turn off the parking lot lights at dusk which is included in the deed restrictions and all garbage and refuse pick up shall occur between a certain time during the day and the location of the trash containers which is also included in the deed restrictions. He continued by saying there will be a 100' setback so the house in the back will have a decent woods and added that their site is fairly well treed so they will have to take some trees down for the driveway but there would not have to be a lot of grading. He said he met with the neighbor from the corner lot and explained to him how they handled the homes near the Winbury Center and would do the same for his property. He said if the zoning commission was to recommend approval of this tonight, the county and township would ultimately apply deed restrictions that could be edited to be advantageous to protect the residential area.

Ms. Chris Fine asked if they could move the proposed building or house further south on the property for more of a buffer.

Mr. Snider said the scale of the house was set back and we think if you stood on the property and listened to the traffic, the house won't sell and our engineers dismissed the idea of a mound.

Ms. Fine said you might not need a mound.

Mr. Snider said he was a developer for Chagrin Heights and the lots are hundreds of more feet away from the highway and he would be disappointed to participate in that kind of thing here.

Ms. Fine said the homes sold.

Mr. Snider said they were built in 1992 and the other homes built now are a different situation. He said this property is at the interchange and what you see in Solon, he does not see with this property and we think we can show no economic viability and it does not make sense to put a Canyon Lakes home at an entrance to 422. He said they stood there and listened and he does not think anyone would buy a house there.

Mr. Weiss and Mr. Snider discussed Section E and F on pages 28 and 29 of the D.B. Hartt report.

Mr. Weiss said since a park is planned, it is a transition, and asked Mr. Snider why he needs another transition.

Mr. Snider said a park makes a transition to residential for property on Bainbridge Road but does not do it for our property fronting on the freeway.

Ms. Sass asked Mr. Snider when he acquired the property.

Mr. Snider said he is not exactly sure when they purchased the property because they began acquiring property in 1987 or prior when Lake in the Woods was about one year old and our company was planning Lorien Woods. He said Lorien Woods had sewer access but Lake in the Woods did not and they had trouble with the septic systems in there. He said at that time we had discussions with the Bainbridge Township Trustees and that may be on record. He said we think the zoning is wonderful with the 40% lot coverage. He said they did know the interchange was coming and were encouraged to purchase this area because when the highway came in, it was an opportunity to create a wonderful town center. He said they considered it a blank canvas but because they were busy with many projects, they waited for the township to properly re-zone it, but after ten years of waiting, we decided to take on the initiative ourselves. He said prior, they tried to prevail with a home there but felt the township would take a look at the land and come up with a use applicable for this land but he feels they cannot put a home there.

Ms. Sass asked Mr. Snider what he paid for the parcel.

Mr. Snider said they bought several parcels and paid several hundred thousand dollars and put more than a million dollars of capital improvement to the properties.

Ms. Sass asked, aside from the recent discussions with the township trustees, if the property has been listed for sale.

Mr. Snider said a hotel recently inquired about the property.

Ms. Sass asked Mr. Snider if he ever attempted to list the property for sale as residential.

Mr. Snider replied no and said where do you put the sign. He said it can't front from Chagrin Road and it is only visible from the interchange. He said he asked the board of zoning appeals and they did not approve the sign but they indicated that they would approve a smaller sign.

Ms. Sass said so the property was never listed as vacant residential property.

Mr. Snider said no.

Ms. Sass asked Mr. Snider if he had any discussions with the township trustees about purchasing the property.



Mr. Snider said yes, the township trustees asked what the price is but the township is dealing with Mutual Security now in executive sessions and we felt we are at a disadvantage to state a price at a public meeting.

Ms. Sass said she is talking about recouping their cost.

Mr. Snider said if the township wants, they can purchase it like the Mutual Security property, but we do not want to sell to the township or trade. He said they presented an idea to the township and they are going to create a park next to the Winbury Center, so please do, because the only people that will use it will be the Winbury Center employees because we can walk there.

Mr. Sheehy told Mr. Snider that he mentioned putting a sign along the interstate for the sale of residential or commercial property.

Mr. Snider said he was willing to put “residential three acre zoning” on the sign but we need a size that is visible and that size was turned down by the board of zoning appeals.

Mr. Sheehy said why not place the “for sale” sign on Bainbridge Road at Service Road C.

Mr. Snider said they will be happy to sell it as residential property and can list it tomorrow but his guess is it won't sell as residential.

Mr. Sheehy asked Mr. Snider what he thought the value would be as a residential property.

Mr. Snider said they want to wait and see what the township will pay for the Mutual Security property.

Mr. Sheehy referred to Mr. Snider's comment that said he was forced to buy this parcel.

Mr. Snider said yes.

Mr. Sheehy said when the property was acquired for the freeway, there were landlocked parcels that were devalued but still owned and the landowner was compensated. He said this parcel may have some devaluation, but it still has access and is zoned as a residential lot at the end of a culdesac. He said there was some compensation paid by the State of Ohio for the parcel.

Mr. Snider said he agrees that Mr. Wooddell was compensated for the land they took but they probably did not compensate him for the land they did not take.

Mr. Sheehy said the state does pay for devaluated property.

Mr. Snider said it is a matter of record and we can look it up, but it has zero value as residential.

Mr. Sheehy asked Mr. Snider if someone pays him \$30,000.00 for it as residential, is he saying there is no value.

Mr. Snider said it is supposed to sell commensurate to another four acre lot.

Mr. Sheehy said maybe, but not as much as a four acre lot away from the freeway.

Mr. Snider said maybe if there is some fool that will buy that land, but we should not force a house to go on that land. He said go stand there, because there should not be a residential house there. He said they offered, to the township, property for a park across the street from the Winbury Center and they had to go through more judicial expense to obtain the zoning on the other side and that park went away. He said the house on the north side of Chagrin is getting worse and worse because Breezewood purchased the property and it is becoming an eyesore. He said if a house is what the township really wants, then go to 480 and Transportation Blvd. because now it has changed to commercial.

Mr. Sheehy asked if it is at the end of a dead-end street and added that on either side of Service Road C there are residential homes.

Mr. Snider asked about the commercial vehicles parked on Service Road C.

Mr. Weiss said that is a residential home occupation.

Mr. Snider said there is a business operation there with three cars parked there.

Mr. Weiss explained home occupations.

Mr. Snider asked if the vehicles are parked on private property or in the right-of-way. He said he does not want to sound argumentative about it but he is trying to convince the township as much as he can and there is nothing more he can say.

Mr. Eric Knuckles stated that he lives at 17706 Millbrook Drive.

Mr. Snider said there is no Millbrook Drive.

Mr. Knuckles said he has lived on a street called Millbrook Drive and is concerned about the proposed entrance because he has a son and daughter that have to walk up and down the drive to go to school and he bought his property because it is quiet back there. He said he can understand Mr. Snider wanting to make money but that is his home back there and does not want a business next to his property all day long. He said the animals back there should be considered also and added that he and his family enjoy the animals.

Mr. Snider told Mr. Knuckles that he should purchase the property.

Mr. Knuckles said they enjoy what they see now.

Mr. Snider said he understands but we will consider a low intense use on the property and added that they (Winbury Group) have rights too. He told Mr. Knuckles that the property will be for sale and he can purchase it if he can.

Mr. Knuckles said Mr. Snider is reducing the value of his property.

Mr. Snider said his business is to provide shelter to all people and asked why it is felt that he is only standing here for profit.

Mr. Knuckles said it sounds like it.

Mr. Snider told Mr. Knuckles that the zoning on his property should be changed because it fronts on the highway.

Mr. Knuckles said from what Mr. Snider said, it sounds like he had to buy the property.

Mr. Snider said they believed it had to have value.

Mr. Knuckles said but not for residential.

Mr. Snider said the township indicated that the property around the interchange would be changed and we waited until 1996 or 1997 and the township did nothing.

Mr. Knuckles said the property is appropriate for residential use because of the area.

Mr. Steve Keary of 8378 Bainbridge Road stated that he has lived in his home for 32 years and it is a family property. He said Mr. Snider said he bought the property in 1987, but he (Mr. Keary) talked to Mr. Wooddell in the mid 1990s and he still owned the property and for \$45,000.00 you could have purchased the whole thing. He said we are all residential around there and he would have purchased this property but purchased 17 acres down the road. He added that people don't want to go off the beaten track to get to a commercial building and he never saw a "for sale" sign for this property. He said there is a pond back there with wood ducks and geese and someone could put a house back there without butting it up next to the freeway. He said his suggestion to the township trustees and zoning commission is that he has not tried to sell the property as residential, it is surrounded on three sides by residential and the property surrounds my property and if he puts CB in there, my property will be a shambles like the one he described across from the Winbury Center. He said he feels for his house and his neighbor's house and he and his wife have supported the township for 32 years and his Grandpa McFarland lived next door and if this goes commercial, everyone will go commercial.

Mr. Keary said not to leave the residents hanging and if the township is going to change over, do the whole thing. He added that he is not planning on selling his home and he is hoping to keep it in his family for generations.

Ms. Sass asked when the discussions with the previous property owner occurred.

Mr. Keary said he talked to Mr. Wooddell in the 1990s and the price was above the \$40,000.00 range and he was always a little bit short.

Mr. Snider asked Mr. Keary if he ever listed his property for sale.

Mr. Keary replied no and said he paid \$113,000.00 for 17 acres down the street.

Mr. Snider told Mr. Keary he paid \$113,000 and Mutual Security may get over a million dollars for their property. He said it is no one's business what he paid for the property and he probably has nine acres that he paid upwards of \$850,000 for all the property. He said to Mr. Keary that he understands his concern about the traffic.

Mr. Keary said he did not mention traffic.

Mr. Snider said there will be no devaluation of the neighboring properties.

Mr. Keary referred to Mr. Snider's comment about the house across the street from the Winbury Center that Breezewood bought and said he will be in the same situation, so make my property commercial.

Mr. Snider said he feels the entire section along there should be changed to non-residential.

Mr. Keary said don't put a commercial property behind me and have my house turn into a house like the one by Breezewood.

Mr. Ted Seliga of N. Spring Valley Drive asked if the Winbury property on the north side of the freeway was zoned residential when purchased.

Mr. Snider replied yes.

Mr. Seliga said he apologizes for being blunt but when somebody buys a residential property and wants it something other than residential, they are speculating. He said the north side tends to lend itself to commercial and the south side lends itself to residential and because Mr. Snider chose to speculate, it does not mean the township has to change the zoning and because he chose to speculate, it is his fault, not the township's fault and if he tries to sell it, he will get what it is worth and if the township makes the adjacent property a park, it will increase the value of this property.

Mr. Seliga told Mr. Snider that he is asking the township to change the zoning so he can make a profit.

Mrs. Gloria Knuckles said she would gladly write Mr. Snider a check for \$1.00 for the property. She said when they moved to their property, they did call ODOT for a wall and were told they were on the list. She referred to Mr. Snider's power point presentation and said it would have been nice if he had super imposed a commercial building on that property. She said if a commercial building is built back there, she will not feel safe coming out of her property. She referred to the Winbury Center property being on Chagrin Road and said the people coming out of there don't have to worry about being hit by cars. She said Mr. Snider said he would not purchase this property for residential, but we are stuck there, he does not want to live there but he wants us to live there.

Mr. Snider said this proposed building will be one-fifth smaller than the Winbury Center and people still have to drive by residential to get to it. He said they don't think it is wise to perpetuate residential and many residents near the proposed Winbury Center at the time had concerns but they were overcome. He said he has a good record of being sensitive to the surrounding residents and added that the turn-in for the property would be away from the Knuckles' home.

Mrs. Karen Keary said she dittoes everything everyone else said and added that it kills her because she and her husband really did want to purchase that property so they could expand their property for their Hostas. She added that when the Winbury Center went in, there was supposed to be a huge buffer but the building is very visible from the residences.

Ms. Sass referred to the first meeting and the deed restrictions for Millbrook Subdivision.

Mr. Keary said his property is not part of Millbrook Subdivision.

Ms. Sass asked Mr. Snider if there was any discussion about lifting the deed restrictions.

Mr. Snider said no but they did send a letter to all the residents in the area for any discussions they wanted. He said he can meet with anyone over at the Winbury Center tomorrow and disagrees that the houses are all visible, they are not, and we were commended by the township trustees and this board.

Ms. Sass said there was a point raised by the planning commission regarding the deed restrictions and asked Mr. Snider if he asked the residents to lift the deed restrictions on this property.

Mr. Snider said these parcels cannot be held to those deed restrictions.

Mr. Weiss made a motion to close the public hearing at 9:30 P.M.

Ms. Fine seconded the motion that passed unanimously.

Mr. Weiss reconvened the regular meeting at 9:30 P.M.

Proposed Zoning Amendment Z-2003-1

Mr. Weiss made a motion to recommend approval of proposed zoning amendment Z-2003-1.

Mr. Sheehy seconded the motion.

Vote: Ms. Fine, nay; Mr. Richards, nay; Ms. Sass, nay; Mr. Sheehy, nay; Mr. Weiss, nay.

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

Mr. Sheehy seconded the motion that passed unanimously. The meeting was adjourned at 9:35 P.M.

Respectfully submitted,

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Linda L. Zimmerman  
Zoning Secretary

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David Weiss, Chairman

Date Approved: May 29, 2003

