

RECORD OF PROCEEDINGS

DANBURY TOWNSHIP BOARD OF TRUSTEES SPECIAL MEETING

Minutes of

Meeting

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Held _____

July 10,

20

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The Special Meeting of the Danbury Township Board of Trustees was held at the Danbury Township meeting room on July 10, 2024. It was called to order at 5:15 pm by Trustee Dianne Rozak and the Pledge of Allegiance was recited. Roll call: Ms. Rozak, Mr. Dress and Mr. Hirt were present along with Zoning and Planning Administrator Kathryn Dale, Danbury Township Zoning Commission Chairperson Susan Dress, Fiscal Officer Brinkley Paul and Township Assistant Lynne James. Visitors in attendance were Dean Frederick, Keith and Courtney Brown, James Davenport, John Coppeler, Deb and Aaron Paul and Sue Lammers.

Ms. Rozak stated the public hearing was for ZC-2024-112. 0 and 1697 South Danbury North Road; requesting map amendment from A- Agricultural to R-C Recreational Commercial for Lot 20, Part of Section 4, PIN# 0141161115543000 consisting of 5.758 acres of the 8.003-acre parcel and C-2 General Commercial to R-C Recreational Commercial for Lot 20, Part of Section 4, PIN# 0141160615537016-0141160615537025 consisting of 10.464 acres. Total of 16.222 ac to be rezoned. Robert & Janet Hennig & Stowaway Jeannie, LLC, James Davenport, Owners/Applicants; Keith Brown, DB Development Group, Agent.

Ms. Rozak opened the public hearing and turned the meeting over to Ms. Dale for the staff report.

Ms. Dale stated the applicant is working with two different property owners to purchase approximately 16.22 acres the southern part of the application request is owned by Mr. And Mrs. Robert Hennig, located at 1697 South Danbury North Road. The applicant is proposing to purchase the rear or East 5.75 acres of the Hennig's 8.003 acre personal and rezoning from A- agricultural to R-C Recreational Commercial. This part of the Hennig property is currently vacant farmland and pasture. The Hennig's house, barns and livestock area are all on the western front portion of the property and it is currently zoned C-2 General Commercial. This 2.242-acre area will remain zoned C-2 General Commercial and will be retained by the Hennig's.

The second part of the application requests are the northern area involves purchasing 10 LCE (Limited Common Element) lots, platted in 2020 as a condominium and this is referred to as the 269 Business Park. The applicant is proposing to rezone this area from C-2 General Commercial to R-C Recreational Commercial. The total acreage of this area is technically over 10.464 acres because the 10 LCE Lots total exactly 10.464 acres, but the applicant will also be purchasing the land that is shown on the condominium plat as being dedicated for road right away. Should any development take place, this plat would have to be amended to rework and partially vacate the cul-de-sac and the road right of way. This property is currently all owned by Stowaway Jeannie LLC, and James Davenport. Mr. Davenport owns two of the commercial storage unit buildings along this access road on LCE Lots 1, 2, along with LCE Lot number 5, and a lot on the south side of the drive entrance off SR 269 into this development.

While both the C-2 and R-C zoning districts are commercial zoning districts, the R-C zoning district has a 10-foot smaller front yard setback requirement, but a 10-foot greater rear yard setback than the C-2 zoning district. Both zoning districts make provisions for greater setbacks when abutting residential properties. As far as uses are concerned, both zoning districts allow many of the same permitted uses. However, the R-C zoning district does list more options for conditional uses that are geared toward Recreational type activities, which could include facilities similar to Monsoon Lagoon, campgrounds, resorts and marinas.

To the North of this property, there is Commercial storage zoned C-2 General Commercial, to the East is vacant farmland and single-family homes, which is zoned A-Agricultural and R-2 Suburban Residential. To the South is C-2 General Commercial and R-3 High Density Residential zoning with five single family homes, a gas station and vacant farmland. To the West is R-C Recreational Commercial, which is Monsoon Lagoon and Bay's Edge.

The Land Use Plan, adopted in 2017, calls for majority of the proposed rezoning area to be "Corridor Commercial" with an Economic Development and Corridor Enhancement overlay. The rear 2.8 acres, approximately 520 feet, of the Hennig property is listed for Neighborhood 2: Medium Density Residential. The boundaries to these classifications should not be viewed as a hard line stopping or starting point, but more as a generality that can cross property lines or extend further than depicted if it makes good planning sense.

Corridor Commercial areas are generally made up of non-residential uses (i.e. Commercial, Storage,

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Offices). The roadway is not pedestrian friendly due to the scale (width, lack of sidewalks, speed, setbacks, curb-cuts) of the street large parking lots and public utility poles create many conflicts for pedestrians or bicyclists. Uses typically include civic, neighborhood, commercial and large-scale commercial)

The Economic Development and Corridor Enhancement overlays intent was to encourage enhanced landscaping, signage and access to improve the local image at the gateways and major thoroughfares in the Township and to develop new office or light industrial areas, but to also integrate commercial and residential uses. Development in these areas should be job producing. Development should share access as much as possible and be designed to establish common architectural themes while respecting the rural nature of the area.

Neighborhood 2: Medium Density Residential is defined as walkable within the neighborhood parameters. Streets are a little wider and Lots are larger, but and not as compact as what you would find in the High-Density Residential area. Medium Density Residential neighborhoods tend to be less connected to other neighborhoods, but still some interconnectivity. Structures are separated more as well. Uses typically include single-family, two-family and multifamily dwellings.

Staff had encouraged the Boards and Commissions to review your Land Use Plans, specifically in relation to the Township's goals, objectives and strategies provided in the plan.

Ottawa County Regional Planning Commission was forwarded the proposed amendments on May 7, 2024, and held a hearing on May 21, 2024, recommending approval as presented.

Ms. Dale finished by stating The Danbury Township Zoning Commission held their public hearing on June 5, 2024, making a motion to approve the request, citing decision standards "b" and "c" were satisfied for section 7.7.3.E.ii., but the motion failed, and the recommendation was voted 3 to 2 for denial.

Ms. Rozak asked the applicants if they wished to present anything further.

Mr. Keith Brown, Agent, DB Development Group, 5960 E. Bayshore Road, Marblehead, Ohio 43440 stated their initial idea changed through the winter. After analyzing the possibilities, they decided to do a better development; a mixed-use development, if they could get R-C zoning. They acquired a contract to purchase almost 5 acres from the Hennig's and they were encouraged to not do split zoning, so they requested the whole piece that they're buying to be zoned R-C. Regarding 2.8 acres; they met with surrounding neighbors, neighbors that have a view of this area, to talk about the possibilities of what we might develop. They promise not build that tail out fully. If they get the zoning change request, they will increase the setback greatly, almost five times more than what's required by the zoning. They would not touch any trees or any bushes or any growth through that area. That's a promise we made about 30 days ago before the last zoning meeting. Since then, their team has decided to dedicate the entire tail as a nature preserve area. They won't touch any trees and bushes and will actually plant more. Probably have some trails that go through there and they would like to use it for any green space requirements in R-C zoning.

He further stated if they don't develop it and someone else comes along the undeveloped tail piece is most likely going to be developed with Medium Density Residential where you would have backyards instead of this nature area.

Mr. Brown believes going from C-2 to R-C would be step down zoning, and less intensive because you can't have automotive repair shops, car lots used or new or drive-thru restaurants in the R-C zoning district. It would be smaller type of neighborhood businesses they might attract to the project. We also think this could be considered kind of a transition, especially what we're doing with that tail to make it a permanent nature preserve.

Further, ODOT has a planned roundabout construction coming into the area. Dean Frederick, their engineer, will talk more about this.

Mr. Frederick, Civil Engineer Surveyor on behalf of Agent, 4645 N. Summit Street, Toledo, Ohio 43611, stated they met with Josh, from ODOT, District Two. He is a transportation designer that's

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assigned to this project. Their road outset currently is in what they call stage one drawings. They're supposed to have stage two drawings done by August. The anticipated bid date for the roundabout is for winter of this year, with construction being in fall 2025, or spring of 2026. From the parcel's standpoint, there will be two access points. One to the North, through State Route 269 Business Park. The other is going to be to the South and more centered to Danbury Road, possibly getting back down to Bayshore, but tying back into the roundabout leg. Splitting traffic to the North and South around what would be the future roundabout that is in the planning stage right now with ODOT. They are awaiting the stage two drawings from ODOT.

Ms. Rozak inquired, and Mr. Frederick confirmed that ODOT has approved and conceptionally moved the South section centered to Danbury Road and it is designed to handle commercial traffic on a 20-year projection.

Ms. Rozak asked if there were any questions from the Board.

Mr. Dress asked Mr. Brown if they had specific things in mind in changing the current zoning. Mr. Brown said they have designed several different types of developments and they do need the rezoning.

Mr. Dress asked and Mr. Brown confirmed the promise of the nature preserve and that it is allotting for their required green space. Ms. Rozak asked who would utilize the green space trails. Mr. Brown stated that it would be people on their development.

Ms. Dale wanted to touch base on the subject of not having split zoning: Under the general regulations. Section 5.1.1, it says "*No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.*" So, if for some reason, the Board was not agreeable to rezone the whole property, if the back part or this tail remains agricultural, they would not be able to use that agricultural land, even though they own it, as part of their open space for a use permitted or conditional in the commercial zoning district, because it mentions the land be used for a purpose permitted in the district in which the building or land is located. So, if they go for conditional use that has an open space requirement, they wouldn't be able to calculate that agricultural land because it's not the same zoning district.

Ms. Rozak asked, and Ms. Dale confirmed this was the purpose then of advising them not to apply for split zoning and the reason why they are asking for the whole property to be rezoned.

Ms. Rozak asked if there were any further questions for the applicants. There were none.

Ms. Rozak asked if the applicants wished to present anything further.

John Coppeler, Attorney on Behalf of James Davenport, Flynn, Py, Kruse, LPA 115 W. Perry Street, Port Clinton, Ohio 43452 stated he just did a rough draft of a deed restriction. This would be on the Hennig transfer of real estate. Property described herein shall be subject to the restriction that the eastern portion thereof containing some 2.3 acres. (will put in correct acreage), shall be and remain as, "greenspace", on which no buildings or structures of any kind shall be built, erected, placed or constructed with a legal description of such 2.3 acres to be attached as Exhibit B. So, they are willing to include in the Deed that they receive from the Hennig's on closing, the restriction that nothing would be built; it would be preserved as green space. Nothing would be built or placed on it. And that's a commitment that they've made, obviously, in writing.

Ms. Rozak thanked Mr. Coppeler and asked Mr. and Mrs. Paul if they had anything to state for the record.

Mrs. Deborah Paul, 5752 E. Bayshore Road, Marblehead, Ohio 43440 stated they understand the commercial corridor on route 269 existed when they bought their property, and they appreciate their attempt to make it better for us. They're just opposed to any development encroaching toward their property. They want it to stay rural and feel the closer it gets, the more it's going to inhibit their property and change the overall opinion of what we will do with our property because frankly, if it continues to encroach, the likelihood of us keeping it as a long parcel of agriculture, will diminish, because we will probably have to move somewhere more rural. They know Danbury Township isn't as rural as it used to be, but they thought they bought a piece that they could contain in that manner,

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and they'd like to see it stay that way.

In regard to the 2.8 acres, they understand what Mr. Coppeler is saying, what Ms. Dale is saying about the split zoning, but they just feel like if it's zoned in a certain manner, then they have the opportunity to do what they choose, or it would be harder for us to dispute once the zoning is changed. So that concerns them. Also, when you talk about an X amount of green space, is that a percentage per acre?

Ms. Dale stated it's a percentage based on the acreage of the portion to be developed.

Mrs. Paul then asked if you had five acres, now they're talking about 2. Something acres that they could come back and say, we only need 100. But you know, who knows that could be any portion that they could change and say they don't need it to be that large. They understand they're making a promise and some Deed restrictions, they just don't know these gentlemen, and for them, it's just the risk. They hate to see any of that agricultural property change to commercial when it feels like currently in Danbury Township everything is closing in and this is why the Zoning Board denied it at the meeting, because acre by acre, zoning is changing, and we're getting more and more commercial. They don't want to see that, especially next to their property. They support fully their plans to develop along 269 and want it to just stay over there.

Mr. Aaron Paul, 5752 E. Bayshore Road, Marblehead, Ohio 43440 stated when will this end? Does it start here that, you know, what helped the deed restrictions, things that interest me? Or how many years is a grace period, is it twenty years?

Mr. Coppeler stated it's permanent.

Mr. Paul then stated their biggest thing is where they reside, they are getting calls from people that want to purchase their property because they want to develop it, and the Paul's are trying to fend them off as much as they can and hold onto what they have. So, their biggest thing is, it's agriculture all through that area and they're just trying to fend off anything and everything to just keep it in that fashion. Right? As much as they can. So, he and his wife honestly feel like once someone gets a foot in the door, when will end? That's their biggest concern.

Ms. Rozak asked if there were any questions for Mr. and Mrs. Paul.

Mr. Dress asked for clarification that it was just the small area they were requesting to be rezoned.

Mr. Paul stated his thing is, is what about all the rest? Is it going to migrate over? It could just keep moving easterly. So that's his biggest concern. He's always been nervous about that section of property because it's agricultural and it seems they're losing it, every year. If you've got an acre, somebody wants to put a storage facility on it, right? He appreciates the green space being brought up. But it just honestly feels like it's slowly moving eastward and it's going to be in their backyard before they know it, if we if we allow it to happen.

Mr. Brown then asked to address the Paul's concerns a little bit. Number one, you guys had mentioned a couple times that you're okay with what we're doing out here on 269 that you are probably are okay with this little piece here that is in line with that. It's really just this tale that would encourage other people to come to this bigger agricultural piece and then say, hey, they got R-C for that small piece, we should get it for the rest

Mrs. Paul said they appreciated the attempt at the green space, but did not say they were ok with it.

Mr. Brown then confirmed with them that they didn't have a problem with what was already zoned commercial.

Mrs. Paul said there was nothing they could do about commercial zoning. If it is commercially zoned, it is what it is. This is about an agricultural change and that is why they were at this meeting.

Mr. Brown stated that the piece when they close on it and record a deed restriction, it will stay forever; it doesn't get changed. There could be a notation in the zoning book to the deed restriction. Zoning would have to change to R-C, but they would deed restrict the acreage.

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Mr. and Mrs. Paul remained firm on requesting it be kept agricultural and not changed to R-C.

Ms. Rozak asked if there were any further comments from applicants or the Board.

Mr. Dress asked for clarification and Ms. Dale stated that the only thing being requested this evening was the change in zoning, as stated at the beginning of the meeting, because once approved, it can be used for any of the uses that are listed in R-C. It would be up to them if the zoning is approved and once it is effective, how they actually want to use the property. They then can use it for any of the permitted uses listed and then any conditional use listed would require an additional hearing before the Zoning Appeals. Some uses and design would be permitted by right; other uses and their design would require an additional hearing and items could be negotiated.

Mr. Hirt stated, except if there was a deed restriction on it.

Ms. Dale said yes, if they choose to put their own deed restriction on it, but also cautioned the Board that Zoning does not enforce private deed restriction; if the applicant did it, it would be self-imposed.

Ms. Rozak thanked the applicants for their presentation and the Paul's for their participation. She reiterated to the Board they are only here this evening only to determine whether or not this property should be rezoned from what it currently is, to R-C Recreational Commercial. Ms. Rozak stated she has great faith in the Zoning Commission and the Land Use Plan. Both the Zoning Commission and the Land Use Plan do not recommend this property for Recreational Commercial. It's recommended for a commercial corridor and everyone should be aware of that. This has been denied by the Zoning Commission and it is not recommended by the Land Use Plan.

Ms. Rozak commented to make all of the motions in the affirmative to approve them. If wishing to approve this rezoning, the response should be yes. If not approving this rezoning the response should be no.

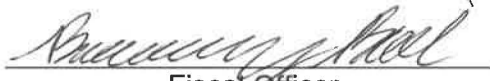
Ms. Dale also suggested the vote first and then if passed, a Resolution is ready for adoption.

Ms. Rozak then moved for approval of a resolution adopting an application for a map amendment to the Danbury Township zoning map. Mr. Hirt seconded and the roll call was as follows:

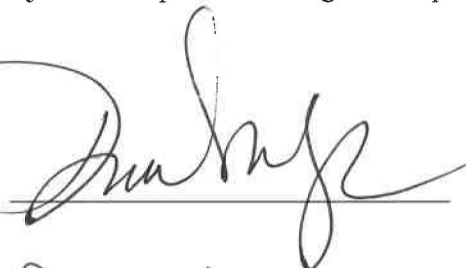
Ms. Rozak: No Mr. Dress: No Mr. Hirt: No


Adjourn

Ms. Rozak motioned and Mr. Hirt seconded, to adjourn the Special Meeting at 6:04 pm. All ayes, motion carried.



Fiscal Officer







Danbury Township Board of Trustees

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