

**Brunswick Hills Township
Zoning Commission
Continued Public Haring Meeting Minutes
March 5, 2020**

CALL MEETING TO ORDER

Chair Murphy called the March 5 2020 Brunswick Hills Township Zoning Commission continued public hearing meeting to order at 7:00 p.m. A roll call of the board executed.

- **Board Members in Attendance:** Barb Porter, Trica Murphy, Patti Wetterman, Sy Mougrabi
- **Alternate Board Members in Attendance:** Robert Norton, Dean Collura
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector, Wes Humphrey, Assistant Zoning Inspector, Trustee Christina Kusnerak (Zoning Liaison), Secretary Milanko

CONTINUED BUISNESS: PUBLIC HEARING REDWOOD APARTMENTS REZONING APPLICATION

1. **Zoning Map Amendment Application to Rezone Parcel #001-02C-18-022 (33.24 Acres) on the Corner of Pearl Road and Sleepy Hollow Road by Redwood Apartment Neighborhoods (Pat Rakoci),** 7510 E. Pleasant Valley Rd, Independence, OH 44131 and property owner Thomas A. Shumay. Present Zoning: RR, C3 to proposed rezoning to C-3 Multifamily Dwellings in C-3 Districts per Sec. 804-16 of the Brunswick Hills Township Zoning Resolution.

Chair Murphy stated at the last meeting the board requested notarized documents from the applicant and asked if we have received them.

PUBLIC COMMENT

1. **Travis Crane, TCG Engineering, representative of his client Redwood Neighborhoods,** stated he has the notarized document for the board. **[Note:** Mr. Crane gave the document to Evelyn Czyz, Zoning Inspector, to make a copy for the board. The Zoning Commission board did not receive a copy of the notarized letter at the meeting, nor did the Zoning Commission have an opportunity to review the document before making a motion.]

Travis Crane, TCG Engineering, stated he is here to represent his client, Patricia Rakoci of Redwood Neighborhoods, and said she can't be here tonight because she is ill. Mr. Crane said I will be representing her and I also have in attendance Mr. Shumay, the property owner.

COMMENTS/QUESTIONS BY THE BOARD

Mrs. Wetterman asked Mr. Crane if the old dam is still on the property? Mr. Crane said yes, it is. Mrs. Wetterman asked where that is located. Mr. Crane said the property has two zoning districts, Commercial and Rural Residential and we are proposing to move the Residential only 230 feet to the west and one of the reasons is to encompass the whole dam and the whole pond on the property. He said the objective is to have the pond and the damn under one ownership so it is not dual ownership. Mrs. Wetterman asked again, where is the dam? Mr. Crane said right now it is the middle, southern portion. He asked to approach the board and show where the dam is on their maps. Mr. Shumay (property owner) stated it is on the southeastern part of the property. Mr. Crane said so the dam would be just east of the proposed rezoning. He said there are two benefits to that, (1) for maintenance purposes and (2) for stormwater maintenance purposes with the development and the property owner owning that dam, which we will probably use for stormwater management purposes also so the maintenance, stormwater maintenance and safety aspects will be under one ownership.

Chair Murphy said I thought at the last meeting that we discussed all of this would remain under one ownership and that last parcel of 230 feet was going to be the buffer. Mr. Crane stated my client intends to buy the whole parcel and there will a subdivision of property and they will maintain the Commercial.

Mrs. Porter said it does say that sewer and water is available, per the county, and asked where they will be getting the water from. She said the sewer line goes along Pearl Road in front of the property. Mr. Crane said I believe there are water lines on Pearl Road also, so we would be accessing water and sewer from Pearl Road. Mrs. Porter asked if that is county water on Pearl Road? Mr. Crane said I know it is county sewer, but I'm not sure if that is the City of Cleveland water or county water in that location. Mr. Crane said Mr. Shumay says it is the City of Cleveland water.

PUBLIC COMMENT

1. Ron Backnick, 4505 Sunset Cove, Brunswick Hills. Mr. Backnick said there were a few questions since the last time we met and I was hoping we could get a few more answers. Mr. Backnick asked if we know at this time where the entrance and exit will be as I don't recall from the last meeting whether it was going to be off Pearl Road or off Sleepy Hollow. He said I don't believe that was established at the last meeting. Chair Murphy said the applicant did not submit any plans regarding the development, this is just for the rezoning. Chair Murphy said so if this property is rezoned, or the property that is there now which is Commercial, that could be used for any of the Commercial permitted uses in our Zoning Resolution. Mr. Backnick said so if the board permits the rezoning of this, it really could be used for anything and not just the application for Redwood Apartments. He said that is up in the air as to what could happen with all of this. Chair Murphy said yes. Mr. Backnick asked if there is a timeframe and said I guess the rezoning would be a permanent thing, but is there a statute of limitations to turn it back if the change would be recommended? Mrs. Cxyz, Zoning Inspector, stated the rezoning stays with the property. Mr. Backnick said it is indefinite then. Mrs. Cxyz stated yes.

Mr. Backnick said there is also some concern with the size of the development and said last time they did not indicate how many "additional" units could be built based upon the zoning change that is requested. He said I find it a little odd that a project of this size might be considered without fully understanding the financial complications and I would just like to see if there is more clarification. He said I guess the plans aren't drawn up and I understand that so this is more of a comment that I find it strange a full financial analysis wouldn't have been done by the company that is applying for this. He said I know if I was investing a whole lot of money, I would certainly want to understand what my potential upside was if this zoning change was in fact approved. Mr. Backnick said hopefully we can get some clarity around that this evening.

2. Thomas Shumay, Independence, Ohio, property owner of Parcel #001-02C-18-022 (on the corner of Pearl Road & Sleepy Hollow Road). Mr. Shumay said I came to Brunswick Hills in 1969 and bought 50 acres on Substation Road that was an old farm house. He said I was 34 years old and bought the property and improved the house, the yard, put a barn and a pool in and made it look nice. He said I improved the property and sold 17 acres in 1989 or 1990 and we put 17 homes in the back. He said this is next to the trailer park (Willow Lake Park) and they are beautiful homes.

Mr. Shumay said I've owned this property on Pearl Road for 50 years and Evelyn (Zoning Inspector) knows we've had four or five people come in with different projects and we thought it best not to consider those. Mr. Shumay said this development has to be a big improvement for this area and for the people of Brunswick Hills with the amount of people and taxes. He said it is going to be one of the nicest developments with the lake on the property and little slope in the hill. I think it will be the envy of every other place. Mr. Shumay said I've owned the property over 50 years and it is time to move on and thanked the board.

3. **Janet Harris, 4500 Sunset Cove, Brunswick Hills.** Mrs. Harris said I've lived in Brunswick Hills my whole life and I know Mr. Shumay. She said I grew up five minutes from him and he did have a beautiful piece of property on Substation Road. She said I grew up here and live in the development near there and I agree it is time to get it sold and I know it has been up for sale for a really long time. Mrs. Harris said I would like the record to show that I am very much against rezoning that piece of property. She said my biggest concern is not the development of the land, or the land being sold, it's the storm management system and water. She said there have already been a lot of water problems in our development on Sunrise Drive where the county had to come in and put a giant sewer system in there a year or two ago. She said there was a house and I believe the gentleman spoke at the last meeting that his house regularly flooded. She said the homes on Sunset Cove all have grinder pumps and they pump their water and sewage up to Pearl Road and that is obviously an up-hill push. She said every time there is a storm there is a problem with grinder pumps. She said I am actually at the lowest property level, so the topography of that land is very rolling and my property sits at the lowest elevation. Mrs. Harris said so the people who will be affected the most are obviously the people of that development down the hill from this. She said that stream there goes through most of Brunswick Hills, so you should really track that stream and see how many houses are close to that stream, because it is more than what just sits there, this will affect a lot of houses on Sleepy Hollow Road. She said that stream right now during heavy storms will easily expand 20 feet on either side in my backyard because that is very low land. Mrs. Harris said there is a giant concern with water.

4. **Gregg Timura, 4937 Cabernet Drive, Brunswick Hills.** Mr. Timura said I am pretty much too a life-long resident of Brunswick Hills. He said I grew up down the street here, moved away for a short period of time and brought my family back here and live just off of Substation near Grafton Road. Mr. Timura said I still have many family and friends that live close to this area they want to rezone. Mr. Timura said I cannot recall a time when the Shumay property was not for sale, so that property has been for sale for a long time. He said I feel it's not been sold because there is either an issue with the property or maybe he was asking too much for it. Mr. Timura said I've watched my current neighborhood where I am at now get swallowed up by over 300 Ryan Homes and Pulte Homes with so much congestion along Substation Road, I cannot allow my kids to ride their bikes. He said I am watching every piece of what was once, rural Brunswick Hills, get gobbled up and filled with homes and with many of them there is not even enough space on the driveway to park two cars – and this is Brunswick Hills. He said this is not the Brunswick Hills that I knew; this isn't the residential and rural that it was supposed to be. He said we are becoming just another congested, over-crowded, under-funded and high taxed, among the highest taxed in the county in fact, a suburban nowhere.

Mr. Timura said at least in some of the communities that surround us they have up-scale restaurants, department stores, business centers and Brunswick Hills has none of that. He said by putting another commercial property that is being proposed just means more residents. He asked what are we really offering Brunswick Hills? Mr. Timura asked if this is the kind of growth that Brunswick Hills wants? Mr. Timura said I don't mean any disrespect to Mr. Shumay or Redwood as they have every right to sell their property and to do so at a fair price and I'm all for that. He said I understand that Redwood wants to grow their business and I'm all for that providing for mostly an aging demographic, but again, at what cost is this all going to be? Wider roads, more congestion and even higher taxes. He said in two weeks we get to vote on higher taxes for the schools and still there is no industry, retail or nice restaurants. He said not to mention the further deforesting, erosion and water issues that Janet Harris just spoke about, wildlife issues, etc. so I just don't know if this is what the community of Brunswick Hills really wants. He said I'm ok with meaningful expansion and construction; I'm ok with people having the right to sell their property and do other things with it; I just don't think 100+ residents on that property and more congestion and everything else that goes with it is what this community wants.

Mr. Timura said I want to follow up with some questions going back to Mr. Crane. Mr. Timura said I don't understand why we would be considering rezoning when we don't have the details on what's going to happen with this property. He said we still don't know how many residents exactly are going to be on this property. The lady who was up here last month spoke about approximately numbers of residents, maybe if we get the zoning. He said and then she said if we don't get the zoning, it might be this many more. He said if she doesn't know her zoning that's fine, but how many? Give us a number; you should know that. Mr. Timura said Mr. Shumay made a comment about improvement. He said I get it that you improved your property, my question back to you is what is your definition of improvement? Mr. Timura said improving it to me with 100+ homes and 200+ residents further congesting the area – I don't consider that personally as an improvement.

5. Larry Manning, 4431 Sleepy Hollow Road, Brunswick Hills. Mr. Manning said I actually took a ride and looked at how these Redwood homes were setup and I give them a lot of credit as they are very nice. He said if we give this easement to build more homes, my biggest concern is what is going to happen down the line when Billy says you gave it to him, how come I can't have it and so on? He said and then we end up with a lot of junk put in to the community that we don't want. Mr. Manning said I've lived in Brunswick Hills since 1961 so I've seen a lot of changes, but for me, I live right across the street from this Redwood thing. He said I'm concerned that we will bring in low income people and more crime. He said they aren't telling you how many of these things they are going to build and if you don't give them the easement for that extra property, are they still going to build? He said if they are, then how many are they going to build and if they get the extra property, how many more are they going to build then? He said yes, they want to put houses over there, but nobody knows how many houses they are going to put in. Mr. Manning said I have a friend who lives in that development behind there and they have had major issues with water.

ADDITIONAL DISCUSSION BY THE BOARD

Travis Crane, TCG Engineering returned to the podium to address additional questions by the board. Mrs. Wetterman stated you said your client is buying the whole property, right? She said that means that the C-3 zoning would go up to the blue line on the map and the blue line would remain R-R? Mr. Crane approached the board and said this is not a variance request, this is a map amendment request for rezoning and referred to the 230 feet section on the map. Chair Murphy held up the map for the audience to clarify the portion for rezoning between the red and the blue line on the map. She noted that the portion at the corner of Pearl and Sleepy Hollow is already zoned Commercial and there is 430 feet Rural Residential. She said they want to rezone the middle portion of 230 feet along Sleepy Hollow Road as Commercial and that is what we asked clarification on and all we are discussing today.

Mrs. Porter said the main criteria for amending zoning are listed in Sec. 1103, A. (1.) and (2.) on page 117 of the Zoning Resolution. Chair Murphy read the criteria to the audience:

SEC. 1103 CONTENTS OF APPLICATION FOR AMENDMENT TO ZONING RESOLUTION

- A. All applications for a zoning amendment shall include:
 - 1. Evidence that the existing Zoning Resolution is unreasonable with respect to the particular property, and it deprives the property owner of his lawful and reasonable use of the land. For the purposes of this Zoning Resolution, a limitation upon the financial gain from the land in question shall not constitute unreasonable zoning.

2. Evidence that the proposed amendment would materialize in an equal or better Zoning Resolution than that existing.

Mrs. Porter made a comment in reference to Sec. 1103, A. (1.). She said in going over all of this, I can find no evidence that the existing zoning is unreasonable or that it deprives the property owner of their lawful and reasonable use of the land. Mrs. Porter said per the Zoning Resolution, just the financial gain from the land in question shall not constitute unreasonable zoning. She said with regard to A. 2., I can find no evidence that the proposed zoning amendment would result in an equal or better zoning than the existing zoning. She said quite the contrary as the additional impervious surface which is concrete, roofs, blacktop, sidewalks, etc. that would be created by this proposed zoning amendment would increase surface water runoff to neighboring properties and the increased number of dwellings units would adversely increase traffic inflow to an area that is already a dangerous area. Mrs. Porter said this would also be setting a precedent of rezoning from our Comprehensive Land Use Plan. She said there is 800 feet already zoned Commercial and if we took another 230 feet it would be from the R-R District and it would be setting a precedent here. She said and, as one of the residents who spoke said, once you set a precedence, where do you stop?

Mrs. Wetterman asked Mr. Crane if they would consider the part for rezoning to be just the bottom part of that with the control of the pond to your development? Mr. Crane said I don't think my client is interested in that. Mr. Crane said to address the previous comments, it was stated a couple of times today that the property has been for sale for a while and I think that is a good indicator that this meets Sec. A. 1. He said the current property owner is not able to use the property because the current C-3 zoning is not enough and it has not been able to sell for years. Mr. Crane said I think it is absolutely necessary to move that line to make it a useable property. Mr. Crane said the advantage to the township and to the neighbors is the control of that pond by one property owner. He said it was also stated several times that there are flooding issues downstream and having that control under one property owner would be a major advantage to that neighborhood downstream.

Someone from the audience asked Mr. Crane to expand on how that would be an advantage if you have all of those parking lots creating all that surface water runoff. Chair Murphy said we have no indication as to why that property is not selling; there could be a variety of reasons and just because it is not all Commercial that is not before us. She said we don't know why.

Mr. Norton said to Mr. Crane that maybe you can explain to me that if you have control over the lake, how are you going to control the water? Mr. Crane said it's the maintenance of that pond and the pond will be used for stormwater management purposes. Mr. Norton said so you are going to use it for an overflow. Mr. Crane said to get technical, we lower the water surface elevation of the pond by design during the design and construction as an added freeboard to create storage volume. He said we would redesign the outlet structure that controls the rain flow and when it rains heavy, that freeboard that we would create then fills that pond and releases at a slower rate. Mr. Norton said so you are going to use it mostly as a retention pond. Mr. Crane said this is one of the projects that will add an aesthetic value to it and there is also an engineering value to it so that is why it is important to have it under one ownership. Mr. Crane said the pond is a nice feature of the property.

Chair Murphy asked the board how they wish to proceed and stated her opinion that she would have like to see a concept plan to see where it was going. Mr. Norton agreed and said sitting there on that corner there are a lot of vehicles that come through there and I know that Sleepy Hollow in the winter is a rough road to get up. Mr. Norton said say they will have 100 units that would put 150 more cars and you will have to have

them coming out on Pearl Road. He said if you put them on Sleepy Hollow Road you are going to have a massive tie-up especially with the ditches along there they will be sliding into the ditch. Mr. Norton said I noticed that the land is 10-15 feet higher than Sleepy Hollow on the southside. Mr. Crane said its relative, Pearl Road is much higher and west of the property it drops significantly. Mr. Crane said I grew up on Sleepy Hollow Road and my family grew up in Brunswick Hills, so I know that road very well. He said it drops off significantly from Pearl heading to the west and said the property is probably slightly higher than to where the right-of-way is on the property to Sleepy Hollow Road. He said for the site plan planning that might be an advantage as we will have some of the units tucked into that hill.

Mr. Crane said to answer your question, this is still an on-going process and this is the first of many steps we will have to go through. He said we went to Medina County Planning already and obtained their recommendation of approval for the rezoning and we are here before this board and will go before the Trustees and that is all just for the rezoning. He said and then we come back and we do the site plan and we will go through a very similar process again with the county, this board and the Trustees. Mr. Travis said everything will be looked at extensively. He said the concerns that the residents bring up are legitimate concerns and are concerns that are addressed during the engineering process and site planning both at the county level and at the township level and I believe the township uses the county as their engineering representative. Mr. Crane said the county will be reviewing our plans for grading and stormwater management. The Medina County sewers are owned by the Medina County Department of Sanitary Engineers so they will be reviewing our plans for the sanitary sewers. Mr. Crane said if the gentleman is correct and the City of Cleveland owns the water then we will also submit our plans for potable water through the City of Cleveland Water Department. Mr. Crane said through the process, there will also be traffic studies done and the analysis of the existing capacity at Sleepy Hollow and Pearl Roads. He said if our clients have the access off Pearl Road, it won't just be the county it will also be with ODOT for right-of-way access. He said this process is pretty extensive.

Mr. Norton said if we go through all of this and we change the zoning and they decide not to buy it, now we've got a bigger piece of Commercial property that someone wants to come in and put in a small shopping center, repair shop, etc. and said I know the people who live near there don't want to look at an auto repair shop. Mr. Crane said I don't know if this will elevate all of your concerns, but our client has spent a lot of money doing due diligence on this property so they have no interest in walking away from this; their intent is to buy. Mr. Crane said they own 10,000 – 11,000 apartment units across the company from Nebraska to South Carolina and are headquartered here in NE Ohio and have a vested interest in the community.

Mrs. Porter stated you said your client has invested a lot of money in this property, can you give us an idea where your ingress and egress will be and how many units you are planning on having? Mr. Crane said we're not giving you vague answers on that on purpose because the real answer is, we don't know. He said we've explored entrances on Sleepy Hollow and Pearl Road but at this time, we don't know. Mrs. Porter said and how about the number of units? Certainly, if you've put a lot of money into this you should have some consideration on that. Mr. Crane said can I give you a range on this because I am on the record and I don't want to be tied into anything. He said as the property exists right now you are probably looking at 75-85 units and if we get the rezoning, you're probably looking at 90-95 units. Mr. Crane said those are ballpark, please do not hold me to that because we have not done the site plan. Mrs. Czyz stated a reminder to the board whether they use Sleepy Hollow or Pearl Road will be determined by the Ohio County Engineer's Office or the Ohio Department of Transportation (ODOT); the developer has no say in that. Mrs. Porter said we just were wondering what their thoughts are on that. Mr. Crane said we propose it, then it goes to the County Engineer's Office. He said if we are proposing entrances off Pearl Road, which is State RT 42, ODOT would be involved and if its Sleepy Hollow Road that would be Medina County.

Mrs. Porter said you answered this before, but I would like to have you answer it again – you would not be interested in just rezoning the back portion where the lake is. Mr. Crane said no.

No Further Discussion.

RECOMMENDATION OF THE ZONING COMMISSION TO THE TRUSTEES

Motion for the Rezoning Request of 230 Feet to Parcel Number #001-02C-18-022 (Corner of Pearl Road & Sleepy Hollow Road) from RR to C-3 for Redwood Apartments:

Motion: Mr. Norton made a motion to send a recommendation to disapprove the rezoning request to the Board of Trustees for their action. **Discussion on the motion:** Mr. Mougrabi asked for clarification on the motion to disapprove. Mr. Norton said that we have to give a motion to the Trustees if we approve this or disapprove this. Mr. Norton said I disapprove this. Secretary Milanko stated the motion is to deny approval of the rezoning to the Board of Trustees so that means on the roll call, a vote of yes means that you agree with the denial, and a vote of no would mean you disagree and that you are for approving the rezoning. Mr. Crane asked for clarification and asked if a yes vote means you disapprove the rezoning. The board confirmed a vote of yes means disapproval.

Mrs. Wetterman seconds the motion. **Roll Call:** Mr. Mougrabi-no; Mrs. Wetterman-yes; Mrs. Porter-yes; Mr. Norton-yes; Mrs. Murphy-yes. **Additional Comments:** Mrs. Murphy stated I voted yes because I believe this is against the Comprehensive Land Use Plan to retain the rural character of the township and it is against Zoning Resolution Sec. 1103 A. (1.) and B (2.) and that is why I am voting to not approve. Chair Murphy stated the recommendation passes and a recommendation will be sent to the Trustees for disapproving or denying the request rezoning the 230 feet to the parcel on Sleepy Hollow Road.

MOTION TO ADJOURN

Motion: Mrs. Wetterman made a motion adjourn. Mr. Norton seconds. **Roll Call:** Mr. Mougrabi-yes; Mr. Norton-yes; Mrs. Wetterman-yes; Mrs. Porter-yes; Mrs. Murphy-yes. Meeting officially adjourned at 7:45 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Trica Murphy, Chair

Date