

BERLIN ZONING COMMISSION

7:00 P.M.

REGULAR MEETING

JANUARY 8, 2008

- HELD AT:** Berlin Township House, 3271 Cheshire Road, Delaware, OH.
- MEETING CALLED TO ORDER** Rick Sedlacek, Vice Chairperson at 7:15 P.M.
Vice Chairperson Sedlacek welcomed any BZA members who would like to stay.
- PLEDGE OF ALLEGIANCE:** Waive reciting the Pledge of Allegiance since we had it in conjunction with the Board of Zoning Appeals.
- ROLL CALL:** Rick Sedlacek, Jerry Valentine, Bob LeBlanc, Jim Hahn, Betty Bringardner, 1st Alternate.
- OTHER ATTENDEES:** Todd Foley, Joe Thomas, Bill Narducci, Mike Kron, Jim Brehm, Jill Tangeman, Tom Sutter, and Mike Morrill. Ray Armstrong attended as Zoning Officer.
- Chair Sedlacek read the policy statement, as printed on the agenda, the Zoning Commission uses as part of the meeting procedures. The policy was modified last month to include a statement to the effect: "all comments from the audience must be addressed to the chairperson."
- VERIFY ADVERTISEMENT OF MEETING:** Proof of publication was presented for the ad that appeared in the *Delaware Gazette* December 24, 2007 advertising the meeting date and items for discussion.
- Rick Sedlacek** Next order of business is to approve and sign previous meeting minutes. Unfortunately, the holidays and health issues prevented the minutes getting to the commission in a timely manner. There were some minor changes that needed to be made but as the original minutes were put in the Official Book. We do have a small problem but as I explained to Cathy Rippel she did her due diligence, but we were in arrears of getting it taken care of properly.
- Ray Armstrong stated he had talked with the Fiscal Office and was told that since we had a draft copy and if they are approved then the original pages without the corrections the commission will need to take action to void those and replace them with the draft copy or approved copy.
- Chairperson Sedlacek listed the changes as:
1. Page 1 – Other Attendees we added a period after the word Officer.
 2. Page 2 – Exhibit 11 was scratched off.
 3. Page 3 – under Rick Sedlacek, the last sentence should read: "at a later time with the detailed information for the step two."
 4. Page 4 – Jack Reynolds, second line should state: "the sewer where it is...." And under Bob LeBlanc asked if all "T's" instead of "T".
 5. Page 5 (bottom) and (top) Page 6– Under Rick Sedlacek, "Questioned Mr. Reynolds.....2nd Paragraph "Rick's next question was regarding the Manos application and whether you had one divergence. Has that changed?"
 6. Be more formal with the names of persons speaking.
 7. Bottom of Page 8 and top of Page 9 where Rick Sedlacek was

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talking about the Zoning Resolution Committee. – Change the sentence, “I think they did a yeoman’s job but go on record to say even though he was part of it; Ray was there all the time, as were Jerry Valentine, Barbara Sherman. Jim Brehm had difficulty making the meetings but when he was there, added real good items as well. (Next sentence okay). All in favor say “aye”, opposed same sign. No opposition to the comments was expressed.”

**RESOLUTION
BZC 01-08-08-01:**

Motion to approve minutes of the December meeting as corrected.

**Motion by: Hahn
Seconded by: Valentine**

All in favor say “aye”, opposed same sign. No opposition, motion passed.

**RESOLUTION
BZC 01-08-08-02:**

Motion to VOID the copy of the minutes that were put in the Official Record and replace with the corrected copy containing the changes as stated above to be signed at the February 2008 meeting.

**Motion by: Hahn
Seconded by: LeBlanc**

All in favor say “aye”, opposed same sign. No opposition, motion passed.

Date on agenda was incorrectly shown at January 16, 2007 and should be January 8, 2008. Rick Sedlacek asked Ray Armstrong to have the date corrected for the record.

Rick Sedlacek

Let’s begin with the organizational meeting for 2008. I’d like to open the nominations for the Chairperson position.

Jerry Valentine.

**RESOLUTION
BZC 01-08-08-03:**

Motion to nominate Rick Sedlacek as the Chairperson for the Zoning Commission.

**Motion by: Valentine
Seconded by Hahn**

Rick Sedlacek asked if there were any other nominations. Hearing none, nominations were closed.

All in favor say “aye”, opposed same sign. No opposition, motion passed.

Rick Sedlacek

Opened nominations for position of Vice Chairperson.

**RESOLUTION
BZC 01-08-08-04:**

Motion of nominate Bob LeBlanc as Vice Chairperson.

**Motion by: Sedlacek
Seconded by: Hahn**

Rick Sedlacek asked if there were any other nominations and hearing none, declared nominations closed.

All in favor say “aye”, opposed same sign. No opposition, motion passed.

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Rick Sedlacek

Next order of business is **BZC Case #05-003** final step for application for Village Communities. The Final Development Plan for Condominium Development, Parcels #41814001005003 & 41814001059000, 56± Acres Located On Africa Road South of SR 37 and West Of 3 B's & K Road.
Hearing date January 8, 2008

Original File Exhibits

Exhibit 1:

1. **Tab 1:** Application for final development plan, dated 11/26/07, Table of contents page, Legal description of parcels, *submitted with application 11/29/07.*
2. **Tab 2:** Development text, pages 1-8, Declaration and Bylaws, pages 1-8, Declaration of *The Ravines at Meadow Ridge* Condominiums, pages 1- 43, Bylaws for *The Ravines at Meadow Ridge*, pages a-p, *submitted with application 11/29/07.*
3. **Tab 3:** Final Development Plan for *The Ravines at Meadow Ridge*, dated 11/29/07, *submitted with application 11/29/07.*
4. **Tab 4:** Typical Buildings Elevations Exhibit C-1 dated 11/29/07, The Kent building floor plan C-2.1 & exterior elevations C-2.2, The York - building floor plan C-2.3 & exterior elevations C-2.2, Devonshire/Mason – building floor plan C-2.5 & exterior elevations C-2.6, The Hampton – building floor plan C-2.7 & exterior elevations C-2.8, *submitted with application 11/29/07.*
5. **Tab 5:** Building Phasing Plan, dated 11/29/07, *submitted with application 11/29/07.*
6. **Tab 6:** Letter to Rick Sedlacek dated 11/16/07 (3-pages), from Doug Riedel, Delaware County Engineer, Final Engineering Plan Exhibit E, dated 11/21/07, *submitted with application 11/29/07.*
7. **Tab 7:** Open Space Plan, Exhibit F, dated 11/29/07, *submitted with application 11/29/07.*
8. **Tab 8:** Landscape Plan, Exhibit G-1.1, dated 11/29/07, Landscape Plan-Northern Portion, Exhibit G-1.2, dated 11/29/07, Landscape Plan-Southern Portion, Exhibit G-1.3, dated 11/29/07, Landscape Enlargements, Exhibit G-2.1, dated 11/29/07, Landscape Enlargements, Exhibit G-2.2, dated 11/29/07, Typical Unit Planting Plan, Exhibit G-3, dated 11/29/07, *submitted with application 11/29/07.*
9. **Tab 9:** Typical Regulatory Signage, Exhibit H-1.1, dated 11/29/07, Sales & Marketing Signage, Exhibit H-1.2, dated 11/29/07, Landscape Details, Exhibit H-2, dated 1/29/07, *submitted with application 11/29/07.*
10. **Tab 10:** Letter to Todd Foley, Faris Planning & Design, dated 04/21/05, from Phil Laurien, Delaware County Regional Planning Commission, 2-page recommendations, Preliminary development plan with revision date 04/21/05, Exhibit B, Typical Building Elevations, dated 03/17/05, Exhibit C, Building Phasing Plan, with revision date 04/05/05, Exhibit D, Landscape Plan, with revision date 04/21/05, exhibit G-1, Landscape Enlargements Sheet 1, with revision date 04/05/05, Exhibit G-2, Landscape Enlargements Sheet 2, with revision date 04/05/05, Exhibit G-3, Berlin Township, Net developable Acreage of Africa Road Site, prepared by DCRPC, *submitted with application 11/29/07.*
11. **Tab 11:** Letter from Shane Clark, Del-Co Water, dated 03/14/05 (exhibit J-1), Letter from Tara Corbett, Columbia Gas, dated 03/14/05 (exhibit J-2), Letter from Scott Early,

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Verizon, dated 11/05/04 (exhibit J-3), Letter from Shawn Sellers, Delaware County Sanitary Engineer, dated 02/16/05, (exhibit J-4), Letter from Doyle Clear, Jr., Trans Associates Engineering Consultants, Inc., dated 12/20/04, (exhibit J-5), Letter from Douglas Riedel, Delaware County Engineer, dated 04/20/05, (Exhibit J-6) Letter from William Bechstein, Berlin Township Fire Department, dated 04/18/05, (exhibit J-8), Letter from Frank Biancone, dated 04/20/05, (exhibit J-9), Letter from William Weeks, Jr., American Electric Power, dated 02/08/06, (exhibit J-10), *submitted with application 11/29/07.*

12. **Tab 12:** List of current mailing addresses within 200 feet of proposed parcels, *submitted with application 11/29/07.*
13. **Tab 13:** Letter of representation, from Frank Biancone, dated, 11/17/04, (exhibit L-1), and Jerry Greer, dated 11/16/04, (exhibit L-2), *submitted with application 11/29/07.*
14. **Tab 14:** Map of bike path detail, dated 04/14/05, (exhibit-M), Letter of credit from Frank Bock, Developer's Mortgage Company, dated 11/29/07, (exhibit-N), *submitted with application 11/29/07.*
15. **Tab 15:** Colored picture of lift station landscape, dated 025/05/07, *submitted with application 11/29/07.*

Exhibit 2: Proof of request via email in the *Delaware Gazette* dated December 19, 2007.

Exhibit 3: DCRPC minutes, dated 12/20/07, page 9, regarding extension for *The Ravines at Meadow Ridge.*

Exhibit 4: Notice of Hearing to the applicant dated 12/27/07.

Exhibit 5: Certified mail receipts dated 12/27/07 along with landowner letter dated 12/27/07.

Exhibit 6: Proof of publication in Delaware Gazette dated 12/24/07.

Rick Sedlacek

Is there a representative for the application present and if so, please step to podium and state your name.

Todd Foley

Representing Faris Planning and Design. I'm also here with Joe Thomas of Village Communities, and Bill Narducci of Floyd Brown the Engineers on the project.

Rick Sedlacek

Asked if Mr. Foley would be the primary speaker to which Mr. Foley replied yes.

Chairperson Rick Sedlacek asked if Mr. Foley would give a quick update or summary as to where the project stands at the moment.

Mr. Foley stated that two years ago in April 2005 we met two times with this Commission and then the project was approved to move on to the Trustees. We met with the Trustees in May 2005 and received an extension. Now the time is here to either present or apply for another extension and here we are with our final plan now to complete the 2-step process at the site on Africa Road.

Chair Rick Sedlacek indicated he would extend the full 10 minutes for Mr. Foley to make his presentation. Mr. Sedlacek asked Mr. Foley to present the items that are new from Step 1 to Step 2, any changes that may have made and any additions or anything we should know as well as any divergences.

Todd Foley

The condominium development on 56 acres on Africa Road south of St. Rt. 36/37, we have not changed the site plan at all from the standpoint of our road network from the access points; that has all remained the same through the program development plan. I would like to just briefly talk about the items that we did change from the

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submittal before to now; I would say we have revised our text to follow the final development plan required.

Specifically, with the preliminary development plan approval we received our zoning for the Planned Commercial District so that changed on Page 1 to state that the zoning is PCD now.

Some of the Exhibit labels have changed a little from the original submittal but that happened just to accommodate new information.

Chair Sedlacek recognized Jim Hahn who wanted to speak. Mr. Hahn indicated he thought that on Page 1 the applicant should show the date of the code they are working under because Berlin has been making changes to the code and what the applicant is working under and what is currently in place may very well be two different editions of the code. The applicant may be in accordance with one edition when work started on the project but the code has been and will continue to be changed over the next few months. In December 2007 we started changing articles so the applicant should state the date of the code edition they are operating under.

Discussion continued as to the date that should be used and consensus was that the applicant should use Berlin Township Zoning Resolution dated April 30, 2005.

During the discussion, Jerry Valentine pointed out that a date of 12-11-06 does not appear on the cover of the code as previously shown and asked that the issuing dates be verified. Ray Armstrong will check with Cathy Rippel to ensure correctness of dates on the cover of the Zoning Code.

Todd Foley

Continuing through the Final Development Plan text. On Page 2 of text Mr. Foley indicated that one of the conditions was that we were to use dimensional shingles which was a change from the first submittal.

Some of the exhibit labels have changed, but items have not changed that are associated with them. When we look at the exhibits, it will become clearer.

Page 2, we also added that we are going to allow sales from the clubhouse. Also note that we will have no more than three (3) units as models that have been shown on the development plan so you can see where they are located.

From the standpoint of divergences, I've shown the one that was previously approved as far as the preliminary development plan related to the net developable calculation.

The new divergence that we need to address which we are requesting is related to a temporary marketing sign that we want to locate on Africa Road so primary and temporary marketing signs for the community would be located at the access on Africa Road and the wild meadow lands. The setback as required for the sign we are proposing is 39 ft. from the right-of-way. Under a typical condominium development on the access to the public road we only have one driveway dealing with the setback. Construction of a secondary public road, we now have two public driveways and puts our sign basically on the other side of the slope down into the ravine which is not desirable or even visible. Consequently, what we want to ask for is a reduction from the right-of-way on the new public road from 39 ft. down to 5 ft. and then also along Africa Road we want to have a reduction from 39 ft. to 25 ft. The right-of-way that we are matching actually tapers away from

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Africa Road so the point where we want to locate a sign is actually not at the same point as the other, so it is 25 ft. to the right-of-way and the setback beyond the right-of-way is a lot greater and I'll show you that on the exhibit which will make it more clear.

That is the only divergence we have noted in the text.

Chair Sedlacek asked about the percentage for roads. Mr. Foley replied that was something we initially had submitted and was approved as far as being built to plan. We have not varied from that either so I don't believe that needs to be reviewed. Mr. Sedlacek indicated he noted on Page 3 it is now 13% instead of 15%.

Mr. Sedlacek asked if there was anything else in the text that the commission should know about. Mr. Foley replied that they had added more details on the landscaping and streets plus any additional signage so we added those necessary items in the exhibit list. There is also information for streetlights. Mr. Foley then brought up the phasing plan on Page 5. We have varied from the initial packet which included five (5) phases for the entire development. Since we were here previously, obviously market conditions have shifted severely from a residential home and condominium standpoint so what we are asking is that you take those five phases and split them into ten (10) phases. Initially, the phases were 12 months per phase and we are now asking for six (6) months per phase, so the time limit doesn't change but what it allows us to do is to control the amount of building being done in the infrastructure and all the associated possibilities of something going wrong with that so we can stay more in tune with the market from the condominiums we are building. That point is on Page 5 #11.

That is all the changes in the text from the sample document that we will apply to this community and as requested at previous meetings. There is a letter included that explains some of the changes. We added a mailbox gazebo located in the parking lot area of the clubhouse, off the main road so that residents can get their mail at that location. That is something we added and a detailed sheet for it is shown in an exhibit. Architecture has provided the elevations and floor plans, dimensions, as well as building heights and overall width and length of the buildings.

We provided the engineering final plans which are still in the approval process. There is a letter from the Delaware County Engineer stating the status of the engineering phase.

Bill Narducci spoke at this point stating that the letters received from the County Engineer are basically stating that we are far enough along in the engineering process where there won't be any layout changes. The majority of the comments received from the Engineering Department were procedural items. The comments were very general on actual engineering. We had the Engineering Department draft letters stating that we are far enough along in the process to assure the Township that there won't be any ratifications occur regarding the site layout and roadway network.

Jim Hahn spoke saying he had a question on the engineer's letter in Tab 11. In the 3rd paragraph last sentence, it states that: "the County Engineer's Office will not be responsible to inspect the proposed private streets for this development". The 1st sentence in the 3rd paragraph talks about: "will provide a 20-year design life, provided the construction methods, including proper inspection, are used". My

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question is (a) who is going to inspect it, and (b) is the county engineer going to observe the inspection that was done by whoever. If the county engineer is not going to inspect it, but they are saying it will work if done right but I don't see any place stating who determines if it was done right and what the county engineer's responsibility is, so that is an open area.

Bill Narducci spoke, stating that the County Engineer, because it is not a designated road, I believe they have some kind of contracts especially for the inspection process. Mr. Hahn then asked if they would present the inspection results to the County Engineer stating their findings. Mr. Narducci indicated it was something they could do and they (County Engineer) would say the road was constructed within the guidelines. Mr. Hahn indicated that is what he was looking for – some type of assurance that the road was built in compliance to specifications.

Chair Sedlacek asked Ray Armstrong to make a list of issues concerning the project with this being the first one. Have the County Engineer's office provide information about who inspects the construction of the road and whoever does the inspection to sign off that the road was built and inspected and is in compliance.

Bob LeBlanc

Asked what role Regional Planning might have with the changes, is there a procedure in place that the issue would be reviewed by Regional Planning.

Joe Thomas replied that Regional Planning has already reviewed the plan and in his opinion would not do so again.

There is a letter in Tab 10 dated April 21, 2005 by Phil Laurien who was the Executive Director of RPC at the time that states RPC's position.

Todd Foley

Along with RPC, there was concern initially regarding the exception and the date when the preliminary engineering plan would be the extension and the date it would expire. I talked with Ray Armstrong and told him we received an extension on December 20, 2007 for six more months just to make sure that we fall in line with our zoning and that doesn't expire before we get the engineering approved. RPC noted the extension would be the last one requested. On Page 9 of the RPC minutes is where the issue is addressed. That is an additional item and was in the original book under Tab 15.

Referring to the landscaping, we have identified plant species, trees, shrubs, and buffers along with street trees at all our entries to specific details as they were general labels previously. We have provided details for all landscaping we are proposing. We have also located where all the temporary marketing signage is to be located and setbacks accordingly to the code. We show the streetlights and provided details for those lights. We located the lights on the development plan. We have shown locations of the sales models. The regulatory signage such as stop signs, street signs, the original plan we submitted was the style and character we used. Since that time the package has been remodeled and provided the updated changes. They are still the same signs but colors have changed.

One of the requirements at our previous meetings was to provide information that we were allowed to work under the power lines and stake the roads. We were provided a letter of credit that was requested as part of the requirements. At the very last session we provided a

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conceptual picture for you of the zoning on Africa Road and the improvements that will go along with that building.

Jim Hahn

Noted that in the letter from DelCo Water Co. in the last paragraph a statement to the effect: "DelCo makes no guarantee of water availability beyond this period of one year from the date of this letter." The letter was dated March 14, 2005.

Chair Sedlacek made a general comment which might also be a question for Ray Armstrong as well, while we are talking about the letters, and I direct it to Ray Armstrong now. Do any of these letters need to be more current?

Ray Armstrong noted they are old letters but they were current at the time the zoning and preliminary plan were approved. At least the way we are set up and this is the first time we have gone through a Step 2, more or less the way the code states, there is no provision that we need to ask them to go update the letter since it has already gone through and approved.

Discussion continued about the issue with the consensus that since the letters were approved in the preliminary plan, it is now the developer's risk. It really is at their risk if DelCo decides they will not provide water. However, they have put in a 10 inch main off 3B's &K to the site so I don't really think that is an issue at this point.

Rick Sedlacek

At this time I invite the commission members to submit any comments, questions they might have.

Jim Hahn

On the declaration of the condos document. On Page 2 of your declaration (Tab 2, Declaration and Bylaws Creating and Establishing a Plan for Condominium Ownership...) as I'm reading Item 10, Condo Organizational Documents, it struck me that it might be good to have somewhere in this document that whatever requirements placed on the condo owner that these bylaws have to adhere always to the Township Zoning. In other words, the Township Zoning supersedes any homeowner association bylaws.

Discussion continued about the homeowner association bylaws with the consensus being that Township Zoning is the ultimate ruling document.

Jim continued and referenced Page 26 under the condo document where it talks about access to the common property. A statement is made: "but not to the public in general, to enter upon the common elements in the performance of their duties". I don't know that it particularly goes in at this place but it triggered a situation where you have bike paths and that you do not exclude non-residents from using. I don't think you want to exclude township residents from using the bike or walking paths. Your development will abut another development and drawings show bike paths going into another development so that is the reason for my concern.

Mr. Foley stated that is something they would have to take up with the attorney.

Rick Sedlacek

Still under Tab 2, page 2 of the final development plan text, Item 3(a), in the 2nd sentence, "the water facilities within the development will be the responsibility of the developer". What I'm looking for there is the maintenance of that water supply. Is that specified anywhere in the homeowner association document whose responsibility that becomes since you state in falls within the responsibility of the developer? Who

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does the maintenance and periodic testing? It needs to be done and I think it would be prudent to get the results of that testing to our fire chief.

Mr. Foley responded that in other townships it was a requirement of the fire department basically on a yearly basis a letter is sent to them stating that it should be done and then we submit the test results to the fire department. In other townships, they send out a letter stating it is time to have the testing done. Discussion continued on procedure for the testing but since this is the first 2-step project in Berlin Ray Armstrong was not aware of any procedure set up for that to happen. Since this is a private water system and/or private street, he is not aware whether the fire department has a procedure in place but the fire chief does want the results on a yearly basis for flow tests. The fire chief has stated that in several meetings that it would be required.

Chair Sedlacek asked Ray Armstrong to check with Chief Beckstein and ask him if this is something the fire department is going to incorporate. I just want to make sure that doesn't get lost. Jim Hahn asked Ray Armstrong to also provide the information to Trustee Panzarella.

Chair Sedlacek continued stating the next item he has is on Page 4 regarding the divergence on the sign and I understand you will talk more about that when you get into the drawings.

Betty Bringardner Asked to back up to Page 2, Item 2 architectural structures are talked about and it states that: "building will be no greater than 35 feet in height as measured from the front of the building". That could be measured from the roof so where is the point of measurement? Ray Armstrong stated it should be the front threshold. It's in the code but not stated in the plan.

Bob LeBlanc On Page 4 Item 9(c) regarding roof elements etc. I haven't seen anything about the types of roof materials.

Mr. Foley responded that on Page 2 Item 2, it states the roof material shall be of a medium or dark color and shall be dimensional shingles.

Jerry Valentine Page 3, Item 4 in the opening statement correct the word "probably" to "probable" which makes more sense.

Rick Sedlacek Page 3, Item 4 first paragraph, last sentence – "To the west is property that is zoned Planned Residence District". It is my understanding to the west it would be FR-1. Ray Armstrong responded actually "no". The way it runs, part of it is residential but part of it is USA lands. It's a mixture. Chair Sedlacek responded that actually is should say, "to the west the property is PRD, FR-1 and USA land."

Todd Foley Tab 3 – Exhibit B This drawing has not changed.

Jim Hahn Expressed he thought there should be more parking spaces at the clubhouse for events. He asked for 18 instead of the 12 shown on the drawing. After much discussion, consensus was that this issue should be looked at more closely in an effort to provide more parking spaces at the clubhouse.

Betty Bringardner/Jim Hahn Conversation in regard to the width of the roads. Could not understand everything that was said but they were questioning how wide the private street is in the development.

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After paper shuffling, etc., Mr. Foley responded the private street would be 22 ft. wide with no on-street parking. This takes into account the fire safety standpoint too. That is what was presented and approved in the preliminary stage. This is the private street. The public road will be per the county standards as requested.

Bob LeBlanc

I have a question regarding the public road. Have any negotiations passed by the properties east of where the public road ends? Joe Thomas replied no. Bob LeBlanc then asked what good is a public road if it doesn't go anywhere. Todd Foley answered that it is open as far as any other future development that goes across that property, I think they could put it into 3 B's & K.

Chair Sedlacek stated that on the Comp Plan it shows all the way from Africa to 3 B's & K. This is a stub to it with the anticipation of connecting.

Discussion continued but no resolution resulted. Consensus was that currently the area under discussion would remain a stub for future development.

As an aside, Chair Sedlacek asked Ray Armstrong if he knew about the Berlin Fire Department going on record from time to time asking that the main road into any development be named so that it would indicate what the development was, i.e., Meadow Ridge Parkway or some such name. Ray Armstrong responded that unfortunately before that came up, they map people had already assigned names and it was too late.

Rick Sedlacek

Directing his comments to the applicant, is there anything else on the plan that you need to direct our attention to? Todd Foley replied no. Do you have any comments on the development plan?

Moving on to Tab 4 – Mr. Foley replied they have provided floor plans and elevation for each unit type and associated them so you can see what we are providing in the way of building materials etc.

Tab 5 – Mr. Foley explained that this tab addresses the phasing and the revised limits. We broke the phasing down to smaller per unit type phases. We kept the same time frame.

Tab 6 – Mr. Foley indicated this tab covers the revised final engineering plan and also the letter from Douglas Riedel and text covering the remaining comments that our outstanding. It also covers the final grading and exhibit layout.

Tab 7 – Mr. Foley stated this covered the open space plan and aside from just making sure the layout as the revised engineering reflected, there has been no change in the open space. Chair Sedlacek added that there is about 27 acres of open space which is a lot but some of that area is not usable because of the terrain. Have you made any attempt to make any of the open space “active” as opposed to “passive”. Mr. Foley replied they added a bike path so that actually provides some sort of connection for all the units to get from south to north and then the sidewalks to the public road. Beyond those two items, we have tried to keep it in as natural state as we can in order to preserve the character.

Tab 8 – Mr. Foley stated that Exhibit G1.1 is our landscape plan. We have located where our models are by the large asterisk; one directly across from the clubhouse which is one unit type, farther down the road is another and so on down farther is the third model. The models

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represent the three types they are going to work with for sales. Along with those locations is one of the signs we added to the package. There is an ID sign they typically use that states the name of the model so that customers can identify what unit they are viewing. We also show the shrub types, tree types, etc. being used throughout the site. This plan shows the street trees but in another document there are more specific on some of the large areas. Basically that is what is in the Exhibit.

Chair Sedlacek asked Ray Armstrong if the landscape plan is acceptable based on our zoning code. Ray Armstrong responded the only thing that is problematic to me which was not at the time, are the street trees on the public street. Since that time, it has changed where the township does not want street trees between the curb and sidewalk. This is because of maintenance and all the other issues that go along with that. The commission has already dealt with that on other cases. The balance of the plan appears to be in compliance. So, the only issue I have is street trees on the public road.

Mr. Hahn asked about the number of streetlights, indicating he didn't think there were enough lights. Mr. Foley indicated he believed the lights were at the desired location and they will be spaced at typical places to illuminate the area. Discussion continued on placing of streetlights and the fact that there did not seem to be enough lighting for people walking at night. Mr. Foley stated there were eleven (11) streetlights shown between G1.2 and G1.3. Mr. Thomas indicated there were porch lights and garage lights. We try to place them particularly at intersections although we don't like to place too many because a lot of times it becomes more of a burden because of lights shining into other houses. It's a fine line between the number you put in versus the method of placement. Mr. Hahn thought there should be at least one at every intersection but did not see any located at many of the intersections.

Chair Sedlacek stated that what the commission is saying is that as a suggestion you take a look at the street lighting and see if additional ones are needed. I agree with Mr. Hahn on the first intersection. We don't have any specifications to hold you to but we would like you to take a look at that and make sure there is adequate light.

Betty Bringardner

Regarding the up lights mentioned, where are they located. Mr. Foley replied all along the stonewall. They will be shown in the next couple of exhibits.

Chair Sedlacek continued on with Tab 9. Mr. Foley indicated this tab covers the signage. Exhibits H1.1 and 1.2. H1.1 covers the regulatory signs I mentioned previously. The actual signage has not changed.

Mr. Foley continued with H1.2. This provides the marketing signs we had previously plus some that we are proposing. Item 10 on this sheet is the temporary marketing signs referred to that we want to place on Africa Road. Discussion continued regarding the signage. Chair Sedlacek asked if this is the sign you are asking for a divergence on the setback from 39 ft. to 25 ft. which is about a 40% divergence. Mr. Foley went on to say that we did not follow Africa Road like we traditionally would. Africa Road flares out so we are farther back from the road at the beginning. If you look at G2.2 Item 1, on the top part of the drawing, we want to place the sign here (Mr. Foley was pointing out the location on the drawing). Discussion continued while the exact location and setback was being determined. After the discussion,

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Chair Sedlacek stated he would like the zoning inspector's comments when Ray Armstrong entered the conversation. Ray Armstrong stated that there are a lot more signage issues he viewed as more important in the development than the placement of this particular sign.

Ray Armstrong proceeded to go over the signage (Exhibit H-1.2) again and indicated there seems to be an excessive number of signs that you aren't going to find anywhere else in the township or in the zoning code.

Todd Foley said he would go over the signs again:

1. Future Residents parking signs initially and then as units are sold they will transition to guest parking. Those are at the clubhouse and just to allow parking spaces for potential customers or if you have a visitor, they can use the guest parking spaces.
2. The Sales Office open sign – that is a sign that goes up and down for customers when the office is open. It will be at the clubhouse at the end of the sidewalk so when people are coming into the development, they can see that the office is open and use that space.
3. At the clubhouse, they will see the brochure box that will have information for people to pick up when the office is closed or no one is available to show them around.
4. Welcome/Thank You Signs are signs put there at the entry coming in off the public road as a way to greet customers and people already living in the development.
5. Hours Sign – Business hours of the sales office. They will much the same as #8.
6. #6 & 7 Lot Sign “A” and “B” are just to provide information that even though construction is in progress the office is still open for business. Refer to G2.1 and G2.2 exhibits.
7. Addressed in #6.
8. Addressed in #5.
9. A larger sales office sign that we want to place on Africa Road at that entry. Again, it is a non-traditional entry to the condos and we want to get people from Africa Road back to the clubhouse. This is shown on G2.2 exhibit. There is one sign that would be placed on the north side of the road.
10. Temporary Marketing sign to show status of unit/lot.
11. Available/sold for status of unit.
12. Model identification sign since we are using three different model/styles of unit.
13. Clubhouse location to show direction where the models are located. Since they are spread out somewhat, we want to make sure that people can find them.
14. Future development sign for development growth typically placed at the edge of the street.

The commission stated again that this appears to be an excessive amount of signs.

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Chair Sedlacek asked Ray Armstrong if the temporary marketing signs would require a permit. Mr. Armstrong responded yes permits would be required.

Discussion continued covering the details of the signs but no resolution other than asking the applicant to review the signage.

Ray Armstrong stated that Sign 9 for the Africa Road entrance is not a permitted sign. Past experience with put-up/take-down signs did not work out as sometimes they were left up over night and instructions to take signs down at the end of the day just do not work. Ray Armstrong suggested that they incorporate the information into the Marketing Sign. Applicant will review the issue and try to come up with a solution.

Bob LeBlanc asked if applicant had a copy of the zoning code and also suggested that the applicant become really familiar with the sign code and the lighting code.

Chair Sedlacek

Asked to move on and picked up with Tab 10 – This contains the letter and calculations which seem to be okay.

Tab 11 – We already talked about those letters which were part of the original approval.

Tab 12 – Is the list of adjacent landowners.

Tab 13 – Is a letter from Frank Biancone to Phil Laurien that is self-explanatory.

Tab 14 – The bike path detail and a Letter of Credit. It's a nice paragraph and the reason it is in the code is to assure that when the project is started, the developer has the wherewithal to complete the project. I wish it were a little more specific. Are you okay with the letter (addressing Ray Armstrong). Mr. Armstrong replied it is general but looking at the market conditions and the fact that if you take a development plan like this they have three years to begin the project. My question is how far do we go because if you issue something that is going to tie up their credit that is bad so I'm okay with the present letter.

Tab 15 – Is the lift station. It shows the landscaping to dress it up a little. This tab also contains the meeting notice, letter by Cathy Rippel notifying applicant of the hearing, and copies of the certified notifications sent to adjacent landowners.

Jim Hahn

One thing that I did not see in the package is how water will run off the roads.

Mr. Foley responded that information will be in the final engineering plan which is still in development. We will have some retention ponds and crowns on the roads for water flow.

Chair Sedlacek

Asked for comments from the public.

Michael Kron

3478 Courtland Dr.; Lewis Center – My concern after looking at the plans and the way it will be developed (pointing to the drawing displayed) it appears there is only one access. Who maintains the water lines on the public road? I also believe there is a fire problem (moved here from California) with all the “fuel” in the form of brush, trees, etc. If you get a dry, hot summer and with only one road people will be trapped. Having experienced something similar even in a green area, it took a fire that burned out Laguna Beach and it killed all the people who had no way out of the area. Another concern is the traffic

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and how residents will get in and out of the development. Are traffic lights going to be available - Africa Road is already a small road so where are all the cars going to go. Mr. Kron went on discussing the area and how traffic will be handled and possibility of fire blocking escape.

Mr. Sedlacek advised Mr. Kron that the development had been evaluated by Regional Planning, County Engineering, the local Fire Chief and they don't seem to have those issues. Discussion continued about Mr. Kron's concerns but no resolution was brought forth. The commission told Mr. Kron that his point was well taken. The water issue Mr. Kron expressed will be handled by DelCo since they are providing the water for the development.

Mike Morrill

His concern is with the zoning commission being able to grant divergences. When you do grant a divergence it should be carefully documented as to why you granted the divergence to other people such as developers. While a divergence doesn't reach the level of the onus of burden of proof required, other people perceive that you have given to this person a privilege that they are not entitled to. So where you allow signs for a model home that we don't allow in other sections of the community with model homes the developer looks at the zoning inspector or the board of zoning appeals and says why can't I have a sign like that. When you grant a divergence and the burden of proof in granting a variance for a sign for example...Mr. Morrill quoted from the document entitled Duncan vs. Middlefield where the granting of a variance requires that seven conditions be met. It is the person's responsibility in requesting the variance to prove why the variance should be granted and that all conditions are met. The Duncan vs. Middlefield document is on file in the zoning office. So, I am asking the commission when granting these variances, and especially sign divergences, that you either establish that the applicant has a true difficulty and document the difficulties so that we are not burdened by people coming in to the zoning inspector and board of zoning appeals and saying that those communities have all these signs all over the place why can't we have that privilege.

Chair Sedlacek responded saying that Mr. Morrill's points are well taken but it's per plan.

Discussion continued with no resolution brought forth.

Bob LeBlanc

Asked if a traffic study had been done on this development?

Mr. Sedlacek stated the traffic study was done on Africa Road.

Mr. Foley indicated information is shown in Exhibit J-5 in Tab 11 and it is from the traffic engineer and all that was provided as part of the original package.

Chair Sedlacek

Called for a 10-minute break at 9:35.

Meeting reconvened at 9:50.

Rick Sedlacek

We have documented twelve (12) items and after hearing them read I will entertain a motion to have the list entered into the record as Exhibit 7.

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**RESOLUTION
BZC 01-08-08-05:** **Motion to add the list of issues as Exhibit 7 to the development plan.**

**Motion by LeBlanc
Seconded by Hahn**

All in favor say “aye”, opposed same sign. No opposition, motion passed.

**RESOLUTION
BZC 01-08-08-06:** **Motion to continue the application on BZC Case #05-003 on February 12, 2008 at 7:00.**

**Motion by: LeBlanc
Seconded by: Hahn**

All in favor say “aye”, opposed same sign. No opposition, motion passed.

Rick Sedlacek

Next order of business is to identify meeting dates. Traditionally we have used the 2nd Tuesday of every month with the exception of June, July, and August. We would meet during those months on an “as needed” basis.

**RESOLUTION
BZC 01-08-08-06:** **Motion to continue with the same plan of meeting the 2nd Tuesday of each month except for June, July, and August on an “as needed” basis in 2008 of:**

February 12, 2008	August 12, 2008 (If needed)
March 11, 2008	September 9, 2008
April 8, 2008	October 14, 2008
May 13, 2008	November 11, 2008
June 10, 2008 (If needed)	December 9, 2008
July 8, 2008 (If needed)	

**Motion by: LeBlanc
Seconded by: Valentine**

All in favor say “aye”, opposed same sign. No opposition, motion passed.

Rick Sedlacek

Addressing Ray Armstrong, at the last meeting you talked about initiating Articles 10 through 20. Ray Armstrong responded that the copies he brought in and distributed to everyone contains the comments from the commission, the prosecutor’s comments as well as the twenty-six (26) items. Scott Sanders incorporated the comments so basically, we are current from the standing of the prosecutor’s comments. Chair Sedlacek asked for Ray Armstrong’s recommendation and Mr. Armstrong replied that he wanted to ask the commission to consider an additional change. On the planned developments where we state that 20 copies will be brought in (PRD, PCD, POD, and Planned Industrial) I’d like to see about adding the phrase: “20 copies and electronic media as specified by the zoning inspector”.

We are starting a process to get all of our records on microfiche so that they will be at the recorder’s office at the same time we are looking to getting our text and in the future maps and drawings on line through the county site and will be accessible to the public and us. We are going to be the guinea pig so to speak.

We would like to add that language to the planned districts so that we can get this from the developers and require them to do it at their cost

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basically since they already have it on a computer system.

Jim Hahn

I called Ray Armstrong and we thought of the same thing while I was thinking about it and I could not come up with a rational, intelligent reason for having made the motion that we limit condos to 3 units per acre instead of 4. Rethinking my action, and talking with others, consensus was that 4 would be more reasonable to me when I left the meeting. I think I made a wrong suggestion and I'd like to retract it and go back to 4 instead of 3 units per acre.

Ray Armstrong

I would like to add one other piece of information and that is I contacted Scott Sanders and he suggested his own recommendation would be that we make it 4 and not less than that. We also were thinking that we did not want to price condos out of the market. If we didn't have enough density, there would be no reason for a developer to build condos as a buffer between commercial and low density residential.

**RESOLUTION
BZC 01-08-08-07:**

Motion to initiate Articles 10 through 20 as documented with the exception of two changes: (1) changing the 20 copies the applicant has to submit to 20 copies plus electronic media as specified by the zoning inspector in planned districts, and (2) in the article on condos to change the density from 3 per acre up to 4 per acre.

**Motion by: LeBlanc
Seconded by: Valentine**

All in favor say "aye", opposed same sign. No opposition, motion passed.

**RESOLUTION
BZC 01-08-08-08:**

Motion to adjourn.

**Motion by: Hahn
Seconded by Valentine**

All in favor say "aye", opposed same sign. No opposition, motion passed.

Meeting adjourned at 10:05 p.m.

Rick Sedlacek

Jim Hahn

Bob LeBlanc

**Betty Bringardner,
1st Alternate**

Jerry Valentine

Linda Paxton, Attest