

BERLIN ZONING COMMISSION

7:00 P.M.

REGULAR MEETING

FEBRUARY 12, 2008

**HELD AT:** Berlin Township House, 3271 Cheshire Road, Delaware, OH.

**MEETING CALLED TO ORDER** Rick Sedlacek, Chairperson at 7:00 P.M.

**PLEDGE OF ALLEGIANCE:** Bob LeBlanc led the group in reciting the Pledge.

**ROLL CALL:** Rick Sedlacek, Jim Hahn, Bob LeBlanc, Jerry Valentine, and Betty Bringardner 1<sup>st</sup> Alternate.

**OTHER ATTENDEES:** Joe Thomas and Todd Foley.

**Rick Sedlacek** Read the adopted policy statement as printed in the Agenda for the meeting.

**VERIFY ADVERTISEMENT OF MEETING:** Proof of publication was presented for the ad that appeared in the *Delaware Gazette* January 31, 2008 advertising the meeting date and items for discussion.

**Rick Sedlacek** Indicated the minutes for the December 12, 2007 have been corrected and approved as requested during the December meeting and commission members just need to sign the minutes for December 2007.

**RESOLUTION BZC 02-12-08-01:** **Motion was made to approve the January 8, 2008 minutes as sent to commission members via e-mail.**  
**Motion by Bob LeBlanc**  
**Seconded by Jim Hahn**  
**All in favor say “aye”, opposed same sign. No opposition, motion passed.**

**Rick Sedlacek** There are three items on the agenda for this meeting, and before we get started I will entertain a motion to untable BZC#05-003.

**RESOLUTION BZC 02-12-08-02:** **Motion was made to untable BZC#05-003 for continuation at this meeting.**  
**Motion by Jim Hahn**  
**Seconded by Bob LeBlanc**  
**All in favor say “aye”, opposed same sign. No opposition, motion passed.**

**Rick Sedlacek** ***First item on the Agenda is to continue BZC #05-003 - final step for application, Village Communities, Final Development Plan For Condominium Development, Parcel’s #41814001005003 & #41814001059000, 56± acres located on Africa Road South of SR 37 and West of 3 B’s and K Road.***  
Chair Sedlacek continued stating that Exhibit 7 listed twelve (12) items the commission asked to be addressed. I see you have included italicized text as your answers to the issues from the January hearing. I would ask that you cover each one allowing the commission to ask questions prior to moving on through the list.  
At this point Todd Foley addressed the commission.

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**Todd Foley**

**Item 1** - The consultant and whoever will be inspecting the private road that it be built to county standards and there will be feedback from the consultant to the County Engineer's office so they know and we know it will be built to private road standards and is in compliance.

**Response:** Tab 2, Page 5 Letter "i" *Following construction, inspection information will be provided to the Delaware County Engineer confirming that the pavement as constructed complies with the pavement design reviewed and approved by the Delaware County Engineer.*

No questions from the commission.

**Item 2** - Document that the zoning code overrides the homeowners' association rules when conflict with local, state, or federal laws may exist.

**Response:** Tab 2, Page 41 Article XX General Provisions, Section 1 added verbiage *"Notwithstanding anything set forth in this Declaration to the contrary, should any provision of this Declaration by By-Laws conflict with any section of the **Berlin Township Zoning Code dated April 30, 2005 shall apply.**"*

Commission member Jim Hahn indicated that in this case the date of the Zoning Code should not be spelled out because in the future we will update our code and we are talking about future changes to this also and this should reflect the code in effect at that time.

The text as stated in the response above was amended to state: *"Notwithstanding anything set forth in this Declaration to the contrary, should any provision of this Declaration by By-Laws conflict with any section of the **current Berlin Township Zoning Code shall apply.**"* The amended change was initialed in the Legal Copy by Messrs. Rick Sedlacek and Todd Foley and dated 2-12-08.

**Item 3** - Page 25 a comment was made that the text contains no language that would restrict non-residents using the walking or bike paths. Non-residents should be permitted to use the bike and/or walking paths since other developments will possibly be built adjoining the Ravines.

**Response:** Refer to Page 5 of the Condominium Document in the top paragraph we are adding the verbiage *"Notwithstanding anything herein to the contrary walking and bike paths which are designated as common elements may be used by all residents in Berlin Township"*.

No questions from commission members.

**Item 4** - Water supply testing results should be sent to the fire chief on an annual basis. Will it be the responsibility of the developer to make sure this gets done, or will it be the fire chief's responsibility to request the testing results on an annual basis. Ray Armstrong indicated he would take this issue to the trustees and fire chief to get it resolved.

**Response:** Issue of water testing on hydrants and providing that information to the fire chief on an annual basis. Through conversations with Ray Armstrong and Chief Beckstein, we added verbiage in Tab 2, Page 16 in the Condominium documents...*"In addition to the foregoing, the Association shall be responsible for maintaining the private fire protection system and for annually inspecting the system. Annual inspection and maintenance reports shall be provided to the Berlin Township Fire Department"*.

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Chair Rick Sedlacek requested that (1) for the record, the text as amended to cover the hydrant inspection be included in Tab 2, Page 16 and (2) the letter in Tab 10 dealing with the inspection be moved to Tab 11 so that all letters regarding the project reside in Tab 11. This information should be corrected in the Legal and Secretary copies of BZC 05-003 Final Development Plan.

**RESOLUTION  
BZC 02-12-08-03:**

**Motion made for Jim Hahn to take Chief Beckstein's memo dated January 25, 2008 dealing with annual inspections and forward it to Phil Panzarella for incorporating it into the Fire Department rules and regulations.**

**Motion by Bob LeBlanc  
Seconded by Jerry Valentine**

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

**Rick Sedlacek**

Asked Todd Foley to continue with Item 5.

**Item 5** - Measurement for the height of the building should be from the starting point of the threshold, not ground. Building height is stated as 35 ft.

**Response:** In Tab 2 in the Development Tab, Page 2 we adjusted the information that buildings will be no greater than 35 ft. in height from the starting point of the threshold.

Commission agreed.

**Item 6** - In Section 2, Page 3, Item 4 correct the word "probably" to "probable".

**Response:** Corrected the typo of "probably" to "probable".

**Item 7** - Page 3 of text the districts should be amended to be FR-1, PRD, and USA lands.

**Response:** There was confusion on our part of the representative adjacent zoning. Tab 2, Page 3 Item 4 we have gone back and corrected the adjacent zoning. *"To the east the property was zoned Industrial, Planned Commercial and Office District, Neighborhood Commercial District and a small piece of undeveloped property that is zoned Farm Residential (FR-1), To the south is undeveloped property that is zoned Farm Residential (FR-1). To the west is property that is zoned Planned Residence District and USA Lands."*

Chair Rick Sedlacek indicated this was his issue and the only thing I would comment on and I'm not sure how the rest of the commission feels, but every other district we verbalized it and then followed it with the acronym in parentheses. Chair asked Ray Armstrong if we needed to show the acronyms. After some discussion, it was decided to amend Tab 2, Page 3, Item 4 to include acronyms after the spelled out text and change the word "Residence" to "Residential" when describing the various districts. Amendments noted in the Legal Copy are:

- ◆ Industrial (I)
- ◆ Planned Commercial and Office District (PCD)
- ◆ Neighborhood Commercial District (NCD)
- ◆ Planned Residential District (PRD)
- ◆ One instance in the first paragraph of "residence" to "residential" and two instances in the second paragraph

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of “residence” to “residential”. The instance of Farm Residential (FR-1) remains unchanged as it was shown correctly.

- ◆ All changes were noted and initialed by Messrs. Sedlacek and Foley dated 2-12-08.

**Item 8** - Reference to road widths should be shown on the street section. They are in the engineering plan but not shown on the site plan drawings. Also, there will be no on-street parking.

**Response:** In Tab 3, Exhibit B Final Development Plan we have notated the streets are 22 ft. In Tab 9, Exhibit H1 we show the actual composition of the street and we added a note there that the street will be 22 ft. wide.

Chair Sedlacek questioned that he did not see any note or any indicator that you will not have any on-street parking. No signs or anything and I wondered how you are addressing that issue. After discussion on this issue, the following response was agreed upon.

**Response:** In Tab 2, Page 5, Letter K addressing the Parking, the text was amended to include, “*There will be no on-street parking throughout development*”. In the Legal Copy Messrs. Sedlacek and Foley initialed the amendment and dated it 2-12-08.

**Item 9** - The Commission asks that parking spaces at the clubhouse be increased from 12 to 18 spaces. Applicant to revisit this area and determine how many additional parking spaces can be added.

**Response:** We were able to increase the parking spaces to eighteen (18) as requested. The breakdown is one (1) handicap space plus seventeen (17) regular spaces for a total of eighteen (18). Refer to T8, Exhibit G2.1.

No further comments from the commission on Item 9.

**Item 10** - Revisit the streetlights as to how many and placement of the lights.

**Response:** On the exhibit of the overall plan, we have provided nineteen (19) streetlights with a light at every intersection. We added two more lights to obtain better spacing for a total of twenty-one (21) streetlights. The light along the public road remain the same. Mr. Foley pointed out the light on the drawing he displayed.

The commission was satisfied with the additional streetlights. Ray Armstrong asked if light would be shielded pointing downward and Mr. Foley indicated that was correct.

**Item 11** - The sign issues where you would not use “sandwich” boards. Document the reason for a variance on the entrance sign. Sign #9 should be removed.

**Response:** The sign originally proposed to be located on Africa Road was sign #9. The sign was shown in Tab 9, Exhibit H1.2 which was the A-frame sign. This sign has been removed and replaced with a “place holder” on the larger sign as discussed last month. No sign will be located at the intersection of Africa Road and the public road. Our remedy to the issue was to add a panel or something similar to the marketing sign that accomplishes what we were trying to show. Detail 10 on the Exhibit H1.2 for the temporary marketing sign, it was originally detailed that text would state “models coming soon” and what we are asking that you approve is that portion of the sign be a

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panel to indicate that “models are open daily”. That will address that issue. The other part of the plan on Exhibit G2.2 for the sign has been removed.

Commission was satisfied with the changes proposed. Zoning Officer Ray Armstrong was satisfied that the information would be shown on an approved sign and one carrying a permit.

**Item 12** - Applicant should show the date of the Berlin Township Zoning Code as 4-30-05 for the code they are using for compliance.

**Response:** We reworded that to reference the current code that was in place when this process began which was April 30, 2005.

No questions or comments from the commission.

**Rick Sedlacek**

At 8:47 p.m. Chair Sedlacek asked for a 5-minute recess in order to verify and initial changes to the Final Plan. Reconvened meeting at 8:55 p.m.

**RESOLUTION  
BZC 02-12-08-04:**

**Motion made that BZC#05-003 Final Step for application by Village Communities, Inc. Final Development Plan for Condominium development parcels 41814001059000 and 41814001005003 for 56 ± acres located on Africa Road south of State Route 37 and west of 3 B’s and K Road be approved with three modifications from Exhibit 7. Those modifications being #2 that were initialed by Todd Foley and Rick Sedlacek on Page 41; #7 that were initialed by Todd Foley and Rick Sedlacek on Page 3 of the text, and #8 that were initialed by Todd Foley and Rick Sedlacek on Page 5 of the text.**

**Motion by Rick Sedlacek  
Seconded by Jim Hahn**

**Role Call Vote: Bob LeBlanc, yes; Jerry Valentine, yes; Betty Bringardner, yes; Rick Sedlacek, yes; Jim Hahn, yes. Motion passed.**

**Rick Sedlacek**

Returning to Agenda, Item 2 regarding continuation of discussion of BZC #08-001, Articles 10 through 20 of the Berlin Township Zoning Resolution in order to incorporate any additional comments and take proper action.

As you remember, we initiated this case and we just want to make sure before we move it to the next step to find out if there were any other additional comments or is the commission ready to move Articles 10-20 on for proper action.

The articles have gone through the markups, original clean copy, the prosecutor’s comments, RPC comments. At this point we need to make a motion and then move it to the Trustees.

Exhibits for BZC #08-001 are:

**ZONING COMMISSION REQUEST TO INITIATE THE  
PROCESS FOR ADOPTION OF AMENDMENTS ARTICLES 10  
through 20 OF THE ZONING RESOLUTION TEXT  
BZC CASE #08-001  
Hearing date February 12, 2008**

Original File Exhibits

1. Excerpt of BZC Minutes, 11-13-07 where BZC has discussion

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- on Articles 10-20, agenda, sign in sheet and request and proof of publication in Delaware Gazette for the 11-13-07 meeting.
2. Opinion from Janice Hitzeman, Assistant Delaware County Prosecuting Attorney on Articles 10-20, dated December 5, 2007
  3. Strikeout of Articles 10-20 with an updated date of 9-25-06 and some articles have Draft August 2007 from Scott Sanders, RPC.
  4. Excerpt of BZC Minutes, 12-12-07 where BZC has discussion on Articles 10-20, agenda, sign in sheet and request and proof of publication in Delaware Gazette for 12-12-07 meeting.
  5. Motion dated January 8, 2008 from the BZC to initiate Articles 10-20 with 2 minor changes.
  6. Excerpt of BZC Minutes, 01-08-08 where BZC has discussion on Articles 10-20, agenda, sign in sheet and request and proof of publication in Delaware Gazette for 01-08-08 meeting.
  7. Draft copy of Articles 10-20, dated January-08 with recommended minor changes from 12-12-07 BZC meeting.
  8. Proof of request via email in the *Delaware Gazette* dated January 25, 2008.
  9. DCRPC minutes, dated February 5, 2008.
  10. Proof of publication in *Delaware Gazette* dated 1-31-08.

**RESOLUTION  
BZC 02-12-08-05:**

**Motion to adopt Articles 10-20 and forward to Trustees for action.**

**Motion by Jim Hahn  
Seconded by Bob LeBlanc**

**Role Call Vote: Jim Hahn, yes; Bob LeBlanc, yes; Jerry Valentine, yes; Betty Bringardner, yes; Rick Sedlacek, yes. Motion passed.**

**Rick Sedlacek**

Last Agenda item is discussion of Articles 5 and 6, 21-30 of the Berlin Township Zoning Resolution as recommended by the ZRC.

Copies were passed out tonight and I suggest you take the articles, review them and be prepared to discuss them at the March meeting with suggestions, modifications, or initiate the process.

Chair Rick Sedlacek asked Ray Armstrong to ensure this item gets on the Agenda for March with the notation to continue discussion because we don't know at this point whether we are going to initiate because it will depend on what issues the commission brings to the meeting.

Copies have been sent to the prosecutor and RPC for comment and depending on comments received we may be able to move forward.

Discussion continued as to what projects may be coming up in the next couple of months. No resolutions resulted.

**RESOLUTION  
BZC 02-12-08-06:**

**Motion to adjourn meeting made by Bob LeBlanc and seconded by Jim Hahn. All were in favor with no opposition. Meeting adjourned at 8:25 p.m.**

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**Rick Sedlacek**

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**Jim Hahn**

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**Bob LeBlanc**

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**Betty Bringardner,  
1<sup>st</sup> Alternate**

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**Jerry Valentine**

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**Linda Paxton, Attest**