

**BERLIN ZONING COMMISSION**

**Regular Meeting**

**June 10, 2008, 7:00 PM**

1 This meeting was held at the Berlin Township Hall, 3271 Cheshire Road, Delaware, Ohio  
2 43015.

3  
4 **CALL TO ORDER**

5 The meeting was called to order by Chairman Rick Sedlacek at 7:00 PM.

6  
7 Ms. Yoroko led meeting attendees in reciting the Pledge of Allegiance.

8  
9 Present: Rick Sedlacek, Bob LeBlanc, Jim Hahn, Jerry Valentine, Kristin Yoroko,

10  
11 Also present:

12 Zoning Inspector Ray Armstrong, 1<sup>st</sup> alternate Betty Bringardner, and 2<sup>nd</sup> alternate Rae  
13 Kerlin.

14  
15 Meeting Attendees Who Signed In

16 Earlene Skeels, 3333 Columbus Pike, Lewis Center, OH 43035

17 David Thomas, 4289 Seldom Seen Rd., Powell, OH 43065

18 Mike Shade, P. O. Box 438, Delaware, OH 43015

19 David Johnson, 5342 Columbus Pike, Lewis Center, OH 43035, manager of the  
20 proposed Kia Dealership

21 Jay DuRivage, P.O. Box 1230, Dublin, OH 43017

22  
23 Mr. Sedlacek read the adopted policy statement as printed in the agenda for the meeting.

24  
25  
26 **APPROVAL OF MINUTES**

27 Jim Hahn made a motion to approve the minutes from the May 13, 2008, as presented.

28 Mr. LeBlanc seconded the motion. All in favor say, "aye," all opposed same sign. No  
29 opposition, motion carried.

30  
31 **AGENDA ITEM - BZC 08-004 BYERS REALTY, LLC.**

32  
33 **Proof of Publication**

34 Zoning Clerk Lisa Knapp provided proof of publication for the legal notice for this  
35 hearing, which was published in the May 28, 2008 Delaware Gazette, providing  
36 notification of the meeting date and time and items for discussion.

37  
38 **Legal Notice**

39  
40 **BERLIN TOWNSHIP ZONING COMMISSION**  
41 **NOTICE OF PUBLIC HEARING**

42 The Berlin Township Zoning Commission will hold a public hearing on June 10, 2008 at  
43 7:00 p.m. at the Berlin Township House located at 3271 Cheshire Road, Delaware, Ohio  
44 43015 in order to consider an application, designated as Case Number 08-004, filed by  
45 Byers Realty Inc., 427 South Hamilton Rd., Columbus, OH 43213 to rezone 5.637 ±  
46 acres from Planned Commercial District (PCD) and Farm Residential District (FR-1) to  
47 Planned Industrial District (PID) known as Parcel #41833001070000, 5342 Columbus  
48 Pike, Lewis Center, OH and Parcel #41833001069000, 5308 Columbus Pike, Lewis  
49 Center, OH for a full service car dealership. The text of the proposed development plan  
50 will be available for public examination from May 28, 2008 through June 10, 2008,  
51 inclusive; Monday through Friday, from 8:00 a.m.-5:00 p.m. at the Berlin Township  
52 Zoning Office located at 3271 Cheshire Road, Delaware, Ohio 43015. The person  
53 responsible for giving notice of the public hearing by publication is Cathy Rippel. After  
54 the conclusion of the public hearing, the matter will be submitted to the Berlin Township  
55 Board of Trustees for its action. Questions concerning this matter should be directed to  
56 the Zoning Office at 740-548-5217. Township residents are encouraged to attend.

57  
58 **BERLIN TOWNSHIP ZONING COMMISSION**  
59 **Rick Sedlacek, Chairman**

# BERLIN ZONING COMMISSION

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### List of Exhibits

- 61  
62  
63 Original File Exhibits  
64 Cover Sheet – Not an exhibit  
65 Table of Contents – Not an exhibit  
66  
67 Tab 1-Exhibit 1 Application to amend Berlin Township Zoning Text dated April 17, 2008.  
68 Tab 2-Exhibit 2 Adjoining Property Owners, mailing addresses from Delaware County Treasurer’s  
69 Office dated 2/28/08, arial view of each parcel from Dalis dated 02/28/08, Deed for  
70 parcel 41833001070000 (3-pages) dated 04/15/08, Deed for parcel 41833001069000  
71 (2-pages), dated 04/15/08 *submitted with application dated 04/17/08.*  
72 Tab 3-Exhibit 3 Existing topographic plan, (1-page), dated 3/10/2008, Description of parcel  
73 41833001070000, (2-pages), dated 03/06/08, Description of parcel 41833001069000,  
74 (2-pages), dated 03/06/08, Description of combined parcels, (2-pages), dated 03/06/08,  
75 easement for roadway purpose, (1-page), dated 04/25/0/, Description of a Utility &  
76 Roadway Easement, (2-pages), dated 04/21/08, Plat of “The Park at Greif”  
77 resubdivision of Lot 1301, (1-page), dated 7/27/01, Summary of parcel  
78 41833001070000 and colored arial view, (2-pages), from Auditors office, dated  
79 04/29/08, Summary of parcel 41833001069000 and colored arial view, (2-pages), from  
80 Auditors office, dated 04/29/08, Letter from Delaware County Engineer, Jewell  
81 Layton, dated 02/28/08, Development text, (12-pages) *submitted with application*  
82 *dated 04/17/08.*  
83 Tab 4-Exhibit 4 Phase One, Final development Site Plan, 1.1a, dated 03/10/08, Phase Two, Conceptual  
84 Site Plan – 1, 1.1b, dated 03/10/08, Phase Three, Conceptual Site Plan – 2, 1.1c, dated  
85 03/10/08, Phase One, Floor Plans, 3-1, dated 03/10/08, Phase One, Existing Elevations,  
86 4-1, dated 03/10/08, *submitted with application dated 04/17/08.*  
87 Tab 5-Exhibit 5 Landscape Plan, L.1, dated 03/10/08, *submitted with application dated 04/17/08.*  
88 Tab 6-Exhibit 6 Surrounding Public Facilities, (2-pages), no date, *submitted with application dated*  
89 *04/17/08.*  
90 Tab 7-Exhibit 7 Public Improvements, (1-page), no date, Letter from Greg Swain, Huntington National  
91 Bank, dated 3/06/08, Letter from D.J. DuRivage, Jr., Vice President, Geo. Byers Sons,  
92 Inc., dated 04/16/08, *submitted with application dated 04/17/08.*  
93 Tab 8-Exhibit 8 Time Schedule for Completion, (2-pages), Time Schedule for Development, (1-page),  
94 Phase 1 site plan, 1.1a, dated 02/27/08, Phase 2 site plan, 1.1b, dated 02/27/08, Phase 3  
95 site plan, 1.1c, dated 02/27/08, *submitted with application dated 04/17/08.*  
96 Tab 9-Exhibit 9 Letter from Doug Riedel, Delaware County Engineer, dated 4/29/08, Letter from David  
97 Carlin, Ohio Department of Transportation, dated 03/06/08, Letter from Tiffany  
98 Jenkins, Delaware County Environmental Services, dated 03/04/08, Letter from Shane  
99 Clark, Del-Co Water., Inc. dated 02/27/08, Letter from William Bechstein, Berlin  
100 Township Fire Department, dated 02/25/08, Letter (2-pages) from Kelly Thiel, Ohio  
101 EPA, dated 02/21/08, Letter from Jody Beaver, Columbia Gas of Ohio, dated 02/29/08,  
102 Letter from Doug Riedel & Brett Bergefurd., Delaware County Engineer’s Office, (2-  
103 pages), dated 03/04/08, Drainage Plan, (Large plats-7-pages) dated April, 2008, and  
104 Storm Water Pollution Prevention Plan (Large plats-2-pages) dated March, 2008,  
105 *submitted with application dated 04/17/08.*  
106 Tab 10-Exhibit 10 Sign Proposal, (17-pages in color), dated 03/03/08, *submitted with application dated*  
107 *04/17/08.*  
108 Tab 11-Exhibit 11 Lighting Specifications, (1-sheet), and Site Lighting Plan, SL1, dated 03/10/08,  
109 *submitted with application dated 04/17/08.*  
110 Exhibit 12 Request via email in the *Delaware Gazette* dated 05/22/08.  
111 Exhibit 13 Certified mail receipts dated 5/28/08 along with landowner letter dated 05/28/08.  
112 Exhibit 14 Notice of Hearing to the applicant dated 5/28/08.  
113 Exhibit 15 DCRPC minutes, dated 5/29/08.  
114 Exhibit 16 Proof of publication in *Delaware Gazette* dated 05/28/08.  
115

### Applicant Presentation

- 116 Michael Shade, attorney for the applicant, P.O. Box 438, Delaware, Ohio, and John  
117 Oney, architect for the plan, with Architectural Alliance, 165 N. 5<sup>th</sup> Street, Columbus,  
118 Ohio, presented the application and answered questions from the Commission.  
119  
120  
121 Mr. Shade said the applicant has spent much time putting this proposal together, this is a  
122 worthy project for the township, and the proposed dealership will be an asset to the Berlin  
123 Township community. He thanked the zoning office for its help in this matter, especially  
124 Mr. Armstrong.  
125  
126 Mr. Oney displayed an exhibit of the plan for the property. He said there are three phases  
127 of the project, and the applicant is requesting at this hearing final development plan

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128 approval of Phase 1. He also will present conceptual plans of Phases 2 and 3 to help the  
129 Commission understand what is planned.

130

131 Mr. Oney indicated Phase 1 on the exhibit, and said it includes the existing building as it  
132 is used today with a sales area to the front of the building, and a service area to the rear.  
133 The Kia dealership will use all of the existing paved area. Any portion of the property  
134 which is not in compliance with the current zoning resolution will be being brought into  
135 compliance in this plan, including lighting, landscaping, storm water control/quality,  
136 signage, etc.

137

138 Mr. Oney said an area on the southwest side of the property is currently a gravel area  
139 which is being used for parking, but it will be paved with this plan. The applicant will  
140 also add landscaping improvements around the site, which are indicated in the  
141 landscaping plan in Section 5. In order to comply with current zoning regulations,  
142 landscaping buffering will be added to fill in the northern side of the property, where the  
143 abutting property to the north is currently zoned FR-1.

144

145 Mr. Oney said that the applicant is also adding one light pole to the rear parking area  
146 which will be identical to the existing light cutoff fixtures located on the property.

147

148 Mr. Oney said that in Phase 2 of the project, a parking area would be added to the north  
149 side of the site, along U. S. Route 23, which will allow for additional inventory, customer  
150 parking, etc. as the business grows. Phase 3 would include additional parking on the west  
151 side of the property, and also a building addition of about 4000 SF to fill out the use of  
152 the site.

153

154 Mr. Oney said the plan conforms to the current zoning resolution except for a request for  
155 four divergences from the signage code, which is indicated in the development text. The  
156 divergence is necessary because of the layout of the existing building, and is indicated in  
157 Tab 3, page 4 of the text.

158

159 Mr. Oney said the complete signage package is indicated in Tab 10, including 5-6  
160 existing "mishmash" signs which were removed from the site.

161

162 Mr. Oney said that the first divergence is indicated in Tab 10 for the following: "To allow  
163 a white background for the Kia brand wall and ground sign. White and red with brand  
164 identity colors. The signs have low-lumen output and will allow only a soft white  
165 illumination level." The first sheet in the sign proposal in Tab 10, which is page 1 of 17,  
166 Tab 4 indicates the pylon sign, and the building sign is located further in the packet in  
167 Tab 3, page 9 of 17.

168

169 Mr. Oney said the second divergence is requested to allow the two Kia and Byers wall  
170 signs to be 26' in height, as indicated on sheet one of the sign package in Tab 10. The  
171 exhibit indicates that these two signs would be placed in the existing stucco band. If the  
172 signs were placed at the maximum height of 15' per the existing zoning resolution, they  
173 would be placed in the building glass. The applicant believes the proposal is a much  
174 better plan than the prior plan. The building setback is 117' from U. S. Route 23, and  
175 the proposed signage is even lower than the original signage on the building, which was  
176 located in the middle of the building on the tall triangular-shaped part of the building.

177

178 Mr. Oney said that several existing directional signs were removed from the site. The  
179 third requested divergence is one directional sign to help direct people to the service  
180 entrance, which is hidden to the backside of the building, and which is far from U. S.  
181 Route 23. Thus, the applicant proposes a directional sign with landscaping which is  
182 indicated in Tab 10, page 13 of 17, and will be located 117' from U. S. Route 23. The  
183 applicant feels that the divergence is appropriate given the location of the service area  
184 and the distance of the building and sign from U. S. Route 23.

185

186 Mr. Oney said that the applicant is also requesting a divergence from the zoning  
187 resolution's requirement that the maximum area of any one sign surface is 32 SF. The

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188 applicant proposes one wall sign which is 40 SF and one which is 42 SF. The applicant  
189 feels that the divergence request is appropriate due to the proportions of the building and  
190 the distance of the building from Route 23.

191  
192 Mr. Oney said that during phase one of the project, the site will be connected to sanitary  
193 sewer and the existing on-site septic system will be abandoned. This request is currently  
194 being considered for approval by the Delaware County Sanitary Engineer's office. There  
195 is an access road planned to the west of the property via a dedicated easement which was  
196 approved with the last rezoning of the property, and Byers has committed to paying its  
197 fair share of the road when it is built.

198  
199 Mr. Oney said the Byers family has 17-19 existing franchises and it is very excited to be  
200 located in the township at this location and being a part of the community. Byers is  
201 anxious to move forward with this project.

**Commission Consideration**

202  
203  
204 Mr. Sedlacek said that the southern part of the applicant's property was zoned Planned  
205 Commercial District (PCD) and was used as a car dealership in the past, and the northern  
206 part of the applicant's property is currently Farm Residential (FR-1). Since the time the  
207 property was last used for a car dealership, the Berlin Township zoning resolution has  
208 been modified, and both properties now need to be rezoned to Planned Industrial District  
209 (PID) to allow the car dealership use.

210  
211 Mr. Sedlacek said that in Tab 10, the footer of each page states that there are 17 pages in  
212 that tab; however, there are only 13 pages. Mr. Oney agreed to correct the typo.

213  
214 Mr. Hahn said that in Tab 3, page 6, the text states that Phase 1 has 69% open space.  
215 However, it appears that Phase 3 has less than 25% open space. He asked what the total  
216 percentage of pavement on the property will be. Mr. Oney said that the applicant would  
217 come back to the township for final development plan approval for Phases 2-3, and all  
218 code requirements would have to be met at that time for those phases.

219  
220 Mr. Sedlacek said that in Tab 4, sheet 1.1c, the Conceptual Site Plan for Phase 3 indicates  
221 that the lot area will be 205,106 SF, and the lot coverage will be 141,075 SF, with a total  
222 percentage of lot coverage of 69%. However, the text states that there will be 69% open  
223 space in Phase 1. Mr. Oney said it was correct that there would be 69% open space in  
224 phase 1, with 31% building/pavement coverage, and 75% is allowed. He does not intend  
225 to request a divergence for open space coverage in phase 3. Mr. Sedlacek asked that the  
226 record reflect that when the applicant comes back for approval for future phases, the  
227 percentage of open space must be noted on the drawing.

228  
229 Ms. Yorko said that the plan indicates that in Phase 1 a right-in/right-out access will be  
230 built on U. S. Route 23, in subsequent phases there will be another right-in/right-out  
231 access on U. S. Route 23, and then two additional full access points to the rear of the  
232 property. Mr. Oney said that those accesses are subject to Ohio Department of  
233 Transportation (ODOT) requirements. It was noted that ODOT owns U. S. Route 23, and  
234 would not own the future access road to the rear. Mr. Oney said that the applicant would  
235 like to have two access points once the road to the rear is built. Mr. Shade said the access  
236 road will be a public road.

237  
238 Mr. Hahn said that half of the road would be in Liberty Township, and all access points  
239 to the dealership would be in Berlin Township. Mr. Shade said that the roadway will  
240 actually be in Liberty Township, and the Byers rear property line is the Berlin Township  
241 boundary line. Mr. Hahn asked if the property's address would always be Columbus  
242 Pike. Mr. Shade said that was correct. He noted that two access points are being planned  
243 so that as the project builds out, large vehicles and emergency vehicles can access the  
244 site. The project includes a four-year build-out plan for Phase 3 because the applicant  
245 doesn't control the adjoining properties and it doesn't have the right of eminent domain  
246 to pick up pieces of the additional property which will be needed to build the roadway.  
247 Grief Brothers Corporation provided 50% of the roadway, which was 100% of the area

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248 located on their property. However, the other 50% will have to come from the Berlin  
249 Township side, including three other properties, and it is not known when that will occur.  
250 Byers has already dedicated its portion as public easement for the road right-of-way and  
251 they are on public record. The applicant is committed to doing its fair share when the  
252 roadway it is ready to be built. Mr. Sedlacek said the road will improve vehicle access.  
253

254 Mr. Sedlacek said that in Tab 3, at the bottom of page 2, the text references Tab 9 and  
255 includes a list of letters from utilities, etc. which were included in the application  
256 However, letters from ODOT and Columbia Gas were also included in the application but  
257 not in this list, and he asked that they be added.  
258

259 Mr. Sedlacek said that in Tab 3, at the top of page 3, the text states that access to the site  
260 will be via existing curb cuts. However, the text should indicate when that work will be  
261 done; it appears that it will not occur during Phase 1. Mr. Shade said that will be done  
262 during later Phases 2 and 3, and there is already access onto the Stewart property at this  
263 time. He agreed to add at the end of that sentence, “(Phase 2 and Phase 3.)”  
264

265 Mr. Sedlacek said that in Tab 3, page 4 indicates the four request signage divergences.  
266 He asked the Commission to review the comments from the Delaware County Regional  
267 Planning Commission (DCRPC) regarding the divergences.  
268

269 Mr. Sedlacek said asked if the Kia sign with the white background is the typical Kia logo,  
270 and whether the sign would be backlit. Mr. Oney said it was, and the sign would be  
271 softly backlit and tastefully done. Mr. Sedlacek asked if there were any objections to this  
272 requested divergence. There were no objections from the Commission or the zoning  
273 inspector.  
274

275 Mr. Sedlacek said the second divergence was for the increased size and height of the wall  
276 signs. Mr. Oney said that from U. S. Route 23, the building was 117’ on one corner and  
277 96’ on the other corner. Mr. Sedlacek said that explained the applicant’s request for  
278 larger and higher signage, and he thought it looked good on the building. Ms. Yorke said  
279 that the 96’ and 117’ was measured from the building setback, so the building is actually  
280 another 36’ from the right-of-way. Mr. Hahn said the third divergence indicates that the  
281 directional sign is about 170’ from U. S. Route 23, and the building is at about the same  
282 setback. There were no objections from the Commission or the zoning inspector for this  
283 requested divergence.  
284

285 Mr. Sedlacek said the third variance was for the size and location of the directional sign,  
286 and DCPRC had expressed an objection to it. He asked why the divergence was  
287 necessary. Mr. Oney said that sheet 1.1a states that the location is 170’ from the road,  
288 which is 2/3 of a football field away, so a divergence was necessary. Typically,  
289 directional signs would be near the street, and locating the sign as requested would help  
290 direct drivers. There will also be landscaping planted around it.  
291

292 Jay DuRivage, 6809 Village Parkway, Dublin, OH 43017, vice-president of Byers  
293 Automotive and managing member of Byers Realty, LLC, said it was very important to  
294 be able to direct customers around the building to avoid confusion.  
295

296 Mr. Hahn said that he expected that the sign on the right side would have been located  
297 closer to the road as it is possible that many customers may miss the sign further back  
298 when they come in and turn right away. Mr. Oney explained the sign’s location and how  
299 it would be viewed. Mr. Sedlacek suggested putting the sign on the island on the right  
300 side of the entrance. Mr. Oney said that is the featured car area and he would rather leave  
301 the sign as proposed.  
302

303 Mr. Shade said that he feels strongly about the directional signage being located in that  
304 area because until the access road to the rear is installed, customers will be traveling  
305 north and then coming back. However, the line of site for the building is nearly  
306 completed blocked for customers driving from the south heading north, so they would not  
307 effectively see any signs on the building regarding service without this directional sign.

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308 Mr. Sedlacek asked if that was the same location the prior owner had its service location.  
309 Mr. Armstrong said that it was, and that the Thrifty Rental was located on the north side.  
310 There were no objections to the requested divergence by the Commission or zoning  
311 inspector.

312  
313 Mr. Sedlacek said that the fourth divergence was requested for the two wall signs. He  
314 understood that the signage would be located far from U.S. Route 23. Ms. Yorko asked if  
315 the current zoning resolution was in place when the existing building was built. Mr.  
316 Sedlacek said the zoning resolution has been updated since that time, and that is one  
317 reason the property is being rezoned. He said that DCRPC had recommended that the  
318 township be careful not to set precedents, but this is an existing building and the  
319 Commission is working with what is there. Mr. Armstrong said that the signage seems  
320 more appropriate if the building is considered as a two-story building.

321  
322 Mr. Sedlacek said that in Tab 2, page 5, item c) 2), first response paragraph, there is a  
323 typo; "inure" should be replaced with "insure."

324  
325 Mr. Hahn wanted to ensure that the Commission was not considering phases 2 and 3 at  
326 this time. Mr. Oney said that in Tab three, the first paragraph on page 2 indicates that,  
327 "This application is for approval of Phase Only. Phase Two and Three will add  
328 additional parking and service bays, and be submitted for final development plan  
329 approval at a alter date. Phase Two and Three Conceptual plans are included for  
330 conceptual review and approval with the application."

331  
332 Mr. Hahn said the letter from the Berlin Township Fire Department included in the  
333 application was very vague when compared to letters he has seen for other applications.  
334 Mr. Armstrong said he spoke to the Fire Chief, who informed him that the fire inspection  
335 was done and the Fire Inspector had no further comments or input at this point in the  
336 process. Mr. Hahn said in the future he would prefer to receive more specific letters from  
337 the Fire Department. Mr. Sedlacek suggested that Mr. Armstrong take that as a general  
338 comment from the Commission to the Fire Department.

339  
340 Mr. Sedlacek said that in Tab 3, page 8, the top of the text states that there are four site  
341 lights which are there now and will remain. He asked where the new light would go. Mr.  
342 Oney said that it would be located in the back parking area at the southwest corner of the  
343 property, and it will match the existing lighting.

344  
345 Mr. Sedlacek said that in Tab 3, page 9, under item 7, in the first line of response text, the  
346 word "ill" should be replaced with "will."

347  
348 Mr. Hahn said that in Tab 3, page 9, regarding liquid and solid waste, the topographic  
349 map on sheet 3 of 7 in the plan indicated one existing pond at the southeast corner of the  
350 property. However, after Phase 3 has been built the amount of storm water runoff will  
351 dramatically increase. There have been major problems with runoff in this area of U. S.  
352 Route 23 in the past, and he saw nothing in this application referring to that. The  
353 topographic map doesn't indicate the future plans, and he asked if all water runoff for the  
354 development would go to the existing pond, and whether the size of that pond is large  
355 enough so properties downstream aren't negatively affected.

356  
357 Dave Thomas, with M-E Companies, Engineers and surveyors for the project.  
358 635 Brooksedge Blvd., Westerville, said the northern part of the site is actually in a  
359 different drainage shed, and most everything that has been done on this site to be in  
360 compliance has been for the current Kia property. The Stewart property drains to the  
361 north, and as the applicant goes through the process it will have to conform to the county  
362 engineer's requirements for design, detention, and water quality, and it will have to deal  
363 with the release rates and may have to build a small detention area. The property owner  
364 will be required to ensure that the development does no harm to the property owners to  
365 the north. He has been made aware of the current drainage issues on the Skeels property.

366

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367 Ms. Yorke asked if the township typically allows ponds in setbacks. Mr. Hahn and Mr.  
368 Sedlacek said they have seen those in prior plans. Mr. Thomas said this is an existing  
369 basin and any new basins will be located where required.  
370  
371 Mr. Hahn said that he would like the applicant to include some of its comments made  
372 during this hearing that it will handle the ultimate runoff to the north and south as needed.  
373 Ms. Yorke said Tab 3, page 2, item d., first response paragraph indicates that, “Storm  
374 water retention will be onsite and meet all code requirements.” This is for Phase 1, she  
375 noted.  
376  
377 Mr. Sedlacek said that in Tab 5, sheet L-1 indicates that about 12 evergreen trees will be  
378 transplanted to the northern property line, and he asked where they would transplanted  
379 from. Mr. Oney explained where they would come from and said they would create the  
380 final screening for phase 3. Mr. Sedlacek asked if the trees would be replaced with new  
381 trees if they die. Mr. Oney said the applicant would replace the trees if they die.  
382  
383 Mr. Armstrong said that transplanting the evergreen trees was suggested so the opacity  
384 could be built up prior to the development of Phase 3, and any trees that die would have  
385 to be replaced in order to maintain the required opacity, per the zoning resolution. Mr.  
386 Oney asked if it would be permissible to plant new trees instead. The Commission  
387 agreed that it would be.  
388  
389 Mr. Shade said he understood the need to create and maintain a buffer, and he suggested  
390 that all buffering will be maintained according to general development standards (Article  
391 21) of the zoning resolution.  
392  
393 Mr. Hahn said that Tab 9 includes a letter from the Ohio EPA. There was as discussion  
394 about the letter.  
395  
396 Mr. Shade said that in Tab 7, page 1, first paragraph, line six, the word, “real” should be  
397 replaced with “road”  
398  
399 Mr. Sedlacek said that in Tab 9, the letter from Del-Co Water does not indicate that the  
400 former Stewart property at 5342 Columbus Pike has access to Del-Co Water. Mr. Shade  
401 said he believed it did but he was not sure whether it ties into it. Mr. Sedlacek noted that  
402 the address “5342 Columbus Pike” indicated on the letter is the business address, and  
403 5308 Columbus Pike is the Stewart address. He asked whether water would be provided  
404 for the entire operation. Mr. Shade said it would.  
405  
406 Mr. Shade noted that at the time the letter was written, on 2/27/08, the agreement to  
407 purchase the property had not been completed and that may be why it was not addressed.  
408 He noted that the Stewarts have the right to reside on the property for one year beyond  
409 the closing date, which was in April or May of 2008.  
410  
411 Ms. Yorke said that the parking lot for the property will be set back only 6’ from the edge  
412 of the right-of-way of the access road to be built to the rear in the future, which seems  
413 close to her. Mr. Sedlacek said that he didn’t think the township specifies parking  
414 setbacks, so they would be approved per plan. Mr. Oney said that the right-of-way is 60’  
415 wide.  
416  
417 Mr. Armstrong said that existing regulations provide for a structure setback, not including  
418 parking lots, along U.S. Routes 23 and 36/37 of 80’ from the right-of-way, which is  
419 included in the development standards. Up to 40% of the right-of-way can be used for a  
420 parking lot.  
421  
422 Ms. Yorke asked if a 6’ setback for a parking lot is typically allowed in the township’s  
423 other commercial areas. Mr. Armstrong said it was approved for the commercial outlots  
424 for the Manos along U.S. Route 23 in order to get the parking and the access drives into  
425 the commercial property.  
426

**BERLIN ZONING COMMISSION**

**Regular Meeting**

**June 10, 2008, 7:00 PM**

**Public Comments**

There were no comments from the public

**List of Modifications to the Application**

The Clerk reviewed the list of modifications to the application:

1. Change the footer throughout Tab 10 to indicate that there are 13 pages in that section.
2. In Tab 3, at the bottom of page 2, include a reference to the letters from ODOT and Columbia Gas.
3. In Tab 3, at the top of page 3, first paragraph, add to the end (“Phase 2 and Phase 3”).
4. In Tab 3, page 5, item c) 2), first response paragraph, replace, “inure,” with, “insure.”
5. In Tab 3, page 9, item 7) first response paragraph, first line, replace, “ill,” with, “will.”
6. In Tab 7, page 1, first paragraph, line six, replace “real” with “road.”
7. On the landscaping plan, add a note stating, “All buffering will be maintained according to the general development standards (Article 21) of the zoning resolution.”

Mr. Hahn said that Tab 3 indicates a letter showing the road easement. The road easement will be nearly 1200 SF, and some of that will be paved for the road. The 75% tract coverage should be on the property not including the road pavement. He said the applicant counted the access road as part of the coverage. Mr. DuRivage said the calculations were based only on the land left after the dedication of the easement. Mr. Hahn asked the applicant to check on that before it comes back for approval of Phases 2 and 3.

There was a brief recess to review the conditions with the applicant

Mr. Sedlacek said that the seven modifications have been agreed to by the applicant, they have been made in the rezoning book, and initialed and dated by both him and the applicant. The applicant will provide 10 copies of the revised text to the zoning office by June 20, 2008.

**Resolution BZC 08-06-10-01 - Motion to Recommend Approval of BZC 08-0004, As Modified**

Mr. LeBlanc made a motion to recommend to the Board of Township Trustees the approval of BZC 08-004, Byers Realty Inc., requesting the rezoning of 5.637± acres from FR-1 and PCD, at 5342 Columbus Pike and 5308 Columbus Pike, the version of the application to be approved consisting of those materials compiled by the applicant in hard copy booklet form and dated April 17, 2008, as modified by those matters reflected in the list of modifications in the minutes of this meeting by the Secretary. Mr. Valentine seconded the motion. Vote: LeBlanc, yes; Valentine, yes; Yorke, yes; Hahn, yes; Sedlacek, yes.

Motion carried, recommendation of approval will be sent to the township trustees for further consideration.

Mr. Sedlacek thanked the applicant for their efforts, and said he looked forward to the business being a good citizen in the township. Mr. Shade thanked the township for working with the applicant and said the business will be great for Berlin Township.

**BERLIN ZONING COMMISSION**

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**June 10, 2008, 7:00 PM**

487 **AGENDA ITEM - REVIEW DRAFT RULES OF PROCEDURE FOR THE BZC**

488 There was a discussion about the draft BZC Rules of Procedure. Mr. Sedlacek asked if  
489 there had been any changes since the last hearing. The Clerk said that there were none  
490 except that it was suggested that email be removed from Article I, Section 4, item (c),  
491 regarding whether emails are an acceptable method of informing BZC members of  
492 Special Meetings. However, she suggested leaving it in the draft because email is still an  
493 appropriate form of communication per the county prosecutor's opinion of April 14,  
494 2008, and BZC members can opt out of that type of notification if they notify the  
495 township. This was reflected in the 5/13/08 BZC minutes. Several other BZC members  
496 agreed.

497  
498 Mr. Hahn said that he had no issue with leaving email in the list, as long as the word "or"  
499 is included. He had suggested removing email from the list in the past because he wanted  
500 to ensure that no Commissioner was forced to receive notification via email only.

501  
502 Mr. LeBlanc said that in Article I, Section 3, first paragraph, the second sentence states  
503 that BZC meetings shall be held during the months of June, July, and August only when  
504 necessary. However, all BZC meetings are necessary, and a meeting is not held during  
505 any month where there is no business to come before the Commission. It was agreed that  
506 although recently the Commission has met on the second Tuesday of each month, that is  
507 not always the case and there could be some months where no meetings are held. Mr.  
508 LeBlanc suggested deleting, "Such meetings shall be held in the months of June, July, or  
509 August only when necessary." Mr. Hahn suggested in the first sentence inserting "as  
510 necessary" after "shall be held." There was a consensus to make the change.

511  
512 It was requested that page numbers be added to the rules.

513  
514 Mr. Armstrong said that on page 2 of the rules, Article I, Section 4, item c), the first  
515 sentence states that BZC members can be notified of special meetings as follows:

516  
517 *"By mailing written notice to the member, or by sending notice to the member by*  
518 *facsimile transmission, telegram or cablegram, postage or other costs prepaid,*  
519 *addressed to the member at the address furnished by such member to the secretary of the*  
520 *BZC, or to such other address as the person sending the notice shall know to be*  
521 *correct."*

522  
523 However, the second sentence states the following:

524 *"Such notice shall be posted or dispatched a sufficient length of time before the*  
525 *meeting so that in the ordinary course of the mail or the transmission of facsimiles, e-*  
526 *mails, telegrams or cablegrams, delivery thereof would normally be made to a member*  
527 *not later than twenty-four (24) hours before the date of the meeting."*

528  
529 Mr. Armstrong said the language was not consistent in these two sections. Mr. LeBlanc  
530 said he objected to including "cablegram" in the language, and Mr. Hahn suggested  
531 modifying the paragraph so the notification method language was only listed one time. It  
532 was agreed that the Clerk would adjust the language accordingly.

533  
534 Mr. LeBlanc said he didn't understand why all the methods of notification had to be  
535 listed in the rules and it seemed too verbose. The Clerk responded that the methods were  
536 probably listed to prevent a Commissioner from arguing that they were not correctly  
537 notified of a meeting. Mr. Sedlacek said it seemed the language was intended to cover all  
538 situations.

539  
540 Mr. Sedlacek suggested adding a revision date to the document.

541  
542 Mr. Valentine noted that on page 3 of the rules, Article I, Section 8, item (a) also  
543 indicates that Regular BZC meetings shall be held only when necessary, and he suggested  
544 changing the language as discussed earlier in this meeting.

545

**BERLIN ZONING COMMISSION**

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546 Mr. Hahn said that the document should have a title. The Clerk agreed to add a title to  
547 page one of the Rules stating, "Berlin Zoning Commission Rules of Procedure."  
548

549 Mr. Sedlacek asked that the Clerk review and make changes to the rules, which will be  
550 added to the agenda and reviewed at the next hearing this Thursday, 6/12/08.  
551

**AGENDA ITEM - DISCUSSION OF**

**THE BERLIN TOWNSHIP COMPREHENSIVE LAND USE PLAN (BTCLUP)**

554 Mr. Sedlacek asked that the zoning office ensure that each Commission member has a  
555 copy of the 1999 BTCLUP so it can be discussed. He asked Commissioners to review  
556 the BTCLUP to see where changes should be made.  
557

**OTHER BUSINESS**

**Zoning Resolution Amendments Status Update**

561 Mr. Armstrong said that at their meeting last night, the trustees rejected the  
562 Commission's recommendation for changes to Articles V, VI, and XXI-XXII. There was  
563 some controversy regarding Article 22, the sign code. There was also some numbering  
564 that was off and needed to be corrected, and there were some inconsistencies noted.  
565

566 Mr. Armstrong explained that after the language recommended for approval by the  
567 Commission, prior to the trustee hearing, there were inconsistencies in the page numbers.  
568 Mr. Armstrong, Mr. Sedlacek, and Zoning Secretary Cathy Rippel discussing with the  
569 Township Fiscal Officer whether the document needed to come back before the  
570 Commission to fix the page number issue, or whether the page numbers could simply be  
571 changed and sent to the trustees, because it was simply a mechanical issue.  
572

573 Mr. Armstrong said that an incorrect decision was made and the document's page  
574 numbers were changed and passed to the trustees, without the document being approved  
575 with the change in page numbers by this Commission. This resulted in two different  
576 copies being considered, which the trustees strongly objected to. The issue was tabled  
577 and then heard last night, where it was rejected and sent back to the Commission. Two  
578 trustees suggested they would prefer that the changes be sent to them in the future using a  
579 separate case number and motion for each article, rather than submitting all the articles  
580 together so the language is not approved or disapproved in mass.  
581

582 Mr. Sedlacek said that after the document is received back from the trustees, the  
583 Commission will review it again.  
584

585 Mr. Sedlacek suggested approving all of the articles first which do not have major issues  
586 and sending them to the trustees, and then considering Article 22 in depth afterwards, so  
587 the approval of the other articles is not delayed.  
588

589 The timeline for the review was discussed. Mr. Hahn suggested that to save time, the  
590 articles be worked on informally and then presented to the Commission for its review.  
591 Mr. Sedlacek asked if Mr. Armstrong could work with a designated person on the  
592 changes, and he responded that he could do so after reviewing the document by himself  
593 first. Mr. Sedlacek said that after Mr. Armstrong reviews the changes, he will inform the  
594 Commission and a volunteer will be selected to help him review it further. Mr.  
595 Armstrong said he will mail Article 22 to the Commission members via U.S. mail. There  
596 was a consensus on this.  
597

**Discussion of Possible Special Meeting for Business Input**

599 Mr. Hahn suggested holding a meeting for all businesses in the township to obtain input  
600 on how the township can make it easier to run their businesses. The businesses could be  
601 invited to read the parts of the zoning resolution applicable to them on-line. Perhaps  
602 some township regulations could be addressed which would help make the township  
603 more amenable to businesses without adversely affecting it, such as temporary signs, etc.  
604

**BERLIN ZONING COMMISSION**

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605 Mr. Sedlacek suggested holding a special meeting. He said such a meeting could help to  
606 show businesses that they are appreciated and get their input. Mr. Hahn said there are  
607 about 70 businesses in the township. The Clerk asked if a notification letter would be  
608 sent to each business in the township. Mr. Sedlacek said he would work with Mr.  
609 Armstrong on a draft letter. The Clerk suggested notifying the local papers (SNP,  
610 ThisWeek) about the meeting to get more input from business owners. Ms. Yoroko said  
611 she would like to encourage more businesses to locate in the township and this effort  
612 would show that the township is easy to work with.

613

614 Ms. Yoroko asked if business owners could submit their comments in writing if they are  
615 not able to attend the special meeting. It was agreed that any such comments could be  
616 submitted but should not be anonymous

617

618 It was also discussed that the trustees should be notified of the plans for the special  
619 meeting, as a courtesy.

620

621 There was no further business to come before the Commission. Motion to adjourn.  
622 Hearing adjourned at 9:15 PM.

623

624

625

\_\_\_\_\_  
Rick Sedlacek

626

627

628

\_\_\_\_\_  
Bob LeBlanc

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631

\_\_\_\_\_  
Jim Hahn

632

633

634

\_\_\_\_\_  
Jerry Valentine

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636

637

\_\_\_\_\_  
Kristin Yoroko

638

639 Attest: \_\_\_\_\_

640 Township Zoning Clerk Lisa F. Knapp

641

642