

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

**REGULAR MEETING
DECEMBER 8, 2009, 7:00 PM**

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

3 **CALL TO ORDER**

4
5 The meeting was called to order by Chairperson Rick Sedlacek at 7:00 PM.

6
7 Ms. Korleski led the meeting attendees in the recitation of the Pledge of Allegiance.

8
9 BZC Members Present: Rick Sedlacek; Rae Ann Kerlin; Kristin Yorke, Betty
10 Bringardner (1st alternate seated); Toni Korleski (2nd alternate seated).

11
12 BZC Members Absent: Jerry Valentine (vice-chairperson); Jim Hahn.

13
14 Mr. Sedlacek read the adopted BZC policy statement for the meeting, as printed in the
15 agenda.

16
17 **PROOF OF LEGAL NOTICE PUBLICATION AND LEGAL NOTICE**

18
19 Zoning Clerk Lisa Knapp provided proof of publication for the legal notice for this
20 meeting, which was published on November 25, 2009 in the Delaware Gazette, providing
21 notification of the meeting date, time, and items for discussion.

22
23 *BERLIN TOWNSHIP ZONING COMMISSION NOTICE OF PUBLIC HEARING*

24
25 *The Berlin Township Zoning Commission will hold a public meeting on December 8,*
26 *2009 at 7:00 p.m. at the Berlin Township House located at 3271 Cheshire Road,*
27 *Delaware, Ohio 43015 to continue discussions regarding the revisions associated with*
28 *the text of the Comprehensive Land Use Plan (CLUP). This will include introduction of*
29 *recommendations and sub areas. Discussions will continue on possible changes as a*
30 *result of the recently completed Business Community Forum. Additionally, NAICS codes*
31 *between Planned Commercial District (PCD) and Planned Industrial District (PID) as*
32 *well as wind turbines will be discussed. The person responsible for giving notice of the*
33 *public hearing by publication is Cathy Rippel. Questions concerning this matter should*
34 *be directed to the Zoning Office at 740-548-5217. Township residents are encouraged to*
35 *attend.*

36
37 *BERLIN TOWNSHIP ZONING COMMISSION*
38 *Rick Sedlacek, Chairman*

39
40 **APPROVAL OF MINUTES**

41
42 Ms. Kerlin made a motion to approve the minutes from the November 10, 2009 BZC
43 meeting as presented. Ms. Korleski seconded the motion. All in favor say, "aye," all
44 opposed signify with same sign. No opposition, motion carried, minutes approved.

45
46 **AGENDA ITEM: INTRODUCTION OF MEETING ATTENDEES**

47
48 Mr. Sedlacek asked the meeting attendees to introduce themselves.

- 49
50 • Scott Sanders, Executive Director of the Delaware County Regional Planning
51 Commission
52 • Maynard "Tom" Thompson, Berlin Township BZA alternate member
53 • Jim Simpson, 5242 Finch Lane, Galena, OH 43021
54 • Jack Knapp, 938 Winding Creek Lane, Delaware, OH 43015
55 • Mel Webb, 4111 Curve Road, Delaware, OH 43015
56 • David Leahy, 1484 Dale Ford Road, Delaware, Ohio 43015
57 • Don Sherman, 1469 Africa Road, Galena, Ohio 43021
58 • Rick Gemienhardt, 881 Africa Road, Galena, Ohio 43021

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Mr. Sedlacek said that at the last meeting, the BZC reviewed Chapter 4 in detail, and thanked Elizabeth Kline for all her efforts and the Commission for submitting its feedback to her.

AGENDA ITEM: STATUS REPORT FROM BZC SUB-COMMITTEES

Mr. Sedlacek asked for a brief summary from the BZC sub-committees.

Limited and Expanded Home Occupations Sub-Committee - Update

Ms. Yorke said she has not spoken with Mr. Hahn about this subject recently. Mr. Sedlacek asked the Commission whether it was ready to initiate the changes to the zoning resolution via a resolution. It was agreed that Ms. Yorke and Mr. Hahn will discuss the issue before the next meeting on 1/12/10 and be ready to present the information for a vote if possible at that time.

Mr. Leahy asked for a copy of the draft document when available.

Ms. Korleski asked if the end result of the changes would be that for the Expanded Home Occupation, there would be no non-resident employees permitted for home occupations located on properties which are less than 1 acre in size. Mr. Sedlacek said that was correct.

Ms. Korleski said she felt that the regulations should be more subjective, as they are now, and that the BZA (Board of Zoning Appeals) would be able to be more subjective because a one-acre property is still a lot of property. Mr. Sedlacek said that the concept was that smaller lots are usually located in subdivisions and neighbors are located close together, which could create more of a nuisance.

Ms. Korleski said that acreage is being used as criterion even though that was not the original concept. Mr. Sedlacek said that was correct and asked whether she had provided her feedback to Mr. Hahn. Ms. Korleski said she had. Mr. Sedlacek said it will be brought back before the Commission in January. He said he would not like to see non-resident employees at homes which are close to each other. Ms. Korleski said that for an office-type use in such an area, it would be likely that one non-resident employee could work there.

Comprehensive Land Use Plan (CLUP) Committee - Update

Ms. Kerlin said that she had provided the Commission with a draft copy of the letter she was writing to the Army Corp of Engineers and she also submitted it to the trustees for their review. The trustees have asked for cost estimates for the suggested signage to be placed at the entry points to the Old Cheshire area, identifying it. She will be working on rough estimates and will provide those to the trustees for their next meeting this coming Monday.

Ms. Kerlin noted that the trustees said that they support the concept in general and it is something they have wanted to do, but they requested more information regarding costs, materials, upkeep, etc. She said the Corp told her that the proposal would take about 3 months to process and consider.

Village of Cheshire Business Community Sub-Committee - Update

Mr. Sedlacek said that Mr. Valentine made 24-30 phone call reminders for this meeting, and his efforts are appreciated.

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AGENDA ITEM: REVIEW/UPDATE OF COMPREHENSIVE LAND USE PLAN (CLUP)

Review of CLUP Chapter 4: Goals

Ms. Yorko asked what “low traffic patterns,” indicated under “strengths” in this chapter were. Mr. Sanders said that it seemed that a couple of phrases had been merged somehow. Mr. Sedlacek said the intent was to state “low traffic” and suggested deleting the word “pattern.” There was a consensus to make this change.

Ms. Yorko said that on page 3, part of the text reads, “to assure that active and passive spaces,” and she recommended inserting “recreation/park” in front of “spaces.” Ms. Korleski said she thought that “recreational” was what was meant by the terms “active” and “passive.” Mr. Armstrong said that many plats state “open space area” and that is the typical designation for subdivision lots. Ms. Korleski said the township wants to get away from that type of open space.

Ms. Yorko said the township really wants active recreational areas instead of passive recreational areas. Ms. Korleski commented that passive areas are also necessary. Mr. Sedlacek noted that certain areas could not be used actively due to reasons such as the topography of the land. He said Mr. Armstrong would be responsible to query the applicant before the hearing, and the information would be presented to the Commission. However, the Commission would need to have an understanding of the requirements so they can ask the proper questions. This must be done prior to approval of the application in order to ensure success; it would be very difficult to do afterwards.

Mr. Sanders said that stating “active recreation and passive open spaces” would be fine. He noted there are also passive recreational areas.

Mr. Gemienhardt said that on page 1, a “Steering Committee” is referenced, and he asked if that should be clarified to state what that steering committee was because that was not clarified in that chapter. Mr. Sedlacek said that was taken directly from the CLUP. It was noted that it was the 1999 Steering Committee. There was additional discussion. Mr. Armstrong noted that the text states “2001” in two places and that should be changed to 1999. Mr. Sanders said he would clarify that in the text.

Review of CLUP Chapter 14: Recommendations

Introduction – Intent of the Berlin Township Comprehensive Land Use Plan

The intent of the 2010 Berlin Township Comprehensive Land Use Plan is the sum of all the previous chapters as background material to inform the recommendations and they are presented in conjunction with the land use map in this chapter.

Mr. Sanders said he used the subareas which had been included from the 1999 CLUP, as they are still mostly applicable, and he pointed them out on the Figure 14.1 Planning Subareas, Berlin Township Comprehensive Land Use Plan. He said that planners prefer to group similar land use types together so it makes sense to make a general statement about the entire subarea, although sometimes that is not possible.

Mr. Sanders said that in the prior plan, some recommendations were grouped together as paragraphs, but over the process has been refined by the DCRPC and recommendations have been separated out for easy reference by that entity and by the BZC. Each subarea has been numbered in sequence.

Planning Sub Area Recommendations of the Berlin Township Comprehensive Land Use Plan

Mr. Sanders said that the acreage figures provided are approximate and undeveloped area is calculated by using parcels larger than 5 acres in size. The DCRPC staff has looked at the land and speculation map, which indicates the larger tracts which are under trust ownership or appear to be under a developer’s ownership. An estimated population was

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177 done using housing units; however, this process is not necessarily scientific due to the
178 method the county auditor uses to indicate units. The average number of persons per
179 household in Berlin Township is 2.8 people, based on the last Census, and that was used
180 to estimate the population of the township.

181
182 Mr. Sanders said that in most cases, the subarea descriptions haven't changed, but
183 changes which have occurred since the last CLUP update have been added.

184
185 Planning Area One - US 36 Corridor

186 Land area: 2,089 acres. Potential development acreage: 738 acres. Current estimated
187 population: 206 (77 housing units).

188
189 Area One consists of lands bordering the city of Delaware on the west, Brown Township
190 on the north, Alum Creek on the east, U.S. 36 on the south between Alum Creek and
191 Lackey Old State Road, then bordering on the south along property lines that are
192 generally parallel to, and approximately 2,000 – 4000 feet south of US 36 from Lackey
193 Old State Road to the railroad tracks, where the southern border of area shifts to Curve
194 Road. There is potential future sewer service by the county, as this area is within the
195 Central Alum Creek Service Area. Mr. Sanders noted that he placed this general
196 statement in all the subareas which fall under the future sewer service area map, which
197 was discussed during the review of the utilities chapter.

198
199 Mr. Sanders said that a future Olentangy school is proposed for the corner of Sweeney
200 and Curve Roads. Soils are prime agricultural soils, with poor suitability for septic
201 systems. He said, however, that this doesn't mean septic approval can't be obtained in
202 those areas. Mr. Sedlacek added that there are many areas where property owners have
203 not received approval for septic systems and have had to use other systems.

204
205 Mr. Sedlacek asked that changes be made to the subarea which includes Curve Road, and
206 there was a discussion. He said that the southern border of that subarea shifts to Curve
207 Road; however, it is really north and south of Curve Road and he asked whether it should
208 state "close to Curve Road." The southern border is not Curve Road. There was
209 additional discussion and it was agreed to change the language to state that the southern
210 border shifts to just south of Curve Road at the railroad track and the Commission agreed
211 that the change should be made. A meeting attendee said that the Conrail tracks should
212 be indicated as CSX tracks.

213
214 1.1 The Curve Road Corridor north of Curve Road but south of the Conrail tracks is
215 recommended for single family and agricultural uses at one unit per acre. Mr.
216 Sanders said that in subarea three it indicates that the dotted line is the Glenn Road
217 extension proposed by the city of Delaware. He noted that there are some potential
218 impacts to development which occurs there, and sewer service would be provided by
219 the City. In the meantime, is that density appropriate? The current zoning resolution
220 allows 2 units per acre.

221
222 Mr. Armstrong said that fact and the fact that U.S. 42 goes through there may make it
223 a moot point; it is in the outer service district of the City and it would need to be
224 annexed to obtain water service. Mr. Sanders noted that anybody who wanted to do a
225 lot split could do it under the current zoning, and he asked whether the language
226 should be changed. There were no comments.

227
228 1.2 The railroad corridor extending north from Curve Road to US 36 is recommended for
229 Planned Industrial use adjacent to the tracks, and Planned Commercial west of the
230 tracks. Mr. Sanders said that if the property is developed commercially, it will
231 probably be annexed to the City. He said that the purple area indicates the industrial
232 corridor, and it used to extend to the school site and pick up the corner lots.

233
234 However, the school site is located there now and he asked if it was appropriate to
235 have industrial on that corner now. The area is also splitting out with several lot splits

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236 which are developing more residentially anyway. He suggested adding a statement
237 which indicates that the southwest corner adjacent to the school will remain
238 residential. Mr. Sedlacek asked about indicating FR-1 in that area instead. Mr.
239 Sanders said there will be sewer service extended to the school, and the lots are small.
240 Mr. Sedlacek agreed.

241
242 Mr. Armstrong said that he was speaking in reference to the zoning district, as
243 opposed to the CLUP designation, and he suggested residential development at 1 unit
244 per acre without single-lot sewer. Mr. Sedlacek agreed.

245
246 Mr. Sanders asked what would happen if it did get sewer. There was discussion.
247 There was agreement by the Commission to indicate that the area will be residential
248 with a density of one unit per acre.

249
250 Mr. Gemienhardt asked what the density was for the units located around the new
251 elementary school to the south. It was confirmed that it was a residential area, and
252 Mr. Armstrong said they were the highest density on the map at 1.84 units/acre.

253
254 Mr. Gemienhardt noted that since the area is within the City water district, it may not
255 be realistic to get one unit per acre. Ms. Kerlin asked what the corner acreage was.
256 Mr. Sanders said it was 6.8 acres, and Ms. Kerlin noted that wasn't enough to develop
257 a subdivision; it will probably be developed by individuals and there will probably
258 not be high density as can be seen on the borders. It was agreed to indicate one unit
259 per acre and not mention sewer at all, which can be dealt with when necessary.

260
261 1.3 Lands along US 36 are recommended for Planned Commercial to a depth of
262 approximately 700 feet north and south of US 36, provided that:
263 a.) Parcels have limited access to US 36 and are linked with parallel rear access roads
264 D and E built in increments by developers.
265 b.) Only low level, downward-cast lighting should be allowed to prevent a halo effect
266 on the night sky in support of the Perkins Observatory.
267 c.) To avoid sign clutter, ground signs should be the only sign type permitted along
268 US 36. Tall pole signs and billboard signs should be prohibited. A Berlin Township
269 "look" or architectural sign syntax should be developed.
270 d.) Extensive landscaping should be required in parking lots to avoid the "sea of
271 asphalt". Use landscaping to divide parking areas by using islands at reasonable
272 spacing, at ends of rows, and along US 36 frontage.
273 e.) Areas should be developed with pedestrian connectivity and access as a goal.
274 Retail and office design elements should include rear parking, grid streets, sidewalks,
275 street trees and building orientation. Angled and parallel on-"street" parking, may be
276 used to improve walkability. Office, civic, and multi-type residential use may use
277 campus-style building orientation, courtyard and on-street parking and pedestrian
278 connections.

279
280 Mr. Sedlacek said the 700' depth indicated for Planned Commercial seemed arbitrary
281 and that the township could increase it if desired. He asked whether 700' was enough
282 to attract good commercial businesses in that area, and he asked if the depth was
283 increased that would attract a different kind of commercial. Mr. Sanders wasn't sure
284 if depth would affect the types of businesses to locate in such an area.

285
286 Mr. Armstrong asked if there was a typical standard for similar areas in Central Ohio,
287 and he noted that he has received comments indicating that is not deep enough. Mr.
288 Sanders showed the Glenwood Commons in Delaware and said they were frontage
289 lots which have 1300' of depth. Mr. Sherman said the depth should be deeper than
290 currently specified, and to attract commercial business there should be plenty of room
291 for them. Mr. Sedlacek asked where the 700' depth concept came from. Mr.
292 Gemienhardt said it was intended to be less intrusive.

293

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294 Ms. Kerlin thought there should be enough depth so that a commercial development
295 would be a good one where the businesses weren't squeezed in. Mr. Sedlacek said a
296 depth needs to be determined with which the township would be comfortable, while
297 still being able to attract the commercial development it needs to help out with the tax
298 base, which is necessary. A rezoning will be an easier request if the use is indicated
299 on the CLUP.

300

301 Mr. Gemienhardt asked whether Mr. Sanders could bring some examples of what has
302 worked successfully in the past. Mr. Sedlacek said it would be a good idea to be able
303 to visualize such an area, to help determine what is reasonable and to help attract the
304 right type of development.

305

306 Mr. Sanders showed the Wal-Mart in Orange Township and outlots, and he said that
307 measured from the rear lot line of the Wal-Mart property to the center line of Route
308 23 is a depth of 1300'. He noted that Giant Eagle has a shorter depth of 380' and
309 there are no outlots. The Meijer property is 1900', and it has too much parking.

310

311 Mr. Sherman said the type of business will determine the amount of parking which is
312 necessary, and if enough is not provided, the business may not be interested or
313 approved.

314

315 Mr. Armstrong asked for research of the depths in other communities in order for the
316 Commission to be able to make a correct determination. Ms. Yorke said it would
317 probably be consistent. Mr. Sedlacek agreed. Mr. Gemienhardt said the information
318 can also be used in the future if a business is requesting an excessive depth. Mr.
319 Sanders said that a backage road could be located behind or in front of frontage lots,
320 or within an integrated, "walkable" development. Mr. Sedlacek said time should be
321 spent investigating what is right in order to make a good decision.

322

323 Mr. Sanders said that a 700' depth would be reasonable for a one-building
324 development; however, if the township desires a mix of uses and doesn't want a mass
325 of parking in front, it probably will want to have deeper requirements. For example,
326 Orange Township doesn't want its big box developments on the frontage of the
327 highway; it prefers them to be broken up via the outlots, and this is typical for
328 developers. Retail doesn't pay its way, but better uses such as offices do. He
329 suggested inserting language stating that office uses can be used to buffer residential
330 uses from commercial uses.

331

332 Mr. Sedlacek asked that the discussion be put on hold, and he asked Mr. Sanders to
333 do some research regarding appropriate depths for Planned Commercial development,
334 as well as verbiage stating that offices can be used to buffer residential uses from
335 commercial uses. Mr. Sedlacek said that the January 2010 BZC meeting will be busy
336 with organizational issues and a rezoning applicant, and he asked that Mr. Sanders
337 bring the information for the February 2010 meeting. Mr. Sanders agreed. Mr.
338 Sedlacek said it seems that the Commission feels that the depth for Planned
339 Commercial areas should be deeper, but it is not sure what depth will be appropriate.

340

341 Mr. Sanders said that the Ohio Department of Transportation is also studying this
342 corridor, and their consultant has put together a first draft of backage roads, and they
343 look a lot like what has been on the Berlin Township's map for 10 years.

344

345 Mr. Sanders discussed 4-sided architecture, and said it should be added to the plan.

346

347 He said that developers can do a lot within a site besides just building a sidewalk, fire
348 lane, and an acre of parking, which can provide a lot of creativity. He will reference
349 the best management principles chapter and state the goals for being creative instead
350 of just having typical strip malls.

351

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352 There was a discussion about perpendicular parking spaces. Mr. Armstrong said they
353 are helpful for handicapped people.

354
355 Mr. Kerlin suggested clarifying the Berlin Township appearance for architectural
356 signs and text. Mr. Sanders said that for example, other communities have a certain
357 look they are known for. However, he advised against requiring everybody to adhere
358 to a look because the entire community will look the same. Ways to establish a look
359 include limiting the number of colors on signage, requiring internally-lit signs to not
360 have a white background. Ms. Kerlin said it was important to put things like that in
361 the CLUP; otherwise, the community could have a “hodge-podge” appearance.

362
363 Mr. Sherman said that smaller businesses located far back in a commercial
364 development also need signage so people know they are there. Ms. Bringardner
365 agreed and said that was necessary. Mr. Sanders said there should be a limit,
366 however; for example, if 50 businesses were located there, signage for each one
367 would be unreasonable. Mr. Sherman noted that small businesses can’t afford to
368 advertise and they need to be seen by the public.

369
370 1.4 West of Roloson Road, and south of the commercial corridor, residential is
371 recommended to be 1.5 units per net developable acre (NDA) if sewer becomes
372 available. Densities could be increased beyond one unit per acre by the
373 purchase and transfer of development rights from adjacent farmland to the south in
374 Sub Areas 3 and 4 into PRD developments in this area.

375
376 Mr. Sanders said that each subarea in the CLUP discusses transfer and development
377 rights, and there has been talk in the state legislature about that. The only way it can
378 work in the township is that the land owners get together and barter with density; for
379 example, agreeing to not develop part of their property if high-density development is
380 allowed on the rest. Traditionally, communities in the county have wanted open
381 space to benefit the surrounding development and not be located somewhere else, but
382 that can cause problems when developers continue to do it.

383
384 Ms. Kerlin asked why the info was included in the CLUP if it wasn’t desirable. Mr.
385 Sedlacek and others agreed. Mr. Sanders said the key is to ensure that the property is
386 recorded permanently so it cannot be converted later. If the property is not part of the
387 development and plat and the homeowners have ownership, another Dornoch Country
388 Club situation could occur. Mr. Armstrong agreed that the information needs to be
389 removed, and he said that today it can be buffered. It was agreed by the Commission
390 that the second sentence from section 1.4 will be removed.

391
392 1.5 East of Roloson Road and west of Old State Road, and south of the commercial area,
393 residential use is recommended at one unit per acre without sanitary sewer or up to
394 approximately 1.85 units per acre with centralized sewer. Densities could be
395 increased beyond 1.85 units per acre by the purchase and transfer of development
396 rights from adjacent farmland on the west side of Roloson Road, or from adjacent
397 farmland in Sub Areas 3 and 4 to the southwest.

398
399 Mr. Sanders said that the density in this section should be the same as for the sub-area
400 located west of Roloson Road at 1.5 units/acre. It was agreed to, and also to delete
401 the second sentence.

402
403 1.6 A future traffic signal at Lackey Old State Road and US 36 should be installed when
404 the warrants are met. This would regulate the traffic from the commercial corridor
405 and new roads D and E.

406
407 Mr. Sanders said that this section states what will happen and that a traffic light could
408 be installed. Mr. Sanders said the traffic quota between the city of Delaware and
409 Route 71 will be a category 2, which means it will be signalized at one mile intervals.

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410 Property labeled as residential today along Route 36 will be rezoned to commercial or
411 industrial and will be required to have backage roads for their access off Route 36.
412

413 1.7 North of US 36, the lands outside of the commercial corridor are recommended for
414 residential and agricultural use at one unit per acre. No sewer service is anticipated
415 for this area in the near term.
416

417 Mr. Sanders said this section is on the north side of the township, and noted that in
418 the old plan it was at 1 unit/acre and it was in the future sewer service area. The
419 current plan continues this and also indicates 1.25 units/acre with sewer. He said if
420 there is commercial development on the north side in the future, sewer will be there
421 as well. He asked whether the Commission wanted to continue this density. Mr.
422 Sedlacek said he would prefer that.
423

424 Mr. Gemienhardt asked if the area covered by the city water agreement could be
425 included on the subarea map. Mr. Sanders said that will be on the final map. He
426 noted that the area was the corner bounded by the railroad tracks and Peachblow
427 Road to the west, which would include 3, 7, C, D and E.
428

429 Mr. Sedlacek noted that the next BZC meeting will be on 1/12/10 and said that
430 because it is an organization meeting and there is a rezoning application which will be
431 heard, the Commission won't be discussing the CLUP until its meeting on February
432 9, 2010 at 7:00 PM.
433

AGENDA ITEM: COMMENTS FROM THE ZONING INSPECTOR

434
435
436 Wind Turbines

437 Mr. Armstrong distributed a document regarding wind turbines entitled "Small Wind
438 Projects and Township Zoning", which was a collection of information on alternative
439 energy wind production facilities and their implication on township zoning. He noted
440 that Mr. Sanders had prepared the information and Mr. Armstrong has added comments
441 pertaining to Berlin Township. Mr. Sanders said that Champaign County is considering a
442 major wind project, and Scioto Township has initiated changes to its zoning resolution.
443 He is working with Kingston Township on its zoning resolution as well regarding wind
444 turbines. Mr. Sanders said there are two different approaches; the wording is the same,
445 and the difference is in how the wording is put in the zoning resolution.
446

447 Mr. Armstrong said that he is aware of possible wind turbine projects in northern Marion
448 County for a 490' tall tower. These projects are moving south in Delaware County, he
449 noted. A township can only regulate wind turbine towers which are 5 megawatts or less;
450 over 5 megawatts is considered a utility and is regulated as such. He also noted that
451 towers which are used solely for agriculture are exempt from regulation.
452

453 Mr. Armstrong asked whether agricultural areas would be defined as areas in the
454 township's A-1 zoning district, for which there is only one plot in the entire township.
455 He asked if that would be defined as something which cannot be connected to the grid
456 and is for agricultural use on agricultural land only. If it was connected to the power
457 grid, that would remove it from the agricultural classification.
458

459 Mr. Sanders said that the issue should be cleared up, and it seemed to him that if it is
460 connected to the grid, it is no longer an agricultural use but would become a commercial
461 use. He said that Ed Roberts has been reviewing the draft language for Scioto Township
462 and he took the language word for word from the state code, and that language indicates
463 it can only be regulated if it can be attached to the grid.
464

465 Mr. Armstrong said that the regulation of cell phone towers on residential properties
466 started with a proposal for an area in Hollenback Road. He did not want to see a use
467 which is totally exempt because it is classified as agricultural. The proposed language
468 states that it could be handled as a permitted use in a non-residential area, and a

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469 conditional use, and those should be defined, so he listed both residential and non-
470 residential code districts in the proposed language.

471

472 Mr. Armstrong said he would like to see language defining the districts where the towers
473 are a permitted use and a list of the districts where it is a conditional use. It would also
474 need to be decided what to do with the other two districts, the OCPUD and the FPRD.

475

476 Mr. Armstrong read, "Any turbine erected on a parcel of land shall be setback 1.1 times
477 the height of the tower or established "clear fall zone."" He objected to this language
478 because the 1.1 times requirement can be negated by having a certain type specified. Mr.
479 Sedlacek suggested, "Shall be 1.1 times the height of the tower in order to establish a
480 clear fall zone." Mr. Armstrong suggested requiring whichever is greater, but not leaving
481 it open-ended.

482

483 Mr. Armstrong said that under D) Decibels, the language states, "LUC is looking toward
484 using language..." and he wasn't sure what this meant. Mr. Sanders said that was a note
485 from the Champaign County regional planning commission. To get into more detailed
486 decibel measuring, decibel measuring equipment will be required. Mr. Armstrong said
487 the township does have such equipment.

488

489 Mr. Armstrong said that there were also requirements that the noise from turbines cannot
490 be greater than 5 decibels louder, measured at the property line, than it was prior to the
491 installation.

492

493 Mr. Sedlacek asked that comments regarding the wind turbine language should be
494 emailed to Mr. Armstrong, and he will forward a synopsis to Mr. Sanders.

495

496 Mr. Sherman said that due to recent worldwide concerns about the environment, wind
497 turbines will soon be located everywhere in the United States whether people like it or
498 not. Electricity is necessary and as natural resources such as coal are depleted, the cost of
499 energy will not be affordable. It is possible that each new residence will have a turbine
500 propeller on top of their homes to generate electricity, like it or not, and the Commission
501 needs to think about that. Mr. Sedlacek said the Commission should still put effort into
502 what it would like in Berlin Township.

503

504 NAICS (North American Industry Classification System) Codes

505 Mr. Armstrong distributed a list of NAISC codes which appear in Berlin Township's
506 Planned Commercial district but not in its Planned Industrial District. Mr. Sedlacek said
507 that it stands to reason that anything in a lower district should be in the higher district as
508 well. Mr. Armstrong said that may or may not be desired, and he asked for the opinion
509 from the Commission regarding the codes which are in the commercial but not in the
510 industrial district.

511

512 Mr. Sedlacek suggested a sub-committee to discuss the issues, to include him and Ms.
513 Korleski. They would meet with Mr. Armstrong to put forth a recommendation for the
514 Commission to discuss next month. The Commission agreed with his proposal.

515

516 Mr. Sedlacek asked if he would prefer to work on a proposal by himself to bring to next
517 month's meeting, or if he would like assistance by some of the BZC members via a sub-
518 committee. Mr. Armstrong said he would put it together but he would like help from a
519 few people. Mr. Sedlacek said he would be willing to review the information and
520 perhaps it could be presented as a proposal to the BZC next month. He asked for
521 comments to be submitted from the BZC by 12/20/09 for the wind turbines. Mr.
522 Armstrong will send information on the NAICS codes and Mr. Sedlacek and another
523 person will review that information.

524

525 Revocation of Conditional Use Permits

526 Mr. Armstrong said that it was learned recently via Mike Morrill, BZA chair, that the
527 language in the zoning resolution stating that the BZA can revoke a conditional use

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO

**REGULAR MEETING
DECEMBER 8, 2009, 7:00 PM**

528 permit if certain requirements aren't met is not enforceable, per the county prosecutor's
529 office. The reference has been included in several sections of the zoning resolution.

530

531 Mr. Sanders asked whether it had been discussed whether a conditional use permit as part
532 of a planned district rezoning can be revoked, as opposed to a conditional use permit
533 issued by the BZA. Mr. Armstrong was not sure.

534

535

SYNOPSIS

536

Accomplished

537

➤ Work has continued on the various BZC sub-committees.

539

➤ A sub-committee to include Mr. Sedlacek and Ms. Korleski was created to discuss

540

1) wind turbines, 2) the language for NAISC codes proposed for the zoning

541

resolution, and 3) the legality of the language in the zoning resolution providing for

542

the revocation of conditional use permits.

543

➤ CLUP Chapter 4: Goals, was reviewed and updated by the BZC.

544

➤ CLUP Chapter 14: Recommendations, was partially reviewed and updated by the

545

BZC.

546

Homework/Future Work

547

➤ Work will continue on the various BZC sub-committees.

549

➤ Language for the limited and Expanded Home Occupations will be worked on by Mr.

550

Hahn and Ms. Yoroko for presentation to the BZC and may be discussed and/or voted

551

on at its 1/12/10 meeting. Mr. Leahy will be provided with a copy of the proposed

552

language when available.

553

➤ Comments from the Commission regarding wind turbine language will be forwarded

554

to Mr. Armstrong, who will forward a synopsis to Mr. Sanders for future language

555

discussion.

556

➤ Comments regarding proposed NAISC codes in the zoning resolution language

557

should be forwarded by 12/20/09 to Mr. Sedlacek and Ms. Korleski. The sub-

558

committee will review the information and possibly present a proposal to the BZC at

559

its 1/12/10 meeting.

560

➤ The legality of the Revocation of Conditional Use Permits, currently included in the

561

Berlin Township zoning resolution, was discussed.

562

➤ Work is expected to continue on the CLUP at the 2/9/10 7:00 PM BZC meeting. The

563

rest of Chapter 14 is expected to be reviewed then. Mr. Sanders will provide at that

564

meeting 1) research regarding appropriate depths for Planned Commercial

565

development and 2) sample language indicating that offices can be used to buffer

566

residential uses from commercial uses.

567

568 The next BZC meeting will be on Tuesday January 10, 2010 at 7:00 PM at the Berlin

569

Township Hall.

570

571 There was no further business to come before the Commission. Motion to adjourn.

572

Meeting adjourned at 9:07 PM.

573

574

Rick Sedlacek, Chairperson

575

576

Toni Korleski, second alternate seated

577

578

Rae Ann Kerlin, member

579

580

Kristin Yoroko, member

581

582

Betty Bringardner, first alternate seated

583

584

Attest: _____

585

Lisa F. Knapp, Berlin Township Zoning Clerk