

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, MAY 10, 2022: 7:00 PM

CALL TO ORDER

The meeting was held at Berlin Township Hall, 3271 Cheshire Road, and was called to order by Chairperson Steve Flaherty at 7:00 PM.

BZC members present: Chairperson Steve Flaherty, Vice-Chairperson Christina Littleton, Jerry Valentine, Darcy Kaplan, Angela Brown.

Also present: 1st alternate member Jenny Sloas, Zoning Secretary Cathy Rippel, Zoning Clerk Lisa Knapp, Assistant Zoning Inspector Sherry Graham.

Earlene Skeels, 5333 Columbus Pike, said she had a question about drainage. She asked whether there would still be detention and retention areas, as they seem to have disappeared from the plan. Mr. Flaherty said there could be one or both. The Bureau of Soil and Water reviews the plans. Ohio law states new development cannot negatively affect other properties, so there may be retention and detention ponds, as well as stormwater piping and other features. It will still flow the same direction that is was.

PROOF OF PUBLICATION

Ms. Knapp stated that this meeting was advertised in the Delaware Gazette on April 29, 2022 as follows:

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

The Berlin Township Zoning Commission will hold a meeting for the purpose of a public hearing May 10, 2022, at 7:00 p.m. at the Berlin Township Hall located at 3271 Cheshire Road, Delaware, OH 43015 in order to consider an application to amend an approved Preliminary Development Plan, designated as BZC 12-002, amendment #1, filed by Onyx + East, 243 N 5th St., Ste 330, Columbus, OH 43215.

The applicant is requesting to modify two previously approved development plans to incorporate into a single plan. The modified development plan proposes a total of 125 for-rent homes that is owned and maintained, known as The Greenery, Parcels 41833001086000, 41833001087000, part of 41833001075000 and part of 41833001074000, ±36.9 acres, Lewis Center, OH 43035.

For questions, call Sherry Graham, Assistant Zoning Inspector at 740.548.5217 x103. You can find the text and map on the Berlin Township website www.berlintwp.us under the Public Notice tab. After the conclusion of the hearing, the matter will be submitted to the Board of Township Trustees for its action. The person responsible for giving notice of the public meeting by publication is Cathy Rippel. Township residents are encouraged to attend.

BERLIN TOWNSHIP ZONING COMMISSION
Steve Flaherty, Chairman

AGENDA ITEM: APPROVAL OF MINUTES

Mr. Flaherty made a motion to approve the minutes from the 4/26/22 BZC meeting, as presented. Ms. Littleton seconded the motion.

Vote: Flaherty, yes; Littleton, yes; Valentine, abstain; Kaplan, yes; Brown, abstain.

Motion carried, the minutes were approved.

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AGENDA ITEM: BZC 12-002 AMENDMENT #1, ONYX + EAST

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A request filed by Onyx + East to modify two previously approved development plans and incorporate them into a single plan, designated as BZC 12-002, amendment #1, proposing a total of 125 for-rent units on ±36.9 acres, to be known as The Greenery.

Aaron Underhill, attorney with Underhill & Hodge, presented the application.

Mr. Underhill said this is the third time before the BZC for the proposed amendment, and he understood this is a major amendment to the development plan. Nothing presented tonight, should be unfamiliar to the BZC, and it should be consistent with the last meeting. The trustees have confirmed it would be a major modification. He has discussed the process with Mark Fowler, Delaware County assistant prosecutor, and he believes they are on the same page.

Mr. Underhill said there would be 125 units on 36.9 acres. and he explained the layout. There will be a mix of front and rear loaded garages, and it was about a 50/50 mix. The plan is incredible in terms of preservation of open space. There would be over 22 acres of preserved open space, which is nearly 60% of the site. Also, there is a stream with attractive vistas and pedestrian paths.

Mr. Underhill said this is a different product than others in the Central Ohio area as it is a for-rent, single-family product, with the exception of the three buildings with 6 units in the front. The rest will be a detached product. It will be owned and maintained by Onyx + East and will feel like a residential community but it will have a universal maintenance component. The owner will be very vested in ensuring they keep up with maintenance.

Mr. Underhill said the applicant feels this is a really good product that will meet the needs of an unmet segment of the population and it's a great location. This site has a TPUD on part of it, and PCD on the other part, and it was zoned 10 years ago. He has consolidated everything into one plan that works cohesively on its own. The two zoning districts are being kept, but the plans cross the boundary lines for consistency.

Mr. Flaherty said just to clarify, there is a parcel on Route 23 that is still separate. Mr. Underhill said that was correct. Mr. Flaherty said that was part of the commercial district and this maintains some of that zoning. Mr. Underhill said technically they are maintaining the entire zoning on that part of the property, which will maintain its previously approved preliminary development plan.

Mr. Underhill said that any further development would require a new application and a fee to be paid. His client does not have any control over that piece and is not purchasing that. Mr. Flaherty asked whether it was correct that the subject application would have PCD and TPUD components, but no commercial activity. Mr. Underhill said that was correct.

Mr. Underhill said the TPUD clearly calls out the uses as being permitted in this area. In the prior application, the PCD was a divergence. Mr. Flaherty asked whether these would be treated as condominiums. Mr. Underhill said there will be private streets and there could be a condominium association. It could also be fee-simple lots for rent with a homeowners association.

Mr. Flaherty said this is similar to the approved use and it is a missing component in this area. This market could include people who want to live in a single-family home but cannot for some reason.

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111 Ms. Kaplan asked for an overview of the density of the prior plan and whether that has
112 increased. Mr. Underhill said one of the approved zoning districts allowed 5 units per
113 acre and the other allowed 6 units per acre. 119 units were approved in the prior plan.
114 This plan includes 6 more units but is still within the 5-6 units/acre range at 5.89.

115
116 Jake Dietrich, vice-president of acquisitions and development at Onyx + East, said the
117 same area of the property is being developed but the product is different. Ms. Kaplan said
118 the current TPUD allows just 4 units/acre. Mr. Underhill said it was probably part of a
119 divergence that was given for application.

120
121 Ms. Kaplan applauded the applicant for using some of the areas that are difficult to use.
122 She said the county engineer had mentioned dead-end parking, but she did not see that in
123 the plan. Mr. Dietrich said there is one location near the common-amenities space that
124 has on street parking. Mr. Underhill said the streets will be private. Mr. Flaherty noted
125 that all streets must be designed to county engineer standards. Mr. Underhill said those
126 details would be reflected in the final development plan.

127
128 Ms. Kaplan said the need for a traffic study was mentioned. The presentation for the
129 original rezoning was for an age-restricted community, and there would be different
130 traffic patterns for the proposed use. She asked whether modification were necessary
131 along Shanahan Road because of that. Mr. Underhill said the study would be submitted
132 to the county engineer. There could be some impact, but they will have to live with the
133 requirements and improvements for the project.

134
135 Mr. Valentine was confused about the net developable acreage. It was originally TPUD
136 and PCD. Mr. Dietrich said the net developable excludes the undevelopable areas, roads,
137 etc. Mr. Valentine said 22 times 4 is 88, not 125 as requested. Mr. Underhill said the
138 PCD that was originally included was not included in the 36.9 acre calculation. The PCD
139 and the TPUD together constitutes the 36.9 acres, and netted out from that total is 22
140 acres. The TPUD is not really being considered, but also the PCD as part of the
141 comprehensive plan.

142
143 Mr. Valentine asked whether the PCD property that is not being used now is being
144 included in the density calculations. Mr. Underhill said that was excluded. Gary Smith,
145 with G2 Planning, pointed out the PCD portion of the development and also the TPUD
146 piece, and said the total combined equal the total increase.

147
148 Mr. Valentine asked about the zero setbacks between houses. Mr. Underhill said there
149 would typically be perimeter setbacks within each zoning district. However, there is a
150 shared boundary line between the TPUD and the PCD, they are requesting the zero
151 setback. However, it is not zero setback between houses. Mr. Valentine said page 6
152 indicates a side yard setback of 12'. He did not see any setback between houses.

153
154 Mr. Dietrich said each home will have a minimum 12' separation. The zero setback only
155 applies to the perimeter setback.

156
157 Mr. Valentine asked whether it was correct that there was no plan for any retail on the
158 property. Mr. Underhill said that was correct.

159
160 Ms. Littleton said the lot separation was confusing to her as well. The diagram shows the
161 lot lines for the individual houses. She asked where they would be on the lot lines. Mr.
162 Dietrich said they are being discussed as condominiums versus individual lots. Ms.
163 Littleton was concerned about setting a precedent for other situations. Mr. Flaherty said
164 it allows for flexibility but still requires a 12' side yard setback.

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166 Ms. Littleton said there were discussions about the original density being 5 and 6 units
167 per acre, and that is now combined to be 5.89. The original divergence was for the PCD
168 to have residential use. The TPUD allows only 4 units/acre. Her concern is that the
169 original application was age-restricted, which would likely minimize the number of new
170 students in the Olentangy school district. This will be single-family homes and will most
171 likely generate additional children.

172

173 Ms. Littleton said the population will change from the original plan. Ms. Kaplan said the
174 6 units/acre could set a precedent for the TPUD. Mr. Flaherty said this perhaps has been
175 grandfathered in since it is older. Mr. Fowler said the original approved plan was frozen
176 in time, but the changes are considered current. Any of the revisions should be
177 considered as current.

178

179 Mr. Underhill said there will be an impact on the schools as this is no longer an age-
180 restricted product, and time will tell. He was not certain whether the impact on the
181 schools is something to be properly considered by the BZC, and he would trust Mr.
182 Fowler's thoughts on that. He said he suspected there would not be the same impact as a
183 regular single-family development, but that opinion is anecdotal, and he has no objective
184 facts to back that up.

185

186 Ms. Kaplan said the BZC has discussed age-restricted communities in the past, and
187 divergences were granted because of that, as it has different characteristics. She was not
188 a member of the BZC at the time, but she wondered whether divergences were granted in
189 part because it was an age-restricted development and perhaps the BZC felt as though the
190 increase in density would not be as impactful. Ms. Littleton agreed. Ms. Kaplan was
191 concerned about the 6 units per acre density, which is not the current standard, and she
192 said this is a major change.

193

194 Mr. Fowler said the BZC can consider whether it was a drastic change from the prior
195 approved plan. Ms. Kaplan said it would set a dangerous precedent for the township.

196 Mr. Underhill said the location on Route 23 is so unique including its surrounding uses,
197 and the plan is 10 years old, so that may distinguish it from other requests. Ms. Kaplan
198 said she likes this plan better than the prior one, but so many applicants have made the
199 precedent argument over the years.

200

201 Mr. Valentine said he is the only BZC member who served at the time the original
202 application was approved. Shanahan Road looks a lot different than it did in 2012, and it
203 is busier now and may not be as safe for children at this point. He is concerned about the
204 density and the traffic pattern change.

205

206 Mr. Flaherty asked whether the development abutted Berlin Meadows. Ms. Rippel said
207 that it does. Mr. Flaherty said they may have access to the new elementary school. Mr.
208 Flaherty said schoolchildren are not part of zoning, and neither is traffic. Mr. Fowler said
209 it is not the township's jurisdiction or authority to determine how it would affect schools,
210 and that zoning cannot be denied purely due to traffic, but can be considered as part of
211 the health, safety and welfare of the entire area.

212

213 Ms. Littleton asked for clarification about the schoolchildren issue. Mr. Flaherty said it
214 was projected that there would be a certain number of schoolchildren in the original
215 development and more now, but that is not a consideration of the BZC. It can be noted,
216 but that is up to the school district to plan and prepare for. Ms. Littleton asked whether it
217 has been incorrectly argued in the past by the BZC. Mr. Flaherty said zoning is the
218 change of the use of property from one thing to the other.

219

220 Ms. Littleton said when allowing divergences, she felt the BZC must consider the impact
221 of those divergences. Mr. Fowler said that is correct as it pertains to the health, safely

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222 and welfare of the township. However, they could not say they could not build another
223 school, for example. A consideration such as Mr. Valentine mentioned, regarding that
224 kids could not get to school, may be a valid consideration. It cannot be the primary
225 reason for denial, but it is not completely improper to consider.

226

227 Ms. Littleton asked whether overloading the school district is not something that the BZC
228 could take into consideration. Mr. Fowler advised that they not just consider the number
229 of kids that the development would generate.

230

231 Ms. Littleton asked whether any of the setbacks had changes from the original plan from
232 2012. The applicant was not sure. Ms. Littleton asked about the encroachment of the
233 covered porches into the front yard. There are 66 rear load units where the porch is
234 allowed to encroach 6' into the front yard, which will only be 13' in the first place. She
235 asked if they would have a roof. The applicant responded that they would. Ms. Littleton
236 said that would seem to take a lot of area.

237

238 Mr. Dietrich said there would be additional buffer from the street as it would be curved.
239 Ms. Littleton said the white house shown has a porch almost right on the sidewalk. Mr.
240 Lee said there is more separation than what is pictured. Ms. Littleton said that seems too
241 small to her. She asked why for the rear load lots with the 6' that could not be the 2.5'
242 encroachment for the front load units.

243

244 Mr. Smith said it would help neighbors to have conversations with each other. They like
245 the proportion and it is a design preference. Mr. Dietrich said this is a unique community
246 and this is seen in more urban areas and traditional design communities and helps to get
247 people out on their porch interacting with their neighbors without having to scream from
248 the sidewalk. It is a way to create a sense of community and allow people to interact with
249 each other.

250

251 Ms. Littleton said she grew up in Dayton in an urban area, and there was more than 7' of
252 yard. Mr. Dietrich said there are different types of communities with different kinds of
253 yards. He is trying to create an opportunity for more variety in the township. He did not
254 think this would be appropriate throughout the community, but this is just 125 unique
255 homes. This creates an opportunity for people with different lifestyles and different
256 people. Everybody has different preferences, and this will meet the demand of a certain
257 population. Ms. Littleton said she would like to see that cut back a little bit.

258

259 Mr. Dietrich asked whether the concern was the amount of space between the sidewalk
260 and the porch, or between the porch and the street. Ms. Littleton said it was the sidewalk
261 and porch, which also ends up being the street. Mr. Dietrich said the location of that
262 street was intentional due to the location of utilities. If that was changed, the sidewalk
263 would be moved closer to the street, which would create more yard space, but also puts
264 pedestrians closer to the street.

265

266 Ms. Littleton said there is a different feel, and the homes with the 2.5' encroachment are
267 right by the ones with the 6' encroachment. The houses around the perimeter will have a
268 larger front yard and they will be opposite these homes.

269

270 Mr. Smith said there is a reason for that. The homes around the perimeter are front
271 loading and the garage and cars in the front create a need for additional separation. The
272 concept with these units is so the car is completely out of the picture, so that all of the
273 active space is out front and not dominated like it is on those on the perimeter. It creates
274 a different opportunity for different people, and that could be attractive for some people.

275

276 Mr. Smith said this is not about just pulling into the garage and not talking to one's
277 neighbors. They would live in the front and sit on the front porch and talk to neighbors

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278 as they walk by. That is the kind of environment they are trying to create. The planner in
279 him is advocating hard for this because there is a lot of social benefit to that, and many
280 people like that closeness. Others may not want to be social and want a bigger yard. He
281 does not have a solution right now but he can look at that prior to submitting the final
282 development plan and have better reasons for the request that is made at that time.

283

284 Ms. Littleton asked what the size of the pavilion would be, and said some have been 20'
285 by 40' in the past. Mr. Dietrich said it would be in the 20-25' range. Ms. Brown said
286 that 20' by 20' would be too small.

287

288 Ms. Littleton asked whether there was any consideration for a dog park. Mr. Dietrich
289 said they had discussed that but they have provided many spaces to walk a dog instead.

290

291 Ms. Brown said she has viewed many condo neighborhoods, and one of the biggest
292 dilemmas is where the cars are parked. When there is parking on the street, they get
293 congested, and she asked how that could be handled for the rear load garage units. She
294 was also concerned about emergency vehicle access.

295

296 Mr. Dietrich said this was designed for one-side parking. Also, half of the rear yard load
297 homes have 24' wide garages, which is wider than the typical 20' wide garage, so there is
298 more space to accommodate additional items. He noted that people who live in rentals
299 tend to accumulate less "stuff" than those living in traditional single-family homes.

300

301 Ms. Brown asked how wide the private roads coming in would be. Mr. Dietrich said they
302 would be 26', which would allow parking on one side per the county engineer. Ms.
303 Brown said her biggest concern was the rear facing that face the rear facing, and not only
304 would there be people parking on the street, but also people can only park on one side of
305 the street. She asked the developer to go back to the drawing board on that as it will be a
306 problem. Ms. Littleton said there is no place for overflow parking.

307

308 Ms. Brown said perhaps people could park on both sides of the street to allow for the
309 number of vehicles.

310

311 Ms. Brown asked whether there would be additional buffering along the east border and
312 whether there will be fences. Mr. Lee said no fencing is shown but Berlin Meadows to
313 the east will preserve the current tree line, then there is a retention pond, and the homes
314 are beyond that. Mr. Flaherty said there is a 25' perimeter on both developments so there
315 would be a minimum of 50' between end lots. Ms. Brown asked whether they would
316 preserve that tree line. Mr. Dietrich said they would. Mr. Smith said there is a gas line
317 easement behind those lots that may restrict what they are able to do.

318

319 Ms. Brown asked whether there would be street lighting on the sidewalks. Mr. Smith said
320 there would be. Mr. Dietrich said that has not been discussed fully and would be
321 discussed in the final development plant including whether it is a pole or something else.
322 Ms. Brown said she wants to make sure people can walk safely on the sidewalks. Mr.
323 Flaherty and Ms. Ripple said street lighting is not permitted in the township. Ms. Brown
324 asked about post lighting in the yard. Mr. Dietrich said he would read the zoning
325 resolution and come up with a solution that does not shine into the sky yet provides for
326 safety. Mr. Flaherty said street lightings is allowed in the commercial districts.

327

328 Mr. Flaherty asked whether Ms. Brown and Ms. Littleton were asking for changes. Ms.
329 Littleton said she is concerned about the density and setting a precedent. A divergence
330 was allowed and she assumes that was granted because the development is age-restricted.
331 It was approved 10 years ago and a lot has changed. Mr. Flaherty said he is not concerned
332 about setting a precedent because this is a unique situation. He is comfortable with the
333 plan as presented.

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334

335 Mr. Flaherty asked about the porches. Ms. Littleton asked if he saw anything in the text
336 about that. Mr. Flaherty said all he could see was that landscaping plans must have a 5'
337 buffer between the sidewalks and curb and that centerlines must be followed according to
338 Appendix A. He said porch encroachments are permitted in traditional single-family
339 developments. Ms. Littleton said she does not like encroachments.

340

341 Ms. Brown said perhaps the BZC may need to consider how long a divergence is valid
342 for situations like this where it has been many years and so much of the community has
343 changed. Mr. Flaherty said it is part of an approved zoning and it cannot be excluded
344 when an extension is considered. They have 2 years to submit a final development plan
345 and an extension can be requested at any time for any length of time. Ms. Brown said
346 perhaps divergences need to be considered at that point.

347

348 Ms. Littleton asked whether perhaps time limits could be included for certain items. This
349 is a completely different project than what was approved 10 years ago. It has been
350 modified so much after so many extensions.

351

352 Mr. Underhill said he did not know how this was expected to ever be built when sewer
353 had not been built in the area yet. That is very unusual. Ms. Littleton asked how many
354 have been approved but not built yet. Mr. Flaherty said there are about 8. Ms. Brown
355 said that was a lot. Ms. Littleton said that is a lot of developments that could be changed
356 in the future if requested.

357

358 Mr. Flaherty said the township must abide by the zoning rules currently in place, and the
359 township can work to change those in the future. Extensions are a trustee decision.
360 However, the rules cannot change in the middle of a game.

361

362 Mr. Flower said that even if development plans were not permitted to be granted beyond
363 10 years, a divergence could be granted from that. Ms. Littleton asked whether trustees
364 would be the ones allowing them to make the modifications in 10 years. Mr. Fowler said
365 it would depend on the situation.

366

367 Ms. Graham asked about the lighted sign along Shanahan Road. Mr. Lee said it would be
368 halo lighting around the edges of the letters so they glow. Ms. Graham asked whether
369 that was in line with that is permitted. Mr. Smith said there would be a lot less lighting
370 than downlighting as they are a small string of LED lights like cabinet lights. With
371 downlighting, the entire face is washed with light versus just creating a halo of light
372 around the letters. It is a "green" way to light a sign without creating light pollution and
373 using less electricity.

374

375 Ms. Littleton asked what the background of the sign would be. Mr. Smith said it is a
376 high-density urethane, which is a very high density paneling that resists weathering and
377 holes. A variety of finishes such as stucco or paint can be used to make them blend in.
378 In this case, the sign has a stone base and perhaps a stucco finish could be incorporated
379 that is a lot less reflective. Mr. Flaherty said there is a backlit sign at North Farms.

380

381 Mr. Flaherty asked whether the sign met the zoning code. Ms. Graham said the zoning
382 resolution states that the light source must be directed towards the sign and the light
383 source is covered. Mr. Flaherty said that fully shielded or covered backlit would qualify.
384 Ms. Graham said it should be on an automatic timer. She said all lighting should be
385 controlled to avoid shining on neighboring properties. Mr. Flaherty said that uplighting
386 is not permitted. He said as long as the bulb is not exposed, then it should meet the
387 requirements.

388

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389 Mr. Smith said the light would not be seen. That is an advantage of the LED lighting
390 now. In past times, spot lights or cabinets filled with bulbs were required. LEDs are very
391 small and bright and provides very specific, targeted lighting. Ms. Graham said that
392 section 25.06 General Regulations states

393

394 B.) Lighting:

395 1.) No illuminating device for any sign shall be constructed which permits the direct
396 beaming of any light on to adjacent properties, or thoroughfares thereby creating a hazard
397 to vehicular traffic.

398 2.) No flashing, rotating or moving light source shall be permitted on any sign within this
399 Township, with the exception of a spinning barber pole.

400 3.) All lighting shall also conform to the lighting standards of Article 24 of this
401 Resolution.

402 4.) Confusing Lights: There shall be no red, amber, and blue or green lights, either fixed,
403 moving or flashing, which could create confusion with traffic signals or lights on
404 emergency vehicles.

405

406 5.) Illumination:

407

408 b.) Internally Lit Sign Backgrounds: Clear or white backgrounds are prohibited for
409 interior illuminated signs. Internally lit signs may use colored translucent backgrounds
410 for the advertising area, or they may use opaque backgrounds with illuminated letters.

411

Public Comment

412

413
414 There were no comments from the public.

415

416 Mr. Flaherty asked whether there were any changes to the application. Ms. Brown asked
417 that the width of the road be looked at to ensure there is enough space for vehicles. Mr.
418 Flaherty asked if they would need to exceed the county's requirements. There is not
419 divergence or variance requested from that in the text.

420

421 Ms. Brown said 4 parking spaces per unit are required, and garages and driveways count
422 towards this. Mr. Flaherty said that is for single-family homes. Ms. Littleton said these
423 are marketed as single-family homes. Mr. Flaherty asked whether Ms. Brown was
424 requesting that the road be wider to accommodate two-sided parking. Ms. Brown said
425 that was correct. This is a TPUD with those standards, but it is being developed as a
426 single-family development.

427

428 Ms. Brown said it is difficult to fit two cars in even a two-car garage. Ms. Graham said
429 legally, that would be still counted as two spaces. Ms. Brown said there are always major
430 parking issues in developments like this, and she is calling that out. Mr. Flaherty asked
431 whether there was a non-conformance to what the zoning resolution allows. They are not
432 requesting any divergences and things like this need to be addressed in the zoning
433 resolution.

434

435 Ms. Sloas said there is still an issue with the density and parking, and the 55+ restricted
436 community would have had fewer cars. The overall density is the problem. Ms. Littleton
437 said if the parking cannot be improved, the density needs to be reduced. Mr. Flaherty
438 said they are dealing with an approved plan. Ms. Sloas said many changes are being
439 made to the approved plan.

440

441 Mr. Flaherty asked that Mr. Fowler clarify that. To him, age-restriction is just a
442 marketing distinction. It is not a difference in the zoning resolution or a distinction in the
443 use of the land. Ms. Littleton said all of those things were taken into consideration during
444 the original zoning.

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445 Mr. Fowler said he would not be comfortable saying an age restriction must remain in
446 place.

447
448 Mr. Underhill said there are many layers to this discussion, including the type of housing,
449 density etc. The age-restriction designation is a law that is part of the Fair Housing Act,
450 that is incorporated at the state level. It is a sales tool as well. At some point, other
451 types of people from different socioeconomic backgrounds should be allowed within a
452 community in certain areas. This may be one of the densest projects the township may
453 ever see. Diversity is good for the community, and this is the appropriate place for that.
454

455 Ms. Brown said she likes the concept but the parking is a huge concern for her as she has
456 seen so many problems in the past. Mr. Underhill said there is a stream corridor and also
457 an electrical easement that cause difficulties. He is not opposed to finding a solution, but
458 that would come in the future. Ms. Brown said she strongly urged the application to find
459 a solution, as it will be a nightmare.

460
461 Mr. Underhill suggested that a requirement for the final development plan would be to
462 satisfy the BZC that there is adequate parking for residences. Ms. Brown agreed. Mr.
463 Smith said a detailed parking analysis could be done for the final development plan as all
464 the issues and utility locations will be known at that time. Perhaps additional parking
465 could be provided on the street or via guest spaces.

466
467 Ms. Sloas asked whether it was correct that the final development plan could be denied if
468 that condition is not met. Mr. Flaherty said that was correct. He asked Ms. Brown how
469 she would like that worded. Ms. Brown said a parking study may be adequate. She
470 asked that they meet the requirements of single-family homes, which is four parking
471 spaces per unit.

472
473 Mr. Dietrich said the question seems to be on one street where opposite homes would
474 need to share a single parking space in the front. It is this unique condition where, from a
475 statistical standpoint, they cannot provide 3 parking spaces either attached or in front of
476 the home. He asked whether a specification that there are at least 3 spaces in front or
477 attached to the home would satisfy Ms. Brown. Ms. Brown said it would.

478
479 Mr. Lee said a part could shift further to the south in order to allow parking on both sides
480 of the road.

481
482 Mr. Dietrich said he was comfortable that condition could be met. Mr. Underhill said it
483 could be indicated that this applies to units 92-140

484
485 Mr. Fowler advised that the BZC determine whether this was a single-family residential
486 that requires 4 parking spaces, or if it is other residential that requires 3 and would not
487 need a divergence. It could even be considered a condominium.

488
489 Mr. Dietrich said on those streets there is no driveway penetration, so they do not have to
490 space the parking based upon the driveway. He will show how many cars can be parked
491 on each street, etc. The smallest lot is 36' wide, so in the space of two of those, 3 cars
492 could be parked. The parking study will show the dimensions and how many cars can be
493 parked at each location on the street. The advantage of having the alleys to the rear is
494 that one does not have to avoid parking in front of a driveway.

495
496 Mr. Valentine said that the dead-end roads are usually cul-de-sacs. He had concerns
497 about emergency vehicles. Mr. Flaherty said they would need to comply with the county
498 engineer's standards.

499

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, MAY 10, 2022: 7:00 PM

500 Ms. Littleton was concerned about density. She mentioned the older plans that have yet
501 to the approved and built. They are not commercial or TPUD but are all R-2, R-3 or R-4.
502 She was concerned about this setting a precedent. Mr. Valentine said the TPUD allows a
503 density of 4 units per acre, and he does not know how they got up to 6 units per acre. Mr.
504 Flaherty said the PCD was granted a variance up to 6 units/acre. Mr. Valentine said they
505 are dealing with the TPUD.

506

507 Mr. Flaherty said the location is unique to its location near Route 23. Ms. Littleton said
508 the density higher than what is permitted for the TPUD and the PCD is not included at
509 all. This may not set a precedent for the other undeveloped approved preliminary
510 development plans. Mr. Flaherty said there are many reasons why this application is
511 unique and does not set a precedent. Technically, every zoning application is its own
512 application for that individual piece of property. He did not want to set a precedent of
513 generalizations.

514

515 Mr. Flaherty reviewed the conditions as follows:

- 516 1) Applicant shall include a parking analysis or study to verify there are enough
517 parking spaces to accommodate 4 cars per dwelling, particularly for units 103-92.
518 2) The pavilion shall be constructed to be at least 20' by 40'.

519 Mr. Underhill said this is a unique development and this is the right place for it. He
520 agreed to the conditions and requested a vote.

521

RESOLUTION 2022.05.10.#A: APPROVE BZC 12-002, AMENDMENT #1

522 Mr. Flaherty made a motion to approve BZC 12-002 with the inclusion of exhibit A and
523 the two conditions. Ms. Brown seconded the motion.

524

525 Vote: Flaherty, yes; Brown, yes; Kaplan, yes; Valentine, no; Littleton, no.

526

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

528

529

AGENDA ITEM: OTHER BUSINESS

530 Ms. Graham said The Shire was discussed at the last meeting, and she is working with the
531 property owners to determined what the proper zoning should be, and that may be TPUD.

532

533 Mr. Flaherty said he and trustee Meghan Raehl presented the Berlin Business park at the
534 One Delaware meeting two weeks ago, including the concept of the innovation park.
535 They are working with the county and regional parties. He has also met with
536 representative of Intel, who verified that this area plays a big part in that project. He said
537 Trustee Raehl is pulling in somebody who does the same job at Concord Township for
538 some of the issues that come up at zoning meetings.

539

540 Ms. Rippel said she would like to note how appreciative and grateful she has been of
541 Orange Township's zoning inspector Jeffrey Beard, who has been assisting the township.
542 Ms. Graham agreed.

543

544 The May 24, 2022 regular BZC meeting was canceled. The next regular BZC meeting
545 will be on Tuesday, June 14, 2022 at 7:00 PM.

546

547 There was no further business to come before the BZC. Motion to adjourn and second.
548 Meeting was adjourned.

549

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

**REGULAR MEETING
TUESDAY, MAY 10, 2022: 7:00 PM**

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Steve Flaherty, Chairperson

Christina Littleton, Vice-Chairperson

Jerry Valentine, member

Darcy Kaplan, member

Angela Brown, member

Jenny Sloas, 1st alternate member

Attest: _____
Lisa F. Knapp, Berlin Township Zoning Clerk