

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, JUNE 27, 2017, 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 Toni Korleski at 7:00 PM.

6  
7 Pledge of Allegiance.

8  
9 BZC Members present: Toni Korleski, Jerry Valentine, Darcy Kaplan, Steve Spangler,  
10 Ken O'Brien (arrived at 7:12 p.m.).

11 BZC alternate members present: BZC 1<sup>st</sup> alternate member Mike Bardash, BZC 2<sup>nd</sup>  
12 alternate Martin Johnson.

13 Also present: Zoning Clerk Lisa Knapp, Zoning Inspector Chet Heid, Zoning Secretary  
14 Cathy Rippel.

15  
16 Ms. Korleski read the adopted BZC policy statement for the meeting, as printed in the  
17 agenda.

18  
19 **AGENDA ITEM: LEGAL NOTICE**

20  
21 Ms. Knapp said the hearing was advertised in the June 2, 2017 Delaware Gazette, heard  
22 on June 13, 2017 and tabled to this evening.

23  
24 **AGENDA ITEM: APPROVAL OF MINUTES**

25  
26 Mr. Valentine made a motion to approve the minutes from the May 23, 2017 BZC  
27 meeting, as presented. Ms. Kaplan seconded the motion.

28 Vote: Valentine, yes; Kaplan, yes; Spangler, yes; Korleski, yes. Motion carried, minutes  
29 approved.

30  
31 Mr. Valentine made a motion to approve the minutes from the June 13, 2017 BZC  
32 meeting, as presented. Ms. Kaplan seconded the motion.

33 Vote: Valentine, yes; Spangler, yes; Kaplan, yes; Korleski, yes. Motion carried, minutes  
34 approved.

35  
36 **AGENDA ITEM: INTRODUCTION OF MEETING ATTENDEES**

37  
38 Ms. Korleski dispensed with the introduction of meeting attendees because most of the  
39 attendees have been here before, but she did ask that speakers identify themselves when  
40 commenting.

41 Ms. Korleski noted that there is a public meeting being held by ODOT regarding the  
42 improved interchange at I-71 and U.S. 36/S.R. 37 on 7/11/17 5-7pm at Northgate Church  
43 in Sunbury.

44  
45 A resident asked how long it takes for meeting minutes to be published on the township's  
46 website. Ms. Rippel said that typically once they are approved, she posts them the next  
47 day.

48  
49 **AGENDA ITEM: BZC #17-006 BOATMAN INC.**

50  
51 *BZC 17-006, filed by Boatman, Inc., 100 South 3 B's & K Road, Sunbury OH 43074,*  
52 *requesting approval of a preliminary development plan for Savko Brothers Properties X,*  
53 *LLC, to rezone 24.312 ± acres at 5427 S.R. 37 E, Delaware, OH 43015, from*  
54 *Neighborhood Commercial District (NCD) & Farm Residential District (FR-1) to*  
55 *Planned Industrial District (PID).*

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56 Ms. Korleski said BZC #17-006 was tabled to 5/23/17, that hearing was tabled to this  
57 evening and a revised advertisement was published.

58  
59 Mike Shade, P.O. Box 438, Delaware, attorney for the applicant, presented the application  
60 and answered questions.

61

62 Motion to Enter Exhibit A into the Record

63

64 Ms. Kaplan made a motion to enter Brief in Opposition to Rezoning Parcel, developed by  
65 residents, into the record as Exhibit A. Mr. Spangler seconded the motion. Vote: Kaplan,  
66 yes; Spangler, yes; Valentine, yes; Korleski, yes. Motion carried.

67

68 Mr. O'Brien arrived.

69

70 Motion to Enter Exhibit B into the Record

71

72 Mr. Valentine made a motion to enter the following as Exhibit B, consisting of three parts:

- 73 1) A response brief of the applicant.  
74 2) The applicant's addendum.  
75 3) Addendum A, parts 1 and 2 consisting of Scioto Concrete hours.

76 Mr. Spangler seconded the motion. Vote: Valentine, yes; Spangler, yes; Kaplan, yes;  
77 O'Brien, yes; Korleski, yes. Motion carried.

78

79 Motion to Enter Exhibit C into the Record

80

81 Ms. Kaplan made a motion to enter a letter from the Berlin Township Fire Department  
82 Chief Craig Hall, written and addressed to zoning inspector Chet Heid, subject Boatman  
83 Inc. property, as Exhibit C:

84

85 *"This is a letter of support for the proposed water tower for the Boatman Inc.*  
86 *property on State Route 37 East located in Berlin Township. Currently the water*  
87 *flow for this area is approximately 350 ppm. The fire department likes to see*  
88 *around 1000 PPM water supply for fire suppression. If a large fire was to occur*  
89 *at this time, the water is hauled in by water tankers from I-71 and S.R. 37 East*  
90 *area. The water tower that provides water surface for the Boatman Inc. property*  
91 *is located in the area of U.S. 42 and Leonardsburg Road. The proposed water*  
92 *tower would increase water pressure for the area and provide a greater water*  
93 *supply if needed for fire suppression efforts.*

94 *Thank, you, Chief Hall."*

95

96 Mr. Spangler seconded the motion. Vote: Kaplan, yes; Spangler, yes; O'Brien, yes;  
97 Valentine, yes; Korleski, yes. Motion carried.

98

99 Ms. Korleski said the prior discussions regarding this application are being continued, and  
100 they will be reviewing what has happened since then.

101

102 Mike Shade, attorney for the applicant, PO Box 438, Delaware, said he did not expect it to  
103 be this long before he was before the BZC again, but there were some snafus and schedule  
104 conflicts. This matter was filed some time ago with an initial application. After the last  
105 meeting, there were a number of items based on input from what was heard from the  
106 neighbors. He tried to address all of the issues and three sections of the original submittal  
107 were addressed and that was filed around 5/18/17.

108

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109 Mr. Shade said Tab 3, the original text, was revised to reflect the changes that were made  
110 to the plan. The supplemental text and terms under that same tab is the outcome of a  
111 review of 3 documents that were supplied at the 5/15/17 meeting. Those issues were  
112 addressed in the text. Resident Graeme Quinn sent an email with a number of items he  
113 wanted to see addressed as well. There was also the list of issues that was compiled by  
114 the applicant.

115

116 Mr. Shade said the text requested by Mr. O'Brien is reflected in the supplemental text and  
117 terms based on what the applicant could do per the township's zoning resolution and not  
118 just what various parties wanted; the resolution was followed. Questions and concerns  
119 about mounding were addressed in the preliminary plan and he also took the original  
120 elevation and created a new perspective. The loading will be at the rear of the plant now  
121 instead of the front, which will provide a greater barrier as to how trucks enter and leave  
122 the property.

123

124 Mr. Shade said the final change was the revised concept and buffering plan, which he  
125 showed. He said the zoning secretary made these available on the township's website and  
126 he is prepared to address any questions or issues anyone may have with those.

127

128 Mr. Shade said the initial review of this application was not by this body, but by the  
129 DCRPC (Delaware County Regional Planning Commission). The DCRPC had addressed  
130 5 items they wanted the applicant to address as the process moved forward, and he has  
131 used that as a guideline as to where this project should go.

132

133 Mr. Shade said one of the main points was that because this is a US and state highway, the  
134 DCRPC requested that the applicant have ongoing dialogue with ODOT. He said that not  
135 only has that taken place, but it continues to take place. He has been working specifically  
136 with Tom Slack of ODOT to address issues and concerns as the plans were revised and  
137 more information was provided.

138

139 Mr. Shade said the 2010 Intermodal Study of U.S. 36/S.R. 37 has been provided and that  
140 study included projections of traffic out to 2032.

141

142 Mr. Shade said when his client initially met with ODOT, they were not sure whether any  
143 further traffic study was necessary because they had stated they had studied that area  
144 sufficiently. He said he wanted to make sure, as Mr. Cameron noted in his brief, that they  
145 look at the impact of the traffic in the area. He has attached that information for the  
146 BZC's review. He looked at the traffic flow out of the plant and into the plant including  
147 employees, cement trucks, delivery trucks, etc. at maximum.

148

149 Mr. Shade said that the zoning resolution requires a minimum of 15 parking spaces for  
150 non-employee parking. A very detailed analysis of that was done allowing for breaks,  
151 lunches, time traveled, etc. The shortest trip leaving and arriving at the site is 30 minutes,  
152 and there is also the time at the site delivering the product, and the return. The longest trip  
153 was 1 hour. The difficulties with that were more of a product of the industry, which is the  
154 2 hour time period in which concrete has to be delivered or the product becomes "hot"  
155 which means it no longer has the character, intensity and durability needed for a concrete  
156 product.

157

158 Mr. Shade said he tried to be as thorough and complete as possible. The brief in  
159 opposition showed 240 trips per day, but the applicant's analysis shows 194 trips per day  
160 based upon all of those factors mentioned including the processing done in-between loads  
161 which involves cleaning. He noted that Mr. Savko is a stickler for cleanliness.

162

163 Mr. Shade said that once he had the analysis, he engaged with MS Consultants to evaluate  
164 the situation. Mr. Shade Consultants provided a study that indicated that during the peak

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165 AM and PM hours there are 41 end trips. His analysis showed 35 in the morning and 30  
166 in the afternoon due to staggered start and stop times for employees.

167

168 Mr. Shade said he also did an analysis on Saturdays when the plant may be open. He  
169 noted that concrete is not moved a lot during the winter or on Saturdays, but he “maxed  
170 that out.” The total trips were 100 but only between the hours of 6:00 a.m. and 1:30 p.m.  
171 because most end users only work part of the day on Saturdays.

172

173 Mr. Shade said that in response to Mr. Cameron’s Brief in Opposition, he wrote a  
174 response brief and he is prepared to address that.

175

176 Mr. Shade said that many people are concerned about traffic and a lot of time has been  
177 spent addressing that, but since 1959, the Supreme Court of Ohio has made it clear that  
178 regarding zoning, traffic is a byproduct. It is for the government to provide the answers  
179 for that, although his client will be required to comply with certain items. ODOT now  
180 wants a 345’ left-turn deceleration lane, and the applicant will build that. This will be an  
181 ongoing process if the preliminary plan is approved and that will continue all the way  
182 through the final plan approval.

183

184 Mr. Shade said an additional change is that instead of doing the crossover as indicated in  
185 their letter, ODOT, has now requested that all vehicles exiting the property turn right and  
186 towards the city of Delaware. They will then enter one or more of the five crossovers  
187 located in-between the subject property and the Humane Society. ODOT’s preference at  
188 this time is that all turns are done at Lackey Old State. The best answer for traffic for  
189 everybody is to have a traffic light installed at N. Old State and Dunham Roads, but that  
190 has to be warranted, which means certain traffic counts, speeds, etc. must be met in order  
191 for that to be done.

192

193 Mr. Shade said he does not know whether flexibility would be shown; typically they do  
194 not except for schools, hospitals, emergency vehicles, etc. At present, based upon the  
195 2010 study there will be three traffic lights added between the west side of Alum Creek  
196 back to the City of Delaware including at Dunham and North Old State Roads, at Lackey  
197 Old State, and at Roloson Road. Mr. Shade said what is known now is that the counts in  
198 2012 show at the low end 24,000 vehicles per day in front of this property. The  
199 maximum load of this property at 194 trucks per day is just .0008% of that total. The  
200 maximum projection was 39,000 vehicles per day and the subject site’s vehicles would be  
201 just .00049%. The traffic generated by the subject development is almost negligible with  
202 regard to the current traffic level on U.S. 36/S.R. 37.

203

204 Mr. Shade said his client is committed to, throughout the entire process, continuing to  
205 have dialogue with ODOT. He may be back with a revision to the preliminary plan and  
206 possibly even the final plan based upon that dialogue because he wants to ensure this  
207 property is done right. He said Mr. Savko is very concerned about everybody in the area  
208 and also the safety of his employees.

209

210 Mr. Shade said the Brief in Opposition indicates 340 trips per day, and through some  
211 mathematical formula which he could not get his hands around, it also indicated that it  
212 could max out at 480 trips per day, which would be a truck every 75 seconds entering or  
213 leaving the property. His calculations indicate that the average trips per hour would be  
214 17, and the average time between trips would be 3 minutes and 55 seconds, increasing to  
215 4 minutes and 20 seconds on Saturdays.

216

217 Mr. Shade said he was not able to confirm the traffic claims in the Brief in Opposition, but  
218 he did the best he could based upon actual factual data based upon maximum use. He  
219 does not know whether the plant will get to maximum, but the calculations were based  
220 upon maximum used.

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221

222 Mr. Shade said an issue was raised regarding the architectural design. However, the  
223 applicant has submitted under the two step process, which requires a preliminary and final  
224 plan. Thus, those details will be provided later. He said the DCRPC noted that those  
225 details would be submitted later as part of the final plan. He did bring a rendering of what  
226 the plant would look like. The door has been moved over, the color scheme is more  
227 natural, and there will only be two stacks.

228

229 Mr. Shade said that he obtained a rendering of the area using the county's GIS system,  
230 which indicates nearby uses as boat storage, recreational vehicle sales, The Seraph, a farm  
231 implement store, the Foor property, as well as commercial activities including Canine  
232 Companions, the American Legion, and the Humane Society, all of which have different  
233 levels of traffic on a day to day basis. He noted the property in question used to be a  
234 junkyard.

235

236 Mr. Shade said the subject property has many disfigurations in the soils, which is due to  
237 concrete, gravel, cement, and other construction waste being dumped in the junkyard  
238 there. His client has indicated that within 2 weeks of receiving approval that will come  
239 down, with the exception of the two building which will be redone on a temporary basis.  
240 The fence will be removed but the fence line trees will be maintained as much as possible  
241 with the exception of dead or undesirable trees such as hedge apple or ash trees.

242

243 Mr. Shade said that regarding the setback issues, with a planned industrial development or  
244 any planned development, the setbacks are not generally set. What is approved during the  
245 rezoning process becomes the zoning. He displayed the configuration which he stated  
246 indicated that the fence lines and trees would be maintained. The mounding will be a  
247 minimum of 16' high except in the areas where there are very large trees, in which case  
248 there will be some deviation in the mound in order to save the tree. Evergreen trees will  
249 be planted at the top of the mounds as well.

250

251 Mr. Shade said the average cement truck is 12' high, so the mounding will hide all trucks  
252 completely from view until they move out to the roadway. He has met with neighbors  
253 and he tried to address the issues. The road was shifted so it now runs in. A gate was  
254 closed except for emergency purposes so there will only be one entrance onto the property  
255 until the backage road is completed. Any truck coming in will enter at the front, with the  
256 exception of emergency vehicles or in the event of a truck breakdown.

257

258 Mr. Shade said the applicant has tried to be extremely environmentally sensitive and the  
259 only disturbance to any wetlands in the area will be with mounding. The main wetland  
260 will be kept intact.

261

262 Mr. Shade said the building heights were specified in the original application and  
263 reflected in the revised text that the building will not exceed 35', the towers will not  
264 exceed 100' and will measure no more than 50' in height. The towers are necessary  
265 because that is where the devices are stored to contain any dust particles that would  
266 escape, per the rules and guidance of the Ohio EPA. The zoning resolution allows a height  
267 of 100' maximum but the towers will not be that high; the building height will be around  
268 33' and the towers will be 50' or less.

269

270 Mr. Shade said the Brief in Opposition stated that the applicant must have a review by and  
271 adhere to the requirements of the Delaware County Engineer's office. He felt that is was  
272 a valid point and it is indicated in the zoning resolution. However, the Engineer's office  
273 only deals with dust during the actual physical construction of a building such as a home  
274 or commercial office complex. Mr. Shade said he included an email from the director of  
275 the storm water and dust control permitting system for Delaware County which indicates  
276 that office has no regulations other than during construction itself. All dust that is

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277 generated on this property outside the plant is controlled by one of two permits. A permit  
278 is also required for the interior and those requirements must be met.

279

280 Mr. Shade said he heard concerns about dust from the neighbors and Mr. Savko contacted  
281 several groups he belongs to in the trades, and they informed him about a newer device  
282 called a particulate recovery technology which is currently not utilized in Ohio; the  
283 closest is located in the Washington D.C. area in the middle of a dense residential area.  
284 When the truck pulls in, an arm is there and as product is discharged into the truck this  
285 device sucks all particles in the air out and stores them in the building. His client is  
286 willing to pay to install that technology as part of this proposal. That may have to be  
287 approved by the EPA, he noted, and it could be the test model for Ohio.

288

289 Mr. Shade said that since he applied, the township has passed a resolution, and this  
290 activity would be excluded by that resolution including the operation of the plant and the  
291 backing up of trucks. However, his client is still willing to do what he said he would do;  
292 with the exception of violating any OSHA requirements, he is willing to control the  
293 beeping noise of the trucks. He will also do the best he can with delivery trucks.

294

295 Mr. Shade said that Section 21.08 is a special addition to the zoning resolution that deals  
296 only with planned industrial development. It indicates that it is to allow greater  
297 development flexibility in return for pre-determined knowledge of the use and layout of  
298 all development and future development of the property.

299

300 Mr. Shade said the next issue is whether the proposed development is in conformity with  
301 the comprehensive plan or portion thereof. He included those maps in the exhibits. There  
302 were comments that indicated that the first 700' from U.S. 36/S.R. 37 was to be planned  
303 commercial but this is within that area. He said that designation was arbitrarily  
304 established in 2010. He said the map indicates that throughout this corridor where the  
305 backage road concept will be active, that has already been exceeded in a number of areas.  
306 As one approaches Sweeney road there is industrial development that is much closer to  
307 U.S. 36/S.R. 37 than 700'. On the north side of the road the same is true on numerous  
308 sites.

309

310 Mr. Shade said that there is one thing that people have paid enough attention to is the  
311 location of the backage road; the existing commercial use was already behind 700'. That  
312 either became a non-conformity when the designation was made or it was going to be  
313 permitted. He pointed out that there are a number of cases dealing with following  
314 comprehensive plans including one in Berlin Township that involved strict adherence  
315 with the land use plan where an area was requested for higher density than the FR-1  
316 indicated on the land use plan. The BZC denied the request because it did not meet the  
317 requirements of the land use plan, the trustees followed suit and then it went to the court  
318 of common pleas in Delaware County where it was affirmed. However, the court of  
319 appeals reversed it.

320

321 Mr. Shade said there are no hard and fast rules, but there are two cases including a major  
322 Supreme court decision in a case called The Apple Group Limited case versus Granger  
323 Township Board of Zoning Appeals. A number of guidelines were set out in the text  
324 including that it allows for change. Berlin Township's land use plan indicates "it is  
325 subject to review and possible amendment whenever requested by a land owner or as part  
326 of a potential rezoning."

327

328 Mr. Shade said the next item deals with health, safety and morals and he asked for  
329 guidance from the township because those items are not defined. Clarification was  
330 received by the township's legal counsel, who advised that "advances" means to bring  
331 forward in time. Applying that definition, he looked at that from a health standpoint, as to  
332 whether there a type of dangerous component to the requested use that could influence the

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333 health of someone. Other than the testimony from the doctor, although it was unclear as  
334 to whether he was referring to a cement plant or a concrete batch plant, there was nothing  
335 presented that indicates this business would affect health, safety, or morals. He noted that  
336 most people in this room has used concrete and concrete is not a moral. Concrete is used  
337 in nearly every structure, residential or commercial, that is constructed in Ohio.

338

339 Mr. Shade said that 21.08 D.) of the zoning resolution indicates “That the proposed  
340 development is in keeping with the existing use and character and physical nature of the  
341 area.” Mr. Shade showed the activities with housing scattered in-between. He said there  
342 are a variety of activities in this immediate area.

343

344 Mr. Shade said that 21.08 E.) indicates “That the proposed development will be  
345 compatible in appearance with the remainder of the district.” Mr. Shade said that within  
346 the immediately area there are many metal buildings, metal and wood buildings, brick  
347 buildings, concrete block, etc. and he pointed them out on the map.

348

349 Mr. Shade said 21.08 F.) indicates “A minimum open space requirement herein has been  
350 provided.” Mr. Shade said that Todd Faris, of Faris Planning & Design, would address  
351 the calculations of the open space.

352

353 Mr. Faris said the total acreage is 24.3 acres and he has highlighted the areas that area  
354 open through setbacks, reserved for mounds and landscaping and reserves for wetlands  
355 and there is approximately 8.7 acres of open space and that does not include any  
356 additional setbacks that may happen on future lots in the front. The total is around 36%,  
357 which is well over the required minimum of 20%.

358

359 Mr. Faris said that as future parcels are developed, they will probably not be 100%  
360 covered so the open space will increase to closer to 40%.

361

362 Mr. Shade said that he has attempted to answer and respond to the Brief in Opposition and  
363 has presented everything he has up to date. He will answer any questions, and he is  
364 hopeful that at the conclusion of this hearing this evening the BZC will consider the  
365 passage of the rezoning and preliminary plan for this project.

366

367

Commission Consideration

368

369 Mr. O’Brien said that he has dealt with Mr. Slack, who is not easily persuaded sometimes.  
370 Either Mr. Shade or the applicant used some euphemisms because when Mr. Slack  
371 requests, that is usually a requirement or approval is not obtained. Regarding the 345’  
372 deceleration lane, is that a request or a demand?

373

374 Steve Saunders, 1506 Trentwood Road, Columbus Ohio, said that the applicant is at a  
375 point they will be getting into formal discussions with ODOT, who has offered some  
376 guidance in an information manner to create the access study, which the applicant has  
377 done. The regulations for ODOT are well-known, and the 345’ deceleration lane has to  
378 do with the speed limit and it must be that length. It will be part of a taper and will be for  
379 stacking, but mainly the left turn lane has to do with slowing down to make the turn and  
380 that is in their regulations. Mr. O’Brien said that is a demand and it seemed that if the  
381 applicant wants access to the plant, that lane must be built. Mr. Saunders agreed.

382

383 Mr. Saunders said that Savko offered that before it was required. Mr. O’Brien asked  
384 whether the lane would be built if the rezoning is approved. Mr. Savko said “yes.” Mr.  
385 O’Brien said that is a critical issue for him because the trucks will have a difficult time  
386 slowing and turning without interfering with traffic without the deceleration lane.

387

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388 Mr. O'Brien said that Mr. Slack also requested that the driveway be right-out only; that  
389 sounds good but that has other issues. He asked if that was required. Mr. Savko said he  
390 attended the ODOT meeting at Worthington High School last month regarding 161 and he  
391 discussed the issue with Mr. Slack, who told him he thought he needed an east-bound turn  
392 lane into the site if it is approved. Mr. Savko said he agreed with that for safety issue.  
393 Mr. Savko said that Mr. Slack also said he thought the trucks should only turn right and  
394 when he asked where they would turn around, Mr. Slack said the trucks would just drive  
395 down U.S. 36/S.R. 37 and make U-turns on one of the other crossroads. Mr. Savko said  
396 he asked whether that was allowed and Mr. Slack said it was.

397

398 Mr. O'Brien said he turns at Lackey Old State and it is already confusing now because it  
399 is so wide there and the markings are unclear; people come down Lackey Old State Road  
400 to turn left onto U.S. 36/S.R. 37 and they do not know whether they leave room for  
401 oncoming traffic or go to the other side. Sometimes people do not have a meeting of the  
402 mind and instead they have a meeting of the car, which is an even bigger problem with a  
403 large and heavy cement truck. There needs to be a light installed there. He believes it is  
404 warranted if somebody wants to pay for it. He is concerned that the trucks will turn right  
405 onto Baker Road.

406

407 Mr. Shade said he was glad he raised that issue because he did not really discuss that in  
408 depth yet. Except in two situations, his client does not plan to be on Baker, Plunkett, or  
409 North Old State Roads; 1) They would be delivering product to a customer on those road,  
410 or 2) They are directed there by police or other emergency services.

411

412 Mr. O'Brien asked whether he was committing to that. Mr. Savko said "absolutely" and  
413 that the trucks will not be on Baker Road or N. Old State Road unless there is a bonafide  
414 delivery on one of those roads. Mr. Shade said that was included in the text. He said the  
415 optimal situation would be that when the backage road is in and the system operates  
416 properly, the trucks will turn right and go down to a traffic light, or go further down the  
417 backage road and exit down another point.

418

419 Mr. O'Brien said that when there is an accident on U.S. 36/S.R. 37, in order to get to  
420 Delaware, the traffic goes onto Curve or Sweeney Roads which are not equipped for that.

421

422 Mr. Shade said that before this came up at the last meeting, he had conversations with the  
423 engineer's office and also the Berlin Township road superintendent regarding restrictions  
424 on Baker and Plunkett Roads and he learned there are no restrictions on those roads  
425 regarding weight, time of year, or weather conditions. Baker Road is unique because it is  
426 owned by two different townships. Mr. O'Brien said that both Berlin and Brown  
427 Townships would have to agree to have the weight reduction from February to June and  
428 he felt that they would do that once this is discussed. The county commissioners are  
429 willing to do that if both townships agree.

430

431 Mr. O'Brien asked Mr. Shade to discuss the backage road including when it will be  
432 dedicated and who will pay to build it. Mr. Shade was not certain who will pay for it  
433 because that was not requested; his client was only asked to dedicate the land for that and  
434 he has agreed to that. One change since the last plan due to further discussions with  
435 ODOT is increasing the easement width to 70.' He was not certain when it would be  
436 dedicated, who would take title, etc.

437

438 Mr. Shade said that the details should be included in the final plan that at some point that  
439 road will go in and his client will be a participant. Mr. O'Brien asked whether the land  
440 would be dedicated. Mr. Shade said it was already delineated and said it could not be  
441 dedicated because it would then need to be deeded and that cannot be done until  
442 somebody tells him who to deed it to. Mr. Shade said he would find out an answer for  
443 when he comes back.



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444 Mr. Shade said Mr. O'Brien stated during a prior meeting that he wants the backage road  
445 to tie in exactly at the point that was delineated on their drawings. The zoning staff sent  
446 him the drawings and he used them as his guide. The only difference is the increase in  
447 width from 60' to 70'.

448

449 Mr. O'Brien said discussed was that the applicant would look at the technology to reduce  
450 the dust. However, that language is too "squishy" for him and he asked what wording for  
451 the dust mitigation system can be provided. Mr. Shade said the current system was  
452 included in the stats and he said the language is not defined because such a system has not  
453 been approved by the Ohio EPA yet. Mr. O'Brien said that the system appeared to be a  
454 compromise with the residents and he did not necessarily want to limit the system when  
455 there could be better technology. However, the applicant could commit to a dust  
456 mitigation system.

457

458 Mr. Savko said his people have been asking many questions about such a system and he  
459 learned that one is located at a concrete factory in Washington DC between a school and a  
460 nice residential development. He wanted the greatest and best and was pointed to this  
461 facility. For many years, the dust collector filters were placed on top of the silos because  
462 everything goes up. However, the proposed systems have 5-6" steel pipes coming off the  
463 top of the silos and brought back down to the ground. That is the route for the air to  
464 escape and the dust collector inflows into the building where it is collected at ground  
465 level.

466

467 Mr. O'Brien said that sounds great but the BZC needs to ensure it will actually be done.  
468 In the past, many statements have been made by applicants but the text was different and  
469 something else was actually built in the end. He asked how it could be enforced. Mr.  
470 Savko said he is agreeing to do it and he could write language around it and produce  
471 photographs that show everyone what will be done. He liked the fact that there would be  
472 no free dust in the air; instead it would be on the ground and enclosed. In the winter,  
473 employees will not have to change the filters up there. Mr. Shade agreed to reduce it to  
474 writing.

475

476 Ms. Korleski said the EPA would still need to approve it. Mr. O'Brien agreed and said  
477 the applicant could also go above and beyond. Mr. Shade said he will contact the EPA  
478 regarding that. He cannot guarantee that the EPA would not have a problem with it; all he  
479 can do is make them aware of it and possibly even be the test for Ohio. Mr. Savko said he  
480 was sure the Ohio EPA would be very happy with the proposed system.

481

482 Mr. Spangler said in the original concept, the applicant agreed to allow the township fire  
483 department to access their water storage and he asked whether the new plan included that.  
484 Mr. Shade said the information was still included in the plan; the area would be gated and  
485 the fire department will have pass keys to access it 24 hours a day, and 365 days per year.  
486 There is also a remote hydrant from the building that trucks can attach to and take the  
487 water out. It takes 60 minutes to refill a tank at 125 gallons per minute.

488

489 Mr. Spangler said there are many complaints about water pressure in this area and in fact  
490 it was an issue when the American Legion building caught on fire. Mr. Shade said that  
491 per the request of O'Brien, the text indicates that the applicant is granting to the township  
492 a perpetual easement for access by the Berlin Township fire department for the use of  
493 water from said tank at all times of the day or night, every day of the year, in a form to be  
494 decided by the township's legal counsel.

495

496 Ms. Korleski asked whether that would be just for the Berlin Township fire department or  
497 to any assisting agency. Mr. Savko said that would be available to any fire department,  
498 even if there is a working fire in the middle of the day and the concrete plant is busy. The  
499 plant would shut down and all water would go to the fire department until such time the

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500 fire department is finished. Mr. Shade said the text can be modified. Ms. Korleski said  
501 she would want any surrounding fire department to also have access.

502

503 Mr. Spangler asked about the future plans for the leased parcels. Mr. Shade said he is not  
504 actively marketing that because that is not his intent and he is not interested in that.

505 However, he has been contacted by Ferguson Supply, a fabulous American-owned  
506 company that sells water line pipe, fire hydrant valves, sewer pipes, etc., regarding one  
507 particular parcel. They do not manufacture the items on site, however. Their current  
508 facility for Central Ohio is located in Groveport but much of the activity is in this area so  
509 they have expressed a sincere interest in wanting to build here. He said Ferguson Supply  
510 runs a very clean operation, does not have very many trucks, and they would be a good  
511 neighbor. However, he has not quoted a price yet because he has not had time to discuss  
512 that at this point.

513

514 Mr. Savko said that there is no working deal at this time for the two parcels at the front  
515 and the piece in the back. Ms. Korleski asked whether the company is retail or wholesale.

516 Mr. Savko said it is both and they service all contractors including his company and  
517 municipalities, water departments, etc. Ferguson Supply is a \$4 billion industry spread  
518 across all of the cities in the company.

519

520 Mr. Spangler asked which divergences were being requested. Mr. Shade said no  
521 divergences were being requested at this time. Previously, a divergence was requested for  
522 commercial uses, but then he met with Mr. Heid who informed him the language in the  
523 text is sufficient to cover that and no divergence was necessary.

524

525 Mr. Valentine said the applicant has mentioned several times that the property will be  
526 cleared out including the house, the fence, and the clutter within 2 weeks after trustee  
527 approval of the application. He asked that this be included as a condition. Mr. Savko  
528 agreed and said he does not like the sight of the property at this time. He would like to  
529 offer the house to the fire department for training, but if not, he would remove it as soon  
530 as he is issued a permit to remove it. If said permit is issued very quickly it will be  
531 removed within that 2 week period.

532

533 Mr. Savko said the fence and the trash behind the fence will be removed, including a large  
534 piece of machinery that will have to be removed by crane. The property will be “looking  
535 pretty spiffy, real quick.” Ms. Korleski asked whether that would be two weeks after the  
536 referendum period. Mr. Savko said it would be 2 weeks after he takes ownership and title  
537 to the property because he cannot do anything until that time.

538

539 Ms. Korleski asked whether that would not be done right after the application goes to the  
540 trustees. Mr. Savko said all the processes would need to be followed. Mr. Shade said the  
541 text indicates that “The property owner within 3 weeks of the date of closing on the  
542 24.312 acres will remove all existing trash, junk, vehicles, house and/or the front fence,  
543 and/or the front fence materials. Ms. Korleski said it is unknown when the property  
544 would be closed upon. Mr. Shade said BZC and trustee approval would need to be  
545 obtained first and he assumed it would probably be sometime in September.

546

547 Ms. Kaplan said her understanding is that the deceleration lane will be for eastbound  
548 trucks on U.S. 36/S.R. 37 turning left into the facility. Mr. Shade said “yes.” Ms. Kaplan  
549 said the trucks would probably be arriving empty to be filled and would have 345’ to slow  
550 down. When they leave, they will be full and will turn right (west), and they will have to  
551 accelerate while full while oncoming traffic is at 55-60 mph. Those trucks will have to  
552 get up to speed then switch to a left hand lane to make their U-turn. However, there are no  
553 deceleration lanes there to provide for that. Mr. Shade said that is a good point and he  
554 pointed out a wide area where that could be done.

555

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556 Ms. Kaplan was concerned about the trucks turning right out of the facility, accelerating  
557 in the right-hand lane, getting up to speed, switching into the left hand land, braking,  
558 turning left and making a U-turn heading east, and once again heading east and having to  
559 accelerate again. She sees three vulnerable places in that situation and her conscience  
560 struggles with that. Mr. Shade said that is no different than another similar vehicle.  
561 However, he was honestly stunned at that being the solution proposed because it is  
562 contrary to the letter that was received. Once they say what they want done, that is what  
563 must be done. Ms. Kaplan said she would feel better if she knew there was a solution.  
564 Mr. Shade said the best solution would be to install a traffic light there.  
565

566 Mr. Shade said he had one experience when he was mayor of the City of Delaware where  
567 it was attempted to do something not warranted and he was informed it must not be done  
568 because it was not warranted. ODOT dictates what must be done.  
569

Public Comment

570  
571  
572 Ms. Korleski opened the floor to the public and she said she would appreciate it if  
573 speakers keep their comments to what is being discussed tonight as opposed to reiterating  
574 and going back and forth.  
575

576 Eric Cameron, 345 Plunkett Road, Delaware, Ohio, said that this has been an illustrative  
577 and illuminating process for him as a citizen; it has been a return to Civics 101 and what  
578 to expect when a citizen's voice is heard and they engage on a public level. It is  
579 abundantly clearer to him that the BZC's positions are thankless jobs that they are not  
580 doing for the fame or notoriety. The BZC is dealing with complicated issues. He is a  
581 trained trial attorney and recognizes there is a lot here.  
582

583 Mr. Cameron said the BZC has received his brief and he appreciates the time they have  
584 taken to read that. He did not receive a copy of Mr. Shade's brief or the exhibits he  
585 referenced tonight so he is a poor position to respond to them although he will take him at  
586 his word that they say what he says they say. He is not going to spend a lot of time on the  
587 21.05 A.) or B.) or the 21.06 requirements but the traffic impact analysis is a big issue and  
588 it seems that, from the tenor of their questions, Mr. O'Brien and Ms. Kaplan have heard  
589 their concerns as citizens. That is one of the residents' greatest concerns; they have kids  
590 who drive and will be having a 60,000-pound concrete truck coming up behind them.  
591

592 Mr. Cameron said that there has been a large amount of fluid information between the last  
593 substantive meeting held in April and tonight. He believes that if most of these people did  
594 not show up in April, the BZC would have asked some good questions of the applicant  
595 and it probably would have been voted for approval. He asked what has changed between  
596 then and now? He said that a great deal has changed, including communications with  
597 ODOT, and to his credit, Mr. Shade has done a lot to address some of the concerns that  
598 have been brought up.  
599

600 Mr. Cameron asked what further questions are there and what is unknown about the  
601 application. He understands that the applicant has invested a lot time and resources in this  
602 process and he is trying to fight for his business. However, there is also a sense that this  
603 is a "punt" and that there is little choice but to vote at this point depending on whether or  
604 not the applicant meets the requirements in 21.05 and 21.06.  
605

606 Mr. Cameron said the BZC has a considerable amount of discretion; they are not  
607 automatons or robots and they get to make a decision not only as to whether the objective  
608 requirements in 21.05 and 21.06 are met but also whether some of the more subjective  
609 requirements are. For example, Mr. Shade had to ask the township's legal counsel for the  
610 definition of "advance" and "health, safety and morals," and those are nebulous, fluid and  
611 subjective requirements.

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612 Mr. Cameron said that is important because Ohio Revised Code 505.01 specifically goes  
613 out of its way to protect farm residential areas and it explicates exactly why it does that;  
614 because they are the most vulnerable to rezoning. He and his neighbors are looking the  
615 largest rezoned planned industrial site in this area, in their backyard. This is totally out of  
616 conformance with the township's land use plan. Ms. Korleski asked him to wind it up.  
617 Mr. Cameron said that Mr. Shade was afforded 10 minutes but he spoke for around 45  
618 minutes.

619

620 Mr. Cameron said he realized the BZC has that discretion. Ms. Korleski said that the BZC  
621 wants to hear everything an applicant has to say so they can make a quality decision. Mr.  
622 Cameron said he would submit that the BZC would also like to hear everything the public  
623 has to say as well. Ms. Korleski said she stated that the public has up until 3 minutes and  
624 Mr. Cameron seems to just be making a closing statement. She asked him to close it up  
625 and say what he wants to say in a few words so she can move onto someone else.

626

627 Mr. Cameron said he appreciates that and the time he has been allowed and the time the  
628 BZC has spent weighing this. He welcomed questions of him as the author of the  
629 submitted brief. Ms. Korleski says she knows the BZC has to make a decision. Mr.  
630 Cameron said during the April meeting, he was left with the distinct impression that she  
631 believed the BZC did not have discretion to make the decision as enunciated in 21.08 and  
632 that she felt like the only things the BZC had to weigh were the objective requirements in  
633 21.05. He feels it is important the Ms. Korleski acknowledge that the BZC does have that  
634 discretion because it imparts to the BZC a responsibility.

635

636 Ms. Korleski said that he is making a personal opinion of her again. Mr. Cameron said he  
637 was not. Ms. Korleski said it was time to complete his opinion because it seems like he is  
638 trying to summarize and tell the BZC they need to make a decision and they should be  
639 making the decision based on what is in the book and on what the residents are saying and  
640 that they know what they have to do. She said she appreciates his comments but she  
641 would like to move on.

642

643 Graeme Quinn, 355 N. Old State Road, said he has a series of questions. The residents  
644 have not seen the traffic study that was submitted to the township. Ms. Korleski asked  
645 Ms. Rippel whether they were posted on the township's website. Ms. Rippel and Mr.  
646 Cameron said they were not. Mr. Quinn asked whether, after having reviewed the traffic  
647 study, the BZC feels that it meets, for completeness of the application:

648

649

Section 21.05

650

A.) Preliminary Development Plan: Upon application for a PID zoning map  
651 amendment, the owner(s) of lots or land within the Township shall simultaneously  
652 submit a preliminary development plan. The preliminary development plan shall  
653 show the intended layout of the site in accordance with PID standards. If an  
654 applicant chooses to simultaneously submit the final development plan, all  
655 requirements for a preliminary development must also be submitted. Twenty (20)  
656 copies of the preliminary development plan and electronic media as specified by  
657 the Zoning Inspector shall be submitted to the Zoning Commission with the PID  
658 application along with a list of addresses for notification as defined in Section  
659 31.01. The plan shall include in text and map form, the following:

660

8.) A Preliminary Traffic Impact Analysis, based upon new trip generation

662

663 Ms. Korleski said the applicant is only required to show a preliminary traffic study.

664

665 Mr. Quinn said under the document "Traffic impact study standards," dated 8/16/01, the  
666 requirements include trips generated, routing, accounting for street conditions, etc. and he

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667 asked whether all of those items have been met by the traffic study that has been  
668 submitted.

669

670 Ms. Korleski asked Mr. Heid. Mr. Heid said he would say they are, as far as the ones he  
671 has seen. Ms. Korleski asked Mark Fowler, assistant county prosecutor whether or not he  
672 thought they did. Mr. Fowler said he did not see the traffic study because it is only  
673 required for the final development plan.

674

675 Mr. Quinn asked whether 21.05 A.) 8.) specifies the preliminary requirement of a  
676 preliminary traffic impact study. Mr. Fowler said that was correct but what was submitted  
677 was the final traffic study.

678

679 Mr. Quinn said a storm drain is shown just above the 16' mound and that is only a couple  
680 of feet off the crop till line and that is directly underneath the old growth trees that are to  
681 be preserved. He did not understand how that could be installed without damaging the  
682 trees and their roots.

683

684 Mr. Saunders said there is a storm sewer along that line. Mr. Quinn said it is also only 2'  
685 from an easement for a swale for a French drain inside the Lamoreaux subdivision and he  
686 wants to ensure there is no risk of doing any damage to that. Mr. Savko said that storm  
687 drain is just shown on the plan to go down through there to pick up water that will go  
688 down through that area. Mr. O'Brien said the county engineer will review that and that  
689 will be caught during the platting. He noted that the development is not permitted to  
690 increase the runoff in the area.

691

692 Mr. Quinn said the environmental report that was submitted in the original application  
693 speaks of allegations of illegal dumping of drums. It states that a Savko employee cleared  
694 vegetation from the area above grade prior to doing the environmental study. He asked  
695 whether it is within the purview of this venue to question why there was an allegation of  
696 illegal dumping.

697

698 Mr. Savko said that with permission, his employees accessed the property to start digging  
699 into the ground so they could understand what is in the ground. The man that used to live  
700 in the white house on the front corner of the property came out and told them that many  
701 years prior he had heard somebody had dumped something in the back. He immediately  
702 went to the back of the property and they were not able to find any signs of illegal  
703 dumping or even that the property had ever been disturbed. They could not see that any  
704 strata had been changed.

705

706 Mr. Savko said he then brought out huge machines with radar on them and pulled them  
707 around to try to find evidence of illegal dumping and they could not find anything. Mr.  
708 Shade said a condition of the contract was that if there are any environmental issues the  
709 sale would not go through.

710

711 Mr. Quinn said the application indicates that the plant will be heated by natural gas but a  
712 letter was submitted from Suburban Natural Gas that indicates there is no service to the  
713 property and he asked how the property would be heated. Mr. Shade said that initially it  
714 would need to be heated by propane and he is having ongoing dialogue with Suburban  
715 Natural Gas; they are looking at plans to get service up along Lackey Old State Road to  
716 U.S. 36/S.R. 37 and spreading out from there.

717

718 Mr. Quinn asked whether employees on site wear dust masks or breathing protection. Mr.  
719 Savko said they do not, even inside the buildings. Mr. Quinn said that regarding the tree  
720 preservation buffer along the property line, it is not immediately apparent exactly which  
721 side of the property line the trees are on. He said the applicant has stated that dead and  
722 undesirable trees will be removed and he asked whether a service would be hired to

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723 determine which trees are on which side of the property. Mr. Shade said that would be a  
724 requirement and he has no right to go on anybody else's property line to remove trees.

725

726 Mr. Quinn said the comprehensive plan addresses the adjacent PID uses and even then  
727 they specified the subject property as being 700' commercial off of U.S. 36/S.R. 37. The  
728 existence of PID here did not compel them to change the designation of the subject  
729 property to PID at that time, and he said the applicant's request should not compel the  
730 BZC to change the zoning of the property to PID now.

731

732 Mr. Quinn said the applicant had stated that everybody uses cement so people should not  
733 object to this proposal. However, everybody uses rubber as well and nobody wants to live  
734 next to a rubber factory, and the proposed use is about the same thing.

735

736 Brad McElroy, 567 N. Old State Road, said that in summary, most of the residents are  
737 worried about traffic, noise, and dust. Ms. Korleski said those are all issues that were  
738 discussed in the prior meeting.

739

740 Mr. McElroy said it was stated that the regulations for dust and noise are exempt from  
741 county engineer requirements for this use. Ms. Korleski said they must meet EPA  
742 standards. Mr. McElroy asked whether the commitments made by the applicant can be  
743 enforced including that issue, turning the beepers down, etc. Everything has an asterisk  
744 next to it and the residents who live near this plant will have to live next to this use for the  
745 rest of their lives.

746

747 Ms. Korleski said the BZC has no authority to regulate noise except to regulate jake  
748 brakes. Mr. McElroy said all of those discussions and concessions have no teeth and that  
749 nothing can be done about dust as long as the EPA requirements have been met. Mr.  
750 Shade said if the Ohio EPA will approve it, his client will install the system. The filter  
751 systems will still exist. For construction projects, the county engineer's office issues a  
752 permit during construction which includes the retention of silt, soil runoff, etc. and any  
753 dust disturbed during that time. Dust with regard to the internal operation of the plant and  
754 in regard to what happens in the yard are controlled under two separate permits by the  
755 Ohio EPA. They can come out to the site at any time and test the site.

756

757 Mr. Shade said regarding noise, the brief referenced Chapter 24 article 24 regarding noise,  
758 but there is nothing there regarding noise. Since this code was written, a noise resolution  
759 was passed for Berlin Township, but it exempts backing up and beeping noises for safety  
760 reasons and it is very limited in its application because townships are a product of  
761 convocation. Townships are not set forth like a city by the constitution; they are a  
762 creature of statute and do not have the same powers that cities do.

763

764 Mr. Shade asked somebody to point out any commercial properties in the area that are  
765 mounded. For the subject property, the mound will be higher than the height of the trucks  
766 and there is a very strong likelihood the trucks will not even be heard because all of the  
767 pouring activity will take place inside. Mr. McElroy said Archie Foor's property does not  
768 back up to anybody's backyards. Mr. Shade said he still needs to meet the same  
769 requirements.

770

771 Mr. McElroy asked where the gathered dust from the system would go. Mr. Savko said it  
772 will go on the ground next to the plant into an enclosed storage. Mr. McElroy asked  
773 where that would go. Mr. Savko said it would be blown back up into the silos.

774 Sometimes it is hauled off site but typically there is only a wheelbarrow of dust every 3-4  
775 days.

776

777 Mr. McElroy said that if ODOT's (Ohio Department of Transportation) recommendation  
778 for trucks to go down to Lackey Old State Road and make U-turns does happen, will

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779 those massive trucks be able to make such a U-turn in such a tight space? Mr. Savko said  
780 he is asking the same question and he was also not happy with that. He does not want it  
781 on his conscious if it causes an accident.

782  
783 Ms. Korleski asked how it would be done. Mr. Savko said it is a long way back to  
784 Delaware but that may be what needs to happen. The backage road may help with that.  
785 He has taken a cement truck out on the crossover and measured it and has taken two out  
786 there. He did not like having two but one could be taken at a time out on the crossover and  
787 waiting until eastbound traffic clears up. He cannot afford to have accidents and cannot  
788 have it on his conscience if somebody gets hurt. He can control what his trucks do as well  
789 as the delivery trucks.

790  
791 Mr. Quinn said if Mr. Savko has expressed his own reservations for the plan due to trucks  
792 using Lackey Old State for U-turns, does he intend to request approval for a plan that he  
793 already does not like. Mr. Shade said “yes” he is requesting approval because it will be  
794 reviewed in greater detail at the time of the final development plan. Ms. Korleski said that  
795 the result of this preliminary application is just that the zoning is being changed with  
796 some other details. At some point within the next year the applicant must come back in  
797 for final approval and at that point the building design etc. would be approved.

798  
799 Mr. Quinn asked whether issues such as Ms. Kaplan’s and Mr. O’Brien’s concerns about  
800 the truck U-turns would be addressed in the final application. Ms. Korleski said “yes”  
801 and that they may have answers by that time, but they may not but they will have to come  
802 up with something.

803  
804 Mr. O’Brien said that the applicant brought some of this upon themselves by providing  
805 final application details such as mounding and landscaping. However, if those items are  
806 requested and approved in the preliminary plan, those items are approved for the final  
807 plan itself but additional issues must be addressed as well.

808  
809 Mr. O’Brien said that he is not in agreement with the rest of the BZC because they like the  
810 two-step approach which is where approval is obtained and then everything else must be  
811 provided. He likes the one-step approval because he would like to see everything at the  
812 same time although that is not realistic. With the two-step process, the zoning is obtained  
813 and they know if they conform with all of this, the BZC has to give it to them in the final.  
814 But usually there is some give and take. Ms. Korleski added that there are always  
815 changes in the final. Mr. O’Brien said there is some discretion, but not always the  
816 discretion he would really like to have.

817  
818 Mr. Shade said that regarding traffic, what has been laid out is what his client has  
819 proposed to do. However, access onto U.S. 36/S.R. 37 requires a special permit from  
820 ODOT and that must be done before Berlin Township can approve the final development  
821 plan. He said perhaps the crossover could be widened and ODOT would rethink things;  
822 the applicant could then set a rule on the site that only one truck can go out into that  
823 intersection at a time.

824  
825 Virginia Black, 425 N. Old State Road, thanked the BZC for their time and for working  
826 for the residents. Her expertise is in public health; she has a master’s degree and her  
827 internship was in environmental health and communities at the University of Texas.  
828 Research does show that dust is a huge issue and it should be 100% enclosed when the  
829 trucks are being loaded. However, she heard that it would be 75% enclosed. She  
830 appreciates that the applicant is willing to install the dust systems and control the dust.

831  
832 Ms. Black said her real concern is the trucks coming inside the plant from other places  
833 and she asked whether they are covered or whether dust and noise issues are expected  
834 from them. The traffic on U.S. 36/S.R. 37 is a big issue for her and it is a big issue in

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835 terms of safety for the township. Ms. Korleski said the traffic and dust has already been  
836 discussed and the applicants have addressed that so she does not want to go backwards.

837

838 Ms. Black said the end result is that after the road is build and the traffic light is installed  
839 they will not have to worry about it anymore. However, by those actions they will infringe  
840 more into the residential community and into a road that is used for recreational purposes,  
841 more into the Alum Creek Reservoir area and she was not sure whether that is a good  
842 final solution.

843

844 Ms. Black said she is concerned about the old growth trees as she has a 100-year old oak;  
845 she feels that those trees should be preserved. Mr. Savko said “they will.” Ms. Black said  
846 regarding the storm drain issue, if the existing French drain and the storm drain affect  
847 each other, there will be a water issue. Mr. Savko said the best thing to do it to tie the  
848 French drain into the new storm sewer system so the water can escape. Ms. Black said  
849 that is something to look at.

850

851 Ms. Black said she wanted to ensure that all language is put in writing; she trusts the  
852 applicants but would like to see it written in stone including a guarantee of the number of  
853 nights the plant would operate, and that the dust mitigation system would result in 100%  
854 enclosed loading of the trucks. Ms. Korleski said the BZC has no authority over that; the  
855 applicant can write that in as a condition but the BZC cannot sign off on those because  
856 they do not have any control over them.

857

858 Mr. Savko said the trucks will be loaded up inside the doors; they will back into the  
859 building to be loaded. Ms. Black asked whether the door would be shut. Mr. Savko said it  
860 would not because the truck exhaust needs to get back out in the open. However, by  
861 backing in he is able to control and trap all dust inside. The central dust collecting system  
862 will not only pull everything off the top of the silo but will also pull everything inside that  
863 room as well.

864

865 Mr. Savko said the free dust off of a cement plant operation, which he will call a concrete  
866 batch plant, will not take place; it will be trapped and controlled using the new equipment  
867 he has discovered since the last meeting. Even the systems he has used for years are  
868 99.9% accurate, but he likes the new ones better.

869

870 Mr. Savko said that regarding the dust in the parking lot, they are swept and washed  
871 regularly by filling up cement trucks with water in-between rounds with 25,000 gallons of  
872 water and putting the drums in reverse to wash the parking lots. If there seems to be some  
873 dust, they will wash the parking lots with one of the mixers. The Ohio EPA has to issue  
874 the permit to operate the plant with the silos and the building and they have to issue a  
875 permit to drive on the parking lot. That permit addresses the trucks and also the wheel  
876 loader that picks up the gravel and takes it to the plant. This parking lot will be paved  
877 concrete and will be kept extremely clean. With the 16’ tall mound he did not see how  
878 anybody would hear the operation or see the dust.

879

880 Ms. Black said she appreciated the improvements and the blocking.

881

882 Ms. Korleski said if anybody has any questions other than regarding dust or traffic she  
883 will entertain those questions.

884

885 Jim McConnell, 350 N. Old State Road, asked whether there is a plant that can be visited  
886 to see how the dust collection works; that may answer some the residents’ questions. Mr.  
887 Savko said he has some photographs and he is also welcome to see any of the plants, but  
888 he does have a photograph of the plant in Washington DC as well as a plant he is  
889 constructing that is actually enclosed that will show that. He is the only person in town  
890 who encloses his factory plants because they need to be heated during the winter.



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891 Mr. McConnell said he would like to take a tour of one of his plants to see how much dust  
892 there is and what they actually look like in operation. Mr. Shade said the plant cannot  
893 even operate without the EPA's approval. Mr. Savko said one call from a resident brings  
894 the EPA in to check it out. They enforce their regulations.

895

896 Kimberly Wooldridge, 440 N. Old State Road, said traffic was discussed but the type of  
897 traffic was not. She heard quantitative numbers but no other details. Ms. Korleski said the  
898 BZC has no control or authority over traffic. Ms. Wooldridge said the health and safety of  
899 the community should be part of their consideration. Ms. Korleski said if she wants to  
900 look at all of the statistics that information can be provided to her.

901

902 Ms. Wooldridge said nobody has mentioned the type of traffic that currently exists in the  
903 area. Currently it is a busy 35-mph multiple stop-light area that leads over the Alum  
904 Creek Bridge to this 60-mph area. Large vehicles that travel mainly on that road will be  
905 towing campers, boats, horse trailers, and other specific vehicles. Ms. Korleski said large  
906 semis also travel the area. Ms. Wooldridge said the vehicles will have to adjust from a 50  
907 mph start over the water way to a 35 mph zone and the vehicles will have to immediately  
908 slam on their brakes.

909

910 Ms. Korleski said all of that has already been discussed and there is no sense in discussing  
911 it again. Ms. Wooldridge said it is more difficult for large vehicles to stop. Vehicles  
912 towing trailers or boats can lead to a more catastrophic situation than regular vehicles. A  
913 passenger vehicle will not have the same impact on overall traffic as if a boat, horse trailer  
914 or camper were to capsize after being hit by a semi.

915

916 Ms. Wooldridge said there are many towing situations on Lackey Old State Road due to  
917 their destinations such as over 200 campsites at Alum Creek State Park and the private  
918 campground across the street with over 135 campsites. Their main season is summer, but  
919 so is Mr. Savko's busy season.

920

921 Ms. Wooldridge said she also has questions regarding the reassurance from the Ohio EPA.  
922 Ms. Korleski said that is a requirement and there is no reassurance on that. Ms.  
923 Wooldridge read from a Dispatch article from February 2015 which she said stated that  
924 two of Mr. Savko's properties were shut down by the EPA because he did not have  
925 permits and they quoted him as saying that nobody told him the permits were needed. Mr.  
926 Savko said that was completely wrong and he asked to explain. He said he was on that site  
927 for 35 years and it has Ohio EPA air permits. The EPA visits the site on a weekly basis as  
928 well as the businesses next door including the Kokosing asphalt plant, and the Top-Cast  
929 concrete plant.

930

931 Mr. Savko said that all of a sudden, a car pulled up and stated that the facility did not have  
932 a certain type of permit. He had responded that he had no idea he needed that type of  
933 permit and that nobody has ever told him that permit was required. Ms. Wooldridge said  
934 that was a concern to her. She said it took a neighbor to go to the EPA to complain,  
935 which is putting the due diligence on the neighbors to complain.

936

937 Mr. Savko said his business was not hauled into court and was not fined because they  
938 were found not to be negligent. As soon as his company understood everything, they  
939 promptly took care of it. After 35 year of EPA inspections, another EPA inspector  
940 showed up that nobody even knew and said the company was lacking a permit, because  
941 their new regulation was enacted within the last 3 years and nobody even knew it. Ms.  
942 Wooldridge said the article was published in February and states that he was notified on  
943 September 8<sup>th</sup> and he was not in compliance during that time.

944

945 Ms. Wooldridge said the EPA will not be on top of permits and they will not have staff  
946 constantly checking. Also, trucks are only inspected once per year by ODOT annually,

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947 and only a percentage are inspected. There will be 15 trucks there and she was concerned  
948 about safety. Ms. Korleski said she appreciated her comments but she needed to move on.

949

950 Dave Mrowzinski, 580 N. Old State Road, said he moved to his home 2 years ago and he  
951 did do his research prior to purchasing his home. He examined the comprehensive land  
952 use plan as well as the Berlin Township website in detail, and he knew what kind of  
953 community he was moving into. He was not involved in the conversations that crafted  
954 that land use plan in 2010 and 2011 because he did not live here, and he relied upon that  
955 plan when he moved here to decide where he wants to spend his money and 20-30 years  
956 of his life. The plan shows 700' back from U.S. 36/S.R. 37 as being commercial  
957 development, not industrial, and it was clear to him that it was only to extend back around  
958 700'. It appears they are trying to triple the distance that industrial goes back.

959

960 Ms. Korleski said when the township worked on the comprehensive land use plan in 2010,  
961 the 700' was an arbitrary figure they came up with. Also, the comprehensive land use  
962 plan is a guide and is not the law; the zoning resolution is the law and what the township  
963 follows. The comprehensive land use plan is only used as a guide and it allows for  
964 flexibility. Mr. Mrowzinski said he hopes that the BZC realizes by the residents showing  
965 up today that they are relying upon the land use plan when they make decisions regarding  
966 where to live. He asked that they respect the plan. Ms. Korleski said that is a guide. Mr.  
967 Mrowzinski said it is a guide that the community expects.

968

969 Aaron Roll, 2791 Gregory Road, said that it appears that Mr. Savko has attempted to go  
970 above and beyond what he has seen in other townships and he has tried to help better the  
971 community and that property. He wants to be involved in the township and he is willing to  
972 make concessions and improvements.

973

974 Ms. Korleski asked whether Mr. Shade was ready for a vote. Several residents raised  
975 their hands. Ms. Korleski said that definitely traffic and dust will not be discussed  
976 because those two subjects have already been exhausted.

977

978 Archie Foor, 361 S. R. 37, said he is involved in a gymnastics facility with 100's of  
979 children coming through this facility each night. He has talked to the gymnasts and the  
980 people who run the business and they are very comfortable with this proposal. He agreed  
981 that Mr. Savko is going above and beyond to ensure the children are safe from everything  
982 being discussed.

983

984 Mr. Foor said he did agree that traffic is a problem, but traffic has been a problem long  
985 before Mr. Savko was involved. He would love to see the light and backage road. He said  
986 that during the rezoning of his property, he only granted an easement for the backage  
987 road. He said that is a clarification regarding what needs to be done and who gets the  
988 deed to the backage road if that ever materializes.

989

990 Ms. Wooldridge asked about the operating hours. Ms. Korleski said that is premature  
991 because that will be discussed during the final development plan process and there is no  
992 point to discuss that now. Ms. Wooldridge asked whether there was some reassurance  
993 that it will not be passed a certain point at night or during the weekends. Ms. Korleski  
994 said the township does not have authority over that. Mr. Valentine said somewhere it was  
995 stated that between 10:00 p.m. and 6:00 a.m. was quiet time.

996

997 Mr. Shade said the time constraint stated in the minutes was 6:00 a.m. to 5:30 p.m. On  
998 Saturdays, unless there is an emergency such as a sinkhole on I-71 when everybody will  
999 be needed to load concrete to fill that sinkhole; that would take some time.

1000

1001 Ms. Korleski said that Mr. Shade had mentioned the noise resolution recently passed by  
1002 the township trustees and that included restaurants, bands etc. but generally noise would

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1003 not be permitted between 10:00 p.m. and 6:00 a.m. Mr. Shade said the plant is not to be  
1004 opened at night. Ms. Korleski said she understands that but the township restricts noise  
1005 between 10:00 p.m. and 6:00 a.m.

1006  
1007 Ms. Wooldridge asked what happens with the I-71 interchange work; ODOT typically  
1008 does a lot of the work in the evenings and weekends to avoid traffic and Mr. Savko will  
1009 probably bid some of that work because he has a nice cheap property right here next to the  
1010 I-71 interchange that is being built. She asked whether Mr. Savko's company would not  
1011 be doing work on that all night.

1012  
1013 Ms. Wooldridge said that work will be done at night and on the weekends when there is  
1014 less traffic. Mr. Savko said "not exactly" and that the work on Route 23 and 315 has been  
1015 done during the day. He only plans to allow the plant to run at night if there is an  
1016 emergency. Ms. Wooldridge said a large contract with ODOT for night work could be  
1017 close to an emergency.

1018  
1019 Mr. Savko noted that federal law regulates the number of hours drivers can work during  
1020 the day. He said he does not pour much ODOT work and he would only be interested in  
1021 emergency work and then he would need to open up, such as when the tanker truck turned  
1022 over in Dublin and they needed concrete in the middle of the night. One reason he does  
1023 not like that kind of work is that when they work all night, he will not have employees to  
1024 work the next day for his regular clientele.

1025  
1026 Barb Chokreff, 429 N. Old State Road, asked who owns the water tower and who has the  
1027 rights to it. Ms. Korleski said Del-Co Water Company owns it. Ms. Chokreff said Del-  
1028 Co could put the water tower there regardless of whether there is a concrete plant there or  
1029 not and whether or not the property is rezoned planned industrial.

1030  
1031 Alan Magnvssen, 5300 Baker Road, asked how many gallons would be in the water  
1032 tower. He said that between his pool and his neighbor's pool, he has 60,000 gallons he  
1033 would be willing to let the fire department have at any time.

1034  
1035 Paul Hilderbrant, 501 N. Old State Road, said that at the last meeting Mr. Heid stated that  
1036 he was not against growth and opportunity, that he grew up here and watched  
1037 development come this way, and that he would like to see the township grow and the  
1038 benefits to the township. He asked what the benefits were from Savko's cement plant  
1039 coming to the township, because from what he has gathered, there are none. An unknown  
1040 person interjected that it was taxes for the township. Mr. Fowler said the trustees could be  
1041 asked about that.

1042  
1043 Mr. Shade said that in his reading of the zoning resolution, there is not an economic test  
1044 for whether something is zoned or not zoned. Also, up until just recently, this property  
1045 was a junkyard with tires, waste materials, fuel and old vehicles on it. This is not a really  
1046 good piece of property. He noted that the county will ensure requirements are met such as  
1047 retaining all water on the property and discharge it at a rate no greater rate than when it  
1048 was sitting vacant.

1049  
1050 Kim Hilderbrant, 501 N. Old State Road, asked what would happen if the property is  
1051 zoned PID but this development fell through. Would this be an industrial property? Mr.  
1052 O'Brien said the applicant would have to come back with a new plan and that plan would  
1053 be subject to referendum as well. They would not be able to significantly change the  
1054 approved plan without going back through the process. However, if all regulations are  
1055 met, then the township has no discretion and would have to grant it.

1056  
1057 Ms. Korleski said she believes the question is that if the rezoning is approved and Savko  
1058 walks away, the property would still be zoned PID. Mr. O'Brien said that was correct but

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1059 they will still need to comply with the approved zoning. Ms. Korleski said if the property  
1060 remained FR-1, would Ms. Hilderbrant want to put her house in-between commercial and  
1061 industrial properties. Ms. Hilderbrant said she is between that right now.

1062

1063 Ms. Black asked whether the zoning could be approved with a contingency that it would  
1064 revert to the prior zoning if the plant is not built. Mr. O'Brien said "no" because the law  
1065 does not allow that. Mr. Fowler noted that it could be rezoned but it does not  
1066 automatically revert.

1067

1068 Anthony Macedonia, 600 N. Old State Road, said it was mentioned that trucks are washed  
1069 out when they return to the plant and also the driveway is sprayed off. He asked where  
1070 all that water would go. Mr. Savko said he will be required to construct retention basins  
1071 to meet the Ohio EPA surface guidelines; all that water will be trapped and there will be  
1072 no concrete residue in that. That water will not leave the site; it will be permanently  
1073 trapped and retained, and the basins will be cleaned out if necessary.

1074

1075 Ms. Black asked how mosquitos in the retention basins would be controlled. Mr. Savko  
1076 said he could spray for mosquitos if that becomes a problem. Ms. Wooldridge said she  
1077 did not want mosquitos sprayed randomly because she has horses there and those are  
1078 more important to her than mosquitos. Mr. O'Brien said that in general, the basins are  
1079 deep enough to help prevent the cattails, silt, and similar problems.

1080

1081 Ms. Wooldridge had questions about the water tower from the first meeting where Mr.  
1082 Shade spoke in November. Ms. Korleski asked her whether she had contacted the  
1083 applicant for any particular information and questions; the applicant provided their phone  
1084 numbers and emails at a recent meeting. Ms. Wooldridge asked what questions she  
1085 thought she should direct to the applicants as opposed to this commission that is in charge  
1086 of her interests, health and safety. Ms. Korleski said she should direct all her questions to  
1087 the applicant. Ms. Wooldridge said the applicant is not concerned with her health and  
1088 safety, but she suspected that the five appointed BZC members are, which is why she is  
1089 bringing her questions to the BZC in order to have an open dialogue regarding items  
1090 which may not have been considered. Everybody has different thought processes and  
1091 discussions and it takes discussions to bring out a well-rounded thought process. She is  
1092 not slighting anybody's opinion or lack thereof.

1093

1094 Ms. Wooldridge continued that when Mr. Shade was first officially on the agenda in  
1095 November, he mentioned the water tower, and Mr. O'Brien expressed some excitement  
1096 over that water tower. From that moment, the water tower became an altruistic measure  
1097 on the part of Savko to donate the land so the water tower could be built. Del-Co Water  
1098 recently sent her a letter which raved about all of their accomplishments this year and  
1099 plans for next year, and nowhere did they mention concerns about fighting fires in her  
1100 neighborhood.

1101

1102 Ms. Wooldridge said she has two water hydrants in her pastures that are full of pressure,  
1103 she does not have low pressure in her house, and she has never heard the concerns that  
1104 were mentioned during these hearings. She did not feel that the applicant's willingness to  
1105 provide an easement for a water tower should be the main driving force to allow this plan  
1106 to go through because any developer can offer that. As houses are built out here in the FR-  
1107 1 area, more water towers will be built because the houses will require it. The easement  
1108 should not be the moving force behind the granting of this industrial zoning.

1109

1110 Mr. Hildebrant said some people look at the subject property and see a junkyard. It has  
1111 been an icon for years. Many people drive by it and do not even see it. But for him, he  
1112 enjoys seeing the coyotes, the deer, and the other wildlife that lives primarily on that 24+  
1113 acre site.

1114

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1115 Mr. Foor asked whether anybody got involved in shutting down that junkyard. He said he  
1116 did. The mosquitos were bad and the Delaware County Health District was the one who  
1117 got that site cleaned up; the only reason the junk yard was shut down was due to  
1118 mosquitos.

1119

1120 Mr. Shade said that the water tower became a topic from the Berlin Township Fire  
1121 Department when he went in to discuss the site plan and they stated they were concerned  
1122 about water pressure in that area. Mr. Savko then agreed to donate land for a water tower.  
1123 Years ago, another client offered some property further down towards the city of  
1124 Delaware just off Sweeney Road, but Del-Co wanted the tower more towards this end.  
1125 His client is not trying to hang his hat on that, but wants to ensure for everybody's safety  
1126 that there will be water pressure, which is a safety reason, and that there will be adequate  
1127 water pressure to fight fires. This measure is not based upon that and they are just living  
1128 up to Mr. Savko's promises. He is not looking at that as a selling point for this project.

1129

1130 Mr. Fowler said the commitments need to be put in writing and he suggested taking a  
1131 quick recess to do that. Ms. Korleski asked whether the applicant would be getting  
1132 together with Mr. Fowler on that. Mr. Fowler, Mr. Heid, and Mr. O'Brien agreed that it  
1133 should be put on record. Ms. Korleski asked that they be listed. Mr. Fowler suggested a  
1134 recess. Ms. Korleski asked that they be read first and listed the following:

1135

- 1136 • Two weeks for cleanup from the day of closing.
- 1137 • Minimum mounding height will be 16'.
- 1138 • No jake braking.
- 1139 • 345' deceleration lane.
- 1140 • The baggage road.
- 1141 • Filtration system from Washington, D.C.
- 1142 • Fire department has complete access for water.

1143

1144 Mr. O'Brien asked about the dust mitigation system. Ms. Korleski said that was  
1145 "filtration system from D.C." Mr. Shade said the language he has drafted is that "This  
1146 would include any new, particulate recapture technology equipment once approved by  
1147 Ohio EPA at the applicant's sole expense will be installed."

1148

1149 Mr. Fowler asked whether the name of that system was known at this time. Mr. Shade  
1150 said the dust collector unit itself is made by 4-5 different companies and the photograph  
1151 he supplied is from plant in the D.C. area. The piping off of it is what caught his eye and  
1152 he plans to construct it that way. Mr. Fowler asked what the name of the facility and/or  
1153 the address is so that can be included in the conditions. Mr. Savko said he can have that  
1154 information tomorrow but he would be willing to submit the photo and state that he will  
1155 follow that.

1156

1157 A person responded that it is Cheney's plant in D.C. Ms. Wooldridge said the system will  
1158 not even be feasible until it is approved for Ohio use. Mr. Fowler said it would be  
1159 conditioned upon EPA approval and he would like to add another disclaimer that if that  
1160 system is not approved, the applicant will install the next best technology. Ms.  
1161 Wooldridge asked what the definition of "next best technology" was. Mr. Fowler said  
1162 that trade standards could be included.

1163

1164 Mr. O'Brien said also discussed was that the backup alarm would be the lowest volume  
1165 permitted by OSHA. He said the mounding will help but there will still be noise. Mr.  
1166 Shade said the text indicates that "If possible, truck or vehicle levels will be reduced to a  
1167 minimum mandate by OSHA and approved by tenant's in-house safety committee."

1168

1169 Ms. Black was concerned about the noise from delivery trucks. Mr. Savko said he can  
1170 control that if they are on their property. Ms. Black said she did not see them lowering the

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1171 beeping to get on their property. Mr. Savko said they will do that because they haul to all  
1172 of their plants. He can reduce the volume of the backup alarms to a softer level.

1173

1174 Mr. O'Brien was concerned about "if possible." Mr. Shade said the problem is that he is  
1175 not OSHA. Ms. Korleski said they are reviewing the conditions but the township does not  
1176 have authority on all of them. Mr. O'Brien said that may be correct but because they  
1177 agreed to it, they are stuck with it.

1178

1179 Ms. Korleski asked who they had to account to. Mr. O'Brien said that enforceability is an  
1180 issue, but Mr. Savko will want to do business with other people and they should do what  
1181 they committed to do. Ms. Korleski said she does not even want to sign something with  
1182 conditions that the BZC has no authority on. Mr. O'Brien said the applicant offered the  
1183 commitments so they can be included.

1184

1185 Mr. Fowler said anything can be a condition. Mr. O'Brien said the township was not able  
1186 to regulate loud music but then the state legislature allowed that later. The conditions  
1187 could be placed in the text and later the township is provided with the ability to enforce  
1188 them.

1189

1190 Mr. Valentine said two weeks and also three weeks were mentioned for the cleaning up of  
1191 the property. Mr. Shade said he included the information in the text. Mr. Fowler asked  
1192 for a recess to review the conditions.

1193

1194 There was a recess. Hearing was returned to session.

1195

1196 Ms. Korleski asked Mr. Shade to review the conditions. Mr. Shade said that most of the  
1197 conditions were submitted to the BZC as part of the revised document on May 18, 2017  
1198 but some items were added this evening.

1199

- 1200 1. The concrete mix plant building located on parcel A shall contain two silos not  
1201 greater than 50' in height and the silos will be painted in a subtle green color.  
1202
- 1203 2. A mound will be constructed as per the revised plan submitted May 18, 2017  
1204 along the north and east sides of the property and adjacent to the six residential  
1205 properties within the 200' buffer. The current elevation of the mound will be 16 ±'  
1206 from grade. The mound will be constructed to the highest level possible at the time  
1207 of the final engineering based upon general engineering practices and will be done  
1208 in such a manner not to impact the current trees growing in or near the fence line  
1209 and will be "engineeringly" sound to plant new trees on the mound to be  
1210 constructed and/or to permit maintenance and mowing of the mound.  
1211
- 1212 3. Only dead trees or diseased trees will be removed from the fence line, not on any  
1213 other property owner's property.  
1214
- 1215 4. Current trees in the proposed mound area will only be removed if necessary for  
1216 construction and installation of a mound. The mound may be modified to preserve  
1217 any exceptionally large trees in the mound area. All trees on the mound area will  
1218 be 4' high at planting and will be evergreen trees. Mr. Shade noted that the  
1219 property owner has requested blue spruce trees if possible and Mr. Savko does not  
1220 have an issue with that.  
1221
- 1222 5. If allowed, truck and vehicle backup alarm noise levels will be reduced to a  
1223 minimum level mandated by OSHA and approved by tenant's in-house safety  
1224 committee.  
1225

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6. All vehicles of the property owner or the tenants will operate said vehicles in full compliance of the Berlin Township jake brake resolution. The property owner and /or its tenant will comply with the Berlin Township noise regulation.
  7. The property owner and/or its tenant will comply with the Berlin Township noise resolution.
  8. The property owner will grant a perpetual easement or by fee simple instrument setting forth a 70-foot wide area running the entire width of the property, per the area describe on the final development plan and/or authorized by Berlin Township, Ohio, and/or the Delaware County Regional Planning Commission. Said perpetual easement or deed of conveyance will be executed and tended to the Ohio Department of Transportation or its designee at a time specified by the Ohio Department of Transportation.  
  
Said requirements pertaining to the easement and deed of conveyance shall survive the rezoning and plan approval process and will be binding on the owner, its accessors, and assigns.
  9. Property owner or tenant will construct a 7,500-10,000 gallon indoor water tank as part of its plant operation. Property owner or tenant will construct and install at its sole expense a dry fire hydrant on the plant site. The property owner or tenant will grant by perpetual easement a right-of-access for the use of the water from said tank at all times, day or night, every day of the year to the Berlin Township Fire Department, or any other fire department by inter-governmental agreement for the purposes of fighting fires. The property owner or lessee will provide full access by pass key or access key as required by the Berlin Township Fire.
  10. The property owner or its tenant of parcel A will install at its sole expanse all dust control equipment and/or filters required by the Ohio EPA and regularly inspected by the Ohio EPA. This would include any new particulate recapture system (Cheney system) once approved by the Ohio EPA at applicants or owners so expense at this site. If the Cheney system is not improved, then applicant/owner will install the best filter system or recapture system under the same terms as approved by the Ohio EPA.
  11. Property owner or its tenant will install all required lighting per the Berlin Township zoning resolution. All lighting will be downlighting. All lighting will be turned off or reduced during the night hours after 9:00 p.m. except lighting necessary to provide security, and lighting necessary for either the Berlin Township Fire Department or other governmental or other emergency services that arise as a part of other emergency situations impacting plant operation or governmental projects.
  12. Property owner or its tenants will obtain all necessary Ohio EPA approvals before the plant goes into operation and will operate the plant in full compliance of the required permits of the Ohio EPA mandated for concrete batch plants.
  13. Property owner will, within three weeks of the date of closing on said 24.312 acres, remove all existing trash or junk, vehicles, house, and/or front fence and/or front fence materials.
  14. Parcel A has two access points. The north access point will only be utilized in emergency situations or by the Berlin Township Fire Department.
  15. Property owner will not operate vehicles on Plunkett or Baker Roads or north of the future backage road on North Old State Road, except for delivery of product or when directed by emergency or police services.

**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, JUNE 27, 2017, 7:00 PM**

1284 Mr. O'Brien said that once Berlin Township lost a case because a semi-colon was not a  
1285 comma. He was concerned about the "and/or" statements in condition 15. He asked  
1286 whether it was his intent to remove all those items. Mr. Shade said that was correct and  
1287 the intent is that, except for the two metal buildings that exist on the property currently,  
1288 the property will be cleaned.

**RESOLUTION 2017.06.27.#A: APPROVE BZC 17-006 BOATMAN, INC.**

1291  
1292 Mr. O'Brien made a motion to approve as detailed BZC #17-006, filed by Boatman, Inc.,  
1293 the rezoning of 24.312± acres, parcel # 41812001057000 from NCD (Neighborhood  
1294 Commercial District) and FR-1 (Farm Residential District) to PID (Planned Industrial  
1295 District), subject to all text, terms and conditions incorporated as if fully set out at length  
1296 herein.

1297  
1298 The BZC clerk is directed to forward this recommendation for approval to the township  
1299 trustees for their consideration.

1300  
1301 Ms. Korleski seconded the motion.

1302  
1303 Discussion

1304 Mr. O'Brien said that in the past, he has voted for things he did not want to vote for, and  
1305 he has voted against things he did not want to vote against. Today he had been  
1306 considering what he wanted but then he realized that really is not germane; it is what is  
1307 appropriate. The proposed use is an allowed use. He asked whether this is the  
1308 appropriate place. He asked, if not here, where in the township should it be located,  
1309 because it is an allowed situation. He asked whether there are areas that are substantially  
1310 better. He said the truck weight would not be desirable on a township road or even a  
1311 county road so a state route is probably the most appropriate, which would only be U.S.  
1312 36/S.R. 37 or Route 23.

1313  
1314 Mr. O'Brien said there are no divergences requested by the applicant and unfortunately,  
1315 this Commission must liberally construe the regulations. If it is allowed and the  
1316 conditions have been met, the township is required to go forth with it. The BZC can ask  
1317 for certain things, he noted. The two things that he believes makes him have to vote for  
1318 this is:

1319  
1320 1) The water tower does allow water pressure for fire suppression. The issue is not  
1321 getting the water there but having the pressure for sprinklers. A water tower is very  
1322 important because everything in this area is supplied from the water tower in  
1323 Leonardsburg and that is not only a small water tower, it is also a great distance away.

1324  
1325 2) The backage road is important for safety and ODOT has stressed that continually.  
1326 If they had not done that, it may not have been as important.

1327  
1328 Mr. O'Brien said the applicant has also complied with other items requested by the BZC  
1329 and because of that, he does not think they can say "no."

1330  
1331 Vote: O'Brien, yes; Korleski, yes; Spangler, yes; Valentine, yes; Kaplan, yes. Motion  
1332 carried, BZC #17-006 will be forwarded to the trustees for further consideration.

1333  
1334 Ms. Korleski thanked the residents for expressing their opinions.

1335  
1336 There was no further business to come before the BZC. Motion to adjourn. Meeting  
1337 adjourned.

1338  
1339 There was no further business. Motion to adjourn. Meeting adjourned.



**BERLIN TOWNSHIP ZONING COMMISSION (BZC)**

*OF DELAWARE COUNTY, OHIO*

**REGULAR MEETING**

**TUESDAY, JUNE 27, 2017, 7:00 PM**

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Toni Korleski, Chairperson

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Jerry Valentine, Vice-Chairperson

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Darcy Kaplan, Member

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Steve Spangler, Member

\_\_\_\_\_  
Ken O'Brien, Member

Attest: \_\_\_\_\_  
Lisa F. Knapp, Berlin Township Zoning Clerk