

BERLIN TOWNSHIP TRUSTEES

6:00 p.m. Trustee Meeting September 14, 20

HELD AT: This meeting was held virtually by Zoom, Delaware, OH

CALL TO ORDER: Tom D’Amico, Trustee Chairman

PLEDGE OF ALLEGIANCE: Claudia Smith led the Pledge of Allegiance

ROLL CALL: Ken O’Brien, Tom D’Amico, Ron Bullard, Claudia Smith, Fiscal Officer and Theresa Taylor, Assistant Fiscal Officer

ATTENDANCE: Christina Littleton, Meghan Raehl, Scott Belcastro, Joe Pichert, Aaron Underhill, Nicole Moyer, Shadd Parker, Josh Barkan and Craig Cerny

**Approval of Minutes-
RESOLUTION APPROVE THE 08/04/20 SPECIAL MEETING MINUTES
20-09-04 AND DISPENSE WITH THE READING**

Motion: Bullard
Second: D’Amico
Vote: O’Brien yes, D’Amico yes and Bullard yes

**RESOLUTION APPROVE THE 08/10/20 REGULAR MEETING MINUTES
20-09-05 AND DISPENSE WITH THE READING**

Motion: Bullard
Second: O’Brien
Vote: O’Brien yes, D’Amico yes and Bullard yes

**RESOLUTION APPROVE THE 08/12/20 SPECIAL MEETING MINUTES
20-09-06 AND DISPENSE WITH THE READING**

Motion: Bullard
Second: O’Brien
Vote: D’Amico yes, Bullard yes and O’Brien yes

**RESOLUTION APPROVE THE 08/13/20 SPECIAL MEETING MINUTES
20-09-07 AND DISPENSE WITH THE READING**

Motion: Bullard
Second: O’Brien
Vote: D’Amico Abstain, Bullard yes and O’Brien yes

**RESOLUTION APPROVE THE 08/20/20 SPECIAL MEETING MINUTES
20-09-08 AND DISPENSE WITH THE READING**

Motion: Bullard
Second: O’Brien
Vote: Bullard yes, O’Brien yes and D’Amico yes

**RESOLUTION APPROVE THE 09/08/20 SPECIAL MEETING MINUTES
20-09-09 AND DISPENSE WITH THE READING**

Motion: Bullard
Second: O’Brien
Vote: Bullard yes, O’Brien yes and D’Amico yes

D’Amico stated that O’Brien should have abstained from the minutes of August 12, 2020.

**RESOLUTION MOTION TO RECONSIDER THE 08/12/20 MOTION
20-09-10**

Motion: O’Brien
Second: Bullard
Vote: O’Brien yes, D’Amico yes and Bullard yes

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**RESOLUTION APPROVE THE 08/12/20 SPECIAL MEETING MINUTES
20-09-11 AND DISPENSE WITH THE READING**

Motion: Bullard
Second: D’Amico
Vote: O’Brien Abstain, D’Amico yes and Bullard yes

Old Business –

Energy Update- Scott Belcastro from Trebel LLC, discussed what the rates for Columbia Gas are at the moment. Belcastro stated that he feels the rates are on the rise and he feels that protecting the residents from run-ups in the market is what a fixed rate is designed to do. He stated that he feels now might be the time to lock in on a fixed rate. Belcastro asked the trustees their thoughts on what action they would like to take. Bullard stated that he felt it was time to move from the variable rate to the fixed rate. O’Brien and D’Amico agreed.

**RESOLUTION MOTION TO MOVE THE GAS VARIABLE RATE TO A FIXED
20-09-12 RATE FOR THE TERM ENDING FEBRUARY 2022**

Motion: Bullard
Second: O’Brien
Vote: D’Amico yes, Bullard yes and O’Brien yes

**RESOLUTION MOTION TO AUTHORIZE TRUSTEE BULLARD TO EXECUTE THE
20-09-13 THE DOCUMENTS NECESSARY FOR RESOLUTION 20-09-12**

Motion: O’Brien
Second: Bullard
Vote: D’Amico yes, Bullard yes and O’Brien yes

Piatt Road Widening Updates- D’Amico stated that R.R. Colan has had some success in getting agreements on some of the easements that are needed for the project. D’Amico asked which fund this money would come from. Bullard answered the roads fund and possibly from the gas tax. Smith stated that if there is not enough in the gas fund it will have to come out of the general fund. Bullard stated that he wants to make sure that no checks are issued to anyone, until the title company has confirmed that the trustees have received everything that is needed on their end. D’Amico will look into clarification on who the checks will need to be written to. Bullard is looking into applying for the OPWC grant.

Energy Special Improvement District (ESID)- The trustees have not received anything additional from them.

Architectural Review Board- The trustees received a resolution to form an architectural review board (ARB) from Chris Ballard. The board will consist of five people, one to include one of the trustees. O’Brien volunteered. O’Brien will check with Ballard in regards to how to stagger the term dates of the members.

Tobacco Free Workplace Policy- O’Brien stated that Riepenhoff had sent him a copy of what the fire department (union) had agreed upon. He stated that it is similar to what the trustees had wanted it to say and recommends the adoption of it.

**RESOLUTION MOTION TO ADOPT RESOLUTION #20-09-14 THAT WILL
20-09-14 ESTABLISH A NICOTINE AND TOBACCO FREE HIRING POLICY**

**RESOLUTION ESTABLISHING
TOBACCO AND NICOTINE FREE HIRING POLICY**

WHEREAS, Berlin Township is committed to a safe, healthy and respectful working environment for Township employees, volunteers, contractors, vendors, residents, and visitors;

WHEREAS, Use and exposure to tobacco and nicotine has been found harmful to the health, safety and comfort of the user and those around them, to decrease employee health and productivity, and increase employee and health care costs; and

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WHEREAS, In furtherance of its commitment to a safe, healthy and responsible workplace, and consistent with Ohio law, Berlin Township joins the numerous employers who have moved toward a smoke, tobacco and nicotine-free workplace;

RESOLUTION

NOW, THEREFORE, be it resolved by the Board of Trustees of Berlin Township, Delaware County, Ohio (the "Board") that the following Resolution be and is hereby adopted:

RESOLVED,

Tobacco- and Nicotine- Free. It is the policy of the Township to provide a safe, healthy, smoke-free and tobacco-free work environment for all employees and citizens visiting Township facilities. Tobacco and nicotine usage tends to have an adverse impact on employee health and wellbeing, to increase health insurance and other costs. Effective the date of this Resolution, Berlin Township will only hire tobacco and nicotine free applicants. Employees shall not use nicotine or tobacco products at any time, on or off-duty, during the duration of their employment with the Township.

Tobacco and Nicotine Cessation - Current employees are strongly encouraged to participate in smoking, tobacco, and nicotine use cessation programs sponsored by the Township or other approved programs.

Definition - Tobacco and nicotine use generally means inhaling, exhaling, burning, vaping, any lighted cigar, cigarette, and e-cigarette or pipe, chewing or any other type of tobacco use. The definition is intended to include all products that deliver nicotine for purposes other than cessation.

Applicant's Certification - All applicants for hire on or after the date of this Resolution must certify pre-hire that they do not use tobacco or nicotine. Berlin Township's employment application will be amended to require the following certification by each applicant for hire:

"Tobacco and Nicotine Free Hiring Policy: By signing this application for employment, I hereby certify that I am not a tobacco or nicotine user, and this certification is material to Berlin Township's hiring decision. I understand that Berlin Township may require me to undergo tobacco and/or nicotine testing pre-hire and during my employment, and that, if hired, I may be disciplined or terminated for such use."

Pre-Hire Test - Berlin Township reserves the right to test applicants for tobacco and/or nicotine use after a conditional offer of employment. If an applicant tests positive, they will either not be hired or will be tested or re-tested for tobacco and/or nicotine use within 21 days of the end of their probationary period, or within the first 6 months of their employment if they have no probationary period. The Township will not retain an employee who tests positive for tobacco and/or nicotine during this period. Applicants who test negative for tobacco and/or nicotine will be required to remain tobacco and/or nicotine free during their employment.

Reasonable Suspicion Testing - Upon reasonable suspicion that an employee hired on or after July 1, 2020 is engaging in tobacco and nicotine use, said employee may be subject to reasonable suspicion tobacco and nicotine use testing. Employees may be subjected to reasonable suspicion testing when there is a belief based on objective facts that the employee is engaged in tobacco and nicotine use. Examples of conduct or information that may constitute reasonable suspicion include, but are not limited to: tobacco odor on breath or clothing or lingering after an employee's use of a Township vehicle; the employee's admission of tobacco use; or information obtained from a person with personal knowledge. The Township will make a written record of the circumstances leading to a reasonable suspicion test.

Employees will be returned to their work site at the conclusion of the reasonable suspicion test for tobacco or nicotine use.

Refusals to comply with a request for tobacco testing, submission of false information regarding a test, or attempts to falsify test results through tampering, contamination, adulteration, or substitution, or in any other way attempts to interfere with the test shall be considered a refusal to submit to testing and will be treated the same as a positive test result. Refusal to submit to testing can include an inability to provide a specimen or sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

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Positive Results - Employees who admit to or who test positive for the presence of tobacco or nicotine use will be evaluated by an SAP. An SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor. The SAP will evaluate the employee to determine what assistance, if any, the employee needs to resolve their problems associated with tobacco and nicotine use.

After a positive tobacco and nicotine test, employees will be required to undergo treatment for tobacco or nicotine cessation. If an employee is not discharged, they must properly follow the tobacco or nicotine cessation program prescribed by the SAP and may be subject to unannounced follow-up tests for a period of up to five (5) years as determined by the SAP.

After five (5) years from the date of an employee’s positive reasonable suspicion test for tobacco and nicotine use, if the employee has not had a second positive tobacco and nicotine use test, the first confirmed positive reasonable suspicion test for tobacco and nicotine use shall be removed from the employee’s file upon the request of the employee and shall not be considered in subsequent determination of discipline.

Any employee who refuses tobacco or nicotine cessation treatment when required, or fails to comply with the regimen prescribed by the SAP for treatment, aftercare, or return to duty tests, shall be subject to disciplinary action, up to and including discharge. An employee who refuses to comply or to submit to a test may be disciplined

Policy Administration and Enforcement - This policy will ultimately be administered by the Board of Trustees, but will be enforced by the Board Liaisons, Department Heads and supervisors.

Policy Acknowledgement - All employees will be provided a copy of this Resolution and required to acknowledge receipt. The acknowledgement will be placed in the recipient employee’s personnel file.

This policy supplements but does not replace the Township Employee Handbook.

This **Resolution** shall take effect and be in force from the date of its adoption.

Approved and Adopted: September 14, 2020

Motion: O’Brien

Second: Bullard

Vote: Bullard yes, O’Brien yes and D’Amico yes

*******7:00 P.M. TIME CERTAIN***BERLIN FARMS BZC 20-001 CONTINUED*******

D’Amico called BZC #20-001 hearing to order.

Josh Barkan addressed the changes that were made to the proposal per the trustee’s request. These include; no more than 3 snout houses in a row, time commitments as to when the amenities will be added, an added walking path, added language that the sub-division will be turned over to the HOA when there is 85% of the houses built, the overhang will consist of the roof line only, that the cluster mailboxes will have parallel parking and will be taken care of by the HOA, the signs will use up lighting, the model home signs will be taken down when 85% of the houses are sold and that the mounding will have no higher than a 3:1 slope.

D’Amico opened up the conversation to the public.

Shadd Parker stated that he is vehemently opposed to this development. One reason being the high-density of houses and another being the multi-use path that will be extremely close to his property line with no barrier to hide it. He feels it is beneficial to the new development and is at the expense of the current residents. Barkan stated that they will try to run the path through the mounding to help with the privacy issue. Parker asked that the changes to the plan be put up on the township’s website. Barkan will get information to Ripple.

Craig Cerny stated that he is also opposed to the high-density of the development. He also stated concern about all the houses not meeting an 80-foot street frontage. Barkan answered that the divergence is for the cul-de-sac and the curves. Barkan also commented that the minimum R3 district requirement is 10,890 square footage and Berlin Farms will be 12,000 square footage per lot.

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Nicole Moyer asked if sidewalks will be put in on the existing resident's property for safety. O'Brien stated that he is always opposed to sidewalks in this situation because it will be at the expense of the resident. Moyer stated that she is also opposed to the walking path.

After a lengthy discussion, Aaron Underhill resent the proposal with changes made to the trustees:

M/I Homes of Central Ohio, LLC – Berlin Farm

ARTICLE 11 PLANNED RESIDENTIAL DISTRICT (PRD)

SECTION 11.01: PURPOSE: SEE SECTION 5.055 SECTION 11.02: INITIAL DISCUSSIONS

The applicant is encouraged to engage in informal consultations with the Zoning Inspector, Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map.

No statement by officials of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission under 11.10 shall be binding.

Any and/or all such informal consultations may be subject to Ohio's open meeting laws (ORC §121.22) and may be required to be held in an open public meeting.

In addition to any other procedures set out in this Resolution, all applications for amendments to the zoning map to rezone lands to this PRD district shall follow the procedures set forth in Article 11 herein.

SECTION 11.03: LOCATION OF PLANNED RESIDENTIAL (OPEN SPACE) DEVELOPMENTS

Planned Residential Development zoning may be overlaid on FR-1, R-2, R-3, R-4, and TPUD zones pursuant to a zoning map amendment approved by the township. The net density of the underlying zoning shall be used to determine the number of units allowed. All other standards shall be as defined in Article 11.

SECTION 11.04: PERMITTED USES

A.) Single Family detached residential dwelling units in FR-1 and R-2, R-3, and R-4 PRDs;

Response: Applicant proposes R-3 single family detached residential dwelling units (91 lots in total).

B.) Single family dwellings in R-2, R-3, and R-4 PRDs, or multi-family buildings (including condominiums separated by vertical firewalls) in TPUD PRDs.

Response: No single family attached dwellings are proposed.

C.) Common Area: upon approval of the final development plan by the township, the following uses and improvements may be permitted in the common area:

1. Outdoor sports (active recreation) and recreational activities.
2. Accessory service buildings and structures incidental and pertinent to the uses set forth in Section 11.04(C)(1) above, where said accessory service buildings and structures are necessary to the pursuit of a permitted recreational use on the premise.

Response: Applicant proposes ±19.2 acres of open space that will be generally used for open space, recreation, and leisure trailmulti-use paths. The open space consisting of ±0.5 acres located at the center of the site and identified in Exhibit "D-5 Open Space Plan" as "Reserve C" will have a playground amenity as shown in Exhibit "D-2 Open Space & Landscape Enlargement Plan." All open space will be managed by the Homeowners' Association. The leisure trailmulti-use path that is to be installed within the northern portion of the subdivision within the open space is subject to existing rights and obligations under an existing electric easement. The installation and continued operation and maintenance of this particular leisure trailmulti-use path shall continue if and for so long as they are permitted by the easement holder.

D.) Natural Area: restricted to passive recreational uses such as fishing, swimming, hiking, canoeing, and such other recreation that does not alter any of the natural features of the area. Agriculture may also be used as natural open space, provided it does not permit hog operations, poultry barn, and fur bearing farms or feed lots. Accessory buildings should be discouraged in the natural area.

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Response: Applicant proposes ±19.2 acres (30.6%) of open space that will be generally used for open space, recreation, and leisure trailmulti-use paths. Grading is permitted to accommodate retention ponds (with fountains), utilities and other improvements shown on the accompanying plans. Within the open space along the western and southern frontages, no improvements are permitted except for leisure trailmulti-use paths and sidewalks. Natural areas shall not be impacted, except for existing trees along the Southeast quadrant known as "Reserve A" which will be impacted as shown in Exhibit "D-1 Overall Landscape Plan". Otherwise, existing trees and vegetation may not be removed unless they are dead, diseased, invasive or otherwise a danger to persons or property.

SECTION 11.05: ACCESSORY USES

A. Non-residential uses of a religious, cultural, educational or recreational nature or character to the extent that they are designed and intended to serve the residents of the Planned Residential District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to major thoroughfares as to permit access without burdening residential streets.

Response: No divergence.

B. Schools, if they occupy a lot of not less than 1 acre, with adequate area for indoor and outdoor recreation, and additional setbacks as may be necessary to avoid disruption to adjacent residences.

Response: No divergence

C. Adult Family Homes as provided for and defined in ORC Chapter 3722.

Response: No divergence.

D. Child Day Care provided in the provider's permanent residence for six or fewer children, who are not members of the immediate resident family, provided the day care is accessory to the use of the dwelling as a residence.

Response: No divergence.

E. Temporary structures such as manufactured or mobile homes, or mobile offices, and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal, and water supply, as he/she deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

Response: Model homes shall be provided in accordance with Exhibits "C-4 Phasing Plan and Model Home Location" and "C-5 Model Home Enlargements and Signage." Any signs for model homes which are in excess of that which are permitted by the Zoning Resolution shall be removed on or before the date when 9085% of the lots/homes within the subdivision have been conveyed to third parties, as evidenced by the recording of deeds with the Office of the Recorder of Delaware County, Ohio. Downcast lighting shall be required when parking areas next to model homes are illuminated. Notwithstanding anything to the contrary in the Zoning Resolution, prior to the approval of a final plat by Delaware County the developer may commence construction of one of these model homes. Construction of one model home may occur in advance of, or in conjunction with, installation of infrastructure for the subdivision.

F. Conducting of casual sale of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days. The sale and

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parking area shall be outside of the right-of-way and shall not interfere with traffic on adjacent thoroughfares. Any signage must be consistent with Article 22.

Response: This development shall adhere to this requirement.

G. Limited home occupation, as prescribed in Section 24.15 of this resolution.

Response: Limited home occupation uses will be in accordance with Section 24.15.

H. Licensed Family Homes as provided for in ORC §5123.19. All such facilities shall possess all approvals and/or licenses as required by state or local agencies.

Response: Licensed Family Home uses will not be included in this development.

SECTION 11.06: CONDITIONAL USES

A.) Model Homes in Subdivisions, the same being defined as residential type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyer the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor coverings, etc.), in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:

- 1. Lighting: All exterior lighting, except for security lighting, must be down-lighting, so that no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting, except for security lighting, shall be extinguished at the closing time of the model home.

Response: No divergence.

. Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The number of required parking spaces shall be six (6) per model home. The driveway of the model home may be utilized for not more than two (2) parking spaces.

Response: No divergence.

- 3. Screening and Trash Receptacles: Landscape drawing shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by visitors to the home.

Response: Landscaping for model homes is consistent with the overall landscape and provides adequate landscaping and screening from adjoining lots. Locations of trash receptacles will be identified in the building permit application for each model home.

- 4. Termination of Use: The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate after five (5) years from its opening date, or when building permits have been issued for ninety percent (90%) of the lots, whichever comes first.

Response: No divergence.

- 5. Model Home Signs: Model home signs may be approved by the Board of Zoning Appeals provided the following conditions are met:

. the sign shall not exceed 16 (sixteen) square feet per side with 32 (thirty-two) square feet maximum total display area;

Response: No divergence. Applicant's proposed signage, as shown in Exhibit "C-5 Model Home Enlargements and Signage", complies with the display area requirements.

- b. the overall height of the sign shall be no more than four (4) feet above grade.

Response: No divergence.

- c. model home sign shall be located on the same lot as the model home.

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Response: No divergence.

6. If sign information is not presented at the time the development is submitted and approved, the applicant will apply for a conditional use permit to the Board of Zoning Appeals, which will rule on additional sign conditions.

Response: Sign information is being provided at the time the development is submitted and approved.

SECTION 11.07: PROHIBITED USES

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall not be permitted.

Response: No divergence. Development will be subject to such prohibited uses.

- B. Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers, for a period exceeding fourteen (14) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.

Response: No divergence. Development will be subject to outdoor storage restrictions.

- C. No trailer of any type, no boats, no motor homes, nor equipment of any type shall be parked in front of the building line on any parcel within this district for more than twenty-four (24) hours in any ten (10) day period. If a dwelling is located on said lot, the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.

Response: No divergence.

- D. No motor home, mobile home or camper of any type may be occupied by a guest of the resident/owner for more than fourteen (14) days per calendar year and only one (1) occupied motor home or camper is permitted at any time.

Response: No divergence.

- E. Except as specifically permitted in Section 11.01(G) or approved in the approved development plan, no manufactured/mobile home shall be placed or occupied in this district. This provision does not apply to permanently-sited manufactured homes.

Response: No divergence.

- F. No trash, debris, unused property, or discarded materials which create an eyesore, hazard, or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or portion thereof.

Response: No divergence.

- G. In subdivided areas that meet the requirements of section 711.131 of the Ohio Revised Code, the keeping of livestock and poultry is prohibited.

Response: No divergence.

- H. Boat or vehicle storage yards or facilities within common open space areas are prohibited.

Response: No divergence.

SECTION 11.08: DESIGN FEATURES REQUIRED OF A PRD

The development plan shall incorporate the following standards:

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. Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses;

Response: No divergence. As shown in Exhibit "D-5 Open Space Plan", the open space has been distributed throughout the development, is visually and functionally harmonious with the development, and provides buffers to surrounding land. A row of trees shall be planted between the stormwater basin located in the northeastern portion of the site and the eastern property line for this development with numbers, species, and locations of these trees being illustrated in Exhibit D-2. In addition, to the south of the same basin and between lots 28 through 30 on the west and the zoning district's property line on the east, an earthen mound shall be installed at a minimum height of 4 feet and a maximum height of 6 feet, with tree plantings to be provided on top of the mound as illustrated in Exhibit D-2. A row of trees shall be planted to the north of and adjacent to Lots 15 through 22, along with an earthen mound with a minimum height of 3 feet and a maximum height of 4 feet, with the number of trees, their species, and locations being illustrated in Exhibit D-2.

- B. No building shall be constructed within 50 feet of the perimeter property line of the overall PRD tract;

Response: No divergence. Applicant shall comply with the requirement.

- C. The zoning commission may require walkways to connect all dwelling areas with open space and to interconnect the open spaces;

Response: No divergence. Applicant has provided for walkways and interconnected open spaces, as shown in Exhibits D-1 through D-5.

- D. Moderate to thick coverage by trees and natural undergrowth is desirable to most intended functions of the open space. Where such foliage exists naturally, it should be retained where practicable. Where adequate foliage does not exist, the Zoning Commission may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses;

Response: No divergence. Applicant has incorporated existing foliage into the open space plans as shown in the accompanying plans. Natural areas shall not be impacted except for a portion of existing trees along the Southeast quadrant known as "Reserve A" which will be impacted as shown in Exhibit "D-1 Overall Landscape Plan." The final location of the area of impact will be provided as part of the Final Development Plan, provided that such area shall substantially conform to what is shown in Exhibit "D-1 Overall Landscape Plan."

- E. Scenic areas and views shall be preserved to the maximum extent practicable, including views from the adjacent road;

Response: No divergence. Applicant has strategically placed open spaces along Piatt Road, Berlin Station Road, and the surrounding properties. See accompanying plans.

- F. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding of the proposed or existing houses;

Response: No divergence. Open spaces have been utilized throughout the site plan for the natural disposal of storm water drainage, as shown on Exhibit "E-1 Utility Plan".

- G. Minimum overall tract size for a PRD is 20 acres, unless adjacent to a neighborhood of comparable density or design, in which case the Zoning Commission may permit the tract size to be reduced to 10 acres;

Response: No divergence. Applicant meets and exceeds the 20-acre minimum for a PRD, as this development consists of ±62.7 gross acres.

- H. Improvements within the PRD shall conform to the subdivision standards for Delaware County Ohio;

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Response: No divergence. Applicant's design will conform to county's subdivision standards, unless otherwise specified in this application or otherwise approved by Delaware County.

- I. Wetlands, steep (over 20%) slopes, forests, 100-year floodplains, ravines and noted wildlife habitat are to be preserved to the greatest extent possible;

Response: No divergence. As shown in Exhibit "C-3 Preliminary Development Plan", areas with slopes of 20% or greater have been preserved as open spaces in the site plan.

- J. The permitted density shall not be exceeded.

Response: No divergence. The Applicant has met the density permitted by providing for 91 lots on 49.1+/- net acres of developable area (1.85 lots per acre).

- K. The required percent of open space shall be provided. The percent of open space required varies according to the zoning district overlaid;

- 1. FR-1: 40% (of gross tract area) open space
- 2. R-2, R-3 and R-4: 20% (of gross tract area) open space

In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included. Unbuildable areas, (defined as jurisdictional wetlands, floodplains, slopes greater than 20%, utility rights-of-way and existing bodies of water) may count for up to 50% of the required open space. That portion of land dedicated to public purpose that remains either open and unbuilt upon by any structure (including parking) or which houses a recreational facility approved by the Zoning Commission on the Development Plan may count toward the open space requirement.

Response: No divergence. Applicant meets and exceeds this requirement by proposing 19.2+/- acres of open space, which amounts to approximately 30.6% of the gross tract area.

- L. No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.

Response: No divergence.

- M. In FR-1 zones, water supply and sanitary sewage disposal shall be as approved by the Delaware County Board of Health and/or the Ohio EPA. Feasibility shall be indicated by the appropriate agency at the time of the preliminary plan. In the R-2, R-3 and/or R-4 zones, centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health, and/or Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.

Response: No divergence. Applicant has obtained verifications that public water supply and wastewater disposal systems are available with capacity to serve this project.

- N. The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site. All residential roofs must be a minimum of 5:12 pitch, or as approved by plan. Permanently sited manufactured housing must have a minimum pitch of 3:12.

Response: No divergence. See Architectural Elevations in Exhibit "H-1 Architectural Elevations."

- O. Residential lots shall be fenced for safety if they abut agriculture.

Response: No divergence. This project abuts residential uses.

- P. Sidewalks or paths shall be provided. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Deciduous, broad leaf street trees (i.e., maple, oak, sycamore, chestnut, and sweet gum) shall be planted (or saved) at the rate of one per 60 feet of frontage on both sides of the street. Trees must be at least a 2.5-inch caliper at planting. Trees may

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not be placed in the 5' green strip between the street and sidewalk. Trees shall be placed in the front lawn of the residences.

Response: No divergence. For details, please see Exhibits D-1 though D-5.

Q. Setbacks, front, side and rear: as defined in the underlying zoning district.

Response:

R-3 District Requirements	Applicant's Proposal
Building Setback: Per Section 24.05, as approved in the Development Plan.	No divergence. The building setback shall be 30 feet from the right-of-way line.
Side Yard Setback: 12.5 ft. minimum to any side lot line.	A divergence is requested. Although each lot will provide a minimum of 12.5 ft. side yard on each side of the lot, Applicant requests a divergence to permit side yard encroachment of up to 12 inches for eaves and overhangs at or near the roof line. Fences may be located in side yards as permitted by the Zoning Resolution. Air conditioning units shall only be permitted to be located along the rear façade of each home.
Rear Yard Setback: 25 ft. minimum for principal buildings.	No divergence.

R. Minimum lot size: as defined in the underlying zoning district.

Response:

R-3 District Requirements	Applicant's Proposal
10,890 square feet	No divergence. Each lot will have a minimum lot size of 12,000 square feet.

S. Minimum lot width: as defined in the underlying zoning district.

Response: A divergence is requested. R-3 zoning district, Section 9.06(B) of the Zoning Resolution calls for minimum continuous lot frontage of 80 feet. The Applicant requests that minimum lot width of 80 feet be permitted at the minimum building setback line for each lot to accommodate various conditions for lots located within street curvatures. The divergence is reasonable and consistent with the intent and spirit of the zoning requirement.

T. Detached garages with one-hour fire rated construction may be constructed within ten (10) feet of the lot line provided the garage is located to the rear of the house, and that the garage does not abut an adjacent residence.

Response: No divergence.

U. Street layouts should relate to natural topography, and be designed to provide open space views to as many homes as possible.

Response: No divergence. Street layouts relate to natural topography and seek to maximize open space views to as many homes as possible.

V. Attached garages shall be setback at least 12 feet from the front building line of the house, if on street parking is not provided.

Response: No divergence. Off-street parking is being provided. Two or three attached car garages will be provided for each lot within the development. A minimum of thirty lots will include side-loaded garages. The developer shall distribute side-loaded garages throughout the development so that they are not clustered in any particular portion of the development, with the goal of creating diversity with respect to garage orientation throughout the community. No more than three homes in a row on the same street shall have front-loaded garages, provided, however, that the community may have one instance where up to four homes in a row on the same street have front-loaded garages in the circumstance where

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utilities placement and/or stormwater drainage needs cause the ability to place a home with a side-loaded garage on the fourth lot in a row to be impractical or impossible based on generally accepted engineering practices.

- W. Porches: A covered porch or portico across some portion of the front of the house is a recommended structural design element.

Response: No divergence.

- X. Street lighting, if provided, must be of white light, with light standards of traditional or Victorian design (no modern gooseneck lamps or yellow lighting). Maximum height of standards is 16 feet.

Response: No divergence.

- Y. Building Height Limits: No buildings in this district shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from the height regulation and may be erected to any safe height, not to exceed one-hundred (100) feet in height. No windmills, antennas, or towers shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one hundred (100) feet in height.

Response: No divergence. Applicant's proposal meets the building height limits.

- Z. Building Dimensions: (Floor space requirements): Each detached single-family dwelling hereafter erected in this district shall have a living area not less than one-thousand (1000) square feet or eight-hundred (800) square feet of ground floor living area, if the residence is multi-story. All such living areas shall be exclusive of basements, porches, or garages.

All attached single-family structures constructed within this district shall contain the following minimum living area:

1. One (1) bedroom unit: 800 square feet
2. Two (2) bedroom unit: 900 square feet
3. Three or more-bedroom units: 1000 square feet

Response: No divergence. Applicant's proposal meets these requirements.

AA.) Landscaping: All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the requirements of Article 26, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name, and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.

Response: Landscaping to be provided in accordance with the approved final development plan. Individual lots shall include landscaping in the front, rear, and side yards, with the selection of plantings to be determined by individual home buyers.

BB.) Parking: Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the provisions of Article 24 of this Resolution, when appropriate, shall be incorporated.

Response: Off-street parking will be provided in garages. In addition, each home shall provide for a minimum of 2 automobiles to park on the driveway.

CC.) Signs: Except as provided under the provisions of this Article for home occupations or as controlled by Article 25 (Signs) of this Resolution and except as permitted by the Board of Zoning Appeals incidental to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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Response: A divergence is requested. Applicant requests a divergence to permit all signage as shown and detailed in Exhibits "C-5 Model Home Enlargements and Signage" and "D-4 Landscape Details."

DD.) The owner or developer of a subdivision or similar area, upon the conditions and for the time period established by the Zoning Commission, may erect one (1) sign not exceeding thirty-two (32) square feet in area per side advertising said subdivision, development or tract for sale.

Response: Applicant will erect such sign in accordance with the conditions and for the time period established by the Zoning Commission.

EE.) Exterior Lighting: All exterior lighting shall meet the lighting requirements of Article 24 of this zoning resolution, unless a variation from these standards is specifically approved as part of the final development plan.

Response: A divergence is requested to accommodate development signs, which will provide shielded lighting directed toward the sign in a manner that does not interfere with driver visibility on adjacent streets. Up lighting of this sign is prohibited.

FF.) Other required provisions as stated in this ordinance. The Berlin Township Zoning Commission and/or Board of Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed, landscaping, development, improvement and maintenance of common open space, and any other pertinent development characteristics.

Response: (1) Delaware County plans to build a roundabout at the intersection of Berlin Station Road and Piatt Road and extend Piatt Road to the north. When requested by the County, the Developer will dedicate right-of-way for the required improvement.

(2) In addition, clustered mailbox units (CBUs) shall be located in at least two locations in the community so that all residents are not required to go to a single location to retrieve their mail. One of the CBUs shall be located in the central open space within the subdivision. Parallel parking for those using the CBU at this location shall be provided along but outside of the public street right-of-way adjacent to this open space. **This parallel parking area shall be maintained by the HOA.** Parking for any other CBU may be provided near the CBU at the end of a cul de sac that abuts open space or on a street that is single-loaded (i.e., driveways are located on only one side of the street).

(3) The applicant commits to the following deadlines for completing installation of each of the improvements specified below:

Fountains and Inlets/Outlets: For each pond within the subdivision, the fountain contained therein and the stone facing for inlets and outlets serving that pond shall be completely installed no later than the date is 6 calendar months of final acceptance of the pond and related infrastructure improvements by the Delaware County Engineer.

Leisure paths/Multi-use paths: Within each phase of development of the subdivision, leisure multi-use paths shall be completely installed no later than the first anniversary of 9 months from the date when all streets within that phase have been paved. **The developer shall be responsible for installing and constructing a handicap-accessible ramp where the multi-use path meets the new roundabout intersection to the southwest of the subdivision, if Delaware County does not install it as part of its improvement to that intersection.**

Tot Lot/Playground: The tot lot/playground within the central open space within the subdivision shall be completely installed no later than the first anniversary of the date when all streets within the first phase of development within the subdivision have been paved.

Cluster Mailbox Units: Each cluster mailbox unit (CBU) shall be completely installed no later than the date of the recording of the first deed conveying a lot/home within the subdivision to a third party which is served by that CBU.

(4) HOA: The applicant will create a forced and funded homeowners' association to govern this subdivision and to maintain areas of common interest to homeowners, including but not limited to open spaces and improvements located therein. The applicant shall be required to turn over control of the homeowners' association to the property owners within the

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subdivision on or before the first date when at least 85% of homers/lots within the subdivision have been conveyed to third parties by and through the recording of deeds with the Office of the Recorder of Delaware County, Ohio.

(5) Mounding: Where mounds are utilized, they shall have a slope that is no greater than 3:1.

RESOLUTION 20-09-15 MOTION TO ACCEPT AND MARK AS EXHIBIT #17 WITH THE CHANGES MADE

Motion: O'Brien
Second: D'Amico
Vote: Bullard yes, O'Brien yes and D'Amico yes

RESOLUTION 20-09-16 MOTION TO ACCEPT ALL EXHIBITS #1-17 BE ENTERED INTO THE RECORD WITH THE LATTER EXHIBITS TAKING PRECEDENCE

Motion: O'Brien
Second: D'Amico
Vote: O'Brien yes, D'Amico yes and Bullard yes

RESOLUTION 20-09-17 MOTION TO APPROVE BERLIN FARMS BZC #20-001

Motion: Bullard
Second: O'Brien
Vote: O'Brien yes, D'Amico yes and Bullard yes

Fiscal Officer Items-

August Bank Statement & Electronic Payments- The August bank statement and electronic payments balanced.

Official Certificate of Estimated Resources & Tax Rates 2021-

RESOLUTION 20-09-18 APPROVE 2021 OFFICIAL CERTIFICATE OF ESTIMATED RESOURCES AND ACCEPT 2021 TAX RATES AS APPROVED BY THE DELAWARE COUNTY BUDGET COMMISSION-INSIDE MILLAGE @2.10 AND OUTSIDE MILLAGE @5.93 FIRE LEVY

Motion: O'Brien
Second: D'Amico
Vote: D'Amico yes, Bullard yes and O'Brien yes

Smith stated that trustees need to address the response from Mike Shade about the Sunbury annexation resolution that they did.

RESOLUTION 20-09-19 MOTION TO AUTHORIZE TRUSTEE BULLARD TO WRITE A RESPONSE TO MIKE SHADE'S LETTER TO THE COMMISSIONERS AND REBUTE IT

Motion: O'Brien
Second: D'Amico
Vote: D'Amico yes, Bullard yes and O'Brien yes

Recess at 8:28 P.M. Returned at 8:32 P.M.

Cemetery- O'Brien stated that the part of Fairview Cemetery that belongs to Berlin Township will be turned over very soon. D'Amico stated that he would talk with Pony Landscaping about the mowing of Fairview. Bullard stated that a sexton would need to be hired to take care of the cemetery.

RESOLUTION 20-09-20 MOTION TO AUTHORIZE TRUSTEE D'AMICO TO MAKE DECISIONS REGARDING THE OPERATION OF FAIRVIEW CEMETERY AS HE SEES FIT UNTIL NOVEMBER 9TH, 2020

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Motion: Bullard
Second: O'Brien
Vote: Bullard yes, O'Brien yes and D'Amico yes

**Fire Department-
Step Increase for FF Lainge & Swanson-**

RESOLUTION 20-09-21 APPROVE UPON THE RECOMMENDATION OF CHIEF HALL TO PROMOTE FF TIM CARR TO STEP 5 AT THE RATE OF \$20.30 AN HOUR EFFECTIVE SEPTEMBER 6TH, 2020

Motion: O'Brien
Second: Bullard
Vote: Bullard yes, O'Brien yes and D'Amico yes

RESOLUTION 20-09-22 APPROVE UPON THE RECOMMENDATION OF CHIEF HALL TO PROMOTE FF MALACHI SWANSON TO STEP 2 AT THE RATE OF \$18.05 AN HOUR EFFECTIVE SEPTEMBER 6TH, 2020

Motion: O'Brien
Second: Bullard
Vote: O'Brien yes, D'Amico yes and Bullard yes

RESOLUTION 20-09-23 APPROVE UPON THE RECOMMENDATION OF CHIEF HALL TO PROMOTE FF CLINTON LAINGE FROM PROBATIONARY TO FULL-TIME AT THE RATE OF \$16.25 AN HOUR EFFECTIVE SEPTEMBER 6TH, 2020

Motion: O'Brien
Second: Bullard
Vote: O'Brien yes, D'Amico yes and Bullard yes

Reimbursement for Lost Glasses- Pichert stated that Chief Hall lost his glasses during a call they had on North 3 B's and K. Bullard stated it is his recommendation that the cost be reimbursed as it is a piece of equipment that was damaged/lost during a work call.

RESOLUTION 20-09-24 APPROVE THE REIMBURSEMENT OF \$484 TO CHIEF HALL FOR DAMAGE OF HIS GLASSES DURING A WORK INCIDENT

Motion: Bullard
Second: O'Brien
Vote: D'Amico yes, Bullard yes and O'Brien yes

Resignation of Ryan Kirby- Pichert explained due to Covid-19, that firefighter Kirby Ward has had issues finding child care.

RESOLUTION 20-09-25 MOTION TO ACCEPT FF RYAN KIRBY RESIGNATION EFFECTIVE AUGUST 10TH, 2020 WITH REGRET

Motion: O'Brien
Second: Bullard
Vote: D'Amico yes, O'Brien yes and Bullard yes

Trick or Treat- Pichert explained that he feels that trick or treat will be left up to the municipalities based upon the governor's recommendation. The trustees decided to wait until we get closer to the date and then follow the government's recommendation.

Fire Pay- O'Brien stated that they do not have the data yet.

**Road Department-
2021 Posted Roads-** Bullard suggested that no roads be posted.

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Curve Road Ditch Enclosure- Bullard stated that there is drainage issue at Roloson and Curve Rd. and that the homeowner is willing to pay to have it fixed by putting in a ditch enclosure.

**RESOLUTION MOTION TO GET DELAWARE COUNTY TO SUPERVISE THE
20-09-26 THE DITCH ENCLOSURE**

Motion: O'Brien
Second: Bullard
Vote: Bullard yes, O'Brien yes and D'Amico yes

**RESOLUTION MOTION TO AUTHORIZE \$800 TO GLEN EXCAVATING FOR
20-09-27 THE DITCH CLEANING**

Motion: O'Brien
Second: Bullard
Vote: O'Brien yes, D'Amico yes and Bullard yes

**RESOLUTION MOTION TO ALLOW TRUSTEE BULLARD TO AUTHORIZE
20-09-28 DELAWARE COUNTY TO SUPERVISE THE DITCH ENCLOSURES
ALONG TOWNSHIP ROADS**

Motion: Bullard
Second: O'Brien
Vote: O'Brien yes, D'Amico yes and Bullard yes

Bullard stated that there is a potential hire for the road department and he would like authorization to hire him.

**RESOLUTION MOTION TO AUTHORIZE TRUSTEE BULLARD TO EXTEND AN
20-09-29 OFFER TO HIRE A POTENTIAL ROAD DEPARTMENT FULL-TIME
EMPLOYEE CONTIGENT UPON INTERVIEW**

Motion: Bullard
Second: O'Brien
Vote: O'Brien yes, D'Amico yes and Bullard yes

Trustee Items-

Township Points of Interest- Bullard stated that the county engineer, Chris Matlock, has a drone and they would like to take some pictures with it and produce a county film that talks about points of interest within the county. O'Brien stated that he would not refer anything and let them do the work on what they would like to explore.

Custodian Hiring-

**RESOLUTION APPROVE THE RECOMMENDATION OF TRUSTEE D'AMICO TO
20-09-30 HIRE DIANE BROWN FOR CUSTODIAL HELP AT \$15.27 AN HOUR
AS THE RATE OF PAY WITH A 6-MONTH PROBATIONARY
PERIOD**

Motion: D'Amico
Second: O'Brien
Vote: D'Amico yes, Bullard yes and O'Brien yes

Zoning Department-

August Zoning Report- There are 13 home permits for the month of August. The YTD total is 78.

BZA Alternate Hiring-

**RESOLUTION MOTION TO HIRE QUINN MACHAN AS A BZA ALTERNATE
20-09-31 EFFECTIVE ONCE ALL PAPERWORK IS TURNED IN, THROUGH
MARCH 1ST, 2020**

Motion: D'Amico
Second: O'Brien
Vote: D'Amico yes, Bullard yes and O'Brien yes

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Public Comment- Meghan Raehl discussed a few points of interests. One being the left hand turn lane at Lackey Old State and Rt. 36/37 and the possibility of it becoming a traffic light. Another being a request to the trustees to further examine issues related to the zoning in Berlin Farms particularly with the current zoning chair needing further training. Also, a proposal for a trails and recreation committee. Lastly, a request for a planned trash pick up day on September 27th, 2020.

Bullard stated that along with a possible committee being formed, they would have to figure out how it would be funded. O'Brien stated that he does have concerns with the liability of it and does not want the township to be liable for them in any way.

Future Meetings-

09/16/20 Special Meeting

09/17/20 Special Meeting

09/28/20 Trustee Meeting

Late Items- Smith stated that Taylor has now been with the township for a year and feels she should get a raise. The trustees stated that since Taylor is her employee, she may use what was appropriated in the organizational meeting to do so.

Adjourn-

RESOLUTION

MOTION TO ADJOURN

20-09-32

Motion: O'Brien

Second: D'Amico

Vote: Bullard yes, O'Brien yes and D'Amico yes

Meeting adjourned by Chairman D'Amico at 7:56 P.M.

Tom D'Amico, Trustee

ATTEST:

Ron Bullard, Trustee

Theresa Taylor, Assistant Fiscal Officer

Ken O'Brien, Trustee