

BERLIN TOWNSHIP ZONING COMMISSION (BZC)

OF DELAWARE COUNTY, OHIO 43015

REGULAR MEETING

TUESDAY, JANUARY 12, 2021 7:00 PM

This meeting was held virtually.

CALL TO ORDER

The meeting was called to order by Chairperson Steve Flaherty at 7:00 PM.

Mr. Flaherty led meeting attendees in the pledge of allegiance.

BZC members present: Chairperson Steve Flaherty, Darcy Kaplan, Mike Bardash, Martin Johnson, Christina Littleton (BZC 1st alternate, seated).

Not Present: Vice-Chairperson Jerry Valentine.

Also present: Zoning Inspector David Loveless, Zoning Secretary Cathy Rippel, Zoning Clerk Lisa Knapp, BZC 2nd alternate Angela Brown.

Mr. Flaherty reviewed the adopted policy of the BZC, and noted that public comments are limited to three minutes per person. He reviewed the procedures for this hearing.

AGENDA ITEM: VERIFICATION OF MEETING ADVERTISEMENT

Ms. Knapp verified that this meeting was advertised in the 12/30/20 Delaware Gazette as follows:

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

BZC 08-004, filed by Molly R. Gwin, Esq., Two Miranova Place, Suite 700, Columbus, OH 43215. The applicant is requesting to modify an existing Planned Industrial District expansion of existing car dealership, Parcel #418-330-01-070-000, 5342 Columbus Pike, Lewis Center, OH 43035 zoned Planned Industrial District (PID), ±5.636 acres, known as Celebration Kia.

BZC 21-001, filed by Molly R. Gwin, Esq., Two Miranova Place, Suite 700, Columbus, OH 43215. The applicant is requesting a rezone, Parcel #418-330-01-067-000, +4.073 acres from Farm Residential District (FR-1) to Planned Industrial District (FR-1) to Planned Industrial District (PID) 5308 Columbus Pike, Lewis Center, OH to expand the parking lot for Celebration Kia.

*BERLIN TOWNSHIP ZONING COMMISSION
Steve Flaherty, Chairman*

AGENDA ITEM: APPROVAL OF MINUTES

Mr. Flaherty made a motion to approve the minutes from the 12/15/20 BZC meeting with the changes submitted by BZC members. Mr. Bardash seconded the motion.

Vote: Flaherty, yes; Bardash, yes; Johnson, abstain; Kaplan, yes; Littleton, yes.

Motion carried, minutes were approved.

AGENDA ITEM: BZC #08-004 CELEBRATION KIA

BZC 08-004, filed by Molly R. Gwin, Esq., Two Miranova Place, Suite 700, Columbus, OH 43215. The applicant is requesting to modify an existing Planned Industrial District expansion of existing car dealership, Parcel #418-330-01-070-000, 5342 Columbus Pike, Lewis Center, OH 43035 zoned Planned Industrial District (PID), ±5.636 acres, known as Celebration Kia.

Mr. Flaherty said this was filed as two separate cases due to the way the land was done, but it is one large project, which will be explained by the applicant.

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55 Molly Gwinn, attorney for the applicant, presented the application and answered
56 questions from the BZC. Also present were Alyssa Lowery, director of operations for
57 Architectural Alliance, and Matt Stypula with EMH&T.

58
59 Ms. Gwin displayed a rendering of the site that is proposed for a major modification,
60 which is the Byer's Realty property which currently includes a building with an existing
61 car dealership. The proposal this evening is to expand that existing use to add an
62 additional service writeup area, a new car delivery center, additional service stalls near
63 the rear of the building, and an enhanced car wash. Also proposed is an extension of the
64 showroom to the north of the site and a reconfiguration of some of the existing parking.
65 There will be a change to the building footprint but it will still comply with the required
66 lot coverages for a PID in this section and it is just under the 75% lot coverage mandate.

67
68 Ms. Gwin said the exterior finishes are noted in the text and will be updated with
69 aluminum composite panel and split-faced masonry block, and all of the brand signage
70 will be displayed in color for this area.

71
72 Ms. Gwin said the rezoning piece is also before the BZC this evening. She pointed out
73 the parcel on the screen and said that is expansion of an existing parking lot that is
74 currently not zoned. The total number of parking spaces will be about 500 between the
75 two sites. There will be 272 spaces on the Byers site, and 228 spaces on the Celebration
76 Real Estate area. The applicant is also proposing an additional curb cut to the north of the
77 site to allow for additional access to the site. Both plans comply with the requirements of
78 the zoning code including the design standards regarding lighting, stormwater and
79 drainage. The applicant has been in contact with ODOT regarding the need for a traffic
80 study, and it has been determined that warrants in this area regarding the new counts
81 likely do not require a traffic study for the inclusion of the curb cut.

82
83 BZC Consideration

84
85 Mr. Flaherty asked what the total square footage being added was. Mr. Stypula said it
86 was 11,400 SF and the existing building is about 16,770 SF. The total square footage
87 will be just over 28,000 SF. Mr. Flaherty asked whether that was still compliant with the
88 percentage of use. Ms. Gwin said that was correct and it is just under the 75% maximum
89 lot coverage for a PID for this parcel only. Because the two parcels together are really a
90 full site and it will all be under common ownership, and perhaps the rezoning parcel
91 could also be considered, but it does meet the coverage even just considering the Byers
92 piece.

93
94 Mr. Flaherty asked if the applicant wanted to highlight the aesthetics and materials of the
95 plan. Ms. Lowery said that all of the signage will comply with Kia brand manufacturer
96 guidelines, and she displayed the look of the improved signage. There will be a wall sign
97 as well as a monument sign with red colors.

98
99 Mr. Flaherty asked whether the signage would be illuminated. Ms. Lowery said all
100 lighting complies with the zoning resolution and the applicant has committed to that in
101 the text, and it includes a photometric exhibit in the white binder, Tab 13. Mr. Flaherty
102 noted that it is all downlighting.

103
104 Mr. Johnson noticed that the DCRPC had asked about the divergence for off-street
105 parking and he asked whether that request had been removed. Ms. Gwin said it will be
106 removed and it is not necessary.

107
108 Mr. Johnson asked whether there was a specific intent or plan for the 6.66 acres on the
109 west side of the property as shown in Tab 7, subarea 3. He understands that area is
110 outside the subject plan. Ms. Gwin said that is the stormwater exhibit and is intended to
111 show the path for drainage and water retention. There is no change in the drainage plan
112 required for the site based on the building of the Byers parcel or the expansion of the

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113 impervious surface for the parking lot. There will be mounding per the landscaping plan
114 that will separate the area between the applications and that large tract.
115
116 Mr. Stypula said a storm sewer will be installed through the site and that will convey the
117 offsite drainage through the site. There will be a mound but it will not be blocked, and
118 the calculations will be submitted with the engineering package to the county. Mr.
119 Johnson asked whether water would be discharged into the retention area as well as to the
120 storm sewer along Route 23.
121
122 Mr. Stypula said the stormwater coming from that subarea offsite will be bypassed
123 through this site to Route 23, and this site will go to one of the two detentions on the site
124 and then discharge out to drainage along Route 23.
125
126 Mr. Johnson said regarding the additional curb cut, the trustees and DCRPC had
127 discussed and right-in/right-out and he asked whether there would be a turn lane added in
128 at Route 23. There had been concern about trucks making stops and turning out of the
129 property, but ODOT has stated there is no need for a traffic study. Mr. Stypula said he
130 has done a traffic analysis and has been coordinating with ODOT. His counts would not
131 warrant a turn lane until 2031. He said that is based upon a single curb cut, pending
132 ODOT'S decision on the second curb cut. He will continue to coordinate with ODOT.
133 Mr. Stypula said primarily the traffic will be regular vehicles with some large trucks and
134 delivery.
135
136 Mr. Johnson asked how many deliveries there would be per week. Mr. Stypula said he
137 did not think it would be more than a couple a week. Mr. Johnson said he was surprised
138 a study would not be required given the speed and volume of traffic in that area. Mr.
139 Stypula said this is a medium volume which requires that the analysis be done. ODOT is
140 logjammed on the permits and so the applicant is trying to get ahead of anything that may
141 be required. Ms. Gwin said the applicant is fully committed to complying with all ODOT
142 mandates.
143
144 Mr. Johnson said a letter was received today from the fire department regarding access
145 and space around the extension of the building, and he wanted to make sure that would be
146 addressed. Ms. Gwin said it is the applicant's intention to provide the fire department
147 with a full packet of all of their design plans for their review and approval. The
148 correspondence stated that the land plan was acceptable but they needed to see the
149 building drawing, and those will be provided early next week.
150
151 Mr. Johnson said the divergence regarding the plantings along Route 23 allowed for more
152 sporadic spacing. He said as long as the number is maintained, he is fine to allow
153 additional gaps for viewing of inventory. He asked whether the intent of the parallel
154 parking spaces along Route 23 was to provide advertisements along the driveway. There
155 was a mention of adding language to address keeping the vehicles outside of the right-of-
156 way. He asked whether it was the applicant's intent to use that area to advertise.
157
158 Ms. Gwin said there is no intention to park cars in the right-of-way or to violate the
159 parking setbacks. Page 9 of Exhibit 5 in the white binder addresses the frontage, parking
160 and retention setbacks. She could add additional language to provide an assurance that
161 cars will not be parked in the right of way.
162
163 Ms. Kaplan asked whether a left hand turn into the property was currently permitted. Mr.
164 Stypula said it is not. Ms. Kaplan said there appears to not be a median at the new curb
165 cut. Mr. Stypula said there is a grass median that turns into concrete up until the
166 intersection at Grief Parkway. If ODOT does allow that curb cut, it would be a right-
167 in/right-out only.
168
169 Ms. Littleton had a question about the 9.5' signage. Ms. Gwin displayed it. Ms. Littleton
170 said it appeared as though there is a continuous row of shrubs on the west side. Ms.

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171 Gwin said the landscaping plan shows that shrubbery and mounding provided along the
172 east side of the property. Ms. Littleton said on the front, the shrubs are moved towards
173 the trees to cluster instead of along the parking spaces. Ms. Gwin said the divergence is
174 to allow for as much flexibility as possible with respect to how the plantings are laid out.
175 The number of plantings will still comply with the amount of frontage required, but the
176 spacing may be slightly irregular in order to allow visibility of the product.

177
178 Ms. Littleton asked whether any of the perimeter parking space would be used for
179 customers, or just for merchandise. Ms. Gwin was not sure but she thought her client
180 would most likely want to allow as much as possible for product placement in those
181 areas. There will be significant expansion of the customer services on the expanded
182 building so she anticipated some parking being located around the building for customers
183 services but also scattered throughout the site.

184
185 Ms. Littleton said she thinks the continuous row of shrubs is to protect from the
186 headlights and she asked whether that could be worked out, if those areas are used for
187 customer cars, so they block the headlights from the road or adjacent properties. Ms.
188 Gwin said she understood that for safety but that this is a bit of a different use as this is an
189 industrial, quasi-commercial use and the visibility of the site is what is attractive to the
190 owner, given the location and the ability for potential purchasers to see the cars. There is
191 less desire to screen the property. The safety concerns that may normally exist are
192 somewhat mitigated because the cars that will be visible with the staggered landscaping
193 won't be moving.

194
195 Ms. Gwin said the owner is currently operating as a lessee out of this space so it is a
196 continuous owner scenario. Mr. Stypula said there are about 500 spaces, but just 100 are
197 required per the zoning resolution. The majority of the parking will be inventory, and the
198 owner will want the parking of the merchandize along 23 as those are prime display
199 areas. Customers will park closer to the building.

200
201 Ms. Littleton said regarding the parcels to the south, the trustees were concerned about
202 the 18-wheelers getting in and out of the property. If the second curb cut is approved,
203 that should solve that problem, and if the rezoning for the expansion of the parking lot is
204 approved because they will be able to loop around the extra parking area. Since the BZC
205 is voting on this application first, it may be important to add that condition.

206
207 Mr. Stypula said that even if the second curb cut is not granted, they can still go around
208 the site if the Celebration parcel is approved. Ms. Gwin said the applications are
209 intended to track together, and they are utilizing this site with a commercial use with the
210 18-wheelers coming in today. The plan improves site accessibility all round. Mr.
211 Flaherty noted that traffic is not a part of zoning. Ms. Littleton said the trustees had been
212 concerned about 18-wheelers parking on Route 23, but if they are accessing the site now,
213 it is probably fine.

214
215 Mr. Johnson said it does make sense that the plan makes the most sense if they are
216 approved together, although they cannot be consolidated into a single parcel due to the
217 differences in zoning. When a motion is made, there should be some kind of constraint if
218 possible to make sure they are contingent upon each other's approval.

219
220 Mr. Flaherty said the second case could be heard and both approvals could be done at the
221 same time.

222
223 Mr. Bardash said this is an existing dealership with 18-wheelers coming in off Route 23
224 for years. The addition to the building, with the possible exception of some concerns on
225 the southeast corner that the fire department is concerned about, meets the township's
226 criteria without any stipulations. It may not be possible to tie this application into the
227 other one because they are not doing anything that doesn't meet the township's
228 guidelines already.

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229 Mr. Bardash said that regarding the headlights, this is a car dealership and other than a
230 few months out of the year, it is not even dark when they are open. The cars along Route
231 23 will be parked for customers to look at and their lights will not be on.

232

233 Mr. Bardash said he did not think it was improper to request that the plantings be
234 changed a bit because this location was selected for their visibility, and as long as the
235 numbers stay the same, he does not have a problem with the request.

236

237 Mr. Bardash said to clarify the right-of-way issue, he believes they have put cars in the
238 right-of-way and that needs to end regardless of what happens here. Maybe by allowing
239 the plantings to be clustered they will not have to do that. Mr. Flaherty said there have
240 been issues in the past for the cars begin parking in the green space and that is one reason
241 for this request as well as the growth of the area. He believes that was a prior tenant and
242 operator. Ms. Gwin said that is her understanding, and she did not believe the vast
243 majority of the violations regarding parking the green space were on this site. The cars
244 will not park in the green space and will comply with the zoning resolution.

245

246 Ms. Brown said everything she had concerns about was already asked. Her biggest
247 concern was the traffic lane and ODOT will be doing that study. The site is currently
248 functioning with the 18 wheelers.

249

250 Mr. Flaherty noted that this business is currently located there and this is an expansion of
251 that use. He asked whether the applicant wanted to vote now or to table for 20 minutes to
252 hear the other application. Ms. Gwin said she understood the point regarding the
253 procedural posture but she believed this is an existing PID and it is a different procedure
254 under the code for the major modification; there are vested development rights with the
255 site and this is a modification of that, whereas the other site is not zoned, and so she
256 requested a vote on this first application.

257

RESOLUTION 2021.01.12#A: APPROVE BZC 08-004 MAJOR MODIFICATION

258 Mr. Flaherty made a motion to approve BZC 08-004 as a major modification to an
259 existing PID plan, with the expansion to the building and the noted divergence to the east
260 to allow for trees and shrubs to be planted at one per every 50 linear feet and shrubs at
261 one per every 10 feet to provide visibility of the cars being sold. The total number of trees
262 & shrubs planted will meet the regulations but the spacing will be permitted to vary. The
263 plant list will remain the same. Mr. Johnson seconded the motion

264

265 Vote: Flaherty, yes; Johnson, yes; Kaplan, yes; Bardash, yes; Littleton, yes.
266 Motion was carried.

267

AGENDA ITEM: BZC 21-001 CELEBRATION KIA

268 *BZC 21-001, filed by Molly R. Gwin, Esq., Two Miranova Place, Suite 700, Columbus,*
269 *OH 43215. The applicant is requesting a rezone, Parcel #418-330-01-067-000, +4.073*
270 *acres from Farm Residential District (FR-1) to Planned Industrial District (FR-1) to*
271 *Planned Industrial District (PID) 5308 Columbus Pike, Lewis Center, OH to expand the*
272 *parking lot for Celebration Kia.*

273

274 Ms. Gwin said this is intended for inventory storage on the site. The operator is
275 expanding and they need more storage. There are a total of 500 parking spaces, 272 on
276 the Byers piece, and 228 spaces on the Celebration piece. The phasing plan for the
277 project this referenced in the zoning application; it is the applicant's intent that, as soon
278 as the permits are approved, to begin with the construction of the parking lot surface. As
279 noted this site includes and additional curb cut to allow for greater site circulation.

280

281 Ms. Gwin said this is a rezoning but the requested divergences are largely the same; it is
282 the landscaping divergence to allow for greater visibility of the product that is sold for the

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283 site. These two application are intended to track together and there is not intended
284 change to the drainage plan for the site.

285

286 Mr. Flaherty asked whether there would be a sign near the additional curb cut. Ms. Gwin
287 said that was correct. Mr. Flaherty said the lighting plan is the same and no structure will
288 connect across the parcels so there is separation between the parcels, and there is a full
289 retention pond. A curb cut has been requested of ODOT. The requested changes will
290 enhance the flow of the lot and it will help with some of the safely concerns of the
291 building expansions to allow better traffic flow for hte 18 wheelers and the customers.

292

293 Mr. Bardash said that everything has been addressed per the last application and he had
294 no further questions.

295

296 Ms. Littleton said she had no questions regarding the plans, but since this is changing to
297 planned industrial and she anticipates many more in the future, she wanted to know
298 whether the application identifies the NAICS codes. Ms. Gwin said the text of the
299 application in the black binder, permitted uses under 21.02 of the code, page 1 of exhibit
300 5 lists the permitted uses and are taken directly from the PID code. A few that were not
301 applicable were excluded. This is intended to permit arguably all of these uses, subject to
302 final development plan approval in the event that the user changes at any point. That list
303 does include a car dealership.

304

305 Ms. Littleton said this list includes most of the uses that the township permits. Ms. Gwin
306 said yes and that about 5 were not included in the list. Ms. Littleton said these uses won't
307 all be used by Celebration Kia. Ms. Gwin said that was correct, and that the specified use
308 is set forth in this application. She has taken the position that for a planned district, it is
309 the plans as well as the zoning text. While this particular zoning classification permits a
310 very broad variety of uses, any user who intended to change that would have to request
311 approval from the township, including final development plan approval.

312

313 Ms. Littleton said page 1 of Tab 5, 21.02 1) Permitted Uses is the automobile dealership,
314 and she asked whether that was the client identifying that use. Ms. Gwin said that was
315 correct, and that there would also be an accompanying parking lot as is incidental and as
316 is necessary to the expansion of the existing use, so it includes the parking lot.

317 Mr. Flaherty said the BZC has more recently narrowed down the list of uses for
318 applications to exclude those that will not be utilized. This one is grandfathered in as it is
319 an existing use.

320

321 Ms. Brown asked whether a trade-in transaction would fall under the new and used cars
322 use, as they are separated out. Mr. Flaherty said that both are identified under the
323 permitted uses and there are two separate NAICS codes.

324

325

Public Comment

326

327 There were no comments from the public.

328

329 Ms. Gwin requested approval of the application and that it be expedited the the trustees as
330 soon as possible under the zoning resolution.

331

RESOLUTION 2021.01.12#B: APPROVE BZC 21-001

332 Mr. Flaherty made a motion to approve BZC 21-001 for a rezoning plan from Farm
333 Residential District to Planned Industrial District, with the divergence as requested in the
334 text. Mr. Bardash seconded the motion.

335 Vote: Flaherty, yes; Bardash, yes; Kaplan, yes; Littleton, yes; Johnson, yes.

336

Motion carried.

337

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338 Mr. Flaherty said the recommendation would be sent to the trustees for their further
339 consideration. He said the applicant has stated they will be sending a packet for the
340 building expansion to the fire department for their plan review and approval.

341

342

Other Business

343

344 Mr. Flaherty asked Mr. Loveless to remind everybody of the feather flag regulations. Mr.
345 Loveless noted that the township does not allow feather flags with advertisements at all.
346 Celebration Kia has been better at adhering to the zoning resolution so far than when
347 Byers ran the place. The new landscaping outside should cure that problem.

348

349 Mr. Flaherty noted that the next BZC meeting will be held virtually on Tuesday 1/26/21
350 at 7:00 PM.

351

352 Ms. Rippel said as of right now, there is nothing on the agenda, and typically the meeting
353 would be canceled. However, she would like to have tonight's meeting minutes
354 approved so they can be passed along to the trustees. She asked whether the BZC would
355 like to invite Tony Eyerman of Evans Farm update them regarding that development.
356 Because of the final development on phase 4, he is not required to appear.

357

358 Mr. Flaherty said that Mr. Eyerman was here recently, and the BZC received an update
359 from him not only about that final development plan but also the overall Evans Farm
360 plan. He noted that Mr. Eyerman stated that he welcomed the opportunity to come back
361 and update the BZC, but Mr. Flaherty said he would like to push that opportunity down
362 the road so they can get further along in the plan.

363

364 Mr. Flaherty said much has been accomplished recently and there will be many things
365 evolving in the township over the next several years. He said the next meeting could be
366 used as a townhall-type of meeting. He would like the BZC to be proactive and set goals
367 in order to keep up with development. Some of the ambiguity that has been found in the
368 zoning resolution could be resolved. The BZC could discuss feedback they have received
369 from residents and where they would like to be. Residents could provide input on that as
370 well.

371

372 Mr. Johnson said the process was started two years ago, including the revisiting of the
373 layouts of the Comprehensive Land Use Plan (CLUP). Then the large commercial/light
374 industrial cloud applications came in and took a lot of time away from that process.
375 Perhaps the BZC could discuss their goals around the CLUP as well. Mr. Flaherty agreed
376 and said the items could be prioritized.

377

378 Ms. Littleton asked what the format for that meeting would be. Mr. Flaherty asked that
379 the BZC bring items to the meeting for review so a list could be made and they BZC
380 could decide whether and when the items should be reviewed. A new list of objectives
381 could also be included.

382

383 Ms. Rippel noted that there may be some minor items in the zoning resolution that need
384 to be fixed. Mr. Loveless said there are some including solar farms, the farm properties
385 that are being used as a business, construction materials for buildings such as a house
386 being built out of storage containers, etc. Mr. Johnson said that electronic signs also need
387 to be addressed.

388

389 Mr. Flaherty said he would start making the list and would put it on Google Docs for
390 members to add to, rather than adding too many things at the meeting. That will allow
391 for more forethought on the items.

392

393 Ms. Rippel said that the one of the two new articles 15 and 19 for the business park was
394 passed and has now passed the referendum period, and the other one will pass the
395 referendum period on 1/14/21. She asked whether she should print out those sections and

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396 insert them into the zoning resolution. Mr. Flaherty said that seemed prudent, and he
397 suggested a separate binder be provided with those sections in them because they are so
398 extensive.

399

400 Mr. Johnson said applicants were requesting electronic signs but there is nothing in the
401 zoning resolution that addresses those. Mr. Bardash said the timing between flashing
402 screens was also an issue.

403

404 Ms. Littleton said she thought there was language for those signs in the business park text
405 and perhaps that could be referred to.

406

407 Mr. Flaherty said that some ambiguities could be corrected throughout the text and
408 reviewed by the county's prosecutor and approved relatively easily. Some suggestions
409 were made for topics for review:

410

411 -Mail kiosk covers and off-street parking. (Bardash/Littleton)

412 -Mounding sizing at the frontage of developments for consistency including the height
413 and the vegetation for all PRDs. (Brown)

414 -Resurrection the CLUP as it has been 11-12 years since last revised. (Kaplan)

415 -Trails and paths. (Flaherty)

416

417 Mr. Flaherty noted that the Marina at Alum Creek has been approved for a state-of-the-
418 art update.

419

420 There was no further business to come before the BZC.

421 Motion to adjourn. Meeting adjourned.

422

423

424

Steve Flaherty, Chairperson

425

426

427

Jerry Valentine, Vice-Chairperson

428

429

430

Darcy Kaplan, member

431

432

433

Mike Bardash, member

434

435

436

Martin Johnson, member

437

438

439

Christina Littleton, 1st alternate member

440

441

442

Angela Brown, 2nd alternate member

443

444

Attest: _____

445

Lisa F. Knapp, Berlin Township Zoning Clerk

446