

Delaware County Regional Planning Commission

109 North Sandusky Street
P.O. Box 8006, Delaware, Ohio 43015
740-833-2260 www.dcrpc.org
Scott B. Sanders, AICP Executive Director



MINUTES

Thursday, September 26, 2019 at 6:30 PM
Frank B. Willis Building, 2079 US 23 North, Conference Room,
Delaware, Ohio 43015

ADMINISTRATIVE BUSINESS

- Call to order
- Roll Call
- Approval of August 29, 2019 RPC Minutes
- Executive Committee Minutes of September 18, 2019
- Statement of Policy

CONSENT AGENDA

		Township	Lots/Acres
07-18	Fourwinds Drive North	Berlin/Berkshire	01 lot / 85.383 acres
09-19	Hemsoth CAD	Concord	02 lots / 08.68 acres
16-19	Bevelhymer, Lot 103, Div #1	Genoa	02 lots / 01.108 acres

VARIANCES

24-19.V	Heather & David Zaghlool - Liberty Twp. - Section 306.06 - CAD width requirements
25-19.V	Northstar Residential Dvlpt. LLC - Berkshire Twp. - Section 205 - Final Plat Procedure

ZONING MAP/TEXT AMENDMENTS

41-19 ZON	Metro Development LLC - Berkshire Twp. - 6.557 acres from PCD to PMUD Art. 16
43-19 ZON	Browntown Investment Group, LLC - Brown Twp. - 3.19 acres from C-2 and R-2 to PC

SUBDIVISION PROJECTS

Preliminary

		Township	Lots/Acres
06-19	Sanctuary Woods CAD (revised)	Genoa	04 lots / 07.606 acres
24-19	Zaghlool CAD	Liberty	03 lots / 14.5 acres

Preliminary/Final

25-19	Northstar, Sec. 1, Lot 644, Div. #1 + acreage	Berkshire	03 lots / 25.759 acres
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OTHER BUSINESS

- Kellen Hodak, Skyview Technologies Inc.

POLICY / EDUCATION DISCUSSION (none)

RPC STAFF AND MEMBER NEWS (none)

ADMINISTRATIVE BUSINESS

▪ **Call to Order**

Chairman Stites called the meeting to order at 6:30 p.m.

▪ **Roll Call**

Representatives: Jeff George, Susan Kuba, Fred Fowler, Gary Merrell, Barb Lewis, Steve Burke, Mike Frommer, Tom Hopper, Joe Shafer, Matt Kurz, Dave Stites, Charles Hurt, Hal Clase, Jim Hatten, Ed Snodgrass, Herb Ligocki, Josh Vidor, Bonnie Newland, Mike Dattilo, and Doug Price. *Alternates:* Helen Caraway, John Piccin, Bill Piper, and Jeff Beard. *Staff:* Scot Sanders, Jonathan Miller, Da-Wei Liou and Stephanie Matlack.

▪ **Approval of the August 29, 2019 RPC Minutes**

Mr. Clase made a motion to Approve the minutes from the August 29th meeting. Mr. Burke seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

▪ **September 18, 2019 Executive Committee Minutes**

1. **Call to order**

Chairman Stites called the meeting to order at 8:45 a.m. Present: Dave Stites, Gary Merrell, Mike Frommer and Susan Kuba. Jeff George was absent. Staff: Scott Sanders and Stephanie Matlack.

2. **Approval of Executive Committee Minutes from August 21, 2019**

Mr. Merrell made a motion to Approve the minutes from the last meeting. Mr. Frommer seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

3. **New Business**

- Financial / Activity Reports for August 2019

REGIONAL PLANNING RECEIPTS		AUGUST	YTD TOTAL
General Fees (Lot Split)	(4201)	\$3,895.00	\$11,465.00
Fees A (Site Review)	(4202)	\$600.00	\$7,500.00
Insp. Fees (Lot Line Transfer)	(4203)		\$2,300.00
Membership Fees	(4204)		\$236,547.00
Planning Surcharge (Twp. Plan. Assist.)	(4205)		\$1,394.34
Assoc. Membership	(4206)		\$0.00
General Sales	(4220)		\$1.25
Charges for Serv. A (Prel. Appl.)	(4230)	\$9,005.60	\$43,098.50
Charges for Serv. B (Final. Appl.)	(4231)	\$7,052.80	\$30,270.70
Charges for Serv. C (Ext. Fee)	(4232)		\$750.00
Charges for Serv. D (Table Fee)	(4233)		\$2,000.00
Charges for Serv. E (Appeal/Var.)	(4234)		\$3,100.00
Charges for Serv. F (Planned District Zoning)	(4235)	\$900.00	\$3,900.00

OTHER DEPT. RECEIPTS			
Health Dept. Fees	(4242)		\$12,270.00
Soil & Water Fees	(4243)	\$775.00	\$7,370.00
Commissioner’s fees	(4244)		\$0.00
MISCELLANEOUS REVENUE			
Other Reimbursements	(4720)		
Other Reimbursements A			\$176.46
Other Misc. Revenue (GIS maps)	(4730)		\$0.00
Misc. Non-Revenue Receipts	(4733)		\$307.75
Sale of Fixed Assets	(4804)		\$0.00
TOTAL RECEIPTS		\$22,228.40	\$362,451.00

Balance after receipts	\$1,042,535.17
Expenditures	<u>- \$ 51,418.58</u>
End of August balance (carry forward)	\$ 991,116.59

Mrs. Kuba made a motion to Approve the Financial report as presented, subject to Audit. Mr. Frommer seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

- September Site Reviews

	Township	Lots/Acres
1.) Fairfield Inn & Suites by Marriott	Berkshire	01 lot / 02.601 acres

- September RPC Preliminary Agenda
 - 1.) CONSENT AGENDA

	Township	Lots/Acres
• Fourwinds Drive North	Berlin/Berkshire	01 lot / 85.383 acres
• Hemsoth CAD	Concord	02 lots / 08.68 acres
• Bevelhymer, Lot 103, Div. #1	Genoa	02 lots / 01.108 acres
 - 2.) VARIANCES
 - Heather & David Zaghlool - Liberty Twp. - Sec. 306.06 - CAD width requirement
 - Northstar Residential Dvlpt. LLC - Berkshire Twp. - Sec. 205 - Final Plat Procedure
 - 3.) ZONING MAP/TEXT AMENDMENTS
 - Metro Development LLC - Berkshire Twp. - 6.557 acres from PCD to PMUD Art. 16
 - Browntown Investment Group, LLC - Brown Twp. - 3.19 acres from C-2 and R-2 to PC
 - 4.) SUBDIVISION PROJECTS

	Township	Lots/Acres
<u>Preliminary</u>		
• Sanctuary Woods CAD (revised)	Genoa	04 lots / 07.606 acres
• Zaghlool CAD	Liberty	03 lots / 14.50 acres
<u>Preliminary/Final</u>		
• Northstar, Section 1, Lot 644, Div. #1 = acreage	Berkshire	03 lots / 25.759 acres

- Director’s Report
 - 1.) Berlin Township zoning overlays – attended public meeting to gather input, part of the presentation team. Since that time, worked on additional maps for next meeting tonight (9/18) as well as text changes;
 - 2.) 2020 Census preparation – Information posted at the Health District’s booth at the Fair. Auditor’s GIS office is working on the “new construction” update for submission to US Census;
 - 3.) Attended MORPC’s Transportation Advisory Committee meeting on 8/4;
 - 4.) Participated in a County Planning Directors meeting in Mansfield on 8/23 (Secretary), 18 attended;
 - 5.) Working on Harlem and Kingston Comprehensive Plan background chapters and maps;
 - 6.) Received approved zoning text for placement on website from Scioto, Harlem, and Orange;
 - 7.) Hosted Zoning Inspectors meeting to discuss Cluster Mailbox Units. We will prepare a memo that has some recommended elements to look for IF a developer proposes to locate these. The County Engineer’s discussion group also posted the question to its members;
 - 8.) Trakit: internal mock go-live may occur next week, actual go-live likely to be extended since some elements are still not delivered by the consultant;
 - 9.) Potential unpaid intern has been offered by OWU, senior with GIS background. He will work on some GIS projects and attend various meetings;
 - 10.) No office space activity.

4. Old Business (none)

5. Other Business (none)

6. Personnel (none)

7. Adjourn

Having no further business, Mr. Merrell made a motion to adjourn the meeting at 9:50 a.m. Mrs. Kuba seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

The next regular Executive Committee meeting will be Wednesday, October 16, 2019 at 8:45 a.m. at 109 North Sandusky Street, Delaware, Ohio, 43015.

- Statement of Policy

As is the adopted policy of the Regional Planning Commission, all applicants will be granted an opportunity to make their formal presentation. The audience will then be granted an opportunity to comment followed by questions from the Commission. This policy was adopted by the Regional Planning Commission to provide for the orderly discussion of business scheduled for consideration. The Chairperson may limit repetitive debate.

CONSENT AGENDA

07-18 Fourwinds Drive North - Berlin/Berkshire Twps. - 01 lot / 85.383 acres

Conditions

Applicant: Brookdoc II

Subdivision Type: roadway platting and lot

Location: northern extension of Fourwinds Dr.

Zoned: Berkshire: Planned Commercial and Office (PC) and Berlin: Farm Residential (FR-1)

Preliminary Approval: 02/22/18

Utilities: Del-Co Water, central sanitary sewer

School District: Olentangy

Engineer: CESO Inc.

Staff Comments

This project primarily includes the extension of Fourwinds Drive north from Sections 1 and 2 to connect with 3 B's and K Road. As identified in the two Townships' Comprehensive Plans and County planning documents, this road will become the primary route carrying traffic from 3 B's and K down to the existing signalized intersection at Fourwinds and 36/37. Then, Fourwinds will continue south through new development before realigning with 3 B's and K to the south near Sherman Road.

Fourwinds Drive North includes the right-of-way along with the adjacent open space that contains a total of three detention basins. Additional right-of-way is provided to allow for the eventual realignment of the road directly to the north.

The applicant has presented to the RPC Office a Final Plat (mylar) signed by the various County agencies, a requirement for Final approval.

Staff Recommendation

Staff recommends *Final Approval* of **Fourwinds Drive North** to the DCRPC.

Commission / Public Comments

Mr. Merrell made a motion for Final Approval of Fourwinds Drive North. Mrs. Kuba seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

09-19 Hemsoth CAD – Concord Twp. - 02 lots / 08.68 acres

Conditions

Applicant: Greg Hemsoth

Subdivision Type: Single Family Residential, Common Access Driveway

Location: North side of Bean-Oller Rd., west of S. Section Line Rd.

Zoned: Farm Residential (FR-1)

Preliminary Approval: 05/30/19

Utilities: Del-Co Water, private on-lot treatment systems
School District: Buckeye Valley
Consultant: Plan 4 Land

Staff Comments

The property, located at 4780 Bean-Oller Road, is an existing lot of 8.68 acres, and purchased by the applicant in November of 2015. The parcel is the residual of a larger parcel which was split to create the flag lot in 1988.

The plan indicates that the property will be divided into two lots, one containing the existing residence on 6.34 acres, and the other being a 2.48 acre lot for future development of a single-family residence. The second lot also contains within the 2.48 acres, 1.54 acres that will consist of the proposed Common Access Drive (CAD) and associated easement.

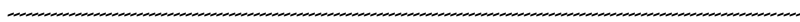
The applicant has presented to the RPC Office a Final Plat (mylar) signed by the various County agencies, a requirement for Final approval.

Staff Recommendation

Staff recommends *Final Approval* of Hemsoth CAD to the DCRPC.

Commission / Public Comments

Mr. Merrell made a motion for Final Approval of Hemsoth CAD. Mrs. Kuba seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.



16-19 Bevelhymer, Lot 103, Div. #1 – Genoa Twp. - 02 lots / 1.108 acres

Conditions

Applicant: Jordan Street Homes LLC
Subdivision Type: Replat of Lot 103 of the Bevelhymer Subdivision
Location: Southwest corner of the intersection of Maxtown Rd. and Sunbury Rd.
Zoned: Suburban Residential (SR)
Preliminary Approval: 06/27/19
Utilities: Del-Co Water, private on-lot treatment systems
School District: Westerville
Consultant: Plan 4 Land

Staff Comments

The plat shows that the property will be divided into two lots, one containing the existing residence on 0.46 acres, and the second being a 0.47 acre lot containing the proposed shared access point and cross access easement. Cross access easements for shared access points are typically not included in minimum lot area calculations.

An additional 15 feet of ROW along Sunbury Road, as well as a tangent to Maxtown Road, will be

dedicated. The site will be served with Del-co water, and utilize on-site treatment systems as wastewater lines are not currently available. The plat includes a notation which will require both lots to connect to sanitary lines when they become available.

The applicant has presented to the RPC Office a Final Plat (mylar) signed by the various County agencies, a requirement for Final approval.

Staff Recommendation

Staff recommends *Final Approval* of Bevelhymer, Lot 103, Div. #1 to the DCRPC.

Commission / Public Comments

Mr. Merrell made a motion for Final Approval of Bevelhymer, Lot 103, Div. #1. Mrs. Kuba seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

VARIANCES

24-19.V Heather & David Zaghlool – Liberty Twp. – Section 306.06 – CAD width requirements

Request

Heather and David Zaghlool are requesting a variance to allow a reduction in the required driveway width for approximately 700 feet of the Common Access Driveway.

The proposed subdivision is located on the south side of Ford Road, about 2,600 feet west of Sawmill Parkway.

Facts

- 1) The applicant seeks to create a Common Access Driveway subdivision with three lots;
- 2) The development site is 14.5 acres;
- 3) A CAD would enter the site and travel approximately 700 feet south;
- 4) The land is zoned Farm Residential (FR-1);
- 5) Del-Co Water is available to the site with an existing 3" line running along Ford Rd.

Criteria For a Variance

The burden is on the applicant to demonstrate in writing, each of the following:

- 1) The granting of this variance request shall not be detrimental to the public health, safety and welfare and not injurious to other property.

Applicant's Response: "The minimal widening of the driveway will result in no additional benefit and the drive is already going to be oversized at the pull-off/turn-around with two added pull-off areas that will satisfy circulation concerns."

- 2) The conditions upon which this variance request is based are unique to the property for which this variance is sought.

Applicant's Response: “Yes, while others may want to build new drives for common access, this driveway is already built and paved.”

- 3) Due to the physical surroundings, shape, or characteristics of the property, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the Delaware County Subdivision Regulations were carried out.

Applicant's Response: “The existing location of the drive and adjoining trees are causing the particular hardship. The owner would like to minimize work on the driveway to keep the existing appearance from Ford Road.”

- 4) The granting of this variance will not vary the provisions of the applicable zoning regulations, comprehensive plans, or other existing development guidelines and regulations, nor shall it otherwise impair the intent and purpose of these regulations, or the desirable development of the neighborhood and community.

Applicant's Response: “This proposal is otherwise entirely compliant with the standards of the Liberty Township Zoning Resolution and other applicable regulations.”

Staff comments

Staff is not in agreement with the applicant's responses to criteria 1, 2, or 3. CAD width requirements serve the public health, safety, and welfare by ensuring the safe passage of emergency vehicles, so that emergency service personnel have easy access to all lots contained within the CAD. Permitting a narrow CAD potentially would result in emergency service personnel expending extra time attempting to safely navigate the CAD, losing time with which to respond to the emergency. The geometry of the property's main access does not provide a unique circumstance necessitating a variance from the CAD width. There are no significant water courses, the soil is not deficient, and the property is not particularly narrow enough to require a variance. Additionally, there is no particular hardship. The location of the existing drive has no effect on the width requirement, and any adjoining trees that may contribute to a hardship would need to be removed through the clear zone required for CADs per Section 306.06(i) in the Delaware County Subdivision Regulations anyway (16 feet horizontally and 20 feet vertically from the centerline of the CAD), regardless of CAD width.

The applicant has also indicated a willingness to construct the driveway to “provide 12 feet in width when the drive is resurfaced after new homes are constructed.” This statement seems to contradict the justification for a variance. Staff is not opposed to supporting a variance which would delay the CAD width requirement until the completion of the proposed homes, as there is currently an existing and functional drive, and required pull-offs will still be constructed. Therefore, Staff does support the variance, provided the applicant include an item in the CAD Maintenance Agreement which stipulates the resurfacing of the drive to 12 feet after all houses are built.

Staff Recommendation

DCRPC staff recommends that based on the Findings of Fact under Criteria for a Variance above, the variance request from Sec. 306.06 for Zaghlool CAD be **Approved**.

Commission / Public Comments

Mr. Joe Clase, Plan 4 Land, was sworn in.

Mr. Burke asked how the applicant would be held accountable (to widen the driveway) after the houses are all built. Is there a way that staff would verify it has been done? Mr. Sanders explained that it would be on the developer. Once the plan is approved and RPC staff makes sure the CAD is in place then RPC is out of the picture but during final engineering the Fire Department will review the plan and even though RPC has approved a variance they (FD) may require a wider drive.

Mr. Merrell noted that if these two houses never get built then they wouldn't have to widen it, shouldn't there be a time limit? Mr. Miller stated a preliminary plan approval is two years. Mr. Sanders suggested that a time limit be added on the approval of the preliminary (not the variance).

Mr. Clase stated that the driveway has been engineered to 12 feet. The front lot is not currently being built on but the back lot will be. Since the driveway is paved, the applicant was hoping to get the homes constructed prior to improving the driveway (due to heavy trucks). Mr. Clase agreed that a note put into the CAD maintenance agreement would be an agreeable place to put the requirement. Then any of the owners could enforce the widening requirement (if it had not already been done).

Mr. Burke made a motion to Approve the Variance request for Zaghlool CAD based on the Findings of Fact and the verbal commitment from the consultant that a note would be added to the maintenance agreement that the driveway would be resurfaced to 12 feet wide after all houses are built. Mr. Price seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained (Porter Twp.). Motion carried.

25-19.V Northstar Residential Dvlpt. LLC – Berkshire Twp. – Section 205 – Final Plat Procedure

Request

Northstar Residential Development LLC is requesting a variance to allow the approval of a Final Plat to subdivide an existing, platted lot. The variance would allow the amount of detail usually required, including Preliminary Plan information to be deferred until the individual engineering of the site.

The proposed subdivision is located on the north-west side of Wilson Rd., west of N. Galena Rd.

Facts

- 1) The applicant is seeking to create three lots from an existing platted lot;
- 2) The existing platted lot is part of Northstar Section 1, recorded on 11/15/2007;
- 3) The existing lot is 162.876 acres, with additional unplatted land included in the proposed plat;
- 4) The applicant seeks to create a 226.289-acre lot, a 25.759-acre lot, and a 4.105-acre lot;
- 5) No public roads or rights-of-way are proposed;
- 6) The land is zoned Planned Commercial and Office (PC) with a Planned Mixed Use overlay;
- 7) Del-Co Water and Delaware County Sanitary Sewer are available to the site.

Summary

Staff from the Regional Planning Commission and County Engineer's office and other agencies have been in discussion regarding the process to "replat" existing platted commercial lots. In recent years, it has been noted that the existing process which includes the submission of a Preliminary Plan and then a Final Plat is challenging in a commercial setting. The initial developer of a large commercial site does not want to create buildable lots and drainage easements until an end user is identified. However, as end users are identified, they are reluctant to expend funds on large pieces of property still retained by the seller. The existing subdivision process requires that investment prior to the approval of the lot to be created.

Staff has discussed amending the Subdivision Regulations to allow a Final Plat to be proposed in draft form without a related Preliminary Plan. Agencies (including Township zoning) would review the draft plat and any identified drainage needs to allow lots to be created. After the plat is recorded and parcels are transferred, detailed engineering can proceed through the County Engineer's processes, as well as through the other plat signatories.

This "expedited" process would ONLY apply in cases where land has already been platted in non-residential areas since the Drainage Maintenance Program was established in July, 1998 and reviewed under those rules. Drainage issues identified during this process may require additional easements, if any conditions have changed since original platting. Language will be added to the plat ensuring that end users are aware that during specific development of a site, any public easements or improvements required by that development will require an amended plat of that site, signed by all plat-related agencies.

This generally describes the situation related to this application (although this site includes additional unplatted land as well). Staff encouraged the applicant to utilize a Variance to request this amended process, allowing various agencies to identify issues that may need to be resolved before proceeding with any regulation amendments. A Draft Final Plat was submitted, reviewed by agencies, discussed at Technical Review Committee, amended, and reviewed again for approval. The Commission's approval of this Final Plat will allow the Director to sign the plat, assuming it meets all the RPC requirements and as soon as all agencies (including the Township) have endorsed the plat. The plat will then proceed to the County Commissioners as with any other plat.

Criteria For a Variance

The burden is on the applicant to demonstrate in writing, each of the following:

- 1) The granting of this variance request shall not be detrimental to the public health, safety and welfare and not injurious to other property.
- 2) The conditions upon which this variance request is based are unique to the property for which this variance is sought.
- 3) Due to the physical surroundings, shape, or characteristics of the property, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the Delaware County Subdivision Regulations were carried out.
- 4) The granting of this variance will not vary the provisions of the applicable zoning regulations,

comprehensive plans, or other existing development guidelines and regulations, nor shall it otherwise impair the intent and purpose of these regulations, or the desirable development of the neighborhood and community.

Applicant's Response: "The owner, Northstar Residential Development LLC would like to amend the existing plat as attached, maintain the existing road right-of-way and easements, and creating the 3 lots as shown. We are requesting that the Regional Planning Commission approve the plat once all other departments have signed, without an additional RPC review of the plat and meeting to recommend to approval so that we can expedite the lots being created."

Staff comments: Staff concurs with this process for this case only and will consider changes to the Subdivision Regulations based on a review of the process with other agencies.

Staff Recommendation

DCRPC staff recommends that based on the Findings of Fact under Criteria for a Variance above, the variance request from Sec. 205 for Northstar Section 1, Lot 644, Division #1 be **Approved**.

Commission / Public Comments

Mr. Mike Williamson with Terrain Evolution was present.

Mr. Price made a motion to Approve the Variance for Northstar, Section 1, Lot 644, Division #1 and Additional Land based on the Findings of Fact. Mr. Vidor seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

ZONING MAP/TEXT AMENDMENTS

41-19 ZON Metro Development LLC – Berkshire Twp. – 6.557 acres from PCD to PMUD Art. 16

Request

The applicant, Metro Development LLC, is requesting a 6.557-acre rezoning from PCD to PMUD Article 16 for the development of a residential hotel.

Conditions

Location: east side of Fourwinds Dr., north of Longhorn Dr.

Present Zoning: PCD, Planned Commercial and Office

Proposed Zoning: PMUD Article 16

Present Use(s): Vacant

Proposed Use(s): Residential Hotel

School District: Olentangy Local School District

Utilities Available: Del-Co Water and central sanitary sewer

Critical Resources: none

Soils: BeA Bennington Silt Loam 0-2% slope

BeB Bennington Silt Loam 2-4% slope

Process

This is an **Administrative Review** of a Development Plan in accordance with the process of applying the 36/37 PMUD (Article 16) to a specific area. As such, the typical process of rezoning is not required. Once the Development Plan is approved in accordance with the PMUD, the standards of the underlying district, in this case Planned Commercial, will no longer apply.

Issues

The Development Plan indicates six individual buildings with a total of 144 suites. The elevations indicate that each building will have 24 units. The varying number of windows suggest suites of different sizes or bedroom number, though suite layouts are not included. The plan labels each 3-story building as “Hotel” and the overall layout includes a clubhouse building labeled as “Lobby,” a mail kiosk toward the east of the site, and several six 6-car garage buildings. Two accesses are provided to Longhorn Drive and one access to Fourwinds Drive.

Use: The Berkshire Township PMUD permits both Hotels (listed as NAICS 721110) and other residential uses, including multi-family. The code limits multi-family uses at 300 units in the Northeast Quadrant of the interchange.

The “Permitted Uses” language is as follows:

*“Permitted uses within the PMUD according to their 2012 North American Industry Classification System (NAICS) code number, **may** be permitted when approved by the Development Plan process **in strict compliance** with the approved Development Plan and standards, provided that each such use is listed as a permitted use in this Section and is specifically set forth in the Development Plan.”*

The “Prohibited Uses” section, Part A says:

*“A.) Uses not specifically approved by the Zoning Commission as part of the Development Plan.” **Staff is aware** that some Central Ohio municipalities allow the construction of projects under the term “hotel,” allowing long-term leases to the extent that the development becomes more similar to an apartment than to a hotel. The applicant’s use of the term “Residential Hotel” as well as the inclusion of garages and a mailbox kiosk confirms that intent here. As noted above, the PMUD language limits the Northwest Quadrant to 300 multi-family units. Although the PMUD definition of single-family allows for attached units, a Residential Hotel has similar impacts as a multi-family proposal. Unless the proposed use retains the functions of a Hotel, the PMUD cannot apply here since the multi-family limit has already been met with the construction of the Northlake Summit apartments.*

After an initial staff review was forwarded for the Township’s initial meeting, additional items were added to the Development Plan and text, making the application much more complete. Included is a letter from Vorys stating that the proposal will meet “all the transient residential occupancy features of a transient hotel in accordance with ... Chapter 3781 of the ORC.” The letter continues “the proposed development is clearly permitted within the category of ‘hotels’ and is allowable within the Berkshire Township ... PMUD... and specifically NAICS Code 72111.” The letter goes on to note that any ambiguity in the code must be resolved in favor of the property owner.

RPC staff merely observes that the code specifically lists 72111(0) (Hotels and Motels without casinos) as a permitted use. The NAICS listing specifically places Residential Hotels under 531110 (Lessors of Residential Buildings and Dwellings). The only Permitted uses under the two-digit 53 heading include offices for real estate agents and consumer rental companies. This use of NAICS codes does not appear to be ambiguous, even if the Zoning Resolution’s general definition of “hotel” is a broad one. Overlays provide specific uses since they are allowed without a rezoning process. It might be noted that the NAICS 72111 family of uses is a Permitted Use in the Planned Commercial district, under which this site is currently zoned.

Traffic and access: Access appears to be appropriate, but northern access from Four Winds may need to be limited to right-in/right-out. Review by the County Engineer’s office will confirm. Plan indicates existing trail along Fourwinds Drive and includes the completion of the trail where it meets Longhorn Drive. Any development of these parcels should consider a sidewalk along Longhorn as well.

Drainage: The application does not include a letter from the County Engineer’s office regarding the feasibility of stormwater management and no such management appears to be provided. Text includes language that the drainage may be managed on-site, with underground detention, or off-site. If drainage is intended for a regional pond, this should be specified and confirmed by the County Engineer’s office. Drainage has been identified as an issue on properties “upstream” from this site to the east.

Signage (existing): How does development of the site impact the apparent easement from the Waffle House parcel to the tall sign at Interstate 71? Staff doesn’t know the history of this, but does the Township allow such off-site sign through an easement or does it require ownership of the property? If the sign is a legal non-conforming sign, does improvement of the site impact that status?

Signage (new): Appears to be appropriate.

Divergences

The PMUD Article specifically allows divergences but requires a justification of each request. Staff recommends that within this and any other overlay within the Resolution, the Zoning Commission should consider such divergences if justified and approve them sparingly. **In all cases, divergences should not be granted for additional density in general, additional units where a specific number of units is limited within a given area, situations where such approval may conflict with a separate County or State regulation, or for additional lot coverage unless mitigated elsewhere.**

1. Divergence request: Reduction of the minimum rear yard setback from 25' to 10' along the northern border. The plan indicates a 6' privacy fence will be provided.

Staff Comment: The foundations of the apartments to the north appear to be 30 feet from the property line. Staff is not sure if there is a berm of any sort on the northern property and there is no detail provided for the northern elevation of the garages. Staff does not support the divergence at the degree requested. The Zoning Commission should request additional detail on the garage appearance to the north and seek a berm and the preservation of any existing vegetation.

2. Divergence request: Reduction of the minimum rear yard setback from 25' to 5' along the eastern boundary. The plan notes an intention to buffer the site with trees.

Staff Comment: This divergence is not as problematic. The commercial site to the east does not require the kind of buffering as the residential uses to the north. Staff wonders if the buffer width is adequate for trees to thrive.

Staff Recommendations

Development of a hotel use, even in multiple buildings, including “extended stay”, would be potentially permitted and a benefit to the township and county, as long as stormwater management and access are properly provided for and approved by the County Engineer’s office. However, allowing eventual conversion into apartments would appear to conflict with the multi-family limitations in the PMUD and set a negative precedent for the use of O.R.C. 519.021(C) overlays. The applicant may want to seek development of the site under the existing PCD zoning.

Required setbacks and buffering should be maintained adjacent to the residential development to the north.

The southern portion of the area includes two lots in the “Berkshire Development” plat. The northern half of the site as well as the eastern 20-foot strip is unplatted. Development of the site may require vacating a portion of the existing plat and/or creating a new, single-lot plat to clean up the boundaries and the easements.

Staff recommends consulting with the County Prosecutor’s office to resolve the issue between the Permitted use as allowed under NAICS 731110 and the proposed use as listed in NAICS 531110.

Staff report will be forwarded to Berkshire Twp.

43-19 ZON Browntown Investment Group, LLC – Brown Twp. - 3.19 acres from C-2 and R-2 to PC

Request

The applicant, Browntown Investment Group LLC, is requesting a 3.19-acre rezoning from C-2 and R-2 to PC for the development of 14 parcels in the Village of Kilbourne.

Conditions

Location: east and west side of Main St. between SR 521 and Pearl St.

Present Zoning: Neighborhood Commercial (C-2) and Low Density Residential (R-2)

Proposed Zoning: Planned Commercial and Office (PC)

Present Use(s): Residential, vacant

Proposed Use(s): traditional, walkable mixed-use neighborhood

Existing Density: 1.47 du / acre (minimum lot size = 29,600 square feet)

Proposed Density: n/a

School District: Buckeye Valley

Utilities Available: Del-Co Water and private on-lot treatment systems

Critical Resources: none

Soils: GbB Gallman Silt Loam, Loamy Substratum 2-6% slope

Introduction

This is an application for a rezoning in conjunction with a Development Plan. The applicant is proposing to rezone 3.19 acres to planned commercial to allow for the construction/renovation of several existing structures for commercial use. The 3.19 acres is located in three separate but proximate tracts. Subarea 1 consists of 12 lots at 2.235 acres and represents the bulk of the redevelopment on the east and west sides of Main Street between Pearl Street and State Route (SR) 521, subarea 2 consists of 2 lots at 0.29 acres on the southwest corner of Pearl Street and North Old State Road, and subarea 3 consists of 1 lot at 0.55 acres at the southeast corner of North Old State Road and SR 521.

Subarea 1 includes eight structures to be renovated into commercial uses including office, retail, restaurants, and short term rentals. The proposal does not include any new streets, and does include 1.23 acres of open space which is located primarily in the central area. Subareas 2 and 3 includes a total of two structures with subarea 2 identified as commercial/light industrial, and subarea 3 identified as a residential rental property.

Comprehensive Plan

Brown Township's 2019 Comprehensive Plan indicates this area would be primarily Neighborhood Commercial/Low Density Residential. The proposed plan and associated rezoning promote commercial uses. Rezoning the property to Planned Commercial will allow the applicant to set new setback regulations, and obtain other divergences which will allow the existing structures to be preserved, as they currently do not fulfill zoning code requirements. Subarea 3 is identified as low density residential, matching the proposed use in the submitted development plan.

Issues

Traffic and access: A potential issue with traffic and access in the development plan is the location of 16 parallel on-street parking spaces on Main Street and Pearl Street. The on-street spaces could provide potential safety issues, although neither Street is heavily travelled, or has an excessive speed limit. One of the divergences, listed below, would eliminate the requirement to pave these spaces by allowing permeable pavement such as reinforced lawns and gravel. Staff believes pavement should be required in these areas to prevent motorists from harming nearby cars and pedestrians.

Sanitary Treatment: The area currently is not served by sanitary lines, meaning all uses will operate using on-site treatment systems for the foreseeable future. Applicant will need to work closely with Delaware General Health District to ensure those systems are capable of handling the capacity. The proximity of Alum Creek and the associated floodplain increases the importance of proper design of the on-site system.

Divergences

Seven divergences are requested:

1. Applicant requests a divergence from Section 21.01(B) to eliminate the requirement that all common parking areas, and associated aisles and driveways be paved. The applicant is proposing the use of gravel and/or reinforced lawns for secondary and overflow parking areas.

Staff Comment: Staff is not in favor of permitting this divergence in this particular instance. Reinforced lawns and/or gravel are not desirable for primarily three reasons; 1) those surface types do not lend themselves to demarcated parking spaces and result in poor parking behavior which may block pedestrian areas, the road, or

limit the number of potential spaces, 2) both surface types are prone to significant wear and tear creating a visual nuisance and providing substantial debris to migrate onto pedestrian and vehicular pathways, and 3) gravel, in particular, in parallel parking areas is inadvisable based on the propensity for gravel being displaced and thrown during certain maneuvers.

2. Applicant requests a divergence from Section 21.01(C) to eliminate the driveway spacing requirement which prohibits driveways within 100 feet of an intersection of two public roadways. The proposed development plan exempts intersections with State Route 521 from this divergence.

Staff Comment: Staff is in support of the variance request. By excluding intersections with State Route 521, the divergence will only apply to the Pearl Street intersections with Main Street and North Old State Road. Both of these intersections have low traffic volumes speeds, predominantly consisting of local traffic serving the proposed development.

3. Applicant requests a divergence from Section 21.01(D). The proposal includes the reduction of the six-foot minimum parking setback to only the space needed to provide adequate screening and fencing. The divergence regarding the front yard setback requirements proposes to eliminate the 40% of the available frontage limit, and the elimination of the requirement that parking is restricted to the property on which the structure is located.

Staff Comment: Staff is in support of the side yard setback reduction and elimination of the requirement for parking to be located on the property where the primary structure is located. The proposed development is to be developed as a unified development utilizing a shared parking approach. This approach will help ensure adequate parking for all uses and create a cohesive area.

Staff is not in support of eliminating the 40% of frontage limit for parking for the development. The current proposal shows the subject areas of this divergence as parallel on-street parking on Main Street and Pearl Street. Main Street, however, between Pearl Street and State Route 521 is proposed to be vacated to create a more unified development. In the event this right-of-way is vacated, the 40% requirement will not apply, and in the event this right-of-way is not vacated, the parking areas are located within the right-of-way and are prohibited through the Delaware County Engineer requirements and would not be permitted even with a divergence.

4. Applicant requests a divergence from Section 21.03 to eliminate the 25-foot structure separation requirement. The applicant is proposing that the structure separation be limited to the existing distances, as the structures in the proposal are existing, to be rehabilitated.

Staff Comment: Staff is in support of this divergence. Since no new structures or major expansions are planned in this proposal, the existing structure separation is acceptable to be maintained. Furthermore, permitting the existing structure separation will help the core area of Kilbourne preserve the existing structures, a crucial aspect of maintaining the community's character.

5. Applicant requests a divergence from Section 23.03(A)(1)(A)(6) of the property perimeter table to eliminate the requirement for a 10-foot buffer consisting of 1 tree per 30 feet of frontage and a continuous 6-foot high planting, hedge, wall, fence, or earthen mound. The submitted development will "provide for landscaping adjacent to any arterial street"

Staff Comment: Staff is not in favor of providing this divergence without a more specific alternative. The submitted verbiage “provide for landscaping adjacent to any arterial street” could mean small perennial flowers along the roadway, or clustered 10-foot tall arborvitae. Staff does support providing a divergence to allow landscaping and buffering more appropriate for a redevelopment of the central space in Kilbourne, however, the landscaping and buffering should be clarified as part of the divergence.

6. Applicant requests a divergence from Section 23.03(A)(2)(A)(1) of the vehicular use area perimeter table to eliminate the requirement that all parking areas provide a 4-foot buffer in vehicular overhang areas where trees are present, and a 3-foot buffer around the remaining sides, with plantings required for visual screening where vehicular use areas face neighboring properties. Applicant has similarly cited the lack of space due to a shared parking model, but has agreed to include headlight screening.

Staff Comment: Due to the narrow lot width, and to promote a unified central area in Kilbourne, staff is in support of allowing this divergence on the condition that wheel stops are provided to prevent issues occurring from vehicular overhangs, in addition to providing headlight screening to a height of 3 feet around areas the areas where vehicles may face.

7. Applicant requests a divergence from Section 23.03(A)(8) to eliminate the requirement to include interior landscaping of parking areas over 6,000 square feet. The applicant argues the extra space is needed to comply with parking regulations while maintaining a unified development.

Staff Comment: Staff is not in favor of eliminating the requirement for interior landscaping altogether. Landscaping parts of the parking areas similarly to the development will help to create a unified development. While ample parking is important, so is providing vegetation to improve aesthetics, shade in summer, relief from wind in the winter, and avoiding an overall barren aesthetic during times when vehicles are not present.

The applicant has proposed a complete elimination of the requirement which provides for 5 square feet of landscaping per 100 square feet of parking, with no landscaped area larger than 350 square feet in size. The regulation also provides for one tree per 5,000 square feet of ground coverage. As an estimate of the current design of the eastern lot, approximately 900 square feet of landscaping would be required, with 4 trees.

Staff is more supportive of tempering this request with a reduction of parking spaces. Reducing the number of parking spaces by 3 would allow for 540 square feet of dispersed internal landscaping.

Staff Recommendations

Staff recommends **Conditional Approval** of the rezoning request by Browntown Investment Group LLC from R-2 and C-2 to PC to the DCRPC, Brown Twp. Zoning Commission and Brown Twp. Trustees, subject to:

- 1.) Approval of divergences number 2, 3, 4, 5, 6, and 7 as amended below:
 - a. Divergence number 3 is modified to keep the requirement limiting parking in the front of properties to 40% of the properties' frontage affected;
 - b. Divergence number 5 is modified to delineate the specific measures with which to assess landscaping between the structures and State Route 521/N. Old State Road;
 - c. Divergence number 6 is modified to include a provision permitting the elimination of the requirement on

- the condition that wheel stops are provided for all parking spaces, and that 3-foot high screening will be provided for headlights at the edge of all parking spaces;
- d. Divergence number 7 is modified to reduce the requirement from 5 square feet of landscaping to 3 square feet of landscaping per 100 square feet of parking, with 1 tree required for every 7,500 square feet;
 - e. An additional divergence being provided to reduce the number of required parking spaces by three to allow for additional internal landscaping in parking areas.

Commission / Public Comments

Mr. Aaron Heydinger with GHG Browntown Investments was present to answer questions from the Commission. He noted that due to the nature of Kilbourne’s layout, they wanted to try to preserve some of the current green space for storm water and aesthetics. They are willing to work with the Township and County Engineer to come up with an alternative to gravel/asphalt.

Mr. Burke stated that it appears that the applicant is converting a lot of residential over to commercial with lots of parking. Kilbourne is an old Village with no central sewer and built on soil that is very well drained. The Health District has had some complaints about sewage coming into Alum Creek. He wants the applicant to be aware that with an increase in flow if it creates a constant discharge that they have to correct, there may be some rather expensive sewage treatment plant or system that needs to be put in.

Mr. Price made a motion to recommend Conditional Approval of the rezoning by Browntown Investment Group LLC, subject to staff recommendations. Mr. Shafer seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained (Brown Twp.). Motion carried.

SUBDIVISION PROJECTS

Preliminary

06-19 Sanctuary Woods CAD (revised) – Genoa Twp. - 04 lots / 07.606 acres

Conditions

Applicant: Mark and Karen Semon
Subdivision Type: Single family, 4 lot CAD
Location: North side of Freeman Rd., west of Char-Mar Dr.
Current Land Use: Vacant
Zoned: Suburban Residential (SR) and Rural Residential (RR)
Utilities: Del-Co water and central sanitary sewer
School District: Westerville
Consultant: Plan 4 Land

Staff Comments

Sanctuary Woods is a Common Access Driveway subdivision located on the north side of Freeman Road, about 1,400 feet east of Worthington Road. The CAD subdivision is proposed on two adjacent parcels with

110' of frontage onto Freeman Road. The CAD extends approximately 700', crossing one defined drainage area before turning and providing access to the four lots. One pull-off/passing area is provided around 350 feet from the roadway, with the entire CAD ending at a T-turnaround. The lot sizes served by the CAD are 4.52 acres (with 1.08 acres in the CAD), 1.03 acres, 1.05 acres, and 1.00 acres.

Critical resources on the property include the aforementioned drainage course (and associated excessive slopes), as well as wooded areas. The wooded areas will be disturbed minimally – enough to construct a driveway and one home – and the drainage course is located so that construction of a crossing is unavoidable for any project of any size. Aside from the slopes associated with the drainage course, the property is relatively flat, changing only 5 feet in elevation between the front and back of the property.

The proposed homes will be served by Del-co water and sanitary service.

CADs are normally permitted to serve up to only three lots, with an additional two lots permitted if those lots have frontage on a public roadway and will only gain access from the CAD. This property obtained a variance to increase the number of permitted lots from 3 to 4 under application 06-19.V at the February 28, 2019 DCRPC meeting.

This entire area was rezoned by the Township in June, 2019, to Suburban Residential to resolve the previous split zoning. The plan was amended to allow the smaller lots to be similar in size.

A technical review was held on September 17, 2019, after which the applicant has addressed all of the required changes.

Staff Recommendation

Staff recommends *Preliminary Approval* of **Sanctuary Woods CAD (revised)** to the DCRPC.

Commission / Public Comments

Mr. Joe Clase with Plan 4 Land was present.

Mr. Price made a motion for Preliminary Approval of Sanctuary Woods CAD (revised). Mr. Merrell seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained. Motion carried.

24-19 Zaghlool CAD – Liberty Twp. - 03 lots / 14.5 acres

Conditions

- Applicant:** Heather and David Zaghlool
- Subdivision Type:** single family, 3-lot CAD
- Location:** South side of Ford Rd., west of Sawmill Pkwy.
- Current Land Use:** Single house, accessory building, pond
- Zoned:** Farm Residential (FR-1)
- Utilities:** Del-Co water and private on-lot treatment systems
- School District:** Olentangy

Consultant: Plan 4 Land

Staff Comments

Zaghloul CAD is a Common Access Driveway subdivision located on the south side of Ford Road, about 2,600 feet west of Sawmill Parkway. The parcel proposed for the CAD subdivision is a flag lot with 60' of frontage onto Ford Road. The CAD extends approximately 710' with one pull-off/passing area provided at about 350 feet from the roadway. The entire CAD ends at a T-turnaround. The lot sizes served by the CAD are 9.91 acres (with 1.02 acres in the CAD), 3.53 acres, and 1.05 acres.

The only critical resource on the property is a pond located to the southwest of the existing home. The pond will remain untouched by the proposed CAD subdivision. The lots proposed by the CAD subdivision will be served by Del-co water and on-site treatment systems.

The applicant has additionally applied for a variance regarding the pavement width of the CAD. Delaware County Subdivision Regulations, Section 306.06(f) dictates that CADs “shall be at least 12 feet wide.” The requested variance would reduce this width the width of the existing driveway, ranging between 10 and 12 feet. Staff supported approval of the requested variance, on the condition that an item is included in the Common Access Drive Maintenance Agreement which requires the CAD be constructed to a width of 12 feet within 30 days of the final home’s certificate of occupancy. This condition will adequately alleviate the need to replace the existing driveway twice, while ensuring that compliance with the regulation is met at the appropriate time.

A technical review was held on September 17, 2019, after which the applicant has addressed all of the required changes.

Staff Recommendation

Staff recommends *Conditional Preliminary Approval* of the **Zaghloul CAD**, subject to *Approval of the Variance request* to the DCRPC.

Commission / Public Comments

Mr. Joe Clase, Plan 4 Land was present.

Mr. Price made a motion for Conditional Preliminary Approval of the Zaghloul CAD, subject to addition of language to the CAD Maintenance agreement stating that the driveway would be resurfaced to 12 feet wide after the last house was built and that the variance would be effective for 2 years. Mrs. Kuba seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained (Porter Twp.). Motion carried.

Preliminary/Final

25-19 Northstar, Sec. 1, Lot 644, Div. #1 + acreage – Berkshire Twp. - 03 lots / 25.759 acres

Conditions

Applicant: Northstar Residential Development LLC

Subdivision Type:

Location: Northwest side of Wilson Rd., west of N. Galena Rd.

Zoned: PMUD

Utilities: Del-Co Water, central sanitary sewer

School District: Big Walnut Local Schools

Engineer: Terrain Evolution

Staff Comments

Northstar Residential Development LLC is proposing the subdivision of an existing, platted lot. The proposed subdivision is located on the northwest side of Wilson Rd., west of N. Galena Rd. The plat will include the existing 162.876 acres, with an additional 93.277 acres of unplatted land to the north. The applicant seeks to create a 226.289-acre lot, a 25.759-acre lot, and a 4.105-acre lot. No public roads or rights-of-way are proposed. Staff only recommends approval of the Final Plat if the related Variance is approved.

A technical review was held on September 17, 2019, after which the applicant has addressed all of the required changes.

The applicant has presented to the RPC Office a Draft Final Plat, a requirement for approval of this plat.

Staff Recommendation

Staff recommends *Preliminary and Final Approval of Northstar, Section 1, Lot 644, Division #1 and Additional Land* to the DCRPC, *subject to Approval of the Variance request* to the DCRPC.

Commission / Public Comments

Mr. Mike Williamson with Terrain Evolution was present to represent the applicant.

Mr. Price made a motion for Preliminary and Final Approval of Northstar, Section 1, Lot 644, Division #1 and Additional Land. Mr. Merrell seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

OTHER BUSINESS

- Mr. Kellen Hodak with Skyview Technologies Inc. spoke briefly about his company's use of drones for overhead 2D views, elevation, topo and 3d modeling.

POLICY / EDUCATION DISCUSSION (none)

RPC STAFF AND MEMBER NEWS (none)

Having no further business, Mr. Clase made a motion to adjourn the meeting at 7:25 p.m. Mrs. Kuba seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

The next meeting of the Delaware County Regional Planning Commission will be Thursday, October 24, 2019, 6:30 PM at the Hayes Services Building, 145 N. Union Street, Conf. Room 235, Delaware, Ohio 43015.

Dave Stites, Chairman

Stephanie Matlack, Executive Administrative Assistant