



Delaware County Regional Planning Commission

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Scott B. Sanders, AICP
Executive Director

MINUTES

Thursday, January 26, 2012 at 7:00 PM
Frank B. Willis Building, 2079 US 23 North, Conference Room,
Delaware, Ohio 43015

I. ADMINISTRATIVE BUSINESS

- Call to order
- Roll Call
- Approval of December 20, 2011 RPC Minutes
- Executive Committee Minutes of January 18, 2012
- Statement of Policy

II. VARIANCES

20-05.V Clear Creek Subdivision – Orange Twp. – requesting additional 1 year extension

III. ZONING MAP/TEXT AMENDMENTS

01-12 ZON B&N 2005 LLC, 303 Shanahan LLC, 371 Shanahan LLC, & NCJLT Co. LLC – Berlin Twp. – 37.1 acres PCD to PCD and 15.3 acres FR-1 to TPUD - modification of approved plan and rezoning

IV. SUBDIVISION PROJECTS

Preliminary

		Township	Lots/Acres
04-11	T Lake of the Woods No. 1, Lots 233, 234, and 244, Division #1	Genoa	03 lots / 08.136 acres

Preliminary/Final (none)

Final (none)

T=TABLED, W=WITHDRAWN

V. EXTENSIONS

20-05	Clear Creek	Orange	2 lots / 85.425 acres
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VI. OTHER BUSINESS

- Consideration for approval: Refreshments including water/cooler (\$500 annual max.)
- Consideration for approval: Legal assistance retention for 2012: Loveland & Brosius (Hourly rates: \$195 partner, \$175 senior assoc., \$150 assoc., \$90 law clerk, \$75 legal asst.)
- Consideration for approval: Liability Insurance \$7,366.00
- Discussion of plat note enforcement

VII. POLICY / EDUCATION DISCUSSION

- MORPC Presentation

VIII. RPC STAFF AND MEMBER NEWS

I. ADMINISTRATIVE BUSINESS

▪ **Call to Order**

Chairwoman Foust called the meeting to order at 7:00 p.m.

▪ **Roll Call**

Representatives: Jeff George, Susan Kuba, Ric Irvine, Fred Fowler, Steve Burke, Tiffany Jenkins, Gary Gunderman, Tom Hopper, Joe Clase, Dave Stites, Holly Foust, Tom Farahay, Bill Thurston, Lloyd Shoaf, Charlie Callender, Bill Metzler, Bonnie Newland, Mike Dattilo and Doug Price. Alternates: Ray Armstrong, Doug Riedel, and Joni Manson. Staff: Scott Sanders, Da-Wei Liou and Stephanie Matlack.

▪ **Approval of the December 20, 2011 RPC Minutes**

Mr. Shoaf made a motion to Approve the minutes from the last meeting, seconded by Mrs. Kuba. VOTE: Unanimously For, 0 Opposed. Motion carried.

▪ **January 18, 2012 Executive Committee Minutes**

1. **Call to order**

Chairwoman Foust called the meeting to order at 8:30 a.m. Present: Holly Foust, Dave Stites, Steve Burke, Ken O'Brien and Lloyd Shoaf. Staff: Scott Sanders and Stephanie Matlack.

2. **Approval of Executive Committee Minutes from December 14, 2011**

Mr. O'Brien made a motion to approve the minutes as presented. Mr. Shoaf seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

3. **New Business**

a. Financial / Activity Reports for December 2011

REGIONAL PLANNING RECEIPTS		December	YTD TOTAL
General Fees (Lot Split)	(4201)	\$205.00	\$3,075.00
Fees A (Site Review)	(4202)		\$600.00
Insp. Fees (Lot Line Transfer)	(4203)	\$200.00	\$1,800.00
Membership Fees	(4204)		\$281,623.32
Planning Surcharge (Twp. Plan. Assist.)	(4205)		\$5,796.27
Assoc. Membership	(4206)		
General Sales	(4220)		\$828.18
Charges for Serv. A (Prel. Appl.)	(4230)	\$450.00	\$12,534.90
Charges for Serv. B (Final. Appl.)	(4231)		\$12,116.10
Charges for Serv. C (Ext. Fee)	(4232)	\$300.00	\$2,250.00
Charges for Serv. D (Table Fee)	(4233)		\$400.00
Charges for Serv. E (Appeal/Var.)	(4234)	\$600.00	\$3,600.00
Charges for Serv. F (Planned District Zoning)	(4235)		\$2,100.00
OTHER DEPT. RECEIPTS			
Health Dept. Fees	(4242)		\$1,300.00
Soil & Water Fees	(4243)		\$1,150.00

MISCELLANEOUS REVENUE			
Other Reimbursements	(4720)		\$124.82
Other Reimbursements A			\$0.00
Other Misc. Revenue (GIS maps)	(4730)	\$4.00	\$603.97
Misc. Non-Revenue Receipts	(4733)		
Sale of Fixed Assets	(4804)		
TOTAL RECEIPTS		\$1,759.00	\$329,902.56

Balance after receipts	\$191,411.02
Expenditures	- \$ 26,403.64
End of December balance (carry forward)	\$165,007.38

After discussion of the financial reports, Mr. Shoaf made a motion to approve the financial reports as presented. Mr. O’Brien seconded the motion. **VOTE: Unanimously For, 0 Opposed. Motion carried.**

- b. January RPC Preliminary Agenda
 - 1.) Site Review: none for January
 - 2.) Rezoning:
 - B&N 2005 LLC, 303 Shanahan LLC, 371 Shanahan LLC, & NCJLT Co. LLC – Berlin Twp. – 37.1 acres PCD to PCD and 15.3 acres FR-1 to TPUD - modification of approved plan and rezoning
 - 3.) Variance:
 - Clear Creek – second variance request
 - 4.) Preliminary:
 - Lake of the Woods No. 1, Lots 233,234,244, Div. #1 – discussed need for private road improvement.
 - 5.) Final: None for January
 - 6.) Extension:
 - Clear Creek – received two 1-year extensions (one via variance)
- c. Director’s Report – Director’s End-of-Year (2011) Report

Financial

2011 Dues income:	\$284,172
Projected 2011 development and contract income:	\$25,000
Actual 2011 development and contract income:	\$51,325
Projected expenses:	\$276,061
Actual expenses:	\$267,035 (\$9,026 under)

Contract Work

- Completed work on Shawnee Hills Township Comprehensive Plan.
- Completed work on Kingston Zoning Code overall amendment.
- Began working with Liberty Township on a Zoning Code amendment.
- Attended two (non-contract) meetings in Harlem Township to discuss Conservation Subdivision language.

Zoning Reviews

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Zoning Cases	55	58	54	41	25	16	13	8	16
Acres Reviewed	1300	3619	1795	1302	508	100	256	96	235

Subdivision Activity

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Preliminary Non-Residential	5	8	18	32	17	19	21	1	21
Preliminary Residential	1221	1634	1602	996	110	140	43	5	12
Final Non-Residential	12	12	3	33	18	26	20	0	1
Final Residential	1622	858	928	1007	185	115	56	152	101
Total lots reviewed	2860	2512	2551	2068	330	300	140	158	135

NPA Splits and Transfers

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Transfers reviewed	69	63	89	46	35	53	21	29	18
Transfer acres	104	156	244	180	117	372	84	62	40
Splits (new lots)	54	57	65	83	33	22	9	8	11
Splits (existing)	16	20	19	21	11	8	7	1	4
Total Splits	70	77	84	104	44	30	16	9	15

Building Permits in Unincorporated Areas

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Residential Building Permits	2180	1903	1311	835	683	444	358	404	472
Commercial Building Permits				50	40	43	27	36	16

Most of the higher-growth townships saw another increase this year over last year (Berlin, Concord, Genoa, Liberty, and Orange).

Current Active Subdivisions

Alum Crossing, Cheshire Woods, Cheshire Woods Estates, Clear Creek (Commercial), Derby Glen Farms, Estates at Cheshire, Estates at Sherman Lakes, Estates of Glen Oak, Fairways at Blue Church, Glen Oak, Greyland Estates, Hidden Creek, Lake of the Woods No. 1, Loch Lomond Residence Village, Meadows at Lewis Center, Menards Creekside (Commercial) Nelson Farms, North Star, Olentangy Falls, Orange Centre Drive Extension (Commercial), Redtail Ranch, Sage Creek, Sheedy CAD, Sherwood Hills, Stirling Lakes, Summerwood Lakes, The Estates of River Run.

Other projects

ACHIEVE – This county-wide committee has enabled me to extend the reach of the Commission into an area that makes the connection between health and the built environment. Membership on the team is diverse and my sub-committee assignments include health efforts at the workplace and community facilities such as biketrails, sidewalks, and other land use decisions. I am also working to get the information on an ACHIEVE website with multiple links to resources and partner agencies.

Bikeways and Trails – combined major communities’ bikeway plans with existing facilities map, provide resources for smaller communities to tie in. Several stakeholder meetings have taken place. Provided Liberty Township with maps used for a grant proposal.

Land Use Analysis – Assembled and present county-wide data that is usually limited to township and village comprehensive plans. (Demographics, Transportation, Emergency Services, Education, Economic Development Tools).

Jurisdiction Section – Present a two-page profile of each jurisdiction with tax receipts, land use mix, land values, and comprehensive plan build out numbers. Early draft has been well-received during community visits. Updating community profiles with 2011 data in early 2012.

Hosted three Zoning Inspector roundtables, plan additional meetings for the spring.

Other involvement

Nominated for and began serving on the Delaware Convention and Visitors Bureau (Tourism Bureau),
Nominated by Preservation Parks to serve on the grant review committee for the Clean Ohio Fund,
Olentangy Balanced Growth Partnership (MORPC),
Upper Scioto Balanced Growth Partnership (MORPC),
Big Walnut Balanced Growth Partnership (MORPC),
Central Ohio Greenways,
County Planning Directors Association of Ohio (Secretary),
participated in two emergency planning drills in the Emergency Operations Center and in the alternate EOC in Orange Township,
Wellness Collaborative (DGHD),
Obesity Prevention Committee (DGHD),
United Way Community Impact Committee,
attended County Prosecutor’s Training Session,
attended State Land Use Conference (Dayton),
Economic Development group.

- d. Consideration for recommendation of Approval: Refreshments including water / cooler (\$500 annual max.)

Mr. Shoaf made a motion to recommend approval up to \$500 for refreshments including water/cooler for 2012. Mr. Burke seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

- e. Consideration for recommendation of Approval: Legal Assistance retention for 2012: Loveland & Brosius

Mr. O’Brien made a motion to recommend approval of retaining Loveland & Brosius as legal counsel for the RPC for 2012. Hourly rates are as follows: \$195 partner, \$175 senior assoc., \$150 assoc., \$90 law clerk, \$75 legal asst. Mr. Shoaf seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

- f. Consideration for recommendation of Approval: Liability Insurance for 2012 - \$7,366.00

Mrs. Matlack stated that the rates for 2012 had increased by \$413.00.

Mr. O’Brien made a motion to recommend Approval of the 2012 Liability Insurance payment of \$7,366.00 seconded by Mr. Burke. VOTE: Unanimously For, 0 Opposed. Motion carried.

4. Old Business (none)

5. Other Business

- a. Discussion of potential plat note enforcement by the RPC if legal fees spent to do so, are reimbursed by an interested individual.

The recorded River Run subdivision plat has the following note:

NOTE M – The emergency access drive to Olentangy River Road (State Route 315) shall be maintained by the Homeowners Association and shall remain in effect until such time as access is provided to Powell Road (State Route 750). The emergency access shall provide all-weather driving capabilities and remain clear and accessible by fire and emergency vehicles year round. The construction and identification of said access shall be as per Liberty Township Fire and the International Fire Code 2003, Chapter 5 and Appendix D adopted by LTFD May 2005. Once the connection to Powell Road is in place, this easement can be vacated.

Issue: Prior to the required access being provided to Powell Road, the River Run developers, Paul Cugini and Denis King, removed the emergency access drive which had connected the east end of Riverwood Lane, through lots 5009 and 5010, to Olentangy River Road. Legal advice from Don Brosius to Liberty Township is that the township has no standing to enforce plat notes such as this, but that the enforcement of such plat notes lies with the platting authority – the RPC – if they choose to pursue it (one item for consideration is the RPC's financial resources to pursue this enforcement). As an alternative, a request could be made by the RPC to the Delaware County Commissioners, asking that they seek enforcement of the plat note via the Delaware County Prosecutor's office.

The Committee agreed that plat notes should be enforced by the RPC. The Committee recommended that the applicant build the emergency access as platted or submit a revised subdivision application.

Mr. O'Brien made a motion to recommend that Mr. Sanders consult with Loveland and Brosius regarding the procedures to enforce a plat requirement. Mr. Burke seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

6. Personnel

- a. Annual reviews – Mr. Sanders explained that he had completed the annual staff evaluations and has recommended a 2% salary increase for Mr. Da- Wei Liou and Mrs. Stephanie Matlack as provided for in the 2012 Budget.

Mr. Burke made a motion to support Mr. Sanders recommendation. Mr. Shoaf seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained (Mr. O'Brien). Motion carried.

- b. Director evaluation – Chairwoman Foust stated that she has received comments from the Executive Committee members regarding Mr. Sanders evaluation. She would present those combined comments at the next Executive Committee meeting for recommendation to the Commission at the February 23rd meeting.

7. Adjourn

Having no further business, Mr. Burke made a motion to adjourn the meeting at 10:40 a.m.

Mr. O'Brien seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

The next regular Executive Committee meeting will be Wednesday, February 15, 2012 at 8:30 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 speak, at which time the chair will allow questions from the members of 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.

II. VARIANCES

20-05.V Clear Creek Subdivision – Orange Twp. – requesting additional 1 year extension

I. Request

The Portland Company, c/o Brad Block is requesting a variance to allow a 12-month extension beyond the time limit allowed in the Subdivision Regulations for the Clear Creek subdivision in Orange Township.

The proposed subdivision is located on the west side of U.S. 23 at the intersection with Home Road. It is a commercial subdivision that would include retail uses along U.S. 23, office uses to the west and condominiums adjacent to the existing condominiums to the south. The subdivision includes the future relocation of Home Road and the extension of Gooding Boulevard to an intersection with Home Road.

II. Facts

1. The Subdivision Regulations require that a final plat application for the initial phase of a subdivision be submitted within 2 years of the approval of the Preliminary Plan;
2. The Regulations allow for an approved Preliminary Plan to request extensions up to a total of one year;
3. Clear Creek received a revised Preliminary approval on December 20, 2007, and received a one-year extension on December 17, 2009 along with an additional 1-year extension by variance January 27, 2011 to expire January 27, 2012;
4. The applicant seeks a second one-year extension by variance.
5. Orange Township has extended the Planned Commercial Development Plan through June 30, 2013.

III. 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: *"We are asking for an extension due to current market conditions as the developer continues to diligently search for users for this development. The granting of this variance should not be detrimental to the public health, safety and welfare nor injurious to other parties. The granting of this variance is sought due to extremely difficult economic conditions and because of the fact that no matter the effort spent to market and sell this property, users and buyers have been scarce for the owners. This property has been discussed among several potential buyers, but none have yet come to fruition. At this time, no changes are anticipated to the approved development. We are just requesting more time to allow this development to occur. Adhering to the strict letter of the current regulations would require time and money for re-submittals of unchanged documents due to the economic times. This variance would not vary the provision of applicable zoning regulations or other guidelines nor impair the intent of the regulations. For these reasons, we respectfully request the variance and extension request be granted."*

Staff comments: *Comments are reasonable since commercial buyers are typically reluctant to invest in unimproved commercial sites. There have been no improvements made to the site and no changes based on surrounding development. Orange Township has extended the zoning on the Commercial and the Multi-Family portions of this site until June 30, 2013.*

IV. Staff Recommendation

DCRPC staff recommends that based on market and economic conditions, the variance request from Sec. 102.03 & 204.04 for **Clear Creek** be *Approved*.

Commission / Public Comments

Mr. Jim Schmidt representing Home High LLC was present. He explained that a new marketing team has been hired for this project. The applicant has also had meetings with the Township Trustees, Zoning Commission, County Economic Development staff along with the Township Economic Development Committee to find the most appropriate use for this site. They believe the recent approval of the Menards project will stimulate additional activity.

Mr. Gunderman made motion to Approve the variance request for Clear Creek, seconded by Mr. Price. VOTE: Unanimously For, 0 Opposed. Motion carried.

III. ZONING MAP/TEXT AMENDMENTS

01-12 ZON B&N 2005 LLC, 303 Shanahan LLC, 371 Shanahan LLC, & NCJLT Co. LLC – Berlin Twp.
 – 37.1 acres PCD Development Plan Modification and 15.3 acres FR-1 to TPUD - rezoning

I. Introduction

The applicants B&N 2005 LLC et al, are requesting a modification of approved plan for 37.1 acres zoned PCD and rezoning of 15.3 acres from FR-1 to TPUD. The amendment and rezoning will allow the development of retail commercial along U.S. 23 with an age-restricted condominium-style development to the east known as “The Greenery” with access to Shanahan Road.

II. Conditions

Present Zoning: Farm Residential District (FR-1) and Planned Commercial and Office District (PCD)

Proposed Zoning: Planned Commercial and Office District (PCD) and Transitional Planned Unit Development (TPUD)

Present Use: Single-family residences, agriculture and woods

Proposed Use: Commercial lots, multi-family buildings and clubhouse

Existing Density: 1 unit per acre

Proposed Density: 6 units per net developable acre

School District: Olentangy Local School District

Utilities Available: Del-Co Water, Delaware County Sanitary Sewer

Soils: BoA: Blount silt loam, 0 to 2% slopes

GwB: Glynwood silt loam, 2 to 6% slopes

GwC2: Glynwood silt loam, 6 to 12% slopes, eroded

LsA: Lobdell substratum complex, 0 to 2% slopes, occasionally flooded

LyD2: Lybrand silt loam, 12 to 18% slopes, eroded

III. Project Description

In 2005, the Regional Planning Commission reviewed a plan for 37 acres of Planned Commercial and Office. At the time, the PCD regulations allowed residential uses, particularly multi-family. The proposal showed 80 condominium units on 27 acres and 5 commercial lots on 8.8 acres.

Since approval, Berlin Township has made several changes to its Zoning Resolution, including the removal of residential uses from its Planned Commercial and Office designation and the creation of a new district, called Transitional Planned Unit Development. This “TPUD” specifically uses the word “Transitional” because it is intended to be a residential transition between commercial uses and single-family residential uses.

The current application shows an amended development on the 37.1 acre parcel to the north. This plan seeks an additional 6.7 acres of commercial and a redesign of the multi-family layout with 18 buildings. It also adds 15.3 acres to the south, providing access to Shanahan Road. This land includes 11 buildings, each with four units, as well as the clubhouse and pool.

	2005 Rezoning		2012 Application		
	Acres	Lots/Units	Acres	Lots/Units	Density
PCD Commercial	9 acres	5	15.5 gross	6	n/a
PCD Residential	28 acres	80 units	21.6 gross 12.8 net	72 units	3.33 gross 5.63 net
TPUD Residential	n/a	n/a	15.3 gross	44 units	2.88 gross

			10.45 net		4.21 net
Total Residential			36.9 acres 23.25 net	116 units	3.14 gross 4.99 net

The development plan indicates a single intersection with U.S. 23 that will be limited to right-in/right-out access with a northbound deceleration lane, as required by the Ohio Department of Transportation (ODOT). A parallel access road is depicted about 450’ east of U.S. 23. Since the original zoning review, subsequent meetings between Berlin Township, DCRPC, ODOT, and area landowners resulted in slight changes to the commercial road network, providing access to adjacent land at logical locations to the north and the south. These changes are adequately represented on the new development plan.

The condominiums in the previous plan took access from the commercial area with a secondary emergency access also from the west. In the revised plan, the residential units take access only from Shanahan Road with the application referencing a potential emergency access to the commercial land at some point in the future. Another emergency access is proposed to align with a small cul-de-sac within the development to the north.

A one hundred and fifty (150) foot wide electric easement crosses this site from east to west and will be used primarily as open space. Del-co has recently buried a new water supply line located within and along the northern part of this easement.

The applicant will be required to submit a final development plan prior to issuance of any building permits for this site.

The surrounding uses include a manufactured home park to the north, vacant agricultural field and woods to the east, and Shanahan Road and single-family road frontage lots to the south. A self-storage business and a furniture showroom are located to the west across U.S. 23.

IV. Issues

Process: This application is a modification of an approved development plan with additional acreage rezoned into a new district. The purpose of this, as compared to a new development plan, is to maintain the approved density on the 27 acres to the north, rather than the applicant asking for a divergence to density on the overall development. However, as noted in the table and the application, a divergence is being requested to change the approved 5 units per acre to 6 units per net developable acre (technically 5.6 NDA). A divergence is also being requested on the TPUD acreage, with 4.21 units per net developable acre being requested where the zoning code allows a maximum of 4 NDA. Additionally, there are four buildings which cross the boundary between the two zoning designations. This is a technical issue, but suggests that the entire residential portion of this development would be much “cleaner” if it was a single TPUD designation with a single-development plan, with the PCD zoning being reduced to the 15.5 acres of commercial retail lots.

Location: Regarding whether this is an appropriate location for this use, the Comprehensive Plan recognizes the existing zoning of PCD on the 37-acre site to the north and does not designate that 27 acres of it is residential. The plan also shows that the 15.3 acres being requested for TPUD zoning is recommended for use at the current density, or 1 unit per acre with sewer. This was designated based on an effort to maintain the residential character of Shanahan Road, limiting future commercial and industrial uses to an area east of an extension of Greif Parkway and north of existing residential uses on Shanahan Road. Based on existing limitations on Shanahan Road and Greif Parkway’s eastern extension as a better access to undeveloped land along the railroad, Shanahan is not anticipated for major traffic and was therefore limited to residential uses on the Comprehensive Plan. Thus, the residential nature of the proposal is warranted.

It should also be noted that this amendment expands the commercial retail portion of the site approximately 250 feet, or 6.7 acres of additional commercial land. This is also appropriate as it allows the parallel backage road to service commercial lots on both the east and west sides of the backage road. No detail is provided for that area, however.

Access/Circulation: As noted in the introduction, access to U.S. 23 has not changed from the previously-approved plan. It is also critical that the backage road eventually extends along the edge of the land to the north to connect with the existing signalized intersection at Greif Parkway. This will depend largely on the residential lot to the north developing and/or the manufactured home development to the north redeveloping. This amendment, however, removes the full access that previously was shown, which connected the residential units to the backage road.

This new plan shows primary access to Shanahan Road with a reference to a future connection to the west at some future date with the approval of the zoning inspector. This access needs to be a commitment now, built with the first phase of improvements. This would likely be gated, which is acceptable, but needs to be a viable access at the time the development is built. This connection is also important for pedestrian connectivity, since the residential community is not otherwise related to any surrounding use.

Density: Age-restricted developments will continue to be a growing issue in the county, as demographics change and individuals desire to “age in place.” That has already been the experience in several locations where age-restricted and assisted-living facilities have been proposed. Unfortunately, the density numbers that have been regularly used in Comprehensive Plans and zoning reviews have depended on statistics for traffic, utility use and student generation based on single-family residential developments.

For example, the average single-family unit generates approximately 10 trip ends per day while “detached senior housing” generates approx. 3.71 trip ends per day (*source: Institute of Transportation Engineers*). For sewage use, an institutional residential unit can use a fourth of the average single-family residence (*source: EPA*). Delaware County calculates one-bedroom facilities at 60% per unit versus that of a single-family home.

While these numbers cannot be consistent in every case, it is fair to consider higher densities for age-restricted uses than those identified on the typical Comprehensive Plan. If a senior-housing-related application can 1.) truly be limited through zoning or deed to be age-restricted, 2.) take employees into account for traffic purposes, 3.) justify that the use fits the location, and 4.) meet all other design standards, it can be appropriate to grant a higher density than the one noted on the Comprehensive Plan. This is only acceptable if such density number was originally based on the impacts of single-family residential uses.

V. Divergences

PCD Divergences – the following divergences are requested specifically for the PCD amendment:

Divergence Request: The applicant is requesting a divergence to the building and pavement setbacks for the commercial lots along the access road. The request would reduce the building setbacks from 100 feet to 60 feet and the pavement setbacks from 60 feet to 36 feet.

Staff Comment: This is the same divergence requested during the 2005 rezoning case. Yet, additional retail acreage has been added to the east. Staff did not previously support this divergence request because the proposed access road needed to be relocated to the east. Part of that road has been moved, and a segment of it was moved to the other side of the frontage lots. The application indicates no reason why this is needed, and with the additional acreage in the retail portion of the site, staff does not recommend this

divergence.

Divergence Request: Density for the amended portion of the site is requested to go from the previously-approved 5 units per net developable acre to 6.

Staff Comment: If presented as a single rezoning, the overall density would be closer to 5 units per net developable acre. Again, based on impacts it is reasonable to give this use a higher density. However, the development plan indicates architectural plans for one-bedroom units as well as two-bedroom units without projecting how many of each type of unit is being proposed. These details need to be provided before a meaningful projection of “density” can be made.

TPUD Divergences – the following divergences are requested specifically for the TPUD rezoning:

Divergence Request: Two 32 square-foot monument signs are being requested where the code allows a single 32 square-foot sign. From the layout, these appear to be located on either side of the entrance as part of an entry landscaping feature. This is a reasonable request, as these will not be two-sided signs. There is also language that references a rental sign at Shanahan Road as well, which will be a two-sided sign at 16 square feet per side.

Staff Comment: Given the limited amount of frontage and the entry feature divergence request, it might be possible to utilize one of the entry feature signs as a temporary rental sign until such time as the development is substantially complete. Since the request is that these be rental units, it seems there would need to be some sort of permanent language regarding these as rental units anyway. More detail should be provided. Also, if an additional access is provided to the residential units from the retail uses, a divergence for an additional small sign at that intersection should be granted.

Divergence Request: Density for the amended portion of the site is requested to go from the previously-approved 4 units per net developable acre to 5.

Staff Comment: As noted above, if presented as a single rezoning, the overall density would be closer to 5 units per net developable acre. Again, based on impacts it is reasonable to give this use a higher density. However, the development plan indicates architectural plans for one-bedroom units as well as two-bedroom units without projecting how many of each type of unit is being proposed. These details need to be provided before a meaningful projection of “density” can be made.

PCD and TPUD Divergences – The following divergences are requested for both the PCD amendment and the TPUD rezoning.

Divergence Request: A divergence is requested to add vinyl siding to the list of approved exterior materials. Such siding “would be of the highest quality and would be presented to the Planning Commission and/or Township Trustees for approval...”

Staff Comment: This is a reasonable request, given the variety of products on the market that utilize vinyl to provide the look of natural materials. However, more information needs to be provided now or at the Final Development Plan application that commits the applicant to such material. Care should be taken not to put cheaper materials on the surfaces that will face neighboring properties as is sometimes experienced.

Divergence Request: The zoning code limits the rental units in any complex to 20% of the total number and the applicant is requesting a divergence to allow a total rental community, or 100% rentals.

Staff Comment: As this is a new type of product for the county, staff doesn't have experience with whether this is a reasonable request or not. The age-restricted nature of the development is a positive (if all units can be limited to senior housing), but owner-occupied uses are generally better maintained over the long term. On the other hand, it is difficult for a township to zone "for ownership" or enforce ownership over time. Staff recommends the township seek legal counsel on this question before committing to this issue. Also, there is a note that states the roads will be owned by a homeowners association. If all the units are rentals, this road would be owned by the developer/owner or management company.

VI. Other issues

1. Easement: Del-co recently buried a waterline within the powerline easement. The design appears to place a private road servicing the residential units along that easement

Staff Comment: Staff does not have digital information to overlay the road design on the easement, but care should be taken and reviewed with Del-co before paving above a buried waterline.

2. Phasing: There is a reference to phases but no detail given as to the time-frame or where such phasing lines might be.
3. Utilities: The Delaware County Sanitary Engineer's office has indicated that this development will utilize the Perry Taggart sewer line.

Staff Comment: The applicant should be aware that he will be responsible for the cost of extending sewer to this site if he desires to develop the proposed plan before the service is available.

4. Plat Required: A subdivision plat will be required within 3 years after zoning approval or the development plan will expire.

Staff Comment: RPC will review a subdivision plat for this development indicating lots and the proposed public access road, including the entrance from U.S. 23.

5. Drainage: Drainage is a significant concern for all of the lands along the east side of U.S. 23 from Peachblow Road on the north to Shanahan Road on the south. There is a very large drainage area that flows through the manufactured home park and then through this property to its natural outlet through a large culvert pipe under U.S. 23. The development to the north causes drainage problems on the Sherman property to the east. The enclosed (and undersized) drainage at the manufactured home park will have to be reconstructed to permit the necessary flows to release.

Staff Comment: The drainage design for this property should take into consideration that larger flows are expected when the drainage problem is remedied to the north.

A significant portion of Big Run, a perennial stream in the Olentangy Watershed, flows through this site. As such, the OEPA has a permitting process in place that impacts activity within designated distances from streams within the watershed. This may have a significant impact on the additional retail property just west of the residential area. The RPC is working on a manual which will help guide development impacted by the regulations. Mitigation of impacts may be required and it should be noted that both Preservation Parks and the Soil and Water Conservation District have mitigation programs.

6. The Planned Commercial and Office amendment adds acreage to the retail/commercial portion of the

site. This is noted in the introductory paragraph “to be revisited at a later date to update the added acreage.”

Staff Comment: If the development plan is being amended or modified now, this information should be included. At minimum, setbacks and any square footage limitations should be established with similar standards to the outlots as approved.

7. The previous design was oriented away from existing homes with access from the backage road to the west. This design changes that orientation providing a single access point to Shanahan Road.

Staff Comment: The units closest to Shanahan appear to crowd the road and are buffered from surrounding single-family uses by only a narrow landscaping buffer. With either a reduction in the number of units and/or some adjustments in layout, the buildings closest to Shanahan can be pushed away from the road while allowing a more effective buffer along the property lines. Staff also notes no sidewalks or walking paths through the development. These should be integrated as part of the design.

VII. Criteria for Approval

The Zoning Commission and Trustees may approve a Planned Commercial and Office Development modification and a Transitional PUD zoning map amendment provided they find that the proposed development complies with all of the following requirements:

1. That the proposed development is consistent in all aspects with the intent, and general standards of this zoning resolution.
2. That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
3. That the proposed development advances the health, safety and morals of the township and the immediate vicinity.
4. That the proposed development is in keeping with the existing land use character and physical development potential of the area.
5. That the proposed development will be compatible in appearance with the remainder of the district; and
6. That the minimum open space as required herein has been provided.

Staff comment: Generally, if the conditions noted below can be worked out between the developer and the township, then these criteria can generally be met.

VIII. DCRPC Staff Recommendation

Staff recommends **Conditional Approval** of the application by B&N 2005 LLC et al, of 37.1 acres PCD Development Plan Modification and 15.3 acres rezoning FR-1 to TPUD to the DCRPC, Berlin Twp. Zoning Commission and Berlin Twp. Trustees, *subject to:*

1. *Commitment to a second access from the backage road in the retail portion of the site to the residential portion on the original 37.1 acres;*
2. *Requiring more detail in the number of bedrooms per unit and determining those impacts when determining whether a divergence to the density is warranted;*
3. *Staff does not recommend the divergence of setbacks in the commercial portion of the site;*
4. *The applicant should provide more detail in the description of signage – possibly using one of the signs for the temporary rental sign;*
5. *Recommend approval of the request to use vinyl siding after presenting the Zoning Commission with samples and determining where such details shall be used;*

6. *The township should seek legal counsel on the question of 100% rental units. Staff notes that ownership usually results in better maintenance;*
7. *Consider changing the layout at the entrance and distribute units away from Shanahan and existing single-family developments and include pedestrian facilities throughout the development;*
8. *See other staff comments under Item VI. above, particularly with regard to drainage and streams.*

Commission / Public Comments

Attorneys Mr. Mike Shade and Mr. Jack Reynolds were present along with Mr. Tom Warner, Advance Civil Design and Mr. Carter Bean, architect to represent the applicant.

Mr. Shade stated that the owners of this property have committed to extend sewer to this property, to be known as the Hyatts Road Sewer. This 18” trunk would service approximately 960 acres primarily in Liberty and Berlin Townships along with some in Orange Township. There would be a deed in place to restrict this housing development to 55 years of age and older. This proposal tried to preserve the waterways by limiting the number of stream crossings and providing a buffer to the north. They felt the entrance was suited better from Shanahan Road for seniors than onto US 23. The units would be a mix of 1 bedroom/1 car garage and 2 bedrooms/2 car garage single-story plans ranging from 870 s.f. to 1200 s.f.

Mr. Reynolds explained that he had been involved in the 2005 original application and now the condo units are being reconfigured to elderly housing due to the economy. He stated that they would work with the Township with regards to fire access through the commercial site once construction had begun but that it was too expensive right now. They will continue to work on the gate specifics with the Township and the engineers.

Mr. Farahay asked if there were any plans on upgrading the Shanahan Rd./US 23 intersection. Mr. Reynolds said they had submitted a traffic study that showed a low trip generation that would not warrant an upgrade but that a left turn lane would be installed from Shanahan into the site. The applicant is also in talks with contributing to a fund to help with US 23 and Shanahan Rd. when the need arises.

Chairwoman Foust asked if any of the ponds were existing. Mr. Shade said that they were all new for storm water and aesthetic ponds. Mr. Reynolds said that they had received Preliminary storm water approval from the County Engineer’s office.

Chairwoman Foust questioned the emergency access. She expressed her dislike of emergency fire accesses and single entrance and exits to a site. Mr. Reynolds explained that there would be an emergency entrance from the mobile home property from the north. This has been reviewed with the Fire Chief. Discussion is continuing on the type of gate to be used. He said that there may be a connection to the commercial site such as a walkway but that there were no specifics yet. This would be worked out with the Township.

Mr. Shoaf questioned the parking area. Mr. Shade explained that each unit would have parking in their garage and outside in their driveway along with on-street parking on one side of the street. This was approved by the Fire Department.

Chairwoman Foust asked how wide the streets would be. Mr. Reynolds stated 24’ paved street with parking on one side.

Mr. Gunderman asked how fast this project would be built. Mr. Reynolds stated that it would be built all at once, possibly within 3 years. Mr. Gunderman felt that access should be worked out ahead of time and he strongly urged a northern connection.

Chairwoman Foust asked if the applicant was willing to work on staff comment #7 with regards to pedestrian connection. Mr. Reynolds said that they are willing to work with the Township as to what type of connection they would like to see. Ms. Foust also asked if this was a curb and gutter development. She was concerned with center street drainage. Mr. Warner explained that they are still working on those details of the type of curb but that there would not be drains in the center of the streets. They would work with the County Engineer and Fire Chief on their recommendation.

Although Mr. Reidel explained that the County Engineer's office would not require the private streets to be built to public standards, Chairwoman Foust encouraged the Township to require the applicant to do so.

Mr. Burke asked if sewer service from this development would be made accessible to the trailer park to the north. Mrs. Jenkins stated that the construction plan from Perry Taggart to this development has already been approved. Mr. Shade said a Permit to Install has been formally issued from the EPA.

Mr. Gunderman made a motion to recommend Conditional Approval of the application by B&N 2005 LLC et al, of 37.1 acres PCD Development Plan Modification and 15.3 acres rezoning FR-1 to TPUD, subject to staff recommendations. Mr. Irvine seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained (Mr. Armstrong). Motion carried.

IV. SUBDIVISION PROJECTS

Preliminary

04-11 T Lake of the Woods No. 1, Lots 233, 234 and 244, Division #1- Genoa Twp. - 03 lots / 08.136 acres

I. Conditions

Applicant: Jane Abell and Edward T. McClellan, Esq.

Engineer: Robert Watts

Previous tabling: 9/29/11 - 12/22/11, 12/22/11 – 1/26/12

II. Staff Comments

The applicant has requested a 60-day tabling to respond to issues regarding the existing private road.

III. Staff Recommendation

Staff recommends *Approval* of a *60-day tabling request* for **Lake of the Woods No. 1, Lots 233, 234 and 244, Division #1** to the DCRPC.

Commission / Public Comments

Mr. Shoaf made a motion to Approve the 60-day table request for Lake of the Woods No. 1, Lots 233, 234 and 244, Division #1. Mr. Gunderman seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

Preliminary/Final (*none*)

CONSENT AGENDA

Final (*none*)

V. EXTENSIONS

20-05 Clear Creek – Orange Twp. - 2 lots / 85.425 acres

Applicant: Portland Company LLC – Brad Block
Engineer: Floyd Browne Group
Preliminary approval: 12/20/07
Extensions granted: 12/17/09 to 12/17/10, 1/27/11 to 1/27/12

I. Staff Comments

The applicant is requesting a 12-month extension of the **Clear Creek Subdivision** due to current economic conditions.

II. Staff Recommendation

Staff recommends *Approval* of a 12-month extension for the **Clear Creek Subdivision** to the RPC, *subject to a Variance being granted.*

Commission / Public Comments

Mr. Gunderman made a motion to Approve the 12-month extension for Clear Creek Subdivision, seconded by Mr. Price. VOTE: Unanimously For, 0 Opposed. Motion carried.

VI. OTHER BUSINESS

- Consideration for approval: Refreshments including water/cooler (\$500 annual max.)

Mr. Shoaf made a motion to approve the purchase of refreshments including water/cooler up to \$500.00, seconded by Mr. Gunderman. VOTE: Unanimously For, 0 Opposed. Motion carried.

- Consideration for approval: Legal assistance retention for 2012: Loveland & Brosius (Hourly rates: \$195 partner, \$175 senior assoc., \$150 assoc., \$90 law clerk, \$75 legal asst.)

Mr. Shoaf made a motion to approve the retention of Loveland & Brosius for legal counsel for 2012, seconded by Mr. Gunderman. VOTE: Unanimously For, 0 Opposed. Motion carried.

- Consideration for approval: Liability Insurance, Rinehart, Walters, Danner, \$7,366.00.

Mr. Gunderman made a motion to approve payment for liability insurance of \$7,366.00 to Rinehart Walters and Danner, seconded by Mr. Price. VOTE: Unanimously For, 0 Opposed. Motion carried.

- Discussion of plat note enforcement -
Summary of River Run Issue - As noted in the Executive Committee minutes within this report, it has been brought to the attention of the Regional Planning Commission that there is an issue with the emergency access at the River Run Subdivision. The access, which was required by the Liberty Township Fire Department in a letter dated July 27, 2006, has been removed and a home built on part of the easement. The Executive Committee directed staff to consult with our Legal Counsel regarding any enforcement steps we might take. Mr. Brosius recommended that Mr. Sanders contact the County Administrator to gauge the interest of the County Commissioners in pursuing such action. Mr. Hansley is currently doing that and the RPC will continue to be interested in assuring that agreements made at the time of platting are maintained and enforced in the future.

Mr. Irvine made a motion to Approve asking the County Commissioners to seek enforcement of the Subdivision Regulations. Mr. George seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

VII. POLICY / EDUCATION DISCUSSION

- Nancy Reger, Deputy Director, Transportation, Mid-Ohio Regional Planning Commission - Presentation of the 2012 Metropolitan Transportation Plan (see attached)

Ms. Reger stated that they are nearing the end of the 4 years of work and are accepting comments through the end of April 2012.

Items for comments are:

1. Draft project list and evaluation information
2. Draft strategies
3. Bikeway priorities

www.tinyurl.com/morpcMTP

VIII. RPC STAFF AND MEMBER NEWS

- Three member Nominating Committee for Executive Committee member election will take place at the February RPC meeting for March meeting vote.

Having no further business, Mr. Shoaf made a motion to adjourn the meeting at 8:35 p.m. Mr. Price seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

***The next meeting of the Delaware County Regional Planning Commission will be Thursday,
February 23, 2012, 7:00 PM at the
Delaware County Commissioners Conference Room,
101 N. Sandusky Street,
Delaware, Ohio 43015.***

Holly Foust, Chairperson

Stephanie Matlack, Executive Administrative Assistant