



Delaware County Regional Planning Commission

109 North Sandusky Street
P.O. Box 8006, Delaware, Ohio 43015
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www.dcrpc.org

Scott B. Sanders, AICP
Executive Director

MINUTES

Thursday, May 27, 2010 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 April 22, 2010 RPC Minutes
- Special Executive Committee Minutes of May 3, 2010
- Executive Committee Minutes of May 19, 2010
- Statement of Policy

II. VARIANCES

03-06.1-4.V Meadows at Lewis Center, Sections 1-4 – Orange Twp.- requesting additional Preliminary Plan extension (Sec. 204.04)

III. ZONING MAP/TEXT AMENDMENTS

08-10 ZON Village at Bale Kenyon LLC – Orange Twp. – MFPRD to MFPRD

09-10 ZON Harlem Twp. Zoning Commission – text amendments (Art.'s X,XI,XV,XVIII and proposed XX)

10-10 ZON Orange Twp. Zoning Commission – Comprehensive Plan update review

IV. SUBDIVISION PROJECTS

Township

Lots/Acres

Preliminary (none)

Preliminary/Final (none)

Final (none)

T=TABLED, W=WITHDRAWN

V. EXTENSIONS

15-02.4.B Estate of Glen Oak, section 4, Phase B

Orange

30 lots / 09.48 acres

03-06.1-4 Meadows at Lewis Center, Sections 1-4

Orange

135 lots / 75.87 acres

VI. OTHER BUSINESS

VII. POLICY / EDUCATION DISCUSSION

- Nancy Reger, MORPC – Regional Plan presentation

VIII. RPC STAFF AND MEMBER NEWS

- Recognized Mr. Dale Simpkins service
- Recognized Mr. Pat Blayney's retirement
- Introduced: Sara Austin, Volunteer Intern

I. ADMINISTRATIVE BUSINESS

▪ Call to Order

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

▪ Roll Call

Representatives: Jeff George, Rick Sedlacek, Mike Jones, Fred Fowler, Tommy Thompson, Ken O'Brien, Steve Burke, Tiffany Jenkins, Gary Gunderman, Tom Hopper, Dave Stites, Holly Foust, Dick Gladman, Bill Thurston, Eric Fischer, Lloyd Shoaf, Tom Brown, Bill Metzler, and Mike Datillo.

Alternates: Pat Blayney, Karl Gebhardt, and James Gauldin. Staff: Scott Sanders, Da-Wei Liou and Stephanie Matlack

▪ Approval of the April 22, 2010 RPC Minutes

Mr. Blayney made a motion to approve the minutes from the last meeting. Mr. Shoaf seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

▪ May 3, 2010 Special Executive Committee Minutes

1. Call to order

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

2. Discussion of office space –

Mr. Sanders presented the Committee with the County Commissioner's approved amendment to the existing lease agreement. He explained that he had spoken with Pete Griggs, with Loveland and Brosius, and he approved of the agreement language.

AMENDMENT NO. 1 TO LEASE AGREEMENT BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS AND DELAWARE COUNTY REGIONAL PLANNING COMMISSION, DATED OCTOBER 17th, 2002

This Amendment No. 1 to the Lease Agreement dated October 17th, 2002, is entered into by mutual consent and agreement this _____ day of _____, 2010, by and between the Delaware County Board of Commissioners ("Lessor") and the Delaware County Regional Planning Commission ("Lessee"), pursuant to Section 12.06 of the Lease Agreement.

AMENDMENT TO ARTICLE I

The text of Article I of the Lease Agreement shall be deleted and replaced by inserting the following:

1.01 Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, that certain property, hereinafter called the "leased premises," situated in the City of Delaware, County of Delaware, and State of Ohio, and described as 109 N. Sandusky Street, to be used only as an office building, and uses normally incident thereto, and for no other purpose, for an initial term of years that shall terminate on December 31, 2018, subject to the rights of renewal and provisions regarding termination set forth in Article IX hereof.

1.02 The leased premises shall include the entirety of the structure located at 109 N. Sandusky Street, with the exception of three (3) offices located on the second floor thereof, which said offices shall be reserved for use by Delaware County Data Center staff. The Data Center shall have access to and use of the first floor conference room, subject to Lessee's use thereof. The Data Center shall also have access to and use of any available storage areas on the third floor.

AMENDMENT TO ARTICLE II

The following clause shall be inserted as Section 2.02(C):

(C) Notwithstanding any statement in this Agreement, the Lessor shall be responsible for providing routine maintenance, cleaning, and housekeeping for the Data Center offices.

AMENDMENT TO ARTICLE IV

The following paragraph shall be inserted as Section 4.02:

4.02 The Lessor shall reimburse the Lessee for the cost of utilities that can be reasonably attributed to the occupancy and use of the Data Center offices on the second floor. Lessee shall submit itemized invoices with supporting documentation for the cost of utilities attributed to the Data Center, and the Lessor and Lessee agree to negotiate reasonable reimbursement thereon. Lessor agrees to make payment on all undisputed invoices within fifteen (15) days of receipt thereof. Lessor further agrees to assume all costs for the installation of additional or upgraded data or telephone lines, or any other changes to existing utilities, necessary for the Data Center offices.

AMENDMENT TO ARTICLE IX

The following paragraph shall be inserted as Sections 9.03:

9.03 In the event Lessee's operations increase to the extent that Lessee requires use of the Data Center offices, Lessee may request in writing that Lessor cause the Data Center to vacate the offices, provided that the request be submitted within the same time period required for a notice of termination pursuant to Section 9.01. Lessor shall respond to Lessee's request, in writing, within three (3) months of receipt thereof. Upon Lessor's denial of Lessee's request, and notwithstanding any provision of Section 9.01, Lessee may terminate this Lease Agreement by providing Lessor with written notice no later than six (6) months prior to the effective date of termination.

AMENDMENT TO ARTICLE XII

Section 12.01 is hereby amended to change the Lessee's address to 109 N. Sandusky St., Delaware, OH 43015.

REMAINING PROVISIONS UNAFFECTED

All remaining articles and provisions of the Lease Agreement not specifically amended herein are unaffected by this Amendment and shall remain in full force and effect.

IN WITNESS WHEREOF, the Lessor and Lessee execute this Amendment No. 1 as of the date indicated above.

LESSOR:

LESSEE:

Commissioner

Authorized Signature

Commissioner

Printed Name

Title

Approved as to Form:

Delaware County Prosecuting Attorney

Chairwoman Foust was concerned with the language regarding utility reimbursement. Mr. Burke suggested calculating the amount of space the DATA center would use and bill that percentage of the utilities on a monthly basis. Mr. Gladman stated that water and electric usage would most likely be the only utility that increased.

Mr. Sanders stated that the DATA center expressed interest in using the office furniture that was already in the space. Chairwoman Foust said that the DATA staff should be aware that the furniture would be available until such time as needed by RPC staff. Mrs. Matlack said that an inventory of the space would be taken and acknowledged by RPC and the DATA staff.

Mrs. Matlack questioned the need for language regarding insurance coverage. Mr. Sanders spoke with Cindi Blair in the County’s Insurance Department and she explained that she would discuss it with the County’s insurance carrier and provide the RPC with a certificate of coverage.

Mr. Shoaf made a motion to approve the Amendment No. 1 to lease agreement between the Board of Delaware County Commissioners and Delaware County Regional Planning Commission, dated October 17, 2002. Mr. Gladman seconded the motion. VOTE: Majority For, 0 Opposed, Mr. O’Brien recused himself. Motion carried.

3. ***Adjourn – having no further business, Mr. Shoaf made a motion to adjourn the meeting at 8:55 a.m. Mr. Burke seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.***

The next regular Executive Committee meeting will be Wednesday, May 19, 2010 at 8:30 a.m. at 109 North Sandusky Street, Delaware, Ohio, 43015.

▪ **May 19, 2010 Executive Committee Minutes**

1. **Call to order**

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

2. **Approval of Executive Committee Minutes from April 14, 2010 and May 3, 2010**

Mr. Gladman made a motion to approve the minutes from the April 14th and May 3rd meetings. Mr. Shoaf seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

3. **New Business**

- a. Financial / Activity Reports for April 2010

REGIONAL PLANNING RECEIPTS		APRIL	YTD TOTAL
General Fees (Lot Split)	(4201)		
Fees A (Site Review)	(4202)		\$300.00
Insp. Fees (Lot Line Transfer)	(4203)	\$100.00	\$900.00
Membership Fees	(4204)	\$16,399.00	\$273,183.84
Planning Surcharge (Twp. Plan. Assist.)	(4205)	\$687.79	\$4,221.70
Assoc. Membership	(4206)		
General Sales	(4220)	\$11.50	\$131.50
Charges for Serv. A (Prel. Appl.)	(4230)		\$1,200.00
Charges for Serv. B (Final. Appl.)	(4231)		\$12,561.20

Charges for Serv. C (Ext. Fee)	(4232)	\$450.00	\$900.00
Charges for Serv. D (Table Fee)	(4233)		
Charges for Serv. E (Appeal/Var.)	(4234)	\$600.00	
Charges for Serv. F (Planned District Zoning)	(4235)		\$300.00
OTHER DEPT. RECEIPTS			
Health Dept. Fees	(4242)		\$100.00
Soil & Water Fees	(4243)		\$250.00
MISCELLANEOUS REVENUE			
Other Reimbursements	(4720)	\$10.00	\$10.00
Other Reimbursements A			
Other Misc. Revenue (GIS maps)	(4730)	\$100.00	\$147.00
Misc. Non Revenue Receipts	(4733)		
Sale of Fixed Assets	(4804)		
TOTAL RECEIPTS		\$18,358.29	\$294,205.24

Balance after receipts **\$ 274,991.56**
 Expenditures **- \$ 20,457.88**
 End of April balance **\$ 254,533.68**

Mr. Gladman made a motion to approve the financial reports as presented. Mr. Shoaf seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

- b. May RPC Preliminary Agenda – includes 1 variance, 3 rezoning/text amendments, and 2 extension requests.
- c. Director’s Report
 - 1.) Contract billing to date:

Twp.	Contract amount	Free hours remaining	Billed to date (04/30/10)	Remaining on contract
Berlin	(2010) \$5,000	17.13	\$227.98	\$4,772.02
Kingston	\$8,000.00	6.75	\$4,741.64	\$3,258.36
Orange	\$18,000.00	82.50	\$8,168.71	\$9,831.29

4. Old Business (none)

5. Other Business

- a. Planning and Zoning Workshop – Mr. Sanders stated that the workshop was held on Saturday, May 15th. There were 40 attendees. Coffee and pastries were served. The cost to attend was \$5. This generated \$200, which paid for the refreshments.

6. Personnel (none)

- 7. Adjourn** – *Having no further business, Mr. Gladman made a motion to adjourn the meeting at 9:10 a.m. Mr. Burke seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.*

The next regular Executive Committee meeting will be Wednesday, June 16, 2010 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

With regards to last months denial of a variance request, Mr. Thompson stated that he understands the need for rules and regulations pertaining to subdivisions but most have not seen the economy quite like it is today. If it is not detrimental to the citizens and community, he would hope the RPC could work with the applicants to keep the projects moving forward.

Mr. Thompson made a motion to reconsider a variance request for Ravines at Meadow Ridge at the next RPC meeting. Mr. Fischer seconded the motion. Chairwoman Foust asked if the motion included the applicant paying for the stenographer and legal advertising fees for publication. Mr. Thompson said yes. VOTE: Majority For, Some Opposed. Motion carried.

Chairwoman Foust asked Mrs. Tangeman to work with Mrs. Matlack on submitting the required fees. She also suggested the applicant resubmit and documentation the board should consider. Mrs. Tangeman agreed.

03-06.1-4.V Meadows at Lewis Center, Sections 1-4 – Orange Twp. - requesting additional Preliminary Plan extension (Sec. 204.04)

I. Request

Silvestri Custom Homes is requesting a variance to allow a second 12-month extension beyond the time limit allowed in the Subdivision Regulations for the Meadows at Lewis Center subdivision in Orange Township.

The proposed Meadows at Lewis Center is located northwest of the Lewis Center Road/S Old State Road intersection. It contains 135 lots on 75.87 acres (1.78 du/acre). Access to the subdivision is provided from Lewis Center Road at two locations. The development is configured in a grid pattern using a series of loop and cul-de-sac streets. There are two street stubs to the north and one to the west for potential future development. Three centrally located open space reserves (2 to 2.5 acres each) are surrounded on three sides by lots. An existing pond to the east side of the development will be used for storm water retention within an open space reserve. A second retention pond will be constructed in an open space lot to the northwest corner of the site. A bike path is proposed along Lewis Center Road and through the large open space. Existing tree lines will be preserved and incorporated into the development to create neighborhoods and a buffer along Lewis Center Road and the northern boundary.

II. Facts

1. The Subdivision Regulations requires 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 also allow for an approved Preliminary Plan to request extensions up to a total of one year;
3. Meadows at Lewis Center received a Preliminary approval on May 25, 2006 and received 6-month extensions on May 29, 2008 and November 20, 2008;
4. The applicant was granted an additional one-year extension by variance on May 28, 2009;
5. The applicant seeks a second one-year extension by variance, based on market conditions.
6. The Orange Township Zoning Commission has extended the Development Plan approval through December 2010.

III. Applicant Statement

“The reason we are requesting this variance and extension is due to the unforeseen economic conditions the economy of the United States and the world is facing today. As a nation we have not experienced times like these since the great depression. Under normal economic conditions our plans would have been to be well into section 1 & 2 in Phase A of this development. Granting this variance and extension would be of great help financially to the survival of our company and the future development of this land. Granting of the variance and extension would save our company time and money in fees that would be encountered if otherwise not granted.”

“We had also reworked the preliminary plan and resubmitted the zoning because the county engineer moved the intended location of the collector street north of Lewis Center off of our property. We have worked closely with the Township and the County to meet their needs in the area and we are in-turn asking for some consideration based on our efforts in working with the Township and County.”

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.

Staff comment: This would not be detrimental as long as the zoning is valid.

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

Staff comment: The request is not based on anything unique to this property, as it is generally a poor market.

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.

Staff comment: An argument could be made that re-filing an expired Preliminary is more of an inconvenience than a hardship, depending on the applicant’s argument.

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.

Staff comments: The variance letter states that the preliminary plan has been “reworked.” The applicant should be aware that the Final Plat should be in compliance with the approved Preliminary Plan. Significant modifications may require a revised Preliminary Plan. Section 205.04 of the Subdivision Regulations defines “...altering road alignment, reduction of open space” as examples of significant modifications.

If the extension is approved, the zoning Development Plan will need to be extended by Orange Township as defined in the Township’s Zoning Resolution.

The Regional Planning Commission has typically granted the first variance request for an extension and a second variance request for extension in projects that received Preliminary Plan approval prior to January of 2007 when the Subdivision Regulations were amended.

IV. Staff recommendation

DCRPC staff recommends that based on market and economic conditions, the variance request to extend the

Preliminary Plan approval to May 2011 for **Meadows at Lewis Center, Sections 1-4** be **Approved**.

Commission / Public Comments

Mr. Joe Silvestri was present. He explained that they have 4 lots remaining for sale in the 32 lot Lake Shore Subdivision. He hopes to be “pushing dirt” on this subdivision by next May.

Chairwoman Foust asked Mr. Gladman (Orange Twp. Zoning Officer) if the reworked plan was still in compliance with the development plan. Mr. Gladman said that it was. He also stated that the Township had granted them an extension until January 2011.

Mr. Blayney made a motion to Approve the variance request for Meadows at Lewis Center, Sections 1-4. Mr. Shoaf seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained (Orange Twp.). Motion carried.

III. ZONING MAP/TEXT AMENDMENTS

08-10 ZON Village at Bale-Kenyon LLC – Orange Twp. – 53.623 acres from MFPRD to MFPRD

I. Request

The applicant, Village at Bale-Kenyon LLC, is requesting a 53-acre rezoning on land currently zoned MFPRD with approval for 100 condominium units to the same zoning designation (MFPRD) with a total of 152 units.

II. Conditions

Location: 7264 Bale-Kenyon Road, Orange Twp

Present Zoning: Multi-family Planned Residential District (MFPRD)

Proposed Zoning: Multi-family Planned Residential District (MFPRD)

Present Density: 2 d.u./acre

Proposed Density: 2.83 d.u./acre

Present Use(s): Sixteen condominium units (four buildings), clubhouse and pool with 84 approved but unbuilt units

Proposed Use(s): one additional four-unit building and 132 units in 22 additional buildings

School District: Olentangy Local School District

Utilities Available: Del-Co Water and County Sanitary Sewer

Critical Resources: Ravine, existing ponds and 100-year floodplain

Surrounding land uses: Waverly Place Subdivision to the south, I-71 to the west

Soils: AmE: Amanda Silt Loam (18 to 25% slopes)

BeA: Bennington Silt Loam (0 to 2% slopes)

CaB: Cardington Silt Loam (2 to 6% slopes)

CaC2: Cardington Silt Loam (6 to 12% slopes)

RoA: Rossburg Silt Loam (0 to 2% slopes)

III. Issues

1. The 2001 Orange Township Comprehensive Plan recommends this site for planned single-family development. The 2010 update (which has been initiated by the township) shows the same single-family recommendation for the land north of this site. In 2004, the applicant requested multi-family on this site due to floodplain, topography and overhead electric transmission lines impacting the site.

Staff Comment: Staff agreed with this request in 2004 and maintains that the impacts to the site and the commitment to leave the east side of Bale-Kenyon undeveloped justified allowing the unit-type to be built as multi-family. By clustering condominiums in areas that are suitable for development, the developer will be able to preserve environmental elements that make this site unique.

2. The 2001 Orange Township Comprehensive Plan (and 2010 draft) recommends this site for development at 2 dwelling units per acre with public sewer and water.

Staff Comment: The township has generally developed at and recommended future densities of 2 d.u./acre. This proposal represents a departure from that development pattern at 2.83 units per acre in an area where there are no convenient services typically seen in higher density areas. The additional units are gained with no appreciable increase in building coverage. This is due to the layout of the units, with three units occupying the first floor with three units directly above on the second floor. The applicant notes that similar product is available in southern Delaware County and that those units are selling well. While a valid point, these similar units are located off Gemini Place within the city of Columbus. That development has relatively easy access to Interstate 71 and Polaris Parkway and is within walking distance to shopping and dining opportunities.

3. The property adjacent to the north of this site has poor sight distance on Bale-Kenyon Road.

Staff Comment: As discussed at the original rezoning review, this development has provided a connection to the property to the north to allow for future access. A condition of the original recommendation by the Regional Planning Commission was that this be built either as a public road or as a private road built to public standards with full access. This road has been constructed as a private road and an easement granted across this site to the northern adjacent property for emergency purposes only.

4. Traffic: A new traffic analysis is included in the application. It shows that the original zoning (100 units) was projected to produce 52 vehicle trips in the morning peak hour and 60 trips during the evening peak hour. This new proposed density is projected to generate 72 trips during the morning peak and 85 trips during evening peak. This is a difference of about 20-25 trip ends per peak hour.

Staff Comment: The report concludes that no additional improvements (turn lane warrants) were needed and also stated that the additional 20-25 trips projected at build-out would have “little to no impact on traffic operations in the area”. This may be true in general, but the zoning commission should consider the size and nature of Bale-Kenyon Road where it has not been improved adjacent to this development when considering the impact of these additional units.

5. Waverly Place Drive stubs into the southern edge of this development. The development plan reviewed by Regional Planning in 2004 indicated an emergency access gate at this stub with full pedestrian/bike access.

Staff Comment: The proposed development plan no longer shows any sort of connection for emergency or recreational purposes to Waverly Place. Staff continues to support some sort of connection to the south, based on safety for both Waverly Place and the proposed development, particularly if a higher density is granted. Staff also acknowledges that the lack of such connection is likely the result of negotiations with the township, developer and neighbors.

6. The applicant is requesting that the township take their 35-foot maximum building height measurement from the front of the walkout units. There are two types of condominium units that are being proposed for this site; 4-unit attached ranch condominiums and 6-unit “carriage style garden condominiums”.

Staff Comment: In the 2004 rezoning review, the staff report noted that this was a logical request given the nature of the rolling nature of portions of the site and the current story-and-a-half building product. However, these new units are two stories tall at the front of the units with the additional height of a pitched roof. These units will be out of character with the adjacent single-family units to the south.

7. Internal circulation and access: The new layout changes the arrangement of the buildings on the southwestern portion of the property, providing a small area of useable open space. Other than that, the circulation is generally the same.

Staff Comment: The arrangement of the southwestern portion of the site is actually an improvement over the original rezoning, creating a small pocket park which adds to the amenities of the development. Staff also points out that the proposed plan shows the entrance located slightly north of the current location. This may be a remnant of a 2004 drawing, as it is not called out in the text.

The Orange Township Fire Department could not verify that they had seen the existing roads or reviewed the proposed plans. Buildings over 30 feet will require 26-foot width on the driveways.

IV. Criteria for Approval

The MFPRD requires that all the following criteria be met:

1. If the proposed development is consistent in all respects with the purpose, intent and general standards of the Orange Township Zoning Resolution.

Staff Comment: Generally yes, if the township agrees to measure the building height from the front of the structure rather than the rear of walkout units.

2. If the proposed development is in conformity with the Orange Township Comprehensive Plan.

Staff Comment: No, the density does not conform. Even though multi-family does not conform either, this is an existing approved use and allowed as a trade-off for preserving the land on the east side of Bale-Kenyon Road. However, the density is too high as it relates to the Plan and the adjoining development.

3. If the proposed development advances the general welfare of the township and the immediate vicinity.

Staff Comment: Perhaps, since the main entrance allows a cross easements to allow access to the property north of this site. The extensive open space and clustered condominiums provide for better preservation of the deep ravines and 100-year floodplain than would single-family homes. Despite an improved layout in the southwestern portion of the site, the new units are out of scale with the existing single-family development to the south. Safety is also a question with no apparent emergency connection to the south, but this should be worked out between the developer, the township and the adjacent residents.

V. Staff Recommendations

Staff recommends **Conditional Approval** of this rezoning case from MFPRD to MFPRD for Village at Bale-Kenyon LLC to the DCRPC, the Orange Township Zoning Commission and the Orange Township Trustees, *subject to the density being reduced to no more than 2 dwelling units per gross acre, that significant changes be made to the scale of the buildings, particularly along the southern border, and that appropriate review of the Fire Department be completed.*

Commission / Public Comments

Mrs. Jill Tangeman, attorney for the applicant, explained that the project is geared toward the empty nester condominium type project. Since 2005, when the site was completed, 16 units have been built and only 10 have sold. Village Communities has a condominium project called The Lakes at Polaris (similar to the proposal) and even through the difficult economic times, they have been selling 3 units per month. She explained that she met with their condominium association and found it is almost evenly split between empty nesters who have bought units on the first floor and young professionals who have bought units on the second floor. Mrs. Tangeman said that the County Engineer agreed with the traffic study conclusions that no significant impact would be incurred with the proposed new density. She also explained that The Waverly Place residents have been opposed to the emergency access. The applicant met with the Orange Twp. Fire Chief who reviewed this plan and did not feel there was a need for the emergency access.

Mr. Gunderman questioned the building height of the buildings close to the single-family homes to the south. Mrs. Tangeman said that all of the homes in Waverly Place are two story and the proposed buildings are not substantially bigger than those. She said they could look at building placement and architectural design as they go through this process.

Chairwoman Foust asked if “young professionals” includes children. Mrs. Tangeman said that there are almost no children at the Lakes at Polaris.

Mr. Jones asked what the southern lot line topography was like and if the tree line would be maintained. Mr. Todd Foley, Land Planner for the applicant, stated that the proposal is to maintain the area and increase the evergreen and shade trees in that area.

Mr. O’Brien asked what the Comprehensive Plan indicated for this area. Mr. Sanders stated that the Comprehensive Plan calls for 2 units per gross acre and this plan calls for 2.83 units per acre.

Mr. Blayney made a motion to recommend Conditional Approval of this request by the Village at Bale-Kenyon LLC, subject to staff recommendations. Mr. O’Brien seconded the motion. VOTE: Unanimously For, 0 Opposed, 1 Abstained (Orange Twp.). Motion carried.

09-10 ZON Harlem Twp. Zoning Commission – text amendments (Articles X, XI, XV, XVIII and proposed XX)

I. Introduction

Harlem Township has initiated a process of revising several articles of its Zoning Resolution. These include minor changes to the codes planned districts and the addition of a new Alternative Energy Systems district.

1. The changes to the Planned districts (PUD-Planned Unit Development, PRD-Planned Residential, PCD-Planned Commercial and Office, and PID-Planned Industrial) are related to the PUD process. The first amendment refines the process for a Modification of Development Plan:

“A request for modification of an approved development plan may be submitted to the Zoning Commission by the owners of the proposed development (owners are the developer or the entity to which the developer transfers ownership or otherwise legally assigns the right of representation, e.g., another developer, a homeowners association or group of designated trustees) or by signed petition from at least 51% of the current property owners in the development. At the time the request for modifications is submitted, the requestor must submit a written, notarized statement indicating that all individual property owners in the development have been notified that a request for modification of the development plan has been submitted. Such notice must contain the specific modification that is being requested.”

Staff comment: The clarification addresses those modifications that take place after the development is in place, homes have been built and ownership has been transferred to multiple homeowners. Although this is not the typical situation where a development plan modification occurs, it is certainly possible that a modification could be proposed after some lots had been developed. This section essentially provides a notification process for residents. For the RPC’s clarification, this is related to the Major/Minor Modification language reviewed in March where Major Modifications follow the same process (including notification) as a rezoning. The following are suggested changes:

- a. Consider adding clarification to references to “development”, since some might argue that a single phase of a multiple-phase project would be the development.
 - b. Consider changing “requestor” to “applicant(s)” for consistency.
2. The second set of amendments is proposed for the PRD-Planned Residential, PCD-Planned Commercial and Office, and PID-Planned Industrial to complete the process of approving development plans (it is already in the PUD code).

“a.) Upon project completion, all plats, constructions drawings, restrictive covenants, an “as built” plat plan, and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission or their designated technical advisors for administrative review to ensure substantial compliance with the Development Plan as approved;

b.) The Township Zoning Commission may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping,

development, improvement, and maintenance of common open space; and any other pertinent development characteristics.”

Staff comment: A version of paragraph “a.)” currently exists in the code, but without the reference to “as built” plat plans. This may be better stated as “subdivision” plan, since an as-built plan suggests post-development drawings. If the intention is to review plans for compliance, this would suggest the Preliminary Plan and Final Plat subdivision drawings prior to project completion. Obviously, an as-built plan for utilities would be beneficial to have on file after the project is complete so the Inspector can review for compliance for construction on individual lots.

The second paragraph “b.)” seems better located within the Development Standards section rather than in Procedure. In fact, it is listed in the PRD as 11.07(j), the PCD as 15.06(o), and the PID as 18.07(n). Staff suggests leaving those statements where they currently are located, moving the PUD language to the same comparable location and adding the “Township Trustee” language to these sections rather than locating the new language as proposed.

3. The township is proposing a new Article in its code relating to Wind Energy Systems. Townships do have authority to regulate such wind systems if they produce 5 Megawatts or less. The state has designated the Public Utilities Commission of Ohio to regulate any large wind farms producing more than 5MW, defining such farms as utilities and effectively taking any authority out of the hands of local jurisdictions. To date, Kingston, Berlin and Scioto are in various stages of working on draft language. The Harlem draft follows many of the same “design standards” that have resulted in the work of other jurisdictions since the authority to regulate was granted. The township takes two approaches that are different from what has been discussed in other township and other models.

First, the code separates out “Individual Wind Energy Systems” as those single wind turbines that an individual might erect on his or her property. There are design standards such as a maximum 125-foot height, drop zones, setbacks for guy wires, maximum noise level of 60dBA, as well as maintenance and abandonment standards. These individual units are permitted in all zoning classifications where structures are allowed. The code then defines “Small Wind Farms” as generating less than 5 MW and being connected to the electrical grid. The same design standards are defined, but these systems are only permitted in AR-1, C-2, I, PCD, PID and PUD (essentially, all the non-residential and Agricultural-Residential districts).

The separation of individual towers and small towers is related to the other major difference from the “model,” and that is the fact that both types of tower projects are treated as a Permitted Use. Rather than making residential uses go through the Conditional Use process, the code requires some additional conditions to the individual tower – that only single towers can be located in residential districts.

Staff comment: This appears to be a unique way of regulating the difference between those projects located in commercial areas and those located in residential areas. Lots located in the FR-1 and PRD districts will generally always be 2 acres or smaller, so it seems logical to limit such lots to a single tower, given the other standards that also must be applied.

Because this is fairly new territory for zoning resolutions, the following are questions for discussion by the Zoning Commission, rather than recommendations for changing proposed language:

1. The code requires notification to adjoining within 300 feet. Does the township have authority to do that? Note that the O.R.C. requires telecommunication tower operators to give notice only to adjacent parcels and owners located directly across the street from a parcel on which a tower is proposed.
2. The proposed text does not require individual towers to be connected to the grid. It may be unlikely that the average tower would not be attached to the grid, considering the fact that these towers are often marketed as providing such potential income. In fact, some have argued that the way the O.R.C. is worded suggests that a jurisdiction can only regulate when a tower is connected to the grid, but that has not been tested or discussed with legal representation.
3. A “fall zone” of 1.1 times the height of the structure (or 110%) has been adopted in other codes. This code only requires a fall zone generally the same radius as the height of the tower and blade.
4. Is the 100kW number some sort of industry standard? The information staff has collected indicates that a 10 kW turbine will meet the needs of an average home in Ohio.
5. Making all towers permitted uses “with conditions” essentially removes any additional conditions that might be available, should the process otherwise be allowed to go to the BZA. The Zoning Commission should note this before considering adoption.
6. The township might consider looking for words that wouldn’t be readily known by the average person and adding definitions either within the Article or in the Definitions section of the code.
7. The township may consider streamlining this Article by having a Section that defines the Individual Systems and Small Wind Farms and includes the districts in which each can be located. This could be at the beginning, with all the standards listed only once. Most of the language is identical to both systems and is unnecessarily repetitive in the draft.
8. As always, proposed language should be reviewed by the County Prosecutor’s staff and/or private counsel.

II. DCRPC Staff Recommendation

Staff recommends **Conditional Approval** for the proposed text amendments in the Harlem Township Zoning Resolution to the DCRPC, the Harlem Township Zoning Commission and the Harlem Township Trustees, *based on the comments in this report.*

Commission / Public Comments

No one was present to represent the applicant.

Mr. Fischer commented that where grant money is available they have to be connected to a system with a net meter agreement.

Chairwoman Foust questioned the wording “upon completion” in item #2, that items need to be submitted. She

feels that might be too late. Mr. Sanders agreed and suggested at preliminary subdivision approval might be better. Chairwoman Foust suggested changing the wording to, “before issuance of any zoning permit”.

Chairwoman Foust stated that the wording, “..for administrative review to ensure substantial compliance with the Development plan as approved” is also in Liberty’s zoning code and there is a conflict between that and the wording “strict compliance” with the approved development plan in another section.

Mr. Shoaf made a motion to recommend Conditional Approval of the text amendments for Harlem Township, subject to staff comments and the RPC discussion. Mr. Fischer seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

10-10 ZON Orange Twp. Zoning Commission – Comprehensive Plan update review

I. Introduction

On May 18, 2010, the Orange Township Zoning Commission initiated a process to adopt an updated Comprehensive Plan. The last time the township had adopted a Comprehensive Plan was in 2001, when there were an estimated 14,348 people living in the township. Today, the Regional Planning Commission estimates 23,317 residents of the township. From 2000 to 2009, the township rezoned 1,833 house lots and 1,014 multi-family units. During that same period, the township saw 3,980 single-family building permits approved.

Despite this amount of growth, the township still identifies approximately 2,833 acres of potentially “speculative” land. Based on this level of change, the township utilized the staff of the Delaware County Regional Planning Commission to review the plan with a group of representatives from the township. This planning group was comprised of the Zoning Commission, Board of Zoning Appeals, Zoning staff, and other representatives of the township when relevant. The end result was a continuation of many of the same policies the township has followed since its 2001 plan, with some additional clarification. The following are highlights:

- Continued development pattern of 2 units per acre;
- Acknowledgement of new parks and school locations;
- Inclusion of the new 2009 Floodplain data;
- Realignment of backage roads based on existing segments of future connections;
- Reworking of the town center area based on the proposed location of the Home Road extension and land use mix proposed during the withdrawn town center proposal by Planned Communities;
- Text regarding best use design principles, primarily for commercial development;
- Acknowledgement of the recently amended Parks and Trails plan;
- New maps including Building Structure by type, Home Value, Year Built (residential), Community Facilities (parks, golf courses, schools and common open space)

The full document and map are available at www.dcrpc.org/downloads/comp_plans.htm

II. DCRPC Staff Recommendation

Staff recommends **Approval** for the 2010 Orange Township Comprehensive Land Use Plan to the DCRPC, the Orange Township Zoning Commission and the Orange Township Trustees.

Commission / Public Comments

Mr. Blayney made a motion to recommend Approval of the 2010 Orange Township Comprehensive Plan. Mr. Sedlacek seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

IV. SUBDIVISION PROJECTS

Preliminary (none)

Preliminary/Final (none)

CONSENT AGENDA

Final (none)

V. EXTENSIONS

15-02.4.B Estates of Glen Oak, Section 4, Phase B – Orange Twp. - 30 lots / 09.48 acres

Applicant: Dominion Homes

Engineer: EMH&T

Preliminary approval: 08-26-04

I. Staff Comments

The applicant is requesting a 1-year extension of the **Estates of Glen Oak, Section 4, Phase B** subdivision due to the incomplete construction on this project. This is the project's first extension.

II. Staff Recommendation

Staff recommends *Approval* of a 12-month extension for the **Estates of Glen Oak, Section 4, Phase B** to the RPC.

Commission / Public Comments

Mr. Gladman made a motion to approve the 12-month extension for the Estates of Glen Oak, Section 4, Phase B. Mr. Sedlacek seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

03-06.1-4 Meadows at Lewis Center, Sections 1-4 – Orange Twp. - 135 lots / 75.87 acres

Applicant: Silvestri Custom Homes

Engineer: EMH&T

Preliminary approval: 5-25-06

Extensions granted: 5-29-08 (6-month), 11-20-08 (6-month), 05-28-09 1 year granted by variance

I. Staff Comments

The applicant is requesting a 1-year extension of the **Meadows at Lewis Center, Sections 1-4** subdivision “due to the unforeseen economic conditions”.

II. Staff Recommendation

Staff recommends *Conditional Approval* of a 12-month extension for **Meadows at Lewis Center, Sections 1-4**, *subject to Commission approval of the variance request*, to the RPC.

Commission / Public Comments

Mr. Blayney made a motion to approve the 12-month extension for Meadows at Lewis Center, Sections 1-4. Mr. Shoaf seconded the motion. VOTE: Majority For, 0 Opposed, 1 Abstained (Orange Twp.). Motion carried.

VI. OTHER BUSINESS *(none)*

VII. POLICY / EDUCATION DISCUSSION

- Nancy Reger, MORPC – Regional Plan presentation – (see attached PowerPoint presentation)

VIII. RPC STAFF AND MEMBER NEWS

- Recognized Mr. Dale Simpkins, former Delaware Township Representative, for 14 years of service. Mr. Simpkins passed away April 25, 2010.
- Recognized Mr. Pat Blayney’s retirement from the Delaware County Engineers office. He is retiring as of May 28th. Mr. Blayney has served on the RPC as a Representative and Alternate for Genoa Township and an Alternate for the County Engineer for a total of 12 years. He also served on the Executive Committee from 1989 to 1992.
- Introduced: Sara Austin, Volunteer Intern

Having no further business, O’Brien made a motion to adjourn the meeting at 8:45 p.m. Mr. Shoaf seconded the motion. VOTE: Unanimously For, 0 Opposed. Motion carried.

The next meeting of the Delaware County Regional Planning Commission will be Thursday, June 24, 2010, 7:00 PM at the Willis Building, 2079 US 23 North, Conference Room, Delaware, Ohio 43015.

Holly Foust, Chairperson

Stephanie Matlack, Executive Administrative Assistant