

DEVELOPMENTAL CONTROLS COMMITTEE

March 29, 2011

There was a meeting of the **Developmental Controls Committee** of the Lima-Allen County Regional Planning Commission held on **Tuesday, March 29, 2011 at 3:00 p.m.** in the Conference Room of the Commission office located at 130 West North Street, Lima, Ohio.

The agenda was as follows:

1. Roll Call
2. Approval of Agenda
3. Approval of DCC Minutes – March 1, 2011
4. Review Richland Township Zoning Amendment (RI-01-11)
5. Other
6. Adjournment

A quorum being present, Bruce Plumb brought the meeting to order and proceeded with the agenda.

1. **ROLL CALL**

Mr. Norman Capps	Perry Township
Mr. John MacDonell	City of Lima
Mr. Bruce Plumb	City of Lima
Mr. Dan Reiff	Allen County
Mr. Walter Rysz	Richland Township
Mr. Jesse Sadiua	City of Lima
Mr. Troy Strayer	Village of Elida
Mr. Howard Violet	Marion Township

GUESTS

Mr. Ron Meyer	Allen County Engineer's Office
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STAFF

Mr. Thomas Mazur	Lima-Allen County Regional Planning Commission
Ms. Lisa Steffen	Lima-Allen County Regional Planning Commission

2. **APPROVAL OF AGENDA**

Motion 13 (3-29-11) DCC

Jesse Sadiua made the motion that the agenda be approved. Seconded by John MacDonell; motion carried.

3. **APPROVAL OF DCC MINUTES – March 1, 2011**

Motion 14 (3-29-11) DCC

Howard Violet made the motion that the DCC minutes of March 1, 2011 be approved. Seconded by Jesse Sadiua; motion carried.

4. **REVIEW RICHLAND TOWNSHIP ZONING AMENDMENT (RI-01-11)**

Thomas Mazur reported that Richland Township is facing a situation where they have allowed a nonconforming use of record to exist. Bruce Plumb questioned what the use was.

4. REVIEW RICHLAND TOWNSHIP ZONING AMENDMENT (RI-01-11) (Continued)

Thomas Mazur responded that a roll off container business is being operated on the property. Thomas Mazur reported that the economic activity is not identified as a permitted or conditional use in the Richland Township Zoning Resolution. Thomas Mazur reported that the parcels in question are located in Richland Township along Lincoln Highway roughly 800 feet from the northbound entrance ramp to I-75 and 1,000 feet from the intersection of Swaney and Lincoln. The parcels are 56.5, 19.08, 20.5 and 4.39 acres respectively and zoned B-2. Lincoln Highway is considered a Rural Major Collector according to the Federal Functional Classification System. Thomas Mazur reported that this portion of Lincoln Highway is currently experiencing approximately 8,360 ADT with 35% truck traffic. Lincoln Highway is identified as a Class III roadway and is subject to the conditions of the Allen County Access Management Regulations. Municipal water is not available; however, a sanitary sewer line does run along parcel A. The parcels are not located within the boundaries of ACRTA Zone 1. Thomas Mazur reported that the current land use of the parcels is agricultural. The depicted 100 year floodplain does invade the mid to northern part of parcels A & B; as identified in FEMA-FIRM panel map number 390758-0150B, Zone X and A. No wetlands are identified by the USDA; no archaeological sites were identified. Thomas Mazur reported that the Richland Township Comprehensive Plan addressed this location as being a commercial development district, which is already in place at the current time for all parcels. Thomas Mazur reported that the applicants seek approval to change their zoning to M-2 for the purposes of being zoned the same as surrounding parcels. The applicant points out that when the zoning of the parcels was originally adopted as B-2, the parcels had road frontage and access to the north and south sides of the former US 30, now SR 696. The parcels have been split into multiple parts and do not have direct access to US 30. The sole access to the applicant's north parcel is from the North Service Road and the south parcel is from relocated Reppert Road. The case being made is that the premises are similar to all of the M-2 District parcels that surround it. Thomas Mazur reported that there was a study session regarding the property last week in Richland Township where the applicant, his wife and some of the property owners came to a meeting to discuss some of the merits of establishing this as a commercial B-2 business and creating some sort of covenant on the property instead of changing the zoning. Thomas Mazur reported that the legal description provided by the applicant is completely inaccurate. Thomas Mazur reported that if Mr. Spallinger cannot get a rezoning to allow him to legally operate his business on the south side of Lincoln Highway, he wants to move the business to the north side of Lincoln Highway and collocate the business with Koogler Refuse, which is another business that is a nonconforming use. Thomas Mazur reported that no matter what Mr. Spallinger does, it is still not a conforming use according to the Richland Township Zoning Resolution. Thomas Mazur commented that unfortunately Richland Township has been somewhat lax enforcing their zoning, which went into effect in 1963. Instead, Richland Township has been letting these nonconforming uses go on until someone gets upset and then a situation arises and the Township does not know what to do to resolve the issue. Walter Rysz reported that Mr. Spallinger spent 15 years on the Richland Township Zoning Commission and, therefore, he is well aware of the zoning regulations. Walter Rysz commented that there are many individuals in Richland Township who would like to try to make everyone happy, which may not be possible in this case. Howard Violet questioned if the operation has been running in violation of the Richland Township Zoning Resolution. Walter Rysz responded that the business has been running in violation for at least a year and a half, possibly longer. Thomas Mazur reported that Mr. Spallinger was brought to court and has been cited. Thomas Mazur reported that when they went to Municipal Court they were given 60 days to rectify the situation by either cleaning up the operation and moving it out or getting the zoning changed. Thomas Mazur reported that staff recommends denial based on the proposed use not being consistent with the Richland Township Zoning Resolution. Thomas Mazur reported that the applicant's proposed use is not permitted within the M-2 Zoning

4. REVIEW RICHLAND TOWNSHIP ZONING AMENDMENT (RI-01-11) (Continued)

District nor is it specifically identified as a conditional use within the M-2 Zoning District. Thomas Mazur reported that staff contends that a proposed use not identified in the existing regulations as a permitted or conditional use would need to be submitted to and secure approval of the Board of Zoning Appeals as a conditional use or such use would have to be reviewed and recommended by the Zoning Commission to be added to the zoning resolution before the petition could be addressed by the Zoning Commission. Norman Capps questioned if the business had been there longer than a year and a half because it seemed to him that it had been. Walter Rysz responded that it was unknown exactly how long the business had been there, but Mr. Spallinger was first cited about a year and a half ago. Jesse Sadiua commented that the recommendation does say that it could be permitted as a conditional use. Thomas Mazur responded that the last time this was reviewed it was suggested that if the Township wanted to allow this it should be as a conditional use. Thomas Mazur responded that staff provided the Township with a list of conditions that should be met if this was allowed, including privacy fencing, etc. Thomas Mazur reported that at the current time, the use is not permitted in Richland Township. Walter Rysz commented that the only place in the Richland Township Zoning Resolution that the use could even possibly be considered would be M-2 and it is not currently zoned M-2. Jesse Sadiua commented that he is trying to think of a way for Mr. Spallinger to be accommodated because he has infrastructure and investments at the location. Thomas Mazur responded that Mr. Spallinger does not have infrastructure and investments at the location. Walter Rysz reported that Mr. Spallinger has a farm at the location and is using the existing agricultural barn. Thomas Mazur reported that all of this activity is being done outside. A roll off is brought in and is dumped outside on the ground and it is then sorted in one pile if it can be burned, another pile if it can be scrapped and another pile if it has to be taken to the landfill. John MacDonell questioned if Mr. Spallinger burns at the location. Thomas Mazur responded that he burns the materials to keep his house warm. Dan Reiff questioned if he specializes in building debris. Thomas Mazur responded that he accepts whatever. Jesse Sadiua questioned if there was any inclination for Richland Township to accommodate Mr. Spallinger. Walter Rysz commented that it is hard to read because there is a lot of acrimony at the meetings that have been held. Walter Rysz commented that everyone knows Mr. Spallinger and wants to try to accommodate him. Walter Rysz commented that there is an opinion in Richland Township that you can do something for the neighbor that you can't do for someone else. Norman Capps questioned if the use that Mr. Spallinger has right now is not permitted in Richland Township's zoning. Walter Rysz and Thomas Mazur responded that is correct. Norman Capps commented that he did not see any problem with rezoning the parcels to M-2 since the use would still not be permitted and would be considered illegal. Norman Capps commented that the location of the parcels is favorable when considering their close proximity to I-75 and US 30. Walter Rysz commented that the Richland Township Comprehensive Plan talks about uses along the highway, which is pretty good real estate.

Motion 15 (3-29-11) DCC

Jesse Sadiua made the motion to deny RI-01-11 based on the fact that there is not basis for the rezoning because the existing use is not permitted in any part of the Richland Township Zoning Resolution. Seconded by John MacDonell; motion carried with one (1) abstention (Walter Rysz).

Norman Capps commented that it is hard to believe that in this day in age Richland Township does not have anything in their zoning regarding recycling centers. Bruce Plumb commented that the Township had probably simply not thought of it. Thomas Mazur commented that there is a difference between a local political subdivision managing a local one day a week or one day a month recycling operation and someone coming in as a commercial operator. Thomas Mazur commented that this is actually working as a transfer

4. REVIEW RICHLAND TOWNSHIP ZONING AMENDMENT (RI-01-11) (Continued)

facility not just a recycling drop off facility. Bruce Plumb commented that the Township Trustees have the final say in this matter. Walter Rysz commented that it is his opinion that the use could be allowed in an M-2 District even with the existing wording in the Zoning Resolution.

5. OTHER

Thomas Mazur commented that with all of the flooding that has been going on lately he thought Committee members might be interested in a couple of drainage articles that Roy Hollenbacher provided. Thomas Mazur commented that the Township's have very limited authority to deal with drainage. Thomas Mazur presented Committee members with two articles related to drainage. Thomas Mazur commented that we are experiencing flooding now that we have never experienced before. Thomas Mazur commented that Monroe Township is being affected by the constraints of Putnam County related to the lack of the sizes of some of the ditches and the inability to clean out some of the streams with log jams. Thomas Mazur reported that there have been similar problems in Perry Township. Thomas Mazur reported that this is for informational purposes only.

Norman Capps questioned how a floodplain is determined. Bruce Plumb commented that it is determined by elevation. Thomas Mazur reported that the floodplain delineations are predicated on H&H studies. Thomas Mazur reported that if a study is conducted on the tributaries, it is then broken down by watershed and sub watershed. They are looking at those areas that are most likely negatively impacted by waters controlled by the State of Ohio. Thomas Mazur commented that if ditches are negatively impacting properties or businesses or infrastructure the waters of the State are studied to see how they are affecting other waterways. Thomas Mazur commented that they try to study those areas that are impacted most and try to use common sense. Thomas Mazur commented that there are a lot of areas in the County that flood all the time that are not part of the FEMA regulated floodplain. This doesn't mean that the areas don't flood it means that the flooding is not necessarily related to any flooding that is going to go on in the Auglaize, Ottawa or Blanchard rivers. Norman Capps questioned how much water determines if it is a floodplain. Norman Capps commented that the intersection of Hanthorn and Bowman floods every time it rains but it is not considered a floodplain and there are other areas that never flood that are considered a floodplain. Norman Capps commented that this is why he was questioning what the key elements are that determine a floodplain. Thomas Mazur responded that if it is largely unrelated to a flooding event on the Auglaize or Ottawa rivers it will not be included in the floodplain. Jesse Sadiua commented that anything that is connected to a major watershed will be considered. Bruce Plumb commented that if the intersection floods during a normal rain there is probably something wrong with the outlet. Dan Reiff commented that there is more than one thing that determines a floodplain. Thomas Mazur commented that an H&H study is used to determine floodplain. Dan Reiff commented that topography is considered but also has to do with whether or not the water has a way to get away and how well the waterways are maintained. Norman Capps commented that he does not think that maintaining the waterways has anything to do with it. Dan Reiff questioned why it is done then. Thomas Mazur commented that it does and it doesn't. Thomas Mazur reported that when H&H studies are done, they assume that the ditches and channels are completely clean. Thomas Mazur commented that it has a lot to do with the type of impact the river, individual tributary or ditch will have on the local community. Bruce Plumb commented that alignment on the waterway is also very important so that water does not travel from point A to point B too quickly. Thomas Mazur reported he would look to the staff for clarification of the issues raised.

6. **ADJOURNMENT**

Motion 16 (3-29-11) DCC

John MacDonell made the motion that the meeting be adjourned. Seconded by Dan Reiff; motion carried.