

DEVELOPMENTAL CONTROLS COMMITTEE

April 27, 2010

There was a meeting of the **Developmental Controls Committee** of the Lima-Allen County Regional Planning Commission held on **Tuesday, April 27, 2010 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 30, 2010
4. Review Amanda Township Variance (AD-V01-10)
5. Draft Spencer Township/Village of Spencerville Comprehensive Plan
6. Country Aire Estates – Overall Development Plan
7. Other
8. Adjournment

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

1. **ROLL CALL**

Mr. Paul Basinger	American Township
Mr. Jerry Brooks	Richland Township
Mr. Norman Capps	Perry Township
Mr. Jerry Gilden	Marion Township
Mr. Lloyd Grimm	American Township
Mr. John MacDonell	City of Lima
Mr. Bruce Plumb	City of Lima
Mr. Jesse Sadiua	City of Lima
Mr. Mike Stout	Auglaize Township

GUESTS

Mr. Brad Core	Core Consulting
Mr. Douglas Ditto	Core Consulting
Mr. Walter Rysz	Richland Township

STAFF

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

2. **APPROVAL OF AGENDA**

Thomas Mazur reported that staff would like to add “Country Aire Estates – Overall Development Plan” resubmission as item 6 to the agenda.

Motion 19 (4-27-10) DCC

John MacDonell made the motion that the revised agenda be approved. Seconded by Jerry Gilden; motion carried.

3. APPROVAL OF DCC MINUTES – March 30, 2010

Motion 20 (4-27-10) DCC

Paul Basinger made the motion that the DCC minutes of March 30, 2010 be approved. Seconded by Jerry Brooks; motion carried.

4. REVIEW AMANDA TOWNSHIP VARIANCE (AD-V01-10)

Thomas Mazur reported that the applicant is attempting to create 2 lots in Amanda Township. The parent parcel is located along Harris Road which is considered a Rural Local on the Federal Functional Classification System. No traffic count data is available and access upon Harris Road is not restricted under Allen County Assess Management Regulations. The site is not limited or restricted with respect to the presence of floodplain (FEMA FIRM panel map 390758 0100 B), wetlands (National Wetlands Inventory, 1989) or archaeological sites. Thomas Mazur reported that the petitioner, Charles Moeller, seeks a variance to minimum road frontage requirements established by the Allen County Subdivision Regulations in Section 303.4. The applicant is proposing to create 2 new lots (Parcels A & B) from an existing 81.27 acre parcel owned by the applicant. Parcel B meets the minimum acreage and roadway frontage. Thomas Mazur reported that Parcel A, proposed at the southwest corner of the parent parcel, fails to meet the minimum roadway frontage of 50'. Thomas Mazur reported that the applicant has petitioned and received a variance from the Township Board of Zoning Appeals to the Township minimum roadway frontage based on the preservation of farmland. Thomas Mazur reported that the Developmental Controls Committee has historically respected variance requests that were based upon natural features such as topographic and/or drainage considerations. The Planning Commission has also recognized and permitted parcels to be created without road frontage for agricultural purposes under Section 304 of the Allen County Subdivision Regulations. This petition is not to preserve farmland but promote the construction of a residential unit. This petition is not based on hardship due to natural conditions or site limitations. This is a self created hardship. Thomas Mazur reported that staff recommends denial based on failure to meet the tests for variance as identified in Section 109 of the Allen County Subdivision Regulations.

Brad Core reported that the four items listed in Section 109 of the Allen County Subdivision Regulations were addressed in Exhibit 3 of the packet presented to Committee members. Brad Core reported that an attempt was made to go through and address each of the four criteria identified in the Allen County Subdivision Regulations. Brad Core reported that the first criterion has to do with whether or not the variance will be detrimental to the public safety, health, or welfare or injurious to other properties. Brad Core reported that the property is located on Harris Road. Harris Road is a one mile stretch of road that runs from Conant to Dogleg and is not a direct path to anywhere and normally only receives local traffic. Harris Road is a Township road and does not fall under Allen County Access Management Regulations. Brad Core reported that the conclusion that is being drawn based on this is that granting of the variance would not jeopardize public safety. Brad Core reported that at the public hearing that was held by the Amanda Township Zoning Board of Appeals none of the adjoining landowners that were present had any opposition. There was one adjoining landowner that spoke in favor of the variance to allow the 30 feet of road frontage. Brad Core reported that with the size of the parcel being proposed (15 acres) to be created it would be large enough to handle a residential structure to be built and support a septic system and well. Brad Core presented Committee members with a larger aerial photograph showing the property in question. Brad Core reported that they want to split off as little farm ground as possible to allow access to the parcel for the home which is the reason for the request of the variance. Brad Core reported that the wider the strip for access to the parcel, the more farm ground that is being taken out of production and preservation of

4. REVIEW AMANDA TOWNSHIP VARIANCE (AD-V01-10) (Continued)

farm ground is one of the arguments being given to allow the 30 feet of road frontage. Brad Core commented that some may argue on the merit that the creation of the lot itself and the development of a driveway does just the opposite. Brad Core commented that land is not being sold off for gain. There are two tracts being split off for the niece and nephew of the landowner to build homes. Brad Core reported that the second tract being split off in the front is the minimum acreage required to comply with zoning so they are truly trying to take as little farm ground as possible. Brad Core reported that it is their position that the geographic location of the woods being so far from the road creates the unique situation and creates a long driveway and the wider the road frontage required, the more farm ground that would be affected. Brad Core reported that the granting of the variance will not vary the provisions of the Zoning Resolution, comprehensive plans or other guidelines. Amanda Township Board of Zoning Appeals unanimously approved the granting of the variance and the Township Trustees sent a letter of support asking the County to not regulate beyond what the Township is regulating and ask the Committee to grant the variance. Brad Core reported that Amanda Township does not have a Comprehensive Plan. Brad Core reported that the petitioner is trying to take as little farm ground out of production as possible which is why they are requesting the variance. John MacDonell questioned if Brad Core was representing the petitioner or the Township. Brad Core responded that he is representing the petitioner as his surveyor and that the Trustees sent a letter so the Committee would know the position of the Board as a whole. John MacDonell commented that this would be a classic flag lot. Thomas Mazur questioned if the drives would be co-located on the two proposed parcels. Brad Core responded that he did not know the answer to that question and because Access Management does not come into play on that road he never addressed or asked that question. Thomas Mazur commented that the roadway is a 55 mph roadway and that with multiple drives he was curious where the drives would be located since it was all family. Jerry Brooks questioned if there were any provisions for flag lots in Amanda Township. Thomas Mazur responded that Amanda Township does not have flag lot provisions, but require 125 feet of road frontage on an agricultural parcel with this proposal asking for 30 feet. Brad Core reported that Amanda Township is currently in the process of relooking at their Zoning Resolution and revising it; flag lots and making provisions for flag lots is something that they intend to address but have not officially changed at this point. Jerry Gilden questioned if the requirement was 125 feet or 50 feet. Brad Core responded that the Township minimum frontage requirement is 125 feet and they have granted a variance to allow 30 feet of frontage on this road for this one driveway. Brad Core reported that the County's minimum standard in their Subdivision Regulations is 50 feet which is why they are asking for the variance for 30 feet instead of 50 feet. Jerry Gilden questioned if they had received approval from the Township and neighbors. Brad Core responded that they have. Jesse Sadiua commented that there are actually two variances, one being the flag lot and the other being the width. Jerry Brooks questioned if it would be a hardship for the Township to change their zoning to 50 feet in a flag lot situation so there would not be a variance necessary in this case. Brad Core responded that the Township zoning currently says 125 feet and the variance on the Township level has been approved for 30 feet. Brad Core commented that he thinks the flag lot situation and minimum frontage will both be addressed or discussed in their revised zoning. Jerry Brooks questioned if the individuals want to build right away or wait a year or two. Brad Core responded that it is his understanding that they would build in the upcoming construction season. Bruce Plumb commented that 30 feet is not very wide and that they could do 50 feet of road frontage and only use 30 and farm the remaining 20 feet. Jerry Gilden commented that he believes if it is acceptable to the Township and neighbors he thinks the Committee should support it. Jerry Brooks commented that other Township's may come in and use this case as the basis to change their frontage requirements for flag lots. Jerry Brooks questioned if the Township Trustees make the final decision. Brad Core responded that the Township Trustees do not

4. REVIEW AMANDA TOWNSHIP VARIANCE (AD-V01-10) (Continued)

have the power to override what the Committee decides today. The Township Zoning Board of Appeals and the Committee must both approve the 30 foot variance. Jesse Sadiua commented that there is a reason why flag lots are not allowed. Jesse Sadiua commented that it's about land management and disposition. Jesse Sadiua commented that we have had experience before regarding flag lots and the difficulty in administering lots when a flag lot already exists. Jesse Sadiua commented that a couple of years ago there was a gentleman that wanted a lot split but there was a flag lot abutting the property and there was no way to grant the request because the flag lot was not allowing access. Jesse Sadiua commented that it makes administration of land somewhat complicated. Instead of having squares there is a different configuration. Variances can be considered, but they must be considered in other cases as well. Jesse Sadiua commented that a variance must be based on a hardship. Jesse Sadiua commented that he is not sure in this case if this is a self imposed hardship because it has not yet happened. Brad Core commented that the thing unique about this property is the wooded area in the back of the property which is the flag and the drive is the pole. The woods is the physical feature that cannot be moved. Brad Core commented that the intent is to build a home in the woods. Brad Core commented that it is his opinion that that draws a distinction between this variance request and other variance requests that request a flag lot on a piece of farm ground. John MacDonell commented that there is also a wooded area to the west and the same thing could happen if the next door neighbor would request to build a home in the woods. John MacDonell questioned if the fire department had any objection. Brad Core responded that he did not specifically go to the fire department and ask them. Brad Core commented that the way he looks at this the fire department works for the Township and the Township sent a letter of support. Brad Core commented that 50 feet versus 30 feet does not make a bit of difference on accessibility for fire trucks, what makes the difference is the width of the drive built on the strip. Paul Basinger commented that he agrees with Jerry Gilden and believes we would be remiss not to support the request. Paul Basinger commented that he believes the request is based on a hardship. Paul Basinger commented that if you are familiar with Mr. Moeller's properties they are beautiful properties and he would assume the same thing would happen with these two properties and be an asset to the Township. Brad Core commented that Mr. Moeller is not a person out there buying land and selling it in little pieces; he is not a developer and has not conducted himself in that manner. Jerry Brooks commented that he is worried that if the Committee grants a variance narrower than the County's 50 foot requirement, it will set a precedence not only in Amanda Township but in the entire County. Paul Basinger commented that he does not believe that that sets a precedence or even standard because each variance is handled individually. Thomas Mazur reported that when looking at Section 109 of the Allen County Subdivision Regulations, it states that all four must be met not just one aspect. Thomas Mazur commented that his point is that he does not see how this is a hardship but is actually a self imposed hardship. Thomas Mazur commented that the site already has two residential units with two more being proposed and that he doesn't see how this is farmland preservation. Thomas Mazur commented that this is being done in a manner that threatens all of the future transactions with respect to the minimum frontage requirements if it is being done because he has really nice looking properties. Thomas Mazur commented that the 50 foot requirement was established a long time ago and questioned what is the actual hardship that is not self induced. Thomas Mazur commented that staff does not want to get in a position where every lot split that comes in regardless of whether it is 50 feet or 10 feet there is not a standard to go by. Thomas Mazur commented that he disagrees because once a variance is granted on the Allen County Subdivision Regulations, every split is looked at from that perspective. Brad Core questioned if that would change the staff recommendation in the future. Thomas Mazur responded that the Board would have to address the variance based on the conditions that were different from previous variances and in the past variances were always granted based

4. REVIEW AMANDA TOWNSHIP VARIANCE (AD-V01-10) (Continued)

on topographic conditions or irregular lots. Brad Core questioned if Mr. Mazur was not buying into the fact that the woods being located relative to the road as far as it is creates that situation. Brad Core commented that he believes it is one other physical feature. Thomas Mazur responded that he does not see that. Jesse Sadiua questioned that even if the woods were located 100 feet from Harris Road if the petitioner would still be requesting 30 feet. Brad Core responded that he does not know that. Brad Core commented that because the woods is 1,900 plus feet from Harris Road a 20 foot strip is the better part of an acre. Brad Core commented that in the short term it would be okay to make the frontage 50 feet and then farm 20 feet of it, but this could cause a problem in the future if the landowners are no longer related. Brad Core commented that the acre would most likely eventually come out of production which is why the Trustees are supporting the 30 feet. Thomas Mazur commented that the woods is a vegetative state not a topographic condition. Brad Core questioned where Mr. Mazur was getting topographic out of the regulations. Thomas Mazur responded that in the past variances have been granted based on those specific aspects. Walter Rysz commented that it is in Section 109.3. Brad Core read, "Because of the particular physical surroundings, shape or topographic conditions of the specific property involved, a particular hardship to the owner would result as distinguished from a mere inconvenience." Brad Core commented that maybe they are interpreting that in two different ways, but he sees the type of vegetation, whether it is being farmed or not and the location of that all being physical surroundings. Brad Core commented that he did not bring a topographic map.

Motion 21 (4-27-10) DCC

John MacDonell made the motion to deny AD-V01-10 based on failure to meet the tests for variance as identified in Section 109 of the Allen County Subdivision Regulations. Seconded by Jesse Sadiua; motion carried 5 to 3.

Norman Capps questioned that because this is a flag lot not addressed in their zoning if they could put a 20 foot wedge across to meet the requirement. Thomas Mazur responded that typically Allen County requires 50 feet of contiguous road frontage which is how some of the regulations are written. Thomas Mazur commented that some of the Township's vary their regulations. Brad Core commented that that is a good question and asked if the front part of the parcel where it meets the road were expanded to 50 feet if that would meet the requirements. Thomas Mazur responded that he would take that to the Prosecutor's Office because in the past at the County level it has been interpreted to 50 feet of contiguous road frontage. Brad Core questioned if they requested the variance for 50 feet if it would be granted. Thomas Mazur responded that it would be granted. Thomas Mazur commented that there was a recent case in Spencer Township with a property sitting way off the road that only had 30 feet of frontage going back to the parcel, which was fine when the owners of the adjoining property were related. However, the property switched hands and the property owners were no longer related. When the property owner was having his drive plowed in the winter stones were being thrown into the farmers field. Thomas Mazur reported that the farmer did not like that and went to the Township Trustees and complained. The lot was basically grandfathered in a long time ago and predated the Allen County Subdivision Regulations. What they ended up doing was making the property owner center the drive and created a gentleman's agreement that the stones would no longer be plowed into the farmer's field. Jerry Gilden commented that the driveway could be crammed right next to the property line. Thomas Mazur responded that the Township now requires the drives back to the flag lots to be centered.

5. DRAFT SPENCER TOWNSHIP/VILLAGE OF SPENCERVILLE COMPREHENSIVE PLAN

Thomas Mazur presented Committee members with a Power Point presentation regarding the Draft Spencer Township/Village of Spencerville Comprehensive Plan. Thomas Mazur reported that the document is 153 pages in length at this point and does not yet include the appendices. Thomas Mazur reported that there are 15 people on the Advisory Committee for the Plan with 5 being from the Chamber of Commerce, 5 from the Township and 5 from the Village. Thomas Mazur reported that the document contains 67 tables, 43 maps and 18 figures. Thomas Mazur reported that the area being addressed is made up of 16,000 acres. The area is within 10 miles of Delphos, Elida and Ft. Shawnee. Thomas Mazur reported that topographically, there is a 40 foot drop inside the Village of Spencerville, which is a pretty good drop. Almost 15,000 acres are agricultural in use with only 375 acres being prime soils. Approximately 400 acres are non prime with the remainder being prime with conditions. Thomas Mazur reported that inside Spencerville over 52 percent of the land is residential. Thomas Mazur reported that based on the population pyramid provided in the report, the population is becoming older and more female in orientation. Spencer Township is experiencing a rebound in the number of families living there. There has been a change in the household income since 1980 with Spencer Township increasing significantly in 2000, Spencerville has also increased since 1980 but is lower than the national average. Thomas Mazur reported that property sales were also examined along with foreclosures. Water and sewer lines were also addressed along with crash locations in both Spencer Township and the Village of Spencerville. Staff also looked at population projections for both the Township and the Village. Thomas Mazur reported that when examining types of land use, by 2030 Spencer Township will require 16.3 percent more square footage for commercial land use; quasi-public will require 11.6 percent more square footage, and industrial will require 62.4 percent more square footage. Thomas Mazur reported that the Township will need approximately 385 new homes by 2030. Therefore, staff identified vacant residential and commercial land in Spencerville that could be used for the growth. A map was also prepared depicting the 2030 generalized land use. Thomas Mazur reported that the Comprehensive Plan also outlines several goals including preserving agricultural, update the roadways system, upgrade the Miami & Erie Canal, increasing the density of development, supporting mixed use developments, address economic development issues, creating green infrastructure, providing safe housing, and creating and retaining jobs. John MacDonell questioned what the general time frame usually is to complete a Comprehensive Plan. Thomas Mazur reported that the document was started in earnest in the Spring of 2009 and we hope to wrap it up in the Spring of 2010.

Motion 22 (4-27-10) DCC

John MacDonell made the motion to accept the Draft Spencer Township/Village of Spencerville Comprehensive Plan. Seconded by Norman Capps; motion carried.

6. COUNTRY AIRE ESTATES – OVERALL DEVELOPMENT PLAN

Thomas Mazur reported that pursuant to Section 302.3.7 of the Allen County Subdivision Regulations, Craig Mescher of Fanning and Howey, on behalf of the Goods, resubmitted the Overall Development Plan for Country Aire Estates. The Allen County Subdivision Regulations require that this must be done every three years. Thomas Mazur reported that staff has checked with the Allen County Engineer's Office and the Allen County Sanitary Engineer's Office and no one has any problems with the existing design standards. Thomas Mazur reported that nothing is being recommended for changes at this time. Thomas Mazur reported that staff recommends approval of the Overall Development Plan for Country Aire Estates as submitted.

6. **COUNTRY AIRE ESTATES – OVERALL DEVELOPMENT PLAN** (Continued)

Motion 23 (4-27-10) DCC

Jesse Sadiua made the motion to approve the Overall Development Plan for Country Aire Estates as submitted. Seconded by Jerry Brooks; motion carried.

7. **OTHER**

None.

8. **ADJOURNMENT**

Motion 24 (4-27-10) DCC

Norman Capps made the motion that the meeting be adjourned. Seconded by Paul Basinger; motion carried.