



LIMA-ALLEN COUNTY REGIONAL PLANNING COMMISSION

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TO: DEVELOPMENTAL CONTROLS COMMITTEE
Mr. Randy Ackerman Mr. Paul Basinger
Mr. Brad Baxter Mr. Steve Ewing
Mr. Jerry Gilden Mr. Bruce Plumb
Mr. Doug Post Ms. Aloka Roy
Mr. Walter Rysz

FROM: Mr. Kevin Cox, Chairman

DATE: November 19, 2019

RE: D C C Meeting

There will be a meeting of the **Developmental Controls Committee** of the Lima-Allen County Regional Planning Commission held on **Tuesday, November 26, 2019** at **3:00 p.m.** in the Conference Room of the Commission office located at 130 West North Street, Lima, Ohio.

The agenda will be as follows:

1. Roll Call
2. Approval of Agenda
3. Approval of DCC Minutes – October 29, 2019
4. Review Amanda Township Zoning Petition (AD-01-19)
5. Review Marion Township Zoning Petition (MA-01-19)
6. Review Agritourism & Party Venues
7. Ponds & Landscaping Regulations
8. Other
9. Adjournment

Cc: Galen Troyer, Amanda Township Zoning Inspector
Amanda Township Trustees
Norm Elwer, Marion Township Zoning Inspector
Marion Township Trustees

NOTE: Please call the Commission office and confirm whether or not you will attend.



DEVELOPMENTAL CONTROLS COMMITTEE

November 26, 2019

There was a meeting of the **Developmental Controls Committee** of the Lima-Allen County Regional Planning Commission held on **Tuesday, November 26, 2019** at **3:00 p.m.** in the Conference Room of the Commission office located at 130 West North Street, Lima, Ohio.

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3. Approval of DCC Minutes – October 29, 2019
4. Review Amanda Township Zoning Petition (AD-01-19)
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7. Ponds & Landscaping Regulations
8. Other
9. Adjournment

A quorum being present, Kevin Cox brought the meeting to order and proceeded with the agenda.

1. **ROLL CALL**

Mr. Kevin Cox	Perry Township
Mr. Steve Ewing	Auglaize Township
Mr. Bruce Plumb	City of Lima
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**

Motion 36 (11-26-19) DCC

Bruce Plumb made the motion that the agenda be approved. Seconded by Walter Rysz; motion carried.

3. **APPROVAL OF DCC MINUTES – OCTOBER 29, 2019**

Motion 37 (11-26-19) DCC

Walter Rysz made the motion that the DCC minutes of October 29, 2019 be approved. Seconded by Steve Ewing; motion carried.

4. **REVIEW AMANDA TOWNSHIP ZONING PETITION (AD-01-19)**

Thomas Mazur reported that the Moeller Land & Cattle Company is requesting that 4.1 acres be rezoned in order to move the corporate offices from the Village of Spencerville to 2698 S. Defiance Trail. The 4.1 acre zoning district is to be carved out of a 39.98 acre parcel. Staff offered the more Ag friendly Protected Agricultural District but was informed that the Moeller Land & Cattle Company was engaged in more than just Agriculture. In fact, properties owned by the Moeller Family within the Village of Spencerville are numerous and

4. REVIEW AMANDA TOWNSHIP ZONING PETITION (AD-01-19) (Continued)

do reflect a full mix of economic activities ranging from SF Residential to Industrial. Thomas Mazur reported that the applicants are requesting a zoning map amendment that would create 2 zonings on parcel 45-1700-01-004.000, a 39.98 acre parcel fronting along Defiance Trail. The survey presented reveals frontage of 57.06 feet, not the minimum 100' frontage identified in the Amanda Township Zoning Resolution. Nor does it appear that the survey coupled with the aerials reflect the minimum front (100'), side (25'), or rear (25') yard setbacks established by the Township. Thomas Mazur reported that staff recommends denial of the rezoning petition as it fails to meet minimum Township zoning regulations. The fact that the applicant owns and controls the land adjacent to the area as defined in the petition and depicted in the survey/aerials, and has the means to meet the regulations - dismisses any valid argument that there is cause for a variance to the established setbacks. Thomas Mazur reported that the Developmental Controls Committee has the responsibility to: (1) approve the zoning amendment as submitted; (2) approve the zoning amendment on conditions as specified; (3) deny the zoning amendment as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 38 (11-26-19) DCC

Bruce Plumb made the motion to deny AD-01-19 based on the fact that it fails to meet minimum Township zoning regulations and constitutes spot zoning. Seconded by Steve Ewing; motion carried.

5. REVIEW MARION TOWNSHIP ZONING PETITION (MA-01-19)

Thomas Mazur reported that the 5.001 acre parcel in question, owned by the petitioners, was created on June 27, 2019 by splitting a 21.051 acre parcel and leaving the 16.05 acre parcel adjacent to the east owned by Donnie Sargent trustee. There is a residence and several structures that supported the previous use as a cattle auction facility on the 5.001 acre parcel. Based on the zoning petition submitted by the Schwinnen's and conversations with Township officials, it is apparent that the intent is to keep a residence on the parcel and find alternative economic activities to fill the remaining outbuildings on parcel 25-3400-03-002.007. Thomas Mazur reported that the petitioners have indicated the intent is to own and operate a hair salon within one of the existing structures; however, the current zoning, R-1, does not allow for this activity. Per the Marion Township Zoning Resolution a PBO (Professional and Business Office) District allows for a hair salon and also allows for a residence, as a conditional use; however, it would be near impossible to meet the setback requirements. In addition to the hair salon, the Regional Planning Commission was also made aware that the future intent and plans are for an additional business (gutter business) to be also located on this parcel, presumably in the auction barn. This would need to be located within a Business District; however, the Business District has no provisions for a residence. Thomas Mazur reported that there are no identified floodplains or wetlands; nor have there been any archaeological or cultural attributes identified. There are no municipal water or sewer services. The area is not served by the RTA fixed route but receives demand response services. There have been 10 identified crashes at the intersection of Elida Road (SR 309) and Defiance Trail from 2016-2019 YTD. Elida Road (SR 309) is classified as a Minor Arterial and Defiance Trail is a county maintained local roadway on the Federal Functional Classification System. Elida Road services approximately 9,448 vehicles per day while Defiance Trail serves approximately 118 vehicles per day. Thomas Mazur reported that staff recommends the Township deny the proposed zoning map amendment from R-1 (Residential) to a Business District for the entire parcel, as proposed. Thomas Mazur reported that staff recommends that the petitioner create a new parcel within the current R-1 zoning district for the residence. This most likely will require a zoning variance in order to meet the minimum parcel size of 2.5 acres as required by Marion Township. Thomas Mazur

5. REVIEW MARION TOWNSHIP ZONING PETITION (MA-01-19) (Continued)

reported that upon implementation of the residential lot split, staff further recommends approval to re-zone the proposed remaining parcel (approximately 3.5 acres) to a Business District which would accommodate the hair salon and gutter businesses. Thomas Mazur reported that the Developmental Controls Committee has the responsibility to: (1) approve the zoning amendment as submitted; (2) approve the zoning amendment on conditions as specified; (3) deny the zoning amendment as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 39 (11-26-19) DCC

Walter Rysz made the motion to deny the applicants request to rezone the entire parcel based on spot zoning and noncompliance with respect to the residential structure. Seconded by Bruce Plumb; motion carried.

6. REVIEW AGRITOURISM & PARTY VENUES

Thomas Mazur reported that staff has recently been dealing with issues related to agritourism. Thomas Mazur reported that some of these issues relate to safety and concerns of the fire departments. Thomas Mazur commented that there were problems several years ago with "party barns" being built that had absolutely no agricultural use. In order to curb this, Tammie Hursh the former City Prosecutor, required an affidavit be signed by the owners that the barn was used solely for agricultural purposes. Thomas Mazur reported that the Ohio Farm Bureau Federation has released a template to be used in court cases regarding barns as public venues and what to say and not to say in the permitting application process. The OSU Extension Office is also supportive of any farm related income stream and diversification. Hence, confusion! Thomas Mazur reported that current police powers come to townships and counties under sections 303.01-21 and 519.01- 21 of the Ohio Revised Code (ORC). ORC provisions limit zoning authority with agricultural exemptions with exceptions for: lot sizes less than 1 acre; ag buildings on lots less than 5 acres (height, size setbacks); platted lots; lots in proximity to 15 other adjacent parcels; and, poultry husbandry and dairy activities on lots less than 5 acres. Thomas Mazur commented that exceptions include farm markets where 50% of the gross income is derived from produce raised on the farm (1983). However, this can be hard to prove. Thomas Mazur reported that exceptions where necessary to protect public health can regulate: size of structures; parking areas; setback building lines; and, ingress and egress. ORC 3781.061 reads, "Whenever a county zoning inspector under section 303.16 of the Revised Code, or a township zoning inspector under section 519.16 of the Revised Code, issues a zoning certificate that declares a specific building or structure is to be used in agriculture, such building is not subject to section 3781.06 to 3781.20, 3781.40 or 3791.04 of the Revised Code." This means when the township zoning inspector finds a building's use agricultural, then neither Ohio Building Code (OBC), Ohio Mechanical Code (OMC), Ohio Plumbing Code (OPC), nor Residential Code of Ohio (RCO) (OAC 4101:1, 4101:2, 4101:3, & 4101:8) apply. Winery and viticulture (519.21 (A)) cannot be restricted. Thomas Mazur commented that Amy Harpster, City Building Commissioner, doesn't quite know how to handle these issues as of yet and suggests each case should be addressed independently. Kevin Cox questioned what the opinion of the insurance companies is. Thomas Mazur responded that we do not have any feedback from the insurance companies. Thomas Mazur commented that the Health Department needs to be involved regarding water and sewer. Thomas Mazur commented that he is simply trying to get the word out regarding these issues and make the townships aware of what is going on and provide some recommended text for the township zoning resolutions. Thomas Mazur reported that he is working with the local fire chiefs.

7. PONDS & LANDSCAPING REGULATIONS

Thomas Mazur reported that staff met with the City Prosecutor, County Prosecutor, Soil and Water, Allen County Engineer's Office, and several townships to discuss ponds and landscaping regulations. Thomas Mazur commented that several of the townships have been having issues with ponds and setback regulations. Richland Township has recently had several issues with homeowners building ponds without the proper permitting and failing to meet setback regulations. Thomas Mazur reported that he has spoken with the County Drainage Engineer and that anything can be an obstruction or structure for drainage purposes, even flower beds. Thomas Mazur commented that three weeks ago staff met with the new County Prosecutor to discuss this as well and has not received much feedback besides a few definitions. Thomas Mazur commented that he has continued to meet with the Drainage Engineer and Deputy Engineer and they are unsure how to handle these issues. Thomas Mazur commented that we either need to figure out a way to regulate these issues for everyone or walk away completely and let it become an issue between property owners when drainage is affected. Walter Rysz commented that the way it is handled somewhat depends on the location of the property and what is around in terms of houses, etc. Thomas Mazur commented that there are a lot of opinions and really no clear answer. Thomas Mazur commented that most regulations require a landscaping plan when a house is built but it doesn't always happen and the County Engineer doesn't have time to review every set of plans for a new house. Thomas Mazur commented that too much regulation is viewed as being negative but not enough regulation can also be problematic. Thomas Mazur commented that drainage is often forgotten about until it becomes a problem.

8. OTHER

Thomas Mazur gave Committee members a handout listing the 2020 DCC meeting dates.

9. ADJOURNMENT

Motion 40 (11-26-19) DCC

Walter Rysz made the motion that the meeting be adjourned. Seconded by Bruce Plumb; motion carried.