

DEVELOPMENTAL CONTROLS COMMITTEE

March 2, 2021

There was a meeting of the **Developmental Controls Committee** of the Lima-Allen County Regional Planning Commission held on **Tuesday, March 2, 2021 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 – September 29, 2020
4. Review Shawnee Rezoning Request (SH-01-21)
5. Shawnee Township Zoning Resolution Update-Article 2200-Solar Energy Systems
6. Review Westminster Heights Zoning Variance (AU-V01-21)
7. Review Westminster Heights Replat (Auglaize Township)
8. Review Springbrook Estates Replat (Bath Township)
9. Medsker Zoning Variance (AM-V01-21)
10. Allen East Local School District Zoning Variance (JA-V01-21)
11. Delmar Subdivision Replat (Perry Township)
12. Applewood Estates Replat (Shawnee Township)
13. Other
14. Adjournment

A quorum being present via teleconference. For the good of the order, attendance will be called, please confirm your presence. Chuck Schierloh brought the meeting to order and proceeded with the agenda.

1. **ROLL CALL**

Mr. Brad Baxter	Bath Township
Mr. Mark Bishop	Shawnee Township
Mr. Kevin Cox	Perry Township
Mr. Steve Ewing	Auglaize Township
Mr. Walter Rysz	Richland Township
Mr. Chuck Schierloh	City of Lima

GUESTS

Mr. Dave Belton	Shawnee Township Trustee
Mr. Keith Brickner	American Township Zoning Inspector
Mr. Robert Capelli	Springbrook Estates
Mr. Ken Meyer	Bath Township Zoning Inspector
Mr. David Suarez	Westminster Heights

STAFF

Mr. Shane Coleman	Lima-Allen County Regional Planning Commission
Mr. Adam Haunhorst	Lima-Allen County Regional Planning Commission

2. APPROVAL OF AGENDA

Motion 01 (03-02-21) DCC

Dave Belton made the motion that the agenda be approved. Seconded by Brad Baxter; motion carried.

Motion 02 (03-02-21) DCC

Steve Ewing made the motion to move Agenda items 11 and 12 up to Agenda items 4 and 5. Seconded by Kevin Cox; motion carried.

3. APPROVAL OF DCC MINUTES – September 29, 2020

Motion 03 (03-02-21) DCC

Brad Baxter made the motion that the DCC minutes of September 29, 2020 be approved. Seconded by Walter Rysz; motion carried.

4. REVIEW SHAWNEE REZONING REQUEST (SH-01-21)

Adam Haunhorst reported the applicant is requesting to rezone one (1) parcel located in Shawnee Township from B-1 Business District to Residential R-1 to allow for the easier sale of the property as well as to more closely reflect the current usage. Sewer for the site is provided by the City of Lima, but it is unable to receive city water. The area is also served by fixed-route demand response services provided by the Allen County Regional Transit Authority. No wetlands, historical, or archaeological factors were found compromising the site. Additionally, the site has not larger environmental concerns such as the presence of FEMA identified Special Flood Hazard Areas nor wetlands. Soil data reflects Gallman loam of different slopes. These soil types are not hydric in nature.

The area proposed to be rezoned totals approximately 0.781 acres. Frontage upon Shawnee Road is roughly 100'. Shawnee Road is classified as a Minor arterial on the federal functional class system and services approximately 11,000 vehicles per day (vpd) in the segment between Reed Rd. and Ft Amanda Rd. The above-mentioned section of roadway experienced twenty-eight (28) traffic crashes over the 2016-2020 period. Mumaugh Road is classified as a Category III Roadway within the State's Access Management Plan; such regulations require a permit to be submitted for review prior to development.

The latest Shawnee Township Comprehensive Plan, dated October 2009, identifies that the affected parcel's land use as residential. Staff observes that this is the only parcel in the area that is currently zoned business and believes such a change would be consistent with the surrounding environment. Dave Belton stated that the Trustees' only issue is that the properties to the north of the subject property are already zoned B-3. The properties to the east are zoned B-2 and the township is concerned that in the future another property owner will want to put in a business. Shane Coleman stated that was his concern in the beginning but as Adam Haunhorst worked through the process, staff has decided on its recommendation. The recommendation can be revised based on the conversation at today's meeting. Dave Belton stated that this corridor is recommended to be zoned as business in the future based on Shawnee Township's Comprehensive Plan. Chuck Schierloh asked what is Shawnee Township's recommendation for this particular parcel. Dave Belton replied that the township realizes the property owner would like to change the zoning to R-1 in order to sell the property but that more than likely, this property will be back with a request to rezone it to B-1 again.

4. REVIEW SHAWNEE REZONING REQUEST (SH-01-21) (Continued)

STAFF’S RECOMMENDATIONS:

Staff recommends approval of the SH-01-21 rezoning request. This rezoned parcel would eliminate an existing spot zone and changes the zoning to more accurately reflect the parcel’s current use. This decision is supported by the Shawnee Comprehensive Plan which projects the use of the land to remain residential in nature.

DCC RESPONSIBILITIES:

Shane Coleman stated that the Developmental Controls Committee has the responsibility to: (1) approve the variance petition as submitted; (2) approve the variance petition on conditions as specified; (3) deny the variance petition as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 04 (03-02-21) DCC

Kevin Cox made the motion to approve the Shawnee Township Rezoning Request (SH-01-21) as per staff’s recommendations. Seconded by Steve Ewing; motion carried.

5. REVIEW SHAWNEE TOWNSHIP ZONING RESOLUTION UPDATE-ARTICLE 2200-SOLAR ENERGY SYSTEMS

Shane Coleman reported balancing the public’s interest with those of property owners is a daunting task. Regulating solar energy systems, both large and small, requires a delicate balance between property owner rights and what should be a strong interest in the deployment of well-planned energy systems of all types by federal, state, and local governments. The Township identifies the same in section 2200.1: “Recognizing the importance of clean, sustainable, and renewable energy sources, the Township permits the use of residential and commercial solar energy systems under the following regulations to ensure the safety and welfare of all Township residents is met”. The Township additionally recognizes in section 2200 that “in some specific instances, under carefully controlled circumstances it may be in the public interest to permit the placement of solar energy facilities within certain areas of the Township.”

Article XXII seeks to establish the “general guidelines for the locations of residential, commercial, and industrial solar energy systems in order to protect the public health, safety, comfort and general welfare of the Township resident.” Allowable Districts for Permitted Use are identified in section 2202. Further, it addresses General Requirements for Energy Systems (2203), identifies Regulations for Roof Mounted & Ground Mounted Solare Systems (2204), and Regulations for Utility Grid Solar Energy Systems (2205).

Section 2202 references Allowable Districts for Permitted Use. Utility Grid Solar Energy Systems have been identified as “are proposed as a CONDITIONAL LAND USE, in Agricultural and Industrial zoning districts by the Board of Zoning of Appeals after a public hearing.” Staff believes additional clarity may be needed in this instance. There seems to be a question as to whether or not this type of system is in fact a conditional use. Staff is somewhat confused by the word proposed in this instance.

5. REVIEW SHAWNEE TOWNSHIP ZONING RESOLUTION UPDATE-ARTICLE 2200-SOLAR ENERGY SYSTEMS (Continued)

**LIMA-ALLEN COUNTY REGIONAL PLANNING COMMISSION
ZONING AMENDMENT**

(CASE NO: SH-01-21-R)

Section 2205 addresses Regulations for Utility Grid Solar Energy Systems. In it, the following is stated:

A Utility Grid Solar Energy System (UGSES) is designed and built to commercially provide electricity to the electric utility grid. **A UGSES shall only be permitted in Industrial Districts.** In districts where permitted, a "Utility Grid Solar Energy System, facility, or solar farm, shall be subject to the following regulations:

A Utility Grid Solar Energy System (UGSES) **maybe permitted in Agricultural and Industrial zoned districts** as a conditional land use by the Board of Zoning Appeals after a public hearing.

Staff would direct attention to the emphasized text above. There appears to be a level of confusion between the two statements. Staff notes there is certainly a difference in the meaning of the words **shall** and **maybe**(sic). A UGSES shall be permitted in Industrial Districts in one instance while it may be permitted in the next.

Finally, staff recognizes a desire to utilize setbacks for the purposes of things such as privacy, safety, environmental protections, etc. However, setback distances identified in section 2205.1(d) appear to be somewhat conflicting and potentially overly restrictive. Again, staff recognizes the delicate balance between the interests of the public and the rights of property owners. However, it also recognizes that setbacks that are too restrictive could ultimately render development projects infeasible. Brad Baxter stated that the Township reviewed setbacks and stated that 300 feet setback seems reasonable to him. Once someone looks at the height of the solar structures, 1000 feet is actually not that far. As a utility company, they are looking at what is a reasonable standard for a setback from a property. Dave Belton stated that he believed the setback should be determined from the property line not from a building. Most zoning is based on the distance from a property line, not from a building. Dave Belton stated that he believes the utility should not be allowed to base the setbacks from the building (home). Shane Coleman stated that he agreed that the setbacks should be based on the property line not the building or dwelling on the property. Dave Belton reported that anything that Shawnee Township decides will not affect this project but would affect projects in the future. Also, there is pending legislation in the State Legislature that would give the political subdivisions the ability to place a referendum on the ballot by petition to allow the public to make the decision by vote. Kevin Cox asked if the setback is being determined by the Public Utilities Commission of Ohio (PUCO). Dave Belton replied in the negative and stated that Birch Solar has determined the setback but not from a property line but from a building on the property.

STAFF'S RECOMMENDATIONS:

Staff recommends that the text of Article XXII – Solar Energy Systems be revisited and examined to ensure it effectively communicates the Township's desire to regulate solar energy system development. Staff has identified multiple areas which may prompt some

5. REVIEW SHAWNEE TOWNSHIP ZONING RESOLUTION UPDATE-ARTICLE 2200-SOLAR ENERGY SYSTEMS (Continued)

confusion. Additionally, staff would recommend review for minor textual errors which would include two (2) references to wind energy in section 2201.

Motion 05 (03-02-21) DCC

Brad Baxter made the motion approve the Shawnee Township Zoning Resolution Update-Article 2200-Solar Energy Systems as per staff's recommendation with the amendment that the setback is determined from the property line, not from a structure. Seconded by Kevin Cox; motion carried.

6. REVIEW WESTMINSTER HEIGHTS ZONING VARIANCE (AU-V01-21)

Adam Haunhorst reported the subject parcel is owned by David and Norma Suarez of Lima, Ohio. The 7.06-acre parcel has access off McPheron Road and is part of the West Minster Heights Subdivision. The owner is interested in replatting the current parcel into three separate lots: a 2.174-acre section in the center of the parcel where the Suarez's house and accessory structures reside (Parcel B); a 2.188-acre section on the eastern half of the parcel (Parcel A); and a 2.505-acre section located on the western half of the parcel (Parcel C). Please see attachment A for a visual representation of the proposed splits.

Currently, Allen County Subdivision Regulations require road frontage between 170' to 200' for parcels between 2 and 3 acres (rising as acreage does). The three proposed parcels (A, B, and C) would have frontages of 161.35, 137.66, and 138 respectively, all on McPheron Road. Additionally, all three lots exceed the maximum width to depth ratio allowed by the Allen County Subdivision Regulations (Approximately 1:3 in this case). The three proposed lots do however meet all Auglaize township zoning requirements.

Staff cannot recommend this proposed replat for approval while it is in non-compliance with Allen County Subdivision Regulations. Staff discussed the inability to recommend approval based on the current site conditions and agreed that a variance would have to be issued by the county before the replat could proceed further. Based on the stipulations of HB 22, such a land division would need to receive a variance from the Regional Planning Commission.

STAFF RECOMMENDATION:

Staff recommends approval. This decision is based on the proposed lots similarities to the surrounding lots, its conformance with the area's comprehensive plan, and its compliance with section 109 of the Allen County Subdivision Regulations.

DCC RESPONSIBILITIES:

The Developmental Controls Committee has the responsibility to: (1) approve the variance petition as submitted; (2) approve the variance petition on conditions as specified; (3) deny the variance petition as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 06 (03-02-21) DCC

Walter Rysz made the motion to approve the Westminster Heights Zoning Variance (AU-V01-21) as per staff's recommendations. Seconded Mark Bishop; motion carried.

7. REVIEW WESTMINSTER HEIGHTS REPLAT (AUGLAIZE TOWNSHIP)

Adam Haunhorst reported the subject parcel is owned by David and Norma Suarez of Lima, Ohio. The 7.06-acre parcel has access off McPheron Rd and is part of the West Minster Heights Subdivision. The owner is interested in replatting the current parcel into three separate lots: a 2.174-acre section in the center of the parcel where the Suarez’s house and accessory structures reside (Parcel B); a 2.188-acre section on the eastern half of the parcel (Parcel A); and a 2.505-acre section located on the western half of the parcel (Parcel C). Please see attachment A for a visual representation of the proposed splits.

Currently, Allen County Subdivision Regulations require road frontage between 170’ to 200’ for parcels between 2 and 3 acres (rising as acreage does). The three proposed parcels (A, B, and C) would have frontages of 161.35, 137.66, and 138 respectively, all on McPheron Rd. Additionally all three lots exceed the maximum width to depth ration allowed by the Allen county subdivision regulations (Approximately 1:3 in this case). The three proposed lots do however meet all Auglaize township zoning requirements.

Staff cannot recommend this proposed replat for approval while it is in non-compliance with Allen County Subdivision Regulations. Staff discussed the inability to recommend approval based on the current site conditions and agreed that a variance would have to be issued by the county before the replat could proceed further. Based on the stipulations of HB 22, such a land division would need to receive a variance from the Regional Planning Commission.

STAFF RECOMMENDATION:

Staff recommends approval. This decision is based on the proposed lots similarities to the surrounding lots, its conformance with the area’s comprehensive plan, and its compliance with section 109 of the Allen County Subdivision Regulations.

DCC RESPONSIBILITIES:

The Developmental Controls Committee has the responsibility to: (1) approve the variance petition as submitted; (2) approve the variance petition on conditions as specified; (3) deny the variance petition as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 07 (03-02-21) DCC

Walter Rysz made the motion to approve the Westminster Heights Replat (Auglaize Township) as per staff’s recommendation. Seconded by Mark Bishop; motion carried.

8. REVIEW SPRINGBROOK ESTATES REPLAT (BATH TOWNSHIP)

Adam Haunhorst reported the Springbrook Estates Subdivision was originally platted in September of 1945 with the approval of the Allen County Auditor. The existing subdivision currently has full access to public water, sewer, electric, and public roadways. The subdivision plat was reviewed to confirm its continued compliance with the current township zoning and setback regulations, which have all been met. Further, review has been conducted in order to confirm the proposed replat site’s compliance with other possible site restrictions, including wetlands, floodplains, historical and archeological, as well as roadways access, and county lot restrictions. Again, none of these potential issues were determined to be a problem at the proposed replat site. The proposed Parcel will be served by N. West Street (SR. 115), which is categorized as a major collector on the federal functional classification system. While this roadway is listed on the state access management plan this replat is neither creating any new lots nor adding any new access points onto the roadway, therefore the access management rules are not applicable in this case. Additionally, because no new points of access are being

8. REVIEW SPRINGBROOK ESTATES REPLAT (BATH TOWNSHIP) (Continued)

added to the roadway, no additional traffic should be produced by the proposed replat. The owner of the lot in question wants to extend the rear of her parcel so she no longer abuts any other property owners along the rear of her property, this is being done in an effort to avoid any potential future land disputes.

The subdivision is currently zoned R-1 Residential in Bath Township and the owner is not proposing a change in either zoning or usage. All minimum setbacks and lot restrictions established by the township are met by the proposed lot. The proposed lot meets all other specific requirements established by both the Township, Subdivision, and County. Please note that almost the entire parcel is within the FEMA identified Special Flood Hazard Area, the owner has been made aware of this fact and does not intend to develop the area added to the property by the proposed replat.

STAFF RECOMMENDATIONS:

The Staff recommends approval as submitted.

DCC RESPONSIBILITIES:

The Developmental Controls Committee has the responsibility to: (1) approve the proposed replat as submitted; (2) approve the proposed replat on conditions as specified; (3) deny the proposed replat as submitted based on cause; or (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 08 (03-02-21) DCC

Steve Ewing made the motion to approve the Springbrook Estates Replat (Bath Township) as per staff's recommendation. Seconded by Walter Rysz; motion carried.

9. MEDKSER ZONING VARIANCE (AM-V01-21)

Adam Haunhorst reported the subject parcel is owned by Thomas W. Medsker (3-M Enterprises) of Elida, Ohio. The 14.95-acre parcel has access along Neely Road and Mr. Medsker owns the adjacent parcel to the north. The owner is interested in performing a series of land transfers to adjacent parcels and leaving a remainder of approximately 5.389 acres. This land division would leave the remainder with approximately 60' of frontage along Neely Rd, less than the 65' required by The Allen County Subdivision Regulations. Please See Attached Surveys for a clear representation of the planned land division.

Currently, Allen County Subdivision Regulations require minimum a road frontage of 65'. The proposed remainder of parcel 36-2100-02-016.000 would only have 60' of total frontage along Neely road. This would take the proposed parcel out of compliance with the American Township Zoning Regulations as well, but a zoning variance has already been issued by the township as of 3-25-2009

Staff Cannot approve this proposed land division while it is in non-compliance With the Allen County Subdivision Regulations. Staff discussed the site non-compliance with both the County Subdivision regulations as well as the American Township Zoning Regulations (Please note that the site has received a variance from American township) and concluded that a County variance would need to be issued before the division could be completed. Based on the stipulations of HB 22, such a land division would need to receive a variance from the Regional Planning Commission.

9. MEDKSER ZONING VARIANCE (AM-V01-21) (Continued)

STAFF RECOMMENDATION:

Staff recommends approval. This decision is based on the acceptance of a variance issued by the township, its conformance with the area's comprehensive plan, the sites existing condition, and its compliance with section 109 of the Allen County Subdivision Regulations.

DCC RESPONSIBILITIES:

The Developmental Controls Committee has the responsibility to: (1) approve the variance petition as submitted; (2) approve the variance petition on conditions as specified; (3) deny the variance petition as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 09 (03-02-21) DCC

Walter Rysz made the motion to approve the Medsker Zoning Variance (AM-V01-21) as per staff's recommendations. Seconded by Kevin Cox; motion carried.

10. ALLEN EAST LOCAL SCHOOL DISTRICT ZONING VARIANCE (JA-V01-21)

Adam Haunhorst reported the subject parcel is owned by Allen East Local School District of Harrod, Ohio. The 60.1-acre parcel has access along Napoleon Road as well as Harding Highway. The owner is interested in splitting off a 0.322-acre parcel to the Allen Water District in order to facilitate infrastructure development for an ongoing water line extension along Napoleon Road. This land division would leave a remainder of approximately 59.778 acres. This parcel is undersized for both Jackson Township and Allen County minimum land requirements, 2.5-acres and 0.5 acres respectively.

Staff cannot approve this land division while it is not in compliance with township or county regulations. Staff discussed the non-compliance as it relates to both Allen County and Jackson Township and concluded the land division could not be completed until the issuance of a variance. Normally, in cases where the proposed parcel would violate both township and county zoning standards a variance at both levels of government would be necessary, but because this division is serving the best interests of the public it only requires a county variance. Based on the stipulations described in HB 22, the variance will need to be issued by Lima Allen County Regional Planning Commission.

STAFF RECOMMENDATION:

Staff recommends approval. This decision is based on the fact that the Allen County Water District is using the parcel for a purpose that is in the interest of the public safety, health, and wellbeing. and its compliance with section 109 of the Allen County Subdivision Regulations. Allen County is able to issue a variance despite the fact it is also a township violation.

DCC RESPONSIBILITIES:

The Developmental Controls Committee has the responsibility to: (1) approve the variance petition as submitted; (2) approve the variance petition on conditions as specified; (3) deny the variance petition as submitted based on cause; or, (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 10 (03-02-21) DCC

Steve Ewing made the motion to approve the Allen East Local School District Zoning Variance (JA-V01-21) as per staff's recommendations. Seconded by Brad Baxter; motion carried.

11. DELMAR SUBDIVISION REPLAT (PERRY TOWNSHIP)

Adam Haunhorst reported the Delmar Subdivision was originally platted in July of 1941 with the approval of the Allen County Auditor. The existing subdivision currently has full access to public water, sewer, electric, and public roadways. The subdivision plat was reviewed to confirm its continued compliance with the current township zoning and setback regulations, which have all been met. Further, review has been conducted in order to confirm the proposed replat site's compliance with other possible site restrictions, including wetlands, floodplains, historical and archeological, as well as roadways access, and county lot restrictions. Again, none of these potential issues were determined to be a problem at the proposed replat site. The proposed Parcel will be served by three different roadways: St. Johns Rd (SR 65), E. 7th Street, and Kingston Ave, which are rated Principal Arterial, Local, and Local respectively. While this roadway is listed on the state access management plan this replat is neither creating any new lots nor adding any new access points onto the roadway, therefore the access management rules are not applicable in this case. Additionally, because the total number of access points and parcels are being reduced, no additional traffic should be produced by the proposed replat. The owner of the lots in question wants to combine the lots in order to facilitate the construction of a new retail front.

The subdivision is currently zoned B-1 Residential in Perry Township and the owner is not proposing a change in either zoning or usage (both rezoned in 2020). All minimum lot restrictions established by the Township and County are met by the proposed lot. The proposed lot meets all other specific requirements established by both the Township, Subdivision, and County. Please note that Regional Planning took part in the rezoning of this parcel during the previous calendar year and was aware of the scope of the project.

STAFF RECOMMENDATIONS:

Staff recommends approval as submitted.

DCC RESPONSIBILITIES:

The Developmental Controls Committee has the responsibility to: (1) approve the proposed replat as submitted; (2) approve the proposed replat on conditions as specified; (3) deny the proposed replat as submitted based on cause; or (4) at the request of the petitioner table a decision until certain issues can be resolved.

Motion 11 (03-02-21) DCC

Walter Rysz made the motion to approve the Delmar Subdivision Replat (Perry Township) as per staff's recommendations. Seconded by Brad Baxter; motion carried.

12. APPLEWOOD ESTATES REPLAT (SHAWNEE TOWNSHIP)

Shane Coleman stated that staff is requesting this item be tabled at this time. This agenda item was added to the agenda in anticipation of staff being in possession of the materials for the replat prior to the meeting. Staff received the documents late last week. The property in question is part of a PUD and staff would like to complete further research before making any type of recommendation. Staff has already been in discussions with Mark Bishop from Shawnee Township. This item should be on the agenda for the next DCC meeting. Shane Coleman requested a motion to table this item till the next DCC meeting.

Motion 12 (03-02-21) DCC

Steve Ewing made the motion to table the Applewood Estates Replat (Shawnee Township) until the next DCC meeting. Seconded by Kevin Cox; motion carried.

13. **OTHER**

None.

14. **ADJOURNMENT**

Motion 13 (03-02-21) DCC

Steve Ewing made the motion that the meeting be adjourned. Seconded by Walter Ryzs; motion carried.