



**Berkshire Township Zoning Commission  
Regular Meeting Minutes  
February 1st, 2024**

**Call to Order:** Vice Chairman, Andy Kerr, called the meeting to order at 7:00 p.m.

**Determination of a Quorum/Roll Call:** Members present were Jon Kerr, Austin Slattery, Andy Kerr and Matt Allen. Also present were Zoning Inspector David Weade and Meeting Secretary Donielle Owen.

**Motion to approve the minutes:**

*Jon Kerr requested a correction/typo on "Page 2" second paragraph and requested clarification regarding the column/post. David Weade noted change for update.*

A motion to approve the December 7th, 2023, Meeting Minutes was made by Jon Kerr and seconded by Andy Kerr (*with corrections*).

The motion was approved 3-0. *Matt Allen abstained from the vote.*

**Nominations for Berkshire Township Chair for 2024**

Jon Kerr nominated Damita Peery as the Berkshire Township Chair and Andy Kerr seconded.

Matt Allen made the motion to close the nomination and Jon Kerr Second.

Damita Peery has been elected the Berkshire Township Chair.

**Nominations for Berkshire Township Vice Chair for 2024**

Jon Kerr nominated Andy Kerr as the Berkshire Township Vice Chair. Austin Slattery seconded.

Jon Kerr made the motion to close the nomination and Austin Slattery seconded.

Andy Kerr has been elected the Berkshire Township Vice Chair.

**Announcements:**

**Next Zoning Commission Meeting:** February 29<sup>th</sup>, 2024. Our meeting will conclude at 9:30pm. Any unfinished business will be continued to February 29<sup>th</sup>, 2024, at 7:00pm, at 1454 Rome Corners Road, Galena, OH 43021.

**Vice Chairman, Andy Kerr announced the following Statement of Policy:**

Berkshire Township Zoning Commission Meeting Minutes

February 1<sup>st</sup>, 2024

## Statement of Policy

As is adopted policy of the Berkshire Township Zoning Commission, all applicants will be granted an opportunity to make their formal presentation. Following the applicant's presentation preliminary questions or points of clarification from the commission will be allowed. The audience will then be granted an opportunity to comment. Each individual will be granted three minutes. We ask that you be brief and to the point. The Chairperson may limit repetitive comments and close public comments after a reasonable time. The commission will ask questions and take action if needed.

**Continuance from prior meeting:** Application 23-077 Guider Winkle, Sunscapes Landscaping and Ground Maintenance. Continued from the December 7<sup>th</sup>, 2023, meeting. The original hearing date was July 6, 2023.

### **Chris Winkle-19541 Delaware County Rd.**

Two topics to discuss are the use of the container rental business and the site plan.

The main difference to the site plan is the building has been updated to show elevations for the side doors and the revised parking and landscaping. An additional change is the addition of the fenced in area for the container rental service with a 6' high board fence to enclose the container storage area. The storm sewer is labeled and shown. The applicant stated, Delaware County is good with everything and will now need to submit for full permitting. Delaware County asked that the stream be reviewed by an environmental specialist. The results concluded to not put the stream under ditch maintenance by Delaware County and will fall under Army Corp jurisdiction.

The aesthetics were improved by adding stone around the front of the building, cupulas on the top of the building and shutters to the windows.

Still requesting a divergence for the stone in the back of the building.

### **Chris – Sunscapes Landscaping/Buckeye Dumpster Rentals**

The applicant stated they have completely changed their business model to not allow any dumpsters or containers onsite with any debris inside of them. The container must be 100% empty and stored in the back behind fencing.

Austin Slattery requested the size of the dumpsters; Chris-Sunscapes Landscaping/Buckeye Dumpster Rentals stated the sizes are 10', 15', 20' Yards with heights of 4', 5' and 5.5'.

Andy Kerr wanted confirmation that the containers will always be empty. Chris- Sunscapes Landscaping/Buckeye Dumpster Rentals confirmed that there will be zero debris in the containers, or they requested to be fined. Andy Kerr requested confirmation from David Weade if there was a way to enforce that guarantee. David Weade confirmed that there's not a way to enforce other than each specific occurrence.

Jon Kerr requested an updated coversheet with the latest changes as the original application has Sunscapes Landscaping, LLC and the new coversheet has included Sunscape Landscaping and Buckeye Dumpster Rentals. David Weade confirmed that the original application that was approved in 2019 for the Zoning Change and preliminary plan was for Sunscape Landscaping; In November the Buckeye

Dumpster was added. The zoning change was approved based on the information from 2019. The use added in November was not included in the approved zoning change for the dumpster rental business and that business is not permitted in the approved zoning change.

In 2019, four uses were asked for, and two were not allowed. The Trustees approved the Zoning change based on the two approved classifications. The November application added the Dumpster business. The applicant was notified, by David Weade, that the dumpster business is in violation of the code in writing last July.

Chris- Sunscapes Landscaping/Buckeye Dumpster Rentals stated Rental Stop was just approved for business across the street from this site and this would be the same type of business.

David Weade stated the original application does not include the dumpster rental business. The preliminary plan was approved without the dumpster business on the application.

Jon Kerr requested confirmation of when Buckeye Dumpster Rentals was started; Chris- Sunscapes Landscaping/Buckeye Dumpster Rentals, confirmed they started the business 1.5 years ago and this portion of the business is 15% of his total business.

Jon Kerr stated that the incorrect company name is referenced on "Appendix A" - "Pre/Post Drainage maps by using the incorrect business name of "Rental Stop" - the final development plan must be correct.

Austin Slattery stated that for 1.5 years Buckeye Dumpster Rentals has been operating without a permit and the proper guidelines were not followed the first time. The fence is as high as the largest/tallest dumpster. The change in the business plan does make a difference but there is a question of how to enforce it based on the current approved zoning.

Andy Kerr stated the proper procedure needs to be determined on how to proceed with the correct codes (NAICS)

Porter Welch-Legal Counsel for Sunscape Landscaping, Inc. / Buckeye Dumpster Rental  
The appropriate code to use would be 532412.

Andy Kerr stated that it is under the Planned Industrial portion of the code. Porter Welch stated that it may be enforceable under this specific code as container rentals and any waste would be in violation as a transfer station. Andy Kerr stated the original application is zoned commercial and not planned industrial.

David Weade stated the Zoning Board can approve the application adding a NAICS number which may open flood gates for any planning commercial under that code number.

Andy Kerr said he is more inclined to approve the industrial code based on the property's uniqueness.

Jon Kerr requested to know what happens to the collected debris for the landscaping business. Chris-Sunscapes Landscaping/Buckeye Dumpster Rentals, confirmed the debris is taken to First Impressions next door for mulching.

Porter Welch asked if this application was to come back asking for Planned Industrial Zoning is the landscaping requirements the same as Planned Commercial. David Weade confirmed that it would be similar with a few minor differences.

Jon Kerr stated that in Article 23 the landscaping for zoned planned commercial next to an additional planned commercial would be the same; but if it becomes planned industrial then it's not compatible with the other land use and the screening would become stricter.

Austin Slattery stated that the trip traffic study was updated with verbiage and a chart but there is no supporting data behind the changes. With the business plan changes the updated data does not support the 15% portion of the business. Chris- Sunscapes Landscaping/Buckeye Dumpster Rentals, stated that once the dumpster leaves the site then 95% of the time, they do not come back but get emptied and taken back to the customer. Austin Slattery questioned if the traffic study numbers are accurate and should be significantly less.

### **PUBLIC PARTICIPATION**

#### **Shawn Walker**

Owns the property north of this business and is concerned about several things blocking his property. Will the back end of the property have grass planted as a lawn area because the other businesses did not screen properly or make aesthetically pleasing as they should. Chris-Sunscapes Landscaping stated that the land is still going to be leased for farming.

#### **Brian Guerra**

Residential neighbor to the north behind the property. There is a visual decay of land as an eyesore and these businesses need to do a better job of screening and landscaping.

### **Zoning Commission Discussion**

Matt Allen requested how deep into the property the gravel will be; Chris Winkle that from the back of the building is 440' back. Matt Allen requested if there will be any future plans to expand the area based on the dumpster rental business; Chris- Sunscapes Landscaping/Buckeye Dumpster Rentals, stated that the site will not need any expansion as 95% of the equipment will remain offsite much of the time.

David Weade stated the Zoning Board needs to be comfortable with adding the NAICS code for renting heavy equipment to the current application.

Andy Kerr and Jon Kerr stated that they are in favor of making the exception based on the unique site.

Austin Slattery stated that he is concerned with allowing the exception to the code.

Andy Kerr and Matt Allen both agreed to seek legal counsel before proceeding.

Austin Slattery made a motion for continuance of Application #23-077 to the February 29<sup>th</sup>, 2024, Zoning Meeting at 7:00pm at 1454 Rome Corners Road, Galena, OH.

Jon Kerr seconded. Motion approved 4-0.

### **New Business**

#### **Application #24-002 Unlimited Storage, LLC: 1600 Rome Corners Road, Galena, OH 43021**

Applicant Nick Liimatta stated there has been tremendous growth and a need for offsite storage. They're requesting a divergence on the 10-acre requirements as the proposed parcel is 5.249 acres.

Mike Williamson-Engineer

There will be 2 retention ponds with fountains with two phases of the project; Phase 1 would be 4 buildings and Phase 2 would be the last 4 buildings. There would be a porous asphalt mix used.

David Weade stated that the Regional Planning Report had staff recommendations for denial of the application based on two reasons: the side and rear setbacks do not comply, and the lots do not comply with the Berkshire Township Comprehensive Plan.

Jon Kerr asked if the applicant has additional storage areas in the surrounding area; Nick Liimatta stated they do not have other storage facilities. Jon Kerr requested information on how they will ensure the safety of the site; Nick Liimatta stated there will be signed rental agreements and security systems would be installed with individual access codes required by each customer. The access can also be restricted to specified hours and not 24 hours.

Jon Kerr asked David Weade if he has any opinion on the porous asphalt surface. David Weade stated that the applicant needs to prove the product and go from the approved engineering plans.

Austin Slattery stated there are LED downlights with high lighting by the building that drops off significantly. The landscaping on the northern border has a lot of trees on the southside but scarcely on the top side. How willing is the applicant committed to sprucing up the landscaping on the top side for future developments? Nick Liimatta stated they are willing to add more trees to obtain approval and satisfy any requirements for approval.

Jon Kerr asked why there are so many deciduous trees being used and why not evergreens and to take into consideration having the applicant add trees/shrubs screening on the north end with the possibility of using evergreens for all year-round color.

Jon Kerr stated the plan shows the doors being a red/burgundy color that he believes to be gaudy and will fade in time. Nick Liimatta stated the color scheme was chosen to complement the Big Walnut school colors, but more earthy tones can be used if required.

Andy Kerr asked what materials are going to be used; Nick Liimatta stated it will be a steel building with a metal roof and siding. The roll up doors are metal.

Matt Allen asked if the building will be one solid color or have a variety. Nick Liimatta stated there are no other colors for the steel building.

Matt Allen asked why there is a significant reduction in the acreage; Nick Liimatta stated that it was originally realized that the PID had a 10-acre minimum when the land was purchased.

### **Public Participation**

#### **Steve Bank**

The visual of the color schemes (white and red) is not good and requested to know what type of fencing is being used; Nick Liimatta stated it will be vinyl wrapped chain link fencing.

#### **Brian Guerra**

The color scheme is way off, and more earth tone/neutral colors should be used. He also stated concern about the pollution control and visual perspective. There should be more trees in the back and the chain link fencing is not a proper screening.

### **Zoning Commission Discussion**

Andy Kerr stated that this use doesn't fit the Comprehensive Plan.

Jon Kerr requested the total number of planned units; Mike Williamson stated that Phase 1 is 143 units and Phase 2 is 147 units with a total number of 290 units.

Matt Allen said he agrees with Andy Kerr that this use doesn't fit the Comprehensive Plan.

Andy Kerr made a motion to deny Application #24-002. Matt Allen seconded.  
Motion for denial approved 3-1.

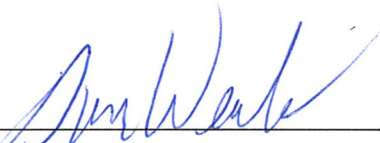
David Weade stated that the recommendation is now passed on to the Trustees for the March 11<sup>th</sup>, 2024, meeting.

**Other Business:** Updates to put in the code book for Matt Allen: Plumb Creek update that paperwork has been filed against the township and now waiting for the next steps.

**Regional Planning Commission Updates:** NONE

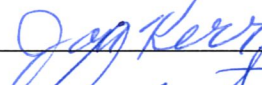


**Adjournment:** Motion to adjourn made by Andy Kerr at 9:24 p.m.

Seconded by Jon Kerr. Motion passed 4-0.

  
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Zoning Inspector

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Meeting Secretary

Date 2.29.24

  
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Zoning Commission Members