



Berkshire Township Zoning Commission Meeting

October 6, 2022 Minutes

Call to Order: Chairman Jon Kerr called the meeting to order at 7:01 p.m.

Determination of a Quorum/Roll Call: Members present were Jon Kerr, Damita Peery, Austin Slattery, Andy Kerr, Matt Allen and Phil Pifer. Also present were Zoning Inspector David Weade, Administrator Kevin Vaughn, Legal Counsel Jenn Huber, and Meeting Secretary Chris Sharlike.

Motion to approve the minutes:

- A motion to approve the amended August 4, 2022 minutes was made by Jon Kerr and seconded by Damita Peery. The motion was approved 5-0.
- A motion to approve the September 1, 2022 minutes was made by Damita Peery and seconded by Jon Kerr. The motion was approved 4-0 with Andy Kerr abstaining.

Next Zoning Commission Meeting: November 3, 2022, at 7:00 p.m. at the Berkshire Township Hall, 1454 Rome Corners Road, Galena Ohio.

Announcements: Zoning Inspector David Weade welcomed Jenn Huber, Berkshire Township Legal Counsel, to the meeting.

Rezone to Planned Commercial and Office District (PCD)

- Application #22-177 presented by 9944 Partners LLC – rezoning of 12.15 acres from Agricultural District (A-1) to Planned Commercial (PCD)
 - Mark Miller and his partner John Guthrie, along with Gary Smith of G2 Planning and Mike Williamson, presented their application to rezone 12.15 acres from A-1 to PCD. The parcel is located on Domigan Road adjacent to the applicants' business, Sunbury Storage.
 - Applicants stressed their desire for sensible growth while maintaining the rural atmosphere of the area. They are seeking input from the Board and assistance in moving forward in developing their property while being good neighbors.
 - Applicants reminded those present of the improvements in progress to the Domigan Road and 36/37 intersection that will greatly improve traffic safety for upcoming growth in the area.
 - Inspector Weade provided correspondence from the Delaware County Engineer's office, which was not included in the original packet of materials. Inspector Weade also made the Board aware that due to a road closure, a sign was not placed on the property regarding the application to rezone. While this has been a practice, it is not a requirement. Neighbors within 200 feet of the property were all notified by mail.

- In response to questions from the Board regarding anticipated usage, Gary Smith, G2 Planning, said that they had tried to keep the usage broad in order to attract a variety of users, but applicants are open to making modifications to any uses the Commission finds objectionable.
 - Legal Counsel Jenn Huber informed the Commission that the Board has the ability to limit uses.
- Gary Smith confirmed that all divergences had been removed from the 2nd version of the application.
- During public participation, Susan Stanton of Domigan Road said that while Sunbury Storage had been a good neighbor, she was surprised by the request to rezone and was concerned about the retail aspect, especially a business such as a convenience store. She asked the Commission to table the application to give additional time to review it.
- The Commission discussed ways to limit uses for a 24-hour convenience store type business, while not limiting all food and beverage uses, such as a butcher shop or mom and pop type business, in a way that can legally be enforced.
- The Commission also asked that use 72111, permitting hotels and motels, be removed. The applicant agreed to remove that use.
- After further discussion among Commission members and legal counsel, it was decided to prohibit uses 445110, supermarkets and groceries; 72111, hotels and motels; 24-hour convenience store type use, and any residential use.
- Perimeter setbacks will be as per plan.
- Applicant agreed to grant a 10-foot public access easement on the backside of the Domigan Road right of way for a future path that the final applicant would install and maintain.
 - Andy Kerr made a motion recommending approval of application number #22-177, with the modifications to 1.01A and 1.07C, and the text included in the October 3 submission. Jon Kerr seconded the motion and it was approved 5-0.
 - Inspector Weade explained that this recommendation will go to the Trustees, who will hold a hearing on November 14. The corrections to the text must be submitted by the applicant no later than October 27, 2022.
- Application #22-174 – a proposed amendment to the Berkshire Township Zoning Resolution which would, if adopted, include changes to Article 16.03 and attachment 1 – Zoning District Map
 - Inspector Weade explained that the Board passed a resolution at the last Zoning Commission meeting to go forward with a discussion regarding a possible change to the zoning resolution.
 - First is the addition of NCAIS #441110, new car dealers. This includes new car dealers, a new car dealer selling used cars, and a mechanic shop. Used car dealers are prohibited.
 - A sub area of 3A, bounded by 36/37 to the north, Wilson Road to the west and 1400 feet east of the intersection of 36/37 and Wilson Road as defined for the Board’s consideration as the proposed area.

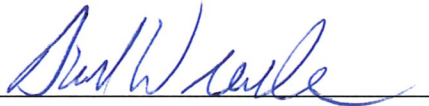
- Legal Counsel Jenn Huber was asked if the Board was able to limit the number of car dealers in a specific area. While not advisable to limit the number of dealers, the area defined naturally limits the possible number. The board can limit uses, but it's recommended they do not limit the number.
- Inspector Weade stated that the Township has been approached by a someone interested in building a high-end car dealership. While he can file under Article 15 as a permitted use, but the Township and the dealership both prefer to file under Article 16, in order to create more uniform standards in setbacks, landscaping, etc. Article 16 allows more control over the development of that area.
 - A Board member questioned why the amendment was needed when Articles 15 and 17 both allow car dealers.
- Steve Cuckler, 94 North Sandusky Street, Delaware, and on behalf of Bernie Moreno, thanked the Board for the opportunity to hear their plans and stated they are very excited for the opportunity to bring a high-end, luxury dealership to Berkshire Township.
 - Bernie Moreno, 29889 Chairmans Rowe, Westlake, Ohio, showed a video depicting the positive impact his Mercedes dealership in Fort Mitchell, KY had on the surrounding community. Mr. Moreno explained that the intersection is the front door to the community as you exit the highway, and that he wants to create a unique and amazing property that is a showcase among dealerships. Although they only need 3 or 4 acres for the dealership, they have purchased 25 acres in order to control the types of businesses that will surround the dealership.
 - Steve Cuckler explained that Article 16 rather than Article 15 would eliminate a "checkerboard" of properties with different standards and zoning requirements and ensure continuity of planning.
- Jeff Cutler, 7525 Perry Road, representing Ed and Julia Shantz, 8144 St Rt 37, said the Shantzs are in favor of the resolution.
- Jan Adkins of South Galena Road questioned why the Commission has a zoning code if the Board changes it every time someone new comes in. She also asked if Article 16 would take away the right of referendum.
 - Zoning Inspector Weade stated that if the applicant applies under Article 15, a legislative act, a referendum would be possible. If the Board and the Trustees would approve the addition of car dealerships under article 16, a legislative act, that would fall under the right of referendum. After the waiting period, if there is no referendum filed, it becomes an administrative act, which would not fall under the right of referendum.
 - Chairman Kerr explained the zoning code can't cover every situation and that an applicant has the opportunity to ask the Board to consider divergences.
 - Mr. Moreno pointed out that a high-end, luxury dealership will attract other high-end businesses.
- Legal Counsel Jenn Huber, stated that upon further review, she does believe the Board can limit the number of car dealerships in a geographical area.

- After much discussion among Board members, it was decided to reduce the area in 3A in which the amendment would apply and boundaries were established.
- Andy Kerr made a motion to recommend approval of the amendment proposed to the Berkshire Township Zoning Resolution in Berkshire Township Zoning Amendment Case Number 22-174, with the following modification:
 - To modify Section 16.03 (b)(6) to read: NAICS Code # 441110 "New Car Dealers limited to Sub area 3A-B (see attached map) – bounded by Route 36 & 37 to the North, Wilson Road to the West, the boundary of 1400 +/- feet East of the intersection of Wilson Road and Route 36 & 37, and the boundary of 1675 +/- feet south of Route 36 & 37.
 - To modify attachment 1 accordingly.

The motion was seconded by Damita Peery and was approved 5-0.

- Chairman Kerr reminded those present that this recommendation will go the Board of Trustees for hearing at the November 14, 2022 meeting.

- **Other Business:** None
- **Regional Planning Commission Updates:** None
- **Adjournment:** Motion to adjourn made by Matt Allen at 9:27 p.m.; seconded by Phil Pifer. Motion passed unanimously.

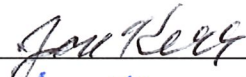


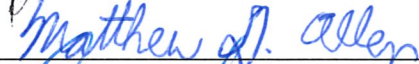
Zoning Inspector

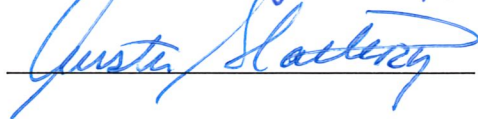


Meeting Secretary











Zoning Commission Members

Date 04/06/2023






Attachment 1 PMUD Overlay Zoning District Map

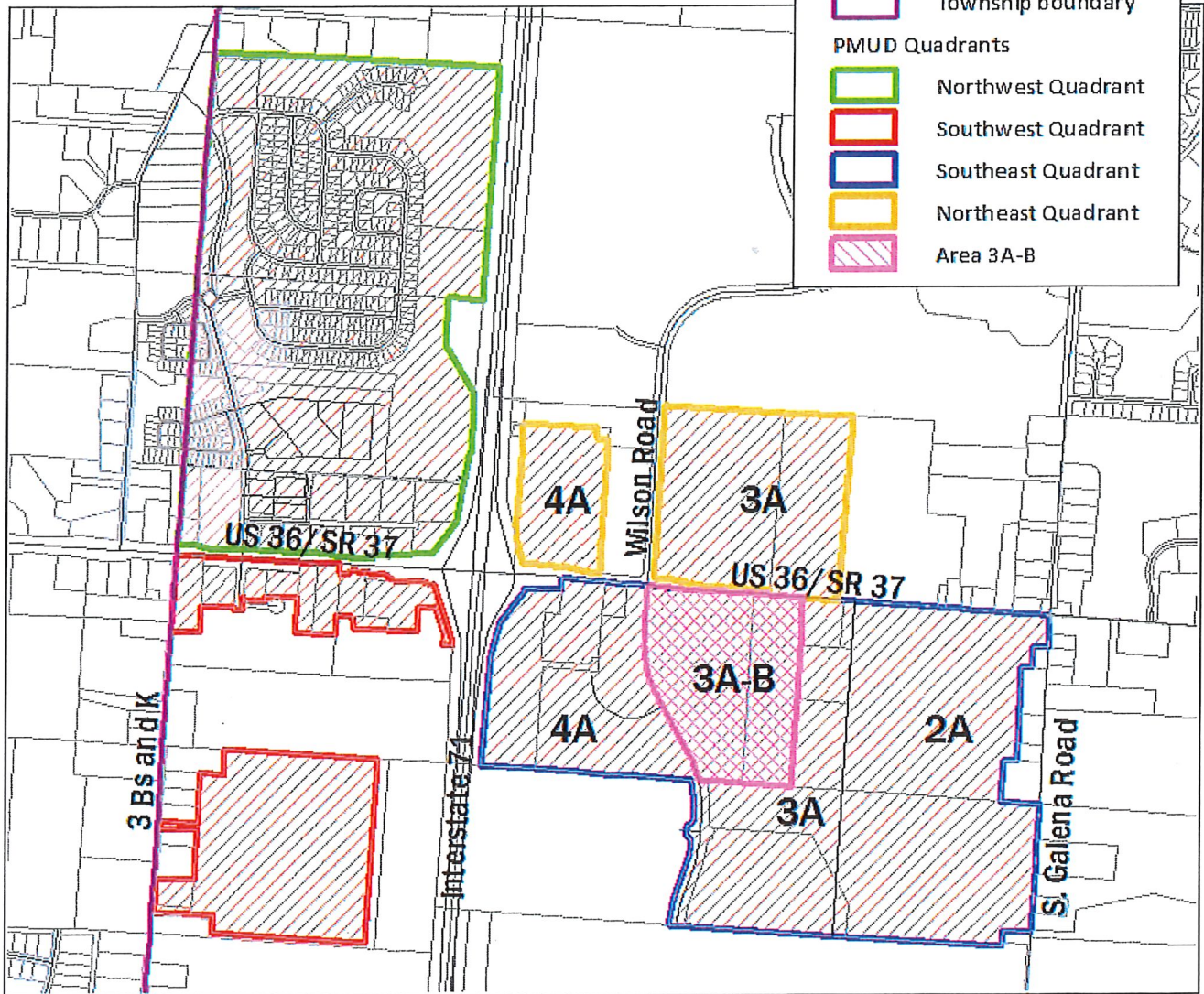
LEGEND

PMUD Overlay Zoning District

-  Property Lines
-  Township boundary

PMUD Quadrants

-  Northwest Quadrant
-  Southwest Quadrant
-  Southeast Quadrant
-  Northeast Quadrant
-  Area 3A-B




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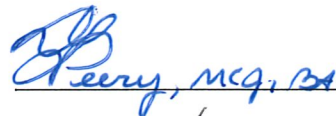
MINES (11-23-2022) 11/11/22 *3A-B - SEE ATTACHED*

The motion was seconded by Damita Peery and was approved 5-0.

- Chairman Kerr reminded those present that this recommendation will go the Board of Trustees for hearing at the November 14, 2022 meeting.
- **Other Business:** None
- **Regional Planning Commission Updates:** None
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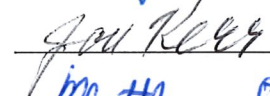
 Zoning Inspector



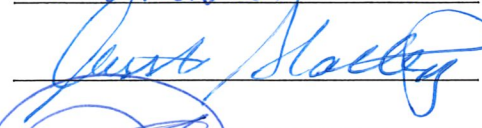
 Damita Peery, M.C.P., C.S.



 Meeting Secretary

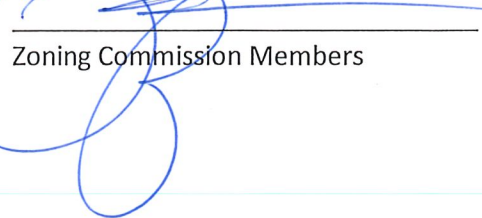


 Andy Kerr



 Matthew D. Allen

Date Dec. 1, 2022
 *Oct 6, 2022 minutes
Signed/Approved w/
corrections



 Zoning Commission Members