

**Brunswick Hills Township
Zoning Commission Regular Meeting
December 6, 2018**

REGULAR MEETING: Sandra Jenkins, Chair, called the Zoning Commission Regular Meeting to order at 7:00 pm. A roll call of the board was executed.

- **Board Members in Attendance:** Sandra Jenkins, Chair; Al Fulkerson; Barb Porter; Linda Kijek
- **Alternate Board Members in Attendance:** Trica Murphy
- **Others in Attendance:** Trustee Michael Esber, Zoning Liaison; Evelyn Czyz, Zoning Inspector; Mary Jean Milanko, Zoning Secretary
- **Members Not in Attendance:** Matthew Mickas, Vice Chair; Ed Kelly

Trica Murphy was seated to represent a full board.

Approval of the Minutes

1. Approval of the November 1, 2018 Regular Meeting Minutes

Motion to Approve Minutes: Mrs. Murphy made a motion to approve the November 1, 2018 minutes. Mrs. Porter seconds the motion. **Roll Call:** Mr. Kijek-yes; Mr. Fulkerson-yes; Mrs. Porter-yes; Mrs. Murphy-yes; Mrs. Jenkins-yes. Motion carries to approve minutes.

New Business: Pre-Application Meeting for Conservation Development

1. Letter of Intent to File an Application for Conservation Development by Brian James, Developers Management, LLC for the Hejduk property per Sec. 411-5 (A) of the Brunswick Hills Township Zoning Resolution

- **Mr. Scott James and Mr. Brian James, Developers Management, LLC, 943 Wye Drive, Akron, OH, 44303** presented their preliminary concept plan for Conservation Development Overlay for the Hejduk property, Parcel # 002-02D-14-013, W. 130th Street, Brunswick, Ohio.

[Note: there was only one large site plan that was passed to board members for review and given to the Zoning Inspector for her records]

Mr. Scott James stated his understanding of the pre-application meeting is to familiarize the board on what we are proposing under Conservation Development and said it essentially the same road layout we presented last time, but fewer lots. Per the zoning, if you have over 20 acres and you designate 40% or more to open space you can reduce your lot acreage to three-quarters of an acre with a 100-foot frontage. This is not definitive, but we preliminarily have 27 lots of all being over three-quarters of an acre with 125-foot frontage instead of 100 feet; and instead of 40% open space we have 50% open space. Mr. Scott James said this could vary but this is what we are proposing per the code.

Mr. Brian James stated the blue areas on the map are the riparian areas which are the same riparian areas that were presented on our previous application. He said the road layout is pretty much in the same location, which is one road in with a cul-de-sac. Mr. Brian James stated this plan proposes 27 lots as opposed to 40 lots presented before. The lots are bigger and they are approximately 125 feet wide as opposed to the 100 feet required. He said we are keeping a lot of the open space so we are trying to accomplish some of the same goals we were trying to accomplish with the rezoning and that is trying to protect those sensitive areas and give buffers to the north and south to the adjoining neighbors. Mr. Scott James said the road goes between these two riparian corridors, but there will be setbacks. The streams flow from east to west, so it is impossible to have any effect on any surrounding property owner with storm water runoff. Mrs. Czyz (Zoning Inspector) asked if the street will be public or private. Mr. Scott James said we would prefer it to be a public street if we could, but it could be a private street. Mrs. Czyz asked if there will be a HOA (Homeowners Association). Mr. Scott James said yes that is what we are proposing per the code.

Mr. Scott James asked if other Conservation Developments have gone in with private streets, or have any been put in period since it was put in your zoning? Mrs. Czyz stated the last Conservation Development that was put in was Autumnwood. Mrs. Porter stated that was put in under a different conservation because it is not RR, it's R-1. Mrs. Porter said she believes Green Fields is a Conservation Development under RR, Catherine's Overlook and Markwood. Mrs. Czyz stated she would have to look those up because she did not know off hand if they were built under Conservation Development. Mr. Scott James stated he was just wondering if there were other private streets for regular residential developments. Mrs. Czyz stated Markwood is a public street, Estates of Sleepy Hollow is a public street and Green Fields is also a public street.

Mr. Fulkerson thought it would benefit the people living there if it was a private street because people who go down the street would have to go all the way to the cul-de-sac to turn around and get back out if they are not familiar with the area. Mrs. Czyz stated that would be the same thing whether it was public or private. She said the main thing with a private street is that it is narrower. Mr. Fulkerson said they could have a gate up there indicating it is a private street and that would limit the only people going up and down there to the ones who live there. Mr. Scott James stated there definitely is not going to be a gate; it will be built to standards for a public road per the Medina County standards. Mrs. Czyz stated she did not think the Township would want a private street there because our safety forces would need to get in and out of there. She said particularly the Fire Department would need room to get their apparatuses in and out. Trustee Esber stated if it is a public street the Township will salt and maintain the road and if it is a wider road it would make it easier to get in and out.

Mr. Scott James asked if there was anything on the plan that may be viewed as detrimental. Mrs. Czyz asked about lighting and asked if every driveway would have its own courtesy light. Mr. Scott James stated we will do whatever is required by the Medina County Subdivision Standards. Mrs. Czyz said if it's not required, what would you do? Mr. Scott James said then we would not put any in. Mrs. Czyz stated she thought our Fire Chief would have some concerns about that, so he will have to look at this plan. Mr. Brian James stated obviously this will be reviewed by your safety forces just like any other subdivision. Trustee Esber looked at the plan and asked if the street was set for a private street. Mr. Scott James said it is drawn on the map as if it was a public street. Mrs. Jenkins asked if they still planned to bring sanitary sewers down. Mr. Scott James said yes. Mrs. Murphy asked if they are also bringing down water. Mr. Brian James stated we are planning on bringing the water down from Laurel Road.

Mrs. Czyz asked about the size of the homes and proposed square footage. Mr. Scott James said the price range would be \$450,000 to \$750,000. Trustee Esber asked if they were going to sell the lots and people have to get their own builder, or are you going to sell the lots and build the houses. Mr. Brian James said no, we are not planning to build any of the homes at this point. He said we built a lot of homes in the 90's but we have not built many homes since then, so we would either be selling to builders or selling to individuals. Trustee Esber said so somebody could buy a lot and get their own builder? Mr. James said yes. Mr. Fulkerson asked what the lot sizes will be. Mr. Scott James said they are a minimum of three-quarters of an acre lots per the zoning code. Mrs. Czyz and Trustee Esber noted from the plan there is a lot 1.73 acres and 1.25 acres. Mr. Brian James stated so relatively about an acre. Mrs. Murphy asked how many acres is the open space? Mr. Scott James said roughly 27 acres.

Chair Jenkins asked the Zoning Inspector if there was anything on the plan that was a concern. Mrs. Czyz stated yes, and noted lots, #24, #25, #26, #27 and #6, #7 where the riparian area goes right through the lots. Mr. Brian James stated there is nothing wrong with the riparian setbacks being on private lots; those are just the setbacks that the building has to be setback. Mr. Scott James said the building cannot impact the riparian corridors and the County will oversee that. Mr. Fulkerson said someone that buys the lot has to conform with what is going on in there because some of these lots look very close to that riparian area. Mr. Brian James said most of these areas, except where it gets very wide in the northwest corner, it depends on how much watershed is coming in but I believe what is shown is 50 feet wide and a 25 foot setback is required from the stream. He said the streams are in the middle of all of those riparian setbacks, so what that is indicating is the 25 feet on both sides of the stream is required. Mr. Brian James noted there is one stream on

the plan that requires a 75 feet setback on each side, so where you see this, that is not where the stream is or necessarily where the wetlands are – that is just indicating a 25 foot buffer from the edge of that to the center of the stream. He said in many cases you can build right up to that setback.

Chair Jenkins stated the purpose of this meeting is to review the preliminary Conservation Development concept plan for this property; nothing has been submitted yet. Mr. Brian James stated the plan you reviewed is now formally submitted. He said we only have the one copy but per your zoning code, we are not actually even required to submit a plan, just come in and talk about the general concepts. He said we did bring in a plan and it is now formally submitted and on the record.

Chair Jenkins read from the code what the next step in the process is for Conservation Development Overlay:

Sec. 411-5 Application Requirements and Procedures

B. Application and General Development Plan Submission

Subsequent to the Pre-application Meeting with the Zoning Commission, each applicant for a Conservation Development Overlay District shall submit an application for General Development Plan approval to the Township Zoning Inspector. Applications shall be made at least ten (10) days in advance of the meeting at which they are to be considered, shall include such fees and deposits as may be established by the Township Trustees, and shall include fifteen (15) copies of the following minimum information:

1. A General Development Plan conforming to the requirements of Section 411-5(C).
2. A storm drainage management plan which addresses the proposed methods of controlling storm run-off and mitigating erosion and sedimentation impacts.
3. Proposed covenants and restrictions intended to govern the development and future use of the Conservation Development including a perpetual maintenance plan setting forth the proposed ownership arrangement, maintenance responsibility, and financing method for all recreation facilities, common parking areas, private streets, and other commonly owned facilities.
4. The proposed perpetual conservation easement for the designated open space.

Mrs. Kijek asked if they are presenting a landscape plan. Mr. Scott James said we will submit whatever is required in your code. Chair Jenkins looked at the code and it says a conceptual landscaping and buffering plan is required. Mrs. Czyz stated the final development plans also require a site lighting plan, per Sec. 411-5, G. #7.

G. Final Development Plan Requirements

Final development plans shall be prepared by persons professionally qualified to do such work. Final development plans shall be certified by an architect, engineer or land surveyor duly registered by the State of Ohio. Final site plans shall be prepared at an appropriate scale, but not less than one inch equals one hundred feet (1" = 100'). Profiles must be submitted on standard plan profile sheets. Final development plans shall include detailed design information for all of the items contained on general development plans but shall also include detailed construction drawings for proposed improvements including such items as:

1. Detailed street improvement plans including proposed traffic control provisions such as signage, pavement markings, and signalization;
2. Detailed utility improvement plans including all pipe sizes, types, grades, and invert elevations, and the location of manholes for sanitary and storm sewers, and the location and sizes of water mains, and the location of fire hydrants;
3. A detailed landscaping plan including a listing of all plant material by type, size, and number;
4. Provisions for the adequate control of erosion and sedimentation;
5. The location, type, size and height of all fencing, screening, and retaining walls;
6. The location, width, size and intended purpose of all easements and rights-of-way and whether they are to be publicly or privately maintained;
7. A site lighting plan;
8. Detailed site grading and drainage plans including storm detention calculations and pipe sizing analyses; and
9. Location, size, height and type of all signage.

End of discussion and questions by the board.

Mr. Christopher Frank asked from the audience if there is opportunity to speak on the first business issue. Chair Jenkins stated this is not a public hearing but there will be public input called before the end of the meeting.

Continued Business:

1. Agritourism:

Chair Jenkins asked the Zoning Inspector if Senate Bill 75 – Agritourism passed or not passed, because it says it was effective August 16, 2016. Mrs. Czyz stated my understanding is that some of the verbiage needs to be looked at but the Senate is not in session yet. Chair Jenkins stated the bill has a lot of information in it and there was a lot of information presented at the Montville Township information session. Chair Jenkins stated I just want to make sure we are up to date on the law and if we have to have a workshop on it we will schedule it because we need to get something in our book quickly. Chair Jenkins stated I want to make sure the sections we are reading in the bill are not up for amendment.

Mrs. Porter asked if we can look at what Montville Township has as a guideline and said that Trina Devanny helped set theirs up. Mrs. Czyz stated that is what she thought the board said they were going to do – download the Montville Township language and read it. Mrs. Murphy stated she reviewed the Montville Township language and they have a CAUV requirement and she didn't think it should be a requirement. Mrs. Murphy said they stated at the training session that CAUV should be a requirement for a farm, but there are farms like a tree farm that aren't a CAUV. Mrs. Czyz also said I mentioned that before and not every piece of property that is used for Agriculture use is under the CAUV. Mrs. Murphy stated there are Ohio tree farms that are not under the CAUV, they are under Forestry. Chair Jenkins stated we will have to look into that because we have to get something in our book.

Chair Jenkins asked the Secretary to place the Agritourism and review of Montville Township language on the agenda for January and hoped to have some suggested language to review at the next meeting.

2. Review of the Brunswick Hills Township Zoning Resolution

A. Sec 303-10E. Conditionally Permitted Uses In Intermediate Regional Flood Plains

Chair Jenkins stated Evelyn has provided us with information on Sec. 303-10E (Attachment: 1). Mrs. Czyz stated she spoke with Dan Wilhoite, Medina County Engineer, at a Concept Plan meeting in Medina and asked him for his recommendation on the language change for Sec. 303-10E. She said that Mr. Wilhoite recommends deleting Sec. 303-10, "Flood Plains" from the Zoning book because the current wording was created in the 1970's. The document references that the Medina County Commissioners have adopted Flood Damage Reduction Regulations, which governs activities in FEMA-designated floodplains in all Unincorporated Areas of Medina County.

Mrs. Czyz stated that if the Township still wished to have a "Floodplain" section, Mr. Wilhoite suggests the following statement: *Development activities within floodplains designated by the Federal Emergency Management Agency are subject to the Flood Damage Reduction Regulations which have been adopted by the Medina County Board of Commissioners.*

- **New Section referenced by Mrs. Czyz:** Sec. 406-7 Application for PMUO, B. 1. A. (Attachment 2) page 50/119) and recommended changing fifteen (15) days to 30-45 days. Mrs. Murphy questioned the word transmitted. The board agreed transmitted should be changed to submitted.

Sec. 406-7 Application for PMUO, B. 1.,a.

B. Development Plan Review Procedures: General development plans and final development plans shall be reviewed according to the following procedures.

1. Review by Zoning Commission.

- a. All applications for Planned Mixed-Use Developments shall be ~~transmitted~~ **submitted** to the Zoning Commission for review at least ~~fifteen (15)~~ **30-45** days prior to the meeting at which it is to be considered.

➤ **New Section referenced by Mrs. Czyz:** Sec. 406-7 Application For A PMUO (Page 48 Attachment 3) and stated the reference of Township Clerk should be changed to Township Fiscal Officer and Zoning Inspector.

A. Submission Requirements:

1. General Development Plans – Fifteen (15) copies of a General Development Plan for a Planned Mixed Use Development project shall be filed with the Zoning Inspector for consideration by the Zoning Commission and the Board of Township Trustees. Submission of this General Development Plan shall be by either the owner of the property or the developer of the property and shall be accompanied by such fees and review deposits as may be established by the Township Trustees. The General Development Plan (which may be set forth on one (1) or more maps or in one (1) or more instruments), a copy of which shall be retained by the Township Trustees and deposited with the Township ~~Clerk~~ **Fiscal Officer and Zoning Inspector**, shall have been signed by all owners of property, or developers with an interest in the property, within the PMUD project, shall have been drawn to scale, and shall show the following.

No discussion on B.C. or D.

- B. **Sec 703** Continuation of Existing Uses Conditionally Permissible Under This Resolution
C. **Sec. 902-2.E.** Submission of Applications
D. **Sec. 904-3** Referral to Zoning Commission

Chair Jenkins asked for an update on the sections referencing Equestrian Activities. Mrs. Czyz stated “Equestrian Activities” are covered under Agriculture and should be removed from the following sections of the Zoning book:

E. **ORC:** Agriculture/Equine/ Equestrian Activities

- Open Space Conservation District; Sec. 401-2, B#2; pg.32
- RR; Sec. 402-2, B#1; pg. 34
- R-1; Sec. 403-2, B#3; pg. 37
- R-2; Sec. 404-2, B#3; pg. 39
- R-3; Sec. 405-2, B#5; pg.41
- Specific Standards for Conditional Uses; 804-17, pg. 104

➤ **New Section referenced by Mrs. Czyz**

Sec. 411 Conservation Development (Attachment 4 page 72/119)

Mrs. Czyz stated the Final Development Plans shall be submitted at least 30-45 days instead of ten (10) working days as listed in the book. She stated it cannot be changed for our current applicant, but for future applicants.

Sec. 411-5

B. Submission of Final Development Plans

Final Development Plans submitted to the Zoning Commission for review shall be based on a previously approved General Development Plan and may be for portions or phases of the entire project. Final Development Plans shall be submitted at least ~~ten (10) working days~~ **30-45 days** prior to the meeting at which said plans are to be reviewed by the Commission. A minimum of fifteen (15) copies shall be submitted. Submission shall include fees and deposits as established by the Township Trustees.

Additional Business: None

Continued Business: None

Public Input:

[**Note:** Public Comments in response to the Conservation Development Overlay preliminary plan meeting with Scott and Brian James, Developer’s Management LLC]

1. **Christine Frank, 1938 W. 130th Street, Brunswick Ohio.**

Mrs. Frank asked about Conservation Development Overlay and asked if the applicants are operating on the information from the August 7, 2007 information? Is that what their proposal is based on? The board confirmed Conservation Development is based on the Zoning Regulations effective August 10, 2007. Mrs. Frank said she had a question on the number of houses they are proposing to put on that land. Mrs. Frank stated Sec. 411-4, A. Maximum Density says “The total number of allowable units in any Conservation Development Overlay shall not exceed a maximum density of one (1) dwelling unit per each two (2) acres”, so I am wondering how they can put a dwelling unit on three-quarters of an acre?

Mrs. Frank also asked how much of that acreage is taken up by the wetlands because it also states in Sec. 411-4 Open Space says “Permanent open space shall be as set forth on the approved final development plan, however, the land area designated for open space shall not be less than forty percent (40%) of the total land area of the District”. Mrs. Frank said so if that parcel is 55 acres, 40% of that is roughly 22 acres which leaves 33 acres that can potentially be developed, which would equal 16 or 17 lots.

Mrs. Frank asked the Zoning Inspector to look at the applicants’ plan and asked how much of that acreage is taken up by wetlands as opposed to acreage that can be developed? Mrs. Czyz stated she cannot answer how much acreage is taken up by wetlands. Mrs. Czyz stated there is a lot of contradictory information in the language so she agreed with Mrs. Frank on that. Mrs. Czyz referenced Sec. 411-4, C. 1. General Standards for Conservation Development

C Minimum Lot And Yard Areas

1. Minimum lot size shall be 32,670 square feet provided, however, that where the Medina County Health District requires greater minimum lot sizes to accommodate on-site waste disposal in areas that are not served by central water and sanitary sewer, the minimum lot area established by the Health District shall govern.

Mrs. Frank stated it is not the issue of can the Hejduk’s sell their property or can it be developed, for me it is an issue of whether it is going to be developed responsibly and alleviate the concerns that were brought up with their prior proposal. She stated they are reducing the number of houses but it is in accordance with the Conservation Development Overlay. Mrs. Czyz stated Medina County Storm water Management will have the final say regarding the riparian areas and wetlands so they could have the James’s make changes to the plan or they could say these lots are acceptable.

Mrs. Frank asked if the James’s have to submit any prior projects they have worked on as an indication to their performance? Mrs. Czyz stated no they do not. Mrs. Frank asked if the County requires it. Mrs. Czyz stated she did not know, but the Township does not. Chair Jenkins stated she did not believe the County requires it.

2. **Christopher Frank, 1938 W. 130th Street, Brunswick, OH.** Mr. Frank said he knows this is just a preliminary introduction to this new approach, but in his opinion, it is the same horse painted a different color. You asked if there were any red flags but tonight all we got was a picture so maybe that is the first step in the process. Chair Jenkins confirmed it absolutely is the first step in the process and that was the purpose of tonight. Mr. Frank said from the first set of concerns expressed here, there seems to be a concern of the consistency and integrity, etc. in the regulations and the description of this Conservation Development and it doesn’t seem like we have a real historical track record on this approach. Mr. Frank expressed his concern that zoning, the County and others will be looking at this information carefully and asked how we are going to enforce that there is no disruption of this natural environment that we are trying to conserve. Mrs. Czyz stated the road will be built to County Engineer’s specifications and the County will also dictate where the homes can be. Mr. Frank expressed his concern about disrupting the natural areas and wiping out

80 to 100 year old trees. He asked what is their requirement; plant little sapling's to get everything back to where it was?

Mr. Frank stated there is also wording in the Conservation Development that they are going to set up an Association of obligation and maintenance of the free space but the Township has no obligation of enforcement. Mrs. Czyz stated the HOA (Homeowner's Association) documents will be reviewed by the Medina County Prosecutor's Office.

Mrs. Kijek addressed Mr. Frank and said I live in a Conservation Development with wetlands and riparian streams. It is up to the Army Corps of Engineers to make sure that those areas and the HOA go according to what is written for that development. She stated the Army Corps of Engineers will check those areas and if they are not in compliance, it could cost that HOA \$7,500 for each occurrence until they come back into compliance. Mrs. Kijek stated this means they have to keep the natural areas natural; they have to watch the buffer zones; they cannot go within 25 feet of either side of a stream so there will always be somebody who will watch over this in the HOA of a development in a conservation. Mr. Frank expressed his concern that the Township is not obligated to enforce it. Mrs. Czyz stated but as Mrs. Kijek said, the Army Corps of Engineers governs that. Mr. Frank angrily stated there goes another handoff, first the Township, then the County and now someone else. He expressed his concern about the James's final application submission and historical performance and implementation on this type of development that our Township has had.

Sec. 411-4, General Standards for Conservation Development; B. Open Space, #8 was referenced as one of the areas Mr. Frank had a concern with the statement that the Township has no obligation to enforce the provisions therein.

8. Permanent open space areas shall be established as part of the initial phase of any Conservation Development Overlay District. The ownership of all common areas, vegetative buffers, fences, ponds, parking areas, and similar common spaces shall be identified and a perpetual maintenance plan for said areas submitted to the Township for review and approval. Said perpetual maintenance plan shall set forth responsibility for maintenance of all such areas and describe the method of financing for said maintenance program. The perpetual maintenance plan shall become part of the development plan and development agreement and shall be placed on record with the Medina County Recorder as a covenant on the land. The perpetual maintenance plan shall identify the Township as a beneficial party thereto with rights, but no obligation, to enforce the provisions contained therein.

Mr. Frank stated this is one of the examples of his concern and believed it is written in the document three times with those words "no obligation to enforce". Chair Jenkins stated those are Covenants and HOA documents and the Township cannot enforce those but they are sent to the Prosecutor's Office for review. Mr. Frank expressed his concern that we have these gentleman proposing that after they set off 50% for open space there will be 30 acres that will be available and then magically we are going to have some developers come in and put in \$700,000 houses on three-quarter acre lots after they put in the sewers and don't disrupt any of the waterways or the conservative area when they come in with the bulldozers. He said there are a lot of variables here and he hopes someone can enforce it. He stated we will make sure as a group that we stay involved as possible to make sure what is outlined here does not create another loophole for this horse that has a slightly different color.

3. **Kim Cossel, 2020 W. 130th Street, Brunswick OH**. Mrs. Cossel stated we just moved into our property September 21, 2018 so we did not know anything about this when we walked into that last meeting. She asked if the public will be able to see the plan before the board votes because at the last meeting they walked in and there were maps and things up and we didn't know what was going on. She said there have been a lot of rumors that is was going to be 40 houses and then it's going to be 50 houses and asked if the public will know before that meeting what you are voting on? Chair Jenkins stated we won't be voting on anything at the next meeting because this is just a preliminary application meeting and they haven't even applied for anything yet.

Mrs. Cossel said there were also rumors that somehow my property at 2020 W. 130th Street was included in the HOA and included in what they were taking as part of their property. Mrs. Czyz stated the HOA can

only be the properties in that development. Secretary Milanko also clarified that her address was included in the previous rezoning application by Mr. Brian James to rezone a corridor on W. 130th from Laurel Road to Sleepy Hollow Road, which was turned down by the Trustees. Mrs. Cossel wanted to make sure her address was not included in the new application request. Mrs. Czyz stated once the plans are submitted, it becomes public knowledge so you can call me or stop in the Zoning office to see the plans.

End of Public Comment.

Announcement of Next Meeting Date:

Thursday, January 10, 2019

- 6:30 p.m. Organizational Meeting
- 7:00 p.m. Regular Meeting

Acknowledgement of thanks to retiring board member Al Fulkerson. Chair Jenkins expressed her appreciation of thanks for the number of years they have worked together. Trustee Esber and other board members also expressed appreciation.

Motion to Adjourn: Mrs. Kijek made a motion to adjourn the meeting. Mr. Fulkerson seconds the motion.

Roll Call: All in favor to adjourn. Meeting officially adjourned at 8:12 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Zoning Commission

Date