

BUTLER COUNTY PLANNING COMMISSION  
Butler County Administration Center  
Hamilton, Ohio

REGULAR MEETING: Tuesday, June 9, 2009; 3:00 p.m.  
Butler County Government Services Center  
315 High Street, Conference Room 1  
Hamilton, Ohio 45011

MEMBERS PRESENT:

G. Coe Potter, Chair  
Steven Brown  
Charles Bullington, Co-Chair  
Kevin Cooney  
Chris Flaig  
Lynn Nevel

MEMBERS ABSENT: Charles Disney  
Joseph Tucker

STAFF PRESENT:

David Fehr, Planning Director  
Jeremy Fruth, Butler Soil & Water Conservation District  
Eric Pottenger, Butler County Engineers Office  
Lee Margraf, Administrative Secretary  
Joseph Schmidt, Senior Planner

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CALL TO ORDER:

Mr. Potter called the meeting to order at 3:00 p.m.

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**APPROVAL OF MINUTES:**

Mr. Bullington motioned to approve the May 12, 2009 meeting minutes. Mr. Flaig seconded the motion. Motion carried.

AYES: Bullington, Flaig, Brown, Nevel, Cooney, Potter

ABSTAINED: None

NAYES: None

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**ZONE CHANGES FOR APPROVAL:**

**MTZ 09-02**

Morgan Township Zoning Commission – Text Amendment  
Morgan Township

Mr. Schmidt said Morgan Township has a text amendment to add text to the Morgan Township Zoning Resolution regarding landed-locked lots here today, which is a fairly small section but significant to the Township.

Mr. Schmidt read the proposed text out loud (Section 6.121).

Mr. Schmidt said this is what the Township is proposing and requesting approval for and staff does not have any problems with the proposal and is recommending approval.

Mr. Potter asked if there was anyone here from Morgan Township and did they have any comments.

Mr. Ed Teets, Morgan Township Zoning Administrator, stood and said he did not have any comments but offered to answer any questions.

Mr. Potter asked Mr. Teets if there is any conflict in definition within code relative to not land-locked lots but lots here – another words what constitutes a “lot” in Morgan Township as opposed to a “tract of land” definition – is there any possibility of a conflict with just the word “lots”.

Mr. Teets said he does not have the Zoning Resolution with him to give a definition for the term “lot”.

Mr. Potter said that was his only concern because if there was a tract of land and for some reason did not meet code relative to the definition of just “lot” within the code. He then asked staff if they had any comments or if they knew of any problem with that.

Mr. Schmidt said he did not know of any problem.

Mr. Nevel asked Mr. Teets, regarding the permanent easement, is that something that also has to have been in place before 1998 or could a person have all of the situations except the easement and obtain a permanent easement now and create a buildable lot.

Mr. Teets replied yes, this will allow a person to obtain a permanent easement – we do not have any instrument by which you get an easement in land-locked lots – he stopped counting the number of land-locked lots in Morgan Township at number 144 and said some are buildable and some are not.

IN FAVOR: None

IN OPPOSITION: None

NEUTRAL COMMENTS: None

Mr. Cooney motioned to approve the Morgan Township Text Amendment as presented to the Planning Commission. Mr. Bullington seconded the motion. Motion carried.

AYES: Cooney, Bullington, Flaig, Brown, Nevel, Potter

NAYES: None

**Resolution# 09.24**

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**PRELIMINARY PLATS FOR APPROVAL:**

Madison Estates  
Section 22, Town 3, Range 3  
Liberty Township

Mr. Fehr showed an aerial map of the property (outlined in blue) and said it is located on the south side of Hankins Road, Liberty Township. This preliminary plat was approved in 2005 with basically the same configuration and the preliminary plat approval expired and it came back in 2007 and was re-approved and they are asking for re-approval today.

Mr. Fehr showed the plat drawing and said there will be one single street with a stub street pointing towards the east and then another stub street pointing towards the golf course towards the west and another on the south end.

Mr. Fehr said Staff Comments are in the Planning Commission members' packets and highlighted the following:

Item #9 – Soil & Water Conservation has been out on the site and there is probably some drainage tile on the property that the developer needs to be aware of so they take that in to account when the subdivision is developed.

Item #11 – The Water & Sewer Department wants the water main looped after 25 lots are constructed to help the pressure and helps prevent stagnant water on a long straight-away,

Item #18 – The Butler County Engineers Office has requested that a Traffic Impact Study be completed and reviewed by Mr. Matt Loeffler, Butler County Engineer's Office.

Item #19 – because it is such a long, straight-away street, at some point speeding down the road will likely be an issue and getting complaints from neighbors so staff is asking for some

sort of traffic-calming device. He added there are many options for this, including pinching the roadway in and making it a little tighter than the normal 28-foot pavement width, adding a traffic island, bump-out intersections – and want to give the developer some flexibility but want to address the potential issue of speeding potential down that straight-way street and slow the traffic down a little bit.

Item #27 – The Sewer & Water Department would prefer that the lift station be an easement on a buildable lot versus being on its own lot, which is a change from years' past – right now they are showing the lift station is on its own lot (on lot #47) and the Water & Sewer Department want that lot to go away and have that lift station will be on one of the adjoining lots next to it and the location of the lift station would be just be an easement.

Mr. Bullington asked if the easement could potentially be put in the detention basin or do they want it on an occupied lot.

Mr. Fehr said lot #48 is a buildable lot – it is buildable up front so we do not care so long as it is on a buildable lot.

Mr. Fehr said Ms. Etta Reed (Bayer Becker) and Mr. Harry Thomas (Developer) are here today and asked if they had any issues with staff comments.

Ms. Reed said they did not.

Mr. Bullington asked how they would typically loop the water on a street like that.

Mr. Fehr said Ms. Constance Kepner, Water & Sewer Department, is not here.

Ms. Reed said she asked the same question of Ms. Kepner and she said they would have to loop in back to Hankins Road or go to one of the future stubs and go to another subdivision or another street and she would leave it up to us when we got to that point, but we will need to tie in to water somewhere else and so we are hoping that a subdivision will be built adjacent to this as that would be the easiest route rather than go through someone's yard and tie back in.

Mr. Bullington asked if there are any other subdivisions around right now.

Ms. Reed said at this point, no but there is Francis Manor to the south but she was not sure if that was still valid and there is property to the east that had been rezoned and had a preliminary plat that expired, so she knows there is interest in developing joint property but no one is currently developing.

Mr. Cooney asked about the length of time on the preliminary plat.

Mr. Fehr said that will be discussed as the second item on the agenda under "Other Business".

Mr. Bullington motioned to approve the preliminary plat for Madison Estates, Section 22, Town 3, Range 3, Liberty Township subject to staff comments. Mr. Flaig seconded the motion. Motion carried.

AYES: Bullington, Flaig, Nevel, Brown, Cooney, Potter

ABSTAIN: None

NAYES: None

**Resolution: 09.25**

Mr. Fehr said as a related item, we have it under “Other Business” but thought the Planning Commission might as well just go ahead and discuss it now.

Mr. Fehr said, as you know, a preliminary plat is good for two years and staff received a letter from Bayer Becker and the Developer asking for a variance to the Subdivision Regulations that would allow this preliminary plat to be approved for four years instead of two year.

Mr. Fehr said a copy of the letter is in the Board members’ packet and stated that due to market conditions the two year time period has become a hardship ship for the developer, so we would need a separate vote on the request to extend the time period from the two year to four year period.

Mr. Potter asked if there were any staff comments on that.

Mr. Fehr said staff would be happier with the two year period but he can understand what they’re discussing as far as it being a hardship and added that they do give the Developer a break on the price - \$500 is charged plus \$50 per lot for the preliminary, then the lot price is cut down to \$25.00 for the re-approval because there isn’t as much review work for re-approval and he feels the developer does get a break on the price.

Mr. Bullington asked if there is a venue if some of the laws change regarding any of the onsite stuff that could be brought back – or “upgraded” if you will.

Mr. Fehr said that is kind of the issue staff has some times, if we change specifications and the other thing is that Liberty Township is in the process of changing the Zoning Code so just because a preliminary plat gets approved today – if the Zoning Code changes it will have to be up to code, by the time the final plat comes in they will have to bring the subdivision up to the zoning code (requirements) on the final plat.

Mr. Potter said, from a Zoning standpoint, the preliminary would mean nothing.

Mr. Fehr said that is our understanding from the Prosecutors’ Office and what gets a little bit fuzzy is if they have already started construction then we got a different opinion on that, but just because you have a preliminary plat approval you can not just keep reapplying and having it re-approved year after year to get that zoning “grandfathered” in. If the Zoning Code changes, you have to meet the requirements at the time of applying for the zoning certificate.

Mr. Potter said he did not like that from the standpoint of a Developer.

Mr. Bullington said, from what he sees on the current Land Use Plan for Liberty Township, it appears that the intention for that ground is supposed to be for half-acre lots and that is pretty much what this subdivision is, and asked Mr. Jon West, Liberty Township Director of Planning and Zoning, if Liberty Township anticipates any changes in the code in the near

future.

Mr. West said the Township is going to revisit their Land Use Plan in the near future, but can not answer the question. He added that zoning is also tied to Land Use Plan, and in the case of this subdivision, where you have public water and sewer and it is consistent with the Land Use Plan, then you can develop under these half acre standards, if the Land Use Plan changes, that may change the ability to have a half acre lot also – the only change we are making in the Zoning Code that impacts this is we currently require 100-feet of frontage at the building setback line – the new code will say the required 100-feet of frontage is required at the right-of-way line.

Mr. Potter said so there is nothing we can do about zoning and that is a given, but it's a matter of whether the Planning Commission wants to extend our portion to four years.

Mr. Bullington said he does not have a problem with that.

Mr. Potter said he did not either with the industry the way it is right now, and if we can keep costs down a little bit and create housing, does not have a problem with it.

Mr. Brown said hopes that down the road this will not be an issue as far as a variance he understands the situation.

Mr. Bullington made a motion to approve the variance for Madison Estates from a two-year time limit to a four-year time limit. Mr. Nevel seconded the motion. Motion carried.

AYES: Bullington, Nevel, Flaig, Brown, Potter

ABSTAIN: None

NAYES: Cooney

**Resolution: 09.26**

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**C.A.F. Business Park  
Section 13, Town 3, Range 3  
Liberty Twp**

Mr. Fehr said this is a commercial subdivision located in Liberty Township and shown an aerial map of the area (this property outlined in blue) and showed its proximity to Interstate Route 75, Cincinnati-Dayton Road and State Route 129 (this property is located north of State Route 129 and on the west side of Interstate Route 75).

Mr. Fehr pointed out the location of an existing cell tower and said there are some billboards on the property.

Mr. Fehr said this was actually seen a couple of years ago as a preliminary plat and the configuration now has changed a little bit due to a different end-user. The developer is now looking at a single cul-de-sac street (and pointed out where Wyandot Lane is) and showed how the proposed street will continue due east with one cul-de-sac.

Mr. Fehr said the Developer is looking at one large user for this piece of ground and then every thing else to the south will be developed at a later date, so initially they are basically looking at two lots out of the subdivision plat.

Mr. Fehr said staff comments are included in the packet and noted the following:

- Item # 9 - because there are some existing utilities and a cell phone tower, staff will require an easement on the final plat so that they provide access to those facilities
- Item #10 – a Traffic Impact Study will be required
- Item #8 – We were suggesting that they come up with a street name, so they came up with Fanning Way, but after talking with the Fire Department and the County Tax Map Office, they would prefer that the existing Wyandot Lane be continued for consistency purposes so that would be a change on the final plat.
- Item #13 – under Water & Sewer Department, they are proposing to extent this 22-foot easement to a 30-foot easement with the storm water detention occurring right here (as pointed to on map)

Mr. Fehr said staff does recommend that the preliminary plat be approved subject to staff comments.

Mr. Fehr asked Mr. Fanning if he had any objections to the staff comments.

Mr. Craig Fanning, 8003 Green Lake Drive, Liberty Township, Ohio 45044, replied no.

Mr. Bullington asked if there is an access point where the 30-foot access easement would go (for an adjoining lot) – it looks like there is nothing there

Mr. Fehr said this easement here would be for service to this detention area and the sewer line that runs through here (as he pointed out on the map).

Mr. West said Well Spring Church, to the north, has worked with the developer and there would be full access through the church property.

Mr. Bullington asked if it would be used for access for fire or emergency.

Mr. Fanning said the church asked that the access be put in there should they expand

then it would have access from Wyandot Lane and Bethany Road.

Mr. Potter said he hopes Mr. Fanning has a chance in the future to name a street named after himself and added that he named streets after his grandchildren.

Mr. Fanning said in one of his meetings he was told he would probably be required to change the name of the street to make it separate from Wyandot Lane, so he thought when you spend three-quarters of a million dollars on it, why not put your name on it and they suggested it so he thought why not, but he has no problems with putting "Wyandot Lane" on it.

Mr. Bullington made a motion to approve the preliminary plat for C.A.F. Business Park, Section 13, Town 3, Range 3, Liberty Township subject to staff comments. Mr. Brown seconded the motion. Motion carried.

AYES: Bullington, Brown, Flaig, Nevel, Cooney, Potter

ABSTAIN: None

NAYES: None

Resolution # 09.27

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**Bryant Estates**

Section 36, Town 4, Range 1  
Reily Township

Mr. Fehr showed an aerial image of the property (outlined in blue) and said this property is located on the north side of State Route 129 (Hamilton-Scipio Road), which runs east to west; and the road that goes north/south here is Morgan-Ross Road so this is right at the corner of Reily Township, Morgan Township, Ross Township and Hanover Township. The property is currently in two pieces of ground/two tracts of land.

Mr. Fehr showed a drawing and said the applicant is proposing a very rural, low-density subdivision containing only five lots and they would build a public street with a cul-de-sac (as pointed out on the drawing) and there would be a five acre tract and then the other four lots are probably 16 – 17 acres in size.

Mr. Fehr said there would be public water with fire flow required but they would utilize on-site septic systems because there is no sewer in the area.

Mr. Fehr said staff comments are in the packet, and noted the following:

- Item 7 & 8 – public water mains, this is Southwest Regional Water District, not Butler County Water, but we still have the same requirements.
- Item #10 – Applicant has got preliminary approval from Ohio Department of Transportation (ODOT) to put the driveway on State Route 129 and will have to get final approval on site distance and culvert size for roadside ditch and that will be on the final plat.
- Item #13 – there is an existing pond here, and the way it fills with water is there is a drainage way here that fills that pond and it appears that when they put that road in it will likely cut off any rainwater from getting in to the pond so we are not sure if they intend to keep the pond or not, but we wanted to bring it to their attention and if they do keep the pond – we have guidelines with the Natural Resource Conservation Service (NRCS) that specifies how a pond has to be constructed successfully and we want to prevent the future home owner from having any potentially costly repairs on the property. So if the applicant does decide to keep the pond they will need to meet NRCS standards and the Soil & Water Conservation District will follow up on that.

Mr. Fehr said there is a proposed pond as well (as pointed to on map) and staff is suggesting that it might be better-located on the east side of the road (pointed to on the map) so they can use it for storm water detention purposes also.

Mr. Fehr said staff does recommend approval for two years subject to staff comments.

Mr. Potter asked for comments on the specifications for frontage.

Mr. Fehr said this lot here (the corner lot) has frontage on this street and have frontage the whole distance here, lot 5 has a similar situation – frontage along State Route 129 here and then the lots in the cul-de-sac, Reily Township requires 40 feet of frontage on a cul-de-sac, so there is more than enough frontage for these three lots on the cul-de-sac. The Developer is proposing that they share a common driveway from here up to here (pointed on the map) and then from the cul-de-sac to the south would be a public street.

Mr. Potter asked if there is some substantial superfluous information on this plat – as far as driveway locations and so forth and are not of our concern in any way, shape or form.

Mr. Fehr said he thinks it is there for illustrative purposes and just to provide an idea of the layout of the property and felt that when someone buys a lot they will not be tied into putting the house exactly as indicated here and is just for illustrative purposes.

Mr. Potter said his thought was whether the Planning Commission has to make any type of comment relative to shared driveway, if they create a shared driveway, that there be some recorded maintenance agreement for that shared driveway.

Mr. Fehr said we can do that but and it would be something private, we would not get involved as far as maintaining it or that it is not being maintained and want no involvement in that, but we could add that to staff comments.

Mr. Potter said they have run into that where there were old shared driveways and were never recorded and there were maintenance issues.

Mr. Fehr asked Mr. Potter if he wants to add an additional comment on #25, a maintenance agreement be recorded with the final plat if there is a shared driveway.

Mr. Potter responded yes.

Mr. Bullington suggested adding the words, "for lots 2, 3 and 4".

Mr. Bullington made a motion to approve the preliminary plat for Bryant Estates, Section 36, Town 4, Range 1, Reily Township, subject to staff comments and to add an additional comment (#25) that there be a maintenance agreement and recorded with the final plat if there is a shared driveway for lots 2, 3 and 4. Mr. Flaig seconded the motion. Motion carried.

AYES: Bullington, Flaig, Nevel, Brown, Cooney, Potter

ABSTAIN: None

NAYES: None

**Resolution # 09.28**

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**FINAL PLATS FOR APPROVAL:**

**Venice Gardens  
Replat Lots 1055 – 1057  
Section 34, Town 3, Range 2  
Ross Township**

Mr. Schmidt showed a drawing of this replat and said it currently three lots and the owner would like to combine them into two lots (as indicated on the drawing).

Mr. Schmidt said all of the appropriate easements have been changed and staff has no concerns or issues as far as changing the easements and actually they were created a couple of years ago when this came through as a replat.

Mr. Schmidt said staff is recommending approval for this final plat for Venice Gardens, Lots 1055- 1057.

Mr. Bullington made a motion to approval final flat for Venice Gardens, Replat lots 1055- 1057, Section 34, Town 3, Range 2, Ross Township. Mr. Brown seconded the motion. Motion carried.

AYES: Bullington, Brown, Flaig Nevel, Cooney, Potter

ABSTAINED: None

NAYES: None

**Resolution# 09.29**

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**OTHER BUSINESS**

**Adoption of the Fairfield Township Economic Development Plan**  
Fairfield Township

Mr. Fehr said the last few years staff has been getting more involved with developing Economic Development plans with Land Use Plans and you saw this last year when the Oxford Township Plan came in, there was a section on Economic Development for the community – Hanover Township’s Plan, a lot of that was based on economic development so it has been kind of a trend lately. What the Planning Commission is being asked to adopt is an Economic Development Plan for Fairfield Township which was adopted by the Board of Township Trustees in May 2009 and maybe by way of explanation a lot of this is due to Fairfield Township and City of Fairfield entering into a JEDD (Joint Economic Development District) agreement.

Mr. Fehr said townships in Ohio can not collect income tax on their residents, however cities in Ohio can, so the concept of a JEDD is that a city and a township enter in to a partnership where the city income tax is applied to township property (typically the cities have the infrastructure with the employees and expertise on how to collect that) and the city would get a portion of the money for administration and their own use, and the township would get another portion of the money so the idea is that it would be a win-win for everyone.

Mr. Fehr said typically in a JEDD agreement there is also an anti-annexation section, so the township is receiving income tax that they normally would not get and getting the anti-annexation agreement from the city, on the other hand, the city can be a good neighbor and they do not have to annex township property, yet there is a chance for the city to receive income through additional lands that are subject to an income tax,

so it is kind of unique to Ohio and we have numerous JEDDs already in place (West Chester, Fairfield Township, Liberty Township has quite a few) and that is one of the reasons for creating this Economic Development Plan.

Mr. Fehr said the packet was mailed out to the Planning Commission and Mr. Skylor Miller, Fairfield Township Assistant Administrator, is here if there are any questions.

Mr. Fehr showed a map and said the areas in green would be the new JEDD areas and basically most of the properties are occupied with businesses (including, but not limited to properties in the area of Princeton Road/State Route Bypass 4, and areas by Tylersville Road).

Mr. Miller said he welcomed any questions.

Mr. Bullington said there is a property, if you are coming up Seward Road near the railroad cross/tracks, there is a family farm, and asked if they would be required to pay the 1.5% on their earnings.

Mr. Miller said JEDD'S in Ohio do not impose the income tax on residents and dwellings, only on the businesses within them.

Mr. Bullington said it is a working farm.

Mr. Miller said that would be up for negotiation when the property owners sign on and because it is agricultural use he said he would imagine there would be some exemption they are exempt but in general the targeted areas look for the future developers to contract and that entire area is zoned industrial.

Mr. Bullington said they have actually seen this property before and they tried to get it re-zoned "Residential" but was turned down because it was within the airport zoning.

Mr. Fehr showed a map of JEDD Agreement areas in Fairfield Township and said, typically, these JEDD funds do not go to the general fund but are spent on things to pour the money back into that area – on things needed to attract businesses and might even go towards aesthetics to attract businesses.

Mr. Bullington said in his experience with JEDDs, the money had to be spent within a certain geographical range from where the money is collected.

Mr. Miller said historically in the Township the funds have been spent on infrastructure, we have justified and identified safety concerns, equipment, fire apparatus to serve that area and other areas where we have JEDDs we also have TIF (Tax Increment Financing) Districts and TIF money is spent on roadway construction and improvements.

Mr. Bullington asked Mr. Miller if road widening of State Route Bypass 4 would

actually be by TIF funds or would it be potentially from the JEDD funding also.

Mr. Miller said it could be both. The funds from this JEDD are specified from the agreement to be used for upgrades such as a new firehouse is going to be built and would imagine it will be from multiple sources, like Princeton Road and Gilmore Road are two recent road improvements for the Township were paid from TIF funds even though the TIF District and the JEDD with the City of Hamilton are currently overlapping that area.

Mr. Brown asked how the districts are selected, and said he knows there are other businesses out there – the south side of Princeton Road of course.

Mr. Miller said the south side of Princeton Road is actually a part of a JEDD with the City of Hamilton, but all of the southern areas were part of negotiations with the City of Fairfield, the sites along Tylersville Road and Jessies Way are not fully developed and the farm along Seward and Tylersville Road is zoned Industrial District and some of the properties in the northern portion have agreed to a JEDD or at least to a future JEDD so we are coming back to those areas about road improvements even though they are not actually part of those districts and there are multiple considerations for these.

Mr. Bullington made a motion to approve the adoption of the Fairfield Township Economic Development Plan, Fairfield Township as submitted. Mr. Cooney seconded the motion. Motion carried.

AYES: Bullington, Cooney, Flaig, Nevel, Brown, Potter

ABSTAIN: None

NAYES: None

**Resolution# 09.30**

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**ADJOURNMENT:**

Mr. Bullington made a motion to adjourn. Mr. Brown seconded. All in favor. Meeting adjourned.

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These Minutes represent a summary of these proceedings and do not purport to be

the entire record. A complete transcription of these proceedings was taken from an audio tape under supervision of the Secretary by Lee Margraf and may be obtained upon written request. Any charges associated with preparing such transcript shall be borne by the person requesting same and must be prepaid.

Hamilton, Ohio  
June 9, 2009

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Chair

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Secretary

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Lee Margraf