

**BUTLER COUNTY PLANNING COMMISSION**  
**Butler County Administration Center**  
**Hamilton, Ohio**

**REGULAR MEETING:** Tuesday, March 10, 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
- Kevin Cooney
- Charles Disney
- Chris Flaig
- Joseph Tucker
- Lynn Nevel

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Doug Dirksing, Butler Soil & Water Conservation District  
David Fehr, Planning Director  
Constance Kepner, Butler County Water & Sewer Department  
Eric Pottenger, Butler County Engineers Office  
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. Disney motioned to approve the February 10, 2009 meeting minutes. Mr. Cooney seconded the motion. Motion carried.

**AYES:** Disney, Cooney, Brown, Tucker, Nevel, Potter, Flaig

**ABSTAINED:** Bullington

**NAYES:** None

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**ELECTION OF OFFICERS:**

**Election of Chairperson, Butler County Planning Commission, 2009**

Mr. Disney nominated Mr. Potter as Chairperson for Butler County Planning Commission. Mr. Bullington seconded the motion. Motion carried.

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

NAYES: None

**Resolution # 09.07**

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**Election of Vice-Chairperson, Butler County Planning Commission, 2009**

Mr. Potter nominated Mr. Bullington as Vice-Chairperson for Butler County Planning Commission. Mr. Disney seconded the motion. Motion carried.

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

NAYES: None

**Resolution# 09.08**

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**ZONE CHANGES FOR APPROVAL:**

**MTZ 09-01**

Morgan Township Zoning Commission – Text Amendment  
Morgan Township

Mr. Schmidt said there are four (4) text amendments for Morgan Township Zoning Resolution. The first being the definition of a condominium which the Township wishes to have included in their zone text; the second for the Township Trustee final action – the state laws changed last year regarding zone changes specifically for Township Trustees and County Commissioners (instead of a unanimous decision it only needs to be a majority vote; third, is land locked lots created prior to 1988 can be built on so long as certain requirements are met; and fourth, is relative to Planned Conservation development, which we did see this last year and Staff did recommend approval at that point in time although Planning Commission recommended denial.

He added the Township Committee went back and looked at some of the recommendations which the Planning Commission suggested.

Mr. Schmidt said there are some concerns that the County has and are shown in the Staff report, and some have not been included in the Staff report because we have spoken with the Zoning Administrator to see how exactly that would be administrated in the future.

Mr. Schmidt reconfirmed that this Planned Conservation Development is actually a part of the A-1 District and would allow for any type of farming and farming structure and that was a concern the last time it came through. He added anything that is allowed in the A-1 District is still allowed in this District and the open space would also be allowed as long as they already exist or if the Home Owner's Association agreed to that.

Mr. Schmidt said County Staff agrees with the concept of Conservation Development District but feels there are some changes that still need to be made in the document. Some of the proposed changes would not allow for this type of development to occur the way it is written, especially for a developer or home builder.

Mr. Schmidt said the County Engineers Office suggested that they require a certain type of scale in the drawing that may not be the most appropriate scale. Staff wants to get as much information as we can on the plan and at the scale they are showing, it may not give us the exact detail of information that would be required to make an informed decision.

Mr. Schmidt said another concern that the Planning Staff has regards the proposed 100-foot diameter cul-de-sac as it seems wasteful and some of the wording should be changed. He added that this was not in the Staff recommendations but could be added if the Planning Commission would like to have it added.

Staff Comments are as follows:

1. Consider modifying the final sentence in §7B.063 to the following, *"The common conservation area shall be prohibited from further subdivision or development by deed restriction with the exception of a public road improvement and a public utility."*
2. Consider modifying the 25% of occupancy in §7B.065 to 50%.
3. Consider modifying §7B.0791. The Butler County Health Department allows for sanitary systems to be constructed in common open space as long as Health Department requirements are followed.

4. Consider removing the following sentence from §7B.0793, *“Driveways crossing swales within fifty (50) feet of roadways shall have stone headwalls.”* If the sentence is kept consider changing “roadway” to “the center of the road”.

Mr. Schmidt said staff is recommending approval upon making changes noted in Staff Comments and welcomed any additional comments that the Planning Commission members may have. He added that there are members of the Morgan Township Committee that put this together and can address any questions specific to them.

Mr. Karl Feller, member of the Morgan Township Zoning Commission, said we will consider the 25% to 50%. These people have moved in to this Conservation Development area expecting to have some benefit out of it and expect them wait until another 25% of it is built and most of the improvements we’re talking about are walking trails.

Ms. Evelyn Booker, 7900 Schnadin Road, Okeana, Ohio said we felt with a three-quarter acre they could provide for their own sanitary systems on their own lot simply because we find that maybe it would be a little bit harder to break away from an area out of the common conservation area that a septic system would take who would say, thirty years down the road, who would be seeing after this if it was used the proper health regulations on this septic system that could be put in a conservation area.

Ms. Booker said that is kind of why they thought that they would try and keep it in the individuals’ lot. We wouldn’t like to set the standard as being able to use the Conservation area.

Mr. Feller said everyone would have to be in the Conservation area or nobody would – we would have a hard time keeping track of septic systems.

Ms. Booker said, regarding number four, for consideration to change the word “road way” to the “center of the road” she did not think they had a problem with that – one of the reasons that our Zoning Commission has come up with this Conservation District is because we are a rural community and see so many two-acre, three-acre and five-acre lots all on the main road and we have an awful lot of land-locked, older lots that just are not accessible to the main road. A Conservation District like this is a way of using the entire farm acreage they may have and she feels it would be a great improvement to the Township.

Mr. Disney asked staff, regarding §7.B065, what is customary – is it 25% or 50% and why do we want to change it from 25% to 50%.

Mr. Schmidt said in the County Subdivision Regulations there are a number of thresholds – and actually the threshold is usually 50% for certain types of pavement that must be done in a Subdivision and those types of things, and since this is a standard that already exists in the Subdivision Regulations, it makes sense to be consistent with it and in the Zoning regulations as well so we could go out and check

both at the same time.

Mr. Disney asked why should it be delayed if someone had bought or developed there and would you want to wait for 50%.

Mr. Schmidt said he understands and it depends on which side you are looking at it and felt there are already a number of hurdles in this, that may cause a developer to not consider doing this type of development and if it were made a 50% as opposed to a 25% that would at least lower it a little bit and encourage them to look at it again – but that is for the Planning Commission to decide what is appropriate.

Mr. Fehr said in subdivisions we usually make the developer come in and put the final asphalt down when 50% of the homes are done so we thought that would be a more appropriate threshold.

Mr. Fehr said Mr. Schmidt and he like the idea of the Conservation District development but are nervous that if there are too many hurdles in here then no developer is going to do this – and while it is a good idea on paper we are not sure that the development community will look at this. They can still develop in the A-1 District and you have to make an incentive if you want this in your community and feels there are enough disincentives in it for a developer and are not sure any developer would choose to go this route. He added that if regulations are a little less restrictive you might get people that are willing to do this type of development.

Ms. Booker said a couple of people who have a large amount of acres are very enthused about this and maybe a bit more upscale building district.

Mr. Bullington asked about the septic systems – could an onsite sewage system be put on a three-quarter acre lot and have room for a replacement system.

Ms. Booker said not without the Health Department's approval.

Mr. Schmidt said anything less than five acres has to have the Health Department's approval.

Mr. Bullington said he thought this issue had been crossed before and thought they needed 2 ¼ acres to put an onsite system in.

Mr. Brown said they have done some county homes on 2-acre lots where a mound system was allowed, but anything less than that will not work.

Mr. Brown said he wondered if the Conservation District was something new that the Health Department and everybody that is working on it could downsize these lots – his experience was you have your own onsite sewage system that would handle the entire development and to his knowledge he did not think that could be done.

Ms. Booker said they have already discussed the possibility of having just one common sewage system with everyone attached to it since there really is no one in the County who has serviced anything like this – so we went to the individual ones and felt they have followed anything the Health Department did state we could possibly be open to putting more – setting definite restrictions into the County space area and allowing the septic lines to be leach lines.

Mr. Potter said he feels it is very difficult from a sanitary standpoint if you really get yourself in a corner you need to be open to as many possibilities as you can and if Morgan Township allows it in a common area then he feels this would be helpful.

Ms. Booker said this is not something that we could do with just every individual property – it has a different soil perk and this is not something that we deal with the individual box that we're dealing with or is it a definite plan.

Mr. Potter said that each one of these will have its own personality but he did not think the Township would want something that would restrict possibilities.

Mr. Brown said his only other concern with putting this in - green space or whatever, he assumed that the homes would be built around this area or throughout but if you are talking about putting a septic leach field into this area even if it is doable and by chance someone's system is not working properly, the water coming up above ground would create a lot of problems and will there have to be some type of fund that money would be put in to take care of such problems. He added that he feels the Township is opening up a lot of extra problems – but the Health Department would be the one's to pay at that point if they even allow it and that three-quarter lots do not have a lot of room to do what you are saying.

Mr. Potter said the majority of the ones that he has studied, the sanitation systems in these Conservation Districts are exactly the same as they would have been – not all but the majority with center systems exactly the same but some place else that would be on a three-quarter acre lot – but would put it some place else in the conservation area – that area has an easement on it for this specific so he could have a one-quarter acre lot in Conservation Development but then the Health Department tells him he needs five acres for his sanitary system and out in the conservation area where there are 40 acres say, there is a five acre portion out there that is a reported easement on it to me for my sanitary system and there is an easement from my quarter-acre or half-acre lot to that 5-acre place so that is my responsibility and tied in to the property – it is not a matter of having a simple sewer system where everyone goes in there ( and that would be my system there and I would be responsible for it – it would all be spelled out).

Mr. Potter said you would have a heavy concentration of actual pads where the houses are, but then by height line you get out in to the conservation area and the Board of Health did usually allow that and this was a problem because everyone that had great big lots – well now they can have little tiny lots because they can go offsite with their sanitation and it would be controlled.

Mr. Bullington asked about the driveway materials; would that be concrete or blacktop only or would that allow paver systems of some type.

Mr. Keller said yes.

Mr. Bullington asked if anyone had any idea how many land-locked lots are there in Morgan Township that were plated before 1988.

Ms. Booker replied, 140.

Mr. Bullington said he knows it is probably required for insurance or whatever but a requirement of a permanent easement to facilitate an egress would soon come across someone else's lot but the drive or private road on the easement can accommodate emergency vehicles – and when he reads that it tells him it has to be something that will carry a 40-ton rolling load which is a fire truck which means it would need to be a well-built and sturdy driveway – not a gravel drive.

Mr. Bullington asked if water service is out there (is Southwestern Water or something out there) or would that require a pumper truck, which would possibly be even heavier.

Mr. Keller said some of the water mains that are there are too small.

Mr. Tucker asked about the 25%/50% requirement.

Ms. Booker said she thought it was something that the whole Commission would have to take under consideration.

Mr. Schmidt said as far as subdivisions the final requirements are there – not necessarily for our zoning code but Subdivision Regulations.

Ms. Booker said they put that at 25% as there has been some development approved and maybe after a couple of houses the way it is at this time, the lots have not sold and people have not built but there is not a time limit on selling or building.

Mr. Potter said it sounds like we could live with most of these with a little more reservation on item #2, and if he heard Ms. Booker correctly, they have already changed item #1.

Ms. Booker said that is correct.

Mr. Potter said there is no real debate here on item #2 and asked if the Planning Commission has swayed them at all with their comments as to whether they might consider putting it in the common area.

Ms. Booker replied yes, they will maybe consider some rewording on that.

Mr. Potter said it would appear that the 50 feet is almost required there because he can not imagine the yard and the swales within 50 feet of the center of the road.

Ms. Booker replied yes and she thought that would be a change.

Regarding Section 7B.062, the last sentence, Mr. Cooney said he feels he understands the point of it but it does not add up correctly.

Mr. Schmidt said you could change that possibly to “improved area” or “developed area” instead of “dwelling units”.

Mr. Cooney said he did not have a strong preference either way but just so that it matches.

Ms. Booker said she thought it would one of the developer’s concerns and then how many lots – and asked if Mr. Cooney would put a maximum number of lots, not a minimum.

Mr. Cooney said the maximum number of lots and the minimum amount of conservation area.

Mr. Schmidt said “public right-of-way is not being included” is what Mr. Cooney is saying because we are only talking about the actual lots in the open space so maybe consider saying “developed area” or “improved area” instead of “dwelling units”.

Ms. Booker said if you had 40 acres and half of it was put in the Conservation District, so that would mean you could put 20 housing units on it – we are also considering a minimum of three-quarter acre lots, so there will be extra ground.

Mr. Schmidt said it has to have roads built to the site and right now, the way it is written, we are not seeing where that acreage where the roads will take up is coming from, is it the lots or from the open space – instead of saying “lots or dwelling units” we say “improved area”, or “developed area” – that may be more appropriate.

Mr. Cooney said the way it is written now, if you have 40 acres the plan says 20 acres must be conservation, then it says you can not have anymore units than half the number of total acres – so you would have 20 acres of conservation and the most you could put is 20 houses on the remaining 20 acres - it would be up to the developer to figure out if he can get more.

Mr. Bullington said with the streets being built you would not have 20 lots left.

Mr. Keller asked who limits the number of units you can get – if you have 50 acres – some lots may be three-quarter acres, some may be three acres – but you can only

have 50 lots?

Mr. Bullington said you could not get 50 lots and get your streets built because your streets do not count as lots and center line of the road is not the lot.

Mr. Pottenger said not in platting of the subdivision.

Mr. Brown said you also would not have three-quarter acre building lots because you will come in to a bunch of building restrictions because if you are taking half of the roadway and your lot is actually less than that, you don't have as many square feet because lot space to build on - you're downsizing every chance you get and you have to separate your roads from your lots – they can not be included in there because a three-quarter acre lot and the 15% of it is road, when it comes down to someone wanting to build a 5,000 square foot house there are certain requirements on how the home can be built and it comes down to lot size – if its on a five acre tract – no problem but cutting down to half-acre or three-quarter lots you have to be concerned about that area if you are taking 15% of that road frontage and adding it to your three-quarter acre lot.

Mr. Keller said they were thinking if you had a three-quarter acre lot with 100-foot frontage, that makes it 327 feet deep, take 55 feet off of that. The setback – 60 foot-deep house, the building 212 foot back yard by 100 feet wide – and that is the way we were thinking.

Mr. Brown said we need to either add a sentence or delete a sentence to create a true definition so that the reader of this could walk away and understand what they need to do.

Ms. Booker asked then if they should put the maximum number of lots and leave that whole last sentence.

Mr. Potter said if they take out the last sentence that will take care of it because then they will have their 50% conservation district and the rest can be lots of whatever size, rather than saying, "this is going to be 50% and that is going to be 50%" and if you leave the last sentence off that should take care of it and protects your interests as well.

Mr. Keller said it will increase the number of lots.

Mr. Schmidt said by definition, anything that you would do to split off land by more than four lots would have to be a subdivision so it would go through that process anyway or if it were on a dedicated road.

Mr. Brown said if you use the conservation area and are allowed five acres in that area or whatever it may be, that is something that is new to him and thinks they will be at your mercy at this point in time so you can eliminate that by a sentence and then leave it up to whatever, someone will come back and say, here's how many lots you're going

to get by the time you get your roads in, and the lots are going to be this size, and there may be some 2 acres and some half-acre.

Mr. Potter asked if there was anyone present that wishes to address this matter in any way, shape or form, either pro or con.

Ms. Betsey Kelly, 415 Glen springs Drive, Cincinnati, Ohio, the Ohio Valley Development Council, said she appreciates the proactive approach trying to define a development.

Mr. Schmidt said a letter from the Ohio Valley Development Council is in the Planning Commission packets (last page of the first portion, right before Preliminary Plats).

Ms. Kelly said she hopes their comments will be considered and recommendations will be made to the Township. She also said the Ohio Valley Development Council is willing to work with Township on their proposal.

Mr. Bullington said if they do want to table it get someone from the Board of Health that can define how they will arrange the sewers on the individual lots and like Mr. Potter said, having a lot here and the treatment some place else.

Ms. Booker asked if the Planning Commission would like to have that before making a decision on this.

Mr. Potter asked Ms. Booker if she would be offended if they tabled this.

Ms. Booker replied no and that the Planning Commission would like to have some recommendation from the Board of Health.

Mr. Potter thanked her.

Mr. Tucker made a motion to approve the request to table MTZ 09-01. Mr. Disney seconded the motion. Motion carried.

Ms. Booker asked if this would be brought up at the next Planning Commission meeting.

Mr. Bullington responded and said if they would like to have it brought back next month then they talk to the Board of Health and get any consultation that they want.

Ms. Booker said they will have Ed Teets.

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

NAYES: None

**Resolution# 09.09**

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**PRELIMINARY PLATS FOR APPROVAL:**

None

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**FINAL PLATS FOR APPROVAL:**

**The Highlands, Section 1, Replat Lots 8 & 9,**  
Section 23, Town 3, Range 2  
West Chester Township

Staff presentation presented by Mr. Fehr.

Mr. Fehr said they were re-platting the lots to move the lot lines and to adjust the location of the entrance.

Mr. Bullington asked about the right-in.

Mr. Cooney asked if the right-in was like the one at Wendy's.

Mr. Bullington motioned to approve the final plat for The Highlands, Section 1, Replat lots 8 and 9, West Chester Township. Mr. Tucker seconded the motion. Motion carried.

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

NAYES: None

**Resolution: 09.10**

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**Country Acres Subdivision, Replat Lots 16 – 17**  
Section 10, Town 3, Range 2  
West Chester Township

Staff presentation given by Mr. Fehr.

Mr. Fehr stated they were taking two lots and combining them into one lot.

Mr. Bullington motioned to approve the final plat for Country Acres Subdivision, replat lots 16 and 17, West Chester Township. Mr. Tucker seconded the motion. Motion carried.

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

NAYES: None

**Resolution: 09.11**

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**OTHER BUSINESS:**

**None**

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**ADJOURNMENT:**

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

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  
March 10, 2009

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Chair

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Secretary

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Lee Margraf