



**Butler County Department of Development  
Planning Commission  
Hamilton, Ohio**

**Meeting Minutes**

**MEETING:** Tuesday, April 13, 2010; 3:00 p.m.

**ROLL CALL:**

**Present:** G. Coe Potter, Chair  
Charles Bullington, Vice-Chair  
Kevin Cooney  
Lynn Nevel  
Steven Brown  
Joseph Tucker

**Absent:** Chris Flaig  
Shirley Wiant

**STAFF PRESENT:** David Fehr, Planning Director  
Joseph Schmidt, Senior Planner  
Lee Margraf, Administrative Assistant  
Constance Kepner, Butler County Water & Sewer Department  
Doug Dirksing, Butler Soil & Water Conservation District  
Eric Pottenger, Butler County Engineer's Office

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**APPROVAL OF MINUTES:**

March 9, 2010

Mr. Bullington made a motion to approve the March 9, 2010 minutes. Mr. Nevel seconded the motion. Motion carried.

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

**NAYES:** None

**ABSTAINED:** Tucker

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**Election of Chairperson, Butler County Planning Commission, 2010**

Mr. Cooney made a motion to nominate Mr. Bullington as Chairperson. There were no other nominations made. Mr. Brown seconded the motion. Motion carried.

AYES: Cooney, Brown, Nevel, Bullington, Potter

NAYES: None

ABSTAINED: Tucker

**Resolution #10.10**

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**Election of Vice-Chairperson, Butler County Planning Commission, 2010**

Mr. Bullington made a motion to nominate Mr. Cooney as Vice-Chairperson. There were no other nominations made. Mr. Nevel seconded the motion. Motion carried.

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

NAYES: None

**Resolution # 10.11**

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**ZONE CHANGES:**

STZ10 – 02

Edward Paragin

Change from B-3 (General Business District) to R-3 (one- and two-family Residential District)

St. Clair Township

Mr. Schmidt said the applicant is Mr. Edward Paragin and the property is in St. Clair Township on 2171 Hamilton Trenton Road, and there are .4 acres that the applicant is looking to change the zoning from the current B-3 (General Business District) to R-3 (one- and two-family Residential District).

Mr. Schmidt showed an aerial map and said the property is the triangular area outlined in blue and said there is a break in between the two properties and those are actually old interurban lines and the County Commissioners currently own that property and it is a bit of an oddity in that area.

Mr. Schmidt showed the zoning map of the area and said the dark areas on the map are the areas the applicant wants to change to R-3 and the reason why is at one point in time it used to be a bar and the applicant would like to change the use of the building, right now the second story is currently used as an apartment and they would like to change the first story to an apartment.

Mr. Schmidt said, regarding the Land Use Plan, the area is mixed use and there would be nothing wrong with showing this as one- and two-family and making it a two-family apartment building as far as the Planning staff is concerned and also for Mr. Jerry Lanich, St. Clair Township Zoning, so staff is recommending approval for this, and there are no conditions because it is a straight zone (no PUD involved with it).

Mr. Schmidt said Mr. Lanich, St. Clair Township and the applicant is here if anyone has any questions for them.

Mr. Potter said he is interested in interurban railroad.

Mr. Lanich said there are actually seven (7) parcels involved and gave a little description of the parcels and said the applicant went so far as to have the County Commissioners query this as whether they would ever vacate that property to the surrounding property owners but throughout the County and Sewer and Water says, "no". If sewer lines are ever-extended to Overpeck that old interurban line would be utilized for the sewer lines. There will be a lot of buildings on to the southwest of that interrupted or there would have to be a lot of detours around the buildings that are now sitting on the County Commissioners' property and added that he is not sure that was a CH & E but certainly the rail line between Cincinnati, Hamilton and Dayton, on up Riverside Drive, that is where Riverside Drive ended up on the interurban lines and the CSX railroad is to the south of that property and he does not think it would ever be developable as commercial property because of the county-owned property; and the Butler County Engineers' Office also felt if ever there were improvements to that intersection, they certainly would utilize part of that property they owned, so we at St. Clair Township Zoning Commission reviewed the application and have set a date for their next public hearing for their next meeting and are pretty much set on making it an R- 3 District, unless neighbors come and voice a lot of objections.

Mr. Lanich said the County Commissioners had granted some easements across it all down into the southwest of that so people could access their property to landlocked parcels and have allowed granted easements to those parcels but they do want to retain ownership of the property for future utility lines.

Mr. Potter said it appears that there are actually things built on the County parcels.

Mr. Lanich interjected and said yes if you stand out there and look down that line – there are things built and he has only been in the Zoning in the Township for ten years and none of those things were built in his time and thinks they all predate Township zoning.

Mr. Potter said it just seems like a mess.

IN FAVOR: None

IN OPPOSITION: None

NEUTRAL COMMENTS: None

Mr. Cooney made a motion to approve zone change STZ 10—02, Edward Paragin, change from B-3 (General Business District) to R-3 (one- and two-family Residential District), St. Clair Township. Mr. Brown seconded the motion. Motion approved.

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

NAYES: None

**Resolution # 10.12**

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**PRELIMINARY PLATS:**

Black Powder Run  
Section 32 & 26, Town 3, Range 3  
Liberty Township

Mr. Fehr said this property is located in Liberty Township and it is outlined in blue on the aerial map shown, and the northern boundary is Millikin Road, running east and west; and a rail line that runs north and south (as shown on map) adjoining the property, Maud Hughes Road is a bit further to the east.

Mr. Fehr said the Planning Commission did see this previously as a preliminary plat and approved it two (2) years ago, however, the approval is only valid for two (2) years so the applicant is back asking for re-approval today.

Mr. Fehr said the project is going to be part of Black Powder Run and the developer is attempting to create a conservation type of development and approximately 40% of the property will be left as open space and that area will be an easement and there will be a conservation trust set up to maintain that and make sure that it is left in its natural state. The applicant is doing this without a zone change as Liberty Township permits this type of development with 40% open space.

Mr. Fehr said the property is currently owned by David Kern, and is the site of Kern Nursery and the lots will have public water and public sewer, however, they will be larger than typical lots ranging from approximately an acre and a half up to four or five-acre lots in order to keep it very rural and there is a lot of open space around the development.

Mr. Fehr said the main entrance will be off of Millikin Road, a couple of cul-de-sacs and there will be a stub street to the south and there will not be any stub streets running to the west because of Gregory Creek running through the property and towards the east side they are blocked by the railroad tracks.

Mr. Fehr said Staff Comments are in the packet and the developer is here to answer any questions.

Mr. Michael Gates, 4450 Bethany Road, Gridiron Developing, Mason, Ohio, introduced himself and showed some images of a development in Columbus, Ohio as an example to give the Board an idea of what a conservation development looks like and as Mr. Fehr had said, a lot of it stays in its natural state – the grasses stay there and curb and gutter are not here.

Mr. Gates showed pictures of an example of what a rain garden looks like and showed images of the conservation area that surrounds the subdivision.

Mr. Potter asked what the nature of the infrastructure – is there subsurface storm water maintenance.

Mr. Gates said yes.

Mr. Potter asked Mr. Gates if then they have catch basins and curb and gutter.

Mr. Gates said there will not be curb and gutter but there will be catch basins – an open ditch and everything is graded like a normal subdivision except instead of having a detention basin they call it a rain garden and it serves the same purpose.

Mr. Potter asked Mr. Gates if they will have public sewer.

Mr. Gates replied yes and what they tried to do was give you a feel for what it would look like but the reason why someone would want to live here is obviously they love nature and it will have larger lots and we want to try and keep as many trees there.

Mr. Fehr said staff comments are generally the same as previously seen and said staff does recommend approval.

Mr. Bullington said he recalls the last time the Planning Commission addressed this plat there was supposed to be a hiker/biker trail along Millikin Road.

Mr. Fehr said they ended up waiving all of the required sidewalks because of the type of development it was.

Mr. Bullington asked if that is in the staff comments.

Mr. Fehr said we had already made a motion on that previously so it was not necessary.

Mr. Bullington said as a re-approval do they need to re-include that or is it just reapproval of what was done two (2) years ago.

Mr. Fehr said he assumed the Planning Commission would re-approve what was done previously.

Mr. Gates said the intent is to put a hiker/biker path near Gregory Creek.

Mr. Fehr said there is a Liberty Township Plan to kind of keep that whole Gregory Creek corridor as a “green” area so they are working with the Township on that.

Mr. Potter said he is interested in the nature of the conservation easement and asked is there any common ground in this development or is it all fee-simple to the property owners.

Mr. Fehr said this is not like a PUD where there are actual open space lots, it is all by easement and property lines will run the whole distance and they will own all of it but

there will be an easement in the back (pointed to on map) that they can not cut down the trees.

Mr. Potter asked if that easement gives any use to any other people in the development access to hike or walk, or is it strictly for the simple owners' property (other than the conservation part of it) – is there a common ingress/egress.

Mr. Gates said as far as the topography – where the creek starts to go up hill, you can not even walk there and also there (pointed to a second location on map) so that is very, very steep and the intent was always to have the hiker/biker trail and it went along the creek when it could and he thinks they daylighted over here when they could but that was the intent because the other area is so steep.

Mr. Potter asked if there will be an easement through peoples' lots that other people can use.

Mr. Gates said the intent was to put this path in and put an easement here so anyone can walk on it (pointed to map) and the open space can stay in its natural state.

Mr. Potter said that it can be used by all of the people in the development.

Mr. Gates said they are o.k. with all of the additional requirements except for wanting clarification on Staff Comments' items 29 (Open space requirements and the Conservation Easement) and 36, and they will work with Liberty Township regarding item 28.

Mr. Gates said his question is, the answer from the Planning staff was that the Conservation Easement either has to be removed from the Utility Easement area or the language in the Conservation Easement in the plat has to state a Utility Easement supersedes the Conservation Easement – so it gets a little complicated and he thinks what we are all trying to say is that we want a path in there and we want easements but the more easements that they give away then the 40% open space starts to be reduced and its like one of us is fighting with the other and he feels some of the things through your recommendation is to leave it as open space, which he agrees with, and then put some language in the Conservation Easement that would allow for the hiker/biker path.

Mr. Fehr said the Butler County Sewer and Water Department would prefer not to have a Conservation Easement in there if they need a water line up here (pointed to on map) because if they have to put a water sewer line in, they are going to incur costs because they would have to go back in and possibly replace trees, or maybe some conditions on them as a Department so their preference is that it be left open without an easement. The Butler County Engineers' Office said they were okay with the easement so long as their easement was superior to the Conservation Easement but what Mr. Gates' concern is, when we start wiping away these easement areas it will squeeze his 40% open space ratio so that is where his concerns come from.

Mr. Fehr said the way he looks at it is there is a little bit of extra room on some of these lots that they could pick up some of that open space but the Butler County Sewer and Water Department were very sure they did not want any easements over the water and sewer lines and the Butler County Engineer's Office was more flexible.

Mr. Gates said he understands why but it starts to get more complicated because they are already giving 40% of 100 acres to conservation and once you start giving that away it will drop that number to 38% - 39% and that is a concern. His thought is to be able to work it out and be able to put in conservation documents that they can come on to the property but the whole idea is not to take down 100-year old trees and once they put the utilities in, they will have to take out the trees and he understands.

Ms. Kepner, Butler County Water and Sewer, said they do not want trees planted directly over their water sewer lines because then they will have tree roots and broken water mains and then they are carrying out more trees to replace it.

Mr. Gates said they could state that in the language - and made reference to item 36 ("Street E must be constructed to property line") and here is where they start losing open space, the property to the south is a very tough piece to develop on due to the topography and we have talked with a gentleman who actually called us to purchase that piece but what the staff is recommending is they want us to take the roadway and go all the way to the property line and that does not make any sense to him – why would you take that, if in fact the property to the south gets platted at some point, why would we want to take a road somewhere it may never go to and in his mind it never will due to the topography of the land and you'd be tearing apart the easement and there are 100-year-old trees in that section – why bother doing it? It was already approved and it does not make any sense to him and maybe they can work something out to where there is an easement even if it doesn't ever get developed.

Mr. Fehr said it is their policy to always stub the street and it does not always have to be built, but it would have to be dedicated.

Mr. Gates said he would be fine with that but if you think about that process, that is really what we're talking about in item 29 – the same kind of thing. In item 29, the whole idea of putting this subdivision in is, in southwest Ohio there has never been one like this anywhere so the whole point is to leave as much in its natural state and once we start putting easements it just blows his 40% and that is the issue he has but we could probably work out some language.

Mr. Fehr said all he knows is what we are asking for approval here today is Water and Sewer does not want the Conservation Easements on their water lines.

Ms. Kepner said their main concern is that the sewer running through their rain garden and if Water & Sewer have to dig that sewer up they will not put the rain garden back.

Mr. Gates said they will put it back as far as the soil is concerned.

Ms. Kepner said Water and Sewer will put dirt back in and regular plant grass but no special vegetation or special grasses and they can not afford to incur additional costs. She added that a manhole cover can not be in that rain garden at all.

Mr. Gates said he agreed with that.

Mr. Gates asked how wide that easement is.

Ms. Kepner said it needs to be at least 30 feet wide and rain gardens kind of hold water so that makes fewer people who are supposed to have clean rain water in their sewers very nervous and if that sewer is not being maintained and that rain garden funnels all that water into our sewer it makes us nervous and they typically do not allow sewers to run underneath any retention/detention ponds.

Mr. Fehr said we can table this and talk about it more.

Mr. Gates asked if they could approve everything except item 29 and give them time to work with staff and he is just wondering if the grasses start growing back.

Ms. Kepner said maybe, but does that mean until it grows back, is it going to function properly – she does not know what a 30 foot wide constructed area is going to impact the way that function – and asked whether it will function well enough and is there enough safety factor built in to that.

Mr. Gates said basically his understanding of a rain garden is to clean and help purify the water so you are talking about a pretty large area where these rain gardens are so his thought is he would have to ask a professional landscaper if those grasses would eventually grow back in, which he thinks they would.

Ms. Kepner asked Mr. Gates if that rain garden is sized exactly at minimum to provide what ever water quality issues they need to meet.

Mr. Gates said that is why he'd like to discuss that with them and her office - so does that mean he makes the rain gardens bigger in case that happens.

Ms. Kepner said she does not know if that would work the way it is supposed to be and she does not know that much about rain gardens.

Mr. Potter asked who would maintain the rain garden – the property owner.

Mr. Gates said it could be set up like a Conservation District.

Mr. Potter said but it would be owned by the person that owns that lot.

Mr. Gates said it is his understanding that there is a Conservation District that would manage and maintain it.

Mr. Fehr said it would be like a Home Owners' Association (HOA) and that group would maintain the rain garden area and it is his understanding there is a five-year maintenance plan in Staff Comments to make sure that it is functioning properly.

Mr. Potter said that answers the question – that is who is going to have to put the grasses back, pure and simple. He said if he plants something over an easement and Sewer and Water comes through and tears up where he planted in the easement, Sewer and Water does not have to put the fancy vegetation there, he would have to put it back in – all Sewer and Water need to do is put the dirt back and seed it, so the HOA is responsible.

Mr. Gates said the other point made is they could probably resize these rain gardens and probably move them out a little.

Mr. Potter said that would be a lot better.

Mr. Gates said maybe they should add that to the comments.

Ms. Kepner said if the applicant can move the sewer main that is something they can handle with the Construction Drawings.

Mr. Bullington asked if they would feel comfortable working with it if the Planning Commission approves it or do they just table it to next month.

Ms. Kepner said they can work with them and Sewer and Water still has to approve the Construction Drawings.

Mr. Fehr said this is still a preliminary plat.

Mr. Gates said with that comment, he is fine with item 29.

Mr. Bullington said the problem with item 29 is it has to meet the 40% to be considered a Conservation Easement.

Mr. Potter said that does not alleviate the problem.

Mr. Gates said it was at 44% and no one has done the calculation, but he does not think they are below but what he is saying is if we keep giving right-of-ways and things away we are reducing that number and that is his concern to stay above that because of regulatory issues.

Mr. Potter made a motion to approve the preliminary approval for Black Powder Run, subject to Staff Comments. Mr. Tucker seconded the motion. Motion carried.

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

NAYES: None

**Resolution #10.13**

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**FINAL PLATS:**

South Street, Phase 1  
Section 33, Town 3, Range 3  
West Chester Township

Mr. Fehr showed an aerial map of the area and pointed to the property's location in proximity to the Rave Theatre, Interstate 75, Union Center Boulevard and said the property in question is outlined in blue and is at the end of Civic Centre Boulevard.

Mr. Fehr said we saw this as a preliminary plat a couple of months ago and now they are asking for final subdivision plat approval.

Mr. Fehr said Phase 1 is actually one single lot that the applicant has a potential hotel use for the property which would take up the entire lot 1 and there is hope that in the future the remaining portions of the property will be either for office use or possibly outlots for restaurants, banks and things like that.

Mr. Fehr said Civic Centre Boulevard currently exists up to this point (pointed to on map) and in the future would extend south coming down to Allen Road and aligning with Windisch Road.

Mr. Fehr said the lot itself is three (3) acres in size and staff does recommend approval of this final plat. They do not intend to build a road at this point because this is a TIF (Tax Increment Financing) agreement and what will happen is once the office building is done, that money will be turned around to put in to building the road itself and this was an agreement between the developer and West Chester Township. For the hotel user, basically they will just extend the road a short portion in order to get access to the lot but the TIF District was to finance the office component and not the hotel.

Mr. Fehr said the Township Zoning Office has given approval on this and on commercial property they do not require road frontage on a public street like a residential lot and staff does recommend approval of this final plat.

Mr. Bullington said if he understands correctly, to get access to this lot 1 they will put in a temporary road.

Mr. Fehr said yes, it will be an extension of Civic Centre Boulevard with the turn around at the driveway and that has already been engineered and reviewed at the County Engineers Office.

Mr. Potter indicated the blue outline is incorrect.

Mr. Fehr said yes, it is a little bit inaccurate.

Mr. Cooney made a motion to approval the final plat for South Street, Phase 1, Section 33, Town 3, Range 3, West Chester Township. Mr. Nevel seconded the motion. Motion carried.

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

NAYES: None

**Resolution# 10.14**

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Harbour Town Village at Wetherington, Section 4, Replat Lots 75 – 80  
Section 3, Block A & Lots 102 – 108, Section 3, Block C  
West Chester Township

Mr. Fehr said this is actually a replat of an already-recorded subdivision. Harbour Town Village is on the south side of Hamilton-Mason Road and the property has an entrance at Hamilton-Mason Road and extends towards the east and the lot lines in blue and red on the map shown. This has already been approved and recorded and the housing product the developer has now has changed slightly so they are making adjustments to the lot lines and he went on to explain it in a little more detail.

The existing property lines are shown in red, and the new proposed property lines are shown in blue – they are shifting about two (2) feet over to the east and the product they are selling right now is a little bit larger so there is a slight adjustment on the lot lines. The lots that are running north and south, they are actually going to eliminate a lot and will go from nine (9) lots down to eight (8) and then make those a little bit wider.

Mr. Fehr said many people refer to this as a “landominium” where you own the house itself and you own the actual ground underneath the house, however, there is an association that maintains the ponds and walking trails.

Mr. Fehr said some easements that adjoin the property line would give the adjoining owner access to get up on the roof to clean out their gutters out and things like that – so there would be a patio space and then your neighbor’s side wall goes up and that becomes your privacy wall and is a very interesting product geared to empty-nesters as there is not a lot of yard to maintain and there is still a little privacy with the courtyard area and staff does recommend approval of this replat in West Chester Township.

Mr. Tucker made a motion to approve the final plat for Harbour Town Village at Wetherington, Section 4, Replat lots 75 – 80, Section 3, Block A and Lots 102 – 108, Section 3, Block C, West Chester Township. Mr. Cooney seconded the motion. Motion carried.

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

NAYES: None

**Resolution# 10.15**

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**OTHER BUSINESS**

Planning Commission letter of support for Ohio Department of Development Job Ready Site Grant

Mr. Fehr said the Planning Commission has been requested to write a letter of support for the Miami Heritage Technology Park Grant application. This is something the Board did a couple of years ago and they are asking for us to renew the recommendation. Mr. Fehr said the Miami Heritage Technology Park is a concept plan that would be located in the Oxford area and the property was rezoned to Business PUD in 2007 and he showed an aerial map of the property.

Mr. Fehr said the developer is envisioning a technology park with a lot of green buildings, green infrastructure and it is a very ambitious plan as far as build-out and we feel it will be very successful because we do have the County fiber optic loop along State Route 73 to be taped into and there is a work force available of Miami students, a lot of professors doing research that might commercialize their project and they want to use a lot of solar energy and geothermal. They are asking the Ohio Department of Development (ODOD) for a grant, the Job Ready Site (JRS) program and the concept is to get the infrastructure for companies to move into Ohio rather than just a plan on paper and these grants are going out to different parts of the state and to get the infrastructure in (the roads, sewer, water) so that they are job ready for a company to move right in.

Mr. Fehr said the applicant stated they are going to ask for \$3.5 million to cover the roads, water and sewer lines and also seek money for the first building.

Mr. Fehr said all that is being asked of the Planning Commission is to send this letter (a draft letter was included in the Board packet) stating it supports the concept of the plan. It will be beneficial to Butler County and there is no type of financial commitment on the County's part and staff does recommend approval of the letter of support.

Mr. Potter said the applicant had just missed it last time.

Mr. Fehr said yes, there were 13 projects and this ranked #15 so they just missed the cut-off and hopefully the next round they will have a chance.

Mr. Bullington said he feels it is certainly a worthwhile project and if it could be started, get the roads in and get the first building he feels it would take off and it is on the fiber optic network, as Mr. Fehr said.

Mr. Tucker made a motion to submit a letter in support of Miami Heritage Technology Park Grant application. Mr. Potter seconded the motion. Motion carried.

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

NAYES: None

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**ADJOURNMENT:**

Mr. Potter 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  
April 13, 2010

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Chair

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Secretary

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Lee Margraf