

**MINUTES OF THE
LAKE COUNTY PLANNING COMMISSION**
May 29, 2007

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Brotzman called the meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Aveni (alt. for Aufuldish), Brotzman, Franz, (alt. for Schaedlich), Klco, (alt. for Troy), Morse, Siegel, and Zondag, and Messes. Hausch and Pesec. Staff present: Messrs. Webster, Radachy, and Ms. Truesdell.

MINUTES

Mr. Siegel moved and Ms. Hausch seconded the motion to approve the minutes April 24, 2007 meeting.

Six voted "Aye".
Messrs. Aveni, Brotzman, Franz
and Klco abstained.

FINANCIAL REPORT

Mr. Zondag moved to approve the Financial Report for April, 2007 as submitted. Mr. Siegel seconded the motion.

All voted "Aye".

Color Copier/Printer Purchase

Mr. Webster said that the present color printer is obsolete and asked the Planning Commission for approval to purchase a Canon Color Copier/Printer for the office. At a cost of \$16,999.00 it will include a scanner, booklet finisher and software connection to individual users. It is very inconvenient to have staff go to the Central Purchasing Department to make copies. Members concurred that such a purchase was necessary.

Mr. Brotzman asked if there were any other equipment requests.

Mr. Webster said we were looking at a set of trapezoid training tables for the meeting room. We already have a new Dell projector and mount for the meeting room.

Mr. Zondag moved and Mr. Franz seconded the motion to recommend to the Commissioners the purchase of the Canon Color Copier/Printer for \$16,999.00.

All voted "Aye".

PUBLIC COMMENT

There was no public comment.

LEGAL REPORT

Mr. Michael DeLeone, Assistant County Prosecutor, presented for Eric Condon. Mr. DeLeone responded to three questions posed by the Planning Commission and staff in previous meetings. The first question addressed asked if a property has a conservation easement on it and the new owner was to subdivide, does the Planning Commission have any jurisdiction to enforce the conservation easement? The answer is no because the Planning Commission is not a party to the contract. He said that easements are not the Planning Commission's right to enforce. We are obligated to give information only and treat the subdivision or land use request as we would any other request. The specific easement in question is between Victoria B. VanLoon and Grand River Partners, Inc. The easement follows to whomever Ms. VanLoon, or her estate, sells the property. It would be up to Grand River Partners to bring an enforcement action if they violated the terms of the easement.

Mr. Radachy said there is a pre-application meeting June 5 for a proposed conservation subdivision on the VanLoon property being brought by Scott Andrews, trustee. Our comments will be confined to subdivision design as they follow the Subdivision Regulations.

Mr. DeLeone said it can be noted that there is a conservation easement on the property but it is not for this board to enforce. If the court were to place any statutory or emergency injunction, it would completely wave any statutory obligation.

Mr. Aveni added it is a matter of record title, particularly because there is not a contract it is not a contractual issue. Any party, such as contiguous property owners, that is impacted by the violation of the easement has standing to challenge it.

Mr. Webster said there is an agreement stating what can and cannot be done in that easement.

Mr. DeLeone said the executor of the estate could petition the Court of Common Pleas to decide how and what is enforceable and under what terms. This can be done prior to any development. There is a process set up in the contract for how the executor or new owner can proceed. The contract moves with the property.

Mr. DeLeone also answered a question by Mr. Adams asking if we can require a homeowners' association to set aside money for upkeep of the development. The answer

is no because we have no privity of contract with them. Without a contract, we cannot make any extra requirements because we can only do what the statutes allow.

Mr. Webster said the only choice a township has is to have a clause put into the homeowners' association whereas if they fail to maintain certain areas the township will maintain it and bill it back to the homeowners. The Health District does that for septic systems.

Mr. DeLeone said there is an enabling statute right on point for that. That is what we are lacking here. In answer to Mr. Adams' question, there is no statutory authority for a township or county to enforce and then charge back.

Mr. Adams asked if a homeowners' association in a township fails to do anything, is there no recourse?

Mr. DeLeone said if there is an issue with septic or sewer, the Health District can enforce their rules.

The final question Mr. DeLeone discussed was that Mr. Condon would answer any questions pertaining to Robert's Rules of Order.

Mr. Webster said that even though Robert's Rules require that a motion be stated before the discussion, Robert's Rules can be altered to have the discussion before the motion. It needs to be stated how the Commission is going to vary from the rules.

Mr. Brotzman said that presently an agenda item is brought to the table and discussed then there is a call for motion and second. He asks for discussion again. He would like to continue in this manner.

Mr. Webster said in the future, when we want to amend a motion, we should either amend the motion or rescind the motion and start over.

Mr. Smith arrived at 7:12 p.m.

DIRECTOR'S REPORT

Mr. Radachy reported that 116 people have registered for the Ohio Planning Conference, Ashtabula, Geauga, Lake and Trumbull Planning and Zoning Workshop. It will be held Friday, June 1 at Geneva State Park. The Cleveland Chapter of the Ohio Planning Conference will hold a workshop on November 9 in Westlake and the State conference will be September 19-21 in Columbus.

The North Perry Village Comprehensive Plan is completed and the first draft is ready for review. Madison Village and Madison Township Comprehensive Plans will be completed next.

ANNOUNCEMENTS

There were no announcements.

SUBDIVISION REVIEW

Subdivision Activity Report

Mr. Radachy said there was no subdivision activity to report. On June 5, 2007 there are two pre-application meetings, the VanLoon property and Mountainside Farms Phase 4. This is the connection of Caribou Lane to Morley Road. They are asking for the smaller lots and smaller set-backs afforded to them by the Residential Conservation District. The original

preliminary plan of 2001 showed a connection to Viewmount, not Morley Road. They have since purchased land from the school to make the connection to Morley Road. There are still buildable lots around the lake.

Time Frames for Preliminary Plan Review

Mr. Radachy said that according to the change in state law as part of Senate Bill 115 which passed in 2005, the Planning Commission has the ability to have 35 working days to review preliminary plans. The law says the decision to accept or deny has to be made in 35 working days. It does not say how many meetings must be held in that time. After talking to Mr. Condon, he agreed with our interpretation of this law. If we change our submission deadlines, we could take up to two (2) meetings to review a plan. This makes it possible to table a subdivision giving the developer a chance to change his plan and come back for the next meeting.

Mr. Radachy presented the following chart showing time frames for preliminary plan review per changes to the Ohio Revised Code 711.10:

ORC 711.10 gives the Planning Commission 35 work days (7 weeks) to review and make a decision on a preliminary plan. It also gives the Planning Commission 30 calendar days (4 weeks and two days) to review and make a decision on a final plat. Currently, the Planning Commission is using 15 to 17 work days to review a preliminary plan and 23 days to review a final plat.

The following chart shows what dates would be necessary to adopt as new filing deadlines for preliminary plans and final plats in order to be able to have the opportunity to table them to the next meeting without requesting the developer to do so.

Submission Deadline (4 PM)	1 st Meeting	Number of Working Days	2 nd Meeting	Number of Working Days	How to have two meetings within 35 Working Days
6/4/07	6/26/07	17	7/31/07	41	
7/9/07	7/31/07	17	8/28/07	37	Move submission deadline to 7/11/07 at 9 AM
8/6/07	8/28/07	17	9/25/07	36	Move submission deadline to 8/7/07 at 9 AM
9/4/07	9/25/07	16	10/30/07	40	
10/9/07	10/30/07	16	11/27/07	34	Okay
11/5/07	11/27/07	15	12/18/07	30	Okay
12/3/07	12/18/07	12	1/29/08	39	

The submission deadlines would have to be revised in order to give 35 working days for review. The first three columns show the present calendar. If the developer did not want it to go

to two meetings, he could submit the plan six or seven days earlier. A standard plan would get approval within the 17 days.

Mr. Brotzman said we have had three to four examples of subdivisions where we asked the developer to table it and they have done that.

Mr. Webster said the extra time would allow us another meeting before we had to make a decision. We are not scheduling extra meetings.

Mr. Radachy said we have extended the review time from 12 days to 23 days for a plat. We do not necessarily need to move the meeting from the last Tuesday of the month. A special meeting could be called so long as it is within the 35 working days.

Mr. Adams said he would support maintaining the meeting schedule as the last Tuesday of the month and let staff adjust the submission date to get to 35 days.

Mr. Radachy said that when scheduling meetings for 2008, the deadline for submission would be changed from Monday at 4 p.m. to Tuesday at 8 a.m.

Mr. Siegel moved to approve the change of July and August submission dates. The September through December submission dates can be approved at a later date. Mr. Smith seconded the motion.

All voted "Aye".

LAND USE AND ZONING REVIEW

Leroy Township – Proposed Text Amendment, Addition of Section 16: Rural Residential, R-2

Mr. Radachy explained that this text amendment would create a three-acre minimum lot size and a 200-foot frontage zoning district. This zoning district would have similar permitted uses, accessory uses, and conditional uses as the R-1. The R-2 district will utilize an increased front setback of 100 feet from the right-of-way and the same rearline and sideline clearances. The building heights will be the same as in the R-1 district. The R-2 district will use the new table format to show the development standards. The R-2 district will also add a new site considerations section for environmental concerns and access management.

Mr. Radachy explained that the Leroy Township Comprehensive Plan recommends the creation of two new residential zoning districts with minimum lot sizes that are larger than the current R-1 district. The districts would be applied in areas where the carrying capacity of the land is lower because of limited groundwater supply and road access in order to protect environmentally sensitive areas and preserve the secluded nature of the eastern portion of the township. The "Residential – Grand River" zoning district, with a minimum lot size of three to five acres (1.2 to 3 hectares), would protect the Grand River riparian corridor. The "Residential – Rural" zoning district, with a minimum lot size of two to four acres (0.8 to 1.6 hectares), is recommended for the area east of the Hells Hollow Wilderness area, and in areas with limited groundwater resources.

Staff stated that there were four issues with this district:

1. The garage sale section 16.04 7 is too specific on names and does not have language to include similar sales with a different name. A change should be made from “garage sales” to “personal property sales”.
2. Section 16.07 2 Site Considerations: This section does not reflect the Township’s future ability to have access management rules. Access management can be done by the Ohio Department of Transportation as well as the County Engineer. The Engineer’s regulations override the townships regulations but they should be listed as an agent having access management.
3. The increased setback may create non-conforming structures. There are many homes that were built at a 50-foot setback.
4. Section 16.06 Lots was established prior to zoning. This section only references 100-foot frontage lots and does not address 1.5 acre, and/or 150-foot frontage lots that will be made non-conforming when the district change is made.

Staff recommended the following:

1. Add a definition of Personal Property Sale to the definition section: The sale or offering for sale to the general public personal property on any portion of a lot in a residential zoning district, whether within or outside any building. These sales can be known as, but limited to, garage, lawn, barn, yard, porch, basement, attic, room, rummage, or patio sales. Change the name of Section 16.04 7 to Personal Property Sale and change all references to Personal Property Sale.
2. Add the Township into Section 16.07 2 because they could create their own access management rules.
3. The Township should review the effect a 100-foot setback will have on existing structures. The Township may want to consider another setback between 50 and 100 feet that would move structures away from the right-of-way and achieve their desired effect.
4. Acknowledge that the existing 150-foot and/or 1.5 acre lots are buildable in Section 16.06. The Township may want to consider setting up development standards for them in Section 16.06.

Mr. Brotzman referred to Section 16.04 3 and asked if a roadside stand is different than an agricultural producer?

Mr. Radachy said products grown or produced can be anything grown or produced on site. It appears to violate Ohio Revised Code Section 519.2. They cannot put any kind of limitations on agriculture, no matter where it is grown or made. This should be brought to their attention.

Mr. Brotzman asked if 16.04 6 accessory buildings are not being constructed on vacant lots.

Mr. Radachy said that an accessory building must be non-agricultural.

Ms. Pesec asked about 16.03 Conditionally Permitted Uses. She suggested some of the terms, such as “assisted living home”, may not be the correct language according the ORC. There should be a formula for density neutrality for residential care facilities and nursing homes.

Mr. Radachy said this would be under Section 14, Conditional Use Permit.

Staff acknowledged that the reason Leroy Township was increasing the setback was to maintain the rural character of the community. Staff was concerned about existing structures becoming non-conforming.

Ms. Pesec moved to accept the recommendation of the Land Use and Zoning Committee with these additions: Section 16.03 2, make language of assisted living and nursing homes consistent with the ORC; adopt a formula for density neutrality, conditionally permitted uses; and, in 16.04 3, check the agricultural products at roadside stands. Mr. Siegel seconded the motion.

Mr. Zondag said that some of the agriculture groups are CAUV which is a different category than those in casual production materials. There is a difference in land use characteristics.

Mr. Radachy said that some facilities in Section 16.03 do not have any conditional uses other than lot sizes so they need to add requirements to Section 14.

Ms. Pesec amended the motion to include the fact that there would be conditional use restrictions in their zoning text.

Mr. Siegel seconded the motion.

Mr. Brotzman said the vote is on attaching the amendment to the motion. He asked for a vote for all in favor of approving the amendment.

All voted “Aye”.

He asked if there was further discussion on the vote on the original motion as amended and asked for a vote for all in favor of approving the motion as amended. The vote is to accept the recommendation of the Land Use and Zoning Committee with these additions: corrected language referring to assisted living or nursing home facilities to make sure it is consistent with the ORC; a formula for density neutrality; conditionally permitted uses; and, check the agricultural products at roadside stands.

All voted “Aye”.

REPORTS OF SPECIAL COMMITTEES

There were no reports of special committees.

CORRESPONDENCE

There was no correspondence to report.

OLD BUSINESS

Subdivision Regulations

Mr. Webster said the Commissioners approved without modification the changes to the subdivision regulations at a Public Hearing at their May 25 meeting. We now have to vote to approve the subdivision regulations changes.

Mr. Siegel moved to approve amendments to Article I, Section 4, H & I, Article H, Article III, Section 10, B, D, & E of the Lake County Subdivision Regulations. Mr. Adams seconded the motion.

All voted "Aye".

NEW BUSINESS

There was no new business to report.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Mr. Adams moved and Ms. Hausch seconded the motion to adjourn the meeting.

All voted "Aye".

The meeting adjourned at 8:35 p.m.