

MEMORANDUM

TO: Plain Township Comprehensive Plan Committee **DATE: 18 February 2002**

FROM: Pflum, Klausmeier & Gehrum Consultants, Inc.
Paul Culter, AICP

RE: Initial Review of the Plain Township Zoning Resolution

The following serves to highlight comments derived from our initial review of the Plain Township Zoning Resolution. Comments are referenced by Article and, where applicable, by Section and Subsection.

General Comments

- The Resolution often uses cross referencing for uses between Districts. For example, the I-1 Light Industrial District under Section 721.2(A)(1) lists “All permitted uses in the S-1, B-1, and B-2 Districts, except residential uses.” PKG suggests identifying all uses to be permitted in each District to avoid permitting a use not intended for a specific District or prohibiting a use which may be appropriate for a specific District. Furthermore, the format is not user friendly because it requires the user to switch between districts to identify permitted uses.
- Some of the uses contained in the Districts could be considered outdated. For example, the R-4 District identifies Lodging and Boarding Houses, a term which has not been commonplace since the late 1970's. Consider using “Bed and Breakfast Establishments” instead.
- Often, there is a lengthy list of uses in each District which could be consolidated under one use with a good definition. For example, uses such as; Barber Shops, Beauty Parlors, Dressmakers, Self-Service Laundries, Shoe Repair Shops, etc. could be combined under one general use called “Personal Services”. Personal Services would be defined as, “An establishment primarily engaged in providing services involving the care and personal needs of a person including, but not limited to, their goods and apparel.”
- Consider adding graphics, where appropriate, to further the understanding of these zoning regulations, such as in Section 603.4, Visibility on corner lots.
- Remove actual fees from the Zoning Resolution and include the following statement to prevent a text amendment process for a simple change in fees:

“...and a fee as established by the Township Trustees.”

Article 1, Purpose and Conformance

- Section 100 and Section 110 list, verbatim, Sections 519.02 and 519.23 of the

Ohio Revised Code. We recommend referencing the O.R.C. or providing your own purpose and conformance statements. The rationale behind this is that if O.R.C. 519.02 or 519.23 changes and you have the statement verbatim, you are no longer in compliance with the O.R.C. and need to perform a text amendment to your Resolution. Consider the following for Section 100:

“This Resolution is hereby enacted by Plain Township, for the purpose of promoting the public health, safety, morals, comfort, and general welfare; to conserve and protect property and property values; to secure the most adequate and economical provisions for public improvement, all in accordance with the Comprehensive Plan and any changes made thereto as reflected in the Zoning Map and documents and records of Plain Township for the desirable future development of the Township, and to provide a method of administration and to prescribe penalties for the violations of the provisions hereafter described all as authorized by the provisions of the Chapters and the Sections applicable under the Ohio Revised Code.”

Article 2, Title

- We suggest shortening your “title” so that it does not have to be referred to the “Plain Township, Stark County, Ohio, Zoning Resolution” every instance in the Resolution. Consider:

This Resolution shall be known as and shall be cited and referred to as the “Plain Township Zoning Resolution” or simply as the “Resolution”.

Article 3, Interpretation of Standards and Exemptions and Limitations

- Sections 310.1 – 310.08

We recommend referencing the O.R.C. and not including the regulations themselves. The rationale behind this is that if O.R.C. changes and you have the statement verbatim, you are no longer in compliance with the O.R.C. and need to perform a text amendment to your Resolution.

Article 4, Definitions

- For ease of use, we suggest realphabetizing the definitions so that similar definitions are located in the same vicinity. For example, “Principal Use”, “Accessory Use” and “Conditional Use” are located throughout the Definitions Chapter. We suggest defining them as such: “Use, Accessory; Use Conditional; and Use, Principal” and including them with the “Use” definition.
- Assure that all uses defined are used in the Resolution.

- Consider adding the use and definition of “Commercial Entertainment Facility” as follows:

“Commercial Entertainment Facility” Any profit making activity that is generally related to the entertainment field such as motion picture theaters, comedy clubs, theaters, amusement parks, and similar entertainment facilities. Commercial entertainment facilities shall not include sexually oriented businesses or adult cabarets.

- The definition of “family” is unconstitutional as written because it differentiates between those related by blood, adoption or marriage and those who are simply living together as a housekeeping unit. Consider the following definition as a replacement:

“A person living alone or two or more persons who are not necessarily related by blood, marriage, adoption or guardianship, living together in a dwelling unit as a single housekeeping unit and under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.”

- Consider modifying the “hotel” definition as follows to permit additional activities that are now commonplace with these facilities:

“A facility offering transient lodging accommodations on a daily rate to the general public and potentially providing additional accessory services such as restaurants, meeting rooms and recreational facilities.”

- Consider modifying the definition of “Manufactured Home” so that it meets the federal definition for “Permanently Sited Manufactured Home” as follows:

“DWELLING, PERMANENTLY SITED MANUFACTURED HOME” A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards and which meets the following requirements for a permanently sited manufactured home:

- A. The structure is affixed to a permanent foundation and is connected to appropriate facilities. “Permanent foundation” means permanent masonry, concrete, or a locally approved footing or foundation, to which a manufactured or mobile home may be affixed.

- B. The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;
- C. The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;
- D. The structure was manufactured after January 1, 1995;

The structure is not located in a manufactured home park as defined by section 3733.01 of the Ohio Revised Code.

- Under “Recreational Facility”, consider differentiating between “Commercial Recreation Facility” and “Non-Commercial Recreation Facility”, the latter being run by not-for-profit corporations (i.e. YMCA, Kiwanas, etc.).
- Consider incorporating the uses and definitions “Restaurant” and “Restaurant, Fast Food”. Consider the following definitions:

“Restaurant” An establishment with or without table service whose principal business is the selling of unpackaged food and beverages to the customer in a ready to consume state, in individual servings or in non-disposable containers, provided that no drive-through window is permitted.

“Restaurant, Fast Food” An establishment whose principal business is the sale of prepared or rapidly prepared food, in disposable containers, with or without table service, directly to the consumer in a ready-to-consume state.

- “Retail Business” and “Retail Business, Convenience” are not defined. Consider:

“Retail Business” Any commercial establishment selling goods, wares or merchandise directly to the ultimate consumer for direct consumption or use and not for resale.”

“Retail Business, Convenience” Commercial establishments which cater to and can be located in close proximity to residential districts without creating undue vehicular congestion, excessive noise, or other objectionable influences. Uses in this classification tend to serve the daily needs of residents in the neighborhood and may include small bakeries, a florist, coffee shop, convenience stores, and neighborhood branches of financial institutions.

- Consider renaming and realphabetizing “Type A Family Day Care Home” and “Type B Family Day Care Home” to “Family Day Care Home, Type A” and “Family Day Care Home, Type B” to make it more user friendly.

Article 5, District and Boundaries Thereof

- Consider adding the following in Section 501.3(D):

“Should questions arise concerning the exact location of any district boundary lines, these questions shall be determined by the Zoning Administrator. Any appeal of this decision shall be made to the Board of Zoning Appeals in accordance with the powers delegated to the Board by law and by this Resolution.”

Article 6, General Standards and Special Provisions

- Section 602.2, Substandard Lots

Consider verbiage that would allow individuals to build on nonconforming lots of record without going to the Board of Zoning Appeals. This issue would then become an administrative function of the Zoning Administrator. The following verbiage could be added:

“On legal existing lots of record that are smaller than 7,500 square feet, the proportional application of the required side and rear yard setbacks may be applied to the lot at the direction of the Zoning Administrator. The required front yard setback shall be the same as the lots directly adjacent to the subject lot.”
- Section 602.13, Home Occupations

Consider identifying that Home Occupations are a “permitted accessory use” and not merely a “permitted use”.

Article 7, District Regulations

- Consider incorporating impervious surface regulations (I.S.R.’s) in each district to control the amount of paved or impervious surfaces on each lot. For example, an I.S.R. of .20 means that 20 percent of any lot may be covered/paved with an impervious surface. This includes building footprints, patios, sidewalks, and driveways. The rationale behind this is to lessen the stormwater runoff impact of new and existing development.
- Sections 704.8 and 705.8, Open Space, requires a minimum of 25% open space in a multi-family development. However, there are no open space standards or requirements. Do required yards count towards the open space? Can it be active recreation spaces? Consider adopting some minimum requirements identifying the

types of and standards of open space.

- Consider modifying the Purpose statement to change “manufactured homes” to “mobile homes” to reflect the title and the permitted uses in this district.
- We recommend that each district list all permitted uses and that the Resolution refrain from cross-referencing uses. For example, Section 712.2(A)(1), Uses, lists “All uses permitted in the S-1 Suburban Office District”. Section 713.2(A)(1), Uses, requires the user to go to both the S-1 Suburban Office District and to the B-1 Neighborhood Business District. To list all permitted uses is a much more user friendly tactic.
- We recommend that a “laundry list” approach of uses be eliminated and that general land uses are utilized that have clear, well written definitions. For example, Section 721.2(A)(3), Uses lists many types of “manufacturing” uses. We recommend simply listing “light manufacturing” or “heavy manufacturing” and providing strong, well written definitions for each. This approach will provide for a zoning resolution that is up to date for a longer period of time.

Article 8, Sign Regulations

- Consider requiring landscaping for the base of permanently mounted ground signs.

Article 9, Parking and Loading Requirements

- Consider standards and regulations on interior landscaping requirements for off-street parking areas. This will serve to break up the “sea of asphalt” that many parking requirements tend to create.
- Consider adding similar general regulation requirements for off-street loading such as lighting, maintenance, drainage, marking, etc..
- Consider changing parking requirements, especially number of spaces required.

Article 10, Nonconforming Uses

- Section 1001.1(A), Alterations and Enlargement, indicates a “not to exceed” enlargement of 25%. However this does not indicate whether this is 25% of the original square footage, 25% enlargement annually, or 25% enlargement per application. We believe the intent is a one time enlargement of up to 25% of the original square footage of the building. This should be clarified.

Article 11, Conditional Zoning Certificates

- Section 1101.01, Procedures for Making Application, identifies a \$125 dollar fee. We recommend removing all fees from the Zoning Resolution as to avoid the text

amendment process should these fees change. Instead, we recommend the following text:

“Each application shall be accompanied by the payment of a fee as established by the Township Trustees, which shall not be refundable.”

Article 12, Board of Zoning Appeals and Zoning Commission

- Consider adding the responsibilities of the Zoning Administrator/Zoning Inspector. This can be included here or in Article XIII. We recommend adding the following text:

“Responsibilities of the Zoning Administrator

A Zoning Administrator, designated by the Board of Township Trustees, shall administer and enforce this Resolution, and he/she may be provided with the assistance of such other persons as the Board of Township Trustees may direct. The Township Zoning Administrator, before entering upon his/her duties, shall give bond as specified in Section 519.161 of the Ohio Revised Code.

It shall be the duty of the Zoning Administrator to:

- A. Enforce the provisions of this Resolution and interpret the meaning and application of its provisions with the input of legal council where applicable.
- B. Order discontinuance of illegal uses of land, buildings or structures.
- C. Order removal of illegal buildings or structures or illegal additions or structural alterations.
- D. Order discontinuance of any illegal work being done.
- E. Upon finding that any of the provisions of this Resolution are being violated, he/she shall notify, in writing, the person responsible for such violation(s), specifying the exact nature of the violation and the manner in which it shall be corrected by the owner, pursuant to the procedures in this Resolution.
- F. Receive, review and make determinations on applications for Zoning Certificates.
- G. Issue Zoning Certificates as provided by this Resolution, and keep a record of same with notations of special conditions involved.

- H. Review and process plans pursuant to the provisions of this Resolution.
- I. Maintain permanent and current records required by this Resolution, including but not limited to the Official Zoning Map, Zoning Certificates, inspection documents and records of all variances, amendments and Conditional Uses. These records shall be made available for use of the Township Trustees, Township Zoning Commission, the Township Board of Zoning Appeals and to the public.
- J. Revoke a Zoning Permit or approval issued contrary to this Resolution or based on a false statement or misrepresentation on the application.
- K. Take any other action authorized by this Resolution or such other duties as specified from time to time by the Plain Township Board of Trustees, to ensure compliance with or to prevent violations of this Resolution. This may include the issuance of and action on Zoning Certificates and such similar administrative duties as are permissible under the law.

Appeal from the decision of the Zoning Administrator may be made to the Board of Zoning Appeals, as provided herein.

- Section 1201.03 and Section 1202.3, Quorum(s), identify that “A majority vote shall be necessary to effect and order...”. As stated, this could mean the majority of the total Board (3 members) or a majority of the quorum (2 members). We recommend rewriting this sentence to read, “A majority vote, of those members present at the meeting, shall be necessary to effect and order...” This will ensure that technically, three members voting in the affirmative aren’t required regardless of the quorum.

Article 13, Administration, Fees and Enforcement

- Section 1301.5, Fees. We recommend removing this Section to avoid the text amendment process should a fee change. We recommend including the following as a replacement:

“The Board of Township Trustees shall establish a schedule of fees, charges and expenses and a collection procedure for Zoning Certificates, Variances, Conditional Uses, Appeals, and other matters pertaining to this Resolution. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Board of Township Trustees. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

The applicant shall be responsible for the expenses incurred by the Township in reviewing plans or any modifications of such plans. Such expenses may include items such as the cost of professional services including expenses and legal fees in connection with reviewing the plan, preparing reports, the publication and mailing of public notices in connection therewith, and any other reasonable expenses directly attributable thereon. Any fees passed on to the applicant are not refundable regardless of the outcome of the application.”

- Section 1302.1, Violations. We recommend including the following to identify the types of notice given by the Township for violations of this Zoning Resolution:

“It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation in or any provisions of this Resolution or any amendment or supplement thereto adopted by the Trustees of Plain Township. The Zoning Administrator shall notify any violator of said violation and shall give said violator seven (7) days after receipt to correct or eliminate the violation. Any person, firm, or corporation violating any regulation in or any provisions of this Resolution or any amendment or supplement thereto and not correcting same after two (2) weeks from said notice as provided herein shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined for each and every day from the day notice is served and during which such illegal location, erection, construction, reconstruction, enlargement, change maintenance or uses continue, and each such day may be deemed a separate offense.

Service of notice of the violation shall be as follows:

- A. By certified mail, return receipt requested, and first class mail simultaneously, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when a certified mail receipt is received with signature or first class mail is not returned after 10 days of mailing; or
- B. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of eighteen (18) years or older; or
- C. By posting a copy of the notice form in a conspicuous place on the premises found in violation.”

Additional Suggestions

- The Resolution has regulations on Adult Businesses or Sexually Oriented Businesses, Outdoor Storage and Bulk Storage Display, Environmental Performance Standards (noise, light glare, etc.) which are presently regulated

under conditional uses but not general uses. This could be further regulated through Property Maintenance Codes. Also under consideration are Bufferyards. For example, Bufferyards can be extremely qualitative and quantitative or it can be a simple statement identifying that a buffer is required between incompatible land uses. One component is a simple table such as the following example:

WHEN...	IS PROPOSED TO ABUT...	A MINIMUM BUFFERYARD OF...
Any commercial land use	Any R-R, R-1, R-2, R-3, R-4, or S-1 zone	A. If proposed; a wall or fence should be three to seven feet in height and placed at the nonresidential property line. The area between such wall or fence and the property line shall be treated with plantings to form a permanent landscaped area. or B. If proposed; a greenbelt should be a strip along the property line of at least twenty feet in width. Such greenbelt shall be planted and maintained with evergreens such as spruce, pine or firs at least five feet in height or a hedge of evergreens at least four feet in height, situated so as to provide an effective and permanent visual buffer. The portion of the landscaped area not covered by plantings shall be kept in a healthy growing condition and neat and orderly in appearance. Careful attention should be given when performing calculations for space requirements for the size of trees when they reach maturity. All trees and shrubbery shall be planted so that it will not obstruct the view of drivers at driveway entrances or road intersections at the time of planting or in the future.
Any office land use	Any R-R, R-1, R-2, R-3 or R-4 zone	
Any industrial land use	Any R-R, R-1, R-2, R-3, R-4, S-1, B-1 or B-2 zone	
Any multi-family land use	Any R-R, R-1, R-2 or R-3 zone	
Any institutional land use (including assisted living facilities, educational institutions and religious places of worship)	Any R-R, R-1, R-2 or R-3 zone	

A landscape plan could be made a requirement for development in a B-1, B-2, R-6 PUD, I-1, I-2, or S-1 district.

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