



**WOOD COUNTY PLANNING COMMISSION
AGENDA**

MAY 3, 2011

5:30PM

The Wood County Planning Commission will meet in regular session on Tuesday, May 3, 2011 at the County Office Building in Bowling Green, Ohio. The time of this meeting is 5:30pm. A suggested agenda follows:

Approval of the April 2011 Planning Commission Meeting Minutes

WOOD COUNTY PLANNING COMMISSION STAFF ACTIVITIES REPORT

Staff activities for March and April 2011 will be reviewed

PORTAGE TOWNSHIP – ZONING

The Portage Township Zoning Commission has drafted a new, completely updated zoning resolution text for the township. The township has submitted this text to the Planning Commission for review and approval. Changes include adjustments to the township's commercial and industrial requirements, changes to the minimum lot area for parcels in agricultural districts, the addition of transportation for hire language and an expanded home occupation – in the home business section.

CHAIRMAN'S TIME

DIRECTOR'S TIME

Subdivision Rules and Regulations update

Floodplain map update

FY 11 CDBG Program timeline – schedule change

ADJOURNMENT

Please make plans to attend!

ITEM # 1 –PORTAGE TOWNSHIP ZONING

Applicant(s)

Portage Township

9408 Bays Road
Cygnet, OH 43403

Proposal

The Portage Township Zoning Commission has drafted a new and completely updated zoning resolution text for the township. The township has submitted this text to the Planning Commission for review and approval. Changes include adjustments to the township's commercial and industrial requirements, changes to the minimum lot area for parcels in agricultural districts, the addition of transportation for hire language and an expanded home occupation – in the home business section.

Attachment

A. Copy of Proposed Portage Township Zoning Resolution

Staff Analysis

Portage Township has been working for some time on updating their current zoning resolution. While the township has not undergone a substantial level of development and still remains largely agricultural in terms of land use, the current zoning text is antiquated and the township is in need of something newer and more comprehensive.

The major changes to the resolution include the expansion of the township's existing requirements in commercial and industrially zoned areas, the increase of the minimum parcel size of parcels in areas zoned A-Agricultural from one (1) acre in size to two (2) acres in size, and the addition of transportation for hire language and language for what the township refers to "Owner Occupied Businesses". Lastly, the township has retyped and reorganized their entire document into an electronic format.

The vast majority of the changes drafted and placed into this document are changes that needed to be included to ensure that it remains an effective document. The minimum lot size increases will satisfy the trend at the Wood County Health Department, which is to require a minimum of two (2) acres of land for placement of an onsite septic system. The transportation for hire language was needed to regulate for-profit trucking operations on township roads. Finally, the expanded requirements for commercial and industrial development do a far superior job protecting and buffering residential and agricultural uses from commercial and industrial uses than the current resolution does.

When reviewing the text for errors, two major items that warrant review were found.

The first of these two items is an organizational error. Under permitted uses in an Industrial District, the township lists “Adult entertainment or sexually oriented businesses” as a permitted use in an Industrial District. When reading the section of the township’s resolution that addresses adult entertainment or sexually oriented businesses, all uses are listed as conditional uses in an Industrial District, not permitted uses. The township will need to retype the portion of their Industrial Use section to make adult entertainment or sexually oriented businesses a conditional use.

The second item that needs mention is that of the township’s inclusion of what they define as “Owner Occupied Businesses”. The historical reasons for the township drafting this type of language stems from a large amount of commercial and in some cases industrial uses occurring in the township on parcels of land zoned agricultural. Due to a lack of enforcement over several years, these uses have been allowed to occur and in some cases, flourish. The Portage Township Zoning Commission members felt a good approach to the problem was to allow these types of uses to continue to occur *without* requiring the land to be rezoned provided that the operators of these businesses obtain a conditional use permit and comply with a series of restrictions on size of the workforce, size of accessory buildings, hours of operation, etc. The reasoning being that it would allow these uses to occur legally but would not result in the creation of a series of spot zoned parcels scattered throughout the township.

The Wood County Prosecutor’s Office and the Wood County Planning Commission Office have researched this problem and the township’s solution to the problem extensively and exhaustedly. Initially, the Director of the Planning Commission felt that this was a viable solution to the problem. However, after further research and rumination on the matter, it is now the conclusion of the Director that this is not the best approach to take in order to rectify the problem of unregulated and illegal businesses in Portage Township. The main reasons for this change of opinion are the facts that even if the properties in question retain their agricultural or residential zoning designation, they are still being used for commercial or industrial purposes, which for all intents and purposes, makes zoning pointless. It also creates a situation where a neighboring parcel of land being used properly per the zoning resolution suffers in the form of loss of property value due to an out of place use occurring next to it. It can also be argued that by allowing these businesses to occur without a change in zoning, an unfair advantage is being given to these offending businesses. This would occur whereby a business that was operating on a parcel of land zoned industrial or commercial would be paying a higher real estate tax than a similar business that is legally allowed to operate on an agriculturally zoned parcel of land per these new regulations. The business on the commercially or industrially zoned parcel would be paying more real estate taxes making it more expensive to conduct

their business than it would be for a similar business operating on a parcel that is taxed at an agricultural rate. This leads to the final reason for the Director's opinion that allowing this owner occupied business provision to go into effect would be detrimental to the township. Ultimately, the township will loose out on real estate taxes by allowing commercial and industrial enterprises to legally operate on agriculturally zoned parcels while still paying real estate taxes at an agricultural rate.

The Wood County Prosecutor's Office has echoed the Director's stance and actually were the ones to first suggest the possibility of an unfair operating advantage to offending businesses. A better solution to Portage Township's problem with improperly zoned businesses in the township is to notify each offending owner, give them a deadline to either find land zoned to accommodate their operation, or make application to rezone their property to the correct zoning classification. Incidentally, this is the solution offered by the Prosecutor's Office.

The last item(s) are very minor typographical and formatting errors that can be transmitted back to the township for them to fix when the final document is adopted by the Portage Township Trustees.

Staff Recommendation

As stated above, Portage Township is in need of an overhaul to their current resolution. The vast majority of what the township has drafted for this current update is very good. It addresses the needs of the township and takes in account the current land use trends of Portage Township. However, the owner occupied business section is not the best solution to the problem Portage Township faces with commercial and industrial businesses operating on improperly zoned parcels of land in the township. If this type of language is adopted the township will loose out on real estate tax revenue, will possibly open itself up to litigation, and will compromise the original intent of having the township zoned.

In summary, it is the recommendation of the Planning Commission Staff that the Planning Commission recommend to Portage Township that the Township approve the new zoning resolution with the following suggestions:

1. In the Industrial Uses section, make adult entertainment or sexually oriented businesses a conditional use so that it corresponds with what is written in the adult entertainment, sexually oriented business section.
2. Eliminate the owner occupied business section entirely.
3. Fix the typographical errors and formatting issues on the final document