

BETHEL TOWNSHIP TRUSTEES, MIAMI COUNTY

MATTHEW A. DAVIS, TRUSTEE ROGER L. GOUBEAUX, TRUSTEE JEROME L. HIRT, SR., TRUSTEE
REBA A. PLASTER, CLERK WILLIAM LUTZ, ADMINISTRATOR JANE E. RISNER, SECRETARY
JANICE ROYSE, ZONING INSPECTOR ROBERT YOCUM, ROAD SUPERINTENDENT
8735 SOUTH SECOND STREET – BRANDT, TIPP CITY, OH 45371
PHONE 937.845.8472 www.betheltownship.org FAX 937.845.7316

To: Bethel Township Zoning Commission

From: William Lutz, Township Administrator

Date: December 30, 2003

Subj.: Bethel Township Zoning Resolution Text Amendments

On November 23rd, the Bethel Township Board of Trustees adopted Resolution #172-03, which recommended the attached changes to the Bethel Township Zoning Resolution. The Miami County Planning Commission approved these changes at their December 16th meeting, pending approval of the Miami County Prosecutor's Office. These recommended changes have been forwarded to that office; we are awaiting their approval. Attached is the official notification we received from the County Planning Commission we received today.

Additionally, the township is required is to hold a public hearing for the recommended changes no earlier than twenty days, nor no later than forty days from the certification of the resolution. Traditionally, the zoning commission meets on the fourth Thursday of the month. However, given these constraints, it was not legal for us to hold the public hearing on the fourth Thursday of the month. Therefore, that is the reason the public hearing will be held on **Thursday, January 15th at 7:00 P.M.**, at the Township Building.

If you have any comments or questions, please feel free to give me a call at 845.8472 or 681.1157.

Attachments



OFFICE OF
COMMISSIONERS OF MIAMI COUNTY

Miami County Planning & Zoning Department
510 West Water Street • Suite 110 • Troy, OH 45373-2983
(937) 440-8111

MEMO

TO: Bill Lutz
Janice Royse
Bethel Township Trustees
Zoning Commission Members

FROM: Daniel Brandewie

DATE: December 18, 2003

SUBJECT: Planning Commission Recommendations

Please be advised that the Planning Commission took the following cases under consideration at their meeting on the 16th with recommendations as follows:

Bethel Township Trustees, 8735 South Second Street-Brandt, Tipp City, request permission to amend the Bethel Township Zoning Resolution, Articles 2, Article 8, Article 10, Article 11, Article 12, Article 17, Article 18, Article 19, Article 20 addressing sexually oriented business regulations and miscellaneous zoning text changes.

The Planning Commission recommended approval of this request. They recommend the County Prosecutor's office review the proposed changes. Please call if you have any questions.



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NOTICE OF PUBLIC HEARING

The Bethel Township Zoning Commission will conduct a public hearing on January 15, 2004, at 7:00 p.m. at the Bethel Township Building, 8735 South Second Street in Brandt.

The Commission will hear public comment on a request by the Board of Trustees of Bethel Township, through Resolution #172-03, to amend the text to the following sections of the Bethel Township Zoning Resolution: Article 2, Section 3.02, Section 8.02, Section 8.03, Section 8.04, Section 8.06, Section 10.02, Section 10.06, Section 11.01, Section 11.02, Section 11.04, Section 11.06, Section 12.01, Section 12.02, Section 12.04, Section 12.06, Section 17.01, Section 17.05, Section 17.13, Section 17.16, Section 18.01, Section 18.03, Section 19.03, Section 20.11.

The proposed revisions to the text of the zoning resolution shall be available for public inspection beginning January 5th at the Bethel Township Building, 8735 South Second Street in Brandt, from 8:30 a.m. to 2:30 p.m.

Following the hearing, action will be taken by the Bethel Township Zoning Commission and the Board of Trustees of Bethel Township.

Janice Royse
Secretary, Bethel Township Zoning Commission

Date For Publication: Jan. 3, Jan. 4, Jan. 5

ARTICLE 2

INTENT AND PURPOSE

This Resolution is based on the Miami County Comprehensive Plan, the purpose of which is to lessen the congestion on public streets, to reduce undue hazards due to flooding, and to promote the public health, safety, and ~~general welfare morals~~. The above mentioned Plan has been formulated with due consideration, among other things, to the character of each district of the Township and its particular suitability for particular uses; to the conservation of property values; to the general trend and character of building and population development; to the advancement of social and economic stability; and to the adequate provision of public transportation, streets, highways, sewers, water mains, schools, recreational areas, and other public facilities. It is further purpose of this Resolution to safeguard the public health, safety, and ~~general welfare morals~~.

ARTICLE 3

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.02 DEFINITIONS

Adult Entertainment Facility: ~~See Sexually Oriented Business~~ A facility having a significant portion of its function as adult entertainment, which includes the following listed categories:

- A. Adult Book Store. ~~An establishment having a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" as herein defined or an establishment with a segment or section devoted to the sale or display of such material.~~
- B. Adult Mini Motion Picture Theater. ~~A facility with a capacity of less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons therein.~~
- C. Adult Motion Picture Theater. ~~A facility with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.~~
- D. Adult Entertainment Business. ~~Any establishment involved in the sale or services or products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of lives males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are~~

photography, dancing, reading, massage, and similar functions, which utilize activities as specified above.

E. Specified Sexual Activities:

1. ~~Human genitals in a state of sexual simulation or arousal;~~
2. ~~Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio;~~
3. ~~Fondling or other erotic touching of human genitals, pubic regions, buttock or female breasts.~~

F. Specified Anatomical Areas

1. ~~Less than completely and opaquely covered human genitals, pubic region, buttock and female breasts below a point immediately above the top of the areola.~~
2. ~~Human male genitals in a discernibly turgid state even if completely and opaquely covered.~~

Established: Includes any of the following

1. The opening or commencement of any business as a new business;
2. The conversion of any existing business to any other business;
3. The addition of any business to any other existing business; or
4. The relocation of any business.

Nude, Nudity or State of Nudity: A live person exhibiting: (1) specified anatomical areas, or (2) a state of dress which fails to opaquely and fully cover specified anatomical areas.

Sexually Oriented Business: Any business defined as the follows:

A. Adult Arcade. An establishment where, for any form of consideration, one or more still or motion picture projectors, side projectors, or similar machines, or other imaging producing machines, or other visual representations, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".

B. Adult Bookstore, Adult Novelty Store or Adult Video Store. A commercial establishment which has at least 50% of its stock in trade or derives at least 50% of revenues or

devotes at least 50% of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, digital video discs, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"
2. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

An establishment may have other principal business purposes that does not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments for being categorized as an adult bookstore, adult novelty store or adult video store if the above definition is met.

C. Adult Cabaret. A nightclub, bar, restaurant, bottle club, juice bar, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) a person or persons who appear nude or semi-nude or in a state of nudity or semi-nudity; (b) live performances which are characterized by the exposure of "specified anatomical area" or "specified sexual activities", or; (c) films, motion pictures, video cassettes, digital video discs, or other photographic reproductions which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas."

D. Adult Movie. A motel, hotel, or similar commercial establishment which offers public accommodation, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures with close-circuit televisions transmissions, films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of

this sexually oriented material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.

E. Adult Motion Picture Theater. A commercial establishment where films, motion pictures, video cassettes, digital video discs, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

F. Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features a person or persons who appear in a state of nudity or semi-nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities" and which is not customarily open to the general public during such theaters because it excludes minors by reason of age.

G. Massage Parlor. Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of forementations electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities" is offered, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of massage parlor shall not include: the practice of massage in any licensed hospital, nor by a license hospital, nor by a licensed physician, surgeon, chiropractor, or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school, athletic program, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or shoulder, nor by any other individual license by the state to perform massages.

H. Semi-Nude Model Studio. Any place where a person or persons regularly appear in a state of nudity or semi-

nudity or displays "specified anatomical areas" for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted for other reasons. Reference above to nudity should not be construed or interpreted to permit nudity or a state of nudity in a semi-nude model studio. Semi-nude model studio shall not include any school, college, or university licensed by the state.

I. Sexual Encounter Establishment. A business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration: (1) a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas," or (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A sexual encounter establishment shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

J. Striptease Parlor/Escort Agency. A person or business association that furnishes, offers to furnish, or advertises to furnish, for hire, striptease performances, or the appearance of a person or persons in a state of nudity or semi-nudity for another person or persons.

Specified Anatomical Areas: Includes any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, anus, or areolas or nipple of female breast; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Includes any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, anus or female breast;
2. Sex acts, normal or perverted, whether actual or simulated, including: vaginal intercourse, fellatio, cunnilingus, bestiality, anal intercourse, oral copulation, or sodomy;

3. Masturbation, or the masturbation of another, whether actual or simulated;
4. Human genitals in a state of sexual stimulation, arousal or tumescence; or
5. Excretory functions as part of or in connection with any of the activities set forth in the above subsection (1) through (4).

Carport: A structure with a roof made of plastic, vinyl, tarpaulin, or other synthetic material or materials, which may or may not have sides and are accessory to residential and agricultural uses.

Convenience Store: A business that customarily provides food and beverages for consumption off-premises, and/or automotive fuels and lubricants, and/or newspapers, groceries, or other retail items.

Structure: Is anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on or in the ground. However, for the purpose of this Resolution,

- B. The following structures shall be deemed accessory to permitted uses and shall be exempt from provisions specified in Section 19.05 of this resolution:

9. Carports under 150 square feet

Cemetery: A place for burying and internment of human remains.

Wetland: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands must meet all the following, 1. Saturated or flooded for at least seven (7) days during the growing season, 2. Soil is poorly drained and develops an anaerobic (devoid of oxygen) surface layer due to saturation or flooding, 3. Harbors vegetation and life that is adapted to saturated or flooded soil conditions.

Floor Gross Area: The sum of the gross horizontal areas of all the several floors or a building or buildings including interior balconies and mezzanines. All horizontal measurements are to be made between the exterior faces of walls including the walls of roofed porches having more than one wall. The gross floor area of a building shall include the floor area of accessory buildings, on the same lot, measured the same way. If the porch area of an accessory building exceeds eight (8) foot wide then the porch area shall be included in the maximum gross floor area for accessory buildings.

→ Move # 109 to "D" area?
ARTICLE 8

B-1 HIGHWAY BUSINESS DISTRICT

8.02 PERMITTED PRINCIPAL USES

- 2. Automobile, mobile home, and recreational vehicle
- 16. Motels and Hotels
- 24. Convenience Store

8.03 ACCESSORY USES

- 1. Paint and body shop in conjunction with automobile or mobile homes and recreational vehicles.

8.04 CONDITIONAL USES

1. ~~Adult Entertainment Facilities~~

- A. ~~No adult entertainment facility shall be established within 1000 feet of any area zoned for residential use.~~
- B. ~~No adult entertainment facility shall be established within a radius of 1500 feet of any school, library, or teaching facility, whether public or private, governmental or commercial, which school, library or teaching facility if attended by persons eighteen (18) years of age.~~
- C. ~~No adult entertainment facility shall be established within a radius of 1500 feet of any park or recreation facility attended by persons less than eighteen (18) years of age.~~
- D. ~~No adult entertainment facility shall be established within a radius of 1500 feet of any other adult entertainment facility or within a radius of 2500 of any two (2) of the following establishments:~~
 - 1. ~~Cabarets, clubs or other establishments, which feature topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.~~
 - 2. ~~Establishments for the sale of beer or intoxicating liquor for consumption on the premises.~~
 - 3. ~~Pawn shops.~~
 - 4. ~~Pool or billiard halls.~~
 - 5. ~~Pinball palaces, halls or arcades.~~
 - 6. ~~Dance halls or discotheques.~~
- E. ~~No adult entertainment facility shall be established within 1500 feet of any church, synagogue, or permanently established place of religious services, which is attended by persons less than eighteen (18) years of age.~~
- F. ~~No advertisements, displays or other promotional materials shall be known or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.~~

- ~~G. All building openings, entries, windows, etc. for adult uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas.~~
- ~~H. No screens, loudspeakers, or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.~~
- ~~I. Off-street parking shall be provided in accordance with Section 17.16 for similar uses, as well as all other standards for permitted uses within the B-1 zoning district as appropriate.~~

8.06 BUILDING HEIGHT AND SIZE REGULATIONS

No building in the B-1 Highway Business District shall exceed two and one-half (2½) stories or thirty-five (35) feet in height. **A building shall have no more than 40,000 square feet per tenant, and no more than 100,000 square feet for the total size of the structure.**

ARTICLE 10 B-3 NEIGHBORHOOD BUSINESS DISTRICT

10.02 PERMITTED PRINCIPAL USES

12. Furniture and appliances, including rugs, floor coverings, draperies, sewing machine shops, **upholstery, furniture repair**, used furniture, office equipment, supplies, and similar uses.

267, **25. Convenience Store**

10.06 BUILDING HEIGHT AND SIZE REGULATIONS

Maximum permitted height for buildings in this district shall be thirty-five (35) feet except as provided in Article 17.12. **A building shall have no more than 40,000 square feet per tenant, and no more than 100,000 square feet for the total size of the structure.**

ARTICLE 11 I-1 LIGHT INDUSTRIAL DISTRICT

11.01 INTENT

The purpose of this district is to provide for industrial uses with limited objectionable external effects that are suitable for industrial development by reason of location, topography, soil conditions, and the availability of adequate utilities and transporting systems. The intent is to permit most manufacturing, wholesaling, warehousing **and other specified** activities that can be operated in a clean and quiet manner, subject only

to those regulations necessary to prohibit congestion and for the protection of adjacent residential and business activities.

11.02 PERMITTED PRINCIPAL USES

4. Automobile, truck, mobile home **and recreational vehicle** repair, but no commercial wrecking, dismantling or salvage yard.
26. ~~Motor freight depot or trucking terminal: Provided, the truck entrances and exits and onto streets whose pavement width is at least thirty (30) feet between curbs for a distance of one hundred (100) feet from the entrance, and such street is approved by the County Engineer.~~
32. ~~Railroad freight stations, but not including switching, storage, freight yards, sidings, or fueling facilities.~~

11.04 CONDITIONAL USES

Sexually Oriented Businesses. Subject to the Terms and Conditions in Section 20.11 herein.

11.06 BUILDING HEIGHT REGULATIONS

In this district, no building shall exceed three (3) stories or forty (40) feet in height, ~~provided an additional one (1) foot building height may be allowed for each foot the building or portion thereof is set back from all required yard lines.~~

ARTICLE 12 I-2 HEAVY INDUSTRIAL DISTRICT

12.01 INTENT

The purpose of this district is to provide for industrial and other uses that, by virtue of their external effects, should be isolated from residential use. These uses ~~perform essential business functions for the County, including employment, and should by~~ provided for in areas that are best suited for industrial development by reasons of location, topography, soil conditions, and availability of adequate utilities and transportation systems.

12.02 PRINCIPAL PERMITTED USES

46. **Motor freight depot or trucking terminal: Provided, the truck entrances and exits and onto streets whose pavement width is at least thirty (30) feet between curbs for a distance of one hundred (100) feet from the entrance, and such street is approved by the County Engineer.**

47. Railroad freight stations, but not including switching, storage, freight yards, sidings, or fueling facilities.

12.04 CONDITIONAL USES

3/27
Sexually Oriented Businesses. Subject to the Terms and Conditions in Section 20.11 herein.

12.06 BUILDING HEIGHT REGULATIONS

any 50'?
In this district, no building shall exceed three (3) stories or forty (40) feet in height, ~~provided an additional one (1) foot building height may be allowed for each foot the building or portion thereof is set back from all required yard lines.~~

ARTICLE 17 GENERAL PROVISIONS

17.01 GENERAL PROVISIONS

6. Except in conformance with the regulations of the Miami County Planning and Zoning Department, or their designated party, in their administration of the flood plain regulations issued by the Federal Emergency Management Agency.

17.05 ACCESSORY BUILDINGS

In any residential zone, no garage or other accessory building shall be erected within the front yard. No truck trailer bodies or cargo containers shall be considered as an accessory structure or permanent storage building.

No garage or accessory building shall be constructed in the required side yards. An accessory building shall not be located entirely to the rear of the main dwelling or building and may not be located closer than five (5) feet from the rear lot line; ten (10) feet from the side lot line.

No detached garage or accessory building in the residential and business districts shall exceed the height of the main building.

17.13 TEMPORARY USES

7. ~~Temporary Mobile or Manufactured Home: A mobile or manufactured home located in the R-1, R-2, F-1, A-1 or A-2 district when its intended use is of a temporary nature as interim living quarters until such time as construction or reconstruction of a detached one-family or two-family dwelling unit is completed.~~

Before issuance of a temporary permit, the applicant must submit to the office of the Enforcing Officer:

- A. Health Department Approval;
- B. A bond or letter of credit in the amount of five hundred dollars (\$500) to secure the cost of removal of the temporary mobile home under the provisions of this Section;
- C. A plot plan indicating placement of both the permanent dwelling and the temporary mobile or manufactured home;
- D. Construction/Reconstruction plans of the proposed detached one-family dwelling and have said plans approved by the Building Inspector;
- E. Location of the temporary manufactured or mobile home shall be exempt from the applicable yard requirements during the length of the temporary permit. The Enforcing Officer shall determine the location in regards to property lines and right-of-way.
- F. The temporary permit shall be valid for twelve (12) months, with construction to commence within ninety (90) days after issuance of the required permits. Any request for extension of the twelve (12) month period must be made to the Board of Zoning Appeals for its consideration as a Conditional Use.
- G. Said mobile home or manufactured home must be removed within thirty (30) days after completion of the permanent unit. Completion date will be the final inspection of the dwelling by the Building Inspector.

17.16 OFF-STREET PARKING REGULATIONS

1. GENERAL PROVISIONS

- a. Residential off-street parking areas are designed and shall be used only for the parking of passenger-type vehicles. **Overnight parking or outdoor storage of vehicles rated greater than one ton capacity, or commercial buses, is prohibited.**
- q. Vehicles over four (4) tons capacity are prohibited from off street parking in residential districts.

ARTICLE 18 SIGN REGULATIONS

18.01 INTENT

It is the intent of this article to establish reasonable regulations governing the size, character, and location of signs within Bethel Township in the interest of the **public health, safety and morals** safety and general welfare of its citizens, business concerns, and other affected sections of the Township. Within this framework, these regulations are adopted to achieve the following objectives:

- 1. To minimize the possibility that sign size, location, or character will create hazards adversely affecting the public safety.

2. To establish sign limitations which allow a reasonable capacity for advertisement, but which prevents the escalation of sign competition to levels, which are non-productive and create unnecessarily high entrepreneurial costs.
3. To provide sign regulations, which are directly related to land use and, therefore, to the functional and economic need for signs of varying sizes, types, and locations.
4. To create a more aesthetically pleasing environment without unreasonably limiting the right of individuals to employ signs in the legitimate use of their property.

18.03

PROHIBITED USES

14. Signs which contain or depict obscenity, as defined by the Ohio Revised Code Section 2907.01(F), are prohibited.
15. Signs which contain or depict lewdness are prohibited.
16. Signs containing or depicting specified sexual activities are prohibited.
17. Signs containing or depicting specified anatomical areas are prohibited.

ARTICLE 19

ENFORCEMENT AND PENALTIES

19.03

CERTIFICATE OF HEALTH DEPARTMENT

In every instance when a lot is not serviced with public water and/or the disposal of sanitary wastes by means of public sewers, a Certificate of Approval by the County Health Officer of the proposed method of water supply and/or disposal of sanitary wastes must be obtained. A commercial or non-residential lot must obtain approval from the Ohio Environmental Protection Agency (Ohio EPA). **All new construction shall be required to connect to all public water and public sanitary sewer systems, where available.**

ARTICLE 20

BOARD OF APPEALS

20.11

REGULATION OF CONDITION USES

The provisions of Section 20.11 of this Resolution apply to the location and maintenance of any and all conditional uses.

A. Purpose

It recent years the characteristics and impacts of an ever increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations

designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and morals of the community. Towards these ends, it is recognized that this Resolution should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facilities requirements, traffic generation, impact and effect on surrounding properties. Accordingly, conditional use permits shall conform to the procedures and requirements of this resolution.

B. Contents of Conditional Use Permit Application

Any owner, or agent thereof, of property for which a conditional use is proposed shall make an application for a conditional use permit by filing it with the zoning administrator. The application shall contain the following information:

1. Name, address and phone number of the applicant;
2. Legal description of the property or the tax map of the property;
3. Zoning district;
4. Description of existing use;
5. Description of proposed conditional use;
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, streets and traffic access ways, open spaces, refuse and service areas, utilities, signs, yards, landscaping features, and such information as the Board of Appeals may require;
7. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes and vibration.
8. A list containing the names and mailing addresses of all property owners within three hundred (300') of the property in question;
9. A fee established by Resolution;

C. General Standards For All Conditional Uses

In addition to the specific requirements for conditionally permitted uses, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. Is in fact a conditional use as established under the provisions of this Resolution and appears on the list of conditionally permitted uses adopted for the district involved;
2. Will be in accordance with the general objectives, or with any comprehensive plan and/or the zoning resolution;

3. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intending character of the general vicinity and that such use will not change the essential character of the same area;
4. Will not be hazardous or disturbing to existing or future neighboring uses;
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
9. Will not result in the destruction, or loss of a natural, scenic, or historic feature of major importance.

D. Invalidation of Conditional Use Permit

1. For the purposes of this Resolution, a Conditional Use Permit shall cease to be valid at such time as the premises for which it was issued is no longer occupied by the holder of said permit or a change of ownership has occurred or until such use is terminated by the discontinuance of the use. A Conditional Use Permit shall also be immediately invalidated upon conduct in any manner not approved by the Board of Zoning Appeals.
2. A Conditional Use Permit shall expire in one (1) year after it is issued unless actual construction has taken place or is underway except as provided elsewhere in this Resolution. A Conditional Use Permit issued for other than construction shall expire in six (6) months after it is issued unless the actual use is established.
3. Exceptions to Change of ownership for a Conditional Use Permit: Change of ownership shall not invalidate a conditional use permit if upon application to the Zoning Administrator, the applicant can demonstrate that the activity and that no changes relative to the activity, conditions, use or surrounding area have occurred since the activity was permitted. A conditional use permit fee as established by this resolution shall be charged to the applicant.

Should the zoning administrator deny the application for continuance of a conditional use, the applicant may appeal the decision or apply for another conditional use permit to the Board of Zoning Appeals as a separate action subject to the requirements of this resolution. Conditional use permits issued for a dwelling unit constructed as a second residence in the A-2, General Agriculture District shall be exempt from the change of ownership provisions.

E. Specific Criteria For Conditional Uses. The following are specific conditional use criteria and requirements for those uses conditionally permitted in this Resolution. Nothing in this shall prohibit the Board of Zoning Appeals from prescribing supplementary conditions and safeguards in addition to these requirements in accordance with this Resolution.

1. Sexually Oriented Businesses. In every instance where a conditional use permit has been applied for in the I-1 Light Industrial District or I-2 Heavy Industrial District for a Sexually Oriented Business, the applicant shall comply with the following conditions:

- AB Two?*
Hennrich prop 201? → ?
- a. No Sexually Oriented Business shall be established within 500 feet of any area zoned as a Residential District or as an Office-Residential District. No Sexually Oriented Business shall be located within 500 feet of the right-of-way on any divided, limited access highway.
 - b. No Sexually Oriented Business shall be established within 500 feet of any school, library, teaching, educational facility, whether public or private, governmental or commercial, that is attended by persons under eighteen (18) years of age. The term "school" includes any school grounds.
 - c. No Sexually Oriented Business shall be established within 500 feet of any park or recreational facility attended by persons under eighteen (18) years of age. The term park or recreational facility includes, but is not limited to, playgrounds, nature trails or recreational trails, swimming pools, reservoirs, athletic fields, basketball or tennis courts, pedestrian or bicycle paths, wilderness areas, park districts, or other similar public land.
 - d. No Sexually Oriented Business shall be established within 500 feet of any permanently established place of religious services or worship which is attended by persons under eighteen (18) years of age or day care centers of type A or B family care home as defined by the Ohio Revised Code.

- e. **No Sexually Oriented Business shall be established within 500 feet of any other Sexually Oriented Business or any of the following:**
1. **Establishments for the sale of beer or intoxicating liquor for consumption on the premises.**
 2. **Pawn shops.**
 3. **Pool or billiard halls.**
 4. **Pinball palaces, halls or arcades.**
 5. **Dance halls or discotheques.**
 6. **Video arcades or establishments known by other descriptions but which provide video game and/or other games or entertainment attended or participated by persons under (18) years of age.**
 7. **Tattoo parlors/body piercing operations, excluding ear-piercing operations.**
- f. **Distances shall be measured by a straight line distance without regard for intervening structures from the property lines or the zoning boundaries of any lot or parcel of land which includes or which is operated or used in connection with a building in which a Sexually Oriented Business is located or in which any activity described referred to in this section is located. If property lines cannot be clearly established, measurements shall be taken from the closest exterior structural wall or section of wall enclosing the Sexually Oriented Business to the nearest property line or zoning boundary of the other use in question.**
- g. **No advertisements, displays or other promotional materials posted or displayed at Sexually Oriented Businesses shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.**
- h. **All building openings, entries, windows, and the like, at any Sexually Oriented Business shall be located, covered, or screened in such a manner as to protect any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas, any sidewalk, or any street.**
- i. **No screens, loudspeakers or sound equipment shall be used by a Sexually Oriented Business that can be seen, heard or discerned by the public from public or semi-public areas, any sidewalk, or any street.**
- j. **Off-street parking shall be provided in accordance with Section 17.16 of this Resolution for similar uses, as well as all**

other standards for permitted uses within the I-1 Light Industrial District and I-2 Heavy Industrial District.