

Birch Run Township Planning Commission Minutes

Special Joint Meeting of the Bodies called by the Planning Commission, 12 November 2003

Planning Commission Members Present

Dennis Bronner	Jeff Putnam
Bob Scharrer (absent)	James Totten
Alan Hunter	Wyn Wilson
Diane Timmons	

The meeting was called or order at 7:00 pm. A Quorum was present for Birch Run Board of Directors, the Planning Commission and the Zoning Board of Appeals. One other Township official was present, Mike Setzer. There were no members in the audience.

Purpose of the Meeting: Workshop, conducted by Landplan, Inc. to guide Township in constructing new Zoning Ordinances. We reviewed initial draft portions of the new Zoning Ordinance, Articles 11-14, Article 21, Definitions & Drawings and got started on the balance of Article 5, Specific Development for Special Land Uses.

Approval of minutes of the Planning Commission was saved for later in the meeting.

At 7:10 pm the chairman turned the meeting over to Mark Eidelson.

The handout attached, dated October 7, 2003 *Additional Draft Portions of the New Zoning Ordinance, Articles 9-14, 21* is the document referred to in the remainder of the minutes. A show of hands was used to provide concurrence on the feedback described below.

Document Discussion, Article 11 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

Procedures were discussed for approval of a PUD. The sequence is as follows:

1. Preliminary Site Plan Review
2. Public Hearing
3. Township Board Review
4. Approval

After the preliminary process, the final approval process is as follows:

1. Final Site Plan Review
2. Public Hearing
3. Township Board Review
4. Approval

Article 12 Reserved for Future Use, no discussion.

Article 13 NONCONFORMING LOTS, USES, AND STRUCTURES

Section 13.01 Purpose

No discussion, no changes.

Section 13.02 Nonconforming Lots

Much discussion, 13.02 will be deleted.

Section 13.03 Nonconforming Uses

Nonconforming uses can continue but cannot expand.

Section 13.04 Nonconforming Structures

Discussed at length. An example might be a house that encroaches on a set back. The last sentence in A.2 will be changed to read "a written opinion of a qualified Building Appraiser..."

Section 13.05 Repairs and Maintenance

In B. the last sentence, reading "No structural alterations..." will be deleted.

Section 13.06 District Changes

No discussion, no changes.

Section 13.07 Illegal Nonconformities

No discussion, no changes.

Section 13.08 Nonconforming Signs

Section will be deleted because Birch Run Township has adopted a Sign Ordinance regulated as a Police Power ordinance.

Section 13.09 Hardship Cases

No discussion, no changes. This section will become 13.08.

A break was called at 8:05 pm.

Article 14 is Reserved for Future Use

Article 21 DEFINITIONS

The purpose of a definition section is that we must define these terms or we could be put in a bad position if the Township is ever taken to court.

Section 21.01 Construction of Language

No discussion, no changes.

Section 21.02 Definitions

Only a few specific terms were discussed by the group.

Artificial Pond: The Planning Commission was asked to come up with a minimum sq. ft. number at the next regular meeting, November 24, 2003.

Communication Tower. Mark explained that a Class 1 tower is a new, higher tower. A Class 2 tower is attached to a building and permitted by right, but a site plan is necessary.

Concentrated Livestock Operation. The minimum number of animal units was changed to 500. Buffalo was added to item b.

Driveway, Shared, Frontage, Hunt Club, Shooting Range and Roads, Private and Public. The committee will come back to these definitions when we discuss each as part of the Zoning Ordinance.

Kennel. Minimum number of domesticated animals was reduced to 5.

Setback. The words "centerline of the."

Sign. This will read the same as the new Sign Ordinance, just adopted.

A break was taken at 9:00 pm.

The second handout attached, dated November 3, 2003 *Balance of Article 5 of the New Zoning Ordinance* is the document referred to in the minutes that follow.

Mark pointed out that the list of special land uses is presented here for the purpose of review only and will not be listed in the final ordinance except in the Table of Contents. Mark also pointed out that generally part A of each section are measurable requirements and part B are not measurable.

Section 5.07 Bed and Breakfast

No discussion, no changes.

Section 5.08 Commercial Stables

Limit section A to only 1 and 2.

Section 5.09 Vehicle/Car Wash Establishment

Add open bays are permitted if neighbor impact is limited by the Planning Commission.

Section 5.10 Vehicle Repair Shops and Service Stations.

A Five (5) will be added to A reading, Driveways shall be adequately spaced to prevent conflicting turning patterns.

Section 5.11 Shooting Ranges and Hunt Clubs

Much discussion. Al Hunter will research and present alternate wording.

Section 5.12 Day Care Facility, Group Home

No changes.

Sections 5.13, 5.14 and 5.15 Agricultural Labor Housing, Junkyards and Kennels

Discussion but no changes.

Section 5.16 Mini Storage Facilities

Much discussion. Keep in Industrial Districts only. The majority want these to be permitted by special use permit only.

Section 5.17 Private Landing Strips

Mark will look at the footage requirements and acreage to see if the math works.

Future meetings:

November 24, 2003, Regular Planning Commission Meeting

December 1, 2003, Joint bodies/Landplan meeting.

January 12, 2004, Joint bodies/Landplan meeting.

At 10:08 pm motion to adjourn the meeting was made by Ed Magnus with a second by Dennis Bronner. Motion carried.

Submitted: Diane Timmons, Secretary
Planning Commission

Approved: _____

Date: November 3, 2003
To: Birch Run Township Planning Commission, Township Board, ZBA, and Zoning Administrator
From: Mark A. Eidelson, AICP
Re: Balance of Article 5 of the New Zoning Ordinance

Attached please find the balance of Article 5, consisting of specific site development standards for specific special land uses. Please review these materials carefully and identify any revisions you would like to see made, provisions you feel need further discussion and exploration, or questions you may have. As you review this material, please note the following:

- 1) I had originally suggested packaging these provisions as a separate Article due to the length, rather than putting the provisions in the procedural portion (Articles 1 - 8) of the Zoning Ordinance. In light of the lengthiness of these provisions, and the fact that all other site development standards are located in the second half of the Ordinance, officials may want to revisit this issue.
- 2) When preparing these provisions, I continually considered the applicable provisions of Chapter 16 of the current Birch Run Township Zoning Ordinance. However, you will notice that there is considerable difference between the attached provisions and those of Chapter 16. These differences are primarily due to the following:
 - a) Many of the provisions that are addressed in the current Chapter 16 will be addressed in the final portion of the Ordinance (to be submitted in approximately one month), including such matters as signage, parking, and screening.
 - b) Many of the provisions that are addressed in Chapter 16 are unnecessary as the subject matter is already addressed by the discretionary standards of Sections 4.05 and 5.06.
 - c) I have concerns regarding the legality or reasonableness of certain provisions included in Chapter 16, such as those pertaining to the regulation of correctional facilities and foster care facilities, minimum lot size standards for various uses, and certain setback requirements.
- 3) In the interest of simplifying provisions addressing water bodies, without undermining their intent, the draft Ordinance does not differentiate between minor and major water bodies but rather regulates all such water bodies as "artificial ponds." The regulations generally parallel those of the current ordinance except where such provisions appear arbitrary, such as in the requirement that large water bodies be a minimum depth of 10 feet. Please see Section 5.21 and the definition for "artificial pond" in Article 21.
- 4) This material does not address wind powered electrical generating devices. I will be providing you with draft provisions addressing this matter in the near future.

We are scheduled to meet next on November 12. The agenda of the meeting will be to begin reviewing Articles 11, 13 and 21 (previously submitted) and, if time permits, begin the review of the attached material. I will provide greater detail regarding the principal differences between the attached material and the applicable provisions of Chapter 16 of the current Ordinance during our review of the attached material. Please call if you have any questions.

Article 5
(Continued)

The following pages (5-5 through 5-17) are a continuation of the initial portion of Article 5 dated 8-29-03, and should be inserted at the end of the previously submitted Article 5. These additional pages present specific site development standards for certain special land uses. The special land uses addressed in these pages are as follows:

Section 5.07	Bed And Breakfast	5-5
Section 5.08	Commercial Stables	5-6
Section 5.09	Vehicle/Car Wash Establishment	5-6
Section 5.10	Vehicle Repair Shops and Service Stations	5-6
Section 5.11	Shooting Ranges and Hunt Clubs	5-7
Section 5.12	Day Care Facility, Group Home	5-7
Section 5.13	Agricultural Labor Housing	5-8
Section 5.14	Junkyards	5-8
Section 5.15	Kennels	5-8
Section 5.16	Mini Storage Facilities	5-9
Section 5.17	Private Landing Strips	5-9
Section 5.18	Campgrounds	5-9
Section 5.19	Adult Entertainment Businesses	5-10
Section 5.20	Golf Courses, Country Clubs, and Driving Ranges	5-10
Section 5.21	Artificial Ponds	5-11
Section 5.22	Sale of Fireworks	5-12
Section 5.23	Extraction Operations	5-13
Section 5.24	Communication Towers, Class 1	5-14

Section 5.07 Bed and Breakfast

A. The following site and developmental requirements shall apply:

1. No bed and breakfast use shall be permitted within a subdivision plat or condominium development, or on any property where there exists another bed and breakfast use within one thousand (1,000) feet, measured as a straight line distance between the closest lot lines.
2. One (1) parking space per room to be rented shall be provided on site, in addition to the parking required for a single family dwelling.

B Special Performance Standards:

1. The bed and breakfast facility shall be a single family dwelling which is operated and occupied by the owner of the dwelling.
2. Meals may be served to overnight guests only. No separate or additional kitchen facilities shall be provided for the guests.
3. The number of bedrooms available for use by guests shall not exceed six (6).
4. No receptions, private parties or activities for which a fee is paid shall be permitted except as may be expressly authorized in association with the special land use approval.
5. The establishment shall contain at least two (2) exits to the outdoors.
6. Rooms utilized for sleeping shall be part of the primary residential structure.
7. No transient occupant shall reside on the premises for more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
8. Lavatories and bathing facilities shall be available to all persons using the premises.
9. The exterior appearance of the structure shall not be altered from its single family character.

5. The application materials shall identify the extent, quantities, and types of explosive, flammable, or otherwise hazardous materials that may be used or created, and the measures to be used for proper handling, storage, and disposal of such materials.
6. All provisions for the storing and disposing of fuels, oils, and waste products, including daily generated garbage, shall meet county, state, and federal regulations. The applicant shall document the availability and capacity of sewage facilities to handle the anticipated volumes and types of wastes.

Section 5.11 Shooting Ranges and Hunt Clubs

A. The following site and developmental requirements shall apply:

1. Minimum lot area shall be forty (40) acres for outdoor shooting activities.
2. Minimum front, side and rear yard setbacks for outdoor shooting ranges shall be two hundred fifty (250) feet.
3. A minimum eight (8) foot high fence shall be provided around the entire area devoted to or used for the outdoor shooting of firearms to assure that individuals will not unknowingly trespass on the property.

B. Special Performance Standards:

1. A site plan for the range, whether indoor or outdoor, shall be submitted clearly indicating all safety provisions to assure that any projectile discharged within the confines of a shooting range shall not carry into or over an adjacent district or area.
2. The Township Board may submit a copy of the site plan to law enforcement agencies for review and comment.
3. All indoor and outdoor activities, including the shooting of projectiles and storage of projectiles, shall comply with the most current published standards and guidelines of the National Rifle Association.
4. Hours of outdoor operation shall be between sunrise and sundown, according to such times as published by the National Weather Service, unless expressly authorized otherwise by the approving body.

Section 5.12 Day Care Facility, Group Home

A. The following site and developmental requirements shall apply:

1. A group home day care facility shall not be located closer than fifteen-hundred (1,500) feet to any of the following facilities as measured along a street, road, or other public thoroughfare, excluding an alley:
 - a. Another group home day care facility licensed by the State of Michigan.
 - b. A adult foster care group home licensed by the State of Michigan.
 - c. A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people which is licensed by the State of Michigan.
 - d. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

B. Special Performance Standards:

1. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high.
2. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the neighborhood. A group day care home should not require exterior modifications to the dwelling nor shall the front yard be the location of play equipment.
3. One identification sign shall be permitted. Such sign face shall not be greater the two (2) square feet, shall be mounted flush to a wall, made of a material that is compatible with the dwelling unit, and shall not be illuminated. Sign text shall be limited to the name of the facility and an address.
4. At least one (1) off-street parking space shall be provided for each non-family employee of the group day care home in addition to the parking normally required for the residence. A driveway may be used for this purpose. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for non-family employees of the dwelling and the parking normally required for the residence.
5. Hours of operation shall not exceed sixteen (16) hours in a twenty-four (24) hour period.

5. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
6. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.

Section 5.16 Mini Storage Facilities

A. The following site and developmental requirements shall apply:

1. One (1) parking space shall be provided for each twenty (20) rental units within the buildings, and one (1) parking space shall be provided for each employee.
2. There shall be a minimum of thirty-five (35) feet (forty-five (45) feet if the driveway is two-way) between warehouses for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, said building separation need only be twenty five (25) feet. Traffic direction and parking shall be designated by signaling or painting.

B. Special Performance Standards:

1. No retail, wholesale, fabrication, manufacturing, or service activities may be conducted from the storage units by the lessees.
2. The entire site, exclusive of access drives, shall be enclosed with a six (6) foot high obscuring wall or fence. A chain link fence may only be permitted along property lines which do not abut a Residential District or residentially used property.
3. Storage spaces shall not contain more than 400 square feet each.
4. All storage shall be within the enclosed building area unless specifically provided for otherwise as part of an approved site plan, as in the case of the storage of recreational vehicles. No outdoor storage shall occur within fifty (50) feet from any right-of-way.
5. The exterior of mini-storage buildings shall be of finished quality and maintained so as not to be offensive to adjacent property or abutting roads.
6. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

Section 5.17 Private Landing Strips

A. The following site and developmental requirements shall apply:

1. Landing strips shall be located on a parcels of at least twenty (20) acres in size.
2. The landing strip shall be a minimum distance of fifteen hundred (1,500) feet in length and allow a clear approach slope of 20:1.
3. The ends of a landing strip shall be a minimum of five hundred (500) feet from all property lines and the sides of the strip shall be a minimum of two hundred (200) feet from all property lines.

B. Special Performance Standards:

1. Approval of landing strips shall not be made prior to the receipt of the Federal Aviation Authority's review of the proposed landing strip.

Section 5.18 Campgrounds

A. The following site and developmental requirements shall apply:

1. All campsites and principal and accessory buildings shall be setback a minimum distance of one hundred fifty (150) feet from all right-of-way and lot lines.
2. A common use area shall be provided on the parcel at a rate of five hundred (500) square feet per campsite, except that a minimum of ten thousand (10,000) square feet shall be provided.
3. There shall be no permanent storage of tents, campers, travel trailers or mobile home units in the development unless specifically permitted.
4. No commercial enterprises shall be permitted to operate on the campground parcel, except that a convenience goods shopping building may be provided where more than forty (40) camp sites are provided. Such building shall be located to discourage use of the facility by non-campers.
5. Each campsite made available as a travel trailer space shall contain at least 2,000 square feet. Each space shall be clearly defined on the ground by stakes or markers, and no parking space shall be closer than thirty (30) feet to another space.

of the location of trees, sand traps, berms, or other features, a narrower fairway will not compromise safety. The minimum length of a driving range shall be three hundred (300) yards, measured from the tee to the end of the range.

B. Special Performance standards:

1. A minimum fifty (50) foot buffer zone between turf areas and natural water bodies, watercourses or wetlands shall be maintained. The buffer zone may be selectively pruned or thinned, and weeds and dead plant material may be removed. However, the buffer shall consist of natural vegetation and shall not be chemically treated.
2. A hydrogeological study shall be completed and submitted to document the anticipated impact of the golf course on groundwater supply. This study shall inventory and analyze well logs from surrounding properties, giving consideration to the depth of the wells and quality of water. The study shall further estimate the quantity of water that will be used on a daily basis during the peak watering periods and shall evaluate the impact of watering operations on surrounding wells. The study shall be performed by an engineer or hydrologist licensed in the State of Michigan.
3. Detailed plans for hazardous materials storage shall be provided. Buildings in which hazardous materials are stored shall be designed to contain spills, shall not have floor drains that discharge into a septic system or other pathway to the groundwater, shall be lockable, and shall be kept locked. An inventory manifest of stored hazardous materials must be posted at the entrance of the storage building and filed with the Township. Plans for emergency containment and clean-up shall also be provided.
4. Accessory uses may include clubhouse/pro shop, managerial facilities, maintenance sheds, toilets, lockers, and other accessory uses directly incidental to the golf course. Accessory uses shall not include restaurants and drinking establishments; tennis, racket sport, or swimming facilities; or other uses having no direct reliance upon the sport of golf. This limitation shall not prohibit concession stands and grills provided no food or beverages are sold to the general public. The design of the clubhouse and other accessory buildings shall be of a residential character and exterior materials shall be primarily wood or brick.
5. Golf course hours, including those for general operations and public admission, shall not exceed dawn to dusk.
6. All motorized equipment, excluding golf carts and equipment of lesser size, shall be stored within a building when not in use.

Section 5.21 Artificial Ponds

A. The following site and developmental requirements shall apply:

1. The minimum size of a parcel on which an artificial pond is to be established shall be five (5) acres.
2. An artificial pond shall be set back a minimum of fifty (50) feet from all lot lines.
3. No artificial pond shall be less than eighteen (18) inches deep except along its banks, which shall be at a minimum grade of 1:10 but no greater than 1:1. However, all artificial ponds shall include an exit ramp extending from the edge of the pond to the lowest feasible water level, of a minimum width of ten (10) feet and a maximum slope of 4:1 (horizontal to vertical)
4. No artificial pond shall be created within fifty (50) feet of ecologically sensitive sites, including wetlands and streams, unless all applicable county, state and federal permits are obtained.
5. No artificial pond shall cover more than twenty percent (20%) of the area of a lot.

B. Special Performance Standards:

1. Erosion control must be provided for all filled or disturbed surface areas including the water body margin and locations where water is discharged into or out of the artificial pond. These areas must be covered or treated during all phases of construction to prevent material from being wind blown onto neighboring properties or eroded by runoff. The applicant shall meet all requirements of the most currently published standards and specifications for soil erosion control promulgated by the Saginaw County Soil Conservation District and Saginaw County Drain Commissioner.
2. All excavated material shall be deposited on the property and suitably landscaped to assure the appearance of natural landforms and compatibility with surrounding properties. No berms created by the excavated material shall exceed slopes of 3:1. No less than twelve (12) feet shall exist between the pond and the toe of any berm.
3. All surface areas disturbed by excavation and filling activities, which are intended to be above the water level of the pond, shall be provided with a minimum three (3) inch layer of arable topsoil. The area shall be landscaped with grass or other live material and maintained as such.
4. The application for an artificial pond shall include a plan for the reclamation of the pond site and surrounding disturbed areas should the excavation of the pond not be fully completed or should the pond area be subsequently

A. Additional Materials to be Submitted for Special Use Review: Each application shall be accompanied by plans, drawings, and information prepared by appropriate registered professionals depicting, at a minimum:

1. A master plan for the extraction of minerals on the site, including:
 - a. The area and amount of material to be excavated in cubic yards.
 - b. Proposed side slopes and depths for all portions of the excavated area.
 - c. Proposed drainage system, settling ponds and retention ponds, as appropriate.
 - d. The time, duration, phasing and proposed work schedule of the total project.
 - e. The proposed location of any buildings, storage areas, stockpiling areas, and sorting or crushing equipment as appropriate.
 - f. Area from which extraction will take place in the first year of operation and likewise for each successive year to completion.
2. The proposed location of access points to the site and proposed haul routes for transport of excavated material.
3. Proposed plans for fencing, and signs.
4. Depth to groundwater.
5. A detailed reclamation plan that identifies, at a minimum, the following:
 - a. Physical descriptions of the location of each principal phase, number of acres included in each phase, and estimated length of time to complete each phase in extraction.
 - b. Depiction of finished, stabilized, side slopes, including methods and plant materials proposed for use.
 - c. Landscape plan for the portion of the property disturbed by extraction and associated activities, including an inventory of plant/tree species to be used.
 - d. Description of the intended reclamation use of the site upon completion of extraction activities and the spatial arrangement of proposed reclamation uses.
 - e. The restoration of vegetation upon the site, including appropriate seeding of grasses, or the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface to minimize erosion.
 - f. The restoration of the site topography so that no gradients in disturbed earth are steeper than a slope of 3:1 (horizontal-vertical).
 - g. The placement of a three inch (3") layer of arable topsoil over the excavated area, except exposed rock surfaces or areas lying below natural water level, in accordance with the proposed reclamation use.
 - h. No noxious, flammable or toxic backfill and grading materials shall be used.
 - i. Fill and soils shall not be overly compacted and of sufficient quality to be well drained, non-swelling. If the reuse plan involves development of dwellings or other buildings, fill and soils shall be of proper bearing capacity to support foundations and septic systems.
 - j. All temporary structures shall be removed from the premises upon completion of the extraction activity unless said structures are of sound construction and are compatible with the reclamation goals. Said structures shall be accurately depicted upon the approved reclamation plan.

B. The following site and developmental requirements shall apply:

1. Minimum lot area shall be twenty (20) acres.
2. Notwithstanding any other minimum yard sizes required by this Ordinance, all extraction activities, including buildings, fixed and temporary buildings and equipment, washing and stockpiling of materials, and limits of site disturbance shall be set back a minimum distance of one hundred (100) feet from a lot line.
4. There shall be not more than one (1) entrance-way from a public road to said lot for each six hundred sixty (660) feet of frontage.

C. Special Performance Standards:

1. The approving body may require fencing in designated areas where it determines necessary to ensure the public health, safety and welfare, including any locations that may be subject to ponding or inundation by water. Fences shall be of adequate design and location to effectively discourage trespassing and shall include "KEEP OUT-DANGER" or similar signage.
2. No area under excavation shall exceed a slope of 1:1 (horizontal to vertical).
3. Rumble strips shall be provided along access drives to discourage the tracking of dirt onto adjacent roads. Public streets within 1000 feet of the exit of the extractive use site shall be kept reasonably clear of mud, dirt and debris from vehicles exiting the site.
4. No topsoil shall be removed from the extraction site except in the immediate area of current extraction activities.
5. The extraction shall be graded in a fashion which will not cause water to accumulate in stagnant pools.

B. Special Performance Standards:

1. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes, including wind load standards, and those of the Federal Aviation Administration and the Federal Communications Commission.
2. Towers shall not be artificially lighted unless required by the Federal Aviation Administration or other public agency.
3. The approving body shall, in its discretion, review and approve the support structure and all accessory buildings with respect to the design and appearance so as to minimize distraction, reduce visibility, maximize aesthetic appearance, including landscaping, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the communication facility in a neat and orderly condition.
4. Collocation
 - a. Statement of Policy: It is the policy of the Township to minimize the overall number of newly established locations for communication towers within the community, and encourage the use of existing structures or towers while promoting the public health, safety, and welfare and minimizing negative impacts of such sites. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, contrary to the Township's policy for collocation. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.
 - b. Feasibility of Collocation: Collocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:
 - 1) The communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
 - 2) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - 3) The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - 4) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the approving body, taking into consideration the standards contained in this Section.
 - c. Requirements for Collocation:
 - 1) A permit for the construction and use of a Class 1 communication tower shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
 - 2) All new communication towers shall be designed and constructed so as to accommodate collocation.
 - 3) If a party who owns or otherwise controls a communication tower shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new communication tower, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Township, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for new communication towers within the Township for a period of five years from the date of the failure or refusal to permit the collocation. Such a party may seek a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

Birch Run Township Zoning Ordinance

DRAFT: November 3, 2003

- distance providers, and/or the public switched telephone network) for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.
8. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services proposed through the use of the proposed new tower.
 9. A description of the feasible location(s) of future towers or antennae within the Township based on existing physical, engineering, technological, or geographical limitations.

End of Article 5