

**SUGARCREEK TOWNSHIP
BOARD OF ZONING COMMISSION
TUESDAY, APRIL 5, 2016**

This regular meeting of the Sugarcreek Township Board of Zoning Commission was held on Tuesday, April 5, 2016 at the Sugarcreek Township Administration Office, 2090 Ferry Road, Sugarcreek Township, Ohio at 7:00 p.m.

Upon call of the roll, the vote resulted in the following:

Mr. Baldino-present
Mr. Schieman-present
Mrs. Hellmann-present
Mrs. Gallagher-present
Mr. Betz-present

Everyone present stood for the Pledge of Allegiance.

Mrs. Hellmann noted that the first item on the agenda was case BZC01-2016. Mrs. Hellmann opened the public hearing.

The Sugarcreek Township Zoning Commission is requesting an amendment to the Sugarcreek Township Long-Range Land Use Plan to change the density recommendations in Planning Areas 3-5, 7 and 8 from a gross density of one unit per five acres to a minimum lot size of five acres, except where an A-C District is utilized, where a gross density of one unit per five acres would be appropriate and to change the density recommendation in Planning Area 6 from a gross density of one unit per five acres to a minimum lot size of 5 acres.

Mr. Schieman stated that this amendment is needed and is to be expected in these districts.

Mr. Tiffany stated that specifically page 42's language is what is to be changed with this amendment. The language stating that there is a minimum of 2.5 acre lots.

Mr. Betz made a motion to approve the amendment to the Long-Range Land Use Plan as requested, which was seconded by Mr. Baldino. Upon call of the roll, the vote resulted in the following:

Mr. Schieman-yes
Mrs. Hellmann-yes
Mrs. Gallagher-yes
Mr. Betz-yes
Mr. Baldino-yes

Mr. Baldino further reviewed the issue of sewers in relation to this above stated amendment. If the township considers units of higher density this would affect the look of the community. This

is in planning area 3. He asked if there would be a conflict that should be addressed now, and if a statement should be added to the above amendment.

Mr. Betz asked if the township looks at the maps to determine where sewers can and cannot go.

Mr. Schieman stated it is something the committee has considered and looked at. It is called the urban services plan.

Mr. Tiffany directed the committee to look at area 3. The majority of area 3 is metro park, except Pete Ramell's property. He stated there is not a risk here. Planning area 8 has properties that are already zoned R1A. There is no sewer and no capacity for the sewer line.

Mr. Schieman stated that these 2 statements don't facilitate anything good in the comprehensive land use plan. He asked if this is only happening in 3 and 8?

Mr. Tiffany confirmed that yes, this only applies to 3 and 8. He also noted that 8 is worded differently.

Mr. Baldino made a motion to approve the statements as requested.

Mr. Schieman stated that this was specifically regarding the 3rd bullet in planning area 3 and the 3rd bullet in planning area 8. He then stated he seconded the motion.

Upon call of the roll, the vote resulted in the following:

Mr. Schieman-yes
 Mrs. Hellmann-yes
 Mrs. Gallagher-yes
 Mr. Betz-yes
 Mr. Baldino-yes

Mrs. Hellmann addressed the approval of February 9, 2016 meeting minutes

Mr. Schieman made a motion to approve the February 9, 2016 minutes as requested. Mr. Baldino seconded this motion. Upon call of the roll, the vote resulted in the following:

Mr. Schieman-yes
 Mrs. Hellmann-yes
 Mrs. Gallagher- abstain
 Mr. Betz-yes
 Mr. Baldino-yes

Mrs. Hellmann addressed the discussions of the mining operations.

Mr. Schieman stated that he did research in regards to mining operations. He stated that in Sugar creek Township, if an applicant would like to mine gravel their application would be

submitted to the Board of Zoning Appeals. His solution to this involves creating a zoning district to allow mineral extraction as a conditional use. He stated that he pulled information from Beavercreek and Xenia's zoning regulations regarding mining. Even though they have restrictive language, their applications are not as restrictive as ours. He said he was unable to find specific language to directly back up and support what we have as conditions in our BZA application process. He stated that the best thing is to recreate a new zoning district where mineral extraction is a conditional use, and approved through the 3 elected officials, not the BZA. In the current regulation citizens of the township have no recourse of referendum. However, according to the ORC, if this process was voted on by the trustees, citizens have the opportunity for referendum. He noted that the planning commission will still make recommendations, however the final vote will fall to the trustees.

Mr. Tiffany stated that citizens do have the opportunity to appeal. He gave the example of a resident that made a case to the BZA to build a block wall to protect his wife's privacy. The case was approved, however there was an appeal, which went to the courts and lasted in court for 2+ years.

Mr. Schieman commented that he was talking about citizen referendum, not a court appeal. He wanted to focus on the action of citizen initiated referendum.

Mrs. Hellmann asked where in the township this mining could effect.

Mr. Baldino commented that there was previously a quarry behind his property.

Mr. Tiffany stated that there are 4 types of law regarding zoning. 1. Ohio Revised Code. 2) Ohio Administrative Code. 3) Attorney General opinions. 4) Case law. After speaking with Cara Tilford, case law is what defines the process for us (as the township). According to the current regulations, mining operations are not permissible, therefore applicants would need a variance and there would have to be no other viable use of the property. He asked the question of: How do we create a zoning district for mining and then not allow it?

Mr. Schieman replied saying that the township needs a zoning district where mineral extraction is a conditional use, only after zoning can the BZA put terms on it (as specified in the ORC).

Mr. Tiffany questioned how the regulations would be written, such that there are conditions to the quarries and there are permissible ways to prevent them if the committee so chooses.

Mr. Schieman stated that his intent for possible mining operations/quarries be decided by the BZC, the trustees, and the citizens. He said that the necessary way to get there is to create a district. He asked if this could be done by creating a paper district. Within the regulations of the zoning resolutions that mineral extraction is a conditional use only. An approved application would be necessary and subject to referendum.

Mr. Tiffany gave a hypothetical; He is a big company and wants to go into John's back yard. He applies for mining operations and has a set of standards that have to be met. He says that in all of the township's districts it would be straight zoning. Which means according to the proposed

zoning regulations, he would go through an approval process to do something the district is already approved to do. Hypothetically, it is presented to the trustees, approved, goes to referendum, referendum fails, the BZA has to approve it upon certain conditions. This would create a long process in court, and attorneys would advise us to give in to this big company and allow them to proceed with mining in a zoning district that says its permissible.

Mr. Betz clarified that this would be a district titled mineral extraction, with added conditional use.

Mr. Schieman responded saying there could be a district created according to our chart. There would be P's and C's. Permitted and Conditional. He stated that he wants the decisions of zoning of mining operations to be directly in the hands of the trustees and the BZC.

Mrs. Hellmann asked where it would be possible for people to have mineral extraction operations.

Mr. Schieman said all along the Miami River.

Mrs Hellman stated that further discussion should involve lawyers to best word this new regulation in such a way that the township wants. She suggested Stephanie and Cara look further into this issue.

Mr. Betz asked if the comp plan needs to be changed if there was a change in zoning.

Mr. Schieman replied no. He stated that there doesn't need to be a change to the comp plan every single time.

Mr. Tiffany said, because there were changes made to the comprehensive land use plan on an application to be proactive, that same logic would apply to this situation as well.

Mrs. Hellman said the intent of these zoning changes is to keep continuity. The township doesn't want to face the same challenges as Spring Valley. By addressing only one plan and not the other opens everyone else up to issues that could eventually lead to court proceedings.

Mr. Betz asked how Spring Valley is handling their issue of mining operations in their comprehensive land use plan.

Mrs. Gallagher said she would be surprised if they have a comprehensive plan.

Mr. Betz said it is required for them to have one.

Mr. Tiffany stated that they can rely on the county's comprehensive plan if they do not have their own.

Mr. Schieman asked if the committee would like for this zoning issue of mining operations to be decided by the elected officials and they citizens.

Mrs. Hellmann asked who would be the decision makers.

Mr. Schieman said if we are a recommendation board, we cannot have a trustee on the board.

Mrs. Hellmann said that the committee will coordinate with Cara.

She moved on to old business, the draft of the floodplain overlay.

Mr. Schieman stated that they would prefer to delay this issue and focus on others, such as Safe Routes to School.

Mrs. Hellmann asked if there were any announcements.

Mr. Betz asked what was going on currently with Cub Foods.

Mr. Tiffany commented that an engineering firm was brought in to discuss other parts of the property, because new buildings were approved in the past.

Mrs. Hellmann made a motion to adjourn. Upon call of the roll, the vote resulted in the following:

Mr. Schieman-yes

Mrs. Hellmann-yes

Mrs. Gallagher-yes

Mr. Betz-yes

Mr. Baldino-yes