

**SUGARCREEK TOWNSHIP  
BOARD OF ZONING COMMISSION  
TUESDAY, JUNE 7, 2016**

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

Everyone present stood for the Pledge of Allegiance.

Mrs. Hellmann asked Mrs. Tilford to take roll. Upon call of the roll, the vote resulted in the following:

Mrs. Gallagher-absent  
Mr. Baldino-present  
Mrs. Hellmann-present  
Mr. Schieman-present  
Mr. Betz-present  
Ms. Moore-present

Mrs. Hellmann noted that the first item on the agenda was case BZC02-2016. Mrs. Hellmann opened the public hearing.

Mrs. Tilford provided the Staff Report for BZC02-2016. Applicant, Inverness Group, Inc., is requesting Final Development Plan Approval for Section 3 of the Landings of Sugarcreek subdivision. The subject parcel is 3820 Upper Bellbrook Road, contains 85.52 acres, can be further identified by parcel number L32000100120001900, is owned by Inverness Group, Inc., and is located in the PUD-R (Residential Planned Unit Development) District. Section 3 is proposed to contain a total of 32 building lots and 16.294 acres.

Mr. Rob Painter, of 4333 Aaron Ct, Cincinnati, OH 45241, engineer for the project, came forward representing the applicant. Jim Obert is on vacation. They have designed and will construct the revised detention basin. He met with Jeff Vaught, Greene County Engineer's Office. Mr. Vaught wanted them to take care of the storm water somehow. He hadn't seen the updated plan in which they are outletting it into an existing drainage way, but not damming the drainage way. It will have less of a flow rate than happens now.

Mr. Schieman asked if that was calculated on the whole site or specifically for the drainage in this area.

Mr. Painter said it was for what was tributary to that point.

Mr. Schieman said it seems like it is counter intuitive to put a detention basin on one of the highest spots on the property. He asked how much excavation they are going to do.

Mr. Painter replied that they would do a fair amount. They have to change the grades on their site.

Mrs. Hellmann asked if there would be a negative impact to High View Terrace.

Mr. Painter said no, they will be installing controls now.

Mr. Schieman asked what the controls were.

Mr. Painter said it is a catch basin. The first control is the water quality control, dictated by the State of Ohio. They are very small. You have to have a water quality volume. Second stage control is the window at that mark. The spillway is there in case of the big one, if the controls cannot handle it, it outlets the water in a controlled manner. It is the emergency spillway. It will not outlet into anyone's grass, it goes into the existing drainage way.

Mr. Schieman stated we included a condition in Phase 1 and 2 that the landscaping shall be done in compliance with standards. He didn't see it in Phase 3.

Mrs. Tilford advised there was a text amendment to require these standards on all development.

Mr. Schieman spoke regarding Dark Sky and asked if anything had been done about lighting.

Mrs. Tilford said that the applicant is not proposing any street lighting within this section. The street lights proposed within Sections 1 and 2 will be dark sky compliant.

Mr. Schieman stated that all lighting should be full cut off on residential and commercial.

Mr. Betz made a motion to approve the Preliminary Development Plan as presented by the applicant, subject to the conditions recommended by staff, which was seconded by Mr. Baldino. Upon call of the roll, the vote resulted in the following:

Mr. Betz-yes  
 Mr. Baldino-yes  
 Ms. Moore-yes  
 Mr. Schieman-yes  
 Mrs. Hellmann-yes

Mr. Schieman made a motion to approve the April 5, 2016 Minutes, which was seconded by Mr. Baldino. Upon call of the roll, the vote resulted in the following:

Mr. Schieman-yes  
 Mr. Baldino-yes  
 Ms. Moore-abstain  
 Mrs. Hellmann-yes  
 Mr. Betz-yes

Mrs. Hellman brought up agritourism uses under new business.

Mrs. Tilford explained that the State of Ohio recently made a change to state law that exempts agritourism operations from zoning. We can regulate setbacks for structures, some things about off-street parking and ingress and egress. There has been a lot of discussion throughout Greene

County with the Prosecutor's Office about how we best address this. Regional Planning, in conjunction with the Prosecutor's Office, has developed model text. We are asking that the Zoning Commission make a motion to initiate a text amendment to the zoning resolution to address agritourism uses.

Ms. Moore asked if agritourism was already defined.

Mrs. Tilford stated that the law included a definition.

Mr. Schieman said it has to include a farming operation with annual gross revenue of \$2500.00 or more.

Ms. Moore asked about waste water disposal system areas on the property.

Mr. Baldino stated that setbacks of 200-500 feet exclude a lot of properties. He asked how this impacts safety and health.

Mrs. Tilford said the intent of the amendment is to protect public health, safety and general welfare and to protect the rights of adjacent property owners, as well as the rights of the agritourism providers. Staff will continue to look at the setback issue. Currently we have defined setback as being from the property line, we may decide that a setback from an adjacent residential structure is more appropriate.

Mrs. Hellman had a question about time constraints.

Mrs. Tilford said that we are moving forward as quickly as possible as the law becomes effective on August 17, 2016.

Mrs. Tilford said a motion needs to be made to initiate a text amendment to the resolution to add agritourism as a permitted use in all districts subject to use specific standards as proposed in the draft text.

Ms. Moore made the motion, which was seconded by Mrs. Hellmann. Upon call of the roll, the vote resulted in the following:

Ms. Moore-yes

Mrs. Hellmann-yes

Mr. Betz-yes

Mr. Schieman-yes

Mr. Baldino-yes

Mrs. Hellmann introduced in old business the discussion on mining operations.

She noted that she had met with Mr. Betz, Mrs. Tilford, and Mr. Tiffany.

Mrs. Tilford said she talked with Ms. Hayden about the potential of creating a district specifically for surface mining to accomplish the goal of putting the review of these uses under the authority of the zoning commission and the trustees. She stated that Ms. Hayden indicated

that the way the township currently handles surface mining puts the township on better standing than it would be if we were to create a district where surface mining uses would be permitted, even if they are permitted only as conditional uses. She did not see a compelling need for an amendment to the resolution.

The group came up with four properties that could potentially be candidates for surface mining operations. These parcels were reviewed on a map.

Mrs. Hellmann said that at this point taking the advice of the Prosecutor's Office makes the most sense. She said that she had an earlier meeting with Mr. Tiffany, Mrs. Tilford, and Mr. Betz and they feel that it should stay with the Board of Zoning Appeals. We have the option to add text to the Long Range Land Use Plan that states that surface mining is not something that is contemplated in our area.

Mr. Betz had a concern that if we create a separate zoning district for the use then we appear to anticipate that this would be an acceptable use.

Mrs. Tilford explained that one condition of a use variance is that there is no economically viable use of the property absent the issuance the variance. For example, if there is a unique building that exists and it can only be used for a purpose that is not permitted in the Zoning Resolution, then the Board of Zoning Appeals could consider a use variance as the building could not be put to any other use other than the use which it was constructed to support. To prove that a property has no economically viable use absent the issuance of a use variance is a very difficult burden to overcome.

Mrs. Hellmann stated that in the case of the four properties identified, they all could be agricultural; therefore they all have a viable use.

Mr. Schieman stated that he has listened and made notes. He noted that his first point is that Ms. Hayden was not here when Spring Valley had their previous fight over the Martin Marietta Gravel Pit on Centerville Road in the early 2000's. He talked to the people involved and they said it was a BZA process at that time. They turned out huge numbers of people to testify that they did not want it there and they got it there anyway. There was no referendum alternative.

Mrs. Tilford asked if it was a prohibited use in Spring Valley.

Mr. Schieman stated he did not know. He noted that he did know that the citizens could not prevent that from going in and it was a bloody fight. After that experience they changed their Zoning Resolution to create the district.

Mrs. Tilford said there has to be a record of the process. It would be helpful to understand what BZA process they went through to understand better what kind of implications that might have here.

Mr. Schieman's next point was use variance was a strong tool. But he questioned how strong of a tool it really is. He looked at two other townships and there is no standard text for BZA Applications for Use Variances in Greene County. All we have to have is an applicant with deep pockets.

Mrs. Tilford asked what he meant about no standard text.

Mr. Schieman said that the language is largely different township by township. Everyone needs to have a use variance clause. Each township has created text on their own. He asked why we would want to put ourselves into litigation. We need to get it out of a quasi-judicial process and into a process where elected officials are directly involved and accountable and get the citizens a reasonable alternative if they do not agree with their elected officials.

Mr. Betz said that there have been cases that have gone through rezoning and still been litigated so you are not eliminating that, in fact if you have established a district specifically for this use you are throwing a flag up that says you anticipated this use so it would be harder to say no.

Mr. Baldino stated that the point that Mr. Schieman is trying to draw out is that if something was done differently with Spring Valley prior to engagement by Martin Marietta, then they may not have the situation they have now. He noted that Mr. Schieman has asked if we are better protected now or is there a better way to protect the township from a gravel pit appearing someday.

Mr. Schieman stated that he wants to change the process by putting the decision in the hands of the elected officials and give the citizens ultimate say by referendum. He noted that he is not trying to outlaw gravel pits; he is trying to change the process by which gravel pits are approved.

Mrs. Hellmann said one key piece that would be helpful is to understand the particulars of the Spring Valley case to see what led them to create a district for surface mining uses within their Zoning Resolution to help us determine if we are on the correct path.

Mr. Schieman requested that he be involved in any meeting in which Ms. Hayden is present.

It was decided that the next BZC meeting will be moved to July 12, 2016.

Mrs. Tilford said Rapid fire pizza has opened.

Mrs. Tilford said that we have met with the new owners of the Cub property. They are looking at possibly splitting the building out into smaller spaces and considering some outlot development.

The Farmers Market has moved from the Cub site to behind the Sugarcreek Health Center.

Mrs. Hellmann asked about White Oakes Landing. Mrs. Tilford said they have not applied yet for Zoning Certificates.

Mrs. Tilford stated that Miller Valentine applied last week for all 18 buildings at Waterford. The project is under review.

Mrs. Tilford stated that a temporary sales trailer for Woodland Ridge has been approved.

Mrs. Hellmann asked about any medical office on Clyo.

Mrs. Tilford said she has not seen any plans for any medical office yet.

Mrs. Hellmann made a motion to adjourn, which was seconded by Mr. Schieman. Upon call of the roll, the vote resulted in the following:

Mr. Baldino-yes

Mr. Betz-yes

Mr. Schieman-yes

Mrs. Gallagher-yes

Mrs. Hellmann-yes