

**SUGARCREEK TOWNSHIP
BOARD OF ZONING COMMISSION
TUESDAY, MARCH 16, 2021**

This regular meeting of the Sugar creek Township Board of Zoning Commission was held on Tuesday, March 16, 2021 via Zoom at 7:00 p.m.

Mr. Betz called the meeting to order.

Everyone present stood for the Pledge of Allegiance.

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

Mr. Betz-present
Mr. Baldino-present
Ms. Moore-present
Mrs. Hellmann-present
Mr. Schleich-present

For the record, alternate Dr. Mathews, was also in attendance.

Mr. Betz stated that last Tuesday, the public hearing was opened, and it was decided to continue the public hearing tonight. The BZC is going to go right into the public hearing. Mr. Betz also wanted to mention that the BZC is a recommending body, the board will hear the case and recommend approval or denial to the Township Trustees. The Township Trustees will then hold another public hearing to approve or deny the request. If the Township Trustees approve the case, then the BZC hold another public hearing to hear the final plan for the case.

Mrs. Tilford provided the Staff Report for BZC01-2021. Applicant, Phillip M. Herres, is requesting a map amendment to the Sugar creek Township Zoning Resolution to rezone 54.882 acres located at 4267 and 4271 Clyo Road from A-1 (Agricultural) District to PUD-R (Residential Planned Unit Development) District. The subject parcels can be further identified by parcel numbers L32000100020006700 and L32000100020000800 and are owned by Phillip M. Herres and Gigi Ellen Withrow, Trustees. The applicant is also requesting preliminary development plan approval under Article 5 of the Sugar creek Township Zoning Resolution for approval of the preliminary plan for a proposed subdivision.

Mr. Betz asked if anyone on the BZC had questions for Mrs. Tilford.

Mrs. Hellmann asked about the hiker biker path along Little Sugar creek, and if it was set to stay on that side. There are 5 driveways that will intersect with that hiker biker pathway and Mrs. Hellmann is wondering if it could be moved to the east side instead of the west.

Mrs. Tilford stated that it is a requirement of the Township to have the hiker biker pathway. The BZC is more than welcome to discuss it.

Mrs. Hellmann also asked if the bad soil is in the area that is going to be constructed on.

Mrs. Tilford stated that it is in part of the lots that are going to be constructed.

Mr. Betz asked if the hiker biker pathway along road A and ends at the cul-de-sac and could possibly go to little Sugarcreek road, he is wondering if there is a bridge already there or one that can be constructed.

Mrs. Tilford stated that there is a bridge along the creek that Mr. Herres constructed in the open space area. So, there would be access to the other side of the pathway from this end.

Mr. Betz asked if that bridge could become part of the hiker biker pathway.

Mrs. Tilford stated she does not think so as public access is not contemplated. But it is a nice amenity for the residents of the development.

Mr. Betz stated that it would be nice to have that connected pathway to the hiker biker path along Little Sugarcreek.

Mrs. Tilford stated that they could build up to the bridge on that side but the bridge itself is more of a pedestrian bridge and is not made for high traffic.

Mr. Betz also asked if it was possible to see an aerial photograph. He stated that the property is a very beautiful property, and it has a lot of mature growth along the edges, and along Clyo road. The staff report mentioned that there is a 25 foot no cut zone, and there are two rows of beautiful trees on the south border that he would hate to lose out on in the Township.

Mrs. Tilford brought up the aerial and stated that unfortunately they are going to be cutting down some of those trees. To keep all of them would require a much larger no cut zone.

Mr. Betz is hoping that the developer would do whatever they could to save as many trees as possible along the border and the river's edge.

Mr. Baldino asked if Mrs. Tilford if she could zoom in on the proposed plan and look at where the most southern cul-de-sac on road B ends and where Kensington ends. He is asking if the sidewalk on Kensington should connect to that in the cul-de-sac on road B.

Mrs. Tilford stated that that is a great idea.

Mr. Betz then opened the floor to the developer and the representatives.

Jeff Van Atta introduced himself and stated that he works for Van Atta Engineering and is representing his client. Mr. Van Atta provided a report about the property on behalf of Mr. Herres.

Mr. Van Atta stated they will be taking the hiker biker path to the existing bridge on the property.

He also stated that they are trying to save as much of the natural property as possible. He suggested a 15-20 foot no cut zone instead of the 25 foot no cut zone.

Mr. Betz asked if anyone on the BZC had any questions. No one spoke.

Mr. Betz then stated he had a few questions. He asked about the hiker biker pathway going all the way to the existing bridge and the creek. And if that is the case, they should then take the hiker biker pathway all the way too Little Sugarcreek Road.

Mr. Van Atta stated that the elevation on the hill up to Little Sugarcreek is very steep, and to be able to put the path up on that would be difficult. With all the lots in that area it might be hard to get the hiker biker pathway back in that area.

Mr. Tiffany stated that to extend the hiker biker pathway like that you would be getting into private property. He stated that it is a very beautiful property, but to get the pathway out to Little Sugarcreek you should run the path north on the other side of the bridge to the north property line. Then it would follow the north property line, that way only affecting one property.

Mr. Betz stated that is one solution, they could also create an easement between lots one and two.

Mr. Tiffany stated that they are trying to save as much open space as possible.

Mr. Betz stated that Mr. Van Atta and the company should look into extending the hiker biker pathway.

Mr. Baldino asked if there was an existing asphalt pathway that runs along lots 3,4, and 5 at the back end of the property.

Mr. Van Atta stated he is not sure; he has not been out that far on to the property, but he would go take a look.

Mrs. Withrow, the daughter of Mr. Herres, stated that she was online and might be able to answer the question about the asphalt. She stated that there is asphalt along the creek side where they take cars and trucks down.

Mr. Betz's next question was about the vegetation along the southern property lines. He understands that there is a worry about not having enough space for all the homes proposed. But he would hate for the trees and vegetation there to be cut down.

Mr. Van Atta stated that he is not sure exactly how many trees will be cut down, and that he is trying to preserve as much open space as he possibly can. There could be a possibility for open space in the rear of the property to have more trees if the frontage on the south side is to be cut back more.

Ms. Moore asked what was going to happen to lots 49 and 50 if there is a 75-foot set back.

Mr. Van Atta stated that the houses will fit on the lots provided regardless of the set back and the right of way. He also stated that he would like to see the right of way end with the street providing more space with the lots.

Mr. Betz reminded everyone that there are emergency access points that will be coming off of roads C and B to Clyo Road.

Mr. Van Atta stated that they will have the access roads there along with the water lines. There are two access points to enter the subdivision. He asked if the emergency access points are required since there are two roadway access points already.

Mrs. Tilford stated that staff has no issue leaving that up to Greene County Engineer.

Mrs. Hellmann asked if the hiker biker pathways were necessary or if they could just have a mowed path like in Sweet Arrow. She asked if the path is not going to go over the creek, does it have to be a pathway.

Mr. Van Atta stated that as the path heads down towards the bridge, there is a swale, and he does not see the path changing with the construction.

Mrs. Hellmann asked if they were going to take out the pathways that already exists on the west side of the river.

Mr. Van Atta stated that that will become the cul-de-sac and the estate lots will be put there.

Mrs. Hellmann asked for clarification that the path on the property now will lead to the cul-de-sac that is on the drawing.

Mr. Van Atta stated that yes that is correct. They are going to be custom built homes, that will conform to the topography.

Ms. Moore asked what the existing pathway is made out of.

Mr. Van Atta stated that he believes that it is asphalt.

Mrs. Withrow stated that that area is still gravel.

Mr. Van Atta stated that the area where it is located will stay the same, they will cover it with asphalt.

Mr. Baldino is clarifying that from the barn to the bridge it is a gravel improved pathway.

Mrs. Withrow stated yes.

Mr. Baldino stated that then the bridge crosses the river, then there is a gravel improved pathway on the east side that goes north then out slightly to Little Sugarcreek Road.

Mrs. Withrow stated yes.

Mr. Baldino stated that there will be an improved path connection from Little Sugarcreek Road to the asphalt road that already exists, down the side of the river, over the bridge and into the pathways that connect to road A.

Mr. Van Atta stated that at this moment there is nothing connecting all of those together.

Mrs. Tilford stated that there is no existing pathway, but Mr. Betz expressed that he would like to see one put in.

Ms. Moore stated that it does not seem like they are willing to stick to the 25 feet of no cut zone. She is wondering what will happen to the properties if the 25 foot zone stays as planned.

Mr. Van Atta stated that he does not think there will be a problem. If it is required that there be 25 feet of no cut zone, he will have to push road B northward towards road A to create room for grade. If he cannot cut in the 25-foot zone, he will have to move some things around.

Ms. Moore asked what the open space total would be if he does have to push road B towards road A. Because the open space is already very close to the minimum of what is required.

Mr. Van Atta stated that they are slightly over the minimum for the open space total, but if he could get approved for the 20 foot no cut zone that he has proposed that would make it easier.

Ms. Moore asked how that is going to work when he is already close to his open space minimum, and he is going to take away more open space.

Mr. Van Atta stated that he is trying to provide storm sewer drains for the development and that is why he is requesting the 20 foot no cut zone to be able to provide those things.

Mr. Betz asked about a mound and landscaping in between the lots and Bellbrook.

Mr. Van Atta stated no, that road B is a high point and the ground slopes to the north and to the south. And there is no way that they can build a mound, there is just no room.

Mr. Betz said he understands, he just thought the conversation might come up later on.

Mrs. Hellmann asked if the hiker biker pathway is on the south side of road B.

Mr. Van Atta stated yes.

Mrs. Hellman asked if they could gain a few feet if they moved the hiker biker pathway to be more like the sidewalk in that area.

Mr. Van Atta stated that the pinch point area for open space is between lots 50 and 51 and 8 and 9 on the north side. He stated that they could move the path a little bit, but they will go through the landscaping with a fine-toothed comb when they submit the final development plan.

Mrs. Hellmann stated that she thought that might be helpful in getting some extra feet of the no cut zone.

Mr. Van Atta stated that yes that could be potentially helpful. They will just have to pay attention to lots 50 and 51.

Mr. Schleich asked if road B connecting to Kensington was changed just to get the extra lot in there.

Mrs. Tilford stated no, the Engineers office required that the road be connected on the east side of the pond.

Mr. Schleich asked if it was still required on lot 8 to have the road there, that passes lot 10.

Mrs. Tilford stated that she believes what Mr. Schleich is talking about is the panhandle coming off lot 8. Which is to avoid a sanitary lateral crossing property lines, which is a requirement by Greene County.

Mr. Van Atta stated that is a requirement by Greene County.

Mr. Betz opened up comments to the public. Reminding the public to try and keep their comments short. As they do want to hear everyone's comments.

Larry Hurlburt from Stutsman Road stated it seems premature to even be considering this development before the soil study is done. This whole development might not be possible based off the soil study. His second comment for the BZC is that the school system is struggling, with the lack of financial resources. There are 78 properties here which means more children in the school system. Which will put more strain on the school system. Yes, there will be increased tax revenue coming in but that is \$7,000 in property tax and the district is \$11,000 a year on a student. That situation is going to get drastically worse, so he asked that the BZC please take that into consideration.

Mr. Fischer from 1407 Sand Stone Court. He is lot 10 and, on the map, lot 36 and 37 come up to his back yard. He is okay with the drainage issues, but they are using his back yard as a part of the open space, with the 25 foot no cut zone. That sounds like now it could be an issue. He would like to see things pushed as far north as possible. 25 feet from the property line is very tight. His other question is that on the northern part of the property, there are estate lots and apartments. He is wondering why the patio lots could not have been put there and the estate lots be along his and his neighbor's properties. There are high density houses being put right in their back yards. He is not sure why they were not switched.

Mr. Van Atta stated he was not sure when the questions needed to be addressed.

Mr. Betz stated that they will hear everyone's comments then address them all at the end.

Mrs. Stipp is a realtor in the area, she has lived in communities from this developer. She has seen many of the developments in Greene County and Montgomery County. She has been very

pleased with them and their attention to detail. She stated that they do take the citizens of Sugarcreek and Bellbrook into consideration when they build. She thinks that most of the patio homes will be empty nesters so that will lessen the worry for the school district being overloaded. She thinks the plan looks very nice.

Mr. Yahle lives at 1407 Red Rock Court. He thanked the BZC for hearing the comments of the public. He also thanked Mrs. Tilford for being so helpful and keeping everyone informed about the case. He said the community has been awesome about getting the information out and showing up for this hearing. He stated that he did post the information given to him on some of the Bellbrook community Facebook pages and people have been very engaged. He stated that Mr. Herres is a great man and has been a great neighbor over the years. He is stating that the land being rezoned based off of the preliminary plan being proposed. He would like the BZC to consider the struggle of the school funding. He has 2 boys in the school system, and it is struggling greatly. With the price of the lots being \$500,000, he is not sure what type of demographic is going to be coming into the community. He does not foresee a lot of young families who are going to be coming into these price points. Bringing in a population that does not have any interest in our school system is definitely not going to help our current situation in the school system. On page 9 it states that the school system should be considered, and the impact it might have. There was no mention of the school system in the staff report. Mr. Yahle pushed that the BZC look into the impact on the school system. He also stated that the property is very beautiful, and he would hate to lose out on that landscape. And that the usage of the land should be looked at, to protect the open space community. He went out to the property and measured 25 feet from the fence line, and it is not a large space. With all the trees around and in the no cut zone, most of them would be cut down. He would just hate to see the trees cut down.

Mrs. Smith lives at 1350 Park Terrace. Her back yard shares the property line with Mr. Herres property. She suggested that where the estate lots are, that are coming off Little Sugarcreek, instead of 5 lots there should be 4. There would be one main drive that connected all of them from Little Sugarcreek, down the middle of the 4. This way the hiker biker pathway could follow that long driveway to Little Sugarcreek Road.

Mrs. Leah Harr lives at 4130 Locus Bend. Her question is what the no cut zone is and does it apply to the entry way access road. She is in favor of moving that as far away from her lot as possible. She also stated that there is 85 feet between her property line to the water's edge. So how is there a no cut zone of 25 feet.

Mrs. Laura Harr also lives on lot 9 on Locus Bend. Lots 8 and 9 are backed up to her back yard. Her question is if the existing fence is going to stay or if it is going to be torn down. Many of the neighbors and herself use that fence for the back fence of their yard.

Mrs. Tilford stated that the fence will remain where it is, as it is.

Mr. Tiffany stated that there were no more citizens that wish to speak on behalf of the property.

Mrs. Hellman made a motion to close the public hearing. Mr. Baldino Seconded.

Mr. Betz-yes

Mr. Baldino-yes

Ms. Moore-yes
Mrs. Hellmann-yes
Mr. Schleich-yes

Mr. Betz stated at this point it is now time to answer the questions from the public comments.

Mr. Tiffany addressed the school district concerns. He stated that it fluctuates with the aging population of the community. It is on the uprise currently and closely resembles what it did in 2006. The Township does take that into consideration when a developer comes in to build a community. These houses will be paying from \$9,000 to \$13,000 a year in property tax. The cost to send a student to school in the Bellbrook school district right now is about \$10,500 a year. The patio lots will cover that for one child per year, the estate lots will probably cover closer to 2 children per year with the property tax they will be paying. The Township feels pretty good about this development with regards to the schools and funding still being upheld. Mr. Tiffany also stated that the patio style homes are not very contusive to younger families, there is no playground introduced with this development. So, there would not likely be a lot of families with younger children moving in and therefore going to the schools in the district.

Mr. Betz mentioned that Mr. Van Atta might want to speak on the question about the soil study and if the proposed construction will even happen.

Mr. Van Atta stated that they are aware that the soil report needs to be done. It does make more sense to the developer to send the proposal it the BZC to see if it gets approved first before spending thousands of dollars to get the soil study done. He also stated that the 2 surrounding developments made it through the soil study with no problems, that is also why they chose to send the proposal in first before doing the study.

Mrs. Hellmann stated that if they do the soil study and they find out that it is a lot worse than they expected, what do they do then.

Mr. Van Atta stated that they would pull back if that was the case that the land was no good.

Mr. Betz asked if Mrs. Tilford would explain the no cut zone.

Mrs. Tilford stated that the no cut zone is a space where vegetation and trees would not be allowed to be cut down. She also stated that if there is a dead or dying tree in the no cut zone, they would work with the developer to get a new tree in to the space that can grow into a larger tree. The no cut zone is to save as many trees as possible for the development.

Mr. Betz asked how they came up with the 25 feet for the no cut zone.

Mrs. Tilford stated that she and Mr. Tiffany met with the builder. There was a 25-foot set back already in place and the builder stated that she could probably work with a 25 foot no cut zone.

Mrs. Tilford also stated that she is not sure that the builder understood issues from engineering side that Mr. Van Atta has discussed with respect to the 25'.

Mr. Betz asked if Mr. Yahle would restate his second question.

Mr. Yahle stated that there are rows of trees along the south border of the property from Clio Road to the pond. When looking at the no cut zone, most of those trees are outside of the no cut zone. Most of the trees are going to be lost and it would be a shame to lose all of these beautiful trees. Mr. Yahle thinks that the no cut zone should be extended so those trees are not cut down and taken away.

Mr. Van Atta stated that in this area the patio homes will be going in. These homes will be low maintenance, so most of the back yard areas will be that open space. But he is not sure how they keep the patio lots as they are, if they extend the no cut zone.

Mr. Betz then moved on to Mrs. Smith's comments about the estate lots at the back of the property by Little Sugarcreek Road. She stated that changing the 5 lots to 4 lots and having 2 lots on each side of a shared driveway would be a better idea.

Mr. Van Atta stated that the estate lots were thrown in at the last minute. He is not sure what is going to happen with the properties back there. He does not know that lot 1 is going to be buildable, but as to where the driveway could go but he is not sure.

Mr. Betz stated that he believes that they have answered all of the public questions. He then turns to Ms. Diorio and asks what the plan is for this community, and how the build will go. If it will be all one phase or multiple phases.

Ms. Diorio stated that they are currently working with the bank to see if it needs to be done in phases or if it can be done all at once.

Mr. Betz asked about the price points being \$400,000 - \$600,000 for the patio homes and asked if Ms. Diorio could give a more exact number, and if that includes the lot and the home together.

Ms. Diorio stated that they will start at \$400,000 including the lot, and that will depend on if they have a basement, walkout basements. Some of the cul-de-sac lots that are larger could have the potential for a 3-car garage. It just all depends on what is added to the home.

Mr. Betz also asked about the price points for the estate lots.

Ms. Diorio stated that the starting point is at \$700,000 but that is on the low side.

Mr. Betz stated that this will be an upscale development.

Ms. Diorio stated yes, it will be.

Mr. Betz also asked if the soil report comes back poor, do they have the option to walk if the development is too costly to proceed.

Ms. Diorio stated that yes if the soil conditions are not suitable then they would not be moving forward with the project.

Mr. Betz opened the floor to the rest of the BZC.

Ms. Moore stated that in the staff comments under the stipulations, it says that the Geotech report will be completed, she is asking if that does include the soil report.

Mr. Van Atta stated that he is not sure why it would be required for the soil test to be done first before the BZC approves of the development. The developer does not want to spend the money on the soil test if the project is not going to be approved in the first place.

Ms. Moore stated that approving the zoning change now would be premature if they find out later that they cannot build on the property.

Mrs. Tilford stated that the county engineer requires them to do the Geotech report so they can figure out pavement design, storm water design, infrastructure design issues. Those are all things that will take place further along in the process. That is a huge undertaking and expense for the developer, they do not want to pay for all those reports to be done if they are not going to be approved by the Township. Unfortunately, that is just how the process works.

Mr. Betz stated that he would expect all this information to be included in the final development plan approval.

Mr. Van Atta stated that yes, that would be included in their final development plan. He also again stated that the developments to the north and south of this property have both turned out fine in the case of the soil and were able to be built on. They do not foresee the property having any issues with the soil based off those developments.

Ms. Moore is stating just to be clear, the Geotech report does include a soil report.

Mr. Van Atta stated that yes, it absolutely will.

Mrs. Moore asked if that specifically needed to be specified in the report.

Mrs. Tilford stated that they can specify it, but it is understood.

Mr. Betz stated that the Geotech report will specify if the land is buildable or not. They will take samples in many different locations on the property, to see if the soil will be able to support the development.

Mrs. Hellmann asked if they do approve this, and it turns out that the soil is not buildable. They have then taken a property that was zoned agricultural and turned it to a PUD.

Mrs. Tilford stated if that happens, certain milestones have to be met with the PUD and if they are not met the PUD will fall off. The BZC can then go back and rezone the land from PUD back to A1.

Mrs. Hellmann stated that she was worried that the Herres would then have property tax that would leave out the agriculture and go into residential.

Mrs. Tilford stated that it is based off the use of the property not the zoning. So, as long as the use stays the same, they should not suffer any tax implications.

Mrs. Hellman also stated that she does like the plan. She lives very close to the property and she has watched boulders brought in and she has watched it evolve. Mrs. Hellmann thinks the property is just lovely, and that looking at what is being proposed the builders have been very thoughtful in their design. Keeping the estate homes in the back and the patio homes up front, this is a very well-thought-out plan.

Mr. Baldino stated that the only thing he is still questioning is having that solid 25 foot no cut zone. Also determining the outfall from road B and road C reconfiguration. Mr. Baldino does not think that they should change the 25 foot no cut zone. They should give the developer the opportunity to work around the no cut zone, while maintaining the code standard for the outfall.

Mr. Schleich stated that he agrees with Mr. Baldino he would like to see as many trees kept as possible. It is such a nice buffer zone for that community.

Mr. Baldino stated that he was trying to find an objective direction to provide for any forward recommendation. There just needs to be a set number for the no cut zone, either 25 foot or a different number. So, then moving forward they can offer suggestions to changing the plan.

Mr. Van Atta stated that they are in the process of doing a topographic survey of the whole property. It is 55 acres; it is a big property. But he does need to know the guidelines that he has to adhere to, to be able to make the adjustments. He believes the trees on the southern border are further north than the 25 feet of no cut zone. There will be trees removed in that case. Letting the water run onto the existing Bellbrook properties, means that there is currently more water running onto them then there will be after the development is completed. But he cannot put any storm sewers back there if he is restricted to a no grading situation.

Mr. Betz stated that the problem with the no cut one is that they do not know what trees if any make it into that 25 foot no cut zone. And they will not be able to know that until the survey of the land is done.

Mr. Van Atta stated that he does not do a "tree survey" he will go with the outskirts of trees or a tree envelope, but he will not be picking up individual trees.

Mr. Betz asked that he pick up individual trees in a very small area that would be typical along that property line. Just so they know what trees are going to stay and what trees are going to go. To survey all the trees would be ridiculous if most of them are going to come out. But if they do a small section just so they know if any of the trees will be inside that 25 foot no cut zone.

Mr. Van Atta stated that just so everyone is on the same page, they need to specify what tree diameter, and at what chest height. The specific type of trees, ash trees are not typically cared about because they are going to be dead, smaller trees and scrub trees will probably not be kept. He just needs specifications on what type of trees.

Mr. Betz stated that on lot 12 it is a narrow property, but if Mr. Van Atta could survey whatever trees are in that area going towards the back. That way they could get an idea of what the no cut zone will look like.

Mr. Van Atta stated that he needs guidelines to go off of. If he includes trees that are 8 inches in diameter and bigger.

Mrs. Tilford stated that he could do the width of 1 lot or 2 lots.

Mr. Betz stated that he could do the width of 1 lot and go north and pick up all the trees on that property, and state where all the trees are relative to the south property line.

Mr. Betz explained that he was talking about over by lot 10 off of Sand Stone Court. The space between the property line of lot 10 and the property line of the new development is very narrow. If Mr. Van Atta could locate the trees in that area the BZC could then assume that as a typical.

Mrs. Tilford stated that he is talking about the rear property line of lot 10 that is shared.

Mr. Van Atta stated that he understands what Mr. Betz is looking for and he will take care of it.

Mr. Betz stated that it cannot be more than 15 trees. He also stated that when he first saw the plan, he was very excited, and he is still excited. He thinks that the plan is very creative, and it offers variety in the changes with the access road to be able to access the estate lots. He loves the entrance, the greenery that is there looks very sexy. Mr. Betz also likes how the site has helped them create different zones. The front properties are the patio homes, then there is a break with the 2 ponds before you get into the estate homes. He is thankful that the developer has not come in and tried to pack this lot full of single-family lots. He thinks that other developers would have done that to try and maximize their value. But with the estate lots and patio lots he thinks they are maximizing their value to the fullest potential. Mr. Betz stated that what they are trying to do is very nice. With that being said he expressed concerns about the no cut zone. He would like to maintain as many trees as possible. It would be a shame to cut down the trees. He understands the limitations with the grading, he would just like to keep as many as possible. He also stated that he would like to see the hiker biker path continue to Little Sugarcreek Road. If they are going to continue it to the creek might as well connect it to Little Sugarcreek Road.

Mr. Van Atta wanted to specify the no cut zone off of road B. If there is a 25 foot no cut zone, and he shifts the infrastructure northward, does he need to come back in front of the BZC for revised preliminary plan.

Mr. Betz stated that the concept would be sufficient, he would expect to see the details of it worked out between Mr. Van Atta and staff. Then the end result would be shown in the final plan. He also mentioned to Mr. Van Atta to please save as many trees as he can.

Ms. Moore stated it is going to affect the open space area.

Mr. Van Atta stated that it is going to affect something somewhere. But he can figure it out with staff, and they can make it work.

Mrs. Hellmann asked Mr. Van Atta if they consult with someone if they have trees that are questionable about keeping.

Mr. Van Atta stated that they do, they have consulted with Siebenthaler to help them distinguish if the trees are valuable or not. The last thing he wants to do is remove trees, but when you build homes close to trees, you are going to have to remove some.

Ms. Moore stated that if she is understanding this correctly, the removal of any trees has to be approved by Mrs. Tilford.

Mr. Betz stated that yes, that is correct, but it is after the final plan approval.

Mr. Van Atta stated that they should put the 25 foot no cut zone to staff's discretion.

Mrs. Hellman stated that it does call for replanting in item 20 on the report. So, they could replant if needed.

Mr. Van Atta stated that the issue of trees and foliage is always a sensitive issue to speak on.

Mr. Baldino asked if there were any other community comments they needed to be address.

Mr. Betz stated that they covered them all.

Mr. Baldino stated that since they have covered all of the community's concerns, he would like to make a recommendation for a way ahead.

Mr. Betz asked if Mr. Baldino was making a motion to approve.

Mr. Baldino said yes.

Mr. Betz asked before they move to approve this item that they talk about landscaping really quickly. Just to give the developer some guidance.

Mr. Baldino agreed.

Mr. Betz asked if Ms. Diorio or Mr. Van Atta had any ideas about landscaping along the Clyo Road area or along the entrance.

Ms. Diorio stated that she has been working with Grandmas Gardens and they do have some preliminary ideas for Clyo Road, the entrance way, the open space area A, and area B, and also behind lots 2 and 3.

Mr. Betz asked if they had any plans to do landscaping behind lots 49 through 31.

Ms. Diorio stated that no they do not. It would be her intention to not cut any more trees down. There customers are going to want those trees just as much as the other neighborhood does.

Mr. Betz then turned to Mr. Baldino.

Mr. Baldino made a motion to recommend forwarding BZC case BZC01-2021 with all staff comments, plus a hiker biker pathway to the creek, plus a hiker biker pathway to Little Sugarcreek Road on the approved surface, plus a sidewalk to road B from the Kensington stub out, plus a stipulation of the 25-foot survey for lots 10 and 12 in Bellbrook or lots 38,37, and 36 on the proposed development, and then maintaining the 25 foot no cut zone as a design parameter.

Mr. Van Atta asked that the BZC please keep in mind that the sidewalk connection to Kensington can probably not be done.

Mr. Baldino asked if it was specifically behind lots 2 and 4.

Mr. Van Atta stated that yes, that is where the connection is for the road.

Mr. Baldino stated that that area is most problematic, and that is why there was the suggestion of removing the sidewalk there. And then moving the road as far as possible to the pond without disturbing the natural area.

Ms. Moore stated that they needed to have a second to the motion before they get into that.

Mr. Betz asked for a second.

Mrs. Hellmann asked before they second it, if Mr. Baldino included the potential sidewalk in the cul-de-sac to road B.

Mrs. Tilford stated that he did.

Mrs. Hellmann seconded the motion.

Mr. Betz then opened it up for discussion.

Mr. Baldino stated that they are giving design parameters for the layout of the parcel. There will be a lot of professional choices they will make within the lot itself to maintain the design parameters.

Mr. Van Atta stated that there will be some design changes to road B, open space B, etc. That will move things around so they can create the 25 foot no cut zone. To create that space, he is going to have to shift the infrastructure north.

Mr. Betz asked how firm Mr. Baldino is on the 25 foot no cut zone. Mr. Betz stated that when he hears design parameters, he hears that could change based on new information.

Mr. Baldino stated that he is working to provide some objective instruction set for the development that the local community can understand. What we have heard tonight is that the importance of the vegetative buffer is communal. He has done a tree survey online and Mr. Yahle is correct that the second tree line is about 50 feet out.

Mr. Betz stated that he agrees, he wishes that he could get out to the property to measure where the trees are. He also thinks that the evergreens are 50 feet out of that no cut zone. And he assumes that those will be cut down. He told Mr. Van Atta that if he comes back and says he has new information or that he worked with staff and they cannot make it 25 feet. He does not see how Mr. Baldino is saying it has to be 25 feet. There may be new information that becomes available that might say it is 20 feet.

Mr. Baldino stated that they have to provide some form of direction. A lot of the residents feel that there is one side where everything is cut down and the swell is put in right behind the Bellbrook community. The other side is that everything is left, and nothing is cut down and the swell is ramped towards road B. What we cannot describe is what it will take to take road B down, so that the drainage will go towards road B and the vegetation will be maintained.

Mrs. Tilford stated that a lot of these questions will be answered once the tree survey is done, and they look at the topography and see how Mr. Van Atta can make everything fit. She would like to see if everyone is comfortable saying that the developer and the engineer are going to work with staff to preserve as much of that tree line as possible. With details to be provided at the final development plan stage.

Mr. Baldino stated that yes, Mrs. Tilford stated it perfectly.

Mr. Betz stated that he does like the entrance way, with the green space on both sides of road A. He would hate to lose that because it is very cool.

Mr. Van Atta stated that no matter what happens he does think they will be able to keep that entrance the same.

Mrs. Tilford stated that in Mr. Baldino's motion for approval with staff's conditions, they will need to strike the second part on number 1 because that included the requirement for the emergency access roads to Clyo. They decided that that was going to be left up to the Engineer's Office. There was already an extension of the multiuse path through open space F, providing access to the creek area. They would just need to add to that that would also extend to Little Sugarcreek Road on an improved surface. The private street that serves lots 6 through 8 would be set back 25 feet from the property line but that is changing to be located between lots 6 and 8 and 9 and 10, in the middle of those lots instead of hugging the property line. The addition of some sidewalk connection from road B to the Kensington connection. The developer and the developers engineer will work with staff to preserve as much of the existing tree line as possible. With details to be provided to the BZC at the final development plan stage. Then they will strike number 20 which talks about the 25-foot wide no cut zone.

Mr. Baldino thanked Mrs. Tilford.

Mr. Betz stated that he is not comfortable striking number 20. He stated that he would like it to say that the developer will strive to meet the 25 foot no cut zone.

Mrs. Tilford stated the developer will strive to meet the 25 foot no cut zone, in addition to preserving as much of the existing tree line as possible. With details to be provided to the BZC at the final development plan stage. That will replace number 20. Mrs. Tilford then stated that we had a motion and a second.

Mr. Betz stated that the roll call should be taken.

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

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

Mr. Betz thanked Ms. Diorio and Mr. Van Atta.

Mr. Van Atta thanked the BZC for all the considerations on this matter.

Mr. Betz thanked the BZC for being flexible and meeting three Tuesdays in a row, to hear this case. He asked Mr. Van Atta to have everything right and ready to go for the next meeting.

Mrs. Tilford stated for the final development plan stage.

Mr. Van Atta apologized for the inconvenience and stated he will have everything ready to go for the next meeting.

Mr. Betz asked Mrs. Tilford if there was any other business they needed to cover.

Mrs. Tilford stated that no there was not.

Mr. Betz thanked the community for coming to the meeting and sharing their thoughts and concerns. The BZC really does take into consideration what the community has to say. He hopes the community realizes how much preparation the BZC goes through, they want to have the same outlook on the Township as the rest of the community. They will try their best to get everyone's questions answered.

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

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

Mr. Schleich-yes