Special Beavercreek Trustee's Meeting

Monday, November 10, 2014

Ms. Graff brought the meeting to order at 7:00 p.m.

Roll Call: Mr. Kretz; Mr. Paxson; Ms. Graff.

Others: David Maxwell; David Montgomery; Greg O'Connor; Robert Ware; Carlo McGinnis; Robert Gustin (ZC); Felix McGinnis; Chris K.; Pat H.; Ken Shelton; John Ankeney; Woody Willis (ZC); Sharahn Boykin (Dayton Daily News); Allan Gunderson (ZC); Mrs. Gil White; Robert White; Tammy Lickliter; Dawn Frick, Legal Counsel; Alex Zaharieff, Township Administrator; Ed Amrhein, Zoning Administrator/Insepctor; Laurie Brown, Zoning Clerk.

Case #793 – Rezoning – Valley Springs Farm Company

Ms. Amrhein read the public hearing notice.

Ms. Graff asked the applicant to speak to the board.

Robert Ware, planning consultant and site designer for Valley Springs Farm, addressed the board.

Mr. Ware stated that Valley Springs Farm had been working on a plan since the 1990s for the suitable use and development of the land in question. The strategic location of the property within the Township, being adjacent to the airport, Country Club of the North, the Little Miami River and the Township's commerce district along US 35 to the west of the site, lends itself greatly to the MX-PUD zoning, as well as being consistent with the Township's comprehensive plan. With the northwest part of the property being zoned Industrial since the 50s and the balance being Agricultural, the uses were not compatible in supporting growth of the airport and commerce along US 35. With the anticipated interchange at Valley Road/Trebein Road as envisioned, the applicants looked at nine (9) different areas within the overall rezoning site area and came up with a concept plan that would explain what they envision for the property.

Mr. Ware then offered to go through the presentation explaining what was planned for each of the areas.

Ms. Graff said they would hear the staff report first and then decide if they needed to go through the presentation.

Mr. Amrhein briefly explained the process to this point. The PUD article in the zoning resolution specifies the process for applying for zoning to a PUD. For the MX-PUD some of the criteria include that it must incorporate some residential use. There are also prohibited uses that cannot be included, such as veterinary clinics and kennels. Approved uses are known as Permitted Uses. Other uses may be decided on a case-by-case basis these are Conditional Uses. The Township reserves the right to attach conditions to Conditional Uses. The zoning resolution specifies which uses may or may not be included as Permitted or Conditional Uses, as well as specifying certain prohibited uses within the MX-PUD.

Mr. Amrhein first met with the applicants in April. The Zoning Commission then met on May 1st to consider the application. Since then there have been half a dozen meetings, including two (2) work sessions, resulting in a resolution of approval with conditions by the Zoning Commission that was passed on October 2, 2014.

Mr. Amrhein emphasized that the Zoning Commission and the applicants took fairly extraordinary steps to gather input, information and data during this process. This is a large and complex application unlike most applications the Township has seen. Public and private agencies were contacted. Inquiries were sent out by the applicants at the request of the Zoning Commission. Responses were received from agencies as diverse as the Greene County Engineer, the floodplain administrator, the sheriff, and the commissioners. The basic response was that rezoning is a local function of the Township. Most of the agencies decided not to express any opinions one way or the other. A few, such as the sheriff, indicated that, should this go through, it would mean operational changes for his department. However, the sheriff did not weigh in pro or con on what is essentially a local matter of rezoning. DP& L was asked to comment because their power lines run over the top of the property. Their comments were basic and addressed their rights of access via the easements they hold. Input was also received from a couple of private organizations: Little Miami Inc., now known as Little Miami Conservancy, to which the applicant proposes to deed some of the land that is along the floodway of the Little Miami River that runs through this property, as well as representatives of the Little Miami River Keepers who presented opinions and evidence in defense of the health and well being of the Little Miami River.

The Zoning Commission exercised extreme diligence in collecting information from a variety of agencies in this matter. Mr. Amrhein noted that the bottom line for him was that people acknowledged the authority of the Township to zone land within the law and according to its own land use plan.

Mr. Ware was correct in stating that this plan complies with the comprehensive land use plan and other provisions of Article 17 of the zoning resolution, which governs the rezoning to PUD status. Mr. Amrhein then certified that the application was complete.

The Zoning Commission was also diligent in applying the criteria as listed in Article 17.06.9, which details rezoning under a PUD.

Mr. Amrhein then offered to read the resolution as passed by the Zoning Commission, noting that it was rather extensive and covered permitted, conditional, and possible excluded uses. The Zoning Commission went through the list of permitted and conditional uses, point by point twice, prior to the final resolution. Additionally, the board has before them several proposed revisions to that resolution from the applicant.

Mr. Amrhein then introduced the three members of the Zoning Commission that were present, and invited Mr. Willis to address the board.

Mr. Willis clarified that he was the vice-chair and current acting chair of the commission, as Mr. Brackenhoff is currently out the country. Mr. Willis stated that during the course of their meetings the Zoning Commission had several concerns with this plan, such as the hotel would end up being a casino, toxic waste near the watershed, the impact to taxpayers, potential changes to US 35, possible annexation, noise pollution, safety and liability issues and airport issues, as well as the Maxwell family gravesites. With regard to the resolution passed by the Zoning Commission, Mr. Willis feels that the commission came to an understanding with the applicant as to what is not appropriate for this PUD. This is not a specific site plan, it is a legislative action. Site plans can change over time. The Zoning Commission felt the most important thing they could do was to put together a list of uses that were not appropriate for this property.

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At this time, Mr. Amrhein pointed out to those in the audience that the resolution recommending approval with conditions explicitly does not recognize the concept plan as a plan; it is a concept **drawing**. While it is likely that some of the elements presented in the drawing will be proposed or developed by way of a specific site plan, where they appear on the drawing is not necessarily where they will be. Mr. Amrhein clarified that this is a rezoning hearing to determine if the entire property should be rezoned for this collection of uses with some restrictions. The rezoning process with regard to PUDs is a two-step process. The first step is rezoning; the second step is site plan approval. Approval of the zoning resolution does not mean that a plan has been approved for construction.

Ms. Graff opened the meeting for public input. She then read an email into the public record:

hi carol, i saw the big article in the paper about the
progress of valley springs and was happy to read that there were a few restrictions being placed on the PUD. i am hopeful that they also include some LMR watershed protection issues.

i feel like i need to speak up for the land and the river and their inhabitants that have no voice in this matter, but will let us know how they feel as time goes on and environmental damage is done. i hope you will require as small a footprint and ground disturbance as possible, otherwise with today's construction practices, it will end up being 600 acres of compacted impervious surface over the aquifer which will no(t) allow it to recharge and which also increase the drainage and runoff into the river that will degrade the quality of this state and national scenic river. It could even lead to the un-designation of its pristine scenic river status. It will only make flooding matters that have been set in place because of the giant log jam on this property worse.

Glen Thompson wanted to canoe the river without seeing buildings or signs of human habitation. I suspect he never dreamed that human noises might invade the solitude of being on the river. Or that knowledge would advance to the point that a watershed is more than a buffer zone and more important to the health of the river too. A 1000 foot buffer zone is hardly enough to had the effects of civilization he was trying to hard to avoid. The watershed is wider that 1000 feet and even that doesn't go in a straight line, per the Valley Springs plan. Land, water and noise pollution should be kept to a minimum in a project this large that spans the river and has such a great potential to do harm. At a minimum, there should be barriers to prevent pollution of any kind from the development from reaching the river, including drainage culverts and ditches, links between their lake and the river, and as much undisturbed land covered with native plants and trees as possible. With township encouragement, it could be made into a shining example of how to follow current best practices and find the sweet spot between economic, environment and societal interests.

I pray that this happens.

Sincerely,

Hope

Hope Taft
Spring Valley, OH

The public had no input at this time.

Ms. Graff explained to those present where things stand at this point. The original resolution came from the Zoning Commission as a result of the October 2, 2014 hearing before that board. It was then forwarded on to the Trustees for their consideration. Since then, there have been changes proposed to the resolution and the Trustees have received staff's response to the proposed changes. The Trustees can adopt the resolution with no changes, reject it, or modify the recommendations of the Zoning Commission.

Mr. Kretz stated he had read through the proposed changes. He asked the applicant what had driven those changes between the time of leaving the Zoning Commission meeting and now.

Ms. Graff noted that everything that was agreed to happened at the October 2nd meeting. What is being proposed now is a significant modification of what was agreed to by all parties at that meeting.

Mr. Ware stated that when they came to the meeting on October 2nd that was the first they had heard or seen the resolution. Afterwards they realized there could be some potential pitfalls not only for the Township but for the applicant as well. Specifically, they were taking precise acreages that were in the narrative as being just that. For instance, if it's stated in a legislative act that it's 641.122 acres, if it varies 1/1000 of an acre from that it won't be possible to do. No one wants to go back to the rezoning stage for that type of constraint. The applicant wants to maintain the flexibility, that's why they put in the "+" or "-". It is not an attempt to circumvent the process.

Mr. Ware also noted that there had been an informal work session with the Zoning Commission regarding two-family/multi-family housing and whether that should be permitted or excluded. Mr. Ware assured the Trustees that they are not looking to have apartment complexes. They are looking to have some attached single family units in the Highlands portion, such as condominiums or landominiums. They did make specific reference to townhouses. There was also the idea that in the Highland area there would be commercial with living units above. Mr. Ware emphasized they did not want the broad brush exclusion of multi-family and two-family as eliminating those kinds of options in the PUD. Otherwise, they are fairly comfortable with that.

Mr. Kretz asked Mr. Willis what the discussion had been at the Zoning Commission level with regard to housing.

Mr. Willis stated the board had started out thinking that they only wanted single family homes. They eased up on the idea of some limited apartments over businesses. Mr. Willis said he did not think they ever got to the point where multi-family or townhouses were acceptable; certainly not apartments.

Mr. Kretz asked about attached homes, condominiums or landominiums.

Mr. Willis noted the biggest concern the board had was the 36-acre area near Country Club of the North. They felt that those lots should average at least one acre. That's how the board chose to address this issue versus being very specific.

Mr. Kretz addressed Mr. Ware and asked for clarification that after the October 2nd meeting with the Zoning Commission, the applicant felt he needed more flexibility.

Mr. Ware responded that the R-4 zoning provides for a density they wouldn't really envision, something like eight units per acre. He then referenced the concept plan, noting that in the southwest area they show 36 units. If it got slightly above that number they want to ensure they won't be hamstrung by that. They fully anticipate that will be single family homes. With regard to the Zoning Commission's concern, the applicant is not interested in apartment complexes.

Mr. Kretz then referenced the excluded uses in the resolution and questioned the two conditions the applicant had added that could override that. He asked Mr. Ware to walk through each of those and explain the reasoning.

There was some confusion on the applicant's part as to what Mr. Kretz was referring to. Ms. Graff then read from Item 2 on page 2, including the list of excluded uses. She noted that the applicant had added the following language at the end of the 2nd paragraph: "…except as otherwise specified below for certain uses in this list." Ms. Graff stated that in the applicant's revision they had added asterisks to certain excluded uses and wanted those included as permitted uses "if proposed as a specialty shop in the Fountain Village commercial portion of the south SH Area and the business park office buildings in the NW and EP areas…." Ms. Graff then read the list of asterisked uses:

*Carry Out, Beer, Wine & Party Supplies
*Cigars, Cigarette & Tobacco Stores – Retail
**Dwelling – Two Family
**Dwelling – Multiple Family
*Grocery Stores- Convenience
**Row Houses

Ms. Graff emphasized that these were all uses the Zoning Commission specifically said they did not want in this PUD. The Trustees do understand that the MX-PUD may include R-4; however, for this MX-PUD it was excluded. Residential was included as single family homes on larger lots.

Mr. Kretz asked Mr. Ware to walk through the asterisked uses that were non-dwelling related.
Mr. Ware stated that, as far as Beer, Wine & Party Supplies, the applicant is not looking for a stand alone store or drive-thru type of business. He then directed the board's attention to the screen to the SH Area of the Valley Springs Plan Site Areas. Mr. Ware noted that this area is projected to be specialty shops and restaurants in a park-like setting.

Ms. Graff emphasized that the board is not approving a specific plan. Although the applicant has come up with a plan detailing specific uses for different areas, it is still a concept. The board is not approving the plan before them this evening, even though there are references to it in the resolution.

Mr. Kretz noted that it's a good point of reference. He then stated if the Trustees were truly following the spirit of what the Zoning Commission intended, it would be to use this as a concept to create a visual; however, the intention is to apply the MX-PUD across the entire site. Mr. Willis confirmed that that was the intent. Mr. Kretz continued that to identify specific portions of a concept drawing in the resolution would defeat the purpose.

Mr. Willis explained how the Zoning Commission developed the list of excluded uses. Each of the districts referenced has its own list of permitted uses (Table of Permitted Uses). The Zoning Commission went through item by item and compared those uses with what the applicant wants to put in those areas. For

instance, no beer or wine sales were permitted in a facility that was recreationally oriented that might be frequented by children. It was the same reasoning used for the elimination of cigarettes and tobacco.

With regard to the dwellings, Mr. Willis stated that was the personal views of the Zoning Commission. He does not object to the language the applicant put in that talks about putting an apartment over a business. Everything else came about during discussions and is what the commission felt was important to exclude.

Ms. Graff reviewed the language the applicant had added:

"**Included as a permitted use if proposed for individual ownership of units in an attached single-family dwelling structure, such as a row house or townhouse, living unit over a business use, or other similar arrangement in a condo or landominium in the SH and SW Areas of the VSF PUD."

Mr. Willis said there was some language in there that went beyond what had been agreed to between the commission and the applicant.

Mr. Willis clarified for Ms. Graff that apartments over businesses would be okay, but no row houses or multi-family units.

Mr. Kretz addressed Mr. Ware and stated it was his understanding that the applicant did not want this either. Mr. Ware confirmed that was correct.

Mr. Ware stated at the October 2nd meeting that the applicant had tried to make a case for the row house and multi-family units. Basically, the chairman said this had been discussed at a work session and the applicant had no objections at that time. Mr. Ware emphasized they did not have a problem with multi-family apartments or two-family dwelling units being excluded. What the applicant sees is empty-nester or resort user types of units. They are fine with everything that has been done; they just don't want it to be overly restrictive or prohibitive.

There was some general discussion of less restrictive numbers for open space. Mr. Kretz asked if + or – 10% would be tolerable to the Zoning Commission. Mr. Willis said it would.

Dave Montgomery, one of the applicant's attorneys, stated that 10% is commonly used. When you get too specific, both the Township's and the applicant's hands are tied.

There was further discussion of changing the language to reflect the + or – 10%.

At this time, Mr. Zaharieff suggested starting at the beginning of the resolution and going through the proposed changes line by line, so that nothing is missed. This was agreeable to the board. Some discussion occurred during the review and will be noted where relevant.

The following was proposed:

2 – There was a brief discussion of the Conditional Use process. Mr. Amrhein explained that a Conditional Use proposal is a separate review process involving both the Zoning Commission and the Trustees, as well as the scrutiny of the public during open hearings. The Zoning Commission and the Trustees also have the right to impose additional conditions on a Conditional Use.

Ms. Graff asked for clarification of the approval process for a Conditional Use. Mr. Amrhein stated that a Conditional Use does not have to be permitted or approved if the applicant isn't willing to comply with conditions set by the board; that is part of the public hearing process. It is a use the code is inclined to allow, but on a case-by-case basis and with the right conditions. In further discussion, it was confirmed that the Conditional Use process maintains control over what conditions are/are not attached to the Conditional Use.

It was determined that all asterisked items will be moved to 3b with other Conditional Uses.
NOTE: The applicant indicated his agreement with this to Mr. Kretz.

It was determined that the asterisks would be removed from all items in 3b.

3b – The wording is acceptable to the applicant
3c – Acceptable to the Zoning Commission
4a – Mr. Ware explained that the transitional zone is the one most pertinent to the VSF property. It goes out at a 7:1 slope. For every foot you go out horizontally you are allowed one foot in height. The closer you are to the airport there is little to no height allowed for the buildings. Farther out there are still height restrictions that are applicable to whatever the zone is. Mr. Ware noted that the height restrictions used for zoning are not necessarily the same as those of the ODOT Division of Aviation. VSF used what the Division of Aviation recognizes as a general utility airport avigation surface. None of their building heights violate the avigation surface.

Mr. Amrhrein reminded everyone that, in addition to those already mentioned, there may be other agencies that have some approval authority over this. Greene County's Port Authority has recently been activated by the county commissioners and does include the airport. Once the commissioners make appointments to the airport zoning board, they will have some authority over things that get approved in this application zone.

Staff is okay with striking the last sentence.

4b – Staff is okay with the changes.
4c – Leave in
4d – Was added; leave in
5c – Staff is okay with this; it still has to be approved by the County Engineer
6a – Acceptable with changes; attach map showing nine (9) areas (Valley Springs Plan Site Areas)
6b – Acceptable
6c – Acceptable
7a – 1.) Delete "…a maximum of 36 single family residential lots…''
2.) Strike the sentence beginning with "Deviation"
3.) Keep "Any additional…" and make it "b", and change to "existing Beavercreek Township Zoning Resolution <u>at the time of the specific site plan application</u>."
4.) Current "b" becomes "c"
9 – Acceptable
10a – Acceptable
10b – Change "VSF Concept Plan" to "Valley Springs Plan Site Areas"
NOTE: This is to be a global change throughout the resolution.

10c – Acceptable
10e – Mr. Montgomery said, to simplify things, he was trying to create a condition that would allow the site plan approval to go through, but there would be an

agreed upon condition within that site plan approval that would basically say the zoning certificate would be held until all conditions have been met.

Ms. Graff asked if Mr. Montgomery was saying to approve the site plan with conditions and that all required permits need to be in effect before execution of that site plan.

Mr. Montgomery clarified that he was specifically referring to the issuance of a zoning certificate from the Township.

Ms. Graff asked Ms. Frick about this proposed language, since she had recommended deleting it. Ms. Frick stated the concern she had was on behalf of the Zoning Commission, with respect to the areas in the floodplain, floodway and flood fringe. The commission wanted to ensure that those people with more expertise, namely the floodplain administrator and other necessary entities, that needed to review the plan had reviewed it prior to the Zoning Commission approving the site plan.

Mr. Willis confirmed this, but added that the commission really did not want to waste anyone's time or money. What they wanted to say was don't bring a site plan before the commission that doesn't have much chance of being approved later in the process.

Ms. Graff stated what could happen is that an applicant could get site plan approval without having the permits they need.

Mr. Ware stated that what they submit for approval will have some engineering calculations that show they are not going to raise the floodplain by more than a foot. That will go to the floodplain administrator for his review. Then there are subdivision regulations that say that no post-development runoff shall exceed pre-development levels. This means that the applicant will not be allowed to increase runoff and the fill will be such that it will not violate floodplain regulations at the national level. When the local authorities review the plan, if they have any questions, they will consult FEMA.

Mr. Amrhein noted that, collectively, the engineering and studies could be referred to as an impact study. While our zoning resolution doesn't require an impact study prior to zoning, our regulations and floodplain regulations do require some studies prior to development.

Mr. Ware noted the other concern that is acknowledged is both boards wanting to know the floodplain impact and how this plan fits in with that; the floodplain analysis will address that.

This was acceptable to the Zoning Commission.

1.) Leave in "Prior to …approval"
2.) Change to "…floodplain identified on the current Floodplain Insurance Rate Map."

10f – Staff has no issues with this.
10g – Acceptable
10i – Staff and Zoning Commission okay with changes
11 – The applicant had made significant changes to this item. After some discussion, it was decided to eliminate it because it was considered to be duplicitous and unnecessary. This was agreeable to the Trustees, the Zoning Commission and the applicant.

Ms. Graff asked the other Trustees if they felt comfortable approving the amended resolution or if they wanted to continue the hearing until they have a cleaned up version to review.

Mr. Kretz asked Mr. Zaharieff if he had the capability to make the changes now. Mr. Zaharieff and Ms. Frick stated they did.

Mr. Kretz asked Mr. Maxwell if he had a concern about the cemetery (on Valley Springs Farm property.)

Mr. Maxwell responded that he was concerned and spoke to the zoning board (Zoning Commission) about the gravesite and noted it is not actually one gravesite; there are at least four (4) graves there. The McGinnis' have assured him that they want to see that site preserved. Where it is located they don't have a lot of room to do anything with that area anyway. Going on their assurance to Mr. Maxwell that they want to preserve (the area), he has no other comments to make.

Ms. Graff asked Mr. McGinnis if there was assurance that sites of these graves will be preserved.

Mr. McGinnis stated what Mr. Maxwell was told was that in-between the concept approval and any site plan, they will make sure his family has access to investigate whatever they believe to be on the premises, give them full access, and accommodate their desire to preserve their family's remains.

Ms. Graff called for a break at 9:15 p.m. so that the proposed changes could be made to the resolution. The hearing reconvened at 10:16 p.m.

There was further discussion of 4b with regard to the reference to building height in the floodplain fringe area. It was determined to be unnecessary and the decision was made to remove 4b from the resolution, with 4c becoming 4b, and 4d becoming 4c.

During discussion it was discovered Ms. Graff had an old copy of the zoning resolution. Ms. Brown will make sure she is given a current version.

A change also was made to the last bullet point in 3c: "…or federal agencies must be obtained prior to ~~submission of such specific site plan~~ the issuance of a zoning certificate or grading permit following site plan approval."

These changes were incorporated into the resolution while the board waited; no break was taken.

There being no one else wishing to speak, the public portion of the hearing was closed.

2014-439 Mr. Kretz moved to approve the resolution for Case #793 as amended and presented to the Trustees:

WHEREAS, Application was made by Valley Springs Farm Company ("Applicant") for approval of a Mixed-Use Planned Unit Development Rezoning (MX-PUD). The proposed MX-PUD consists of a parcel totaling 671.172 acres and is situated mostly along the south side of U.S. Route 35 east of Dayton, Beavercreek Township—north and south of the Little Miami Scenic River. The majority of the subject property is presently zoned A-1 Agricultural, with

additional areas zoned as I-1 Light Industrial on northwest and North central areas along the north side of the Little Miami River; and B-2 Community Business and R-3 Multi-Family Residential Zoning on the south side of the EP area as detailed in the Valley Springs Farm Support Narrative and map reflecting the 100 year flood plain dated October 2, 2014; and

WHEREAS, a public hearing was held on November 10, 2014 at which time any and all persons desiring to speak were heard; and

WHEREAS, Applicant has submitted all information as required by the Beavercreek Township Zoning Resolution ("BTZR") Section 17.06.3; and

WHEREAS, the Beavercreek Township Board of Trustees finds that the facts submitted with the application and presented at the Public Hearing, and any modifications, amendments and supplementary conditions, satisfy the standards and criteria for Planned Unit Development approval as is set forth per Section 17.06.9 of the BTZR; and

WHEREAS, pursuant to BTZR Section 17.06.1, the approval of MX-PUD zoning classification shall not be deemed approval of a specific site plan, zoning permit or conditional use permit; the issuance of a zoning permit for all or any portion of the MX-PUD project requires Township Trustee approval of a specific site plan; and in accordance with BTZR Sections 17.07.3 and 17.07.4, unless an extended approval period is granted by Township Trustees, approval of any specific site plan shall expire if actual construction has not started in the area of approval for the respective site plan within five (5) years from the effective date of Township Trustees approval of the site plan.

WHEREAS, it is recognized by the Township and the Applicant that an area of this size and a mixed-use development of this magnitude will develop over a period of years, and perhaps decades,
prior to final completion and a certain amount of flexibility is required to complete such development from the approved initial concept plan to final approval of any specific site plan.

WHEREAS, the following will summarize the major components and supplemental conditions and defines the basis of the intent for approval of the Valley Springs Farm MX-PUD.

1. Designation of Specific Permitted Uses- The following uses are included as permitted and accessory uses in the Valley Springs Farm ("VSF") MX-PUD:

   Hotels, Motels, Convention, Conference and Banquet Facilities and those uses included as permitted and accessory uses in the current BTZR Table of Uses for R-4, B-3 and O-1 Zoning Districts. Additionally, industrial research laboratories shall be a permitted use in the VSF MX-PUD.

2. Designation of Excluded Uses- the following uses are specifically excluded uses pursuant to BTZR 17.14.2: Drive-In theaters, veterinary clinics, veterinary hospitals and veterinarians with kennels.

   Additionally, the following uses are excluded because they are inconsistent with the overall character and other uses of the proposed VSF MX-PUD:

   - Automobile Wash Facilities

- Payday and Short-term Lenders
- Boarding Houses
- Crematory Service
- Dormitories or Group Housing
- Dry Cleaning operation (retail) utilizing machinery on-site not requiring cooling towers and external venting
- Equipment Rental & Leasing (except automobiles, trucks & trailers)
- Exterminating Services
- Paint and Wallpaper Stores
- Pawn Shops
- Taxidermist Services

3. Designation of Allowable Conditional Uses- the following are conditional uses allowable in the VSF MX-PUD subject to the application and approval of the applicable conditional use permit requirements set forth in the BTZR 17.14.2 and 17.10.2 for decision by the Beavercreek Township Trustees at the site plan approval stage of the PUD approval process:

   a. Those conditional uses in the current BTZR Table of Uses for R-4, B-3 and O-1 Zoning Districts;

   b. The following uses are also allowable conditional uses in the VSF MX-PUD:

      - Recreation Facilities
      - Department Stores including Discount Stores
      - Office Furniture Stores- Retail
      - Office Supply Stores
      - Sporting Goods Stores- Retail
      - Welfare & Charitable Services
      - Restaurants with drive-thru services
      - Carry Out, Beer, Wine & Party Supplies
      - Cigars, Cigarette & Tobacco Stores- Retail
      - Grocery Stores- Convenience
      - Dwelling- Two Family
      - Dwelling- Multiple Family
      - Row Houses
      - Residential Units above Commercial Development

   c. The following temporary or short term conditional uses are allowable in the VSF MX-PUD, provided each shall be completed within five (5) years of commencement of the conditional use. One-year permit extensions of each use permitted by the Beavercreek Township Zoning Commission are possible if requested by the applicant in accordance with the BTZR and the applicant demonstrates good performance in pursuit of developing and operating the use.

      - Temporary/short term topsoil removal
      - Temporary/short term mineral extraction- Any extraction operation is contingent on the required detailed mining and reclamation plan being filed with and approved by the Surface Mining Division of the Ohio Department of Natural Resources (ODNR) and cross-coordinated in review to the

satisfaction and approval of the ODNR Scenic Rivers Division and Division of Water as it pertains to the activity in the flood-fringe of the LMR 100 year flood plain and underlying groundwater as well as any additional local, state or federal permitting or approval.

- Temporary/short term timber harvesting
- Temporary/short term mulch sales
- Temporary/short term flood plain fringe filling- Any flood plain fringe filling is contingent upon the review and approval of a specific site plan for all areas of the PUD. All necessary and applicable detailed engineering analysis and/or approvals by (1) the Federal Emergency Management Agency (FEMA) relating to development in the flood-fringe portion of the floodplain; (2) the Ohio Department of Natural Resources (ODNR) Scenic Rivers Division; (3) Ohio Environmental Protection Agency (OEPA); (4) the United States Army Corp of Engineers; (5) Greene County Flood Plain Administrator; and any other local, state or federal agencies must be obtained prior to issuance of zoning certificate or grading permit following specific site plan approval.

4. Design standards-

    a. The applicable building heights may not exceed 60 feet and must comply with all applicable aviation related regulations of the FAA and ODOT Division of Aviation in pertinence to the Greene County Airport applicable avigation zone surface(s).

    b. In the NW and EP areas of the VSF Plan Site Areas, building coverage allowance may not exceed 40% and water impervious surfaces may not exceed 80%. However, the overall average of impervious surface coverage of the entire VSF PUD shall not exceed 30% by buildings and 70% by all water impervious surfaces.

    c. The VSF Plan Site Areas identifies certain acreages for specific uses and geographic areas of the VSF PUD site. The VSF Plan Site Areas designated acreages may be increased or decreased at the site plan stage of the PUD zoning process as found acceptable by the BC Twp. Trustees for approval, so as to provide necessary flexibility in site design and to account for unforeseen site conditions.

5. Provision of Services-

    a. Water infrastructure designs and public sanitary sewer coverage must be provided as proposed. Final design and construction review shall be subject to the approval of the Greene County Sanitary Engineer and all other applicable local, county, state and/or federal agencies.

    b. Traffic Study Updates shall be provided as requested with each phase of development as a component of the site plan approval process. Said analysis shall be a cumulative evaluation expanding upon the Use Concept Plan Estimated Traffic Generation tables provided with the VSF Concept Plan.

c. Streets and roadways shall be constructed with standard curb and gutter pursuant to applicable Township standards unless otherwise recommended for approval without curb and gutter by the applicable street/road authority having jurisdiction.

d. The developer will fully cooperate with local, state and federal governments and agencies at the appropriate times in regards to land and/or financial commitments for future right-of-way requirements for proposed thoroughfares and utility easements.

6. Open Space-

a. Approximately 55% of the total 643+/- acres of the VSF MX-PUD area that is not currently within road right-of-way will be retained as open space and remain relatively undisturbed. Open space elements include, but are not limited to: regulatory floodways, non-structurally developed floodplain, wetlands, open stormwater drainage ways and runoff control basins, and utility and access easement areas. The open space to be retained shall include, but not be limited to:

i) 24 +/- acres in the NC Area of the VSF Plan Site Areas for the 300 foot protection radius area and the area between each of the 3 existing public water supply wells identified as "Wellhead Areas for Protection;"

ii) 36+/- acres for conservation use of the densely wooded 100 year floodway along the north side of the Little Miami River in the NC Area of the VSF Plan Site Areas; and

iii) 20+/- acres for conservation use of the densely wooded 100 year floodway along the south side of the Little Miami River in the SC Area of the VSF Plan Site Areas.

The above stated acreages identified in this subsection are approximate and subject to an increase or decrease of 10% from the stated amount, so as to allow the developer some flexibility in site design and to account for site conditions and engineering requirements, while maintaining the intent of said condition.

b. The retained open space shall remain structurally undeveloped, except for access and utilities, and shall be used for natural landscaped amenity and/or recreational purposes.

c. No phase of development will have less than twenty percent (20 %) open space, unless otherwise approved acceptable by the BC Twp. Trustees at the site plan stage of the PUD zoning process in the NW and EP Areas of VSF MX-PUD.

7. Residential Uses-

a. A 35+/- acre site is located on the SW Area of the VSF Plan Site Areas for the conventional development of a low-density, single-family residential subdivision with an average gross density of 1.02 lots/acre.

b. Any additional residential uses shall be consistent with the Beavercreek Township Zoning Resolution in force at the time of site plan application.

c. The minimum separation of one hundred (100) feet from non-residential uses is not required in the SH area of the VSF Plan Site Areas.

8. Buffering- Buffering shall be required where use or density substantially varies from adjacent existing use or density. Detailed buffering plans shall be provided with each site plan submittal. The buffering plans will include detailed drawings for vegetative screening and earth mounding, if applicable. The purpose of the buffers will be to screen areas where the proposed land use varies substantially from an adjacent existing use.

9. Landscaping plans in accordance with the BTZR shall be provided with each site plan submittal.

10. Supplementary conditions- Pursuant to the BTZR the following supplementary conditions are applicable to the approval of the VSF MX-PUD:

    a. Overall stormwater drainage management and erosion and sediment control shall be planned by the applicant to the satisfaction of the Greene County Soil and Water Conservation District and the Greene County Engineer, as appropriate in accordance with best management practices and regulations related thereto;

    b. Only uses designed and operated compatible with maintaining the wellhead protection areas and Little Miami River floodway, floodway fringe, or general floodplain are permitted in the NW area of the VSF Plan Site Areas;

    c. Only aquifer-friendly uses, meaning not posing an unacceptable potential risk of groundwater contamination, shall be permitted for development and operation in the VSF MX-PUD and best practices will be used with respect to the planning, building, and maintenance of the property for each use permitted;

    d. Parking Plans shall be submitted to the Zoning Enforcement Officer with any subsequent site plan approval consistent with the BTZR;

    e. Prior to the issuance of any zoning certificate or grading permit following site plan approval, all appropriate permits and approvals required by any federal, state, county, local or other agency of jurisdiction shall be obtained for areas in the floodway, flood fringe or floodplain identified on the then current Flood Insurance Rate Map;

    f. Within six (6) months of the approval of this zoning resolution by the Beavercreek Township Board of Trustees, the Applicant or owner shall grant a license or easement to the Beavercreek Township Board of Trustees for the right of entry upon the property known as the NC and SC Areas on the VSF Plan Site Areas. Said right of entry shall extend along the banks of the Little Miami River

("LMR") for the sole purpose of removing debris and materials from the LMR, such as woody and other debris from the LMR watershed that collects on portions of the NC and SC Areas of the VSF PUD property, and threatens impeding the rate of flow of the LMR. All work shall be conducted in accordance with the local, county, state, and federal guidelines consistent with LMR's designation as a State and National Wild and Scenic River. The right-of-entry license or easement shall be irrevocable and shall run with the property and be binding on all future owners, heirs and assigns of the property;

g. The BC Township Trustees retain the right and ability to review and consider approving site plans as applicable consistent with the Flood Plain River Protection District set forth in Article 15 of the BTZR;

h. Any uses and specific site plan consideration shall be consistent with the requirements of the Greene County Regional Airport Zoning Regulations and other local, state and federal aviation guidelines and regulations; and

i. No unacceptable structures shall be constructed within the easements of DP&L, or any public or private utility, electric and/or gas company, which were secured to allow for the maintenance, upgrading, and replacement of existing facilities for the safe transmission and distribution of their applicable product now and in perpetuity. All buildings and other above ground structures must be constructed outside of these easement areas located in the NW, SE and SH Areas of the VSF Plan Site Areas. Development of streets, driveways, parking lots, open drainage ways, and landscaping amenities within the easement areas is subject to allowance by the applicable utility easement holder, prior to site plan approval by the BC Twp. Trustees. Any grading within the easement areas must be reviewed by the applicable public or private utility, electric and/or gas company, to ensure it does not negatively impact ground clearances, access and structure integrity of an applicable utility facility. The installation of the lake in the WC Area as set forth in the VSF Plan Site

Areas will require relocation or modification of the existing electric lines subject to review and approval of the applicable utility easement holder and at the cost of the site plan developer negotiated with the applicable utility easement holder.

NOW, THEREFORE, BE IT RESOLVED THAT, after due consideration of all the evidence presented, the Beavercreek Township Board of Trustees hereby approves the application for rezoning to a MX-PUD pursuant to the request of the applicant in Case No. 793 with the aforementioned conditions.

Mr. Paxson seconded the motion. The Vote: Mr. Kretz, yes; Mr. Paxson, yes; Ms. Graff, yes. The motion carried.

2014-440 Mr. Paxson moved to adjourn. Mr. Kretz seconded the motion. The Vote: Mr. Kretz, yes; Mr. Paxson; yes; Ms. Graff, yes. The motion carried.

The hearing adjourned at 11:18 p.m.

Special Beavercreek Trustee's Meeting

Monday, November 10, 2014

Trustee: _____

Fiscal Officer: _____