

The Board of Trustees of Sugarcreek Township, Greene County, Ohio, in Regular Session on February 4, 2019, at 7:00 PM, at 2090 Ferry Road, Bellbrook, Ohio 45305.

1. Mrs. Destefani called the session to order at 7:00 pm.
2. All rose and recited the Pledge of Allegiance to the Flag.
3. Mr. Tiffany called the roll with Board Members, Nadine Daugherty, Carolyn Destefani and Mr. Pittman being present. Also in attendance, Department heads and 35 others who signed in.

4. Public Hearing

- A. **ZC Case 06-2018:** Oberer Land Developers, LTD is requesting a map amendment to the Sugarcreek Township Zoning Resolution to rezone 83.226 acres located at 2745 Wilmington Dayton Road (and two adjacent parcels with no addresses of record) from E (Rural Estate Residential) District to R-PUCD (Residential Planned Unit Conservation Development) District. The subject parcels contain a total of 107.383 acres (of which 83.226 acres are proposed to be rezoned), can be further identified by parcel numbers [L32000100050014200](#), [L32000100050002800](#) and [L32000100050002700](#) and are owned by Peter Rammel. Oberer Land Developers, LTD is also requesting preliminary development plan approval under Article 6 of the Sugarcreek Township Zoning Resolution for approval of the preliminary plan for a proposed subdivision containing 98 lots. – **2019.02.04.05**

- Public hearing is formally opened
- Staff report on the text amendments
- Applicant presentation
- Those wishing to speak in favor
- Those wishing to speak against
- Neutral parties wishing to speak
- Public hearing is closed
- Deliberation and decision

Mrs. Destefani moved to open the Public Hearing. Mrs. Destefani seconded.

Roll was called with the vote being as follows:

Mrs. Daugherty – Yes

Mrs. Destefani – Yes

Mr. Pittman – Yes

Mrs. Tilford read her staff report.

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2019.02.04.05**

IN RE: ZC Case 06-2018: Request for Map Amendment to the Sugarcreek Township Zoning Resolution under Section 3.06 and Request for Preliminary Development Plan Approval under Article 5 of the Sugarcreek Township Zoning Resolution

WHEREAS, Oberer Land Developers, LTD. is requesting a Map Amendment to the Sugarcreek Township Zoning Resolution to rezone 2745 Wilmington Dayton Road (and two adjacent parcels with no addresses of record) from E (Rural Estate Residential) District to R-PUCD (Residential Planned Unit Conservation Development) District; and

WHEREAS, The subject parcels contain a total of 107.383 acres (of which 83.226 acres are proposed to be rezoned), can be further identified by parcel numbers L32000100050014200, L32000100050002800 and L32000100050002700 (part of) and are owned by Peter Rammel; and

WHEREAS, Oberer Land Developers, LTD is also requesting preliminary development plan approval under Article 6 of the Sugarcreek Township Zoning Resolution for approval of the preliminary plan for a proposed subdivision containing 98 lots; and

WHEREAS, the Greene County Regional Planning Commission has reviewed the applicant's submission and has recommended approval; and

WHEREAS, the Zoning Commission held a public hearing on December, 4, 2018, deliberated a passed a motion to recommend denial to the Sugarcreek Township Board of Trustees; and

WHEREAS, the Sugarcreek Township Board of Trustees held a Public Hearing on February 4, 2019, and deliberated.; and

NOW THEREFORE, BE IT RESOLVED, this Board of Township Trustees does hereby approve the applicant's request for a map amendment/preliminary development plan approval as requested subject to the following conditions as recommended by staff:

1. Final design shall be subject to approval of the Greene County Engineer's Office.
2. Final design shall be subject to approval of the Greene County Department of Sanitary Engineering.
3. The development shall comply with the recommendations of the Soil and Water Conservation District.
4. Final design shall be subject to approval of Sugarcreek Township Fire Department.
5. The use of vinyl and aluminum siding shall be prohibited. Vinyl and/or aluminum may be used for gables and other decorative architectural features as approved by the Director of Planning and Zoning.
6. Home sizes, as proposed by the applicant, will be required to be included within the HOA Documents submitted for approval at the Final Development Plan stage. Final Development Plan approval will be conditioned upon these square footages, as proposed by the applicant, being met.
7. Detailed elevations will be presented and reviewed during the Final Development Plan stage.
8. Prior to approval of the Final Development Plan, the applicant and Sugarcreek Township and/or Greene County shall enter into a predevelopment agreement outlining the developer's responsibilities and Sugarcreek Township's and/or Greene County's responsibilities with respect to the realignment of Wilmington Dayton Road/modifications to the intersection of Centerville and Wilmington Dayton Roads.
9. Any widening necessary is to occur on the development side of the road (or within existing or proposed road right-of-way).
10. The applicant may provide street lighting outside of the public right-of-way pursuant to the township's requirements. A lighting plan shall be submitted for review and approval during the Final Development Plan stage. A lighting district will not be permitted.
11. The landscaping plan submitted for approval with the Final Development Plan shall be consistent with the requirements of Article 10.
12. Retention ponds must meet the requirements of Section 7.08.
13. The location of the left turn lane into the development shall be adjusted to avoid any conflict with Adrienne Kreighbaum's existing driveway.
14. The rear yard setback for lot 91 shall be adjusted to meet the 30' rear yard setback, as well as the 100' setback from Wilmington Dayton Road.
15. The 2.5 acre lot owned by Peter Rammel Trustee (on the north side of realigned Wilmington Dayton Road) and the adjacent triangle shaped parcel created as a byproduct of the proposed development shall be combined prior to recording the subdivision (this triangle parcel shall not constitute an independent building lot as it does not meet the E District standards).

16. Open space area 104 located at the southeast corner of the realigned Wilmington Dayton and Conference Roads shall be permitted to be deeded over to the Craig and Mary Moore (or their heirs or assigns) subject to combination with 2788 Wilmington Dayton Road and subject to their acceptance or it will otherwise be held by the HOA as open space.
17. Open space area 104 located at the northwest corner of the realigned Wilmington Dayton and Conference Roads shall be permitted to be deeded over to the All Saints Church subject to their acceptance. The 5 parcels owned by All Saints Church will be required to be combined creating one u-shaped parcel surrounding the Lion's Club. As part of this allowance, the developer must include a plan to address the condition of the existing All Saints parking area (specifically the hill side adjacent to Wilmington Dayton Road) as part of the review of the Final Development Plan.

Gary Smith, spoke on behalf of the developer, Oberer Land Developers, LTD. Mr. Smith talked about the existing sewer and water running through and around the parcel. Mr. Smith stated that they have been working on this since February 2018. Discussed some improvements to the original proposal. Stated that the development would preserve the open space.

George Oberer, Jr., 3445 Newmark Drive, stated that they have had multiple discussions with the both Centerville and Sugarcreek park districts. Mr. Oberer stated that if the zoning is approved it would help the park districts.

Mr. Smith covered some of the conservation easement language. Mr. Smith stated that 98 lots on 81 acres is significantly under the most recent approved developments. Conservation subdivisions can take on a lot of different forms.

Mrs. Tilford noted that the Black property has 189 lots and a density of 2.86 homes per acre.

Mrs. Daugherty asked about the cost of the homes.

Mr. Smith stated that the average price of the semi-custom homes would be \$300,000-\$500,000.

Mr. Smith touched on the maintenance of the subdivision stating that the development would be maintenance free.

Jason Oaks, 1448 Jackson Road, performed the traffic impact study. Analysis indicates that the new homes would only nominally increase the problem. This development would establish a realignment at Conference Road. A second problem the study indicated was that the majority of traffic goes south. The delay is calculated in seconds per vehicle.

Mr. Pittman asked Mr. Oaks his opinion on roundabouts.

Mr. Oaks stated that roundabouts do serve a purpose.

Mrs. Destefani asked about traffic lights.

Mr. Oaks stated that that was not included in the formal analysis due to it is an existing problem.

Richard Oaks, professional engineer in the state of Ohio, stated that the model projected 20 years. The data was taken at peak pm time at 40 MPH. Mr. Oaks stated that the site will add a diminutive amount of traffic. It was noted that the existing 4-way stop was the culprit of delay. The model removed the 4-way stop to show that the site itself is not the problem.

Mr. Tiffany asked what the longest light cycle was.

Mr. Oaks indicated that there was no set cycle with a loop detector.

Mr. Smith spoke about the design of the proposed houses. Homes will have 2 or 3 car garages on each and several elevations available.

Mike McNamee, 2625 Commons Blvd., stated that he attended the December 4th zoning commission meeting where there was discussion regarding the non-annexation of the Rammel property. Mr. McNamee highlighted some of Mrs. Tilford's presentation from that meeting. Mr. McNamee shared his legal opinion on said agreement. He concluded that the Rammel non-annexation agreement is void and not enforceable for the following reasons:

1. A township does not have the authority to execute a non-annexation agreement with a private property owner.

Mr. Pittman asked Mr. McNamee where his information came from.

Mr. McNamee stated that townships must follow the Ohio Revised Code (ORC). He stated that there is no statute that allows a township to enter into an agreement with a private party.

2. A township administrator does not have authority to enter into an agreement on behalf of the Board of Trustees. Could be proven to be allowable if a resolution was passed prior to signing.

Mr. Pittman asked Mr. McNamee if he agreed that there was a good faith agreement made.

Mr. McNamee stated that he did not believe that the agreement was in place.

Mr. Smith closed out his presentation.

Mrs. Destefani called for a 5 minute break.

Upon returning, Mrs. Destefani opened the floor to public comments in favor of.

Michael Siler, 3897 Conference Road, noted that he didn't believe that the property owner has rights and "we" should be dictating what they can do with it. If Centerville annexes they will do whatever they want with it. Mr. Siler stated that Oberer does a good job. Should be considered.

Mrs. Destefani asked for comments against.

Nick LaDue, 2594 Sugar Ridge Lane, stated that he would like to see open space be more firmly decided.

Kathy Pray, 2860 Wilmington Dayton, feels that it is ethically questionable to sell houses that would cause the area to become unsafe when leaving the development.

Tom Ruff, 7889 Wilmington Dayton Rd, stated that he moved in 12 years ago because of zoning. Secondly, he feels the density will be high. Noted that he feels the Trustees should vote with the residents and go with what is right.

Dr. Philip Gallagher, 2482 Ferry Road, stated he is against the project. Stated that additional traffic will have an impact on residents as many as 10-12 times a day. It will make things worse.

Robert Dean, 2380 Spahr Rd., stated that it will be dangerous. He recommends that they not just sit there and do nothing but work offensively to prevent annexation. Rezone to one acre lot size along the border to protect.

Tim Walsh, 4225 Centerville Road, live there for over 45 years, has seen the creep of development. Change is happening and this is more than a change but a tsunami. They here to make money. He stated that perhaps the parks could buy the whole property and make different park areas. Mr. Walsh is concerned that he may lose some property if the traffic lights go in.

Pam Loper, 2910 Gerhardt Cir., stated that she has a problem with the density proposed.

Adrian Kreighbaum, 2876 Wilmington Dayton Rd., agrees that the proposed lots do not fit in with the area and the development will block the views from roadways. Green spaces are not in areas where people would take advantage of them.

Brian Stewart, 2790 Gerhardt Cir., Opposed to overdevelopment. Noted that all roads are at max. Not saying no to development but we need to be smart about how it is done. Neighbors strongly object and puts the Township on notice that the will petition to get issue on November Ballot.

Chuck Loper, 2910 Gerhardt Cir., Can we combine 3 lots into 1? They overpay and have to up the density. We need to figure a way to stop the bullying.

Megan Simmons, 2770 Gerhardt Cir., opposing high density, not against 2-3 acre lots. Feels that the township should try to get a custom builder that does build on larger lots.

Mrs. Destefani closed the public hearing. Mr. Pittman Seconded

Roll was called with the vote being as follows:

Mr. Pittman – Yes
Mrs. Destefani – Yes
Mrs. Daugherty – Yes

Mrs. Destefani opened Trustee deliberation.

Property is zoned Estate. Mrs. Destefani stated that we are trying to be strategic to protect ourselves against annexation. She stated that she and Mr. Tiffany were very active at the state level to bring laws which are more favorable to townships.

Mr. Pittman noted that the development was aimed at empty nesters indicating there would not be an impact on the schools.

Mrs. Daugherty added that if the property did get annexed we would lose all control over what goes in there.

Mr. Pittman made clear that his comments were not endorsing and there was a lot to consider.

Mrs. Destefani stated that in light of the new information provided by Mr. McNamee, this case will be tabled for further review.

Mr. Tiffany stated that one of the concerns he heard with regard to conservation easement, it would be beneficial to show what that looks like.

Mrs. Daugherty stated that the density didn't seem to fit.

Mrs. Destefani moved to table until the next meeting. Mr. Pittman seconded.

Roll was called with the vote being as follows:

Mrs. Daugherty – Yes
Mr. Pittman – Yes
Mrs. Destefani – Yes

Five minute break...

Mrs. Destefani opened the floor to public comments.

Arnold Kiefer, 3682 E. Salinas Circle, stated that property rights are protected and taking of property has to be done correctly. Mr. Kiefer wants to focus on legality of taking of his property. He stated that he and his neighbors feel hurt and don't feel that it's right. Stated that he had spoken with imminent domain attorneys. Ohio Revised Code does not grant the Township authority to take his property. Mr. Kiefer pointed out that when talking previously all three Trustees stated that it would not be fair to take property.

A. Administration

Mr. Tiffany reviewed several points of HB 500.

B. Fiscal Office

Mr. Hodson had nothing to add.

C. Fire

Chief Leaming had nothing to add.

D. Police

Chief Brown had nothing to add.

E. Roads and Services

Mr. Tiffany had nothing to add.

F. Zoning

Mrs. Tilford had nothing to add.

G. Information Technology

Mr. Zappanti had nothing to add.

H. Trustees

Mrs. Destefani attended the Commissioners meeting December 4, The Greene County Township Association Christmas Dinner on December 11, and the Chamber of Commerce meeting on January 6.

Mrs. Daugherty thanked staff for their work on the Greene County Township Association Christmas Dinner.

6. Public Comments – Agenda Items

Mrs. Destefani opened the floor to comments.

Arnold Kiefer, 3682 E. Salinas Circle, stated that property rights are protected and taking of property has to be done correctly. Mr. Kiefer wants to focus on legality of taking of his property. He stated that he and his neighbors feel hurt and don't feel that it's right. Stated that he had spoken with imminent domain attorneys. Ohio Revised Code does not grant the Township authority to take his property. Mr. Kiefer pointed out that when talking previously all three Trustees stated that it would not be fair to take property.

7. Old Business

Bellbrook Sugarcreek Parks and Schools Meeting – January 2019

8. New Business

Consent Agenda Items

Mrs. Destefani moved to separate A-F. Mr. Pittman Seconded.

- A. Payment of Bills
- B. Approval of Minutes
- C. Resignation of Fire Department staff, Chase Kreitzer and Scott Renner - 2019.02.04.01

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2019.02.04.01**

IN RE: Resignation of Fire Department Staff Chase Kreitzer and Scott Renner

WHEREAS, Part-time Firefighter II/EMT Chase Kreitzer has indicated his desire to resign from the Sugarcreek Township Fire Department; and,

WHEREAS, Mr. Kreitzer became a member of the Sugarcreek Township Fire Department as a Part-time Firefighter II/EMT on November 21, 2016; and,

WHEREAS, Part-time Firefighter I/EMT-B Scott Renner has indicated his desire to resign from the Sugarcreek Township Fire Department; and,

WHEREAS, Mr. Renner became a member of the Sugarcreek Township Fire Department as a Part-time Firefighter I/EMT-B on March 21, 2016; and,

WHEREAS, Chief Jeffrey A. Leaming recommends we accept the resignations of Mr. Kreitzer and Mr. Renner.

NOW THEREFORE, BE IT RESOLVED that the Board of Sugarcreek Township Trustees officially accept the resignations of Chase Kreitzer effective January 28, 2019 and Scott Renner effective January 31, 2019.

- D. Declaration of Excess Property – Fire Department - 2019.02.04.02

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2019.02.04.02**

IN RE: Declaration of Excess Property – Fire Department

WHEREAS, the Sugarcreek Township Fire Department has identified equipment which is no longer needed for operations, and;

WHEREAS, the items listed on the attachment have an individual value of \$2,000.00 or less.

NOW THEREFORE BE IT RESOLVED, that this Sugarcreek Township Board of Trustees hereby declares this property to be excess and directs the appropriate disposition of this property.

- E. Declaration of Excess Property – Administration Department - 2019.02.04.03

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2019.02.04.03**

IN RE: Declaration of Excess Property – Administration Department

WHEREAS, the Sugarcreek Township Administration Department has identified equipment which is no longer needed for operations, and;

WHEREAS, the items listed below have an individual value of \$2,000.00 or less.

- Lot of toner cartridges
- Lot of miscellaneous file folders

- Lot of 3 ring binders
- Lot of Magnafiles hanging file system

NOW THEREFORE BE IT RESOLVED, that this Sugarcreek Township Board of Trustees hereby declares this property to be excess and directs the appropriate disposition of this property.

F. Resignation of Police Department Staff – Timothy Straka – 2019.02.04.04

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2019.02.04.04**

IN RE: Resignation of Full-Time Police Officer Timothy Straka

WHEREAS, Police Officer Timothy Straka has submitted his letter of resignation from the Sugarcreek Township Police Department; and,

WHEREAS, Mr. Straka became a member of the Sugarcreek Township Police Department as a Full-Time Officer on October 6, 2015; and,

WHEREAS, Chief Michael Brown recommends we accept the resignation of Timothy Straka.

NOW THEREFORE, BE IT RESOLVED that the Board of Sugarcreek Township Trustees officially accepts the resignation of Timothy Straka effective February 4, 2019.

G. Declaring Improvements to Parcels of Real Property Located in Sugarcreek Township, Ohio to be a Public Purpose under Section 5709.73 (B) of the Ohio Revised Code, Exempting Such Improvements from Real Property Taxation, Establishing a Tax Increment Equivalent Fund. – 2019.02.04.06

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2019.02.04.06**

IN RE: RESOLUTION AUTHORIZING THE APPROPRIATION OF REAL PROPERTY ALONG
FEEDWIRE ROAD, SUGARCREEK TOWNSHIP, GREENE COUNTY, OHIO, OWNED BY
ARNOLD AND SANDRA KIEFER FOR THE PURPOSE OF HIGHWAY PROJECT GRE-
SUGARCREEK TOWNSHIP SRTS

WHEREAS, Section 5573 of the Ohio Revised Code grants Sugarcreek Township, Greene County, Ohio the power to file appropriation proceedings to improve public roads; and

WHEREAS, Sections 163.01-163.22 of the Ohio Revised Code authorizes a public agency to appropriate property or a portion thereof for public use; and

WHEREAS, Section 511.11 of the Ohio Revised Code grants Sugarcreek Township the authority to acquire property by purchase, appropriation or otherwise; and

WHEREAS, the Board of Trustees of Sugarcreek Township, Greene County, Ohio has determined that it is necessary to appropriate a certain fee simple interest in the property identified in the attached "Exhibit A" for the public purpose of a highway project GRE-Sugarcreek Township Safe Routes to School ("SFRS"); and

WHEREAS, the Board of Trustees of Sugarcreek Township, Greene County, Ohio has determined that it is necessary to appropriate a temporary easement in the property identified in the attached "Exhibit B" for the public purpose of performing the work necessary to complete a shared use path network as described in the Sugarcreek Schools Safe Routes to School Travel Plan; and

WHEREAS, Sugarcreek Township has submitted by certified mail the statutorily - required "Notice(s) of Intent to Acquire" to the Arnold M. and Sandra Kiefer., the owners of the real property described in "Exhibit A", and to any other individual, partnership, association, or corporation having any estate, title, or interest in the property described in "Exhibit A"; and

WHEREAS, Sugarcreek Township hired Melissa Dean Speert of the Robert Weiler Company to appraise the real property described in attached "Exhibit A" and "Exhibit B", and that the total appraised fair market value of the property to be acquired is \$12,030.00; and

WHEREAS, Sugarcreek Township has submitted to Arnold M. and Sandra Kiefer and to any other individual, partnership, association, or corporation having any estate, title, or interest in the property described in "Exhibit A" and "Exhibit B", a copy of the "appraisal report", via certified mail, together with the "Notice(s) of Intent to Acquire"; and

WHEREAS, Sugarcreek Township made a written, good faith offer to Arnold M. and Sandra Kiefer in the amount of \$12,030.00, which represents the appraised fair market value of the property to be acquired, and that said "written, good faith offer" was submitted to Arnold M. and Sandra Kiefer and to any other individual, partnership, association, or corporation having any estate, title, or interest in the property described in "Exhibit A" and "Exhibit B", via certified mail, together with the "Notice(s) of Intent to Acquire" and "appraisal report"; and

WHEREAS, Sugarcreek Township made a good faith second offer to Arnold M. and Sandra Kiefer and to any other individual, partnership, association, or corporation having any estate, title, or interest in the property described in "Exhibit A" and "Exhibit B" in the amount of \$13,725.00.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Sugarcreek Township:

- Section 1: That Sugarcreek Township hereby deems it necessary and declares its intent to appropriate the real property identified in attached "Exhibit A" and "Exhibit B";
- Section 2: That Arnold M. and Sandra Kiefer have not accepted the "written, good faith offers" and it has been over thirty (30) days since the submission of the "Notice(s) of Intent to Acquire," "appraisal report" and "written, good faith offers," and as such, Sugarcreek Township shall file an appropriation petition in the Greene County, Ohio Court of Common Pleas and hereby directs the Township Administrator and Legal Counsel to take whatever action is necessary to proceed with the appropriation petition;
- Section 3: That this Resolution shall take effect at the earliest time as may be permitted by law;
- Section 4: It has been determined that all formal actions of the Board of Trustees of Sugarcreek Township concerning the adoption of this Resolution were adopted in an open meeting of the Board of Trustees of Sugarcreek Township and that all deliberations of the Board of Trustees of Sugarcreek Township which resulted in formal action were in meetings open to the public and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Board of Trustees of Sugarcreek Township on the ___ day of February, 2019.

Mrs. Destefani motioned to approve Consent agenda items. Mr. Pittman seconded.

Roll was called with the vote being as follows:

Mrs. Destefani – Yes
Mrs. Daugherty – Yes
Mr. Pittman –Yes

Mr. Pittman motioned to approve Consent agenda item G. Mrs. Destefani seconded.

Roll was called with the vote being as follows:

Mrs. Destefani – Yes
Mrs. Daugherty – Yes
Mr. Pittman –Yes

9. Discussion Agenda Items

10. Public Comments

11. Trustee/Staff Discussion

12. Adjourn

Mrs. Destefani moved to adjourn. Mrs. Daugherty seconded.

Roll was called with the vote being as follows:

Mrs. Destefani – Yes
Mrs. Daugherty – Yes
Mr. Pittman –Yes

Theodore L. Hodson, Fiscal Officer