



BEAVERCREEK TOWNSHIP

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Trustees - Carol Graff
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Fiscal Officer - Christy L. Ahrens

Administrator - J. Alexander Zaharieff

RESOLUTION

2014-439

BEAVERCREEK TOWNSHIP BOARD OF TRUSTEES

**RE: Case #793
Legislative Rezoning
Beavercreek Township**

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 Beaver Creek 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 Beaver Creek 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.

APPROVED : November 10, 2014

THE VOTE WAS AS FOLLOWS:

Carol Graff yes

Tom Kretz yes

Dan Paxson yes

BEAVERCREEK TOWNSHIP TRUSTEES

Carol Graff
Carol Graff, Chair

Tom Kretz
Tom Kretz, Vice Chair

Dan Paxson
Dan Paxson, Trustee

ATTESTED BY:

Christy L. Ahrens
Christy L. Ahrens
Fiscal Officer

Attachment

