

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

CASE NO. ZC (2018-01) Ravines at Hoover, 1st Trustee meeting 

The meeting was called to order by Connie Goodman at 6:30 PM.

PRESENT:

Connie Goodman, Chair
Frank Dantonio, Vice Chair
Karl R. Gebhardt, Trustee
Patrick M. Myers-Fiscal Officer

ALSO PRESENT:

Joe Shafer Zoning and Development Director
Andrew King Delaware County Assistant Prosecutor

CALL TO ORDER:

- Ms. Goodman called the following hearing to order at 6:31 p.m., read the legal notice and asked everyone who wished to speak to this matter to sign-in and to stand. Those standing were sworn-in.

KATHERINE BENALCAZAR REQUESTING APPROVAL OF A ZONING MAP AMENDMENT AND PRELIMINARY DEVELOPMENT PLAN FOR CONSTRUCTION OF 64 SINGLE FAMILY HOMES ON APPROXIMATELY 42.791 ACRES LOCATED AT 4741 TUSSIC STREET, INCLUDING PARCELS 31713001036000, 31713001036001, 31713001036002, 31713001036003, 31713001036004, 31713001036005, AND 31713001038000, ALL CURRENTLY ZONED RURAL RESIDENTIAL (RR), TO BE REZONED TO PLANNED RESIDENTIAL DEVELOPMENT (PRD) ZONING DISTRICT (ZC 2018-01).

The legal notice for this meeting was printed and published on March 26, 2018, in the Delaware Gazette and posted at the Genoa Township Hall on March 16, 2018. An attempt to send notice of this meeting to adjacent property owners was also made.

The following were marked as exhibits "A" – "O":

- Exhibit "A" – Legal Notice
- Exhibit "B" – Affidavit of Advertisement
- Exhibit "C" – Sign-in Sheet
- Exhibit "D" – Application and plans (originally received December 11, 2017)
- Exhibit "E" – Revised application and plans (received March 23, 2018)
- Exhibit "F" – DCRPC Recommendation made December 21, 2017
- Exhibit "G" – Traffic Study, dated March 23, 2018 and approved by Delaware County on April 7, 2018
- Exhibit "H" – Fire Marshal Letters, dated December 12, 2017 and March 7, 2018
- Exhibit "I" – Trustee Acknowledgement of the Zoning Commission's recommendation made on March 15, 2018
- Exhibit "J" – Staff Technical Review, dated April 9, 2018
- Exhibit "K" – Staff Memo, dated April 8, 2018
- Exhibit "L" – All public comments received between December 11, 2018 and April 9, 2018
Added and noted for the record
- Exhibit "M"- Map Handout, April 9, 2018
- Exhibit "N" – King Email Handout, April 9, 2018
- Exhibit "O" – Janie Schroeder handout during public comment, April 9, 2018

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

STAFF REPORT (0:04:18 mins.)

- Mr. Shafer, on behalf of the Genoa Township Development and Zoning Department, presented an overview of the application and staff's written review dated April 9, 2018. The review also included:
- The traffic study approved by Delaware County
- The Genoa Township Fire Department's review letter.
- The Zoning Commission's meeting minutes from January 8, 2018, February 12, 2018, and March 12, 2018 (motion only)
- The Delaware County Regional Planning Commission's recommendation made December 21, 2017
- The legal notice
- Pictures of the postings placed on the subject property announcing the hearing this evening

APPLICANTS' PRESENTATION (0:34:00 mins.)

- In attendance, on behalf of the applicant were: Mr. Benton Benalcazar (property owner, husband of Katherine Benalcazar), Mr. Jeff Brown of Smith & Hale (attorney), Mr. Joe Miller of Vorys, Sater, Seymour and Pease (attorney), Mr. Todd Faris of Faris Planning & Design (land planner), and Mr. Ben Siembida of Civil & Environmental Consultants (civil engineer).
- Mr. Benalcazar spoke first:
 - He would like to construct a single-family, condominium development on this property and market it primarily towards empty nesters.
 - Conservation development standards have been utilized; the proposed units have been surrounded by open space and large areas of trees and ravines have been preserved. This helps to preserve rural character and beauty.
 - Numerous meetings with the public and the Zoning Commission have occurred and they have listened to the concerns that have been raised.
 - Access into the development was relocated from Oxbow Road to Tussic Street Road to address concerns.
 - The proposal complies with the Zoning Resolution and is not seeking any divergences.
 - Fencing has been added around the side of the western stormwater pond that is near residents on North Shore Drive to address safety concerns.
 - Utilities that are needed are available.
 - The preliminary plans have been reviewed by the County.
 - The development will have a positive impact on the local school district (Big Walnut).
 - There is demand for this type of project.
 - The development is reasonable, provides another residential option for the Township, and has been improved as a result of the updates which have been made.
- Mr. Miller also spoke:
 - The development brings positive things to the Township.
 - The law provides important context for the Trustees decision making process.
 - The property owner is entitled to put the property into productive, economic use.
 - Ohio Revised Code 519.21 permits agriculture use without any regulation by the Township whatsoever; the property is already classified as an agricultural district by the County Auditor.
 - Re-zoning to allow the plan is the smarter, more attractive option for the Township (as opposed to the agricultural use).

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

- Denial of the application creates liability for the violation of the due process clause and equal protection clause given other recent variations to the Comprehensive Plan which have been granted.
- The Board not adhering to its own Zoning Resolution would cause the applicant to move forward with a lawsuit.

PUBLIC COMMENTS (0:55:43 mins.)

- Ms. Goodman asked any individuals who were properly sworn-in to share their comments. She opened the floor first to any residents who live within 500 ft. of the subject site.
- Anne Filbert (4658 N. Shore Dr.) is opposed to the development; it doesn't preserve the charm and beauty of the area.
- Gary Scheideger (4881 Tussic St.) is opposed to the development, would like trees planted to screen the development from view of his property, and would like water runoff to be addressed.
- David Blair (4742 Tussic St.) is in favor of the development and believes it is a responsible.
- Bob Lombardo (4909 Tussic St.) is in favor of the development; doesn't want a pig farm.
- Patsi Morris (4870 Tussic St.) is opposed because it's too much for the area.
- Marilyn Paselsky (8181 Oxbow Rd.) is opposed to the development because the Zoning Commission voted it down.
- Janine Schroeder (4690 N. Shore Dr.) is opposed to the development. She provided a handout (Exhibit O) illustrating the ditch at the front of the property and spoke to the problems that will arise from it. She would like the fence behind her home to be 6ft tall.
- Luke Schroeder (4690 N. Shore Dr.) is opposed to the development and stated his belief that Mr. Gebhardt has a conflict of interest on this property.
- Nancy Tomei (4737 N. Shore Dr.) is opposed to the development because the Zoning Commission voted against it.
- Tom Maynard (4687 N. Shore Dr.) is opposed to the development and would like the Board of Trustees to look at other options, possibly a nature preserve.
- Donna Froehle (4781 N. Shore Dr.) is opposed to the development because it will disrupt the animals that live in the area.
- Roy Stein (4737 N. Shore Dr.) is opposed to the development and is worried about its impact on the Hoover Reservoir Watershed.
- Gwen Abell (8141 Oxbow Rd.) is not opposed to development but doesn't welcome 67 units.
- Anna Olivia (4710 N. Shore Dr.) is opposed to the development; it is way too much for that piece of land. She is also concerned about the eastern storm water pond, especially keeping kids out of it.
- Connie Sauter (4625 N. Shore Dr.) is opposed to the development because it is all walled in. She would like to see the density reduced.
- Ken Davis (8343 Oxbow Rd.) is opposed to the development because it does not comply with the recommended density of the Comprehensive plan.
- Ms. Goodman then opened the floor to any other individuals wishing to speak.
- Jim Carter (9543 S.Old 3C Hwy.) is opposed to the development and noted the density recommendations in the 2016 Comprehensive Plan.
- Renee Vaughan (6368 Mahogany Dr.) is opposed to the development; she referred to the email Mr. King previously sent to the Township (Exhibit N).
- Annette McMurry (3690 Worthington Rd.) is opposed to the development; thinks it is throwing the Comprehensive plan out the door.

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

- Catherine Nelson (4000 S. Old 3C Hwy.) is opposed to the development. She stated that this is the second application that was turned down by the Zoning Commission that is now in front of the Trustees. She wants a reasonable development and the applicant to work with the Zoning Commission.
- Wendy Landis (5085 Tussic St.) is OK with the development; she liked the green space.
- Sandy Young (7700 Plumb Rd.) is opposed to the development. She related the proposal to what previously happened near her property and is concerned for those around property.
- Bess Daniel (7178 Marrison Loop) is opposed to the development; she would like to see it stay rural.
- Bradley Moore (10689 Keller Pines Ct., Harlem Township) is opposed to the development. He instructed the residents to start a referendum.
- Mark Stelzer (7731 Big Walnut Rd.) is opposed to the development and would like to see a traffic study done in spring/ summer when there is more recreation traffic on the roads.

STAFF RESPONSE (1:59:42 mins.)

- Mr. King and Mr. Shafer spoke to several items raised during public comments, including:
 - Re-zoning is a legislative action.
 - The Board should give some consideration to the Comprehensive Plan when deciding which zoning districts are appropriate where.
 - Changes to the Zoning Resolution (including re-zonings) are subject to referendum, changes to the Comprehensive Plan are not.
 - Treating Planned Residential Developments (PRDs) uniformly.
 - Drainage concerns should be looked at but are ultimately regulated by Delaware County.
 - Findings of fact are important and should be included in the public record.
 - The state-mandated re-zoning process and why this matter was before the Trustees despite having been recommended for denial by the Zoning Commission.
- Mr. Gebhardt stated the Trustees could override the Zoning Commission's recommendation of denial and then sought clarification from Mr. King and Mr. Shafer on the following matters.
 - Density standards in the Zoning Resolution.
 - Density recommendations in the Comprehensive Plan.
 - Conflicts between the Zoning Resolution and Comprehensive Plan in regards to density.
 - Harmonization of the Zoning Resolution and Comprehensive Plan.
 - The Zoning Commission's efforts to harmonize the Zoning Resolution and the Comprehensive Plan.

APPLICANT'S RESPONSE (02:18:00 mins.)

- Mr. Miller stated he agreed with Mr. King's opinion that all PRDs need to be treated uniformly. He proceeded to provide an overview of what the Board needs to take into consideration when making their decision. He stated the plan meets all the requirements of the Zoning Resolution. Mr. Benalcazar pointed out that there have been previous residential developments approved in this area which exceed the recommendations in the Comprehensive Plan. The applicant noted that they are willing to consider all of staff's suggestions in their memorandum (Exhibit K) as part of the Final Development Plan except retaining the existing barns as they are not in good condition.

BOARD DISCUSSION (2:23:30 mins.)

- The Board discussed various details of the proposed development.

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

- Mr. Gebhardt asked questions about and/or discussed:
 - The fencing around the western stormwater pond. The applicant clarified how it was designed.
 - Whether or not the design of the western stormwater pond makes it a dam as defined by the State. The applicant responded it is not considered a dam; details of the design would be addressed during final design.
 - The maximum height of the western stormwater pond's wall. The applicant responded it is currently about 10 feet.
 - The proposed density and if anything, such as open space, could be adjusted to reduce the total density down to 1.65 or 1.7. The applicant responded that their density complies with what is allowed by the Zoning Resolution and that the latest version of the plan eliminated a few lots. The applicant also noted that since the property is not a flat field, there are challenges; about 3 acres of the site are undevelopable; the natural features which are being preserved are not allowed to be included in their net developable acres calculation.

- Mr. Dantonio asked questions about and/or discussed:
 - The volume of the western stormwater pond. Mr. Siembida responded that detail would be reviewed by the County at the time the final development plan is reviewed.
 - Mr. Benalcazar's professional credentials. Mr. Benalcazar responded with clarifications.
 - The history of ownership, zoning, and use of the subject site. Mr. Benalcazar responded he has owned the property since 2001, it is zoned Rural Residential, and that he has farmed it.
 - The transferability with the builder of the development, Romanelli & Hughes and whether or not it should be included in the public record. Mr. Benalcazar responded that a contract has been signed but the rights could be transferred.
 - The development's promotion of safety. Mr. Miller responded it is achieved by complying with all of the Township's stated zoning standards and by being compatible with other properties in the area. Mr. Dantonio disagreed with Mr. Miller's response.

- Ms. Goodman asked questions about and/or discussed:
 - The depth of the pond and design of the pond. The applicant responded that the depth of the pond will be a minimum 4 feet and that a 15-foot maintenance berm would be provided as it is required by the County.
 - The community area suggested by staff in their memorandum (Exhibit K). Mr. Benalcazar responded it would be considered as part of the final development plan.
 - Whether side load garages and fences would be allowed. Mr. Benalcazar responded these items would be addressed in the plan's covenants.
 - If the applicant would be willing to work with neighbors in regards to the placement of trees. The applicant responded that they would be willing to do so.
 - If there would be an age restriction in the covenants. The applicant responded no but this product type tends to appeal more to empty nesters.
 - The positive fact that all of the required open space is located on the site.
 - If neighboring properties would be impacted by the turn lane. The applicant responded that they did not believe that it would; the needed land would come from the development's side of the road and would be built to public standards.
 - If the applicant would be willing to address any unforeseen drainage issues to surrounding residents. The applicant responded that the stormwater pond will be designed to control release. Mr. Miller added the County would regulate the drainage.

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

- At the end of Board discussion Ms. Goodman asked the applicant if they would like the Board to proceed with a vote or be continued. The applicant replied they would like a vote.

RES. 18-0409001 APPROVAL MOTION – RE-ZONING

Connie Goodman moved: “to reject the Zoning Commission’s recommendation of denial and thus approve, without modifications, the Zoning Map Amendment requested by Katherine Benalcazar to re-zone 42.791 acres located at 4741 Tussic Street, including Parcels 31713001036000, 31713001036001, 31713001036002, 31713001036003, 31713001036004, 31713001036005, and 31713001038000, from the Rural Residential (RR) zoning district, to the Planned Residential Development (PRD) zoning district (ZC 2018-01); incorporating Exhibits A through O.

This motion to approve the Re-Zoning application, which is subject to referendum, will otherwise go into effect 30 days from today and is based on the following Findings of Fact and Conclusions:

1. Although the 2016 Genoa Township Comprehensive Plan aspires to a net density of 0.75 units per acre in Planning Area IV, the Genoa Township Zoning Resolution allows up to 2.2 units per net developable acre in a Planned Residential Districts (PRD). Moving slightly beyond the properties adjacent to or directly across a roadway from this property, one finds other PRD’s including Vinmar Farms and Medallion. As such, this pattern appears consistent with the manner in which township growth has and will likely occur. The proposed plan is 1.89 units per net developable acre, and although a lesser density would be desirable, it is within the allowable density for a PRD.
2. The property is likely to have access to sewer to reduce the potential of septic failure and to provide more controlled drainage from runoff. Thus a higher density may be accommodated.
3. The Zoning Resolution requires a minimum of 50% open space/common open space. The proposed plan provides 51.73% open space/common open space, thus exceeding the requirement. Additionally, all open space is on-site and readily available to the plan’s residents; none is off site as has occurred in some prior plans.
4. Minimum requirements of a PRD for building setbacks and height, square footage, and lot size are all met by this plan.
5. The applicant has committed to comply with all requirements set by the Delaware County Engineer’s Office and the Genoa Township Fire Department.
6. No divergences from the Genoa Township Zoning Resolution have been requested at this time.
7. With the exception of concerns expressed related to density and lot size, the applicant has attempted to work with adjacent property owners and has made reasonable attempts to mitigate concerns about safety, specifically those noted at the eastern–most pond.
8. Although the Zoning Commission stated several concerns related to Sections 901.01 A, D, and F of the Zoning Resolution, the adherence to other more specific and detailed entries within the Article 9 requirements of the Code beyond Section 901, “Intents and Purposes”, would imply that these more general concepts are met. Moreover, per Section 901.02B, this planned development would provide additional tax benefits to the township as well as increased social benefits for the residents of this community beyond that of a single resident. Section 901.02.C suggests provision of a more useful pattern of open space and recreations areas; this plan provides for a useful pattern and retention of open space and passive recreation areas for a greater number of residents than current usage provides.

Conditions:

1. The applicant has agreed to provide all materials and revisions as identified and acknowledged this evening and in staff reviews.
2. The applicant will provide and updated/corrected plans, as appropriate, to the Genoa Township Zoning Office.”

Seconded Karl Gebhardt.

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

- Mr. Dantonio spoke to his position of opposition and stated that he disagrees with the other Trustees findings and conclusions. He added the proposed plan is in direct violation of Comprehensive Plan. Ms. Goodman stated that she believes the plan complies with the Zoning Resolution. Mr. Gebhardt stated he believes it would be a violation to go against what has been advised by legal counsel.

VOTE: Goodman-yes; Dantonio-no; Gebhardt-yes.

RES. 18-0409002 APPROVAL MOTION – DEVELOPMENT PLAN

Connie Goodman moved: “to reject the Zoning Commission’s recommendation of denial and thus approve, without modifications, the Preliminary Development Plan proposed by Katherine Benalcazar to construct 64 single-family homes on approximately 42.791 acres located at 4741 Tussic Street, including: Parcels 31713001036000, 31713001036001, 31713001036002, 31713001036003, 31713001036004, 31713001036005 and 31713001038000, all currently zoned Rural Residential (RR), to be rezoned to Planned Residential Development (PRD) (ZC 2018-01); incorporating Exhibits A through O, and any commitments made by the applicant during this hearing, including, and I will not re-read the Findings of Fact but say as I stated in the prior motion.”

Seconded by Karl Gebhardt.

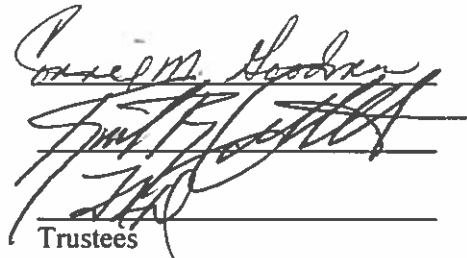
- Mr. Dantonio reiterated his opposition.

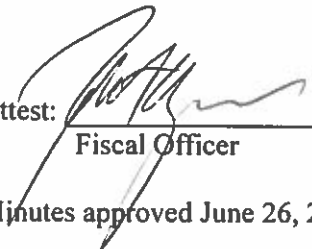
VOTE: Goodman-yes; Dantonio-no; Gebhardt-yes.

Trustee Goodman announced the hearing closed at 9:35 p.m.

Connie Goodman moved to adjourn this meeting at 9:44 p.m. Seconded by Karl Gebhardt.

VOTE: Goodman-yes; Dantonio-yes; Gebhardt-yes.


Trustees

Attest: 
Fiscal Officer
Minutes approved June 26, 2018.

A full and accurate account of this meeting’s audio can be found at www.genoatwp.com

**Genoa Township Board of Trustees
Delaware County, Ohio
Special Trustee Meeting April 9, 2018**

OTHERS PRESENT AT THE MEETING:

- | | |
|--------------------------------|---------------------------------|
| 1. Anne Filbert | 4658 N. Shore Dr. |
| 2. Gary Scheideger | 4881 Tussic St. |
| 3. David Blair | 4742 Tussic St. |
| 4. Bob Lombardo | 4909 Tussic St. |
| 5. Patsi Morris | 4870 Tussic St. |
| 6. Marilyn Paselsky | 8181 Oxbow Rd. |
| 7. Janine Schroeder, (handout) | 4690 N. Shore Dr. |
| 8. Luke Schroeder | 4690 N. Shore Dr. |
| 9. Nancy Tomei | 4737 N. Shore Dr. |
| 10. Tom Maynard | 4687 N. Shore Dr. |
| 11. Donna Froehle | 4781 N. Shore Dr. |
| 12. Roy Stein | 4737 N. Shore Dr. |
| 13. Gwen Abell | 8141 Oxbow Rd. |
| 14. Anna Olivia | 4710 N. Shore Dr. |
| 15. Connie Sauter | 4625 N. Shore Dr. |
| 16. Ken Davis | 8343 Oxbow Rd. |
| 17. Jim Carter | 9543 S.Old 3C Hwy. |
| 18. Renee Vaughan | 6368 Mahogany Dr. |
| 19. Annetter McMurry | 3690 Worthington Rd. |
| 20. Catherine Nelson | 400 S. Old 3C Hwy. |
| 21. Wendy Landis | 5085 Tussic St. |
| 22. Sandy Young | 7700 Plumb Rd. |
| 23. Chris Daniel & R Bess | 7178 Marrissey Loop |
| 24. Bradley Moore | 10689 Keller Pines Ct. (Harlem) |
| 25. Mark Stelzer | 7731 Big Walnut Rd |