

**VILLAGE of SUGAR GROVE
REGULAR MEETING of the
PLAN COMMISSION/ZONING BOARD of APPEALS
MINUTES of August 19, 2015**

1. CALL TO ORDER

The meeting of the Sugar Grove Plan Commission / Zoning Board of Appeals (ZBA) was called to order at 7:01 p.m. by Chairman Irv Ochsenschlager in the Village Hall Board meeting room.

2. ROLL CALL

Plan commission/ZBA members present:

Irv Ochsenschlager, John Guddendorf, Gregory Wilson, Jim Eckert, Heidi Lendi and Rebecca Sabo

Also present: Mike Ferencak, Village Planner and Walter Magdziarz, Community Development Director

3. Approval of Minutes of the April 15, 2015 Plan Commission Meeting

Commissioner Eckert requested a change on page 4, he asked that 'confirmed' be changed to 'asked'.

A motion was made by Commissioner Eckert and seconded by Commissioner Guddendorf to approve the minutes of the April 15, 2015 Plan Commission meeting as corrected.

The motion carried by unanimous voice vote.

Approval of Minutes of the May 20, 2015 Plan Commission Meeting

A motion was made by Commissioner Guddendorf and seconded by Commissioner Sabo to approve the minutes of the May 20, 2015 Plan Commission meeting as presented.

The motion carried by unanimous voice vote.

Approval of Minutes of the June 24, 2015 Plan Commission Meeting

Commissioner Eckert asked when Mary Heineman left the Plan Commission and asked if that should be noted in the minutes. The roll call vote total for the 769 N. Heartland Drive Special Use should be 3-1 as Commissioner Eckert abstained from that item.

A motion was made by Commissioner Eckert and seconded by Commissioner Guddendorf to approve the minutes of the June 24, 2015 Plan Commission meeting as corrected.

The motion carried by unanimous voice vote.

Approval of Minutes of the July 15, 2015 Plan Commission Meeting

Commissioner Eckert commented that Eola should be EOLA, which stands for ‘end of the line Aurora’.

A motion was made by Commissioner Lendi and seconded by Commissioner Sabo to approve the minutes of the July 15, 2015 Plan Commission meeting as corrected.

The motion carried by unanimous voice vote

4. **PUBLIC HEARING**

None

5. **OLD BUSINESS**

None

6. **NEW BUSINESS**

- a. Petition 15-012: 4S041 Merrill Road – ETJ Rezoning and Special Use (Margaret Mangers)

This request is for property within the 1.5 mile distance of the Village limits. **Mr. Ferencak** gave an overview summarizing the staff report. The request is for rezoning from F to F1 for the house and is recommended by staff. The other request is for rezoning of the property that currently has the produce sales to F2 with a Special Use for produce sales; and staff is requesting that the use and operation of the property be limited to the current structures, use and operation of the property. They may add a few items that were mentioned in the application to the County.

Commissioner Guddendorf inquired if this would eliminate the off-site sales at Route 47 and Merrill Road and cause them to only have sales at the farmhouse location. The Village annexed that corner property in 2013 and off-site sales are not allowed. When the owner of the subject property sold the surrounding land to a developer in 2000’s, it effectively made the subject property nonconforming with County zoning. The petitioner is trying to make the property conform to County zoning. The original application started in January 2015. The subject property and surrounding property together are the Nickels Farm. The petitioner, Mangers, is Mr. Nickel’s sister.

Discussion was held regarding the Village force annexing this parcel. This application would be moot if that happened. Under the zoning ordinance, upon annexation it would automatically be zoned E-1 Estate Residential District. However, the Village could ask the property owner to propose annexation and agree to sign an annexation agreement that would establish certain zoning and conditions for continued use. **Commissioner Guddendorf** stated he thought it would be cleaner to have the Village annex it. If it’s just annexation it would go to the Village Board

but if there's a Rezoning or Special use involved, it would come back to the Plan Commission.

The parking is open grass. They aren't proposing anything additional to the produce sales.

Commissioner Guddendorf made a motion seconded by **Commissioner Eckert** to recommend approval per the staff recommendations.

The motion carried by unanimous voice vote

- b. Petition 15-006: Permitted and Special Uses – Text Amendment (Village of Sugar Grove)

This has not been published for a Public Hearing yet. **Mr. Ferencak** stated that staff would like to focus on two things: continued discussion of the uses and specific comments that were raised regarding them but also keeping in mind how these fit in current zoning districts and corresponding purpose statements - or do we want to adjust the zoning districts? Ultimately the goal is to get the uses into zoning districts that make sense. The table has not been updated since July. The redlined draft from the last meeting is included with the information tonight.

Commissioner Eckert highlighted specific items in the use table. Combining uses or keeping them separate were discussed in many instances. Which uses should be permitted or special was discussed. **Mr. Ferencak** suggested that each commissioner say what they think should be combined and he'll coordinate a comprehensive list. Definitions may need to be researched and perhaps, modified to help with these.

Commissioner Eckert suggested uses be listed as permitted, not-permitted, and all others not listed come to the Plan Commission for review as a Special Use to simplify it. Staff said that approach would present various problems, legal or otherwise. By creating a list of not-permitted uses it would imply that any use not listed as permitted or not-permitted should be a Special Use, which may present problems given that every possible use cannot be dreamed of ahead of time. And at the same time it would be more restrictive to development in that every time a Special Use arises for the first time, both a Text Amendment and Special Use would be required.

A Special Use requires a public hearing before the Plan Commission and allows conditions to be added to the approval of the use. Most uses have been listed in the Zoning Ordinance since adoption, but a few have been added or modified over the years. The trend with other towns was also discussed.

The A-1 District is rarely used in the Village. Reviewing each use as permitted or special in each district is necessary to make sure the permitted uses are identified.

If something really outrageous was proposed, it might not get approved, but normally the Village has approved most Special Uses. Both Special Uses and Text Amendments require public hearings.

Many different scenarios were reviewed and discussed.

Updating the Zoning Ordinance won't change the zoning in place for various properties but if any uses are eliminated that exist in the Village, those properties would become legal nonconforming and there are limitations on that use continuing if it ceases operation for a period of time. If the uses listed in the Zoning Ordinance are improved it may become less necessary to have a separate use list tailored to each commercial PUD.

Commissioner Sabo stated she would like pet grooming listed as a permitted use in the B-2 district instead of a Special Use.

Legal non-conforming uses were discussed further. Any time a property comes up for discussion it's checked for current zoning, including PUD or Annexation Agreement.

Professionals review the zoning use list prior to advising clients on pursuing bringing in a certain business. If it is blank they will usually advise them to look elsewhere as it's not allowed. **Commissioner Sabo** explained that it is easier on the inspectors and professionals if it is marked clearly in the chart as permitted, special use or blank (not-permitted).

Any time there are two uses planned together the predominant one is what is used as long as the second one is truly ancillary.

Staff will send out to the commission a blank table, the definitions, and the updated use list (with specific updates from this and the previous meeting and the Commissioners' and staff recommendations included). Each Commissioner will mark the uses how they would like to see them - as permitted, special or not permitted (blank) and return it to staff by September 2, 2015. Then staff can compile all the tables together for further discussion at the next regular meeting on September 16, 2015.

7. **PLAN COMMISSIONER COMMENTS, PROJECTS UPDATES and MISCELLANEOUS INFORMATION**

Orleans Homes – was bought out by Taylor Morrison and Prairie Glen Unit 1 only has 6 lots left to build on and 10-12 that are owned by other entities.

769 Heartland Drive PUD – Top Pick Athletic Company – the development team has not been ready to start. The plan was that they were being allowed to put in a

foundation while the Commission and Board were performing their review. The Board approved the at risk permit and the Building Division was prepared to issue the permit but they weren't able to provide the building information necessary at that time.

Settlers Ridge – on hold due to litigation. In June the trial ended. The Village Attorney provided the written summary argument for the judge, the responses were given and the judge has it all but there is no time table for a response. The Village is requesting the bond company to perform and complete the public improvements on-site for Units 1A and 1B. The first trial was to determine that the bond company was responsible and this trial was to determine what they would pay. Prior to the trial there was a settlement meeting but no determination was reached. The current owner that bought the land after Kimball Hill wants to renegotiate the annexation agreement. Currently they have to abide by the terms of the existing annexation agreement.

Prairie Pointe Assisted Living Facility – approximately 2-3 weeks out from building permit submittal. They are out for bid now and fully expect to be under construction this Fall.

Senior Living Apartments – about ready for occupancy.

American Heartland Bank – site paved and is coming together. Occupancy should be coming shortly. A bike path will be added along Wheeler Road and a sidewalk along Route 47 after the Village does the intersection improvements.

8. **ADJOURNMENT**

A motion was made by Commissioner Guddendorf and seconded by Commissioner Sabo that the meeting be adjourned at 7:54 p.m.

The motion carried by unanimous voice vote.

Respectfully submitted,
Holly Baker
Substitute Recording Secretary