

V. Ch. Spellman called the May 5, 2016 Regular Hinckley Township Zoning Commission meeting to order at 7:03 p.m.

Roll Found: Spellman, Powell, Dermody, Schneider and Marzullo present. V. Ch. made note that Trustees Catherwood and Schulte were present. Excused Absences were Ch. Kman and Alt. Kamps. Also in the audience was Doug Krause, developer of Ledges of Stone Creek. Zoning Inspector (ZI) Schaefer arrived after the meeting began.

V. Ch. Spellman asked if everyone received a copy of the minutes from the April 7, 2016 meeting and if so, were there any corrections to be made to the minutes? There were no comments.

V. Ch. Spellman asked for a motion to approve the minutes of the Regular Zoning Commission Meeting held on April 7, 2016. Ms. Dermody moved to accept as submitted, and Mr. Schneider seconded. No further discussion.

V. Ch Spellman polled the board and asked if everyone was in favor of approval. All in favor.

V. Ch. Spellman noted that before reviewing the old business on the agenda, that he would jump to New Business – which is the Preliminary Site Review for the Ledges of Stone Creek.

V. Ch. Spellman stated that the purpose of tonight's meeting is to review the May 5<sup>th</sup>, Preliminary Site Review request for Ledges of Stone Creek Subdivision proposed by the applicant Legacy Carrington Development Group (Doug Krause).

V. Ch. Spellman commented that the role of tonight's board will be to review the proposal in accordance with the Zoning Resolution per section 11.7 as follows: 1) conforms with the applicable sections of the code; 2) is designed to preserve the natural amenities of the site; 3) will result in harmonious grouping of buildings in relation to existing and proposed uses on adjacent property; and 4) meets the objectives of the Township's Master Policy Plan and Zoning Resolutions.

V. Ch. Spellman asked that all commentary and questions be based on the zoning code and comments are based on facts.

V. Ch Spellman asked if everyone had received the multiple copies of the information provided through the Zoning Office by both electronically and by mail. Everyone responded that they had received the materials.

V. Ch. Spellman commented that he, along with Ch. Kman attended the County (Planning Commission) review of the proposal last night. He noted that both Trustees Catherwood and Schulte were also present. V. Ch. Spellman commented, in short, the County approved the proposal with modifications.

V. Ch. Spellman referenced the Planning Commissions Executive Summary and read the Staff Recommendations as follows: (The County Commission noted that items are required and be included in the corrected Preliminary Plan)

1) Provide the following required data:

- a) Submit USACE correspondence;
- b) Indicate soil prone to flooding;
- c) provide a map insert indicating all related watershed boundaries, and
- d) submit NOI if applicable.

2) Address Highway Engineer's comments and Tax Maps comments prior to Final Plat submittal.

3) There is a note on the Preliminary Plan that there will be no direct vehicular access to Center Road from Sub lot 1. This note should be placed on the deed.

4) Indicate a 25' riparian buffer from all streams regulated by Chapter 17 of the Hinckley Township Zoning Resolution.

5) Add a note on the Preliminary Plan stating, "No walkout basements on sub lots 3, 4, 8, 9, 14, and 15 without an approved engineering study.

V. Ch. Spellman noted, in closing to the Executive Summary, that the county staff recommendation was to approve the Preliminary Plan for Ledges of Stone Creek with the noted modifications – with a vote of 4 to 1 (in favor of the proposal).

Mr. Powell asked what the reason was for the one vote against the proposal. V. Ch. Spellman commented that the individual was looking at it from more of an environmental perspective, with concerns with sub lot 16 being a little congested.

V. Ch. Spellman commented that the Zoning Commission's role is somewhat limited. He commented that it is the County who has the responsibility of final approval or denial of the subdivision. The Zoning Commission's role will be to provide feedback and recommendations. V. Ch. Spellman stated that the noted comments, along with the recommendation of approval or denial will be passed back to the County to serve as input from the Zoning Commission Board, as has been done so by other County agencies.

V. Ch. Spellman asked for comments, questions or concerns from the board.

Mr. Marzullo asked if the landscaping easement should be designated as its own sub-lot that is owned by the Home Owner's Association (HOA) as opposed to an individual. Z.I. Inspector Schaefer answered that usually landscaping easements are located on individual lots – with the landscape easement being considered like common ground and maintained by the HOA.

Mr. Marzullo clarified that essentially it is property owned by the individual that the HOA is required to maintain. Z.I. Schaefer responded that that was a fair analysis. Mr. Krause commented that this is a situation in most of the subdivisions and referenced the Estates of Stone Ridge having a landscape easement at the entrance on its first two sub lots.

Mr. Krause commented that what they provided in their Declaration, (included in the submittal package) was the Establishment of an Easement for landscaping purposes to the Association for the front entrances coming down the east side of the road into the subdivision. Mr. Krause commented that in the same document it provided the easements to the Association for the maintenance of all the storm water management components of the subdivision that are also located on the private sub lots.

Mr. Marzullo stated the reason why he asked the question was that looking at the landscape easement on the west side of the proposed lot that it seemed like a rather large easement. Mr. Krause agreed that it was a lengthy easement, but its purpose was to create a buffer to 303. Mr. Krause explained the proposed location of the house and the topography of the lot.

Mr. Marzullo commented on the size of the landscape easement and the acreage of sub lot 1. After further discussion, Mr. Krause stated that the lot was over two acres and the easement could be changed, however, changing the landscape easement could create an adverse effect on the overall intent of the buffer. Mr. Krause referenced the landscape easements at Arborcrest and Kensington and how they run the length of the roads.

Mr. Krause offered his name "Douglas Krause" and one of the developers of The Ledges of Stone Creek. He is with Carrington Homes right here in Hinckley and is partnered with John Sumodi of Legacy Homes - together creating Legacy-Carrington as the development group.

Z.I. Schaefer added that other plans have gas easements such as Crystalbrooke. He commented that people have the right to enter an easement for maintenance purposes. It's just an easement, but on a two acre lot.

V. Ch. Spellman remarked on the topic of easements and that there are two retention basins; one on sub lot 15 and the other on sub lot 10. They also have the same situation with easements placed on them for the HOA or anyone else to gain access for maintenance purposes.

Mr. Powell asked about the location of the road and where it was situated. He asked if it had been moved. Mr. Krause commented that it had been shifted further west to maintain distance for spacing requirements with Kuder and Skyland Roads as requested by the Police Department. It was moved about 35 ft. further west. The current driveway does not represent the actual location of where the road will be placed. Further discussion ensued.

Mr. Schneider asked Z.I. Schaefer if the proposal met all the Zoning Codes for Hinckley. Z.I. Inspector responded yes. There had been some concerns with Riparian setbacks and location of homes, and until someone is ready to build the plan shows the area in which a home can be built. He cannot designate wetlands, and that Soil and Water requirements have to be met. An approved Storm Water permit must be issued before a home can be built.

V. Ch Spellman stated that it is worth noting that in reviewing the packet that was received from the County that throughout the process, all kinds of folks and agencies have provided their comments including our Service, Fire, Police, Trustees, and Zoning who have listed out in detail their comments and feedback which are duly noted in the packet from the County.

Mr. Krause added that they went out and hired a resource group for wetland delineation on the entire site and was submitted to and approved by the Army Corps of Engineers. There is 4900 + linear feet of stream on this development site and it only impacts 200 ft. There is a little over an acre of wetlands and less than a ¼ of acre will be impacted. All the other wetlands and streams that they are not permitted in will be granted as Conservation Easement. It will be established in the declaration that no activity can take place in those areas. In addition to the Township's Zoning requirements for Riparian setbacks and wetlands, the declaration will protect the wetlands as well. Areas will be flagged during the construction process.

Mr. Powell commented for clarification that the proposed 16 lots are buildable lots. Mr. Krause responded that yes, all lots are buildable lots. The lots to the north are buildable by use of bridges and will be constructed as part of the road construction. The bridges will be constructed by the developer per the county's request. This is reflected in the Highway Department's comments within the Executive Summary.

Trustee Catherwood asked if it would revert to the private property owner and Mr. Krause's response was that yes, it would be the property owner – not a township responsibility. He referenced the comments noted in the Executive Summary on page 4 or 5.

Mr. Powell asked who determines how the bridge is constructed and if safety standards are met. Mr. Krause commented that it would be the County Engineer that would approve through the driveway permits. The plan is that the bridges will be made with the use of rail cars. The rail car can come in 89 foot lengths and hold up to 154,000 lbs. of load. The rail car is placed on the bridge mounts or on concrete. Side guard rails would be in place. Mr. Powell asked if this was an approved process and Mr. Krause responded yes and can be purchased as ready built.

Mr. Powell inquired if Legacy Carrington would be developing the subdivision or selling the lots. Mr. Krause responded that they are both the developer and the builder for the subdivision. (Carrington Homes and Legacy Homes will build all the homes and already have turned down other builders who had inquired about the lots. Lots will be sold with the house plan.)

V. Ch. Spellman asked the Commission if they had any further questions. There were no comments noted.

V. Ch. Spellman asked the Trustees if they had any comment or questions. There were no comments noted.

V. Ch Spellman asked Z.I. Schaefer if he had any questions. Z.I. Schaefer commented that Bill Thorne had some comments regarding the HOA document and the Trustees handled that. Trustee Catherwood intervened and said that the review of the HOA document was part of this review process through the Commission and Zoning Inspector to assure that the Zoning Regulations are met. V. Ch. Spellman asked for clarification and Trustee Catherwood responded that the Commission must make sure that it meets the Township's conditions – that's why the document goes to the Legal Advisor for review. Trustee Catherwood commented that there were only a few comments from Bill Thorne.

Ms. Dermody asked if this was a standard document. Trustee Catherwood commented yes. Mr. Krause stated that this declaration is a little more detailed than some of the others that they had reviewed for Hinckley.

Mr. Powell asked how you keep the HOA from falling apart. Mr. Krause responded that that is a common concern with any HOA as it is all by volunteer; enforcement of restrictions and financial liabilities is also a concern. Further discussion ensued. Mr. Krause felt that with the type of homes going in, that there should be a lot of motivation to continue to maintain the association.

Mr. Powell commented for clarification that the HOA is responsible for the storm water areas. He asked what the homeowners association's authority was for maintaining the pond. Mr. Krause responded yes it is the Homeowner's Association obligation and that they have the ability to maintain the designated areas. The hope is that the property owner over sees the property for pond maintenance. There is an assessment process through the HOA in the event it is determined that repair to the pond is necessary.

Mr. Schneider asked if it will be the property owner's obligation to maintain the landscape easement or the HOA. Mr. Krause responded that the landscape easement will be maintained by the HOA and the balance of the property will be maintained by the property owner.

Mr. Marzullo asked for clarification as to the area to be maintained by the HOA. Mr. Marzullo asked if the property owner can tear out the landscape easement if they don't like it. Mr. Krause responded no, the property owner does not have the authority to change or remove the landscaping. It is an easement to the Association – the Association is the easement holder. The homeowner does not have the right to

remove or modify the landscaping. There is delineation between the easement and owner's property. Additional discussion ensued.

Ms. Dermody asked for clarification of the Declaration and Mr. Krause reviewed its purpose. He confirmed that there were no changes made to the bylaws since he made application to the Zoning Office.

Z.I. Schaefer commented that the Prosecutor has looked over the document. He reiterated that Bill Thorne's suggestions be included with the Commission's motion if the board accepts the application and that those suggestions be taken care of.

Trustee Catherwood asked about the retention pond, and common areas. Will the areas be called Restricted Common areas? Mr. Krause stated that they did not define as common areas because there is no ownership of land in the Association. They defined those areas as easement areas covered by the Association. Trustee Catherwood asked if the definition will clarify the common area? Mr. Krause stated that there is no right for anyone to enter the easement area or to use the easement, unless it is for the purpose of the HOA, within its capacity or officer or hired contractor designated to assess the easement property. Mr. Krause stated that this will be delineated in the document.

Z.I. Schaefer was in concurrence with Trustee Catherwood based on experience with other sub-divisions. He also pointed out that that was a comment from the Prosecutor's office. At that time, everyone was given a copy of the comments from Bill Thorne. Trustee Catherwood shared her copy with Mr. Krause.

Mr. Schneider asked that if there is a problem found, will it be the HOA contacted first. And to clarify added if the bylaws are violated? Mr. Krause responded that in his HOA, he is contacted since he is the President of the HOA. Otherwise, the Zoning Office is contacted.

Mr. Marzullo commented on the storm water management areas. On sub lot 15 as well as sub lot 10 there is a retention pond – he is concerned with the fact that there is a retention pond on the property owner's lot, that they can't do anything to, and that they cannot use it. A lengthy discussion ensued.

Mr. Krause clarified that the property owner cannot change the pond, or modify it – the purpose of the pond is for storm water management for the entire development. They cannot do anything that is inconsistent with the use of area for storm water purposes. It is heavily designed and a permitted feature. It is considered as common area for the purpose of maintenance by the Association, but not for the purpose of common use (i.e. the neighbor cannot come over to fish – no public use). The property owner may landscape, fish, swim, add a fountain, and keep the area aesthetically pleasing. At no time can the owner modify it to change the structure or the level of water. Docks or gazebos would be frowned upon. He added that he believes that this was an area that the Prosecutor's office commented on to clarify, and Mr. Krause assured that they would do so.

Z.I. Schaefer remarked that the easements must be kept free from structure for free and clear access in the event assessment or repair is necessary. No change to bank, spillway etc. A lengthy discussion ensued. Liability is the property owner's responsibility through their insurance.

V. Ch. Spellman asked if there were any more questions from the board or from the floor. No comments were noted from the board.

Trustee Catherwood stated that Mr. Krause did a great job with this development considering that this was a challenging site — she added she was personally impressed with the care that went into the planning of this site and something that we usually don't see.

V. Ch. Spellman stated he would entertain a motion for approval of this subdivision. Mr. Marzullo moved. Mr. Schneider asked that we institute the letter from Bill Thorne and that it be included with the motion. V. Ch. Spellman asked if Mr. Marzullo would amend his motion to add that the feedback from the prosecutor be included in the motion or addressed as part of the motion. Mr. Marzullo amended the motion to include the feedback from the prosecutor as well as everything that we got from the county board. Ms. Dermody seconded.

**Vote: Marzullo, yes / Schneider, yes / Dermody, yes / Powell, yes / Spellman, yes. All in favor.**

V. Ch. Spellman jumped back to Old Business and commented that the first item he wanted to note was the Solar, Wind and Outdoor Fire Place that had been previously discussed. After discussing with Ch. Kman, they suggest tabling until the end of second quarter (Q2) into third quarter (Q3) for the purpose of cleaning up some items recently identified in the last month or so.

V. Ch. Spellman addressed the two first items noted for Old Business: To Review and compile a list of proposed text changes from prior meetings; and to review the Zoning Regulations for Master Policy Plan/Comprehensive Plan text. He stated that he began compiling a list and identified the following:

- 1) New item: 11.2.A reference to the Township Zoning Commission, in both the Preliminary and Final Site Plan reviews, having the jurisdiction to do those types of reviews for subdivisions. There is question from the County level, whether or not the Zoning Commission has the authority to consider a Preliminary and Final Site review for subdivisions. Susan Hirsch, from Planning Services suggested that the Zoning Commission review that section of the code and change it up a bit. (i.e. remove the word subdivisions or change the wording of subdivision and determine the intent of the language). For future subdivision planning, the code should outline the role of the Zoning Commission, if any, for review of a subdivision - Preliminary or Final?

Trustee Schulte added that there are some questions, and Susan Hirsch has agreed to attend the next Zoning Commission meeting on June 2, 2016 to assist with some language and clarification to the intent of the text. Bill Thorne from the Prosecutor's office has also offered assistance should it be requested.

Trustee Schulte encouraged the Board members to attend as many Zoning Work Shops scheduled, as there is valuable information to learn, especially for the new board members. Additional discussion ensued regarding the uniqueness of the township and zoning codes and the role of the Zoning Commission.

V. Ch. Spellman gave a quick recap of the process to updating the Zoning Book over the last three or so years – the book was reformatted, inconsistencies were identified, and new language was added and or changed. He added that there are a few things in the book that may give opportunity to improve upon, but it will be the overall Board's decision to recommend the change.

V. Ch. Spellman referenced Section 519 of the Ohio Revised Code and commented that if there are things in our code that do not conform with the Ohio Revised Code, that we should review and make the necessary changes. Over the last month or so, the County mentioned a few items that the Commission should address or at least look at for conformity.

V. Ch. Spellman went back to the list and noted the following:

- 1) 11.2.A. – Does the Commission do Preliminary and Final Site Plan reviews for subdivisions?
- 2) Height exception for the Industrial area (in reaction to Aldi's HVAC units)
- 3) Fences as part of the design criteria in the Conservation Developments (6R1.7 C&D)
- 4) Definition of a "lot" – Prosecutor recommends that the definition be looked at
  - Trustee Schulte commented that there is language in the Ledges of Stone Creek HOA document that was taken directly from our code referencing a "lot". According to Mr. Thorne, this language appears to be ambiguous if challenged. Mr. Thorne highly recommends that this be addressed, referencing 9.1.3 in the proposed HOA document. Trustee Schulte stated that "lot of record" was recommended to be added. Z.I. Schaefer offered comments regarding history of codes and what type of long term affect there is. Additional discussion ensued.
- 5) References to the Master Policy Plan – identified 10-12 places that the Master Policy Plan is referenced.
  - V. Ch. Spellman noted that there are areas where it is correctly referenced and two areas that are questionable. V. Ch. Spellman gave an explanation as to why the Board will review the content.
- 6) Suzanne's/Bill's findings – compiling list and will incorporate V. Ch. Spellman's list
- 7) Signage – "Exempt Signs" Real Estate Signs with no time limit

V. Ch. Spellman stated that over the next couple of months, the Board will review the book and then formally adopt the change. He explained that there is a very strict process that has to be followed and legal process with timelines. It is easier to pass 20 items at one time verses individually.

V. Ch. Spellman stated that Susan Hirsch from Planning Services, who worked with the Board previously, will be attending the June 2, 2016 meeting. At that time she will share her insight and provide clarification, intent of language and guide the Board through the necessary text changes.

V. Ch. Spellman added that the Board of Zoning Appeals (BZA) is welcome to offer their comments from their perspective. Trustee Schulte will reach out to the board. V. Ch. Spellman also asked the Commission to review the text as well, and list out what they think needs addressed.

Mr. Powell asked if there will be a prepared agenda for the upcoming meeting, and if Susan Hirsch will have an idea of the subject matter before the meeting. V. Ch. Spellman asked if the compiled list could be forwarded to Susan Hirsch as well as the Board before the meeting and Ms. Peterlin responded that a list will go out before the meeting.

V. Ch. asked the Board if they had comments.

Mr. Marzullo requested that he be notified electronically, verses by mail. Ms. Peterlin stated that she emails information to the Board and then sends the information through the postal system, when applicable.

Mr. Schneider asked for clarification regarding the Master Policy Plan and when it is referenced in the Zoning Book. V. Ch. Spellman commented that each reference will be reviewed to determine if a change is necessary or to leave the text as written.

Trustee Schulte commented that the interview process will begin Tuesday for the Part Time Zoning Inspector position.

V. Ch. Spellman asked the board for any old or new business and their reports: No comments noted from the members.

V. Ch. Spellman offered the two items 1) compiling a list and 2) Susan Hirsch attending next meeting - which he had already addressed. He added that Ch. Kman had no report to give.

From the floor, Trustee Schulte added that there will be a Zoning Work Shop coming up – so look for information and plan to attend.

V. Ch. Spellman noted that the next meeting will be held June 2, 2016 at 7:00 p.m.

V. Ch. Spellman asked for a motion to adjourn the meeting. Mr. Marzullo moved and Schneider seconded. All in favor.

Meeting was adjourned at 8:30 p.m.

Suzanne Peterlin, Acting Recording Secretary

Minutes Approved: \_\_\_\_\_, 2016

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William Spellman, Vice Chairman

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Calvin Powell, Member

\_\_\_\_\_  
Diane Dermody, Member

\_\_\_\_\_  
Bruce Schneider, Member

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Matt Marzullo, Alt. Member (Member)