

MEMORANDUM

To: Dublin City Council
Dana L. McDaniel, City Manager

From: Jennifer D. Readler
Thaddeus M. Boggs

Date: April 6, 2017

Re: Application for Placement of Farmland in an Agricultural District
Property Address: 3910 Summit View Road, Dublin, Ohio 43016

At its March 20, 2017, meeting, Council conducted a hearing on the application of property owners Paul and Audrey Tobias to designate the parcel located at 3910 Summit View Road as an agricultural district under Chapter 929 of the Revised Code. Council received a memorandum explaining agricultural district status and hearing procedures in its packet for that meeting.

I. QUESTIONS FROM MARCH 20TH COUNCIL MEETING

During the hearing on the application, two issues arose that prompted this supplementary memorandum: (a) the nonconforming use status of the horse boarding and riding facility on the parcel; and (b) notice to nearby property owners, who would be impacted by the agricultural district's defenses to nuisance claims.

A. Nonconforming Use

Horse boarding and associated riding activities are agricultural uses. Agricultural uses are not permitted or conditional uses in the R-1: Restricted Suburban Residential zoning district, the zoning designation applicable to the 3910 Summit View Road parcel. Therefore, agricultural uses are prohibited in the district.

Nonconforming uses provide an exception to the general rule. A nonconforming use, under Dublin's zoning code, is "[a] use of land or a structure lawfully existing at the effective date of [the zoning] chapter or amendments thereto which does not conform to the use requirements set forth in [the zoning] chapter for the district in which it is located." Codified Ordinances (C.O.) § 153.002(B)(14)(g). Nonconforming uses provide a safety valve allowing previously lawful uses to continue "until they are removed, but not to encourage their continued use or expansion" except in specifically designated situations. C.O. § 153.004(C).

The situations where a nonconforming use may be allowed to expand or continue are:

- Change “to a use found to be more nearly in character with the zoning district in which the nonconforming use is located;” and
- Expansion “within an existing structure manifestly arranged or developed for such use.”

Both situations require approval by the Board of Zoning Appeals before the requested action can occur. C.O. § 153.004(C)(3). If a nonconforming use is discontinued for a period of two years or more, the nonconforming use cannot be reestablished. C.O. § 153.044(C)(3)(d).

At the hearing before Council on March 20, Mr. Tobias stated his understanding that the property has been used as a commercial horse boarding and riding facility for approximately thirty years. He and his wife intend to continue that use for the foreseeable future. He said the facility is currently in the process of being renovated, which is expected to take a few months. Meanwhile, the horses are boarded elsewhere. In response to a question from Council, he stated no expansion is currently being discussed, only renovation of the existing facility.

No evidence suggests that the use of the property as a horse boarding and riding facility has ceased for two years. Therefore, the nonconforming use can continue. Physical expansion of the facility housing the nonconforming use, however, is not permitted. All nonconforming use activities are limited to the existing structure, and expansion within those structures requires approval of an appeal by the Board of Zoning Appeals, per C.O. § 153.044(C)(3)(c). Doubling the number of horses in the facility—from 40 to 80, for example—would be an expansion of the use requiring Board approval. The renovations mentioned by Mr. Tobias are not expansions; Mr. Tobias stated his intention that the renovated facility will hold slightly fewer than the previous capacity of 40 horses.

To expand the nonconforming use by constructing new facilities or adding onto existing facilities, the property would need to be rezoned. The nonconforming use provisions in the zoning code do not accommodate physical expansion of facilities housing nonconforming uses. The process for zoning map amendments (rezoning) is governed by C.O. § 153.234. These amendments may be initiated either by Council on its own motion, by motion of the Planning and Zoning Commission, or by application of an owner or lessee of land within the area to be rezoned. Proposed zoning map amendments first receive review from the Planning and Zoning Commission, which makes a recommendation to Council. Council then holds a public hearing, with notice mailed to all owners of property contiguous to, or across the street from, the parcel or parcels to be rezoned.

The agricultural district application Council is considering **does not** affect the property owners’ right to continue the existing nonconforming use or to continue their non-expansory renovations to the stable building. It **does not** rezone the property or otherwise change the property’s status with respect to Dublin’s zoning laws.

B. Notice to neighboring property owners

Mr. Tobias stated that the primary issue prompting the agricultural district application, is the protection the status provides against civil nuisance claims. His concern is based upon the proximity of undeveloped properties and residences, which could potentially be developed in proximity to the horse facilities.

The nuisance defenses available to land within an agricultural district implicate the rights of the property's neighbors because they impair the neighbors' ability to successfully pursue civil nuisance relief. Therefore, Council requested that additional notice be provided specifically to owners of property near the applicant property (the Revised Code governing agricultural district application hearings requires notice to the applicant and via publication; the City fulfilled these requirements).

Accordingly, the Clerk of Council promptly sent notice of the April 10 hearing on the application to nearly 30 property owners along nearby areas of Sawmill Road, Summit View Road, and Glen Cree Place. A copy of the notice sent, as well as a spreadsheet listing the properties for which notice was sent, is attached.

II. COUNCIL OPTIONS

Council has the authority to accept, reject, or modify the application following a public hearing. At the City Council hearing, any interested person or representative of an interested person may submit affidavits or personally appear in support of or opposition to the application.¹ City Council held this public hearing at its March 20th meeting. For Council to modify or reject, Council must demonstrate modification or rejection of the application is necessary:

1. To prevent a substantial, adverse effect on the provision of municipal services within the municipal corporation;
2. For the efficient use of land within the municipal corporation;
3. For the orderly growth and development of the municipal corporation; **OR**
4. For protection of the public health, safety, or welfare.²

Prior to rejecting an application, Council is required to make "every effort" to modify the application. Modifications may include:

1. Changing the length of time during which land is considered to be within an agricultural district;³
2. Changing the size of the agricultural district;⁴
3. Changing the provisions relating to deferral of special assessments for the agricultural district land;⁵

¹ Ohio Rev. Code Section 929.02(B).

² Ohio Rev. Code Section 929.02(B).

³ *Id.*

⁴ *Id.*

⁵ Ohio Rev. Code Section 929.03 – "Agricultural District Exempt from Assessments."

4. Changing the special statutory defenses available to agricultural district lands in civil actions for nuisances involving the land's agricultural activities,⁶ or
5. Changing the restrictions on the appropriation of agricultural district land.⁷

The applicant may appeal modification or rejection of the application to the Franklin County Court of Common Pleas.⁸

If approved without modification, the agricultural district designation lasts for five years. If the owner takes action removing the property from the agricultural district before the five years expires, the owner must pay a penalty. The penalty is calculated as a percentage (based on the average bank prime rate) of the recoupment charge the owner must pay if the land fails to qualify for CAUV status.⁹

This property is also within the boundary of the Special Area Plan for the Summit View/Sawmill Area. That plan calls for redevelopment with a mixture of office uses along Sawmill transitioning to residential uses similar to other residential developments along Summit View. The penalty for removing the land from the agricultural district prior to the five-year expiration may make this land more difficult to market and redevelop due to increasing transaction costs. The penalty for early removal from the agricultural district is relatively small, however, compared to the tax recoupment charges for removing a property from CAUV status.

The County Auditor separately considers the application under Section 929.02(A)(2), but can only make a decision to approve, without modification, or deny. The Auditor must make his decision within thirty days of submission of the application. The Auditor's decision does not affect the City Council's authority to approve, modify, or deny the application.

III. STAFF ANALYSIS

If Council is not inclined to approve the application, the Revised Code requires the City to make "every effort" to modify the application before rejecting it outright. Potential modifications under the Code include:

(a) changing the length of time for agricultural district designation from five years to a shorter period of time;

(b) amending the size of the district so that it does not include lands supporting the residential use on the property; and

⁶ Ohio Rev. Code Section 929.04 – "Defense for Civil Action for Nuisance."

⁷ Ohio Rev. Code Section 929.03 – "Appropriation of Agricultural Land"

⁸ Ohio Rev. Code Section 929.02(B).

⁹ Ohio Rev. Code Section 929.02(D).

(c) modifying the application of Revised Code Sections 929.03, 929.04, or 929.05 to the property.

If Council finds that these modifications, or other modifications determined by Council, do not adequately protect the efficient use of land in the City, the orderly growth and development of the City, or the public health, safety, or welfare within the City, then it is recommended that Council reject the application.

A. Changing the Length of Time for District Designation

The agricultural use at the applicant site is nonconforming in the R-1: Restricted Suburban Residential District. Whatever happens with this application, the use can continue as a nonconforming use under the zoning provisions allowing for continuance of nonconforming use.

Approving the application would encourage the continuation of the nonconforming use. Section 153.004(C) of the City Code provides that it is the intent of the zoning code to allow nonconforming uses to continue until their removal “but not to encourage their continued use or expansion.” Questions of allowing the continuation, expansion, or change of a nonconforming use are heard by the Board of Zoning Appeals pursuant to Section 153.004(C)(3) of the City Code.

The purpose of zoning based on property use is the “promotion of the public health, safety, convenience, comfort, prosperity, or general welfare.”¹⁰ The site was placed in the R-1 district for purposes of ensuring the orderly development of the City, and to promote the convenience, comfort, prosperity and general welfare of City residents. This site lies within close proximity to major corridors and commercial and residential development; it is not on the frontier between suburban and rural areas. Continuing agricultural use of the site is also contrary to the Special Area Plan for the development of the Summit View/Sawmill area. Classifying this parcel as agricultural district may discourage opportunities for redevelopment of the area as envisioned in the Special Area Plan. Accordingly, placing this land into an agricultural district under Section 929.02—particularly for five years—is contrary to multiple land-use objectives.

B. Altering the Size of the District

The land is not used exclusively for agricultural production as required by Section 929.02 of the Revised Code. It includes a single-family dwelling and, according to the application, 1.25 acres of the total 6.066-acre site is not devoted to agricultural production. The application does not include a map showing the configuration of the non-agricultural and agricultural uses of the land. Although Council has authority to modify the size of the agricultural district, more information will be necessary to determine whether the size modification is feasible and, if so, what the precise modification would be.

C. Modifying Application of Section 929.05 to the Site

¹⁰ Dublin Codified Ordinances Section 153.001; Ohio Rev. Code Section 713.07.

The potential and plan for further development of this area makes the restriction of appropriation and development incentives at this site contrary to the efficient use of land and the orderly growth and development of the City. Even if Council shortens the length of time for the agricultural district designation, restricting the appropriation and development incentive processes probably would impair development interest and efforts. The extended review process provided for agricultural districts in Section 929.05 of the Revised Code is designed to preserve agricultural uses. Here, where agricultural use is nonconforming and its protracted continuation is contrary to land-use goals, Section 929.05's extra layers of bureaucratic protection are undesirable.

IV. RECOMMENDATION

Approval without modification is not recommended because it encourages continuation of a nonconforming use and creates an obstacle for future development of the Summit View/Sawmill area as envisioned in the Special Area Plan. The applicant wants to continue the nonconforming use at the site and may do so under the City's zoning ordinances. But if the applicant's intentions or circumstances change, the agricultural district designation would be an impediment to redevelopment of the site.

In cases where the application is not approved, Section 929.02 of the Revised Code requires that Council make every effort to modify the application before rejecting it. The modifications listed above, and any others devised by Council, should be considered. However, even with these modifications the fact remains that agricultural district designation encourages the continuation of the nonconforming use and discourages change to a conforming use that is consistent with the City's plan for this corridor. The designation of this parcel also has ripple effects because it would become difficult to combine it with other parcels if that opportunity became available. The modifications necessary to make the agricultural district designation consistent with the orderly growth and development of the City are pervasive. But even with modification, the fundamental conflict between the designation and the efficient use of land in the City, and its orderly development remains.

Therefore, it is recommended that the application be rejected.



Dublin City Council

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Dublin, Ohio 43017
Phone: 614.410.4400

www.dublinohiousa.gov

Mayor

Gregory S. Peterson

Vice Mayor

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Clerk of Council

Anne C. Clarke

NOTICE OF PUBLIC HEARING

Dublin City Council has scheduled a public hearing at the Regular Council Meeting of Monday, April 10, 2017 regarding the following:

Application for Placement of Farmland in an Agricultural District per O.R.C. Section 929.02

Location of Property: 3910 Summit View Road, Dublin, OH 43016
City of Dublin, Washington Township

Franklin County Parcel ID 273-008392-00

6.066 Acres (4.816 acres of permanent pasture used for animal husbandry; 1.25 acres used as roads, building areas, and all other areas not used for agricultural production)

Owner: Paul Tobias, 3074 Strathaven Court, Dublin, OH 43017

The meeting begins at 7 p.m. and is held in Council Chambers at Dublin City Hall, 5200 Emerald Parkway, Dublin, Ohio. Testimony regarding the application will be taken at the April 10 meeting.

Copies of the materials related to this application are enclosed and are online at: <http://dublinohiousa.gov/council/2017-dublin-city-council-meeting-schedule/> under the "Other" portion of the March 20 Council meeting agenda.

Anne C. Clarke
Clerk of Council
614.410.4436
aclarke@dublin.oh.us
March 22, 2017

BOBBY G. AND ESTHER L.
SARGENT
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DUBLIN, OH 43016

JOANNE W. CROCKETT, TR
3840 SUMMIT VIEW ROAD
DUBLIN, OH 43016

DIANE C BANKS
8295 SUMMIT VIEW ROAD
DUBLIN, OH 43016

MARK J. SHERIFF
8295 SUMMIT VIEW ROAD
DUBLIN, OH 43016

DIANE C BANKS
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COLUMBUS, OH 43220

MARK J. SHERIFF
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1 E. LIVINGSTON AVENUE
COLUMBUS, OH 43215-5700

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DUBLIN, OH. 43016

MARTINA N. BARNETT
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DUBLIN, OH. 43016

GRACE POINT SANCTUARY
3950 SUMMIT VIEW ROAD
DUBLIN, OH. 43016

PAUL AND AUDREY TOBIAS
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DUBLIN, OH. 43016

PAUL AND AUDREY TOBIAS
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DUBLIN, OH 43017

MARC AUGUSTINE
3946 SUMMIT VIEW ROAD
DUBLIN, OHIO 43016

PARDI CHUCK
3930 SUMMIT VIEW ROAD
DUBLIN, OH 43016

CHURCH OF THE REDEEMER
MORAVIAN CHURCH
3883 SUMMIT VIEW ROAD
DUBLIN, OH 43016

SUGARLAND STABLES, LLC
3948 SUMMIT VIEW ROAD
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MAURICE WALSH
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MICHELE FREGONAS
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BARBARA MCCLUNG
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MICHAEL KATE
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MICHAEL BERKE
8191 GLENCREE PL
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BRIAN BOLYARD
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KAREN MULBAY
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EMANUEL ROBINSON
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WILLIAM FULLERTON
8325 GLENCREE PL
DUBLIN, OH 43016

MEMORANDUM

To: Dublin City Council
Dana L. McDaniel, City Manager */mLC/dm*

From: Jennifer D. Readler
Thaddeus M. Boggs

Date: March 16, 2017

Re: Application for Placement of Farmland in an Agricultural District
Property Address: 3910 Summit View Pike, Dublin, Ohio 43016

I. INTRODUCTION

On March 6, 2017, the City of Dublin received an Application for Placement of Farmland in an Agricultural District pursuant to Ohio Revised Code Section 929.02 from Paul Tobias concerning his property at 3910 Summit View Road (the application uses both “Summit View Road” and “Summit View Pike,” the latter of which is how the Auditor references the property; the City’s record of the name is “Summit View Road” and that is how it will be referenced in this memorandum).

An agricultural district designation of property within incorporated boundaries of a city requires City Council’s review and decision to approve, modify, or deny. An agricultural district designation provides the landowner protection against civil nuisance suits over farm operations, deferment of special assessments on land for purposes of sewer, water, or electrical services, and requires additional review by the Department of Agriculture prior to taking agricultural district land by eminent domain for a public purpose or using public funds as an incentive for non-agricultural developments of agricultural district land. The agricultural designation remains in effect for five years from the date of application. These provisions may be modified by Council in some circumstances, as explained further below.

Please note this designation is separate from Current Agricultural Use Value (“CAUV”) designation. The County has exclusive decision making authority over CAUV designation and yearly renewal decisions. CAUV’s provide a preferential real estate tax valuation to landowners engaging in agricultural use of their land. In this case, the land is not currently under a CAUV designation, although the applicant indicates that he has completed the CAUV form for the County’s review.

The application is set for hearing by Council on March 20, 2017. Notice of the hearing was sent to the applicant by certified mail on March 10, 2017, and additional notice was published in a newspaper of general circulation on March 13, 2017, as required by Section 929.02. Council has 30 days following the hearing to render its decision on the application, pursuant to Section 929.02(B).

II. BACKGROUND

The application is for property owned by Paul and Audrey Tobias located at 3910 Summit View Road. The property lies within the City of Dublin, Washington Township and Dublin City School District. It comprises 6.066 acres and its frontage on Summit View Road is approximately 950 feet from the intersection of Summit View Road and Sawmill Road, across from Emerald Fields Park. The parcel is zoned R-1: Restricted Suburban Residential, and agricultural use at the property is nonconforming. The 27-acre parcel immediately to the north is in CAUV status; other neighboring properties do not have CAUV status. The applicant property is not currently subject to any special assessments. The property includes a dwelling with 1,706 finished square feet and barns. The applicant purchased the property December 20, 2016, out of foreclosure. Prior owners used the property for horse boarding and riding lessons under the name Dublin Stables.

Because the property is less than ten acres, the law requires the applicant to provide evidence that agricultural activities on the land have produced an average yearly gross income of at least \$2,500 for the previous three years, or that the applicant has evidence of anticipated gross income of at least \$2,500 from agricultural activities on the land.¹ Horse-boarding activities constitute agricultural production use of the land for purposes of the Agricultural District application.²

The applicant in this case provided estimates of annual gross income from horse boarding activities over the previous three years of \$84,000 (2016), \$168,000 (2015), and \$168,000 (2014). These estimates are based on information from the property's neighbors regarding activity levels at the property and Dublin Stables' website. The applicant also provided evidence of \$3,000 in gross income from horse pasture and rental activities for the time that applicant owned it in 2016. The applicant estimates that 2017 gross income from horse boarding activities on the property will be \$114,000. In telephone conversation with the applicant, he states he intends to use the property to operate a horse-boarding facility for the foreseeable future. The use can continue as a nonconforming use, under the terms of the Dublin City Code, regardless of the outcome of this application.

Additionally, this parcel includes the single-family dwelling as previously noted. Section 929.02 of the Revised Code refers to "land [that] has been devoted *exclusively* to agricultural production." (Emphasis added). The land used for residential purposes is not devoted to

¹ Ohio Rev. Code Section 929.02(A)(2).

² See Ohio Rev. Code Section 929.01(A) ("agricultural production" includes animal husbandry) and Ohio Rev. Code Section 1.61 ("agriculture" includes animal husbandry, which includes care and raising of equine).

agricultural production. For analogous CAUV applications, the Ohio Administrative Code provides for a one-acre carve-out for farm residences; the agricultural-district statute, however, does not provide a similar carve-out.

III. COUNCIL OPTIONS

Council has the authority to accept, reject, or modify the application following a public hearing. At the City Council hearing, any interested person or representative of an interested person may submit affidavits or personally appear in support of or opposition to the application.³ For Council to modify or reject, Council must demonstrate modification or rejection of the application is necessary:

1. To prevent a substantial, adverse effect on the provision of municipal services within the municipal corporation;
2. For the efficient use of land within the municipal corporation;
3. For the orderly growth and development of the municipal corporation; **OR**
4. For protection of the public health, safety, or welfare.⁴

Prior to rejecting an application, Council is required to make “every effort” to modify the application. Modifications may include:

1. Changing the length of time during which land is considered to be within an agricultural district;⁵
2. Changing the size of the agricultural district;⁶
3. Changing the provisions relating to deferral of special assessments for the agricultural district land;⁷
4. Changing the special statutory defenses available to agricultural district lands in civil actions for nuisances involving the land’s agricultural activities,⁸ or
5. Changing the restrictions on the appropriation of agricultural district land.⁹

The applicant may appeal modification or rejection of the application to the Franklin County Court of Common Pleas.¹⁰

If approved without modification, the agricultural district designation lasts for five years. If the owner takes action removing the property from the agricultural district before the five years expires, the owner must pay a penalty. The penalty is calculated as a percentage (based on the

³ Ohio Rev. Code Section 929.02(B).

⁴ Ohio Rev. Code Section 929.02(B).

⁵ *Id.*

⁶ *Id.*

⁷ Ohio Rev. Code Section 929.03 – “Agricultural District Exempt from Assessments.”

⁸ Ohio Rev. Code Section 929.04 – “Defense for Civil Action for Nuisance.”

⁹ Ohio Rev. Code Section 929.03 – “Appropriation of Agricultural Land”

¹⁰ Ohio Rev. Code Section 929.02(B).

average bank prime rate) of the recoupment charge the owner must pay if the land fails to qualify for CAUV status.¹¹

This property is also within the boundary of the Special Area Plan for the Summit View/Sawmill Area. That plan calls for redevelopment with a mixture of office uses along Sawmill transitioning to residential uses similar to other residential developments along Summit View. The penalty for removing the land from the agricultural district prior to the five-year expiration may make this land more difficult to market and redevelop due to increasing transaction costs. The penalty for early removal from the agricultural district is relatively small, however, compared to the tax recoupment charges for removing a property from CAUV status.

The County Auditor separately considers the application under Section 929.02(A)(2), but can only make a decision to approve, without modification, or deny. The Auditor must make his decision within 30 days of submission of the application. The Auditor's decision does not affect the City Council's authority to approve, modify, or deny the application.

IV. STAFF ANALYSIS

If Council is not inclined to approve the application, the Revised Code requires the City to make "every effort" to modify the application before rejecting it outright. Potential modifications under the Code include:

(a) changing the length of time for agricultural district designation from five years to a shorter period of time;

(b) amending the size of the district so that it does not include lands supporting the residential use on the property; and

(c) modifying the application of Revised Code Sections 929.03, 929.04, or 929.05 to the property.

If Council finds that these modifications, or other modifications determined by Council, do not adequately protect the efficient use of land in the City, the orderly growth and development of the City, or the public health, safety, or welfare within the City, then it is recommended that Council reject the application.

A. Changing the Length of Time for District Designation

¹¹ Ohio Rev. Code Section 929.02(D).

The agricultural use at the applicant site is nonconforming in the R-1: Restricted Suburban Residential District. Whatever happens with this application, the use can continue as a nonconforming use under the zoning provisions allowing for continuance of nonconforming use.

Approving the application would encourage the continuation of the nonconforming use. Section 153.004(C) of the City Code provides that it is the intent of the zoning code to allow nonconforming uses to continue until their removal “but not to encourage their continued use or expansion.” Questions of allowing the continuation, expansion, or change of a nonconforming use are heard by the Board of Zoning Appeals pursuant to Section 153.004(C)(3) of the City Code.

The purpose of zoning based on property use is the “promotion of the public health, safety, convenience, comfort, prosperity, or general welfare.”¹² The site was placed in the R-1 district for purposes of ensuring the orderly development of the City, and to promote the convenience, comfort, prosperity and general welfare of City residents. This site lies within close proximity to major corridors and commercial and residential development; it is not on the frontier between suburban and rural areas. Continuing agricultural use of the site is also contrary to the Special Area Plan for the development of the Summit View/Sawmill area. Classifying this parcel as agricultural district may discourage opportunities for redevelopment of the area as envisioned in the Special Area Plan. Accordingly, placing this land into an agricultural district under Section 929.02—particularly for five years—is contrary to multiple land-use objectives.

B. Altering the Size of the District

The land is not used exclusively for agricultural production as required by Section 929.02 of the Revised Code. It includes a single-family dwelling and, according to the application, 1.25 acres of the total 6.066-acre site is not devoted to agricultural production. The application does not include a map showing the configuration of the non-agricultural and agricultural uses of the land. Although Council has authority to modify the size of the agricultural district, more information will be necessary to determine whether the size modification is feasible and, if so, what the precise modification would be.

C. Modifying Application of Section 929.05 to the Site

The potential and plan for further development of this area makes the restriction of appropriation and development incentives at this site contrary to the efficient use of land and the orderly growth and development of the City. Even if Council shortens the length of time for the agricultural district designation, restricting the appropriation and development incentive processes probably would impair development interest and efforts. The extended review process provided for agricultural districts in Section 929.05 of the Revised Code is designed to preserve agricultural uses. Here, where agricultural use is nonconforming and its

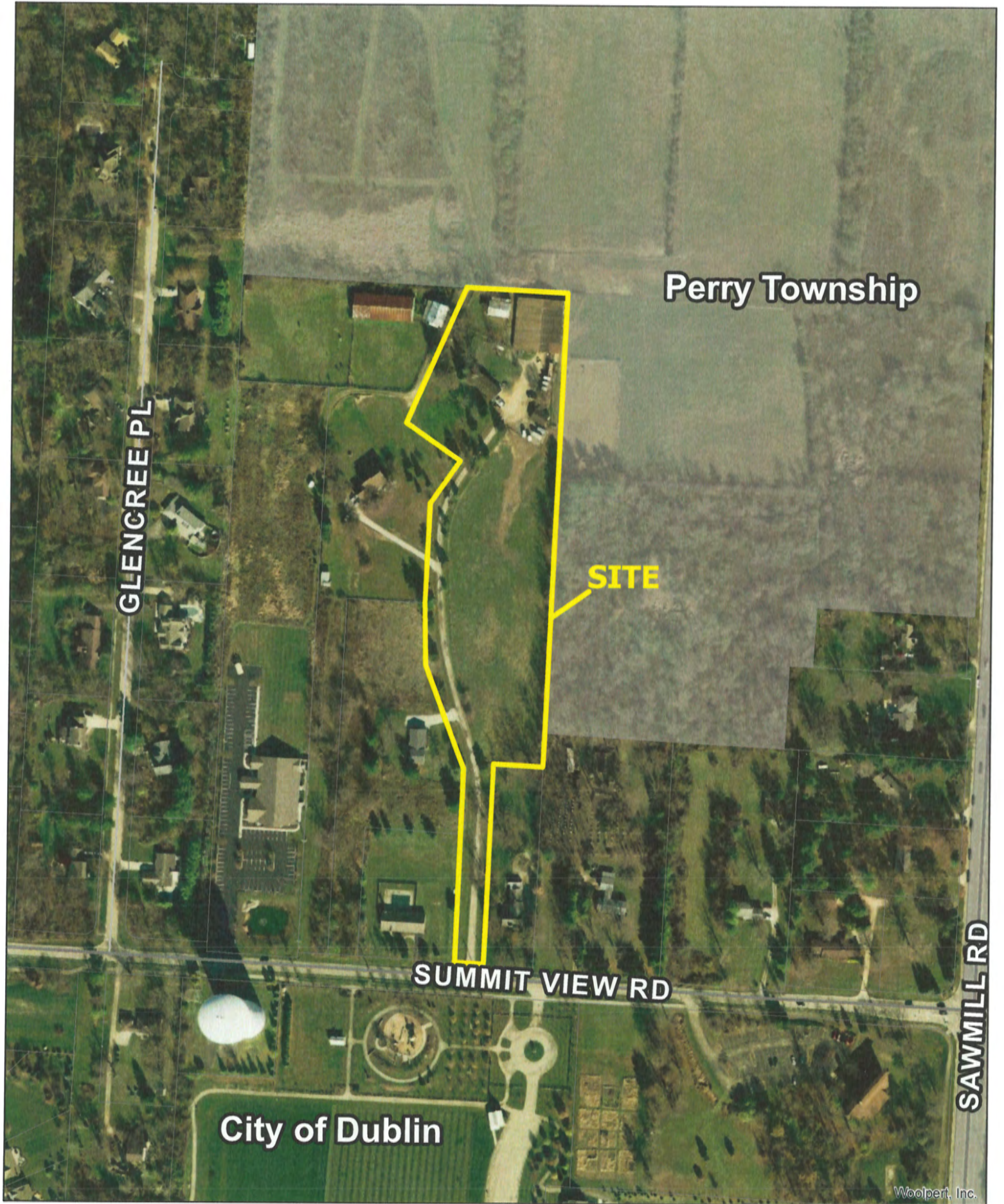
¹² Dublin Codified Ordinances Section 153.001; Ohio Rev. Code Section 713.07.

protracted continuation is contrary to land-use goals, Section 929.05's extra layers of bureaucratic protection are undesirable.

V. RECOMMENDATION

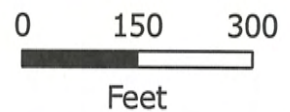
Approval without modification is not recommended because it encourages continuation of a nonconforming use and creates an obstacle for future development of the Summit View/Sawmill area as envisioned in the Special Area Plan. The applicant wants to continue the nonconforming use at the site and may do so under the City's zoning ordinances. But if the applicant's intentions or circumstances change, the agricultural district designation would be an impediment to redevelopment of the site.

In cases where the application is not approved, Section 929.02 of the Revised Code requires that Council make every effort to modify the application before rejecting it. The modifications listed above, and any others devised by Council, should be considered. However, even with these modifications the fact remains that agricultural district designation encourages the continuation of the nonconforming use and discourages change to a conforming use that is consistent with the City's plan for this corridor. The designation of this parcel also has ripple effects because it would become difficult to combine it with other parcels if that opportunity became available. The modifications necessary to make the agricultural district designation consistent with the orderly growth and development of the City are pervasive. But even with modification, the fundamental conflict between the designation and the efficient use of land in the City, and its orderly development remains. Therefore, it is recommended that the application be rejected.



City of Dublin

3910 Summit View Drive





APPLICATION FOR PLACEMENT OF
FARMLAND IN AN AGRICULTURAL DISTRICT
(O.R.C. Section 929.02)

New Application ☒
Renewal Application ☐

(See page 4 for General Information regarding this Application)

INSTRUCTIONS FOR COMPLETING APPLICATION

Print or type all entries.

- o List description of land as shown on the most recent tax statement or statements. Show total number of acres.
- o Describe location of property by roads, etc., and taxing district where located.
- o State whether any portion of land lies within a municipal corporation.
Note: See "Where to File" on page 4 to be sure that a copy of this Application is also filed with the Clerk of the municipal legislative body as well as the County Auditor.
- o A renewal application must be submitted after the first Monday in January and prior to the first Monday in March of the year in which the agricultural district terminates for the land to be continued in this program.
- o If the acreage totals 10 acres or more, do not complete Part D.
- o If the acreage totals less than 10 acres, complete either D (1) or (2).
- o Do not complete page 3. This space to be completed by the County Auditor and/or Clerk of the municipal legislative body.

A. Owner's Name: Paul Tobias

Owner's Address: 3074 Strathaven Court
Dublin, OH 43017

Description of Land as Shown on Property Tax Statement:
3910 Summit View Pike
R19 T2 1/4 T2
6.066 Acres
Parcel ID 273-008392-00

Location of Property:
Street or Road- 3910 Summit View Road, Dublin, OH 43016
County- Franklin

TAX DISTRICT(S)	PARCEL NUMBER(S)	# of Acres
<u>273 City of Dublin-</u>	<u>273-008392-00</u>	<u>6.066</u>
<u>Wash Twp-Dublin</u>		
Total Number of Acres		<u>6.066</u>

B. Does any of the land lie within a municipal corporation limit or subject to pending annexation?
Yes ☒ No ☐

If YES, REMEMBER a copy of this application must be submitted to the Clerk of the municipal legislative body.

Copy sent to: Franklin County Auditor
373 S. High Street, 21st Floor
Columbus, OH 43215

C. Is the land presently being taxed at its current agricultural use valuation under Section 5713.31 of the Ohio Revised Code? Yes _____ No X

If NO, complete the following showing how the land was used the past three years:

	ACRES		
	LAST YEAR	TWO YEARS AGO	THREE YEARS AGO
Cropland			
Permanent Pasture used for animal husbandry	4.816	4.816	4.816
Woodland devoted to commercial timber and nursery stock			
Land Retirement or Conservation Program pursuant to an agreement with a federal agency			
Building areas devoted to agricultural production			
Roads, building areas, and all other areas not used for agricultural production	1.25	1.25	1.25
Total Acres	6.066	6.066	6.066

D. Does the land for which the application is being made total 10 acres or more devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government?

Yes _____ No X

If NO, complete the following:

1. Attach evidence of the gross income for each of the past 3 years, if the average yearly income from agricultural production was at least twenty-five hundred (\$2,500.00) dollars or more, or
2. If the owner anticipates that the land will produce an annual gross income of twenty-five hundred (\$2,500.00) dollars or more, evidence must be attached showing the anticipated gross income.

Authorization and Declaration

By signing this application I authorize the county auditor or his duly appointed agent to inspect the property described above to verify the accuracy of this application. I declare this application (including accompanying exhibits) has been examined by me and to the best of my knowledge and belief is a true, accurate and correct application. I understand that land removed from this program before the 5-year enrollment period is subject to penalty, in accordance with Section 929.02(D) of the Ohio Revised Code.

Paul G. L.

Signature of Owner

Date: 3/1/2017

DO NOT COMPLETE FOR OFFICIAL USE ONLY

Action of County Auditor

CAUV Application No. _____

Application Approved _____ Rejected _____ *

Date Application Filed with County Auditor _____

Date Filed (if required) with Clerk of Municipal Corporation _____

County Auditor's Signature _____ Date _____

Date Decision Mailed to Applicant _____ Certified Mail No.

Action of Legislative Body of Municipal Corporation

Application Approved _____ Approved with Modifications _____ * Rejected _____ *

Date Application Filed with Clerk _____

Date of Public Hearing _____

Date of Legislative Action _____

Clerk's Signature _____ Date _____

Date Decision Mailed to Applicant _____ Certified Mail No.

* IF MODIFIED OR REJECTED, ATTACH SPECIFIC REASONS FOR MODIFICATION OR REJECTION

INFORMATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT

A. WHO MAY FILE?

Any owner of land used for agricultural production may file an application to have the land placed in an agricultural district.

B. WHERE TO FILE

The completed application must be filed with the auditor of the county where the land is located. The applicant will be notified of action taken by the county auditor within 30 days of the filing of the application if the land is not within a municipal corporation or an annexation petition has not been filed. If the land for which an application has been made lies within a municipal corporation limit or if an annexation petition that includes the land has been filed with the Board of County Commissioners under Section 709.02 of the Ohio Revised Code, a copy of the application must also be filed with the Clerk of the legislative body of the municipal corporation. The legislative body is required to conduct a public hearing on the application within 30 days after the application has been filed with the Clerk. Within 30 days of the hearing, the legislative body may approve the application, modify and approve the application as modified, or reject the application.

C. WHEN TO FILE AND RENEWAL

The original application may be filed at any time for placement of land in an agricultural district for a five-year period. If at the end of five years, the owner decides to keep some or all of his or her land in a district, he or she shall submit a renewal application and must meet the same land requirements and use the same application process as the original application. The renewal application may be filed at any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, for a period of time ending on the first Monday in April of the fifth year following the renewal application.

D. WHAT IS "LAND USED FOR AGRICULTURAL PRODUCTION?"

In accordance with Section 929.01(A) of the Revised Code, land is devoted to "agricultural production" when it is used for commercial aquaculture, apiculture, animal husbandry, poultry husbandry; the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees; flowers or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices provided that the tracts, lots, or parcels of the land or portions thereof that are used for conservation practices comprise not more than twenty-five percent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed.

"Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

E. WHAT DOES "TRACTS, LOTS, OR PARCELS OF LAND" MEAN?

Tracts, lots, or parcels mean distinct portions of pieces of land (not necessarily contiguous) where the title is held by one owner, as listed on the tax list and duplicate of the county, is in agricultural production and conforms with the requirements of either D1, D2, or D3 below.

F. ARE THERE ANY OTHER REQUIREMENTS?

1. The land for which the application is made must have been used exclusively for agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency for the three consecutive calendar years prior to the year in which application is made. Evidence must be shown on the application. If the land contains timber which is not being grown for commercial purposes the land on which the timber is growing must be contiguous to or part of a parcel under common ownership that is otherwise devoted exclusively to agricultural use.
2. If the total amount of land for which application is made is less than 10 acres, there is an additional requirement that the applicant submit evidence with his application that the activities conducted on the land have produced an average yearly gross income of at least twenty-five hundred dollars over the three years immediately preceding the year in which application is made or that the land will produce an anticipated annual gross income of that amount.
3. Evidence of annual gross income may be satisfied by attaching to the application form a short statement stating the number of animals by species and anticipated market value, number of acres of crops to be grown, their expected yield and price per bushel or similar specific information.

G. IS THERE A PENALTY FOR EARLY WITHDRAWAL?

Land removed from this program before the 5-year enrollment period is subject to penalty, per Section 929.02(D) of the Ohio Revised Code. See County Auditor's Office for details on how the amount of the withdrawal penalty is determined.

H. APPEAL OF APPLICATION

The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice denying the application. When the land lies within a municipality the applicant may also appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection. In addition, the applicant may withdraw an application modified by a legislative body if he or she disapproves of the modifications.

February 28, 2017

Franklin County Auditor
373 S. High Street, 21st Floor
Columbus, OH 43215

The Clerk of Council
City Hall
5200 Emerald Parkway
Dublin, OH 43017

To whom it may concern,

My wife and I acquired the commercial horse boarding facility located at 3910 Summit View Road, Dublin, OH 43016, Parcel #273-008392-00 on December 20, 2016, from Fannie Mae as a foreclosure property. The previous owners ("Kanoskis") operated Dublin Stables continuously at the property, until their move-out date of July 1, 2016, assigned to them as part of the foreclosure process. The Dublin Stables website is still available at www.dublinstables.com ("Horse Boarding" page attached). According to the neighbors, there were consistently 40 or more horses boarded on the property during the Kanoskis' occupancy, which began in 1998 and terminated in 2016 through foreclosure proceedings.

Based on information from surrounding neighbors and the Dublin Stables' website, the owners of the 40 boarded horses paid between \$418 per month for full service board to \$250 per month for rough board. We have completed the CAUV form with an average of \$350 per horse, per month. This corresponds to \$84,000 in agricultural gross income for the property in 2016 under the Kanoskis' ownership, \$168,000 in agricultural gross income for the property in 2015 under the Kanoskis' ownership, and \$168,000 in agricultural gross income for the property in 2014 under the Kanoskis' ownership.

In addition to the boarding income collected by the Kanoskis up to July 1, 2016, we were paid \$3,000 for temporary animal boarding in 2016, before we began the extensive renovations currently underway at the property (copy of the payment we received is attached). This brings the total agricultural gross income for the property in 2016 to \$87,000.

Once the property renovations are complete, commercial horse boarding operations will resume. We anticipate charging at least \$475 per horse per month. If we assume that 40 horses will be boarded for 6 months, the agricultural gross income for the property in 2017 will be \$114,000.

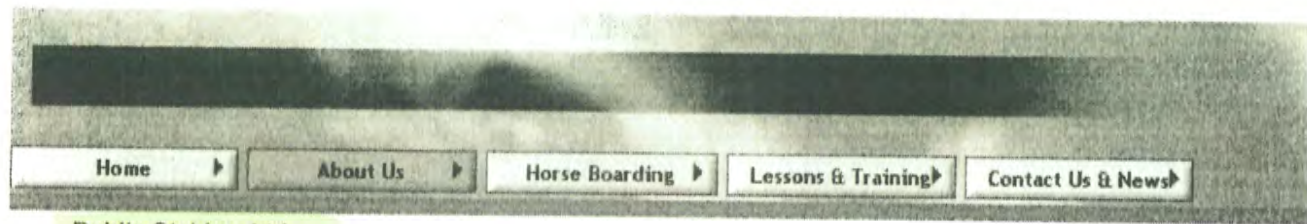
Because of the unchanged, continual use of the property for commercial agriculture, I request that Parcel #273-008392-00 be placed in an agricultural district.

Please feel free to contact me with any questions.

Thank you for your help,



Paul Tobias
3074 Strathaven Court
Dublin, OH 43017
(415) 516-2255
paul@paul.info



Dublin Stables, Ltd
3910 Summit View Road West
Dublin, Ohio 43016
614-764-4643
dublin_stables@sbcglobal.net

Dublin Stables is a family-owned, full-service boarding and training facility with lessons for riders of all levels. We try to create a family atmosphere where horses and riders of all disciplines feel welcome.

Just minutes from the urban sprawl of Sawmill Road, you will find an oasis of peace and tranquility. Leave the stress of your day behind and enjoy an afternoon or evening in the country with the horses, dogs, deer, and other wildlife.



Our Philosophy

Dear Fellow Horse Lovers and Supporters!

My name is Ginette Feasel (Miss Ginette to my young students), owner and operator of Dublin Stables. I have over 35 years of horse experience that I am pleased to share with fellow horse enthusiasts of all ages. Like you, I'm still eagerly learning.

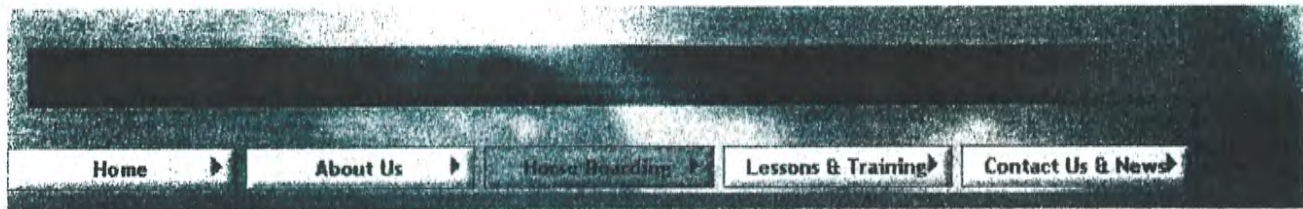
At Dublin Stables we have embraced the revolution in horsemanship. There has been a dramatic change in how we treat our horses. We no longer "break" them to saddle. We "gentle" them so that they become our willing partners, their natural grace and athleticism restored and enhanced through humane and thoughtful methods. The contributions of nineteenth-century "whisperers" and "tamers" handed down to modern masters: the Dorrance brothers, Ray Hunt, and Tom Curtin form the basis of training and handling our horses who are truly our mentors. I have ridden with Tom Curtin, my mentor, in Ohio and in Florida for several years and spent time with Ray Hunt in Ohio learning and perfecting revolutionary new methods of training.

These men described the workings of the horse's mind and how they learn. By applying these principles, referred to as "natural horsemanship", we are able to implement a training regimen for foals and horses that produce positive results for a lifetime. Visit us to see the results in our lesson horses. They are very tame, love their work, and provide even beginning riders with a safe and enjoyable experience.

To learn more, contact us at 614-764-4643 or dublin_stables@sbcglobal.net.

Thank you for your interest in Dublin Stables!

Ginette Feasel



Horse Boarding

**Save time by being so much closer to your horse!
Openings Now!**

Just 1.50 miles N. of I-270 off Sawmill Rd. (exit 20) 15-20 minutes from campus!!

Board includes custom feed, hay, and daily pasture turnout. Supplements and medications can be administered if needed. We live on the premises to ensure that your horse will be cared for like one of our own.

Rates - If paid by the first of the month. \$25 more if paid after the first.

- \$389 - Regular
- \$418 - Large

Scheduled Farrier and Veterinary Care

Maintaining your horse's health is a big responsibility. We help you keep your horse healthy by maintaining a regular schedule

- All horses are wormed every other month for \$15.
- We use OSU Veterinary Services for emergencies and Fall and Spring shots.
- Farrier Todd Adams visits every 6 weeks to ensure proper hoof care.

Riding at Dublin Stables

Whether you ride English or Western, you will find friendly people who share your passion and a variety of options for schooling, training, or just having fun with your horse. Jumps, ground poles, and plastic barrel purposes.

- Indoor arena - 60 x 120 arena
- Outdoor arena - 110 x 250 arena with lights
- Paths to ride around our hay field and pastures
- Bridle trails at Glacier Ridge, Heritage Trail and Prairie Oaks nearby



**Complete and return to Dublin Stables
to reserve your stall today.
[Boarding Agreement](#)**

