

Minutes of June 16, 2022 Council

Regular Meeting of the Clayton, Ohio City Council
Clayton Government Center
June 16, 2022

CALL TO ORDER

The meeting was called to order by Mayor Stevens at 7:30 PM. Present were Mayor Stevens and Councilmembers Bachman, Gorman, Merkle, Kelly, and Lieberman. Motion by Mr. Gorman to excuse Councilmember Henning who is out of town this evening, motion was seconded by Ms. Kelly. All yeas, motion carried.

SPECIAL PRESENTATIONS

Mayor Stevens presented a Proclamation recognizing Clayton resident Dylan Greer

PUBLIC HEARINGS

Case # O-PC-22-02 Grand Villas of Clayton – Grand Traditions, LLC
Right of Way and Easement Plat

Mayor Stevens administered the Oath to members of the public who wish to speak on either case this evening.

Seth Dorman, City Planner, advised this application was received May 2, 2022 for Right-of-Way and Easement Plat for Grand Villas of Clayton. The applicant is The Kleingers Group, the engineer for Grand Traditions. The property owner is GT Clayton, LLC who signed the application affidavit stating they are aware of and consent to the application. The Planning Commission held a public hearing for this case on May 23, 2022 and voted unanimously to recommend that City Council approve the proposed plat. Public notice was printed in the Brookville Star on June 1, 2022 and letters to property owners within 300' of the site were postmarked and mailed on June 2, 2022 for tonight's hearing. The location of the Grand Villas of Clayton project is 8495 Hoke Road, on the west side of Hoke Road, north of Wenger and south of National Road. The parcel is M60 03102 0032 and has an overall area of 15.144 acres. The current zoning of this parcel is PDD (Planned Development District) that was approved on Ordinance O-ZC-05-02 on May 19, 2005 as part of the original Village of North Clayton zoning. Staff reviewed and provided Council the following documents: application, plat for right-of-way and easements with the Grand Villas of Clayton, and the Planning Commission's resolution for Case #PC22-02 recommending that Council approve the proposed plat. Dorman shared an aerial image of the proposed location and proposed plat. Dorman stated the proposed plat is for right-of-way the applicant is dedicating to the City of Clayton and access and utility easements that will run through the 15-acre parcel that will be developed as the Grand Villas of Clayton. The right-of-way on Hoke will be widened from 16.5' to 35', allowing additional space for the 10' wide multi-use path that the applicant is building and will dedicate to the city at the projects' completion. Access and utility easements are being platted as well that include a 10' wide utility easement to be located next to the proposed right-of-way along Hoke Road, a 15' wide sanitary sewer easement that will be located next to the 10' wide utility easement along Hoke Road, the entirety of the private drive will be encompassed in an easement and is labeled as an access and utility easement for the development, and a 20' wide waterline easement that will bring water

down to the development from the Village of North Clayton. After evaluating the applicant's request and providing an opportunity for public input, the Planning Commission unanimously passed a motion to recommend approval of the right-of-way and easements plat for Grand Villas of Clayton with the following condition: The applicant must address the comments resulting from the Staff Review and emailed to the applicant on May 23, 2022. Those comments must be addressed for the submission of the plat for signatures.

Mayor Stevens asked if there were any questions.

Gorman asked how far back are the buildings in regards to the right-of-ways and easements.

Dorman advised I don't have the exact measurements but on the north side of the development near the right-of-way easements will be the retention pond, south of that will be the clubhouse, then behind those is where the buildings will start.

Stevens asked if the developer wished to add any comments.

Dorman advised the developer is ill and was not able to attend this evening.

Mayor Stevens asked for a motion to open the floor for public comment. Motion by Bachman to open the floor for public comments, motion as second by Gorman.

Stevens asked if there were any proponents who wished to speak, none heard.

Stevens then asked if there were any opponents who wished to speak, none were heard.

Stevens then asked for a motion to close the public comments of this hearing. Motion by Gorman to close the public comments, motion was second by Merkle. All yeas, motion carried.

Motion by Gorman to close the public hearing, motion was second by Merkle. All yeas, motion carried.

Case # O-PC-22-03 Northwest Corner of National Road and Haber Road – Oakes Tree Development. Rezoning and Preliminary Development Plan for Northwood Estates

Seth Dorman, City Planner, advised application #PC22-03 was received on May 5, 2022 for rezoning and preliminary development plan for a new single-family residential subdivision to be called Northwood Estates. The applicant is Oakes Tree Development, and the property owners are Keith and Mark Landis. Mark Landis signed the application affidavit stating they are aware of and consent to the application. The Planning Commission held a public hearing for this case on May 23, 2022 and voted unanimously to recommend that Council approve the proposed rezoning and preliminary development plan. A public notice was printed in the Brookville Star on June 1, 2022 and letters to property owners within 300' of the site were postmarked and mailed on June 2, 2022 for tonight's hearing. The location of the proposed subdivision is at the northwest corner of National and Haber Roads. The parcels are M60 03012 0022 and M60 03102 0105 with an overall area of 33.69 acres. The current zoning of the parcels is RSD (Residential Single-Unit District) and the proposed zoning is PDD (Planned Development District). Staff reviewed and provided to Council the following documents: application, preliminary development plan (site plan), draft traffic study, and the Planning Commission's Resolution for Case #PC22-03 recommending that Council approve the proposed rezoning and preliminary development plan. Dorman shared an aerial image of the proposed location, and zoning in the surrounding area. The proposed zoning on this property is Planned Development

District (PDD) for a proposed single-family residential subdivision. PDD is best suited for what PLAN Clayton envisions for this area. PLAN Clayton labels this area as part of the Clayton Commercial Center and indicates future uses as any combination of flex uses, mixed uses, and parks. The property is currently located in the Clayton Improvement District #1 Overlay, which requires a rezoning to PDD for any development of land, or assemblage of land, with an area of five acres or more, or where more than five lots will be created. On the preliminary development plan this is a proposed single-family residential subdivision with 113 lots. Access to the development would come from two access points on Haber Road. In addition to the 113 lots, there will be five new roads, 5' wide sidewalks on both sides of each road, streetlights, and utilities constructed to serve the development. The plan proposes several community and neighborhood amenities, including: 10' side multi-use path that will run the length of the Haber Road frontage, 3-acre tract in the center of the development that will be home to one of the retention ponds and the neighborhood park that will include a 4' side path leading from Street "A" to the playground and ultimately out to the multi-use path along Haber Road, a small 0.2 acre tract in between Lots 34 and 35 on the western edge of the development, and a 2.2 acre tract located along the National Road frontage that will be home to another retention pond and is also where the new sign advertising the subdivision and Landes Market is proposed. The proposed typical lot size is 52' wide with the following setbacks: 25' front yard, 5' side yard, and 30' rear yard. A draft traffic study was submitted which primarily recommends a traffic signal at National and Haber Roads to mitigate, in part, the traffic that will be generated by the proposed development. Staff acknowledges there is existing traffic in the area that contributes to the necessity for a signal at that intersection and will continue to engage with the applicant to identify possible public-private funding collaborations for the traffic signal. PLAN Clayton envisions future uses to include flex uses, mix uses, and parks at Clayton Commercial Center, National and Haber Roads. Flex allows any combination of commercial/office and housing, both in one area or the same building, mix requires more than one use within buildings in the area, and parks are greenspaces that cannot be developed for other uses. The Northwood Estates proposes detached single-family housing with greenspace. PLAN Clayton outlines a number of main goals for Clayton including, creating walkable neighborhoods, development central cores, connecting parks, and making great streets and infrastructure. Northwood Estates hits squarely on all four of these main goals by utilizing the best practices in its design, by creating walkable neighborhoods, developing central core, connecting parks, and making great streets and infrastructure. After evaluating the applicant's request and providing an opportunity for public input, the Planning Commission unanimously passed a motion to recommend approval of the rezoning and preliminary development plan for Northwood Estates with the following condition: The applicant shall address the comments resulting from the staff review and emailed to the applicant on May 20, 2022. These comments shall be addressed and/or provided as part of the Final Development Plan submittal.

Mayor Stevens asked if there were any questions.

Gorman stated in reviewing the traffic study they suggest drop lanes at both entrances, and the way I read it you have too many lots for the amount of ground, and because we're giving them the right-of-way, why are we ignoring our rules. And, if there is a stoplight, who's going to put the stoplight in?

Dorman stated for the stoplight, we will be looking into that with the applicant and we're also looking for funding partners. We will be receiving a final traffic study if this gets approved. As

for the things that you mentioned for density, I think it's probably in the Clayton Improvement District. The planning and zoning code is a guide, but when you have a planned development district what council approves ultimately becomes the zoning and development standards for that property. So, you can approve a plan that's different from what the code prescribes.

Lance Oakes, Oakes Tree Development, stated this development we are looking to do in two phases. The southern part first with the detention basins, we'll put in some nice water features and up lighting in there. The one request I would ask is on the rear yard setbacks, a variance would be needed in that it's currently 30'. The builder that I'm working with, if people build their largest product and want to add in the patio option to the rear which is very popular these days and may encroach into that 30 feet, so instead of having to come back for a variance every time that occurs, we are asking for some leeway for that rear setback to be in the 25-30' range. We envision the price point of these homes today to be in the \$400-\$450 range. The last thing the traffic signal, today whether this development does in or not according to the traffic study a signal is warranted at that intersection. If I have to this and in talking with staff what I'd be willing to do is pay my portion of my impact to that traffic study. Unfortunately, if the whole traffic signal were put on me as the developer, for this development, economically that is probably going to be unfeasible and I would have to punt on the housing market. The turn lanes, we'll take a look at that traffic study as well. I was unaware that it called for turn lanes at those entrances but we'll take a look at that as well to see what can be done to mitigate that if that is indeed required. As for the density, the density comes out to about 3.35 units to the acre. We're also giving 20 percent to open space in the development.

Gorman asked if these are going to be cookie cutter homes or are they going to be spec homes.

Oakes stated these will be pre-sales, but we will adhere to the anti-monotony plan that's part of PLAN Clayton, to make sure that the houses to the sides or the front all have different elevations.

Gorman stated if your standard lot is 52 by 125 by the time you have your setback that only leaves less than 3,000 feet to build a house on and that includes a two-car garage I assume.

Oakes stated if you're going with a ranch, yes. But if you're building up, I think the average square footage for these homes in this community are 1,600 to 2,200 square feet, some larger.

Kelly asked if these will be Ryan Homes

Oakes stated yes, but these are not starter homes these are their higher end, move up product.

Gorman asked how are you planning to get people across State Route 40.

Dorman stated the traffic light, there will be a pedestrian light, and crosswalk.

Lieberman stated when we were talking about a streetlight, obviously everyone agrees we need a streetlight there. From what I understand your position to be, you're willing to pay your portion. Do you have a definition of what that would be so we have something to work with.

Oakes stated I will work with staff and our traffic engineer to see what that would be. To give you an idea, that traffic signal if I had to guess is going to be anywhere from three-quarters to a million dollars. Obviously, the signal is warranted and I am willing to pay something, but as a developer I can't pick up the full portion. I will work with staff and the traffic engineer on what that percentage is and come to a fair number for both.

Kelly asked has anyone reached out to Northmont Schools on the traffic light

Zimmerlin stated the City has had numerous conversations with Northmont Schools about potential development within Clayton and they have been very receptive. Our plan is to talk to them about their potential portion of the traffic signal based on the trips generated by the High and Middle Schools.

Mayor Stevens asked for a motion to open the floor for public comment. Motion by Bachman to open the floor for public comments, motion as second by Merkle.

Stevens asked if there were any proponents who wished to speak, none heard.

Stevens then asked if there were any opponents who wished to speak.

Jeremy Blandford stated he is not in opposition but wanted some issues brought to light. Working with Lance has been great, he has been very upfront with residents, has had many meetings and has been very receptive. We're for this. One issue for a lot of us is the City's setback requirement, it's ten feet, they're asking for five feet. That's putting the edge of a house here and the next house here (visual display). Ask anyone out there you put a property on the market on Monday on Tuesday morning it's sold. Another question I have is the traffic light final proposal, I get that, but if we say let's go ahead, move forward, and give it approval without a figure of how much that light is going to cost, who's paying what. How does that come out after we've given the final approval. How does that play out because now we just dumped a load on him that he wasn't expecting.

Hearing no further comments, Stevens asked for a motion to close the public comments. Motion by Bachman to close the public comments, motion was second by Gorman. All yeas, motion carried.

Dorman advised I believe when Jeremy was referring to the 10' setback required today in the RSD the residential single-unit district, again the five-foot setback is proposed. Between the two lots you would have a total of 10 feet. If that's something Council is supportive of that can be approved as part of this planned development process. A traffic light is not required for rezoning or the preliminary development plan but will be addressed before the final plan is submitted.

Oakes stated he wants to be a good neighbor. Side yard setback is common these days and are being approved in most communities, and recently approved in another development in Clayton. Also, with the traffic light I'm happy to work through that with staff as we get further down the road, it just needs to be a partnership.

Stevens asked will we know where the funding for the traffic light will come from by the final plan, are we going to try to be scrambling trying to fund it afterwards.

Oakes I would like to have a final agreement with the city before final plan on what I'm required pay, my portion. This will be a city project at that point, which would be the preferred method for me.

Lieberman stated if I can go back to my question, I think you must have misunderstood where I was coming from, sorry. It's not really for you but more so for Seth. Back to your analogy it might be a drop in the bucket, but if the bucket is already full that's a problem and the bucket is already full. We need a stoplight there, so Seth the question I have is simply will we be able before this begins, I mean not begins today obviously today's just the first step, but would we be able by the end of that to know where the funding is coming from and have that put together so that we're assured there's going to be a stoplight.

Dorman stated we need to be a lot closer to where we are today before that final development plan comes to council. I agree with you completely. The way to look at tonight is it's a rezoning request and a conceptual plan. Does council like what they see enough to support moving forward to the next step and the next step is going to be a lot of discussion and a lot of study.

Oakes advised that in dealing with supply chain issues they are looking at the earliest I would be ready to go out to bid on a project like this and start construction even in an ideal scenario would be around the first quarter of next year, and do not anticipate sales until fourth quarter of 2023 at the earliest, so I think there is some time to work on the traffic signal.

Hearing no further comments, motion by Gorman to close the public hearing, motion was second by Merkle. All yeas, motion carried.

CLERK'S REPORT

Clerk Seim presented the minutes of the May 19, 2022 City Council meeting. Motion by Kelly, second by Gorman to approve the minutes as presented. All yeas, motion carried.

Law Director Martina Dillion requested a Resolution to be added to the agenda for this evening, Resolution R-06-22-47, authorizing a lease purchase agreement for three dump trucks. Motion by Bachman to add Resolution R-06-22-47 to tonight's agenda, motion was seconded by Merkle. All yeas, motion carried.

OLD BUSINESS

Ordinance No. O – 05 – 22 – 11 An Ordinance to Approve Current Replacement Pages to the Clayton Codified Ordinances. Second reading, no further discussion. Motion by Gorman to approve the Ordinance, second by Merkle. All yeas, motion carried.

Ordinance No. O – 05 – 22 – 13 An Ordinance Authorizing the Creation of the Wenger Village Incentive District within the City of Clayton, Ohio; Declaring Improvements to Certain Real Property Within Such Incentive District to be Public Purpose; Describing the Public Infrastructure Improvements to be Made to Benefit or Serve the Real Property within such Incentive District; Declaring such Property to be Exempt from Real Property Taxation; Requiring Annual Service Payments in Lieu of Taxes; Establishing a Municipal Public Improvement Tax Increment Equivalent Fund; and Providing Related Authorizations Pursuant to Ohio Revised Code Sections 5709.40(C), 5709.42, 5709.43, 5709.832 and 5709.85. Second reading, no further discussion. Motion by Gorman to approve the Ordinance, second by Bachman. All yeas, motion carried.

NEW BUSINESS

Ordinance No. O – 06 – 22 – 16 An Ordinance _____ (*Adopting, Rejecting, or Adopting and Modifying*) the Planning Commission's Recommendation, with Condition, to Approve the Application of The Kleingers Group for Right of Way and Easements Plat Approval for the Grand Villas of Clayton with Respect to 15.144 Acres and Bearing Parcel ID Number M60 03102 0032 Within the City of Clayton, Ohio. Motion by Gorman to adopt the Planning Commission's Recommendation, with Condition, to Approve the Application of The Kleingers Group for Right of Way and Easements Plat Approval for the Grand Villas of Clayton, motion was second by Lieberman. All yeas, motion carried.

Ordinance No. O – 06 – 22 – 17 An Ordinance _____ (*Adopting, Rejecting, or Adopting and Modifying*) the Planning Commission’s Recommendation to Approve, with Condition, the Application of Oakes Tree Development for a Change in Zoning from Residential Single-Unit District (RSD) (Formerly R-1 Open Space Residential) to Planned Development District (PDD) (Formerly PD-3 Planned Development-Business) and to Further Approve the Preliminary Development Plan for Property Located at the Northwest Corner of National Road and Haber Road (to be called “Northwood Estates”) Consisting of Parcel I.D. Number M60 03012 0022 and Parcel I.D. Number M60 03102 0105 and containing 33.69 Acres within the City of Clayton, Ohio. Motion by Lieberman to adopt the Planning Commission’s Recommendation to Approve, with Condition, the Application of Oakes Tree Development for a change in zoning from Residential Single-Unit District to Planned Development District and to further approve the Preliminary Development Plan for property located at the Northwest corner of National Road and Haber Road. Motion was second by Kelly. All yeas, motion carried.

Ordinance No. O – 06 – 22 – 18 An Ordinance Authorizing the City Manager to Execute Legal Documentation Necessary to Purchase Real Property Located at 8027 N. Main Street Clayton, Ohio, and Bearing Parcel I.D. Numbers M60 16312 0003, 0004, and 0005 for the Purchase Amount of \$99,000.00 Plus Closing Costs and Declaring an Emergency. Amanda Zimmerlin, City Manager, advised this is the property that is directly south of the property we just purchased at the corner of Hacker and N. Main. By acquiring this property, the city will control over two acres at the site. We have funds budgeted from the CIP for land acquisition along N. Main Street. The city has been in contact with Economic Development Department at Montgomery County to reallocate leftover CDBG funds to clear the property. Motion by Gorman to approve the Ordinance as an emergency, second by Merkle. All yeas, motion carried. Motion by Merkle to approve the Ordinance, second by Kelly. All yeas, motion carried.

Resolution No. R – 06 – 22 – 43 A Resolution Authorizing the City Manager to Enter Into a Memorandum of Understanding with the Montgomery County Soil and Water Conservation District to Commence April 1, 2022 and Terminate March 31, 2025 and at an Annual Cost Not to Exceed \$9,500.00. Motion by Gorman to approve the Resolution, motion was second by Kelly. All yeas, motion carried.

Resolution No. R – 06 – 22 – 44 A Resolution Authorizing the City Manager to Provide Written Notice of Withdrawal of the City of Clayton, Ohio from the Central Collection Agency to the City of Cleveland, Ohio, and the Central Collection Agency (CCA) in Order to Terminate the City of Cleveland, Ohio’s and the CCA’s Authority to Administer and Enforce Clayton’s Income Tax Ordinance(s). After discussion Gorman made a motion table the motion, no second was heard. After additional discussion Gorman made a motion to withdraw his motion to table this Resolution. Motion by Merkle to vote on this Resolution, second by Bachman. Voting: Bachman-no, Gorman-no, Merkle-no, Kelly-no, Lieberman-no, and Stevens-no. This Resolution did not receive the required number of votes for passage and therefore was not enacted.

Resolution No. R – 06 – 22 – 45 A Resolution Authorizing the City Manager to Enter Into an Agreement with Asphalt Sealcoaters of Dayton for the Installation of Four Pickleball Courts at Meadowbrook at Clayton at a Total Cost Not to Exceed \$56,850.00. Motion by Gorman to approve the Resolution, second by Kelly. All yeas, motion carried.

Resolution No. R – 06 – 22 – 46 A Resolution Authorizing the City Manager to Accept Proposal of and Enter into an Agreement with Superior Dental Care for the Provision of Group Dental Insurance Benefits for the Period September 1, 2022 to August 31, 2023. Elaine Wittman, Assistant to the City Manager, advised we have worked with our insurance broker McGohan and Brabender to obtain quotes for our insurance rates. After discussing going out to market for the rates, our broker was able to decrease our initial increase in premiums from 2.9% to 1.5%. McGohan and Brabender has seen an average of a 6-8% increase in dental rates for the year. Motion by Gorman to approve the Resolution, second by Lieberman. All yeas, motion carried.

Resolution No. R – 06 – 22 – 47 A Resolution Approving a Five Year Lease Purchase Agreement with Public Sector Capital for the Lease and Purchase of Three Dump Trucks via State Bid at the Purchase/Lease Price of \$787,497. Kevin Schweitzer, Finance Director, advised we are looking to purchase three dump trucks for the service department through a lease/purchase agreement with Public Sector Capital. Delivery of trucks will not occur until late 2023 or early 2024. Motion by Bachman to approve the Resolution, second by Merkle. All yeas, motion carried.

CITY MANAGER'S REPORT

Zimmerlin advised a few weeks ago I sent an email to council in one of my weekly updates talking about, at a very high level, reducing speed limits on certain roads in the city given the new developments. Staff is looking at Westbrook, Haber, Main Street, and Sweet Potato reducing the speeds to 35 mph. We would need to do a traffic or speed study for them to be warranted. We are looking to schedule a work session so we can have an in-depth conversation, and I can have the Police Chief and city engineer here for the discussion. Tonight, we had a presentation from Energy Alliance for electrical aggregation. In talking with Law Director Dillon, we would be able to figure out legislation to bring before council to get this item on the November ballot prior to us selecting a consultant to work with, so we could determine whether or not the residents want to do an aggregation program. We will bring forth legislation at our July meeting. Another item I sent to Council last week was the issue of whether or not the city wants to recognizing Juneteenth as an observed holiday for the city beginning in 2023. Other cities in the area are recognizing it as a paid holiday. If Council wants to observe Juneteenth as a holiday where we close the building, we will need to amend our personnel manual. After discussion Council agreed to bring forth legislation at our July meeting. An update on the USDA tornado cleanup, they are going to award the contract this week. The State through House Bill 3077 is distributing the second tranche of American Rescue Plan. As like the last time, I asked staff to look at items that were needed, the list was submitted to council in your packets for review.

VISITOR'S COMMENTS

None heard.

COUNCIL MEMBER COMMENTS

Bachman stated I want to acknowledge Scott Newberg's passing. He was a long-time Northmont Wrestling Coach, and I had the pleasure of having him as my coach. He was a wonderful man, wonderful family. Memorial Day activities were held last Saturday at the High School, it was a very nice service and Mayor Stevens gave a wonderful speech. I want to thank

the City and Chamber for their collaboration on the Veteran's Banners along Main Street. A lot of development going on in the community with three developments having broken ground. Our community is growing, let's keep it going in a good and smart way. Lastly, the discussion on Haber and National earlier, it's going well we just need to figure out how to get a traffic light there. Gorman stated we won't be back until after the 4th of July and wished everyone a Happy 4th of July holiday. Merkle stated the 4th of July holiday is coming up, as is Father's Day this Sunday. I hope everyone has a safe and happy 4th of July holiday. Kelly congratulated Dylan Greer, I've watched him grow up and saw his accomplishments. He's a great citizen of Clayton. Brendan, you said it well with the traffic light at Haber, we need to keep it moving. And, Happy 4th of July to everyone. Lieberman wished Finance Director, Kevin Schweitzer, a Happy Birthday. Stevens stated I echo what everyone else said, we have a lot of good stuff going on. One thing that Amanda said this week that really hit home with me. We have this development going on, and as people know we have this document PLAN Clayton. Sometimes people get tired of me and others referring back to this document. Someone told me it's not a Bible, we know it's not the Bible but it is a document that we live by. But what Amanda said was, we're working the PLAN. I think that's the key. We have the document; we're trying to grow smart and it's going to keep us going on the right path.

Motion by Gorman, second by Bachman to adjourn. All yeas, motion carried.

Meeting adjourned at 9:14 PM.