

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

May 4, 2023

NEW BUSINESS

ORDINANCES (FIRST OF TWO READINGS)

ORDINANCE NO. O – 05 – 23 – 07

AN ORDINANCE APPROVING AMENDMENT OF SECTION 1313.08 ("PLACEMENT OF RECEPTACLES") OF CHAPTER 1313 OF THE CLAYTON CODIFIED ORDINANCES

WHEREAS, City staff has reviewed Section 1313.08 of Chapter 1313 of the Codified Ordinances and has recommended amendment thereto in order to advance the public health, safety and welfare of the City and its citizens by adding language thereto regarding placement of receptacles.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That the following amendment to Section 1313.08 ("Placement of Receptacles") of Chapter 1313 of the Clayton Codified Ordinances is hereby approved: (Additions in **bold** and deletions in ~~strikethrough~~):

1313.08 PLACEMENT OF RECEPTACLES.

All residential garbage containers shall be placed at the curb or authorized alley location for pickup unless prior arrangements have been made for pickup at another location. No such garbage container shall be placed at the curb earlier than 24 hours preceding the pickup and all containers shall be removed within 24 hours after the pickup. When not at the curb for pickup, all garbage receptacles shall either be in an enclosed building or placed behind the front building line (the front wall of the house). **A resident may supply a doctor's note to the City Manager that it is not practical, for medical reason(s), to place containers as specified in this section. The City Manager, in his/her discretion and with concurrence of the City's garbage contractor, shall thereafter determine the location of containers. As part of the City Manager's determination, the resident may be required to establish Carry Out Service with the City's garbage contractor. The City Manager will issue his/her determination in written form, signed and dated by the City Manager. The determination of the City Manager shall be final.**

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2. That all other provisions of Section 1313.08 which have not been modified as set forth in Section 1 of this Ordinance shall remain in full force and effect.

3. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
4. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on May 4, 2023 and May 18, 2023.
5. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON MAY 18, 2023

NEW BUSINESS

ORDINANCES – THE FOLLOWING ORDINANCE NO. O – 05 – 23 – 08 WAS TABLED BY COUNCIL

ORDINANCE NO. O – 05 – 23 – 08

AN ORDINANCE _____ (ADOPTING, REJECTING, MODIFYING) THE PLANNING COMMISSION’S RECOMMENDATION TO APPROVE, WITH SPECIFIED CONDITIONS, THE APPLICATION OF CLAYTON PROPERTIES GROUP, INC. DBA ARBOR HOMES, FOR A CHANGE IN ZONING FROM RURAL CONSERVATION DISTRICT- 2 (RCD-2) TO PLANNED DEVELOPMENT DISTRICT (PDD) AND TO FURTHER APPROVE THE PRELIMINARY DEVELOPMENT PLAN FOR 42.99 ACRES OF PROPERTY LOCATED ALONG PHILLIPSBURG-UNION ROAD AND HABER ROAD AND BEARING PARCEL I.D. NO. M60 03006 0009 (TO BE CALLED “SALEM SPRINGS”) WITHIN THE CITY OF CLAYTON, OHIO

WHEREAS, on or about March 6, 2023, an application was filed by Clayton Properties Group, Inc. dba Arbor Homes, with consent of the property owner, for property located along Phillipsburg-Union Road and Haber Road consisting of Parcel I.D. Number M60 03006 0009 and containing 42.99 acres within the City of Clayton, Ohio (“Subject Property”)(to be called “Salem Springs”) and requesting a zoning change for same from Rural Conservation District-2 (RCD-2) to Planned Development District (PDD) and further requesting approval of the proposed Preliminary Development Plan for said subject property; and

WHEREAS, the Clayton Planning Commission held a public hearing on March 27, 2023 on said re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon, and the Clayton Planning Commission, at said meeting, *voted to approve as submitted the re-zoning and Preliminary Development Plan request with the following conditions: “(1) That the proposed development has a minimum lot width of 60’; and (2) That the applicant addresses the comments provided in the plan review letter from Planning Staff sent to the applicant on Mach 24, 2023”*; and

WHEREAS, the Clayton City Council held a public hearing on May 4, 2023, on the aforesaid re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That the Council hereby _____ (Adopts, Rejects, Modifies) the Planning Commission’s *recommendation of approval of the re-zoning and Preliminary Development Plan request for the Subject Property with the following conditions: “(1) That the proposed development has a minimum lot width of 60’; and (2) That the applicant addresses the comments provided in the plan review letter from Planning Staff sent to the applicant on Mach 24, 2023.” A copy of the Staff Review comments dated March 24, 2023, is appended hereto as Exhibit A.*
2. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
3. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on May 4, 2023 and May 18, 2023.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON MAY 18, 2023

ORDINANCES (SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 05 – 23 – 09

AN ORDINANCE FACILITATING THE FINANCING OF PUBLIC INFRASTRUCTURE IMPROVEMENTS FOR THE BENEFIT OF A PROJECT BEING UNDERTAKEN BY HUNTERS PATH PROJECT I, LLC, BY AUTHORIZING THE EXECUTION OF A COOPERATIVE AGREEMENT AND VARIOUS RELATED AGREEMENTS, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. O-04-22-08, passed by Council for the City of Clayton, Ohio (the “City”) on April 7, 2022, the City has entered into a Tax Increment Financing Agreement (the “TIF Agreement”) with Hunter’s Path Project I, LLC (the “Developer”) to facilitate the development of certain property through a single-family residential project (the “Development”) by providing funding for the costs of public infrastructure improvements (the “Project”) that directly benefit the Development; and

WHEREAS, the Developer, is pursuing the financing of the Project through the issuance by the Dayton-Montgomery County Port Authority (the “Port Authority”) of one or more series of revenue bonds (collectively, the “Bonds”) to be secured, in part, by service payments in lieu of taxes to be made pursuant to the TIF Agreement and minimum service payments, if any, to be made pursuant to agreements authorized by this Ordinance; and

WHEREAS, to facilitate the Development and the financing of the Project, the City and the Developer have proposed to enter into various related agreements; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide for the execution of various agreements which will facilitate the Development and provide for the construction of the Project;

NOW, THEREFORE, be it ordained by the legislative authority of the Municipality of Clayton, Montgomery County, Ohio, that:

Section 1. Authorization of Various Agreements. The following agreements, each of which generally provide for the terms as described below, and each in the form presently on file with the Clerk of Council, are hereby approved and authorized with such changes therein not inconsistent with this Ordinance and not substantially adverse to the City and which shall be approved by the City Manager:

(a) The Cooperative Agreement (the “Cooperative Agreement”) among the City, the Developer, the Port Authority, and The Huntington National Bank, as the trustee for the Bonds and as disbursing agent, which provides, among other things, for the payment of the service payments in lieu of taxes, in an amount equal to the amount of real property taxes that would have been paid on the Development, any payment received by the Montgomery County Treasurer and distributed to the City in connection with the reduction required by Ohio Revised Code Sections 319.302, 321.24, 323.152 and 323.156, the Property Tax Rollback Payments, and any minimum service payments received by the City (collectively, the “Assigned Service Payments”) with respect to the Development to the disbursing agent to pay debt service charges on the Bonds and for the issuance of the Bonds by the Port Authority, and

(b) The Agreement (the “Tax Lien Sale Agreement”) between the City and the Montgomery County, Ohio Treasurer (the “County Treasurer”), relating to the sale by the County Treasurer of tax certificates for delinquent real property tax liens on the tax parcels comprising the Development.

The City Manager, for and in the name of this City, is hereby authorized to execute each of the foregoing agreements, provided further that the approval of changes to any such agreement by the City Manager, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This City Council further authorizes the City Manager, for and in the name of the City, to execute any amendments to any of the foregoing agreements, which amendments are not inconsistent with this Ordinance and not substantially adverse to the City.

Section 2. Appropriations. There is hereby appropriated the Assigned Service Payments for further payment as described in the Cooperative Agreement and the TIF Agreement.

Section 3. Further Authorizations. This City Council further hereby authorizes and directs the City Manager, the Finance Director, the Clerk of Council or other appropriate officers of the City to prepare and sign all other agreements, documents and instruments and to take any other actions as may be appropriate to implement this Ordinance and to carry out the terms of the Cooperative Agreement.

Section 4. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision-making bodies of the City

that resulted in such formal actions were in meetings open to the public and in compliance with Ohio's Sunshine Laws, including R.C. 121.22.

Section 5. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City, due to the benefits resulting from the implementation of the Development contemplated hereby, as well as the numerous benefits to the City's overall economic health and competitiveness, and the critical timing and seasonality considerations associated with the Development's construction; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

ADOPTED BY COUNCIL ON MAY 4, 2023

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 05 – 23 – 36

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WAGNER PAVING, INC. FOR WIDENING AND RE-PAVING OF THE WESTBROOK PARK PATHS AT A COST NOT TO EXCEED \$63,674.00

WHEREAS, via City Charter Section 8.02(C)(1) and enactment of Ordinance No. 01-21-01 on February 18, 2021, the current minimum competitive bid threshold is \$64,498.00; and

WHEREAS, City staff has recommended widening and re-paving of the existing paths at Westbrook Park; and

WHEREAS, Council hereby determines the Wagner Paving, Inc. quote of \$63,674.00 to be the best proposal most favorable to and in the best interests of the City in order to complete the widening and re-paving work of existing park paths at Westbrook Park.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That the City Manager is authorized to accept the quote of and enter into an agreement with Wagner Paving, Inc. for widening and re-paving work of existing park paths at Westbrook Park at a cost not to exceed \$63,674.00.

ADOPTED BY COUNCIL ON MAY 4, 2023
