

Minutes of July 17, 2025 Council

Meeting of the Clayton, Ohio City Council
Clayton Government Center
July 17, 2025

CALL TO ORDER

The meeting was called to order by Mayor Stevens at 7:30 PM. Present were Mayor Stevens and Councilmembers Farmer, Henning, Gorman, Merkle, Kelly, and Bachman.

PUBLIC HEARINGS

Planning Commission Case PC25-02 - A request for a Preliminary Subdivision Plan and Rezoning for the Westbrook Estates Subdivision, a proposed residential subdivision. The request was made by Shanghi Enterprises, LLC

Ellen Snyder, GIS and Zoning Manager, advised PC25-02 is a request for a Preliminary Subdivision Plan and Rezoning for the Westbrook Estates Subdivision, a proposed residential subdivision. The request was made by Shanghi Enterprises, LLC, property owner. This application was received on May 8, 2025 for a proposed zoning district change from RSD to PDD, and a proposed Preliminary Development Plan for a Single-Family Residential Subdivision. The applicant is Jiechun Liu, on behalf of Shanghi Enterprises, LLC. The property contains 30.4242 acres, and there are no structures present. Ms. Snyder shared images of the general area, surrounding zoning, the specific location, and preliminary development plans. The current zoning of the subject property is RSD, Residential Single Unit District, and the applicant proposes re-zoning the subject property to PDD, Planned Development District. The applicant proposes the construction of 98 single-family homes, 5.87 acres (19.29%) of open space, and three access points, a new entrance on Taywood Road, and extension of Ponderosa Lane, and an extension of Oren Road. The applicant proposes water and sewer service tie-ins from existing facilities. New infrastructure includes streets, sidewalks, lighting, and a multi-use path along Westbrook Road. Neighborhood amenities include open space and a basin that has passive open space around it. The Planning Commission has passed a motion to recommend approval of both requests to City Council. City Council is now holding a second public hearing to make a final determination on the proposed preliminary development and rezoning request. If approved by Council, the applicant will then be able to submit Final Development Plans. Each Final Development Plan requires public hearings with both the Planning Commission and City Council. A final development plan and plat submission requires certain additional information not typically included with the preliminary plan, a completed traffic study, which will consider the impact of the proposed development on area roads and will make recommendations on road improvements to address such impacts and a Development Plan set, which will include details on utilities, grading, stormwater and drainage, building architecture and landscaping. After evaluating the applicant's request, Staff recommended the Planning Commission make a motion to recommend approval of the Preliminary Subdivision Plan and Rezoning request with certain conditions, the applicant shall submit detailed amenity and landscaping plans with Final Subdivision Plan, playground or park location and equipment in Reserve B shall be coordinated with the City, street tree and pedestrian infrastructure requirements shall be addressed per PLAN Clayton guidance, all engineering consultant comments shall be resolved prior to Final Plan approval, coordination with City and County agencies shall be required with Final Subdivision

Plan. After evaluating the applicant's request, and holding a public hearing, the Planning Commission passed a motion to recommend that City Council approve, with specified conditions, the Preliminary Subdivision Plan and Rezoning request with the specified condition that they adopt recommendations by Clayton Staff.

Mr. Henning asked do we have the minutes as to why two members voted no. Ms. Snyder advised, I don't know that the minutes have been approved yet, there's a draft version of the minutes, but I don't know if it was stated or not. When I watched it, I believe one Planning Commission member made a motion to recommend approval with a condition that they meet the minimum lot standards from RSD, that vote failed and then another member of the Planning Commission voted to recommend approval with just the conditions from staff and that motion passed.

Mr. Henning stated I see that it was split, but one of the members who usually votes for all the housing developments voted against it. So, I didn't know if we had a reason for him, but I see Mr. Bills was consistent in his no votes, but Mr. Muncy voted against this one, but for the others, I didn't know if there was an explanation. Ms. Snyder advised. I think it was because Mr. Muncy motioned to recommend approval with that condition that they meet the minimum standards from RSD and that vote failed.

Mayor Stevens asked the applicant if they had any comments to add.

Ben Schilling advised the presentation covered a lot of bases, but I do want to highlight a few things that have come up both from staff and from the Planning Commission meeting. There were comments about drainage. The site has significant topography from west to east, there is about 30 to 40 feet of fall across the site. A lot of that runoff is being directed to the rear yards of the existing lots to our east. We have looked at that and we intend to design sewers and drainage ditches to redirect any drainage that's coming onto those rear yards, divert it to our basin, and then we have that basin along Westbrook. That basin will be sized to handle the flows from the development and to not increase the release rates from our development. In addition to that we understand that there are some downstream concerns as well. There are very shallow ditches along the north side of Westbrook to our east which we recognize and need to evaluate. That is something we are attentive to and want to address to ensure that even downstream of our development there's adequate capacity in those roadside ditches to handle the flow. It will improve the condition because those ditches are so shallow. Staff's presentation noted a traffic impact study during the final development plan stage of this project. We actually completed a traffic study, and that study has been reviewed by staff and by the Kleingers Group. We have gotten it to the point now where there are no comments remaining. The study has shown that no improvements offsite are triggered by the development. That said, we understand there are concerns at Westbrook and Taywood, probably a majority of them as a result of the offset intersection. We're open to further discussions once we get to that point. From our discussions with staff and with the Planning Commission those discussions would happen at the final development plan stage. I want to highlight as well along Westbrook we're showing a right-of-way dedication to include and incorporate a multi-use path along the north side of Westbrook. The lots along the south side, along that cul-de-sac, those incorporate a right-a-way dedication into the lot. There were some comments from the fire department about hydrant spacing and maneuverability with this layout, we don't foresee any issues with being able to provide the hydrant spacing that would be needed, nor do we foresee any issues with maneuverability. There is an open space area that we have in the middle, we think it creates a nice feature, an amenity

for the development. We have discussed playgrounds, pickle ball courts, things of that nature. We're open to that being either a publicly owned and maintained space or a HOA, we're open to discussion and what the city's preference would be on that. The lot had been previously heavily wooded, and the majority of the trees have since been taken down. We did maintain a landscape buffer around the edges of the property with the intent that remains even when these homes are constructed. The reason those trees were taken down is so that we could do geotechnical investigation of the property, to look at the soils and confirm the feasibility of building homes there. There were comments about providing pedestrian connectivity to the adjacent subdivisions in the area. Again, we're open to that, we think it makes sense. If there's sidewalk connections that need to be made beyond the limits of our property, we are definitely willing to do that, what makes the most logical sense. We are going for rezoning, we're looking at 52 foot lots compared to 60-foot lots, which is the RSD requirement. We're also requesting as part of that rezoning 6-foot side yards which would result in 12 feet in between each house. Current RSD standards are 10-foot side yards setbacks, which would be 20 feet in between each house. When looking at this plan and comparing visually, the size of our proposed lots compared to the ones that are there currently it seems stark but the adjacent subdivisions, those lots are actually much wider than the RSD requirements dictate, some are over 80 feet wide. The rezoning, the reduction in the lot widths and the reduction in the side yards, allow us to generate more lots and make this feasible.

Mayor Stevens asked if Council had any questions.

Mr. Farmer asked just to confirm the entrance from Taywood into this development, you already own the right-a-way. Ms. Snyder advised it is already part of the parcel.

Mr. Farmer asked, when you were here before, you talked about some limiting factors for your audience that it is not in Northmont and the density was driving this so you can meet your price point. I was wondering if you considered there are a lot of folks in Clayton that are looking to downsize and stay in the area to be near grandkids. I didn't know if you were thinking about maybe focusing more to that demographic, you might be able to make your price point.

Mr. Bachman stated, I believe I asked this earlier this year, I want to double check and reiterate this point if it's correct. These aren't going to be pre-built, these are all going to be built to order. Mr. Liu advised, we will build four or five model homes first, so people can visualize and then we're going to have people select a model.

Mr. Merkle stated, when pulling up the information that was on the city's website for this preliminary plan, there was also attached the surveyor report describing the borings and other things that were done for the topography and the underlying rock. I would like for you to be able to speak to that as far as how this is going to impact your ability to actually construct. Mr. Schilling advised, they did borings, a dozen or so throughout the site. There were some areas that we're going to have to do maybe slab on grade rather than build basements, but I think overall generally the results of the geotechnical report didn't suggest that there would be any concerns with building what we're intending.

Mr. Merkle stated I'm not a civil engineer, but there were a lot of things that I read that started raising flags associated with the ability to actually be able to economically build from the standpoint of the rock base. They showed they did 29 borings for the site of which half of them hit rock, some less than three feet and a number of them were around 10 feet. They're looking at the topography of this lot which basically varies from the western edge to the eastern edge by almost 40 feet in angulation throughout the entire lot from the west to east, and how that ground

slopes and water runoff happens. The people on Janice last year reported that they had a large amount of rain, it doesn't have to be a 4-inch rainfall, just a one-inch rainfall coming down over a plot of ground like that and what's going to happen to the people on Janice. In terms of this lot, when you go to build and you're going to have to grade, you're going to also dig to put utilities in and look where the rock is located, how deep do you have to go to put in sanitary and water. Sanitary goes lower than water, you have to put storm lines in. With all that excavation taking place, how are you going to be economically able to put all that in with all the bedrock that's basically so near the surface. Mr. Schilling replied, there is already a sanitary line that bisects the site. Mr. Merkle replied, that's just one line going down the middle. You're talking about 104 houses you're going to run sanitarian water to. Mr. Schilling stated, that's right, but they were able to at least make that connection at one point. It's been there for a while. So, it's possible and we appreciate the concern and it's just something that we're going to have to work through.

Mr. Merkle stated, and the other question I have is associated with the swell you're talking about putting on the eastern edge, who is going to maintain that swell. Mr. Schilling stated, I would guess it could be either put in an easement to be owned and maintained by the City or by the HOA. Mr. Merkle stated because it's going to be in someone's backyard, there's going to be trees planted. I live just around the corner and there were depressions put in people's backyard to help off-load storm water as it flowed down stream and they end up filling in the depression so now water doesn't flow very well. Who is going to be responsible for maintaining it, who is going to manage it, this is someone's backyard. I'm not trying to be critical, I'm saying you're building, you're developing, you finish, you leave. Now, we're left with the neighbors on Janice and the people who live on that street are going to have to deal with water issues in terms of how the water is going to make its way to a retention pond. Hopefully, it's going to be detention versus retention, that's to be determined. Mr. Schilling stated it will be retention, it will be a wet basin. Mr. Merkle replied, now I have issues with that because now you have 104 houses present within a close proximity of a pond of unknown depth, now I have safety issues associated with that. You have a swell, you have water, that whole lot is going flow to that southeast corner and then being discharged onto Westbrook Road. I don't know how you're going to be able to discharge that through a 12-inch pipe. All these things, when you put them all together, this is almost a disaster waiting to happen. And like I said, when you leave, we're left with a problem. I want the problems resolved before they happen, and I'm looking for accountability before we get started.

Ms. Kelly stated, did you not say at the last meeting you were doing a detention pond, not retention. I think the reason we say this is because Greg (Merkle) and I walked the property on Janice Place and all that water is a huge concern to those neighbors, the way it runs off, and down the hill across the street where the creek line goes. It's a huge concern and we were looking at the impact it would make for those residents as well. Not to mention your plot, but the neighbors on Janice. Mr. Schilling stated the difference between a detention pond and a retention pond is semantics, detention means it's essentially a dry basin. So, it's only full of water when a rain event comes, once the rain event comes and passes through, it is dry. A retention pond has a normal pool. So, it's a wet pond, the first time we were here I may have said detention, it is a retention pond, sometimes they're used interchangeably, it will be a retention pond technically. As far as safety of the basin, it is standard practice to incorporate what's called a safety shelf. Just a foot below the normal pool of that pond, there is a safety shelf. It's typically between 8 and 10 feet wide and it has a flat slope on it so that should anyone stumble into the pond, there is a flat area for them to collect themselves and recover. In addition to that, you can also employ things like a fence or signage. There are many things that you can do to make the basin safe. As far as

the drainage along the east, we recognize that there is significant flow coming from our site onto the backyards of the folks to our east. Currently there is no management of that rainwater, it is running off into their backyards. We want to capture that water before it gets there and redirect it to our pond so they aren't experiencing the flooding that they are today. That swale will have to be designed to handle a 100-year event. This is the industry standard maximum storm event that we that we are obligated to convey. That swale which will be designed for the hundred-year event will be within an easement, that easement will have language that prohibits modification, prohibits impact to that drainage conveyance such that it would no longer operate effectively. That is all standard language that we can put within the easement whether the city would prefer to have that easement be granted to them or whether that easement is one that would be operated, maintained, owned by the HOA, we're open to that discussion. As far as the downstream impact our outlet is to the southeast corner along the north side of Westbrook. We recognize there are driveway swales in homes along Westbrook that are undersized today. We do intend to evaluate the downstream condition to upsize those drainage culverts to increase the volume that the roadside ditch can handle. We think that will significantly address and improve the drainage issues that our neighbors to the east are experiencing as well as the folks along Westbrook.

Mr. Merkle asked, you're talking about readjusting for the discharge out of the retention basin and you're looking at the ditches along Westbrook Road. How far down Westbrook Road do you intend to do this assessment. There is a creek that is not far, it's a block and a half away to the east of all this. Are you intending to look all the way to that creek as far as addressing this. Mr. Schilling stated, absolutely, that's what you need to do to do it right.

Mr. Merkle asked, so you're willing to take on that cost adjustment to change the size of the piping in order to accommodate the discharge all the way to that creek. Mr. Schilling responded, that's something that we need to do to be a responsible neighbor, yes. Mr. Merkle then asked, the question I was talking about this survey report is under section 3.3 which talks about geotechnical discussion. It says based on the boring results, the laboratory test results and the proposed construction, our analysis indicates one geotechnical related issue that exists at the site which may affect the performance of the foundations of these structures or could adversely impact construction activities. This all deals with the bedrock as far as its shallowness in different areas and how this could potentially impact your ability to put in foundations for structures. That was my point of concern with this in terms of once you get started, not having people back out and leaving us with a half completed job.

Mr. Merkle stated, dealing with the swale, the one thing I'm going to request is that section that borders between the property and the properties on Janice is that back section be moved. They're talking about an easement area where it basically becomes maintained by the HOA and it's not part of the people's property so it's properly maintained and kept clear. Mr. Schilling asked, just to be clear you're talking about an easement along our east line. Mr. Merkle stated yes, the east line that borders up against Janice.

Hearing no further questions, Mayor Stevens asked for a motion to open the floor for public comments. Motion by Gorman to open the floor for public comments for this hearing, motion was second by Farmer. All yeas, motion carried.

Gloria Von Fahnstock asked how many houses will be going in this development, was advised it would be 103. If PDD is denied how many homes would be lost, advised it would be 10. Lastly asked to verify the school district, informed it would be Trotwood Madison.

Sharon Cupp stressed her concerns with 100 houses on only 30 acres and traffic issues caused by this development.

Roxanne McCloskey also stressed her concerns with traffic issues, especially with Linchmere and Oren.

Hearing no further comments, Mayor Stevens asked the applicant if they would like to respond to any statements. Mr. Schilling stated nothing at this time.

Hearing no further comments, Mayor Stevens asked for a motion to close the public comments for this hearing. Gorman made motion to close the public comments for this hearing; motion was second by Kelly. All yeas, motion carried.

Mr. Merkle stated I do have a concern, it was addressed at the Planning Commission meeting when the question about traffic came up. Generally when you talk about the general public as far as where they go and how they get places, generally they're going to find the point of least amount of obstruction in order to get from point A to point B. It's like watching people walk through a newly laid snow on sidewalks between buildings. Even though you have a sidewalk that has been plowed and cleared, people want to take a shorter path, and that's how this also works. Traffic on Taywood gets backed up, so where do people go, they're going to go onto Janice and Linchmere, then they're going to go down either Westbrook Road or they're going to go over and get on Honeybrook, and then Honeybrook to go west or east. The traffic study as far as the final output in terms of 100 plus homes being put in, we already have an issue with traffic and now we're going to be adding on top of that to move people from point A to point B and I don't think we have all the answers that need to be addressed. Mayor Stevens stated, one thing I'd like to follow up to what Greg just said, and I'll say this to the city also, I think my concern with the traffic is we don't want to dump traffic just anywhere but when you add 100 homes you're going to have more traffic. That's a weird intersection, I think it's called a disjointed intersection, that needs to be addressed.

Mr. Farmer asked, I remember when you first came, you had an attorney with you asking for a TIFF, is that still your intent? Mr. Schilling replied yes.

Gorman then made a motion to close the public hearing; motion was second by Kelly. All yeas, motion carried.

Planning Commission Case PC25-03 - A request for a Final Subdivision Plan for the Hunters Path Extension Phase Three Subdivision, a proposed residential subdivision. The request was made by DDC Management, LLC

Ellen Snyder, GIS and Zoning Manager, advised PC25-03 A request for a Final Subdivision Plan for the Hunters Path Extension Phase Three Subdivision, a proposed residential subdivision. The request was made by DDC Management, LLC, the applicant. This preliminary subdivision application was received February 28, 2025 and was recommended for approval by the Planning Commission on March 24, 2025, and was then approved by City Council on May 1, 2025. This Final Subdivision Plan application was received on June 5, 2025. The applicant proposes a 17.09-acre Final Development Plan for a previously approved 37.1 acre Preliminary Plan. The applicant is Ross Behnfeldt, on behalf of DDC Management LLC, and the property owner is Lagos Properties. The location of subject property is near the intersection of Westbrook and Hoke Roads. Ms. Snyder shared images of the general area, surrounding zoning, the specific location, and preliminary development plan. The current zoning of the subject property is RSD,

Residential Single Unit District, and the proposed zoning of the subject property is also RSD. The applicant proposes construction of 40 single-family homes, 5.6646 acres of open space, an access point with the extension off Falls Road, proposes water and sewer service tie-ins from existing facilities. New infrastructure will include streets, sidewalks, lighting, and a multi-use path along Westbrook Road. Neighborhood amenities will include open spaces and a basin that has passive open space around it. The Planning Commission has passed a motion to recommend approval of the request to City Council. City Council is now holding a second public hearing to make a final determination on the proposed Final Development request. If motioned and approved by City Council, the applicant will then be able to record the plat, schedule a pre-construction meeting, and start submitting applications for homes. After evaluating the applicant's request, Staff recommended Planning Commission make a motion to recommend approval of the Final Subdivision plan with certain conditions: applicant shall follow CCI Section 1111.22(C)(5) Anti-Monotony Requirements, any future plans for active open space amenities, for example playgrounds or trails, shall be submitted for review and approval, all outstanding engineering consultant comments shall be fully addressed prior to construction, and all infrastructure shall be installed per approved plans and in coordination with Montgomery County Environmental Services and other utility providers. After evaluating the applicant's request, and holding a Public Hearing, the Planning Commission passed a motion to recommend that City Council approve, with specified conditions, the Final Subdivision request with the condition, they adopt recommendations by Clayton Staff. Following discussions with residents and the City Manager, the applicant indicated willingness to restore a 20-foot open space area along the northeast boundary and Council may wish to add a condition of approval requiring the inclusion of the 20-foot open space area.

Mayor Stevens asked the applicant if they would like to add any comments.

Jon Bills stated he is with DDC Management, and it was heard loudly at the Planning Commission from residents about the open space going away along that northern boundary that was in the original preliminary plan. We were here for a preliminary plan and when we came back for a final development plan it was for substantially the same. As we got into engineering, there were some minor shifts in lots. We had to adjust a little bit to make sure we had the right widths. We were trying to widen some of the lots, for example one went from 60 feet to 70 feet, that was to exceed the RSD minimums where we could and get wider lots. That was to add variety to the builder, to be able to offer a third car garage on a few lots, to help with the monotony clause and driving some variety within the community. Where the roads allowed it, we did widen them. We are doing straight zone, we did a PDD on the previous two sections that are already built out. After hearing resident comments, we recognize the strong desire of the neighbors to the north, and while it wasn't presented that way at the Planning Commission, we are definitely open if Council would like to recommend that condition that we put the 20-foot buffer back in. It will be maintained by the HOA, and with that we don't plan to clear it. It would be HOA space and stay wooded as it sits today in that 20-foot buffer.

Mayor Stevens asked if Council had any questions.

Mr. Merkle stated, in talking to some of the neighbors that butt up against this, and I did attend the Planning Commission meeting, and questions and concerns that people had doesn't directly affect the neighbors, but how do people move around the cul-de-sacs. The Northmont Board of Education's president is here, she might be able to answer or have an answer in the future for questions dealing with students that might be living in this area with accessibility to a school bus

in terms of picking them up and dropping them off, how do you get a school bus on a closed roadway in terms of three cul-de-sacs, that's one part. Second part deals with accessibility for trash trucks. I live in a cul-de-sac and I watch Rumpke when they come down my street and I watch them back and forth a lot on the street, trying to pick up trash, but the ability for trash trucks and school buses and other ancillary vehicles like that, fire engines, ambulances to be able to get in and navigate freely and when you have cars parked in the street. When things are working right there is no problem, but you start putting in things that happen in everyday life, the ability for traffic to move when it needs to, especially in an emergency, how is this addressed or what sort of accommodation can be made to ensure that we don't have a bottleneck when there's an emergency. Mr. Bills advised, I'll speak to the best of my ability, I can't necessarily speak to school buses and maybe if someone from the school is here they could speak to that better. At least what I'm familiar with other subdivisions they typically do not pick up kids at every house like in the country, but there will be a bus stop. As far as width of the road and parking and trash service, all roads that we are proposing meet the widths, the cul-de-sacs meet the city standards, we aren't asking for a deviation. We're building to the city specs, if Council doesn't believe the city specs are up to code or meet those conditions. The fire department reviewed it, they are okay with the plan, we've addressed all their comments. If there is an underlying problem with city code, it would need to be addressed at that level.

Mr. Merkle stated, that's something we can address with the City Manager and other persons. Just looking from the standpoint of your area, what you're doing and what you're building, those are after build concerns. The other concern that I have to add to this, while construction is taking place, where are the workers going to park and access the work site. Mr. Bills advised, this would be part of what we worked through with preconstruction with the city, we will have a temporary construction access for when we are building the site, to be able to get in so that we don't have to go through the existing community of Hunter's Path. The thought was to allow heavy equipment to come in off the main road (Westbrook Road) during construction with a temporary easement.

Mr. Gorman asked, I have one question, you said that this 20-foot easement would be controlled by the homeowner's association. Mr. Bills stated it will be like other open spaces, but we won't clear it. Mr. Gorman stated I was wrong with what I read before, I think that most of the people who were concerned about the trees do not live in this subdivision, but rather in the one behind it. Therefore, they would have no control over the HOA, and the HOA doesn't owe these people a thing. The HOA is just going to consist of the people that live in your subdivision. Can't we do this by a covenant or a restriction so that those people are protected for 10 to 15 years. We did a development down the street and we covered a lot of these things with covenants and restrictions to different lots at different points in time. Can we still use covenants and restrictions Martina (Dillon). Ms. Dillon replied, I believe so, I would want to look at that to make sure that's the best legal approach to accomplish that, but I believe we could probably accomplish that. Mr. Gorman stated, I would be afraid that the homeowner's association may not be concerned about the people that don't live in the subdivision. Ms. Zimmerlin stated, if memory serves me correct, Phase 1 to the east, there is a preservation easement on the deed for the green space that's up in the corner. Mr. Bills replied, I would assume we could do this and we're open to that. We don't plan to clear it, it was heard loud and clear they didn't want the homeowners to own it, the new homeowners, so that they couldn't do whatever. But whatever we did in Phase 1, there was also I think a tree preservation on the plat, but I don't know how that's enforced. Mr. Gorman stated the lots to the north could control the HOA, they could be the HOA. I forget how many houses are

going to be there, 40 I think was the number. Mr. Bills stated, I don't remember how we did it but however we did it in the first one we would be open to the same thing for the area up along those lots.

Mr. Farmer stated, I want to say I'm glad to hear you don't want to touch the tree line. I went out and looked at where that 20-foot line is, it sort of splits the trees down the middle from what I saw. I was curious, is the property owner going to own part of those trees and then the HOA is going to take care of that string of trees between the homeowner's trees and folks on Mount Royal. Mr. Bills asked, I didn't quite fully understand what you were describing. Mr. Farmer stated the property on the corner lot in the upper right, if you have 20 feet along the top there right that 20-foot mark if you follow that across and you overlay with the trees it actually cuts through the trees. Mr. Bills responded, yes what we're willing to do is to keep 20 foot of trees and I haven't surveyed them, but keep 20 feet to keep a buffer there and still allow for a little bit larger lot with the intent of getting diversity, but we wanted to meet in the middle and agree to leave at least a 20-foot buffer there. Mr. Farmer asked, you're committing that you're going to leave those trees alone. Mr. Bills replied, yes the 20 feet that would be in that tree preservation, that HOA space, we would leave those alone. We may leave some on the lots as well, but they may clear what they need for the homes. If it extends beyond the 20 foot and those residents though, it's at their discretion, they may want to keep those as well on their property, but they could have the legal right to cut them down. Mr. Farmer stated that is a risk that the new homeowners there may decide I don't want those trees. Mr. Bills replied, not in the 20-foot easement, only the ones that would be on their lot.

Ms. Kelly asked, taking those trees out would create water issues, that's why I think we were all concerned with the way the trees are going to be preserved. If you start taking out those trees, the water's going to run through, that kind of stops it and preserves it.

Mr. Merkle stated, part of your original proposal was to remove dead trees and ensuring that good sound growth remained behind once construction was finished and you're starting to build, does that still stand. Mr. Bills replied, yes, what we do on all developments, we're going to remove the trees that we have to within the lots. Again, not the 20-foot buffer now, but within the lots that we need to do the grading, to do all of that. We leave trees where possible, but as you've seen on the different plans presented tonight, a lot of times you have storm drainage and that in the rear that the trees actually hinder the flow. I know they can also help maybe in this instance, but if it's somewhere where we're trying to control the flow of water and get it to go to the new basin, you don't want trees in the middle of those ditches. Within the lots we will be clearing wherever there's storm water we will be removing the trees, within that 20-foot buffer I'll work with staff to determine. We're happy to remove dead trees, I don't because it isn't a tree preservation I need to know the legality, but I will take directions from staff. We would remove dead ones we don't want them to fall and cause damage to the neighbor or to the new homeowners, but anything healthy would stay.

Mr. Merkle stated, in my original conversation removing dead trees up to the property line and I was wondering is that still going to stand even in this area where you're going to preserve the 20 foot. Mr. Bills replied, I would look to staff to give me direction. My fear is we're going to leave them alone, it's a tree preservation. I have somebody come out and take one down and then a homeowner says well they didn't think it was dead, or we get into a whole debate on is it really dead? Is it a little dead? Is it a danger? Is it not? I'll work with staff in whatever preference there is from the city within that 20-foot buffer, I just don't know the best answer.

Mr. Merkle stated, I'm appreciative on what you've done as far as modifying what you presented at the public hearing at the Planning Commission and I think the neighbors are as well. I think there are some concerns that they still have with trees and I can address this with the City Manager and talk with you about it. I know there's also some concerns dealing with the stream that runs through the property as well as for as ensuring that it's going to function the way it's supposed to as far as draining the water that's basically on Mount Royal coming through the property, that it's going to be able to take on that water flow. That is going to be under Phase 4 I presume as far as the stream itself that you're not touching it with this this phase. Mr. Bills replied, correct. Mr. Merkle stated, speaking ahead, that when you get ready to do Phase 4 ensuring that the stream base is going to be capable of sustaining the flow coming out of Mount Royal that you're not going to have flooding issues on your property. Mr. Bills replied, yes, in the future Phase 4, the stream takes all the water of the property today as well as the property from Royal Oaks to the north. The stream can handle the flow, it takes the flow. We're not going to add any flow into the stream or take any away from the stream with what we do. As far as maintenance of it, it is a blue line stream. There are limitations to what we can do to that stream, but what we typically would do if there are dead trees or whatever, we can try to drag them out during construction, but for the most part, that wooded stream will remain a wooded stream. It'll be within the HOA ground. If there was a problem with the flow that kept water from draining for some reason, it would be the HOA's responsibility, no different than any other storm water, storm basin, any of those things.

Mr. Merkle stated, I'm sure myself as well as the people moving into that area don't want to see water infusion into their backyards because the stream itself is incapable of handling water flow. I've not seen the stream when it has a quantity of water running through it to see what its capabilities are. How does the water flow through that area when there's a copious amounts of water flowing due to heavy rainfall? Where does the water go and what does the stream bed look like? Just to get an idea as far as they talk about the hundred-year flood, what does this stream look like under those conditions. Basically ensuring that whatever bed it's in, it stays there and we're not creating extra problems.

Mr. Farmer stated, when I read the packet, I was a little concerned with your response on any monotony and I wanted to confirm with you that you were going to follow the code in terms of both color and design. Mr. Bills stated, we aren't the builder. Ultimately the builder will follow Clayton's code when building this. I know they worked through that in the first two phases, it is the same builder and they will follow the same thing when they come here.

Hearing no further questions, Mayor Stevens asked for a motion to open the floor for public comments. Motion by Gorman to open the floor for public comments for this hearing, motion as second by Farmer. All yeas, motion carried.

Bill Seiter stated he appreciated the extra scrutiny on this issue. For years, my wife and I have maintained the tree line behind our house, it's beautiful at this point. We knew for a long time that this day was coming when that space was going to be developed, so we've been planting trees and trying our best to have something that looks nice and would provide a nice barrier. We will be okay with this plan provided there's a significant buffer and the tree lines are maintained.

Jo Seiter questioned lot widths from the preliminary plan to the final plan, and stressed her concern with the design of the cul-de-sacs with safety as they may allow for trespassers to access their property on Mount Royal.

Debbie Cook thanked everyone for their efforts in putting in the buffer, and was also concerned that the buffer remain to prevent someone from walking through and possibly stealing from Bayberry Trails. If the buffer stays, I'm all for it.

Paul Cook stated I'd like to make it clear for you to do your due diligence, take a deep breath, and re-evaluate and look at this because I don't see the sense of urgency. I just want to make sure that we're all on the same page moving forward because we're not against this development. All of us here are interested in the success of the city, the developer as well, but take care of your constituents too.

Hearing no further comments, Mayor Stevens asked for a motion to close the public comments for this hearing. Gorman made a motion to close the public comments for this hearing; motion was second by Henning. All yeas, motion carried.

Mayor Stevens asked the applicant if they would like to respond to any statements. Mr. Bills stated he has no further comments at this time.

Mr. Farmer stated, Tim (Gorman) I actually have a question for you. I was intrigued by your comment about the covenant agreement. Mr. Gorman replied, could you elaborate on that, Martina (Dillon) or Amanda (Zimmerlin), I don't know the law, but we had a number of covenants and restrictions in our plat. Ms. Dillon advised, is that what you're talking about, a restrictive covenant in the plat. If you want me to look at it further I'll be happy to because I think it would be a good idea if that's the way Council is leaning, to look at that further and let's clarify exactly the legal process to be able to move forward. I don't want to give you incorrect advice now. I'd rather look at it, come back, provide you with the advice knowing that this is the proper way to accomplish that and if it's not then X is the way to accomplish that best so that they're protected and that the development goes forward.

Mr. Farmer asked, if the final plan were approved tonight, how would we follow up with that as a condition or could we. Ms. Dillon advised, the way I'm looking at it is so Council, as you've noticed from the agenda, has the authority to accept the recommendation of the Planning Commission. You can vote to reject the recommendation of the Planning Commission, or you can vote to modify the recommendation of the Planning Commission, you could vote to modify it. My issue with that is without having the specific legal terminology, I don't want to leave that ambiguous, I'd rather have that a little more certain. The other option would be to vote to table it, vote to postpone it to the next Council meeting, those would be two different votes. You could either table it or vote to postpone to the next Council meeting so that we could look at that issue and then bring back information with respect to that and then work with the developer in order to make that modification to the final plan that then Council could vote on.

Mr. Merkle asked, so this would have to be basically a condition for approval for the final design. Ms. Dillon replied, yes, the final development plan.

Gorman made a motion to close the public hearing; motion was second by Henning. All yeas, motion carried.

CLERK'S REPORT

Clerk Seim presented the minutes of the June 5, 2025 Council meeting. Motion by Gorman, second by Kelly to approve the minutes as presented. All yeas, motion carried. Clerk Seim then presented the minutes of the June 23, 2025 Special Council meeting. Motion by Gorman, second

by Farmer to approve the minutes as presented. Voting: Farmer-yea, Henning-abstain, Gorman-abstain, Merkle-yea, Kelly-yea, Bachman-yea, and Stevens-yea. Motion passed 5-0 with two abstention.

OLD BUSINESS

None

NEW BUSINESS

Ordinance No. O – 07 – 25 – 09 An Ordinance _____ (*Adopting, Rejecting, Modifying*) the Planning Commission’s Recommendation to Approve the Final Development Plan of DDC Management, LLC with Specified Conditions, Submitted for Property Located near the Intersection of Westbrook Road and Union Road and Bearing Parcel I.D. Number M60 03207 0023 Comprised of 37.098 Acres within the City of Clayton, Ohio. Motion by Merkle to table this Ordinance, motion was second by Kelly. Voting: Farmer-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-abstain, and Stevens-yes. Motion passed 6-0 with one abstention.

Ordinance No. O – 07 – 25 – 10 An Ordinance Rejecting the Planning Commission’s Recommendation to Approve the Application of Shanghi Enterprises for a Change in Zoning from Residential-Single Unit (RSD) to Planned Development (PDD) and to Approve the Preliminary Subdivision Plan, with Specified Conditions, Submitted for Property Located near the Intersection of Westbrook Road and Taywood Road and Bearing Parcel I.D. Number M60103209 0025 Comprised of 30.4242 Acres within the City of Clayton, Ohio. Motion by Merkle to reject the Ordinance, second by Henning. Voting: Farmer-yes, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-no, and Stevens-no. Motion passed 5-2.

Ordinance No. O – 07 – 25 – 11 An Ordinance to Repeal Current Clayton Codified Ordinance Chapter 1519 (“Fireworks”) and Replace with Updated Version of Clayton Codified Ordinance Chapter 1519 (“Fireworks”) Appended Hereto as Exhibit A. Motion by Henning to approve the Ordinance. This Ordinance failed to receive a second and therefore will not be moved forward for a second reading.

Ordinance No. O – 07 – 25 – 12 An Ordinance REPEALING Ordinance No. O-01-25-02 Which Adopted the Planning commission’s Recommendation to Approve, with Specified Conditions, the Application of SDG Warner Village LLC for a Change in Zoning from Residential Single Unit District (RSD) to Planned Development District (PDD) and to Further Approve the Preliminary Development Plan for 183.1044 Acres of Property Located near the Intersection of Sweet Potato Ridge Road and Main Street Bearing Parcel I.D. No. M60 03010 0001 Within the City of Clayton, Ohio. Motion by Gorman to approve the Ordinance, second by Merkle. Law Director Dillon advised since this would repeal the prior approval of the Planning Commission recommendation, it would be going against the Planning Commissions recommendation. Therefore, you would need five votes for approval. Mr. Henning stated I wish I had gotten this figured out with the Board of Elections that even if we repeal this because it's outside that 21-day window, the petitioners committee is not compelled to remove it from the ballot. Is that correct? Ms. Dillon advised I had a conversation with Mr. Rezabek this morning. I understand that is his interpretation. I talked to him and explained my interpretation of the Charter and I do not believe that is a correct interpretation of the Charter. I believe once it is repealed the Board of Elections

is to remove it from the ballot and there is Ohio case law to that effect. Quoting, “There through a referendum the people of a municipality can submit an Ordinance adopted by the legislative authority of the municipality to the electors for their approval or rejection. Once a legislative authority of a municipality rejects an Ordinance through repeal, there is no need for the municipality's electors to reject it through referendum. Thus, the repeal of the Ordinance makes a referendum against the Ordinance moot. Accordingly, if after a referendum petition has been filed against any Ordinance or measure, the legislative authority of the municipal corporation repeals such Ordinance or measure, the board of elections shall not submit such Ordinance or measure to a vote of the electors.” Motion by Gorman to approve this Ordinance, motion was second by Merkle. Voting: Farmer-yes, Henning-no, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 6-1.

Law Director Dillon advised with respect to the Charter Amendment Resolutions pursuant to section 12.16 of the Charter, they require a two-thirds vote in order to be placed on the ballot. That means we need five votes for them to be approved.

Resolution No. R – 07 – 25 – 51 A Resolution Approving an Amendment to Clayton Charter Section 3.04 (Mayor and Vice-Mayor). Motion by Henning to approve the Resolution, second by Merkle. All yeas, motion carried.

Resolution No. R – 07 – 25 – 52 A Resolution Approving an Amendment to Clayton Charter Section 3.08 (Salaries of Elected Officials). Mr. Farmer asked, is this the one that was not submitted by the Charter Commission? Ms. Dillon stated, correct, that's the one I have previously provided Council with information with respect to a provision of the ORC indicating that there are not to be midterm adjustments either up or down in salaries and additionally a couple of Ohio Ethics Commission opinions that were opined as well and therefore made the recommendation that we place this on the ballot consistent with the ORC and the Ohio Ethics Commission opinions I reviewed. Motion by Gorman to approve the Resolution, second by Kelly. Voting: Farmer-no, Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 6-1.

Resolution No. R – 07 – 25 – 53 A Resolution Approving an Amendment to Clayton Charter Sections 5.02 (City Manager Qualifications) and 11.03 (Personnel Practices Manual). Motion by Henning to approve the Resolution, second by Gorman. All yeas, motion carried.

Resolution No. R – 07 – 25 – 54 A Resolution Approving Amendments to Clayton Charter Sections 3.03 (Wards and Boundaries) and 9.01 (Nominations and Elections). Law Director Dillon advised just to clarify, this also was not a recommendation of the Charter Review Commission. I believe the City Manager noticed this possible inconsistency in between these two provisions whereby if the city were to readjust the boundaries as it is required to do, that could inadvertently result in somebody who having moved from one ward to another ward and not being able to run for that position because they hadn't lived there for 12 months which is what the current Charter provides. This language change would allow that person if they wanted to run to go ahead and run for election to Council in their new ward even though they had not lived in that ward for 12 months if they had lived in their old ward for 12 months. We're trying to basically prevent somebody from being disenfranchised from running for office because of a ward adjustment. Motion by Gorman to approve the Resolution, second by Kelly. Farmer-no,

Henning-yes, Gorman-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 6-1.

Resolution No. R – 07 – 25 – 55 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, 2025 to August 31, 2026. Elaine Wittman, Assistant City Manager, advised we propose renewing the City’s current dental insurance plan with Superior Dental Care. The premiums would remain steady and not increase for the benefit period. Motion by Henning to approve the Resolution, second by Kelly. All yeas, motion carried.

Resolution No. R – 07 – 25 – 56 A Resolution Authorizing the City of Clayton, Ohio to Prepare and Submit an Application to Participate in the Ohio Public Works Commission State Capital Improvement and/or Local Transportation Improvement Program(s) and to Execute Contracts as Required. Randy Sanders, Public Service Director, advised Clayton was awarded funds to complete safety improvements along State Route 48 - Main Street. Staff intends to apply for funding to support the design and construction of a sidewalk improvement project along State Route 48 Main Street. This project aligns with our capital improvement goals and pedestrian safety enhancements. Motion by Kelly to approve the Resolution, second by Merkle. All yeas, motion carried.

Resolution No. R – 07 – 25 – 57 A Resolution Authorizing the City Manager to Purchase from Henderson Products, Inc. a Brine Making System in the Total Amount of \$102,923.94 with the Total Amount Paid by the City Not to Exceed \$38,216.33, after Application of Grant Funds. Sanders advised we were awarded \$75,000 in reimbursable grant funding through this program to support the acquisition of equipment that improves salt usage efficiency and minimizes environmental impact. The net maximum obligation after the grant reimbursement would be \$38,216.33. Motion by Henning to approve the Resolution, second by Merkle. All yeas, motion carried.

Resolution No. R – 07 – 25 – 58 A Resolution Authorizing all Action Necessary to Affect a Governmental Natural Gas Aggregation Program with Opt-out Provisions Pursuant to Section 4929.26 of the Ohio Revised Code, Directing the Montgomery County Board of Elections to Submit a Ballot Question to the Electors. Motion by Henning to approve the Resolution, second by Kelly. All yeas, motion carried.

Resolution No. R – 07 – 25 – 59 A Resolution Authorizing the City Manager to Execute a Cooperative Agreement with the City of Brookville to use the City of Clayton Street Sweeper at Specified Times During 2025 and 2026. Motion by Gorman to approve the Resolution, second by Henning. All yeas, motion carried.

Resolution No. R – 07 – 25 – 60 A Resolution Approving Amendments to Clayton Charter Sections 4.031 (Procedure for Passage of Ordinance), 4.032 (Procedure for Passage of Resolutions, 4.04 (Codification of Ordinances), and 8.02 (Contracting Powers and Procedures). Motion by Henning to approve the Resolution, second by Farmer. All yeas, motion carried.

VISITOR’S COMMENTS

Deborah Retman lives on Hilltop and their curbs were replaced this summer, she stressed her disappointment with the grass that was planted as mostly crabgrass is coming in.

Rose Plumber lives on Old Mill Road and shared her concern with traffic using Old Mill Road as a detour when there is an accident on State Route 48.

CITY MANAGER'S REPORT

Amanda Zimmerlin, City Manager, advised the City's annual Shredding Event is this Saturday, July 19th from 9 am to 11 am. Letters were mailed to the 29 parcels that pay property taxes to both Clay Township and the City of Clayton. Of the 29 letters, the City was contacted by seven property owners and two letters were returned. Of the seven direct contacts, only one property owner was certain that they wanted to only be within the City of Clayton the others requested additional information. If this is something Council would like to pursue, I would recommend holding a work session and staff can provide a presentation to the residents concerning this issue.

COUNCIL MEMBER COMMENTS

Kelly stated I want to say thank you to the residents on Falls Road and Mount Royal, thank you for allowing me to come into your homes and listening to your concerns, I believe that a resolution has happened with the 20 feet, the trees, and the preservation. Merkel stated we're at an opportune time for basically taking what's been done tonight and adding to it moving forward. The issues that you have for the additional parts can be addressed at a time before it becomes critical. Now is a good time to sit down and talk about what the options are as far as how to address those things and even things that are not an issue right now but could very easily be because there were concerns that were expressed and they do need to be taken care of. So thank you for talking with me and giving me some insight as far as what you have and what your concerns were. You know we do take this seriously. Henning, I hope you let us know tonight, Mayor, if you will be seeking another term as Mayor, I think the citizens would like to know. I would add that in my opinion, tonight was a masterclass to all you that were here and government-elected officials back stepping to keep their positions in hopes of reducing resident participation in November at the ballot booth. They took the referendum off the ballot instead of listening to residents to begin with, like we did. It was a huge waste of time for the meetings that we had here, huge waste of time for the thousand plus signatures all of you had to get. It's a prime example of why citizens are so frustrated with government. I would just say don't let some moves tonight fool you, after the November election, things will go back to how they were. They won't listen to you and things will continue how they've always been. Farmer welcomed everyone, I want to say Ellen, I want to compliment you on your charts tonight, I thought they were excellent. I don't say that very often about much anything around here, but they clearly laid out differences and made it clear to us as a Council how things had changed, I really appreciate that. Hunter's Path Phase 3 since we tabled it, it is RSD and as you probably observe RSD to me it comes across as pretty loose restrictions and if you look at our future land use map and you have open space RSD, you need to think four to five houses an acre. That might be a cause for looking at that in the future. I did vote to repeal the Ordinance; I had to look at that in terms of risk. There's always a risk if it goes to the ballot, it could fail, but you have a guarantee if you have Council to support it. I'd be happy to talk with anyone in person on why I did what I did, I'd love to share my insight on why I did that. Last but not least, I did vote against a couple of Charter Amendments. I did that because I know the Charter Commission spent several months with the work they did. I highly respect that, esteemed members of the community, those things weren't brought forward. One was there's push back against when presented in November 2023, I think it was, but they're all going to the ballot and we'll see how those go. Mayor Stevens stated

I want to thank everyone who stuck it out for tonight, it was a long meeting, and some of the items tend to be boring, but I am glad everyone stayed. It's been awfully hot, stay hydrated and try to enjoy the rest of your summer, hit the pool if you can. I'd like to thank our Council for the work that they do, thanks to our great staff, and also thank our residents. You folks that come in here and give up your time not only here at the meetings but working on issues and keeping your interest. It's key to keeping our community viable and my hat goes off to you whether I agree with you or your decisions or not. To me, that's way down the list. The big thing is everyone stay involved and take responsibility. It's your city, and I definitely appreciate the involvement from everyone.

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

Meeting adjourned at 9:44 PM.