

## **MINUTES, WEEK OF MAY 24, 2022**

The Board of Trustees met on Tuesday, May 24, 2022, at the Butler Township Government Center, 3780 Little York Road, Dayton Ohio, at 6:00p.m. for a Regular Session to transact the business of the township.

Missy Pruszynski, President called the meeting to order.

### **PLEDGE OF ALLEGIANCE**

#### **OATH OF OFFICE:**

The Oath of Office was read into record by Police Chief Porter for the appointment of Chad Cottongim as Full-Time Time Patrol Officer for Butler Township.

#### **APPROVAL OF THE MINUTES**

The Minutes of April 26, 2022, Regular Session, were submitted for approval. Bryson Jackson made a motion to approve the Regular Session Minutes of April 26, 2022, as submitted, with Mike Thein seconding and Missy Pruszynski approving the motion, 3-0.

The Workshop Minutes of May 10, 2022, Workshop Session, were submitted for approval. Bryson Jackson made a motion to approve the Workshop Session Minutes of May 10, 2022, as submitted, with Mike Thein seconding and Missy Pruszynski approving the motion, 3-0.

#### **PUBLIC HEARING**

##### **ZC 2-21, Yorkshire Reserve, Section III, Final Development Plan and PD-1, Planned Development Modification, per Article 19 of the Butler Township Zoning Resolution**

Public Hearing for Case #ZC 2-21 was open. Yorkshire Reserve, Section III Final Development Plan and PD-1, Planned Development Modification, per Article 19 of the Butler Township Zoning Resolution.

Staff stated the Trustees held a public hearing for ZC 2-21 on April 26, 2022 and held a workshop on April 12, 2022. On April 26, 2022, the Trustees voted to refer the case was back to the Zoning Commission to review a new modified plan, consisting of 44 lots.

Staff explained the process that has led to this final hearing and noted that the applicant has worked with the residents by trying to meet their concerns with density by decreasing the number of homes from 48 to 44. Staff also noted for the record that the applicant added a nice large landscape buffer around the property that includes mounding and landscaping to differentiate from the old and new development. Staff stated that the same exterior building requirements apply, that are in the existing covenants for Sections 1 & 2, and it was also added that no two residence side-by-side could have the same elevation. Staff indicated that the home size was also modified, reducing the floor area for one story to 1,600 sq. ft. and for two story to 2,000 sq. ft., based on current market demand. Staff noted that the Zoning Commission reviewed the revised plan on May 17, 2022 and recommended unanimously that the proposed development be approved.

Mr. Alan Schaeffer, applicant, noted that this has been an interesting process and tried to provide as much information to the residents and work with them in regards to their concerns regarding the project. He gave a brief summary of the proposed development and the change to 44 lots. He indicated that they do not have anything additional to add, since this case has been before the board previously, but if there were new concerns he would addressed them.

The Public Hearing was opened for review and discussion. A request was made for proponents and/or opponents to address the board with comments and /or questions.

Desmond Terrell at 3137 Northern Court stated his concerns were traffic in the area and if additional homes were added, what would happen to the undeveloped lots. He also expressed concerns about the minimum home size in the proposed development. He stated that they are not against the project, only against the number of homes proposed in that area.

Connie Yorgen at 3211 Green Turtle Drive stated she is not against the project either, only fear of the number of proposed homes in that location. She noted her concerns were, drainage, traffic, the number of the homes in the proposed development, and the builder. She stressed that the proposed builder has negative reviews against them, which is concerning.

Kenyada Brice at 7548 Yorkshire Drive stated she is not opposed to the project just concerned about the quality of homes being built, not the quantity. She stated the reviews on the builder are not the best choice for the type of homes involved. She continued to state that traffic could become a problem. She stated that the residents are there because there are concerns regarding the project and they would like their uncertainties taken into account when decisions are made.

Alvin Eder at 3174 Green Turtle Drive stated his interest is his rear yard. He stated he reviewed the plans and he likes the location of the green space buffer. He stated that when looking these types of builders, he is certain that all could have negative reviews. He noted that as it stands now, he likes the idea of having input and control over drainage, traffic and green space. He reiterated what he heard at the last meeting, that the project can move forward as previously proposed with 34 lots and no green space and he stated that currently this is the better option for the development, in his opinion.

Kenyada Brice at 7548 Yorkshire Drive stated that all of these types of meetings should be conducted with public input. She stated that if the project is to move forward the residents still request to have the green space with whatever numbers of lots are approved. She also indicated that any drainage issues should be looked at and repaired in the existing sections, if the property is to be developed.

Desmond Terrell at 3137 Northern Court noted that at the previous meeting it was mentioned that the proposed homes were starting at 1,700 sq. ft. with a price up to \$350,000. He expressed that this is not correct market price for a home. He indicated that he does not see anyone buying that if it isn't a quality home.

Mr. Schaeffer explained that they have 5 elevations that have been submitted so far, with the smallest elevation being 1771 sq. ft. He noted that the homes can be purchased currently, between \$364,000 and \$391,000, in today's market. He stated that these are not modular homes, each elevation has 4 different option choices which give any buyer 8 options that they can choose in that house. He noted there is only one single-story house and all the others are two-story elevations at 1818 sq. ft.

Trustee, Pruszynski asked what price range is being proposed for the homes.

Mr. Schaeffer indicated anywhere from \$350,000 up to \$433,000 are being sold today in this area, by the same builder. He followed up with the traffic issues that have been discussed. He stated that they are only discussing adding 10 more homes from the additional plan that was approved 20 years ago. He stated that Richard Oaks, Registered Certified Engineer is willing to testify again for the board or discuss the additional right turn lane that has been added to the plan. He noted that doing this is expensive effort to add to alleviate some of the traffic issues. He continued to move on with the drainage issue, that has also received a lot of attention. He

indicated that at they have spent a lot of time with their civil engineer making sure he understood the severity of this issue. He stated although there is additional green space they are also putting in a drain area between the existing subdivision on the west and the proposed development. He mentioned that in the green space will be a basin that will be able to hold water in the event of a heavy rain. He then indicated that the existing drainage issues will have to be reviewed and considered as part of the process with Montgomery County engineering.

Staff confirmed that Montgomery County would handle the review of the plans.

Mr. Schaeffer explained there would be other contingencies imposed on other issues that would also have to be signed off on before the project could move forward. He stated that the builder that was chosen builds over 80,000 homes a year and at that magnitude there are going to be law suits involved, but they explained they are not aware of local issues with the builder.

Tarina Mason at 3148 Northerton Court stated that she attended the Zoning Commission meeting last week and spoke with Mr. Schaeffer and the group prior to the meeting regarding the project. She stated her concern is with the builder and they do not have a good reputation or a good star rating. She also stated that the housing price seemed inflated for the size of the homes.

Staff wanted note the conditions which were discussed, including the approval of the covenants and restrictions. She stated that the building requirements are all in line with Yorkshire Reserve, the same exact materials would be allowed as Sections I and II. She also noted that they are requiring a 3 foot mound and landscaping in the green space area, the values are stated to be over \$335,000, and they would be required to create a lighting district like sections 1 & 2 were required, it was also recommended that the right turn lane would be pursued.

Mr. Schaeffer stated that the minimum sale price of \$335,000 is unenforceable under the conditions.

Trustee, Bryson Jackson stated that this will be the third meeting on this discussion and the board appreciates the process on addressing the concerns and questions the residents had throughout these meetings and he noted he had no further questions.

Trustee, Mike Thein stated he had no other concerns or questions.

Trustee, Pruszynski asked if the owner had executed an agreement with the builder and if they were aware that the builder had any other projects going on locally.

Mr. Schaeffer stated that the builder does have a project in Huber Heights currently.

Trustee, Pruszynski asked Mr. Mark Schnicke, if he was aware that the proposed builder has a project going on in Bartley Woods which is 2.3 miles from the proposed development. She stated that the square footage of those homes is 1,498 minimum to 2,053 square feet, with sales ranging from \$262,000 to \$297,000. She noted that it is located on Bartley Road on the other side of Imperial Hills in Harrison Township. She asked how closely he has worked with the builder. She further questioned when the property was acquired.

Mr. Ed Kress, one of the property owners, stated the land was purchased around 2003.

Trustee, Pruszynski asked if he did the design at that time.

Mr. Kress stated yes. He further explained that the original builder was Drees Homes and they had a contract to buy 50% of the lots in Sections 1 & 2. He indicated that Drees made a corporate decision to pull out of Montgomery County. He noted that

they did buy 50% of lots in Section 1 & 2 and sold off the balance, there for 4 lots remaining now.

Trustee, Pruszynski confirmed that in 2002 when the original plan was approved, if he was a part of that project, and if the owners are now different. Mr. Kress stated yes, the master development plan was laid out for 3 sections and have completed the development of Sections 1 & 2, and now they are back to discuss Section 3. He stated that in the interim period of time, the housing market has changed. He stated, when Section 3 was looked at, what was missing in this community was a place to downsize and this plan was developed in 2020-2021. Mr. Kress stated in 2003 the person who started the development was Joe Rengers and he died when the zoning process was almost completed, then they purchased the entire development and have worked to finished it. He stated that they worked with a realtor recently who told them that the market was changing and people's desires have changed as well.

Mr. Kress asked how many building permits are obtained at the township a year for residential. Staff noted that the township averaged about 2 homes per year over the last several years.

Mr. Kress asked if staff could explain their communication with regards to the builder. Staff noted that also they reached out to the City of Huber Heights and Montgomery County to see if they had any issues with the builder from a zoning or building department stand point. Montgomery County had no issues and Huber Heights noted some hiccups only from a zoning enforcement and administrative standpoint.

Trustee, Puszynski asked he notified the residents of the impending changes and asked when it was the application was filed. Mr. Kress stated that the original application was submitted in November, 2021 and they notified residents as part of the townships zoning approval process.

Mr. Kress stated they know they did not reach out to the residents first, however they have coordinated additional meetings with residents to help resolve concerns.

Desmond Terrell at 3137 Northern Court asked about the vacant lots in the development and what would happen if the proposed builder would back out.

Mr. Schaeffer discussed how the development would complement the existing development and complete it.

Trustee, Pruszynski stated that she remembers when Drees was there and they were respectful to the community and wanted to gain the support of the surrounding subdivisions. She stated that she wants to see a genuine compromise between the developer and residents. She asked if the elevations have been updated.

Staff noted that the new renderings were in the previous agenda packet at the workshop meeting. The elevations were presented at this time on the screen.

Trustee, Pruszynski stated that the proposed homes do not look consistent with the area homes. She then questioned if the drainage plans were reviewed by the engineer or still in design.

Mr. Schaeffer stated that the preliminary design has been done but not the final design.

Trustee, Pruszynski asked if Mr. Schaeffer knew that area was designated a wetland. He stated he did not. She then asked that the right turn lane that is proposed who would pay for that. Mr. Schaeffer stated they would be responsible.

Trustee, Pruszynski stated this would be a reconstruction project and she had some questions and concerns regarding the location of the entry way sign and the width of the road.

Richard Oaks at 1397 Jackson Road stated he is a Certified Traffic Engineer. He explained the distance between the curbs is exactly 24 feet.

Trustee, Pruszynski stated she did not measure 24 feet and questioned if he measured it.

Mr. Oaks stated the back of the new curb will be up against the sidewalk, but adding 6 feet on will result in potentially 3-10 foot lanes at the intersection as noted on the plan.

Trustee, Pruszynski asked if the road would be smaller. Mr. Oaks stated that was not an issue. Trustee, Pruszynski did not agree with Mr. Oaks in regards to the entry way sign and the location of the sidewalk.

Trustee, Pruszynski asked Mr. Oaks if he obtained a traffic study. Mr. Oaks stated he used the institute of transportation engineer's trip generation charts and tables, which is the recognized national authority for projects such as the proposed. He indicated he used that to determine that the additional traffic based on the additional 10 dwellings, will result in single digit increase in the traffic volume either in the AM peak hour or the PM peak hour. Trustee, Pruszynski questioned if he used a traffic count hose or any digital or electronic devices to count cars. Mr. Oaks stated no. Trustee, Pruszynski asked when Mr. Oaks offered his services to the developer. Mr. Oaks stated he did not offer his services, the developer contacted him December of last year.

Trustee, Pruszynski stated that her next major concern was at the Zoning Commission meeting on May 17<sup>th</sup> and as indicated in the township administrator's email dated May 18, 2022, that one of the resident's indicated 44 lots would be acceptable. She noted that the support of 1 resident does not constitute the support of the majority. She further mentioned in the special workshop meeting, that it was originally said that 44 lots would not work financially for the development, and now it works.

Trustee, Pruszynski stated she still had concerns regarding the proposed plan regarding the traffic, the turn lane, the wetlands, and the other concerns noted. She stated that there has to be something else. She stated that her position on the rezoning would be denial or another option. She indicated that she would recommend 34 or 42 lots and a traffic study with a different study on egress to increase safety, a study on the wetlands, a traffic count, and all of the previously discussed items that include buffering, and mounding. She further stated that a study for the turn lane should also be done and noted her concern for safety.

Mr. Schaeffer indicated that if we go with the 34 lot development, the green space would not be able to be incorporated. He further stated that, he will take full responsibility if the feeling is that they were not engaged with the residents through the process. He stated that the typical zoning process rarely includes multiple meeting with residents, which they have been able to facilitate, and noted that it has been helpful and that is why they have reduced to the 44 lots.

Mr. Kress stated that they tried to be totally transparent and he retained Mr. Schaeffer because zoning is what he does and he knew he would do this correctly and have the interfacing with the township. He further explained that they would be better off developing the 34 lots, but that isn't right for the community. He stated that he has known Mr. Oaks also and he is a qualified respected traffic engineer. He stated that there is a check and balance on all the concerns noted, but it is one step at a time, and the zoning approval is needed first. He indicated that they have been

involved with the township and meetings with residents for the past 7 months and trying to do the right thing for the community.

Trustee, Bryson Jackson asked Trustee, Pruszynski if she is working on any proposal of any sort for the development. Trustee, Pruszynski stated that her original recommendation is for denial or a proposed development that includes all her previously concerns already discussed.

Trustees, Mike Thein asked if the green space and all the drainage is part of the approval. Mr. Schaeffer stated that would all have to be part of the process. Trustee, Thein stated that he is pricing a new home and trying to down size and he is familiar with the cost of building right now.

There was no further discussion; the Public Hearing was closed for discussion. The Board of Trustees noted their position on the case.

Trustee, Bryson Jackson wanted to clarify specifically because before the board are 2 plans. He noted they have before them the original plan approved 20 years ago with 34 lots that can move forward without a decision made by the board and then the 44 lot plan and all of the work that's been done over the last 7 months. He asked if they would not have to go to the County for specific drainage plans, if they go forward with the previous plan.

Staff stated that the final development plan would still have to be approved by the Zoning Commission it was previously approved as the preliminary plan, but this is a modification of the original plan. Staff noted that once it's approved preliminary if there are no major changes, it moves forward.

Trustee, Bryson Jackson stated that this process has been long and drawn out and he appreciates the builder, the developer and Mr. Schaeffer going through these processes and would like to come to a compromise that would work. He questioned if any of the concerns addressed by Trustee, Pruszynski possible or could explore on the developer's end.

Staff stated the road was addressed previously and the developer would have to do their due diligence into the wetlands concern.

Mr. Schaeffer stated that Montgomery County would review and approve all the work and studies pertaining to the roadway improvements or drainage issues.

Mr. Kress stated that wetlands are not zoning issues and he believes that is an induced wetland, it is there because of the development. He stated they were not told this but all that is part of the process. He noted they have tried to accommodate the township and the residents and they believe they are trying to protect the community.

Trustee, Jackson stated that based on everything heard at the meeting with the original plan of 20 years ago versus now. He stated theif the board denies the development they would lose ground on that they have worked towards regarding buffering, other issues discussed. He stated that with the protection set in place by Montgomery County and the covenants and restrictions, it would not harm the quality of life for the residents.

Mike Thein made a motion to approve Case #ZC 2-21, as submitted, with Bryson Jackson seconding.

Fiscal Officer, Greg Brush called the roll for a vote: Missy Pruszynski – No, Mike Thein – Yes, and Bryson Jackson - Yes. **Case #ZC 2-21 was approved 2-1.**

### **PUBLIC COMMENTS**

Richard Oaks at 1397 Jackson Road questioned staff if the right of way permit was signed and approved. Staff stated no, we are waiting on the TID response to the engineer's comments. Mr. Oaks then asked if the Furnas Road people would be contacted and let them know what was going on for the transportation improvement. Staff stated the spoke to the TID and there are no plans or talks about an extension of Douglas way north of Old Springfield.

### **ADMINISTRATOR'S RECOMMENDATIONS**

**Resolution #22-22** was submitted. Administrator, Erika Vogel stated the Trustees held a public hearing for ZC 2-21 on April 26, 2022 and held a Workshop presentation on April 12, 2022. The case was referred back to the Zoning to review a modified plan that was not voted on by the Zoning Commission recommended approval of case ZC 2-21, for 44 lots as proposed.

No discussion was made on this agenda item.

Mike Thein made a motion to approve Resolution #22-22, Resolution Approving ZC 2-21, Final Development Plan and PD-1, Planned Development Modification, for Yorkshire Reserve, Section III, as submitted, with Bryson Jackson seconding and approving the motion.

Fiscal Officer, Greg Brush called the roll for a vote: Missy Pruszynski – Yes, Mike Thein – Yes, and Bryson Jackson - Yes. **Resolution #22-22 was approved, 2-1.**

**Resolution #22-23** was submitted. Administrator, Erika Vogel stated the Police Chief conducted a competitive bid process, advertising for two weeks and soliciting bids to eight (8) Chrysler-Dodge dealerships, and received only one bid from Joe Cecconi's Chryslers Complex Niagara Falls, New York. The 2022 Dodge Durango V6 came in at a purchase price of \$37,495 per vehicle (\$149,380 for 4 vehicles) and a 5-year warranty in the amount of \$3,595 per vehicle (\$14,380 for 4 vehicles), for a total cost of \$164,360. Two vehicles will be added to the fleet two and vehicles will be replaced aging vehicles.

No discussion was made on this agenda item.

Bryson Jackson made a motion to approve Resolution #22-23, Resolution Authorizing the Police Chief to Accept the Bid and Purchase Four (4) Unmarked Police Vehicles for the Police Department from Joe Cecconi's Chrysler Complex, as submitted, with Mike Thein seconding and Missy Pruszynski approving the motion.

Fiscal Officer, Greg Brush called the roll for a vote: Missy Pruszynski – Yes, Mike Thein – Yes, and Bryson Jackson - Yes. **Resolution #22-23 was approved, 3-0.**

**Resolution #22-24** was submitted. Administrator, Erika Vogel stated Sign Dynamic has provided quotes for replacing the existing logo and updating signage at the Fire Station/Township Meeting Hall (2 signs), Government Center (1), and street light poles (12 signs) in the township. The total cost for the Fire Station (\$4,528), Government Center (\$2,859), and street light poles (\$10,764) totaling \$18,151.

No discussion was made on this agenda item.

Bryson Jackson made a motion to approve Resolution #22-24, Entering into an Agreement with Sign Dynamics to update Logo on Facility Signs in the Township, as submitted, with Mike Thein seconding and Missy Pruszynski approving the motion.

Fiscal Officer, Greg Brush called the roll for a vote: Missy Pruszynski – Yes, Mike Thein – Yes, and Bryson Jackson - Yes. **Resolution #22-24 was approved, 3-0.**

**Resolution #22-25** was submitted. Administrator, Erika Vogel stated that the increase in appropriations in each department's fund is due to the transition to new IT services in 2022. There were unexpected hours involved in the transition that is unknown at finalization of the budget.

No discussion was made on this agenda item.

Bryson Jackson made a motion to approve Resolution #22-25, Finding It Necessary to Increase Appropriation for IT Services for Fiscal Year 2022, as submitted, with Mike Thein seconding and Missy Pruszynski approving the motion.

Fiscal Officer, Greg Brush called the roll for a vote: Missy Pruszynski – Yes, Mike Thein – Yes, and Bryson Jackson - Yes. **Resolution #22-25 was approved, 3-0**

**Motion to Make a Donation to the Historical Society of Vandalia-Butler in the Amount of \$2,000**

Township Administrator, Erika Vogel stated due to repairs from a flood in the school house basement and their hardships during COVID, the Historical Society has requested a donation from the township. The township Service Department was recently able to assist the Historical Society with some pothole repairs and they were very appreciative of those efforts. The Board discussed a monetary donation of \$2,000 at a previous workshop, included is the donation for Board approval and consideration. The Historical Society is a huge asset to the Vandalia-Butler community and works had to protect and promote the history and heritage of the township.

Bryson Jackson made a motion to make a donation to the Historical Society of Vandalia-Butler in the amount of \$2,000, with Mike Thein seconding and Missy Pruszynski approving the motion.

Fiscal Officer, Greg Brush called the roll for a vote: Missy Pruszynski – Yes, Mike Thein – Yes, and Bryson Jackson - Yes. **Motion was approved, 3-0.**

**Motion to Set the Trustee's Public Hearing for ZC 4-22, a Rezoning at 4079 Little York Road, from RC/S-1 to PD-2 for a U-Haul Moving and Storage Facility**

Township Administrator, Erika Vogel stated the Zoning Commission voted unanimously to recommend approval of the Indoor Storage Facility and Rezoning from RC/S-1 to PD-2 at their meeting on May 17, 2022. Staff stated that the public hearing can be set for the Trustees meeting either June 14<sup>th</sup> or June 28<sup>th</sup>. Staff recommends if there are no objections to set the public hearing for June 14, 2022 at 6:00p.m.

Bryson Jackson made a motion to set the Trustees Public Hearing for ZC 4-22, a Rezoning at 4079 Little York Road, from RC/S-1 to PD-2 for a U-Haul moving and Storage Facility and setting the public hearing for June 14, 2022 at 6:00p.m., with Mike Thein seconding and Missy Pruszynski approving the motion.

Fiscal Officer, Greg Brush called the roll for a vote: Missy Pruszynski – Yes, Mike Thein – Yes, and Bryson Jackson - Yes. **Motion was approved, 3-0.**

**Informal Business:**

Police Chief Porter wanted to give the Board his appreciation on the authorization on the purchased of the 4 new police vehicles, and to have a safe holiday weekend.

Fire Chief Alig had no further business to report.

Township Administrator, Erika Vogel had no further business to report.

Fiscal Officer, Greg Brush noted that the township's bank accounts were collateralized appropriately.

Trustee, Bryson Jackson stated that the rezoning case was difficult, but he noted that the applicant had gone above and beyond the items requested of them. He felt good that the township was able to work through the issues of concerns with the developer and the residents.

Trustee, Mike Thein had no further business to report.

President, Missy Pruszynski had no further business to report.

Bryson Jackson reported that the trustees have reviewed the financial statements and made a motion for approval to pay the bills of the township, as submitted, with Mike Thein seconding and Missy Pruszynski approving the motion.

Missy Pruszynski made a motion to adjourn the regular meeting at 8:17p.m.

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MISSY PRUSZYNSKI  
PRESIDENT

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GREGORY A. BRUSH  
FISCAL OFFICER