

ORDINANCE NO. 105-15**AN ORDINANCE TO AUTHORIZE A DEVELOPER'S AGREEMENT WITH
NWQ JAYCOX I-90, LLC FOR THE EXPANSION OF CHESTER
ROAD TO FIVE LANES IN THE VICINITY OF 35700 AND 35525 CHESTER
ROAD AND TO AUTHORIZE FUNDING OF THE CITY'S COSTS
ASSOCIATED WITH ADDITIONAL LANE CONSTRUCTION
AND DECLARING AN EMERGENCY**

WHEREAS, NWQ Jaycox I-90, LLC (hereinafter referred to as "NWQ") is seeking to develop property it owns between 35700 and 35525 Chester Road for the new Menards and Cabelas retail outlets; and

WHEREAS, said development will require the expansion of Chester Road to three lanes in the vicinity of 35700 and 35535 Chester Road; and

WHEREAS, the City has agreed with the Developer to add a fourth and fifth lane to the project and to reimburse the Developer for the final cost of same; and

WHEREAS, on June 17, 2015, the Planning Commission voted to approve plans and specifications for the Chester Road expansion to five lanes, subject to final engineering approval, by a vote of Five (5) to Zero (0); and

WHEREAS, said engineering has been approved and Council has had the opportunity to review the Developer's Agreement with NWQ and has provided the Developer the opportunity to discuss the proposed Agreement along with the final plans and specifications for the construction of these specific improvements; and

WHEREAS, after discussion, review and further consideration, Council has deemed it acceptable, appropriate and in the best interests of the health, safety and welfare of the citizens of Avon to enter into a written Developer's Agreement to provide for the expansion of Chester Road to five lanes in the vicinity of 35700 and 35535 Chester Road as set forth in the plans and specifications approved by Planning Commission and to reimburse the Developer for the actual cost constructing the fourth and fifth lanes as part of this project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That the City of Avon is hereby authorized to enter into a Developer's Agreement with NWQ Jaycox I-90, LLC in substantially the form as set forth in Exhibit A for the expansion of Chester Road to five lanes in the vicinity of 35700 and 35535 Chester Road pursuant to plans and specifications approved by Planning Commission on June 17, 2015, and subsequently finalized by the City's Engineer. The final copy of said Developer's Agreement will be attached hereto and marked as "Exhibit A" and incorporated herein by reference.

Section 2 – Per the City's Consulting Engineer, the estimated cost of the City's portion of the project has been determined to be Three Hundred Seventy-Four Thousand Seven Hundred Seventeen and 27/100 Cents (\$374,717.27). The Finance Director is hereby authorized to

transfer said amount from the General Fund No. 101 to the Chester Road Widening Fund No. 477. Payments are to be made from Fund No. 477 pursuant to directives of the Finance Director upon completion and acceptance of the improvement by City Council. Further, the Finance Director is authorized to increase the appropriation by a reasonable amount for engineering and legal fees associated with this project.

Section 3 - The Mayor and President of Council are hereby authorized to sign said Developer's Agreement on behalf of the City.

Section 4 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to authorize the City to enter into a Developer's Agreement with NWQ for the expansion of Chester Road to five lanes in the vicinity of 35700 and 35535 Chester Road and to partially fund said improvements; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasier, Law Director
City of Avon, Ohio

ATTEST:

Ellen R. Young
Clerk of Council

POSTED: _____

In Five Places as
Provided by Council

Prepared by
John A. Gasior, Esq.
Law Director