

**PUBLIC HEARING
MONDAY, JANUARY 9, 2023**

7:25 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-1-23

RESOLUTION NO. R-1-23 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY DEBORAH L. MITTERHOLZER (fka LONG ACRES, LLC) TO HAVE CERTAIN LAND OWNED BY HER LOCATED AT 3849 CENTER ROAD, IN THE CITY OF AVON, PERMANENT PARCEL NUMBER 10-04-00-013-000-217 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-1-23 was closed at 7:26 p.m.

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, JANUARY 9, 2023
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

The Chairman, Council President Brian Fischer, called the meeting to order and asked Nick Duvall of Scout Troop 333 to lead in the Pledge of Allegiance.

PRESENT:

Council Members: 1st Ward – Jennifer Demaline; 2nd Ward – Dennis McBride; 3rd Ward – Anthony Moore; 4th Ward – Scott Radcliffe; Council-at-Large – Craig Witherspoon; Council-at-Large and Council President – Brian Fischer; Mayor - Bryan Jensen; City Engineer – Ryan Cummins; Planning and Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director – Steve Presley; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

ABSENT: Council-at-Large – Tammy Holtzmeier

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, DECEMBER 19, 2022

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Work Session of Council held Monday, December 19, 2022, and to approve said minutes as published, and the vote was: Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD TUESDAY, DECEMBER 27, 2022

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Regular Meeting of Council held Tuesday, December 27, 2022, and to approve said minutes as published, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE SPECIAL MEETING OF COUNCIL HELD TUESDAY, JANUARY 3, 2023

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Special Meeting of Council held Tuesday, January 3, 2023, and to approve said minutes as published, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”

The vote was 6 for and 0 against and the Chairman declared the motion passed.

REAPPOINTMENT OF RALPH WHITE TO THE LANDMARK PRESERVATION COMMISSION AS THE HISTORICAL SOCIETY REPRESENTATIVE FOR ANOTHER FOUR-YEAR TERM

Per Article XIV Section 1(a), this four-year reappointment requires the concurrence of a majority of the membership of the legislative authority.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to concur with the Historical Society’s reappointment of Ralph White to the Landmark Preservation Commission for another four-year term beginning January 1, 2023, and expiring December 31, 2026, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MAYORAL REAPPOINTMENT OF CHAUNCEY MILLER TO THE BOARD OF ZONING AND BUILDING APPEALS FOR ANOTHER FIVE-YEAR TERM

Per Article VII Section 1(a), this five-year reappointment requires the concurrence of two-thirds (5 of 7) of the membership of the legislative authority.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to concur with the Mayor’s reappointment of Chauncey Miller to the Board of Zoning and Building Appeals for another five-year term beginning January 1, 2023, and expiring December 31, 2027, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MAYORAL REAPPOINTMENT OF JOHN TRAXLER TO THE AVON TREE COMMISSION

Per Section 2, of Ordinance No. 70-21, the Mayor reappoints John Traxler as a voting member of the Avon Tree Commission for a five-year term beginning January 1, 2023 and ending December 31, 2027.

This appointment does not require the concurrence of Council.

ORDINANCE NO. 2-23 – GRANTING A SPECIAL USE PERMIT TO AVON JV, LLC TO INCLUDE A DRIVE-THRU FACILITY AT 36290 DETROIT ROAD

The Clerk read Ordinance No. 2-23 by title only, entitled:

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO AVON JV, LLC
TO INCLUDE A DRIVE-THRU FACILITY AT 36290 DETROIT ROAD
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 2-23, and the vote was: Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. Radcliffe and seconded by Mr. Moore to adopt Ordinance No. 2-23, and the discussion was:

Mr. Gasior pointed out that the name of the entity who owns the property, Avon JV, LLC was updated on the Ordinance. He said last week it was identified as Thomas English Retail Real Estate, LLC and that has since been corrected.

Mr. McBride asked that the requested additional site plan that indicates the location of the adjacent properties and driveways be shown on the overhead screen.

Ms. Fechter advised the overhead rendering shows a 200’ radius around the site that shows all the abutting properties and their respective driveways.

Matt Worthley of Thomas English Retail Real Estate, LLC located at 841 E. 64th St. Indianapolis, IN advised that is correct and added as well as the dimensions from the residential properties to the northwest corner of the site in relation to the property line.

Ms. Fechter advised a rendering of the retaining wall was also provided in the packet. She said it is currently a concept of what is planned until they own the property as they cannot remove trees or see the exact conditions until they have access.

Ms. Fechter clarified from last week’s discussion that the drive-thru window being proposed for the bank will be two lanes and they were ATM’s only and there would be no teller window with drive up banking.

Mr. McBride said so, there will be drive by if the parking spaces are full and there are cars at the ATM’s?

Ms. Fechter confirmed there is not.

Mr. McBride advised that is unbelievably bad planning. He asked for confirmation that the curb in the middle is for an ATM.

Mr. Worthley confirmed such.

Mr. McBride advised he was looking for confirmation that behind the multi-tenant building that includes a restaurant that the dark line depicts line painting.

Mr. Worthley said that is correct.

Mr. McBride advised for the record, since it was asked at last week’s meeting, in looking at the overall plan he did not see an issue with the adjacent driveways across from the site on Detroit Road and on Healthway Drive.

Tom Baldwin of Bramhall Engineering located at 801 Moore Road, Avon was also present.

No further discussion.

And the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 3-23 – GRANTING A SPECIAL USE PERMIT TO AVON JV, LLC TO CONSTRUCT AN 8,600 SQ. FT. MEDICAL FACILITY CONTAINING A RESTAURANT WITH A DRIVE-THRU FACILITY AND OUTDOOR SEATING AREA TO BE LOCATED AT 36320 DETROIT ROAD

The Clerk read Ordinance No. 3-23 by title only, entitled:

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO AVON JV, LLC TO CONSTRUCT AN 8,600 SQ. FT. MEDICAL FACILITY CONTAINING A RESTAURANT WITH A DRIVE-THRU FACILITY AND OUTDOOR SEATING AREA TO BE LOCATED AT 36320 DETROIT ROAD AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 3-23, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 3-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-1-23 – TO APPROVE, WITH MODIFICATION, THE RENEWAL APPLICATION MADE BY DEBORAH L. MITTERHOLZER (fka LONG ACRES, LLC) TO HAVE CERTAIN LAND OWNED BY HER LOCATED AT 3849 CENTER ROAD, IN THE CITY OF AVON, PERMANENT PARCEL NUMBER 10-04-00-013-000-217 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT

The Clerk read Resolution No. R-1-23 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY DEBORAH L. MITTERHOLZER (fka LONG ACRES, LLC) TO HAVE CERTAIN LAND OWNED BY HER LOCATED AT 3849 CENTER ROAD, IN THE CITY OF AVON, PERMANENT PARCEL NUMBER 10-04-00-013-000-217 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Resolution No. R-1-23, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Resolution No. R-1-23, and the vote was: Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

REPORTS AND COMMENTS

MAYOR JENSEN reported that he would not be in attendance at next week’s Work Session.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, had no comments.

MRS. HOLTZMEIER, AT LARGE, was absent.

MR. MCBRIDE, WARD 2, had no comments.

MR. MOORE, WARD 3, had no comments.

MR. RADCLIFFE, WARD 4, had no comments.

MR. WITHERSPOON, AT LARGE, had no comments.

MR. FISCHER, AT LARGE, reminded everyone the next meeting of Council would be on Tuesday, January 17, 2023 due to the observance of Martin Luther King, Jr. Day on Monday, January 16, 2023.

Mr. Fischer also reported that today was Law Enforcement Appreciation Day and he thanked all the nation’s law enforcement especially our members of the Avon Police Department and pray they all come home safe every day.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR, had no comments.

MR. GASIOR, LAW DIRECTOR, had no comments.

MR. PRESLEY, FINANCE DIRECTOR, had no comments.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR, had no comments.

AUDIENCE:

Ram Appana of 2595 Seton Drive advised he would like to express his heartfelt gratitude to Mayor Jensen, Council Member Moore, and the rest of the City Officials for all the support that they

provided him last year. He said their support is how he was able to expand the network to spread the awareness of the Save Soil movement and they are doing well, but they are not done until things are established. Mr. Appana stated also there are free programs he can offer to the general public that would promote and enhance their wellbeing and he asked for guidance from City Officials as to how he could go about promoting those programs. He said it would be great if there was any kind of help with respect to communications monthly or quarterly for the City to continue to spread the message of Save Soil because the cause is not done as it is a continual implementation process.

Nick Duvall of 36400 Kinzel Road and a member of Troop 333 asked regarding item no. 13, Resolution No. R-1-23, what was the emergency.

Mr. Fischer advised that is also the Resolution for which a Public Hearing was held just before the start of tonight's meeting. He said if there is no opposition to these agricultural district renewals then suspending the rules and adopting by emergency allows them to speed up the process since no one is contesting its approval. Mr. Fischer stated Council acts on the agricultural district designations as they come up for renewal and these property owners are just asking for approval on their existing agricultural property. He advised it is not in the sense of a physical emergency, but a way to speed up the process for the applicant and help Council stay on track with everything else that they have to get done.

ADJOURN: 7:47 P.M.

A motion was made by Mr. McBride and seconded by Mr. Moore to adjourn the Regular Meeting of Council, and the vote was: Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mr. Fischer, "yes".

The vote was 6 for and 0 against and the Chairman declared the motion passed.