

ORDINANCE NO 79-20

AN ORDINANCE TO AUTHORIZE AN AMENDMENT TO THE DEVELOPER'S AGREEMENT WITH JAF ACQUISITIONS, LLC and CONCORD VILLAGE PHASE TWO, LLC FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS AND DECLARING AN EMERGENCY

WHEREAS, JAF Acquisitions, LLC and Concord Village Phase Two, LLC (hereinafter referred to as "Developer") sought to develop land and construct 83 additional units north and west of the existing Concord Village development off of Chester Road; and

WHEREAS, Developer submitted plans and specifications for the construction of public water and sanitary sewer lines within the development to Planning Commission on April 17, 2019 and City Council approved same and authorized the execution of a Developer's Agreement between the City and Developer (the "Developer's Agreement") on May 13, 2019 in Ord. No. 42-19; and

WHEREAS, on December 19, 2019 City Council passed Ord. No. 126-19 accepting a portion of these public improvements; and

WHEREAS, per the original Developer's Agreement, the Developer was permitted to obtain building permits for up to 28 residential units prior to completion of construction of public improvements on Chester Road, viz., an eastbound left-turn lane into the development's western entrance. However, due to weather, the relocation of certain utility lines along Chester Road and complications related to the coronavirus, construction of the left-turn lane has yet to begin; and

WHEREAS, building permits for 25 dwelling units in the development have been issued to date; and

WHEREAS, the Developer intends to present plans and specifications to Planning Commission on August 19, 2020 for the construction of the left-turn lane. The Developer's Agreement for that portion of the project will not be before City Council until September 14th at the earliest; and

WHEREAS, in order to continue to construct dwelling units within Concord Village per the conditions set forth in the original Developer's Agreement, the Developer is requesting that City Council amend Paragraph 19(a) of the Developer's Agreement to allow for building permits to be issued for fourteen (14) additional units before construction of the eastbound left-turn lane is complete; and

WHEREAS, after discussion, review and further consideration, Council finds that the health, safety and welfare of the community is best promoted by authorizing the amendment to the Developer's Agreement to increase the number of buildable units in Concord Village Phase Two pending the construction of road improvements on Chester Road.

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

Section 1 – That Council hereby agrees to amend Paragraph 19(a) of the Developer’s Agreement with JAF Acquisitions, LLC and Concord Village Phase Two, LLC passed on May 13, 2019 in Ord. No. 42-19 as follows:

19. Miscellaneous Provisions.

(a) Eastbound Left Turn Lane On Chester Road.

As a condition of the approval of the Planning Commission on April 17, 2019, the Developer is required, and hereby agrees, to construct an eastbound left turn lane on Chester Road into the western entrance of the Development pursuant to plans and specifications approved by the City, to be constructed prior to issuance of the building permit for the ~~twenty-eight~~ ~~(28th)~~ **fortieth (40th)** residential unit to be constructed in the development. The rights, duties and financial guarantees for the construction of said lane will be set forth in a separate Developer’s Agreement approved by vote of a majority of the members of City Council and executed by the parties hereto providing therefor.

Section 2 - 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 3 - 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 amend Paragraph 19(a) of the Developer’s Agreement with JAF Acquisitions, LLC and Concord Village Phase Two, LLC to increase the number of units to be constructed in Concord Village No. 2 prior to completion of improvements on Chester Road; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

DATE SIGNED: _____

By: _____
Brian Fischer, President of Council

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

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

ATTEST:

Barbara Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director