

AVON PLANNING COMMISSION REGULAR MEETING MINUTES 2-17-21

MINUTES OF THE PUBLIC HEARINGS HELD ON WEDNESDAY, FEBRUARY 17, 2021 IN COUNCIL CHAMBERS OF CITY HALL

The meeting was opened by Chairman Carolyn Witherspoon at 7:00P.M

AMEND CITY OF AVON PLANNING AND ZONING CODE CHAPTER 1464 FLOOD DAMAGE PREVENTION TO INCLUDE UPDATES REQUIRED BY FEMA. The Chair opens the Public Hearing at 7:00P.M. There being no one present in the audience; Chairman Witherspoon closes the public hearing at 7:00P.M.

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING HELD ON WEDNESDAY, FEBRUARY 17, 2021 IN COUNCIL CHAMBERS OF CITY HALL

Present: Bill Fitch; Bryan Jensen, Mayor; Jim Malloy; Scott Radcliffe; Carolyn Witherspoon, Chairman; Ryan Cummins, City Engineer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Rick Schneider, Zoning Enforcement Officer; Duane Streator, Safety Director and Jill Clements, Secretary.

MINUTES OF THE SPECIAL MEETING-JANUARY 20, 2021

A motion was made by Mr. Malloy, seconded by Mayor Jensen to dispense with the reading of the minutes of the Special Meeting held on January 20, 2021 and to approve the said minutes as published. The vote was: "AYES" All. The Chair declared the motion passed.

MINUTES OF THE REGULAR MEETING-JANUARY 20, 2021

A motion was made by Mr. Malloy, seconded by Mayor Jensen to dispense with the reading of the minutes of the Regular Meeting held on January 20, 2021 and to approve the said minutes as published. The vote was: "AYES" All. The Chair declared the motion passed.

MINUTES OF THE SPECIAL MEETING-JANUARY 21, 2021

A motion was made by Mr. Malloy, seconded by Mayor Jensen to dispense with the reading of the minutes of the Special Meeting held on January 21, 2021 and to approve the said minutes as published. The vote was: "AYES" All. The Chair declared the motion passed.

AUTUMN GROVE-THIRD PRESENTATION-PRELIMINARY PLAT

Kevin Hoffman of Polaris Engineering representing Garland New Homes is requesting approval of the Preliminary Plat for a new 20 home subdivision Autumn Grove to be located on the south side of Riegelsberger Road, west of Jaycox Road.

Kevin Hoffman of Polaris Engineering is back for preliminary plat approval and they had a lot of discussion from last month. One thing that was mentioned was the conversation on what was going on over there. Mr. Cummins says the City has been in talks with the Metro Parks and have put together a preliminary plan which would move approximately 30,000 cubic yards of material out of the flood plain just north of subject property. Mr. Cummins says they are working through the details to get the documents signed and approvals. Mayor Jensen said there was a homeowner along Riegelsberger that asked to have pine trees removed along the basin and some more buffering and asks if that was addressed. Mr. Hoffman says the pines are shown on the western edge and along the eastern, there were some dead trees they were going to discuss with them when construction began to take the trees down. Mayor Jensen asks if they are ok with removing the dead and leaning ones.

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Richard Bancroft of Garland New Homes says that there are some nuisance trees that have been removed and will be removed. Mayor Jensen says it taken a long time to get to this point and they have heard the concerns of the residents and they don't want you to develop over there. There are some issues and the City feels you are doing something to help that, it will be little impact but there is going to be some benefit there. Mayor Jensen says its important that they follow what they have put on the property and it's important to the residents. Mayor Jensen says that there will be construction over on the park and it has nothing to do with this development. Mayor Jensen says if they do a little piece and we do a little piece it's going to help a little bit.

Richard Bancroft says he wants to make it clear that they are not required to improve any conditions for the adjacent properties. He says under in the ordinances they can not negativity impact that and the studies shown that there will be a small benefit. Mr. Bancroft says they will follow and abide by the codes, they have done some extensive studies that have been peer reviewed that there won't be a negative impact.

Mr. Gasior says he will need to see the HOA documents within the next week or two. Mr. Bancroft asks the next week or two? Mr. Gasior asks when they will have them completed and Mr. Bancroft says they wanted to get through Preliminary Plan before they get started to get into those specifics. Mr. Gasior says they will come back for Final Plat and Mr. Bancroft says he will have them then.

Chairman Witherspoon says there was a lengthy discussion last month and if there is anyone in the audience that has something new to add to it or give a summary they can come up.

Bill Worden, 35291 Riegelsberger says he isn't here to complain about the development he is here to complain he got the letter today telling him the meeting was tonight. Mr. Worden says previously they got certified mail and doesn't see any of their neighbors and he isn't sure if they got the letter. Mr. Worden says he thinks this was a way to reduce the number of people who show up to the meeting and is upset about that. Mayor Jensen asks what the stamp is, and Mr. Worden says February 9th and got it today. Ms. Fechter says the post office will take in some mail and sent it to Cleveland and then it comes back. We sent it out on the 8th or 9th and Mr. Worden asks why since in the past they got certified mail why didn't this one come that way. Ms. Fechter says some emails and letters were sent to people, since nothing has changed on their plan there was not another Public Hearing to be noticed, that happened last month. We sent letters to those who attended and have had some phone calls as well. Mr. Worden says the trees mentioned he is afraid they will get blown over and land on his house. Mayor Jensen says when they get to that part they can be marked.

Mr. Gasior asks if they have identified the location of the CBU box and it was determined it is. Mayor Jensen reminds them they still have other things to get approved through the Army Corps and FEMA or whatever and Mr. Hoffman says yes, they must get their CLOMAR and Army Corps they won't be touching anything. Mayor Jensen asks if that will be done before they come back for the final.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the Preliminary Plat for a new 20 home subdivision Autumn Grove to be located on the south side of Riegelsberger Road, west of Jaycox Road. The vote was: "AYES" All. The Chair declared the motion passed.

DOUZOS-MILLS ROAD-FIRST PRESENTATION-LOT SPLIT

George Douzos is requesting approval of taking a 4.1970-acre parcel and splitting it to creating two lots, Parcel A being 2.6603 acres and the remainder Parcel being 1.3301 located on Mills Road.

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Georg Douzos, 36344 Mills Road, says they are looking to take a 4.19-acre lot and split into 2 parcels, one being 1.3 and the other 2.6 acres.

Mr. Cummins says they have completed a review of the lot split and have no more comments and doesn't see an issue with approval. Mr. Fechter says staff is complete.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve taking a 4.1970-acre parcel and splitting it to creating two lots, Parcel A being 2.6603 acres and the remainder Parcel being 1.3301 located on Mills Road. The vote was: "AYES" All. The Chair declared the motion passed.

KAREN SCHWARTZ-CASE ROAD-FIRST PRESENTATION-LOT SPLIT

Abigail Schwartz and Spencer LaHue are requesting taking a 5.343-acre parcel and splitting it to create two lots, Parcel 1 being .854 acres and Parcel 2 being 4.489 acres located at 3969 Case Road. Jill Schwartz, 325805 Schwartz Road says she is here for this item. Ms. Fechter says her daughter was supposed to be here, but she is out of town and because of the weather some others couldn't make it as well, so she is representing her daughter. Ms. Fechter says the Aunt has the property that she is splitting off and selling the lot to Jill's daughter so she can move to the area. Ms. Fechter says staff is fine with the review.

Mr. Cummins says they have reviewed the lot split and have no comments and have no objection for approval. Mayor Jensen says the sewer is on the corner of that property because of the development, Arlington, we would probably request that the sewer be extended if we could if they develop. Mayor Jensen says since the sewer is so close the City could look to see if there is enough depth for the sewer on the corner for it to be extended to have both houses connect too. The Health Department is always telling us they want sewers instead of septic systems. Mayor Jensen says Mr. Cummins can work with whoever when the time comes, he just doesn't want there to be a shock when the sewer is mentioned.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve taking a 5.343-acre parcel and splitting it to create two lots, Parcel 1 being .854 acres and Parcel 2 being 4.489 acres located at 3969 Case Road. The vote was: "AYES" All. The Chair declared the motion passed.

GALIK -JAYCOX RD-SECOND PRESENTATION-SANITARY SEWER EXTENSION

Bill Galik of Galik Building Company is requesting approval of the Sanitary Sewer Extension **and Storm Sewer Extension** on the east side of Jaycox between 2905 and 3079 Jaycox Road.

Bill Galik says he has been in discussion with Mr. Cummins and is looking to extend the sanitary sewer. Mr. Cummins says they have been reviewing the plans, he is extending the sanitary sewer along some newly formed lots and along the way he is also agreeing to install storm sewer along the frontage with anticipation of connecting the lots to them. Mr. Cummins says all that will be in a proposed easement outside the right of way on Jaycox Road. He is also providing a 12' utility easement along the frontage of his parcels as well at the request of the City. Mr. Cummins says the plans are substantially complete and there are some outstanding minor issues to be resolved, there was a new submission today. Mr. Cummins continues to say they are still working on the engineers estimate that they will need to go to City Council

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so he would recommend approving this on a contingent basis subject to final engineering. Ms. Fechter says staff is complete.

Mr. Radcliffe asks if this will cover all 6 properties on Jaycox along with a sidewalk. Mr. Galik says he will be extending the sewer on 3 lots, but Ryan has requested he address some storm sewers on lots he already owns. Mr. Cummins says the previous three lots already have the sanitary sewer in front of them. Mr. Radcliffe says the sidewalk will connect to what is there and Mr. Cummins says that is correct. Mr. Galik says with the construction the lots with sidewalk could be damaged, but all lots will have them.

Mr. Gasior says he was looking at this and they are going to need a developer's agreement. Mr. Cummins says yes, that is correct, they are still working on the Engineers Estimate. Mr. Gasior says it's been awhile, but we will need the developer's agreement for the install of the public improvement. Mr. Galik asks about the Council meetings and emergency readings. Mr. Gasior says Council will look at that. Mr. Galik says he wants to get it going soon.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the Sanitary Sewer Extension **and Storm Sewer Extension** on the east side of Jaycox between 2905 and 3079 Jaycox Road contingent upon final engineering. The vote was: "AYES" All. The Chair declared the motion passed.

LORAIN PUBLIC LIBRARY-AVON BRANCH-FIRST PRESENTATION-INFORMAL PRESENTATION

Jason Nolde of GPD Group representing Lorain Public Library is requesting consideration of a new 16,000 sq. ft. addition and renovation to the existing Avon Branch Library located at 37485 Harvest Drive.

Jason Nolde project manager for GPD and the library project. Mr. Nolde says this is an informal presentation and are seeking some feedback for the plans for the addition to the Avon Branch Library. Mr. Nolde says overall schedule is they are in current design and anticipate coming back in April for the project for approval and plan to break ground in middle of June this year. Mr. Nolde says they have met with various people in the City and with Mr. Cummins to get some input and have talked with Paul (Burik) since this fall in the French Creek District. Mr. Nolde says the plan is to expand the building by 16,000 square feet and will have total just over 26,000 square feet once its complete. Mr. Nolde says the Library purchased the property to the south of the existing library and will extend into that. He says they look at the area and the architecture and the building size to start with design. Majority of the addition goes to the south of the library to include a drive-up window for pick up and drop off. Mr. Nolde says they are creating a new entrance into the building to allow phasing the project but to keep the library open during construction. Mr. Nolde says they will provide reading gardens, a new monument sign and part of the drop off window, they will have a new ingress/egress off Colorado Ave. That will be a right in and right out only from the reports of a traffic study. Mr. Nolde shows the drawing of the site plan and explains what will be where exterior and interior.

Mayor Jensen asks cost estimates on investments. Mr. Nolde says its approximately a 9-million-dollar project. Chairman Witherspoon thanks them for the presentation and looks forward to them coming back soon.

GRANDE ESPLANADE SUBDIVISION-SECOND PRESENTATION-PRELIMINARY PLAT

Vince Bobkovich of Euthenics is requesting approval for proposed Preliminary Plat for a new 37 home subdivision Grande Esplanade to be located on the east side of Nagel Road, north of Mills Road.

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Alan Piatak along with Vince Bobkovich of Euthenics. Mr. Piatak says since the met last they have had several discussions with the City and have come up with an updated site plan. They understand the Commission's concern was the straightness of the road and they have updated that.

Mr. Cummins says we just received this sketch today and do not have any dimensions shown, it seems very small and he is not prepared to have any comment on it one way or another. He continues to say it still has substantial straight sections on both side of the proposed jog.

Mr. Radcliffe asks if that is something with additional back and forth, working together we could have a positive affect on that. Mr. Cummins says he honestly doesn't know, we have been expressing our desire or concern over the straightness of the road for a very long time. He continues to say then at the last minute today we get what is in from of them. What further discussion will result in; he can't say. Mr. Fitch says with anymore curve will that push into the house. Mr. Cummins says in the beginning of this process they presented a plan that had some curvature to the road, less abrupt and for whatever reason going through the process they have abandoned that up til today a perfectly straight road. Mr. Cummins says if you curve too much or too less there is negativity in both.

Mayor Jensen asks Mr. Gasior since this is just a preliminary, we will be approving tonight and when they come to final, they will have to have more concrete information. Mr. Gasior says the lay out of the road is important for tonight as approval for the preliminary plat. Mr. Gasior says the detail of connecting to the north with a stub is not of concern tonight, he must obtain the property rights to make that connection happen before final plat approval. For tonight the problem is the design of the road, as they presented in the past, the road was straight and back in November the original drawing showed a curve in the road. Mayor Jensen what adjustment can be made if there is preliminary approval tonight if we still aren't satisfied when then come back for final, they can adjust. Mr. Cummins says standard procedure is the engineer for the applicant would rely on the layout approved in the preliminary plan to develop their final plans. If there is still discussion or hesitancy about the alignment of the road, that's a fundamental item that could make the engineering mute. Mr. Piatak asks Mr. Gasior about the 2019 drawing; they know now as they have done final engineering what size lakes, they need for storm water and they are not sure how much more curvature they can provide. Mr. Gasior says he understands but there was a design and if this is the best that can be done, he doesn't know if the layout would get approved. Mr. Gasior says there is a letter from the Safety Director, Duane Steator and they have looked at the history of straight streets and safety. Mr. Gasior continues to say one of the issues our Police face is people speeding up and down the road and as Mr. Steator points out this could be a cut through street so its important to look at this configuration to make sure its safe. Mr. Cummins asks Mr. Piatak and Mr. Bobkovich if they are stating this is the only way they could meet City of Avon code requirements by what is provided.

Pete Restivo, 4061 Nagel Road says they wanted us to show a deflection and they added that and they can't go any further without review, so they are trying to show the general deflection and then it will show on the final plans. Mr. Restivo says the fact of the matter is the deflection slows and controls the movement of the traffic and they will have devices that will also be out to help show speed limits. Mr. Restivo says with modern technology and this deflection it puts them in better control of traffic then many other locations. Mr. Restivo says he is trying to understand what they want as this is a great step forward and no one would do what they are willing to do. Mr. Restivo wants to do something that is special and wants to do it with the City not with opposition from the City. If they get approval tonight, they will get the deflection in which the City believes is safe and adequate way to control traffic. Mayor Jensen says looking at the original and what was submitted today he doesn't feel that they are that far off from one another. Mr. Bobkovich tells that is close. Ms. Fechter asks if an auto turn was done on the island in the front? She adds we have some developments that have them and its hard for the fire trucks to get in and

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out of and want to make sure its good. Mr. Bobkovich says that will show on the final plat. Mr. Dudziak asks how far back it is and apologizes has been out of work for a while. Mr. Bobkovich says it starts about 45 feet from center line of Nagel Road and they can back it up if possible. Ms. Fechter says this is preliminary so they will make sure it's good. Mr. Dudziak adds its not just fire trucks its buses too. Mr. Cummins asks what the offset was from the 2019 as you stated this one is about 13 feet. Mr. Bobkovich says about 20' on the drawing from 2019 and about 13'-14' on the drawing submitted today and says they can do a little longer than 13 feet. Mr. Bobkovich says they might be able to go a little more but wanted to show something but will look at it in final.

Mr. Radcliffe says there is good discussion going forward with engineering to getting this defined to be a little closer to what it was but keeping in mind the compensatory storage and all and still trying to achieve the desired goal of the gentle flow. Mr. Bobkovich says the dimension isn't shown as that needs to be finalized and they will have it for sure. Mr. Cummins says you would be able to length the offset in between and Mr. Bobkovich says yes. Mayor Jensen says you guys realize this is just the preliminary, you have other challenges in terms of connection that the City does want. Mayor Jensen says the City doesn't have any interest in terms of fighting a court battle for either side of this, that is going to be the bigger challenge. Mr. Fitch says he can see where this could be a cut through once the next phase is done with the access onto Mills but doesn't see with the Nagel entrance, he doesn't know how many people coming through. Mr. Fitch says the speed would be from those living in that area but doesn't see an advantage of the resident from Red Tail at this point, maybe when it connects to Mills.

Chairman Witherspoon asks if they want to consider voting on this with a contingency with the engineer taking another look at this before they go onto final. Mr. Cummins says if they are committing to heading more towards the 2019 offset and maybe lengthen the straight section, he feels this is something they could work through as part of the final plan development. Mr. Gasior says if you pass it contingent of the curve going in, (the cure is there now) and were going to try to do a little more with it, you could pass it with finalizing the location and length of the curve. Mr. Gasior says it wont go to final approval until that is resolved and Planning would see the final of Ryan's work when the final plat comes in. Mr. Gasior says and to the Mayors point he wants to emphasize, the connection to St Theresa is also very important to when you get to final plat. The City doesn't go out and acquire land for developers, we expect the developer to acquire what they need to, to satisfy the plan.

John Slagter, 950 Main Ave Suite 1100, Cleveland who is here on behalf of Carnegie Management Development Corporation, Georgia Properties Limited Partnership, Caravon Golf Co. LLC, Carnegie Residential Development Corporation, and they have concern again relating to the approval of this development. Mr. Slagter has Mary Khouri with him along with their engineer, James Saylor and they submitted to the City, comments that have been made by their engineer and wants it part of the record. Mr. Slagter says he was hoping Mr. Restivo would come up and indicate that he and his client had productivity in the meeting, and they needed time to get through this, but actions speak louder than words. Mr. Slagter says he is taken back by the City's actions tonight, your City engineer indicates that he didn't get any calculations before this and the initial discussion was that he doesn't have enough information to the let them(Commission) know whether or not this is proper or not. Mr. Slagter says the Mayor brought up previous drawing but he fact that the safety issue is being washed over at this time. Mr. Slagter says that is concerning when he explains to them (Commission) what has happened. Mr. Slagter says last meeting they raise concerns about this development and there were some neighbors that did the same thing along with Mrs. Khouri and the City said they would like the two of you (developer and Mrs. Khouri) to sit down and work out the concerns that we don't want them aired here. Mr. Slagter explains what happened, that was January 21st. Mr. Restivo agreed to meet with them and make a comment by the way that he wanted a vote at this meeting no matter what. Mr. Slagter says Mrs. Khouri waited for Mr. Restivo after the meeting and asked when they could meet and make sure the engineers are there so they

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can get some work done. Mr. Restivo said he would get back to her with some dates and she requested them be emailed, yes. Mr. Slagter says a week goes by and nothing, then they received by FED EX proposal to buy his clients property to connect to St Theresa Blvd for \$10,000 and that was it, no let's meet or anything as talked about. Mr. Slagter says anyone with any sense would recognize that this issue isn't about \$10,000 its about the concerns of the design of this development, not only the road design or connection but also the issues relating to storm water. Mr. Slagter says as Mr. Cummins indicated you have been asking for information and talking about these issues and then the day of the meeting you get hit with a new drawing. Last meeting Ms. Fechter got documents from their lawyer just hours before the meeting. It's a rush we must get it done, we must get it done, but when the ball is in their court, they give you have of what you need before the meeting. Mr. Slagter says his client did what the Mayor asked them to do which was reasonable. Mr. Slagter says Mr. Restivo cites this is a good faith offer and mentions section 163.04B of the Revised Code. Mr. Slagter asks Mr. Restivo if he knows what section that refers to. Mr. Restivo says to Mr. Slagter is there a question in here, there is no need for grand standing. Mr. Slagter says he doesn't know but I'm sure his lawyer knows, that is the authority of a governmental agency for a private entity authorized by a government agency (like a port authority) to take property. Mr. Slagter says he has no authority to take their property, but he is somehow saying this is good faith offer. Mr. Slagter says they respond right after to take about that but when are they going to meet. Mr. Slagter says he gets a call two day later from Mr. Gasior asking what's going on. Mr. Slagter says what they did when they responded was, they included Pete's letter and their letter saying let's get together and emailed it to them. Mr. Slagter says they get a response a few days later and they set a date to do it virtual and confirm that engineers will be there. Mr. Slagter says they indicate Bramhall would be there, they get on the phone and say Bramhall will be part of the meeting. The meeting took over an hour and they went through the process and Bramhall never showed up. It was mentioned what his clients concerns were and those were- they requested to change design to move storm water to the north side away from the housing, pushing the street south which added more distance between the homes and the golf course. Mr. Slagter says there were reasons for that and at first Mr. Restivo didn't seem receptive but at the end of the call he did seem receptive but wanted to run it past his engineer to make sure there wouldn't be issues with storm water. Mr. Slagter says he was not part of the conversation, Mrs. Khouri and their engineer were, and they can confirm this. Mr. Slagter says this would allow from the storm water position this would allow him to lower the grade, require less fill for the development and it would capture more storm water and it falls with the natural flow of the property. In their opinion what is designed now could create significant flooding issues and what they are suggesting are simple changes that would help storm water issues and the development. Mr. Slagter says this simple change would also help Countryside estates in their opinion. They have been asking for the storm water calculation for months and they understand the City has them and would like to double check them. They were told by Mr. Restivo they would have them after their meeting and don't. They were also told that Bramhall would get back to them and as of today they still haven't heard anything. Mr. Slagter says they don't believe anything unless it is in writing. They didn't want to come tonight, there is way more than \$10,000 invested in this project by his client. Mr. Restivo is trying to put these homes along their golf course and there are concerns of balls hitting the houses and liability issues and that is why they suggested the new design. Mr. Slagter says they did all the Mayor asked to do and it took 20 days to get something, they sat down and were told promises and haven't heard anything since. Mr. Slagter says based on that, this should be either continued or denied. The plans they submitted with not information shouldn't be the basis to grant this, make them do their job, don't do their job for them. Mr. Slagter says they had to follow the rules, they should have to as well, they are willing to sit down with them and their engineer again. Mr. Slagter asks if any of the neighboring property owners on St Theresa Blvd that could be by the access, have they been given notice? Mr. Slagter says they believe they should. Mr. Slagter says to Mr. Restivo, he hates to come after him, but you said you would call us, and you never did. Mr. Restivo asks if he was at the meeting. Mr. Slagter says no. Mr. Restivo then says you know a lot for a guy who wasn't at the meeting. Mr. Slagter asks what he said that

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wasn't true. Mr. Restivo says you weren't at the meeting. Mr. Slagter responds, I said I wasn't at the meeting and that is true.

Mr. Restivo says their engineer can all his engineer and if they have questions, we can answer them, that's important. Mr. Restivo says the plans have been out for ever and there's nothing a secret about them. He says they are not flooding their property, those lakes on the southern boundary are there to get the water that has the best affect for the homeowners. He says this will stop 70% of the water that is going on their property now. As far as the amount of water that is being shed onto Carnegie property, that is being reduced by 70% at the end of the day. Mr. Restivo says they are shedding less water on Countryside and the lake is more affective next to those home then next to a golf course where it does no good. Mr. Restivo says they are half acre lots and much sufficient, nothing that is being built on that street will hurt Red Tail, it will help. Mr. Restivo says this is a great project, outstanding and its their turn to do it. He cares about this City and will do things right. Mr. Restivo says nothing in the ordinance says they can't, they want do work with the City not against them. Mr. Restivo is not asking for anything special or any considerations, he put the reflection in for traffic control and they will be told this is a controlled traffic area. Mr. Restivo says what's getting missed in this whole thing is they are retaining a lot of water on those properties and they need the relief. Mr. Restivo says all the times that area flooded he was the one out there and it will flood again in the future unless you do something about it. He continues to say one of the things that Ryan said is that by putting in these subdivisions, its an opportunity to start to fix some of these problems. Mr. Restivo says he is confident with the 27 years of work he did with Red Tail; he has no grudges and doesn't want to do anything to hurt Red Tail. They can assume that but if they have taken their time and looked at these plans all their questions would be answered.

Gerald Phillips, 461 Windward Way, Avon Lake, says there have been discussion of the current deflection is about 3'-14' and the original was 20' but if you look at it, it's a little more than 3 lots so it will give you an idea of how the deflection is. Mr. Phillips says there could be slight modification as to the length and wide and wants to make one other comment. Mr. Phillips says Mr. Fitch made a comment that is very well taken, people aren't going to go down Lake Esplanade as a cut through. The cut through will be where the street connection is, and you will only have approximately 37 people driving in that area and it's the people who live on the street. Mr. Phillips says he believes 95% of the traffic will be local and not cut through.

Diane Whiteman represents her daughter Kristen Whiteman, 32100 Mills Road. Mrs. Whiteman says they came to the last meeting and saw the nice diagram and has no objection with anyone, this is a fight between two builders of what she can see as an outsider. She doesn't want to get involved in that and thought it would have been settled by now after the last meeting but obviously not. He daughter has concern about the sewage and never got a straight answer about that, the sanitary and storm sewer. Mrs. Whiteman says she doesn't know if the sanitary is going into Avon and the storm sewer. She says the ditches have water coming from North Ridgeville and Westlake and doesn't think the retention ponds will hold that much water. Her property is in the corner of the back area but there is a second phase coming and what happens in the first phase will affect the second phase and that's next to her daughter's. The ditch that goes back there to the creek that supplies the golf course and they have been fooling around with that for 30 years and wants to make it know they are concerned about sewers, rain water and didn't get an answer. Mr. Cummins says they will be connected to Avon. Mr. Cummins says the storm sewer depending on where it flows to currently, the first phase flows to the north. Mr. Cummins says he daughter lives on the east side and that water flows in a different to the north and that will be part of the analysis of that next phase. Mrs. Whiteman says they will have another pond, they will dig that dirt, raise the land and her house will be lower. She is concerned about the water and the drainage and she knows there are stipulations but there comes to a point where someone needs to look at this as its disturbing.

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James Saylor, Reitz Engineering Co. is the engineer who represents Carnegie and was at the conference call and did participate in that because he was hoping to get some answers about the storm drainage he had. Mr. Saylor says during that meeting Mr. Restivo made the comment and said the best place to solve the drainage problem was to put the lake along the south side. Mr. Saylor says he expressed his pessimism and he was told he would get his engineer, Mike Bramhall to get him (Mr. Saylor) the information to prove it. Mr. Saylor says he did not get the info and hasn't heard from Mr. Bramhall and expressed in a letter the reasons for doubting that. Mr. Saylor says from his experience as an engineer and designing retention systems in the City, that it would be more beneficial to have it to the north. Mr. Saylor says this is a significant change to the subdivision and by granting approval tonight, you give them the opportunity to come back with a final plan that is compliant and takes away the City right to ask for some changes so he would ask that they table this until further information can be provided. Mr. Saylor is more than happy to review any information they provide to him to show why that is more beneficial place for the lake.

Mary Khouri, Carnegie Development says after the January meeting as previously discussed they did follow up and despite the delays they did get a meeting scheduled and had a constructive conversation. Mrs. Khouri says they suggested because of some issue with the golf course if it was possible to move away from Countryside Estates and put on the north to be a natural buffer between the homes and the golf course and to have the water flow in the natural way. Mrs. Khouri says Pete was not receptive at first but wanted to talk to his engineer. Mrs. Khouri said she thought it was Euthenics, but it was Mike Bramhall. During the conversation everything was tabled pending Mike Bramhall reaching out to Jim to discuss their options to move forward with some resolution as they were asked of. Mrs. Khouri says they did not get a response and she is not an engineer so she relies on their conversations so the professionals can talk to reach a conclusion to see if this is a viable option. That did not happen, and she says she is still willing to work with Peter to see if they can bring some closure to this.

Mayor Jensen says listening to what has gone back and forth and from the Planning standpoint and you heard statements from both sides does it warrant a longer look? Our responsibility is always to our residents and moving forward but there is a point where we want to do is right for them would we be doing right either way. Mr. Cummins says that's why he asked earlier if it was their opinion on what they presented was the only way to lay out the subdivision. They have it shown on the south site with calculations that show it will work and meet City code on the south side and that is still under review. Mr. Cummins says a lot of the items about moving it to the north side as that is the natural flow of the land in this area it is relatively flat. Those items they talk about are more planning use type items for example if its too close to the path or balls being an issue. As far as storm water management goes he thinks its possible to design it on the south side, would it be more customary on the north, that would probably be true but he is not prepared to say they could not make it work by placing it on the south. Mr. Fitch does the concern of the development along Mills help if it stays where its at, does it help those houses. Mr. Cummins says he would say he doesn't believe it's a substantial benefit to the existing subdivision but what it shows is, it reduces the amount of over ran drainage from the subject site to the south subdivision properties. Mr. Cummins says in a flooding condition, that subdivision to the south is flooded by Mills Creek and not necessary from the water coming off this site. Mr. Cummins building detention wherever you do it is always a benefit; it helps the area around it but when that south subdivision was constructed is very much tied to the bottom elevation of Mills Creek. Mr. Cummins says its his understanding a lot of those homes weren't supposed to have basements or occupied basements and that is probably because of the flooding conditions that would likely happen because of Mills Creek. He doesn't see that this proposed subdivision would have a change to that, it won't hurt it nor is it the savior to the southern subdivision. Mr. Fitch says some of the retention that is built too close to the creek fill up with water and doesn't drain the subdivision. Mr. Cummins says that was brought up in Mr. Saylor's letter and the City has the code that the basin is to be out of any potential flooding area like that, with that idea to push it a

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way and bring it up a bit from flooding. Mayor Jensen says if they reverse that and move it to the north, that means all those houses would be closer to the homes in Countryside development and there is an elevation difference. Mr. Cummins says yes, that is correct, there would be about a 4 feet difference so having the basin to the south changes a little perspective but if you swap it the houses would be higher against those homes opposed to the golf course. Mayor Jensen asks Mr. Gasior, moving forward if we were to approve this or not approve, there are a lot of things unanswered but is there a legal point if we approve or not is there anything that is out of line. Mayor Jensen says if we approve it per say that we would be giving Mr. Restivo something that we haven't done for anyone else or if we don't approve it are, we are withholding that we would have moving forward. Mayor Jensen says if we approve it, he doesn't want someone to come back and say you know you wouldn't have done this for anyone else. Mr. Gasior says anytime we do something in here there are competing plans that could go forward with any property for example the Mass Estate and how it originally came and then how it ended up. He says in this case, he read Mr. Saylor's letter and discussed it earlier, we are aware of what is stated but again, there's competent engineering out there on both sides of this and we rely on our engineer. Mr. Gasior says the main concern tonight was specifically the road, the retention issues have been resolved. Mr. Cummins says he too shares the concern about the drainage how it will happen along the north property line and have expressed that to the applicant as something that will have to be addressed as final engineering. There are a lot of things that Mr. Saylor pointed too that he understands and agrees with and that will need to be addressed. Mr. Gasior says so what we are looking at tonight, is 37 lots with a curve in the road and a stub to the north and are saying by approving this the plat is fine but as the code states Preliminary Plat doesn't give the developer to hang their hat on, because that final plat needs approval before anything can be done. Mr. Gasior says if the road were to change dramatically, they could come back for an amendment. For the purpose to make the project moving forward a contingent approval could be done and saying yes there will be a subdivision there some day and it will have a curve road and a stub but still a lot of work to be done for the final. Mr. Gasior says the interest has been the curve road and that was accomplished tonight all subject to some tweaking. The final development plan is key to allow them to move forward. Mr. Gasior says there is consideration for contingent approval subject to final engineering on the preliminary plat with Ryan tweaking the curve. Mayor Jensen says that doesn't change on terms of the final. Mrs. Khouri's ability to have to sit down with Mr. Restivo and they have to work something out because without an agreement to connect that road like we've asked, with the agreement between both of them and asks them to sit down again as its not over yet. The City has no inclination of wanting to go to Court on this or to help either side out or to be a part any of that, that must be agreed upon.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve a proposed Preliminary Plat for a new 37 home subdivision Grande Esplanade to be located on the east side of Nagel Road, north of Mills Road contingent upon finalizing the dimension of the curve in the road. The vote was: "AYES" All. The Chair declared the motion passed.

REFERRAL TO COUNCIL-FIRST PRESENTATION-AMEND PLANNING AND ZONING CODE
Per Article, VII, Planning Commission (D) Mandatory Referral of the Charter, Avon Planning Commission is recommending Council approval to the Ordinance amending The City of Avon, Ohio Chapter 1464 Flood Damage Prevention to include updates required by FEMA.

Mr. Cummins says FEMA has recently completed some amending flood maps, generally along the shoreline but part of Lorain County. Part of that process it kicked in requirement to adopt those new maps by ordinance of 1464 and update sections of 1464 to follow new Avon language. Mr. Cummins says they undertook this process and were supplied some guidance language by Ohio Department of Natural Resources and incorporated the requested changes and made some minor modification to process flood plain permits to make that smoother and clear. Mr. Cummins says Mr. Gasior made some legal changes

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for the appeals process and some legal matters as part of it as well. Mr. Cummins asks the recommendation for approval to City Council.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approval of the Ordinance amending The City of Avon, Ohio Chapter 1464 Flood Damage Prevention to include updates required by FEMA. The vote was: "AYES" All. The Chair declared the motion passed.

COMMENTS

ADJOURN

A motion was made by Mr. Malloy, seconded by Mayor Jensen to adjourn. The vote was: "AYES" All. The Chair declared the motion passed. The meeting was adjourned at 8:54P.M.