

ORDINANCE NO. 120-24

AN ORDINANCE TO AMEND ORDINANCE NO. 413-68, PASSED JANUARY 15, 1969, COMMONLY KNOWN AS THE ZONING ORDINANCE OF THE CITY OF AVON, OHIO, AS AMENDED, REZONING THE 13.2836 ACRE PARCEL OF LAND LOCATED BETWEEN AVON ROAD AND MIDDLETON ROAD, PERMANENT PARCEL NO. 10-04-00-027-101-204 FROM R-1 SINGLE-FAMILY RESIDENTIAL TO R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

WHEREAS, the owner, Liberty Development Company, submitted an application to rezone the 13.2836-acre parcel of land located between Avon Road and Middleton Road, Permanent Parcel No. 10-04-00-027-101-204 from R-1 Single-Family Residential to R-3 Multi-Family Residential District to Planning Commission pursuant to Article VII, Section 2(d) and Article VII, Section 2(e)(3) of the Avon City Charter; and

WHEREAS, the Planning Commission, on November 20, 2024, held a Public Hearing on said amendment; and

WHEREAS, on November 20, 2024, after conducting the public hearing, the Planning Commission reviewed the proposed amendment to rezone this parcel of land as further described herein and considered the public comments and presentations of all interested parties and by a vote of Four (4) in favor and Zero (0) opposed, recommended the amendment to Ordinance No. 413-68 to allow the 13.2836 acres of land located between Avon Road and Middleton Road, Permanent Parcel No. 10-04-00-027-101-204 to be rezoned from R-1 Single-Family Residential to R-3 Multi-Family Residential District; and

WHEREAS, Council, on December 2, 2024, authorized a Public Hearing; and

WHEREAS, said Public Hearing was duly publicized according to law and was held on January 13, 2025, at 7:25 P.M.; and

WHEREAS, notice of the time and place of such Public Hearing has been given to record title holders of property immediately adjacent to, adjoining and abutting on such area, zone, or district proposed to be modified.

WHEREAS, Council finds that the recommendation of Planning Commission is reasonable and in the best interests of the safety, health, and welfare of the citizens of Avon and deems it desirable that Ordinance No. 413-68 be amended to rezone the 13.2836 acres of land located between Avon Road and Middleton Road, Permanent Parcel No. 10-04-00-027-101-204 from R-1 Single-Family Residential to R-3 Multi-Family Residential District.

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

Section 1 - That Ordinance No. 413-68, passed January 15, 1969, commonly known as the Zoning Ordinance of the City of Avon, Ohio, as amended, shall be further amended as provided hereafter.

Section 2 - That from the effective date of this Ordinance, the 13.2836 acres of land located between Avon Road and Middleton Road, shall be, and the same is hereby rezoned from R-1 Single-Family Residential to R-3 Multi-Family Residential District, Permanent Parcel No. 10-04-00-027-101-204, conditioned upon the Developer designing the parcel, accepting the Declaration of Restrictions and executing the Cooperative Agreement with the City of Avon, all as set forth in Exhibit A, which is attached hereto and incorporated herein by this reference.

Section 3 - That all provisions of Ordinance No. 413-68 and its various amendments, shall remain in full force and effect.

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 shall take effect and be in force at the earliest date allowed by law.

First Reading 12-09-24
Second Reading 12-16-24
Third Reading 1-13-25

PASSED: January 13, 2025 DATE SIGNED: January 13, 2025

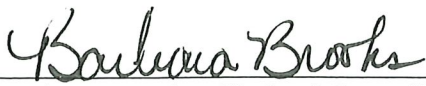
By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: January 14, 2025
Bryan K. Jensen
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:


Barbara Brooks, Clerk of Council

Posted: January 15, 2025
Electronically and at City Hall as
Provided by Council

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

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 120-24, passed by the Council of said City on January 13, 2025.

IN WITNESS WHEREOF, I have on this 14th day of January 2025, affixed my signature and official seal.


Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio

Rezoning Application Statement

A. Liberty Development Company has the subject property under contract and seeks to rezone it to R-3 with deed restrictions limiting any development to an aggregate of 5 units per acre.

B. Relationship with Master Plan.

This development is a collaboration between Liberty Development and Petros Homes, two reputable developers with an excellent history and reputation for high-end developments.

The development makes perfect sense for this property from a land-use and zoning perspective. It will provide a buffer between the commercial and residential uses in the area.

While we seek to rezone the property to R3 as the best means to achieve the development, we do not intend to take advantage of full limits of R3 zoning. We are therefore voluntarily offering a cooperative agreement and a declaration of restrictions on the property, which will limit development to an aggregate of 5 units per acre.

Copies of the proposed cooperative agreement and declaration of restrictions are included with this application. We are receptive to hearing and incorporating the City's feedback in finalizing those documents.

This is a very unique situation, and the rezoning will not create a precedent for other parts of the City. The rezoning is conditioned on the declaration of restrictions being in place.

Enclosed with this application is also a conceptual site plan to depict the type of development that we envision for this property.

This development will also allow for the enhancement of the stormwater management in the area by expanding the detention basin on the site and will help the surrounding areas in this respect.

We look forward to presenting this concept to the Planning Commission and the Council and look forward to hearing your feedback and ultimate approval of the rezoning.

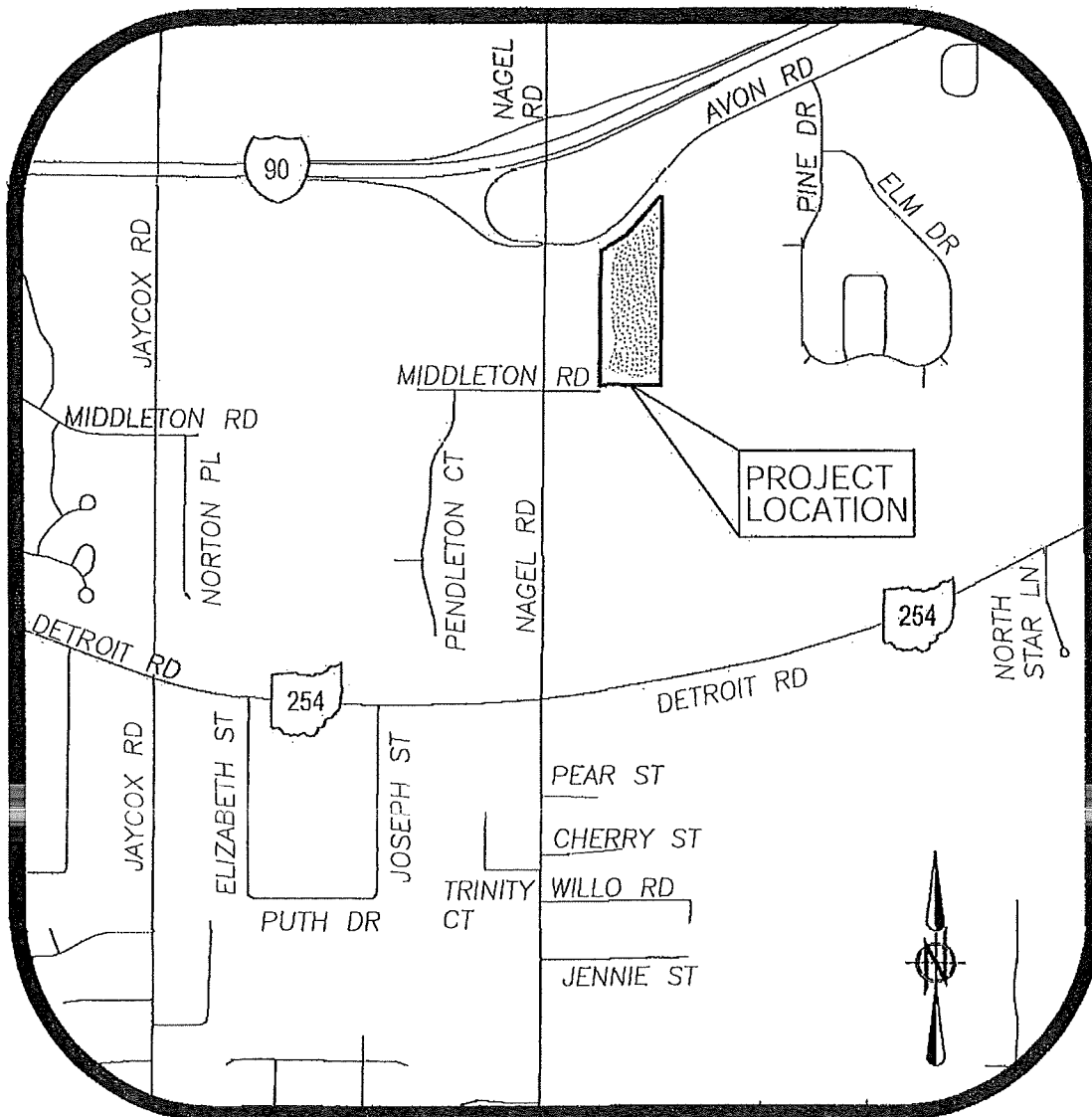
C. Please see attached legal descriptions.

D. Please see attached vicinity maps.

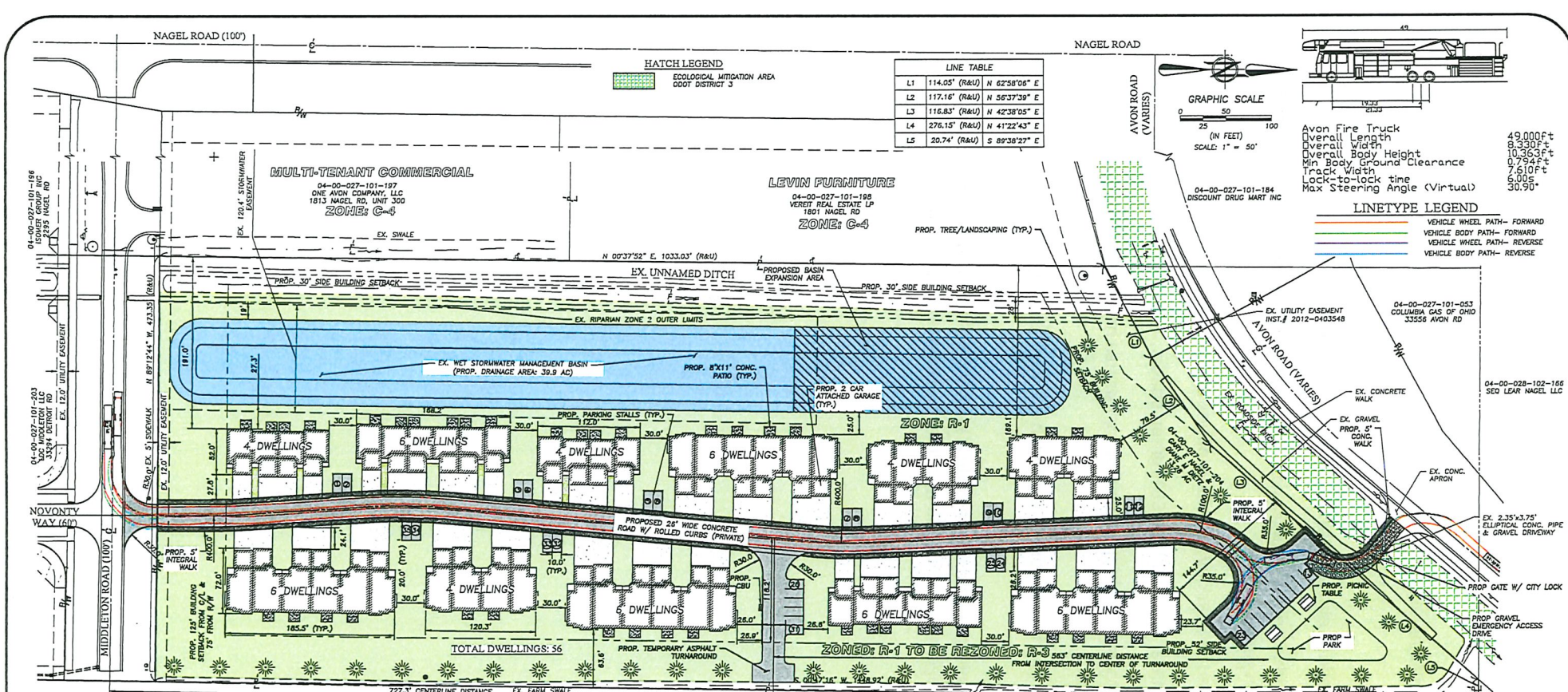
E. Please see attached for list of neighbors with addresses and PPNs.

VICINITY MAP
FOR
VILLAS OF NAGEL FARMS
CITY OF AVON
COUNTY OF LORAIN

PROPERTY AREA
13.28 ACRES



-NOT TO SCALE-



ZONING CLASSIFICATION

THE SUBJECT PREMISES IS LOCATED WITHIN ZONE "R-1 RESIDENCE DISTRICT" AS SHOWN ON THE ZONING MAP OF THE CITY OF AVON. THE DESIRED REZONING DISTRICT IS "R-3 MULTI-FAMILY RESIDENTIAL DISTRICT REGULATIONS". FIGURES IN PARENTHESES ARE REFERENCE TO THE SECTIONS IN THE COPIED ORDINANCES OF CITY OF AVON - PLANNING AND ZONING CODE, OTHERWISE, ZONING REQUIREMENTS SHOWN ARE OBTAINED FROM THE AFORESAID ZONING MAP.

	R-3 DISTRICT
(1) MINIMUM DEVELOPMENT AREA	5 ACRES • 11.5 ACRES PROVIDED
(2) MAXIMUM DENSITY-GENERAL POPULATION	10 DWELLING UNITS/ACRE 4.87 DWELLING UNITS/ACRE PROVIDED
(3) MAXIMUM DENSITY-SENIOR HOUSING	12 DWELLING UNITS/ACRE
(4) MAXIMUM BUILDING COVERAGE OF LOT	30% 18% PROVIDED
(5) MINIMUM LANDSCAPED OPEN SPACE	35% 66% PROVIDED

* OR PARCELS THAT ARE DEFINED AS LOTS OF RECORD UNDER SECTION 1222.02(9) (74)

NOTE: DWELLING UNITS RANGE FROM 1,900 SQ. FT. TO 2,300 SQ. FT.

- 1264.04 AREA AND DENSITY REGULATIONS:**
LAND AREA SHALL BE DIVIDED AND DEVELOPED, AND BUILDINGS SHALL BE ERRECTED, ALTERED, MOVED OR MAINTAINED IN AN R-3 DISTRICT ONLY IN COMPLIANCE WITH THE FOLLOWING AREA REGULATIONS:
- (a) MINIMUM DEVELOPMENT AREA. THE GROSS AREA OF A TRACT OF LAND TO BE DEVELOPED SHALL NOT BE LESS THAN THAT SET FORTH IN SCHEDULE 1264.04(E). THE ENTIRE TRACT OF LAND TO BE DEVELOPED SHALL BE CONSIDERED ONE ZONING LOT.
 - (b) MAXIMUM DENSITY.
 - (1) THE DENSITY OF A RESIDENTIAL DEVELOPMENT PROJECT SHALL NOT EXCEED THE NUMBER OF DWELLING UNITS PER ACRE SET FORTH IN SCHEDULE 1264.04(E).
 - (2) THE TOTAL NUMBER OF DWELLING UNITS PERMITTED FOR A PARTICULAR DEVELOPMENT SHALL BE CALCULATED BY MULTIPLYING THE TOTAL DEVELOPMENT AREA EXCLUSIVE OF PUBLIC RIGHTS-OF-WAY EXISTING AT THE TIME THE DEVELOPMENT PLAN IS SUBMITTED, BY THE NUMBER OF DWELLING UNITS PERMITTED PER ACRE.
 - (3) MAXIMUM BUILDING COVERAGE OF LOT. THE MAXIMUM BUILDING COVERAGE OF THE LOT, INCLUDING ALL AREAS COVERED BY PRINCIPAL AND ACCESSORY BUILDINGS, SHALL NOT EXCEED THE PERCENTAGE OF THE TOTAL DEVELOPMENT AREA SET FORTH IN SCHEDULE 1264.04(E).
 - (c) MINIMUM LANDSCAPED OPEN SPACE. THE PERCENTAGE OF THE DEVELOPMENT AREA DEDICATED TO LANDSCAPED OPEN SPACE SHALL NOT BE LESS THAN SPECIFIED IN SCHEDULE 1264.04(E).
 - (d) SCHEDULE 1264.04(F) AREA AND DENSITY REGULATIONS.

- 1264.05 SITE DEVELOPMENT REGULATIONS:**
THE FOLLOWING STANDARDS ARE ESTABLISHED TO REGULATE THE DESIGN AND DEVELOPMENT OF BUILDINGS IN AN R-3 DISTRICT.
- (a) SETBACK FROM RIGHTS-OF-WAY. THE SETBACK OF A PRINCIPAL BUILDING FROM A STREET RIGHT-OF-WAY SHALL NOT BE LESS THAN THE DISTANCE SET FORTH IN SCHEDULE 1264.05(E).
 - (b) SETBACK FROM PROJECT BOUNDARY. THE SETBACK OF A PRINCIPAL BUILDING FROM ANY PROJECT BOUNDARY THAT IS NOT AN EXISTING PUBLIC RIGHT-OF-WAY SHALL NOT BE LESS THAN THE DISTANCE SET FORTH IN SCHEDULE 1264.05(E).
 - (c) BUILDING SPACING. THE MINIMUM DISTANCE BETWEEN BUILDINGS ON THE SAME SITE SHALL NOT BE LESS THAN THE DISTANCE SET FORTH IN SCHEDULE 1264.05(E). THE FOLLOWING DEFINITIONS SHALL APPLY TO TERMS USED IN THIS SECTION:
 - (1) "MAIN WALL"-THE OUTSIDE WALLS OF A BUILDING WHICH CONTAIN THE PRIMARY WINDOWS OF ANY LIVING, FAMILY OR DINING ROOM.
 - (2) "END WALL"-ANY OUTSIDE WALL NOT CONSIDERED TO BE A MAIN WALL OF A BUILDING. END WALLS MAY BE BLANK OR CONTAIN WINDOWS NOT CONSIDERED TO BE PRIMARY WINDOWS.
 - (d) BUILDING HEIGHT. NO BUILDING OR STRUCTURE IN AN R-3 DISTRICT SHALL EXCEED THE MAXIMUM HEIGHT SET FORTH IN SCHEDULE 1264.05(E).
 - (e) SCHEDULE 1264.05(F); SITE DEVELOPMENT STANDARDS.

	R-3 DISTRICT
(1) MINIMUM BUILDING SETBACK: A. FROM EXISTING PUBLIC STREET RIGHT-OF-WAY B. FROM INTERIOR STREET RIGHT-OF-WAY C. FROM PROJECT BOUNDARY LINE ADJACENT TO AN R-3 OR NONRESIDENTIAL DISTRICT D. FROM PROJECT BOUNDARY LINE ADJACENT TO AN R-1 OR R-2 DISTRICT	75 FEET (a) 30 FEET 30 FEET 30 FEET (b)
(1) MINIMUM BUILDING SETBACK: A. BETWEEN FACE OF MAIN WALL AND FACE OF MAIN WALL AND END WALL B. BETWEEN FACE OF MAIN WALL AND END WALL C. BETWEEN END WALL AND END WALL	50 FEET 40 FEET 30 FEET
(1) MAXIMUM BUILDING HEIGHT: A. PRINCIPAL BUILDING B. ACCESSORY BUILDING	40 FEET 15 FEET (c)

- 1264.06 DWELLING UNIT AREA REQUIREMENTS**
(a) ATTACHED COVERED GARAGE. ALL INDIVIDUAL DWELLING UNITS WILL HAVE AN ATTACHED COVERED GARAGE.
- (1) ALL THREE BEDROOM APARTMENTS WILL HAVE A TWO-CAR ATTACHED GARAGE.
 - (2) ONE-BEDROOM UNITS MUST HAVE MINIMUM TOTAL FLOOR AREA OF 800 SQUARE FEET, PLUS 200 SQUARE FEET FOR EACH ADDITIONAL BEDROOM.
 - (3) ONE ENCLOSED GARAGE PER LIVING UNIT IS REQUIRED AS PER SECTION 1292.04(A)(3).
- (c) SPECIAL PROVISIONS. TEN PERCENT OF THE DESIGNATED PROJECT MAY BE DEVELOPED AS FOLLOWS:
- (1) EFFICIENCY UNITS MUST HAVE MINIMUM TOTAL FLOOR AREA REQUIRED OF 600 SQUARE FEET.
 - (2) ONE-BEDROOM UNITS MUST HAVE MINIMUM TOTAL FLOOR AREA OF 800 SQUARE FEET, PLUS 200 SQUARE FEET FOR EACH ADDITIONAL BEDROOM.
 - (3) ONE ENCLOSED GARAGE PER LIVING UNIT IS REQUIRED AS PER SECTION 1292.04(A)(3).

DATE	BY	DESCRIPTION
11-16-2024	AW	REVISED TO CITY FOR REZONING

BRAMHALL
ENGINEERING AND SURVEYING COMPANY
801 MOORE ROAD AVON, OHIO 44011
(440) 934 - 7878 (440) 934 - 7879 FAX

DRAWN BY: GJW
CHECKED BY: AFA

PREPARED FOR:
LIBERTY DEVELOPMENT COMPANY
28045 RANNEY PARKWAY - SUITE E
WESTLAKE, OHIO 44145
(440) 892-1800

VILLAGES OF NAGEL FARMS
PRELIMINARY REZONING PLAN
CITY OF AVON, COUNTY OF LORAIN,
STATE OF OHIO

Villas of Nagel Farms-Revised General Development Plan

- Proposed Park Area was added at the north end of the development near Avon Road.
- Additional parking was added bringing the total to 33 spaces not including 4 spaces per unit (min 2 in driveway and 2 in garage).
- Midpoint stub street has added parking, cluster mailbox unit and turnaround area.
- Added a green hatch to better represent the 68% green space.
- Initial September submittal included 59 units however this has now been reduced to 56 units on the attached plan.
- Sidewalks along the road are now continuous through off street parking and not around the parking as discussed.
- Density is 4.87 dwelling units per acre where code allows for 10 dwelling units per acre. The existing stormwater management basin area was removed from this calculation.

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions ("Declaration") made this ____ day of _____, 2024, by _____, an Ohio limited liability company ("Declarant") is to evidence the following:

WITNESSETH

WHEREAS, Declarant is the owner of approximately ____ acres of land in the City of Avon, Ohio ("City"), described in Exhibit A hereto (the "Property");

WHEREAS, Declarant has requested the City to enact an ordinance (the "Ordinance") to rezone the Property to R3 under the City's Zoning Code; and

WHEREAS, Declarant has agreed to limit the density for any residential development on the property to not exceed 5 dwelling units per acre; and

WHEREAS, in satisfaction of said representation, Declarant has agreed to execute and deliver to the City this Declaration of Restrictions.

NOW, THEREFORE, Declarants, for themselves and their successors and assigns, hereby covenant and declare that:

1. Restriction of Use of the Property. The maximum aggregate density allowed on the Property shall be 5 dwelling units per acre, without regard to any higher density allowed under the Zoning Code.

2. Effective Date. The restriction in paragraph 1 shall go into effect only upon the City's enactment of the ordinance to rezone the Property to the R3 classification.

3. Enforcement. This Declaration shall be governed by the laws of the State of Ohio. This Declaration is intended for the sole benefit of the City and may be enforced solely by the City. This Declaration may be modified, amended or revoked by Declarant, its successors and assigns, in whole or in part, only with the consent of the City by an ordinance enacted by its Council. The City shall have all the rights to which it may be entitled under law or equity to enforce the provisions of this Declaration.

4. Successors in Interest. This Declaration shall run with the land and shall be binding upon Declarants and their successors in interest in perpetuity.

IN WITNESS WHEREOF, this Declaration of Restrictions is executed by Declarants this ____ day of _____, 2024.

LIBERTY DEVELOPMENT

By: _____

Its: _____

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said county and state, personally appeared the above-named _____, personally and as the managing and sole member of _____ who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed individually and as such companies.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal at _____, Ohio, this ____ day of _____, 2024.

NOTARY PUBLIC

This Instrument Prepared By:
Majeed G. Makhlouf, Esq.
Berns, Ockner & Greenberger, LLC
3201 Enterprise Pkwy, Suite 220
Beachwood, Ohio 44112

EXHIBIT A

LEGAL DESCRIPTION

COOPERATIVE AGREEMENT

By and between

THE CITY OF AVON, OHIO

and

LIBERTY DEVELOPMENT

Dated as of _____

*Exh. A - a legal
description
& survey map?*

No Exhibits

Exh. B: Deed w/ Restrictions

*Exh. C: Is this the plan attached
to the 11/6/24 2:14pm email?*

COOPERATIVE AGREEMENT

This Cooperative Agreement is entered into by and between the City of Avon, Ohio, a political subdivision of the State of Ohio (the "City") and Liberty Development, an Ohio limited liability company, or its nominee or assignee ("Developer"), dated as of _____.

WHEREAS, Developer has the right to purchase the property described in Exhibit A (the "Property") in the City.

WHEREAS, Developer has requested the City to rezone the Property to R3 to allow its development of the Property for a cluster-type development with a maximum density of 5 dwelling units per acre;

privately owned

WHEREAS, the Property is very unique with no similar properties in the City of Avon situated within such proximity between single family residential and commercial limiting the quality of single-family residential that can be developed on the Property;

WHEREAS, rezoning the Property to allow the development is in the best interest of the community and protects property values;

WHEREAS, the City will not permit the maximum density allowed by the R3 zoning on the Property, and the Developer seeks to develop a high quality development not exceeding an aggregate density of 5 dwelling units per acre; and

owned occupied

WHEREAS, the Developer has agreed to restrict the aggregate density of any residential development on the Property to 5 dwelling units per acre.

Now, therefore, for valuable consideration, the sufficiency and validity of which is hereby recognized, the City and the Developer agree as follows:

1. **Rezoning subject to Deed Restriction.** The City agrees to rezone the Property to R3 conditioned on the Developer's recording of the Declaration of Restrictions attached hereto as Exhibit B.
2. **Development Plans.** The Property shall be developed substantially in compliance with the plans submitted to the City Planning Commission and Council as part of the rezoning process, a copy of which is attached hereto as Exhibit C. *the drawings*
3. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the parties and their respective successors and permitted assigns.
4. **Joint Preparation.** This Agreement shall be deemed to have been jointly prepared by all parties hereto, and any ambiguities or uncertainties herein shall not be construed for or against any party.
5. **Counterparts.** This Agreement may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of both parties hereto

be contained on any one counterpart hereof. Additionally, the parties hereto agree that for purposes of facilitating the execution of this Agreement, (a) the signature pages taken from the separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts and (b) signatures provided by facsimile or in Adobe Portable Document Format (PDF) sent by electronic mail shall be deemed to be original signatures for all purposes. All executed counterparts of this Agreement shall be deemed to be originals, but all such counterparts taken together or collectively, as the case may be, shall constitute one and the same agreement.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, representations, and understandings of the parties, written or oral.
7. **Amendments, Changes, Modifications.** ^{assigned} This Agreement may not be amended, supplemented, changed, modified, or altered except by an instrument in writing executed by all parties to it. ^{Assignments.} _{and approved by City Council}
8. **Severability.** If any provision of this Agreement, or any covenant, stipulation, obligation, agreement, act, or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision or any other covenant, stipulation, obligation, agreement, act or action or part thereof, made, assumed, entered into, or taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act, or action, or part shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.
9. **Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles of conflicts of laws.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed.

LIBERTY DEVELOPMENT

CITY OF AVON, OHIO

By: Tom Kulis

By: Bryan K. Jensen

Name: Tom Kulis

Name: Bryan K. Jensen

Its: PRESIDENT

Its: Mayor

Date: 1/13/2025

Date: 1/14/2025

Villas of Nagel Farms



Villas of Nagel Farms

