

ORDINANCE NO 121-24

AN ORDINANCE TO AUTHORIZE AN AMENDMENT TO THE FINAL PLAT AND SUBDIVIDER'S AGREEMENT FOR NAGEL FARMS SUBDIVISION AND DECLARING AN EMERGENCY

WHEREAS, Ordinance No. 61-22 passed by City Council on May 9, 2022, authorized the Final Plat and Subdivider's Agreement for Nagel Farms Subdivision; and

WHEREAS, attached to Ord. No. 61-22 was a Subdivider's Agreement whereby the property owner, Liberty Development Company, agreed to construct certain public improvements as a condition precedent to recording said final plat; and

WHEREAS, Liberty Development Company is now requesting an amendment to the Subdivider's Agreement to reduce the number of residential lots from Thirty-Eight (38) to Thirty-Six (36); and

WHEREAS, Planning Commission on November 20, 2024, held a Public Hearing and by a vote of Four (4) to Zero (0) recommended approval of said amendment; and

WHEREAS, in order to go forward with reducing the number of residential lots, City Council must agree to amend the Subdivider's Agreement accordingly; and

WHEREAS, Council, having reviewed the amended Subdivider's Agreement and the Final Plat for the site finds that the health, safety, and welfare of the community is best served by authorizing the amendment to the Subdivider's Agreement to reduce the number of single-family residential lots from Thirty-Eight (38) to Thirty-Six (36).

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

Section 1 – That Council hereby accepts the Amended Final Plat for the Nagel Farms Subdivision as set forth in [Exhibit A](#), attached hereto and incorporated herein by this reference.

Section 2 - Council hereby agrees to amend the Subdivider's Agreement with Liberty Development Company, passed as part of Ord. No. 61-22 on May 9, 2022, which currently reads as follows:

AMENDMENT NO. 1

Page 1 – 1st WHEREAS:

WHEREAS, on April 20, 2022, the Planning Commission recommended approval of the Final Plat for the Nagel Farms Subdivision consisting of Thirty-Five (35) sublots (hereinafter "Subdivision") and Three (3) additional lots along Detroit Road which are not part of the Nagel Farms Subdivision, by a vote of Five (5) to Zero (0); and

Shall be amended to read as follows: (New language in bold print; deleted language stricken)

Page 1 – 1st WHEREAS:

WHEREAS, on April 20, 2022, the Planning Commission recommended approval of the Final Plat for the Nagel Farms Subdivision consisting of Thirty-Five (35) sublots (hereinafter “Subdivision”) and **One (1)** additional **lot** along Detroit Road which are not part of the Nagel Farms Subdivision which is not part of the Nagel Farms Subdivision by a vote of Five (5) to Zero (0); and

=====

AMENDMENT NO. 2

5. Stabilization Deposit.

Prior to this Subdivider’s Agreement being placed on Council’s agenda for approval by ordinance, the Subdivider shall deposit the sum of One Thousand Nine Hundred and 00/100 (\$1,900.00) Dollars (\$50 x 38 sublots) with the Finance Director of the City of Avon for stabilization costs set forth in ACO §1052.11(b).

Shall be amended to read as follows: (New language in bold print; deleted language stricken)

5. Stabilization Deposit.

Prior to this Subdivider’s Agreement being placed on Council’s agenda for approval by ordinance, the Subdivider shall deposit the sum of One Thousand ~~Nine~~ **Eight** Hundred and 00/100 (~~\$1,900.00~~ **\$1,800.00**) Dollars (\$50 x ~~38~~ **36** sublots) with the Finance Director of the City of Avon for stabilization costs set forth in ACO §1052.11(b).

=====

AMENDMENT NO. 3

13. Tree Deposit.

Prior to an ordinance being placed on Council's agenda for acceptance of public improvements in this subdivision, Subdivider will deposit with the Finance Director of the City

Ordinance No. 121-24 (Con't)

of Avon the sum of Ten Thousand Four Hundred Fifty and 00/100 (\$10,450.00) Dollars to assure compliance with the requirement of planting of One (1) tree per subplot (\$275 x 38) in the Subdivision. The deposit will be refunded by the Finance Director upon verification by the Service Director that trees have been planted in compliance with this Agreement and the Codified Ordinances of the City of Avon.

Shall be amended to read as follows: (New language in bold print; deleted language stricken)

13. Tree Deposit.

Prior to an ordinance being placed on Council's agenda for acceptance of public improvements in this subdivision, Subdivider will deposit with the Finance Director of the City of Avon the sum of ~~Ten~~ **Nine** Thousand ~~Four~~ **Nine** Hundred ~~Fifty~~ and 00/100 (~~\$10,450.00~~ **(\$9,900.00)**) Dollars to assure compliance with the requirement of planting of One (1) tree per subplot (\$275 x ~~38~~ **36**) in the Subdivision. The deposit will be refunded by the Finance Director upon verification by the Service Director that trees have been planted in compliance with this Agreement and the Codified Ordinances of the City of Avon.

=====

AMENDMENT NO. 4 –

14. Deposit for Street and Traffic Control Signage and Pavement Markings.

Prior to an ordinance being placed on Council's agenda for acceptance of public improvements in this subdivision, Subdivider shall deposit with the Director of Finance the amount of Five Thousand Three Hundred Thirty-Five and 00/100 (\$5,335.00) Dollars. The deposit shall be held by the City for a two (2) year period commencing with the passage of the ordinance accepting the public improvements. In the event the Subdivider fails to comply as required herein, said sum shall be expended by the City exclusively for the costs of placement of

street and traffic control signage and pavement markings as shall be determined by the Director of Public Safety, within the Subdivision and shall be based on current City Standards. At the expiration of this Two (2) year period, any amount remaining on deposit with the City shall be refunded to the Subdivider with the approval of the Safety Director.

Shall be amended to read as follows: (New language in bold print; deleted language stricken)

14. Deposit for Street and Traffic Control Signage and Pavement Markings.

Prior to an ordinance being placed on Council's agenda for acceptance of public improvements in this subdivision, Subdivider shall deposit with the Director of Finance the amount of Five Thousand Three Hundred Thirty-Five and 00/100 (\$5,335.00) Dollars. The deposit shall be held by the City for a two (2) year period commencing with the passage of the ordinance accepting the public improvements. In the event the Subdivider fails to comply as required herein, said sum shall be expended by the City exclusively for the costs of placement of street and traffic control signage and pavement markings as shall be determined by the Director of Public Safety, within the Subdivision and shall be based on current City Standards. At the expiration of this Two (2) year period, any amount remaining on deposit with the City shall be refunded to the Subdivider with the approval of the Safety Director.

All other provisions of said Subdivider's Agreement shall remain in effect.

Section 3 – 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 4 - 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 the Final Plat and Subdivider's Agreement entered into with Liberty Development Company (Ord. No. 61-22) to reduce the number of sublots from Thirty-Eight (38) to Thirty-Six (36); 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: _____
Electronically and at City Hall as
Provided by Council

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