



CITY OF WORTHINGTON
Worthington City Council Minutes
September 17, 2018

6550 N. High Street
Worthington, Ohio 43085

CALL TO ORDER – Roll Call, Pledge of Allegiance

Worthington City Council met in Regular Session on Monday, September 17, 2018, in the John P. Coleman Council Chambers of the Louis J.R. Goorey Municipal Building, 6550 North High Street, Worthington, Ohio. President Michael called the meeting to order at or about 7:30 p.m.

ROLL CALL

Members Present: Rachael R. Dorothy, Beth Kowalczyk, David Robinson, Douglas K. Smith, and Bonnie D. Michael

Member(s) Absent: Douglas Foust, Scott Myers

Also present: City Manager Matt Greeson, Assistant City Manager Robyn Stewart, Director of Law Tom Lindsey, Director of Finance Scott Bartter, Director of Service & Engineering Dan Whited, Director of Planning & Building Lee Brown, Director of Parks & Recreation Darren Hurley, Chief of Fire John Bailot, Chief of Police Jerry Strait, Clerk of Council D. Kay Thress

There were ten visitors present.

PLEDGE OF ALLEGIANCE

President Michael invited all to stand and join in reciting the Pledge of Allegiance to the flag.

VISITOR COMMENTS

There were no comments.

APPROVAL OF THE MINUTES

- Regular Meeting – September 4, 2018
- Committee of the Whole Meeting – September 10, 2018

MOTION Ms. Kowalczyk moved, Ms. Dorothy seconded a motion to approve the aforementioned meeting minutes as presented.

There being no additions or corrections, the motion to approve the minutes as presented carried unanimously by a voice vote.

PUBLIC HEARINGS ON LEGISLATION

Ordinance No. 42-2018

Authorizing the Final Plan to the Wilson Bridge Corridor for 181 East Wilson Bridge Road and Authorizing Variances (Oxford Circle, LLC. c/o David Hodge).

The foregoing Ordinance Title was read.

Mr. Brown explained that the request before Council is for a 32-unit multifamily apartment complex on the south side of East Wilson Bridge Road. He presented a history of the development of the Wilson Bridge Road zoning adopted by the City Council in 2016. Two parcels on the southside of East Wilson Bridge Road were rezoned from R-10 single family residential to medium density residential to avoid the building of any new single family residential on the south side of East Wilson Bridge Road. The south side was recommended for a mixture of professional office and medium density residential.

Mr. Robinson asked Mr. Brown why just those parcels were re-zoned and not the entirety of the proposed residential area. Mr. Brown reported that when the guidelines were established for the district the goal was to rezone the entire corridor to match up with the zoning districts. The southside of East Wilson Bridge Road was the focus but there was pushback from existing property owners on re-zoning to a non-confirming use. Non-confirming structure also caused multiple problems. The approach has been to go after vacant parcels and begin the re-zoning process to avoid new dwellings being constructed.

Ms. Kowalczyk inquired as to why we would not want a new house on that property. Mr. Brown shared the long-term vision for the southside of Wilson Bridge is for office or medium density residential. He understands that in 2011 there was a discussion about the entire southside being recommended for professional office, however, it was eventually modified to what is seen today with office on the western portion and medium density residential on the eastern portion.

Mr. Brown explained that over the years there have been proposals on these parcels in varying configurations, but nothing has come to fruition. Looking at these two parcels, Lot #17 has never been built on, Lot #16 did have a house on it decades ago but has recently been vacant. They will be combined as part of the request to develop multi-family residential.

The Municipal Planning Commission looked at the guidelines and zoning categories in September and it was introduced and discussed at the Committee of the Whole Meeting in October. Discussion occurred regarding density, height and tree fees and modifications and changes were made. The guidelines and zoning categories were adopted with

modifications in April of 2016 and it went into effect in June of that year. The following April, after the Council Retreat, Council asked that the re-zoning those vacant two parcels begin. It went to the MPC in April and was approved by Council in May, effective in July 2017.

At the end of 2017 the City began working with the current applicant Mr. Kenney on the Kemper House on Proprietors and 161. Previously we had spoken with multiple other developers who wanted to do something on the south side of East Wilson Bridge Road, but they wanted to clear cut the site before zoning went into effect or double the density and/or height. We floated this site to Mr. Kenney while working on the Kemper House, asking him to look at this piece of property.

Mr. Robinson asked about the other developers who expressed interest and if they did not proceed because of the tree ordinance specifically and the associated financial costs. Mr. Brown replied that most of the developers wanted higher density. The trees were a concern; however, the language had not been adopted at that point in time.

Mr. Brown explained that the current applicant is requesting 32-units that are a mixture of one, two, and three-bedroom on the southside of East Wilson Bridge Road in two different buildings. The price point will be between \$800 and \$1,250 per month. Mr. Robinson inquired how that compares to rents at The Heights. Mr. Brown responded that the cheapest one-bedroom unit without a garage is going for \$900. The three-bedroom, two-bath is starting at \$2,000. He added that The Heights price also includes amenities such as pools, concierge, and clubhouse.

Mr. Brown described the layout of the proposed plan. He referenced an earlier question from Ms. Dorothy relating to one of the variances that deals with the width of the curb and how it would interfere with a recreational path. Ms. Dorothy said that she has seen people get hit when vehicles pull through the right-of-way and she is very concerned about people's safety. She is worried about the width and drivers pulling through and colliding with people whose primary mode of transportation is not a car. President Michael asked if it would be possible to put in a stop sign on the side of the property, so that the person coming out has to stop before coming to the road. Mr. Brown replied that we could work with that and it seems reasonable. Ms. Dorothy commented that just having markings on the road would be helpful to identify that people are crossing.

Mr. Brown reviewed that it is part of the plan for the Wilson Bridge Road Corridor to have a ten-foot multi-use recreational path starting from High Street connecting to the Community Center and eventually to the Northeast Gateway Project. Part of this includes a five-foot sidewalk that will run parallel to the multi-use path for the residents that are going out to use it, so they do not have to interact with the recreational path. He added that when looking at where the multi-use path and sidewalk will be, it is not as wide as the 76 feet in width but narrows down to 25 feet and then to 22 feet which meets minimum code requirements for two-way traffic.

President Michael inquired as to what is in the middle of the development. Mr. Brown replied there would be an internal loop with mailboxes. Many of the existing trees would be preserved in the middle area and there will be existing trees along the periphery and the southside. This will predominately be where traffic loops around and can come in and out of the site. Seven garages and a dumpster will also be in this location.

Mr. Brown detailed how the Fire Department had been consulted regarding maneuverability of the site for their equipment and vehicles. When asked by Ms. Dorothy why a ladder truck would be used since these are two-story buildings, Mr. Brown replied that if there was a need to get to a fire in the back building, a ladder truck can reach that area. Chief Bailot confirmed Mr. Brown's comments were correct. He added that whenever there is a report of a structure fire, the engine, the ladder, and the medic unit along with mutual aid agencies respond regardless of whether it is residential or commercial. The ladder truck could be the first unit on scene. It has a pump, water, fire hose, and can do the same duties as the engine. The ladder is also used for rescue, so if there is someone trapped in a multi-family building the ladder truck would be used. Ms. Dorothy shared that she appreciates the balance between the daily needs of people who are out and about walking, biking, etc and the increased pavement.

Mr. Brown added that as part of the ten-foot multiuse path that is being installed, we are also getting additional right-of-way dedication from the applicant. Sidewalk will be installed as will street trees and lighting as part of this project. Other enhancements will include bike racks at each building, benches, and decorative light poles around the site. There will also be enhanced landscaping including additional trees and landscaping on the periphery, the southside and internal loop area. The applicant also took the initiative to work with and schedule their own meetings with property owners on Northhigh Drive to go over the proposal with the residents, who have been happy. He explained that staff worked with the applicant on this project to utilize brick, hardy plank, and board and batten versus vinyl siding.

Mr. Brown reported there being four items that he wanted to provide greater detail on as the variance requests deviate from code requirements.

- 1) The driveway to exceed 45-feet in width at the curb line before it narrows down. There are several other businesses throughout Worthington that have a wider drive aisle, so it is not inconsistent with what is seen within East Wilson Bridge Road and other corridors.
- 2) The second variance is to permit buildings to be closer than fifty feet in residential districts to the property line. If we would have proactively re-zoned the corridor, we would not need this variance.

Mr. Robinson referenced the new house to the west that was built three years ago and asked when the properties were rezoned. Mr. Brown replied that they were re-zoned in 2017. Mr. Robinson asked what zoning was prescribed at the time when that house was built. Mr. Brown said that it was in the R-10 single family district. Mr. Robinson inquired about the lots where the proposed development would be located, asking what the side

setback was after the re-zoning in 2017. Mr. Brown replied that the two lots were re-zoned to the WBC-1 district. The strict letter of the code is a 50-foot setback from the residential district. Mr. Robinson asked if the house was there when the rezoning took place. Mr. Brown replied that is correct. President Michael noted that the builder of that house was informed ahead of time that the City was looking into putting a multi-unit property in. Mr. Brown shared that he met with the current property owner several times before he bought the house, documenting their interaction with the applicant using certified mail to document what was planned for the corridor.

- 3) The third item deviates from the code requirement in relation to the trees. When we did the initial layout for the code requirements, we looked at doing a tree fee and it was a much higher fee at the time. We looked at 6-inch caliper or larger and the original proposal was for \$350. After looking at what other jurisdictions charged, this was lowered to \$150 for trees that are 6-inch caliper or larger.

Mr. Brown explained that he, Ms. Bitar, and Mr. Daugherty the City Arborist walked the site with the property owner to determine if there were any special trees or something unique on the site. They walked the site to see what could be incorporated into the development and what should be preserved to help guide applicants. The request before Council is to remove 1,688 caliper inches. They are preserving 404 additional caliper inches and adding an additional 343 units. The strict letter of the cost for removal of the trees, without counting the credit, is going to be \$253,200 (\$201,750 after credits). Previous property owners and developers wanted to come in and completely clear cut the site. Mr. Brown emphasized how he and Ms. Bitar pushed back on this and encouraged working together to get the type of product the City is wanting. Otherwise, boards and commissions and Council would look negatively at clear cutting the site. That is why we have not seen any activity on that parcel. Staff has worked with the developer to try to get a better layout and product with that tree fee. That is one of the reasons staff has recommended approval to grant the waiver from the tree requirement.

- 4) The final requirement requesting variance approval is the request for an additional 2-units per acre. Code allows up to 14-units to the acre and they are requesting a total of 4 additional units.

Mr. Brown described how this development offers a different product than The Heights. He explained that the proposed development went before the Municipal Planning Commission for recommendation to Council on July 26th and the chairman of the MPC is present tonight.

Mr. Robinson requested clarification about the rationale for the fourth variance request. The code states that the number of units should be between 10 and 14 with a maximum of 14. Mr. Brown agreed. He reported the rationale is to provide a range of bedrooms and options for housing. It did not seem to be a substantial deviation from the code. When the code was created, it seemed to be subjective with a range allowing between 10 and 14 units. He is not sure what the rationale was for when the original plan was adopted in 2011. President Michael stated that she is wondering that also.

Ms. Kowalczyk asked if the tree fee was strictly applied to the Wilson Bridge Corridor or if it is used elsewhere. Mr. Brown replied that we do not have a tree ordinance in the City of Worthington. When we did the Wilson Bridge Corridor, tree preservation and the associated fee were added for these two parcels and are the only parcels in the entire city that are subject to the tree fee. When asked by Ms. Kowalczyk if the fee was created in response to some of the developers' interest in clear cutting the property, Mr. Brown agreed. Staff looked to see if there were any unique trees that needed to be saved or is there a way to incorporate certain trees into the development itself.

Mr. Robinson shared that he went out to the site several weeks ago after reading the plan. The aerial photographs and street front photographs appear barren and do not do justice to what he labels as an emerging forest. He described how he took photos to try and get a representation of what the property looks like and then asked Ms. Thress to display those photos for Council.

Mikel Coulter – 686 Evening Street

Mr. Coulter shared that Mr. Brown asked him to come to the Council meeting to see if anyone had questions about why the MPC came to the conclusions and recommendations that they did. He explained that this property has been in front of the Commission for a few years and is part of an effort to redevelop the entire south side of East Wilson Bridge Road. It has some challenges and it has some trees that he would describe as “Trash Trees.” They looked at what is the best of use of the property. There have been talks with several developers over the years. One person came in wanting 26 units per acre and without exception everyone on the Commission felt like this was too many.

President Michael asked how many units are being proposed per acre currently. Mr. Brown replied 16 units per acre. Previous groups have proposed developing three parcels, including the one with the house on it before it was sold as well as the parcel to the east. President Michael asked what happened to the parcel to the east. Mr. Brown replied that the parcel was sold last year. Staff met with the new owner to let them know what was going on in the corridor. When President Michael asked if we offered to purchase the property, Mr. Brown replied that they did not want to sell.

Mr. Coulter explained that the current number of units is a compromise from the number Mr. Kenney originally proposed. A major part of the discussion was around the trees that were there and what are the larger, special trees we would want to keep. The homeowner to the west had attended all the MPC meetings. At the last meeting, one of his requests of the developer was to consider adding more trees along the property line. Mr. Kenney agreed to the request. There have been several meetings between the developer and residents to the south. At the end of the day we were using the trees, the layout, and talking about the road access as a bargaining chip to get the architectural aesthetics desired on the buildings. Everyone felt comfortable with the balance of where the project ended up. The commission is comfortable with this and it was a unanimous vote.

When asked by President Michael what the material was in between the segments of brick, Mr. Coulter replied that is hardy plank. Mr. Brown explained that this is not in the Architectural Review District, but additional requirements were added to the design guidelines for this corridor relating to architecture and better materials.

Mr. Robinson questioned Mr. Coulter's thinking about how the issue of density is approached when the code clearly states between 10 and 14 units. He asked why we would not stick between what is prescribed by the code. Mr. Coulter replied that often developers come in and ask for the moon. If they get it, they have hit a home run. He has been an architect since 1982 and when he looks at projects like this he looks at a balance. We are not here to see how we can kill a project. His personal position is to determine what we can do to make a project that works for both the developer and the City of Worthington. Sometimes that means compromise. He looks at the size of the lot, the way it lays out, the distances from the houses around it, what the impact on the neighbors will be, and whether it will be onerous on them. The Commission was also interested in making sure that a quality developer come in and do this project. He has been involved with a number of projects over the years that he has regretted working with the developers that he did. So, this piece of property has laid fallow for a very long time and in part we wanted something to kick off what we are wanting to do over there, but we wanted it to be the right project. We talk a lot about gateway projects, what is the first thing you see and what does it represent. We felt like this was a good representation of what we wanted to see in terms of the quality of the development along East Wilson Bridge Road. So, we were willing to give in respect to the number of units but be reasonable about it. Mr. Brown shared that in regard to The Heights, when it came through in 2013 the unit count was actually 73 units to the acre, but at the time we looked at the entire site itself and the mixture of uses. When broken down to what was originally included in the mall, it breaks down to 10-12 units to the acre.

David Hodge, Underhill and Hodge – 8000 Walden Parkway Ste 260, New Albany

Mr. Hodge explained that this project started many months ago in meetings with staff and others on his client's other project in town, The Kemper House. That project has almost been universally well received and will be a great asset to that corner and a gateway to the City of Worthington. They were advised early on by staff to review the Wilson Bridge Road Corridor Study document that has been in place since 2011. They were also advised to see some of the surrounding property owners and had a great meeting with them. The property owners were impressed with the southern border, the openness to fencing and landscape preservation, and how the northern border framed Wilson Bridge Road. Only one neighbor in the immediate area showed up at their underlying meetings and that was the neighbor to the west. That individual acknowledged that he knew a project of this ilk was on its way to the property, having been previously contacted by staff. His only concern was why the perimeter was not going to extend down the south and if there could be a fence. Ultimately, they ended up with an elegant solution to that with some brick posts along the side with arborvitae in between. The property is zoned for this use and according to the Wilson Bridge Corridor Study this is precisely the type of housing in this location that is under served in the City.

After meeting with neighbors and the submission of the application, the project was reviewed and scrutinized multiple times by the MPC who unanimously approved it, recommending Council adopt the final plan. It was recognized by everyone leading up to tonight that this is the correct land use, at an appropriate density, and could provide a spark to kickoff other activity in the corridor. In 2015, Worthington considered the Wilson Bridge Road Corridor Enhancement Plan and this in particular is Focus Area #5 of that plan. What that recommends is a recreational pedestrian path along the frontage and this project donates the right-of-way to the City of Worthington to accommodate that recreation plan to connect folks to McCord Park.

Mr. Hodge suggested that this application before Council meets the spirit and the letter of the Wilson Bridge Corridor Code and policy in the following ways:

- Setbacks
- Right-of-Way Dedication for the Trail
- Screening
- Lot Coverage
- Pedestrian Access
- Design
- Materials
- Landscaping
- Lighting
- Signage
- Public Spaces
- Bicycle Parking

It is here with a positive recommendation from the MPC, positive recommendation of City Staff, and the implied endorsement of neighbors who have indicated their satisfaction throughout the process.

He addressed several items, specifically density which a variance has been requested for additional units overall. The Wilson Bridge Corridor Study speaks in its introduction about how the plan is supposed to be used and he has dealt with the interplay between plans and guidelines and law. This plan is a guide for how decisionmakers are to view these things. He read from the plan that, “The Plan is intended to be used on a daily basis as public and private decisions are made concerning new development, redevelopment, capital improvements, economic incentives and other matters affecting the corridor. The following is a summary of how decisions and processes should align with the goals and strategies of the Plan.” He then noted step seven which is to “Be Flexible” and reads “It is intended to serve as a guide to help the city, development community, and local residents plan for the redevelopment of the corridor. The plan is intended to be flexible and fluid and should be updated and amended as appropriate. As projects, policies, and programs develop over time they may not look exactly like the images in the document, but they should address the intent of the plan. The sketches and descriptions herein provide a broad sense of how particular projects may function within the larger corridor and provide a sense of the intended development character.”

Mr. Hodge detailed when talking about density, the discussion is about how it fits into the context, whether there is adequate parking and building heights. In this project there will be more than adequate parking, we meet the building height requirement of the code, and four units in terms of the interface with adjacent properties and the public right-of-way will

not make a foot of difference in terms of ways it reacts to the community. But it does make a difference to the developability of the property.

President Michael questioned what difference it makes to the developability of the property. Mr. Hodge explained that it is a difference in terms of how you can make economic sense of a project like this. That is important to anybody who is going to come in and do this working with all the variables involved in development.

Mr. Hodge explained how other applicants were concerned and he represented one of those applicants and it did not come to fruition though there were many meetings with Mr. Coulter, Mr. Brown and Ms. Bitar. It was the owner of the property who could never get comfortable that he was going to be able to file an application and work through the project successfully, with much of that having to do with the tree fee and the building material requirements. He had spent a great amount of time studying the tree fee and how it applies to this site and has encouraged people not to come over to this property and cut all the trees down. This tree fee would be in excess of \$200,000 which is more than the current owner paid for the property. We have thoughtfully and sensitively approached the tree preservation issue with this plan. It is a tough one, but a variance is absolutely necessary for the developability of the property.

Ms. Dorothy asked how quickly this project would move forward if Council does approve it. Mr. Hodge replied that from a legal perspective, they are in an administrative process, not a legislative process. There is a 30-day period during which someone could file an appeal in court and thereafter Mr. Kenney will close with the property owner. He would then work to pull permits and begin construction by the spring if not before.

President Michael asked Shawn Daugherty, the City Arborist to address the tree issue. Mr. Daugherty explained that he walked the site with an eye towards identifying specimen trees that you would want to protect. They did not really see many of those trees. What they did see was a young forest in an area that has gone fallow for a while. Forests grow in successions and this one is in the first succession of forest where you have certain species that come in and it takes a little while for more desirable tree species to become dominant. They are there, but they are still fighting with the least desirable trees on the site. Eventually, if things are let go they will become dominant but right now it is young and very thick.

Ms. Dorothy asked if we have any other zoning for residential that requires the preservation of trees. Mr. Daugherty replied there is none to his knowledge. Mr. Brown reported there being nothing like that in the planning and zoning code. There are requirements to add trees and with any project we try to incorporate existing trees.

Ms. Kowalczyk asked about the tree fee and the waiver of the fee in this situation. She questioned if this fee is something we would consider for other properties in the future. Mr. Brown said that we would not run into a similar severity in the corridor. He believes if we go towards an actual tree ordinance issues such as caliper inch size and appropriate fees would need to be delved into in more depth. This one was a combination of all of

those. He explained that when you develop a code and then apply it in the real world, sometimes it does not make sense. This needs to be looked at again. President Michael noted that part of Council's deliberation was looking at the fee as a deterrent to clear cut. These are the only two pieces of property with as many trees compared to rest of the corridor. Ms. Kowalczyk replied from that perspective, the tree fee has accomplished its goal because it has caused developers to consider that when looking at the property. Mr. Brown shared that just the discussion caused developers to back off. Mr. Daugherty added that the Arbor Committee would be able to help with any rewrite.

Paula Deming – 6775 Alloway Street West

Ms. Deming explained that she has lived in Worthington for 23 years and she is a long-time environmentalist. She is here tonight to speak from her viewpoint as a member of Sustainable Worthington, an organization concerned with a lot of different things including forest lands and urban forest canopy. The plan being presented is a beautiful plan and it will enhance this particular corridor immeasurably, it is really nice. She agrees with Shawn Daugherty that it is a young forest and it is not particularly valuable when talking about specimen trees. If they showed up in her yard she would call her arborist to take them out. For landscape purposes the trees onsite may not have particular value. But, if you are talking about a forest, which this is a young forest, it takes on a different kind of value. It is being treated as a unit, not a bunch of specimen trees. If you are taking down the forest, which is what would be done, you can save a little bit, but what you are saving does not have much landscape value.

She wants to show there is a difference between what is there and what will be there and how you value trees. So, what she is concerned about is that we are going to be losing a lot of forest canopy. We must have trees in this city. They are our lungs. We are also dealing with an ecosystem with wildlife living there. They are going to be forced out and have to find other places to live. What will be done about bringing in other trees. When looking at the tree replacement fee, it is a very useful thing for the City. What will we do about the lost canopy, we still need trees to act as our lungs. She could see if we are looking for a compromise, there could be some plan in tandem with developing a replacement forest or a new park. She would be open to something like that and does not want to see this cut down. This is a site that is appropriate to develop, so she likes the plan but there is that other piece and she asks Council to consider what could be done about that.

President Michael asked if Ms. Deming had any suggested locations. Ms. Deming replied that Sustainable Worthington has been working for ten years on a forest restoration project at East Granville Park and Moses Wright Nature Area which was a monolith of honeysuckle before they took it in hand. It has become a beautiful forest and somewhere that people want to go. If we had more places like that in Worthington she would very much like having that. She does not know where, but she suggested starting at Parks and Recreation, talking with the City Arborist, and come out with some plan. Let us get ideas rather than just taking down the trees that are forest.

Susie Kneedler – 263 Weydon Road

Ms. Kneedler detailed how she and her husband bought their house in 1992 and have lived here for 27 years now. What she loved about Worthington were the trees. She notices a difference even now because of the loss of the pear trees lining the streets. Whole parts of the area around Highgate and Evening Street now have no trees. She looks at Mr. Robinson's photos and thinks what a beautiful forest even if it is first succession and if only we could keep that as a park and build housing someplace else. For her, what we would be doing by waiving the tree fee is essentially giving a \$200,000 donation to a private company for profit and as we heard it is a matter of making economic sense. She thinks about what we could do with \$200,000.

She explained how trees have not been replaced because they are expensive, hard to plant, and take time to grow. She proposed donating some of that \$200,000 to allow homeowners and renters to plant more trees.

President Michael noted that City funds cannot be used for improvements to private property. Ms. Kneedler replied that by granting variances, that is essentially contributing to private interests even though it is not technically against the law. President Michael reiterated that if we charge the fee then those funds would become City funds and cannot be used for planting things on private property. Mr. Lindsey confirmed that was correct.

Ms. Kneedler replied she understands, but what we are doing by granting variances is a donation. We have some houses built right up to the sidewalks on Evening Street and what was built on West Dublin Granville Road on what was formerly a beautiful meadow. There is very little greenspace with these developments. She wants to speak for preserving as much forest wild-type lands, not just ornamental one-by-one trees, planting more street trees, and more trees even in the Olentangy Parklands and other parks. It changes the ecosystem having trees together. If we donate \$200,000 to a private company we are losing the way that the trees clean the air, prevent erosion, stop runoff, and all of the beauty. The people of Worthington have not been asking for more traffic on Wilson Bridge Road, more pollution from all of the cars, and fewer trees to beautify our lives.

President Michael noted that there have been a large number of people stating that they want single floor living space as community need also. That is in essence what this project does. There is the preservation of the trees and greenery, but there are also a large number of residents that want to downsize and be able to stay in the City of Worthington with single floor living space. There are two competing interests amongst residents.

Ms. Kneedler expressed that she still believes we need to have the tree fee to replace what we would be losing in this forest. Additionally, we should look harder for already built on spots instead of taking our open spaces that really do make our lives more beautiful.

Ms. Kowalczyk agreed that we have heard quite a bit about the desire for empty nester, single floor housing particularly for seniors. We rank among the lowest in the area for availability of senior housing and every time she meets with folks they are asking what is

being done about that. She really appreciates this as an opportunity to address that need and how important it is to revitalize this area. She also appreciates the comments that were made about needing a plan for looking at our trees in the City. There has been some thought in certain areas, but she is unsure if there is a comprehensive plan. Having some more thought into how we go about incentivizing tree preservation and looking at the City as a whole may be a good project to embark on. President Michael asked Mr. Hurley about his staff's work in this area. Mr. Hurley replied that one of the things done in Parks and Recreation along with the Service and Engineering department is that they track the tree population as part of the Tree City affiliation. In large part to Mr. Daugherty and the Tree Nursery, we are not in bad shape currently. Mr. Daugherty agreed with Mr. Hurley's comments. Staff does keep track of trees and the trees being dealt with are public trees. Ms. Kowalczyk said there has to be some flexibility when looking at development but also perhaps some thought given to how to approach this issue in a way that could yield some incentives for preservation without having to put in a fee we have to waive. She also wanted to give a shout-out about Moses Wright and the work that Sustainable Worthington has done. It is a hidden gem and she hopes we can continue to provide support for it.

Ms. Dorothy expressed that she is fairly happy with how this development plan has evolved and balances the needs of the entire community. We are looking at not only Worthington but the entire region with housing needs. We need workforce housing and housing for persons to downsize and stay in Worthington. She hears all the time from people that they cannot find a place to live, whether it is to move here or stay here. We need more housing. At the same time, we need to preserve the natural aspects of Worthington and do it sustainably. This is a place to build upon and it is not a natural forest area. We do have these parcels and are required to have the preservation of trees which they are doing a significant amount. Yes, the buildings are close to the public right-of-way but that is what makes it a nice place for people to hangout at. People like downtown Worthington because of how close the setbacks are and how big the sidewalks are. We do have a lot of nature areas in Worthington that need a significant investment. She thanked Sustainable Worthington for Moses Wright. She would like to see more people adopt the Rush Run Preserve that is over 30 acres of forest that could use much of love and hugs. She appreciates everything done by the Arbor Committee. She also appreciates everything done by everyone involved with trying to bring this project to life. It is a nice balance that she would like to see move forward.

Mr. Robinson stated that an immense amount of work has been put in over the years on this project. Everyone who has spoken tonight, their intentions are positive and they all want a positive outcome from this project. With that being said, he cannot support this project with the variances as they currently stand. His view of variances is that they are warranted if there is something extraordinary about a particular parcel or project that warrants the deviation from code. He does not believe that a couple of the variances proposed meet that standard and as such, approving this project with these variances has some potential negative consequences for our city. He can think of three specific areas. The first is the City's relationship with developers, setting a bad precedent by approving sixteen units per acre when the median number prescribed in code is twelve. That is a 33% increase and not an insubstantial number. He posited that if a developer came and

proposed 65 units when the code calls for 50, would that not be a substantial deviation. If we grant a variance on density when it is a simple and straightforward project, how can we say no to the next developer. Ultimately this kind of practice is not good for business either because an immense amount of time and effort is spent developing proposals and projects with developers anticipating variances being offered. When City Staff and Council have to debate the variances, business would be better served by realizing that Worthington's code means what it says. If the numbers make sense, then they can proceed with the project and if they do not then they do not.

Secondly, he stated his belief that granting variances of this nature presents problems for the relationship between City Staff and Council. If staff comes to Council in the future and asks for rezoning with a prescribed density, how are we to understand what is really being asked for. He wants to know what is being proposed is what is actually going to happen. Particularly when we are looking at several large potential PUD developments. He wondered if what is laid out in the PUD, is going to be what we actually get once we pass legislation. He questioned if they will they come back asking for additional variances. This is a serious issue that he does not believe we should entertain lightly.

Thirdly and most significantly, he asserted that this presents problems between City Council and the residents of our City. For those residents paying attention to the granting of variances, they may think the granting of variances is a somewhat subjective matter. He questioned if they are to appear before ARB and BZA, can they expect a similar treatment. What if the board is told that they cannot use the materials that they want to because of financial hardship, he asked if we then grant them a variance or do we stick to what we want in our code. For these reasons he believes that variances should not be given out without substantive arguments and rationale. He does not believe this has met that standard and he asks that the developer reconsider their plans, table it for tonight, re-approach MPC with their proposal in accord with code with justification for variances before bringing it before Council again.

President Michael noted that there have been many occasions where a developer has been able to go in, with zero variances, and do a project that would require clear cutting everything. There have been times where variances have been granted so there would be additional greenspace to make it so that there would be the preservation and addition of more greenspace. For example, when McBurney Place was developed there were two plans, one was a scorched earth plan with no variances and no greenery, or a second plan with the granting of variances and the opportunity to have a significant amount of additional greenery. Sometimes it can be a win-win for the entire community. Mr. Robinson said that he would not disagree with that and is not opposed to variances in principle, but that the case needs to be made the circumstances are extraordinary and the community will benefit. He expressed that he does not see that in this case, particularly when it comes to the density request.

Mr. Smith questioned if we vote on this tonight, absent two councilmembers, which rules regarding quorum and majority would be utilized. President Michael explained when there was a situation like this, there would need to be four votes because a majority would be

one over half. The developer does have the opportunity if they choose to have this tabled, so it can be heard when all councilmembers are present. There is a third option as well to go back to the MPC. Mr. Smith suggested in that case that his final comments needed to be taken into consideration.

Mr. Smith explained that he remembered the discussion that was had regarding the tree fee years prior. Even though we did not have this particular development in mind, the scenario that we played out was not dissimilar to this development. The fee that we came up with was essentially a compromise to what could have been a higher fee. With those scenarios, the tree fee was the starting point to a negotiation, not to be waived completely. Understandably it is a very large price to pay, but he stated his belief that there may be a happy medium here. In reference to Mr. Robinson's points about density, when working through the corridor study in spirit and context, 10-14 units per acre was a compromise. The intention was for single floor living, patio homes geared towards senior living. He just does not see that here. He appreciates the development opportunity and he can see it being valuable, but he cannot get behind the variances.

Mr. Brown brought up that they are required to do a public area fee that will be charged when they pull their building permit in addition to the tree fee. When asked by President Michael what that fee would be, Mr. Brown replied that it is \$250 per unit, so approximately \$8,000.

President Michael described to the developer how at this point, there will not be enough votes to have it approved tonight. She expressed how she believes it is a very good development and it is something we have worked on very hard to have come in as part of a long running community master plan for the corridor. This project fits into that master plan and that there is a wonderful job done with the landscaping. She can perhaps see a little bit of a tree fee, but there is an awful lot being put into this project that is needed.

Mr. Hodge stated that he appreciates the discussion and the remarks from Mr. Robinson and Mr. Smith. He expressed that he wishes there could be a back and forth debate because he feels that he could bat the ball back on several of the points that were brought up. In hindsight he recognizes that he could have reached out to folks on Council leading up to tonight's meeting and maybe he could have those discussions after this item is tabled. He does appreciate the acknowledgement that they are in earnest on the project and he believes that both councilmembers are earnest in their concerns as well. He detailed that to him, a variance comes into play when a person cannot put their property to a use permitted by the underlying zoning because of the regulation being too onerous. In this situation the natural features preservation of more than the property's worth is too onerous a restriction. In terms of the other three variances, they want to have the width of the right-of-way that is necessary so that emergency vehicles can access the property. In regard to the perimeter setbacks on the side yards, to him one of the greatest gauges of whether a variance is warranted is asking, "Whose ox is getting gored." Nobody's ox is getting gored here. In terms of the density, it is truly an arbitrary number that got adopted. The guiding plan talks about flexibility whether it is 28 or 32, it is not going to make any difference to the surrounding property owners or the interface of the public right-of-way.

He has done this many time and it is a little unfair in terms of their process and serious engagement in this application through work with neighbors, staff, review of plans, engagement of landscape architects, civil engineers and lawyers. It is a serious plan. He requests a tabling and will be back at the nearest opportunity and hopes during that time we can change minds to get a positive vote.

Mr. Robinson informed Mr. Hodge that he would welcome a phone call about this. He also does ask him to consider one thing, that our City's code is not arbitrary. Think about that and he looks forward to hearing from Mr. Hodge.

President Michael expressed her thanks to Sustainable Worthington and the staff and volunteers who have worked to make Moses Wright such a wonderful area. She recognizes the time and effort put in and has noticed how much honeysuckle has disappeared from that park. She stated that Ms. Dorothy brought up a good point about Rush Run even though it is owned by the City of Columbus within the City of Worthington. When looking at our current public places, she challenged volunteers to see where we are needing additional green forestry in our public plan. If we were to use City funds, it would have to be on public, not private lands. She is going to do what John Coleman did to her when she was on the Parks and Recreation Board and ask for them to put together some thoughts and ideas where the need is. It is easy to say something is needed, but the question is specifically where. It would be helpful to have some guidance from active community members that enjoy working in this area.

MOTION Mr. Robinson made a motion to table Ordinance No. 42-2018. The motion was seconded by Mr. Smith.

There being no additional comments, the motion carried unanimously by a voice vote.

Ordinance No. 43-2018 Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to the County Auditor.

The foregoing Ordinance Title was read.

Mr. Bartter detailed that this is an annual housekeeping ordinance required under Ohio Revised Code Section 5705.34 to accept the amounts and rates determined by the Budget Commission. The rates remain unchanged at 5 mills and is projected to generate \$3.2 million in collection year 2019. He requested a motion to make an amendment to this to insert the numbers as indicated in the packet and additionally to strike the section starting at "six-sevenths of the members and ending at concurring".

MOTION Ms. Kowalczyk moved, Ms. Dorothy seconded a motion to insert the numbers as presented in the Amended Ordinance and to remove the phrase, "six-sevenths" in the "Now Therefore" section.

There being no additional comments, the motion pass unanimously by a voice vote.

Ms. Dorothy asked for clarification about who all needs to do this. Mr. Bartter replied that everyone who collects property tax does this. Ms. Dorothy noted that while our tax rate is 5 mills, there are places in Central Ohio with varying tax rates and it appears Worthington is on the lower end. Mr. Bartter agreed.

The clerk called the roll on Ordinance No. 43-2018 (As Amended). The motion carried by the following vote:

Yes 5 Kowalczyk, Dorothy, Smith, Robinson, and Michael

No 0

Ordinance No. 43-2018 (As Amended) was thereupon declared duly passed and is recorded in full in the appropriate record book.

Ordinance No. 44-2018 To Amend Various Sections of Chapter 765 “Tobacco Sales” of the Codified Ordinances of the City of Worthington.

The foregoing Ordinance Title was read.

Mr. Greeson explained to members of Council that the Tobacco 21 ordinance is a public health initiative meant to make it more difficult for persons under the age 21 to purchase and therefore consume tobacco products. We need to do some clean-up of the previously adopted ordinance and Mr. Lindsey will overview those changes.

Mr. Lindsey stated that as Mr. Greeson indicated, this is a clean-up of the ordinance passed last year. Columbus Public Health who will be administering this ordinance for Worthington determined there were some additional important changes that they had not previously recommended to us, primarily for consistency with the ordinance passed by Columbus that they are already enforcing. Council will notice from the redline version included in the packet, many of the changes are related to definitions and terms. They also clarified that they would be conducting at least one inspection of the temporary licenses that were issued that was not originally required in the initial ordinance. The five-day period that was originally part of the licensing when it was submitted to the city, later become thirty days because of the administrative necessity of a period long enough to make it worthwhile.

There being no additional comments, the clerk called the roll on Ordinance No. 44-2018. The motion carried by the following vote:

Yes 5 Dorothy, Smith, Robinson, Kowalczyk, and Michael

Ordinance No. 44-2018 was thereupon declared duly passed and is recorded in full in the appropriate record book.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 49-2018 Support of the Ohio Department of Transportation (ODOT) State and United States Bike Routes.

Introduced by Mr. Robinson.

MOTION Mr. Smith made a motion to adopt Resolution No. 49-2018. The motion was seconded by Ms. Dorothy.

Mr. Hurley discussed how staff was approached by the state coordinator for the State and United States Bike Routes system requesting resolutions of support from jurisdictions in order to designate bike routes around the state and county. The goal of this effort is to identify bike routes in each state to make connections across the United States. This project was initiated by the American Association of State Highway and Transportation Officials. It will serve as another planning tool for communities to show connections and viability for grant funding. In our review of the resolution before Council, the request is for a resolution of support only. We do not believe passage of the resolution commits us to any sort of construction projects or other investments at this time. The request was shared with the Bicycle and Pedestrian Advisory Board, they reviewed the proposal in-depth and made a few recommendations and it was ultimately recommended by a unanimous motion that the resolution be approved. He noted that the only route in this designation that goes through Worthington is the existing Olentangy Trail, it is the State Route 47.

There being no additional comments, the motion to adopt Resolution No. 49-2018 passed unanimously by a voice vote.

Resolution No. 50-2018 Authorizing the City Manager to Seek Financial Assistance from Federal Attributable Funds for the Project at Worthington Galena Road, Huntley Road and Wilson Bridge Road.

Introduced by Ms. Kowalczyk.

MOTION Mr. Robinson made a motion to adopt Resolution No. 50-2018. The motion was seconded by Mr. Smith.

Mr. Greeson reported that this is one of many pieces of legislation that will be brought before Council about the Northeast Gateway Project.

Mr. Whited informed Council that this is for the Mid-Ohio Planning Commission asking for an update to Council's support for the Northeast Gateway Project based on changes that were made from the original 2012 application for funding through them. The application update has already been submitted, they require this resolution of support as a formality to indicate support of the project.

There being no additional comments, the motion to adopt Resolution No. 50-2018 passed unanimously by a voice vote.

Resolution No. 51-2018 Adjusting the Annual Budget by Providing for a Transfer of Previously Appropriated Funds.

Introduced by Ms. Dorothy.

MOTION Ms. Kowalczyk made a motion to adopt Resolution No. 51-2018. The motion was seconded by Mr. Robinson.

Mr. Greeson explained this is typical of other transfers of funds, we have an area where there are funds available because of underspending and there are accounts that require additional funding because of our activities. These resolutions do not increase the overall appropriations or budget for the City, they move funds among accounts. The transfers here are for Police and Administration.

There being no additional comments, the motion to adopt Resolution No. 51-2018 passed unanimously by a voice vote.

REPORTS OF CITY OFFICIALS

Policy Item(s)

- Permission to Bid - Northeast Gateway Project Railroad Crossing Improvements

Mr. Whited remarked that this is associated with the Northeast Gateway Project and part of the Ohio Rail Development Commission's (ORDC) attempts to improve the safety of the railroad crossing at East Wilson Bridge Road. This will add some curbing, an island, and other features that will circumvent the ability for vehicular traffic to evade that crossing and skip the gates. It will be done prior to work done by the Ohio Rail Development Commission to install some lighting, automatic gates, and other things there that are vastly out of date. The ORDC will fully fund this project through a reimbursement. The project has been approved by the ORDC and one of the railroads, but not the other. He requested permission to bid, however there is not an estimate for when work would start.

MOTION Mr. Smith moved, Ms. Dorothy seconded a motion to give staff permission to bid curb improvements at Wilson Bridge Road and the Railroad Crossing for the Northeast Gateway Intersection Improvement Project.

Ms. Dorothy expressed her appreciation to Mr. Whited for his work on the safety of this intersection and getting someone else to pay for it. She noted that there are many people who are concerned about the noise of the trains and would love to have quiet passageways, however that is not part of this project. Mr. Whited replied that is correct and appreciates the noise concerns. Ms. Dorothy indicated that there are many who would like quiet trains in the future and she expressed her support for looking into it.

There being no additional comments, the motion carried unanimously by a voice vote.

- Opposition to Proposed Small Cell Regulations

President Michael reviewed how this item is for looking into submitting a letter of opposition signed by the Council President for proposed regulations under consideration by the FCC related to the deployment of small cell technology. The FCC is essentially introducing information that would trump all the material and hard work that City staff, and various other cities have put in on coming up with compromise legislation in the State of Ohio regarding small cells. We have language in the Ohio Revised Code that has been approved by both the industry and the cities and we would really like for this not to completely be overturned by federal regulation.

Mr. Greeson expressed his belief that staff thinks this would be detrimental to the agreement reached with the State and industry and undermines our control of the local right-of-way.

Mr. Robinson thanked Ms. Stewart for working on this and he and other members of council strongly support her efforts. He asked if we explored ways to maximize whatever impact we may have through our singular letter in terms of joining a coalition or other such activities. Ms. Stewart replied that the National League of Cities has put out a call for cities across the county on this issue. The Mid-Ohio Regional Planning Commission has submitted a letter. Several cities are also sending letters. In addition to sending to the FCC, it has been suggested to also copy Congressional delegations. Mr. Robinson noted that it is election season and suggested soliciting position statements from various candidates. This might be a time they are interested in pleasing different constituencies.

President Michael mentioned that the Central Ohio Mayors and Managers Association has sent out a call for communities to have resolutions and letters sent out. Some of the initial materials were actually created by some of the other cities.

Ms. Kowalczyk asked for the “Cliff Notes” version of our main concerns. Ms. Stewart explained the main areas are looking at the shot clocks for how long we have to review applications once they are submitted for small cells. The FCC regulations shorten those over what we negotiated with the industry in Ohio. Likewise, there are different limits on applications fees and limits on fees that we can charge if they attach to our facilities. There are more limitations around our abilities to control and manage the aesthetics. Lindsay

Miller with ICE Miller advised that if the FCC still chooses to go forward with adopting this, they could exempt those states that already have negotiated with industry.

President Michael asked if we would be sending this only to our representatives in Congress or to all of the Ohio representatives. Mr. Greeson said that it could be distributed far and wide and President Michael agreed that would be good.

MOTION Mr. Robinson moved, Mr. Smith seconded a motion authorizing the City Council President to submit a letter of opposition on behalf of the City of Worthington.

There being no additional comments, the motion carried unanimously by a voice vote.

Mr. Greeson informed members that the Ohio Municipal League's conference will be held in October. He encouraged members to let him know if they are interested in attending as the Early Bird price ends October 1st.

REPORT OF COUNCIL MEMBERS

Ms. Dorothy shared that the Cemetery Board met recently. They are still working on plans for the building recently acquired.

EXECUTIVE SESSION

MOTION Mr. Robinson moved, Mr. Smith seconded a motion to meet in Executive Session to discuss Land Acquisition, Appointments to Boards and Commissions, Collective Bargaining Negotiations, and Employee Compensation.

The clerk called the roll on Executive Session. The motion carried by the following vote

Yes 5 Dorothy, Kowalczyk, Robinson, Smith, and Michael

No 0

Council recessed at 9:35 P.M. from the Regular meeting session.

MOTION Ms. Dorothy moved, Ms. Kowalczyk seconded a motion to return to open session at 10:17 P.M.

ADJOURNMENT

MOTION Mr. Smith immediately moved, and Mr. Robinson seconded a motion to adjourn.

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned at 10:18 P.M.

/s/ Ethan C. Barnhardt
Assistant City Clerk

*APPROVED by the City Council, this
1st day of October, 2018.*

/s/ Bonnie D. Michael
Council President