

# VILLAGE COUNCIL MEETING MINUTES

Location: 120 Royal Crest Drive, Seville, OH 44273  
Council Chambers  
Date: 1/9/2023

## MEETING DETAILS:

Meeting Chairwoman: Leslie Miller  
Recorder: Lisa Nemastil  
The meeting was called to order at 7:00 p.m.

The meeting started with the Pledge of Allegiance and a prayer.

## ATTENDEES:

Brad Demiter  
Leslie Miller  
Mayor Carter  
Sue Frey  
Kathy Rhoads  
Rick Veirheller  
Matt Sturgeon

ABSENT: None

## AMENDMENTS TO AGENDA:

Mr. Demiter made a motion to amend the agenda to add nomination of 2023 President of Council before approval of bills. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

Mrs. Miller made a motion to amend the agenda to add Ordinance 2023-06, 2023-07, 2023-08, 2023-09 and 2023-10. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

Mr. Veirheller made a motion to go into executive session on personnel following old business. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

Mr. Veirheller nominated Leslie Miller as 2023 Council President. No other nominations were made. Mrs. Rhoads made a motion to close nominations. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Role call to elect Leslie Miller as Council President: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

## APPROVAL TO PAY BILLS:

Mrs. Rhoads made a motion to approve to pay the bills. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

## APPROVAL OF MINUTES:

Mr. Sturgeon made the motion to approve the minutes from November 28, 2022 and December 12, 2022. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

## APPROVAL OF FINANCIAL REPORTS:

Mrs. Rhoads made the motion to approve the financial reports from November 30, 2022. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

## PRIVILEGE OF THE FLOOR:

Ray Eichel friend of Brenda Buckingham on 133 Center Street inquired about the status requested lot split under Ordinance 2023-08. Mr. Sturgeon advised that the Zoning Committee has recommended approval of the request.

Michelle Rieg 140 Royal Crest Dr spoke in reference to the Flint plan, Ordinance 2022-48. Raised a formal objection to the approval and acceptance of this plat. Ms. Rieg provided a copy of a letter to have documented with this meeting.

Denise Dale with Rustwell Barker located at 13 West Main is hoping to host a vendor market on Sunday, May 21, 2023 and seeking approval of her application. The event will have approximately 50 vendors, streets will be blocked off from East Main in front of the flower shop from the traffic light down to where the school is, vendors will be set up in two rows and food trucks will be at Elements on Main. Ms. Dale advised that she will make sure at least one of the portable restrooms will be handicap accessible. Nick Haigh at 111 Pin Oak spoke to the amount of people anticipated and having handicap accessible portable restrooms available per state requirements and ADA compliance. Ms. Dale reassured the Council that all occupied businesses have given permission for vendors to set up in front of their business. Ms. Dale does have insurance for this event. Mrs. Rhoads made a motion to recommend approval of the event. *Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

Brenda Buckingham inquired about adding a section of the park set aside for dogs to run. The Village previously looked into adding a dog park but due to the price of liability insurance and the cost of adding an animal control officer or adding that duty to an existing position was too high. At this time the budget does not look good to add funding at this time but it may change in the future.

**SOLICITOR’S REPORT:**

Mr. Lesiak requested that the executive session also include litigation. Nothing further was reported.

**COMMITTEE REPORTS:**

**Government – Sue Frey  
Board of Public Affairs – Brad Demiter  
Streets & Parks – Kathy Rhoads  
Safety – Rick Vierheller**

**Finance – Kathy Rhoads  
Zoning – Matt Sturgeon  
Cemetery – Rick Vierheller**

**ORDINANCES UNDER CONSIDERATION:**

Ordinance 2022-46 was tabled pending the receipt of the grant. The ordinance remained tabled.

**2022-46**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AUTHORIZING THE MAYOR AND THE FISCAL OFFICER TO ACCEPT A GRANT FROM THE 2022 COMMUNITY DEVELOPMENT BLOCK GRANT FROM MEDINA COUNTY.

**2022-48**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, APPROVING THE PLAT FOR FLINT DEVELOPMENT.

*Mr. Sturgeon made a motion to un-table Ordinance 2022-48. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*This is the third reading. Mr. Vierheller made a motion to adopt ordinance 2022-48. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

Ordinance 2022-54 was tabled due to the untimely death of Mrs. Farnsworth.

**2022-54**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AUTHORIZING THE SUPERINTENDENT OF THE BOARD OF PUBLIC AFFAIRS TO ENTER INTO A REAL ESTATE SALES AGREEMENT AND EASEMENT AGREEMENT WITH JOYCE E. FARNSWORTH.

The second reading is complete. The ordinance remained tabled.

---

Ordinance 2022-63 was tabled on 11-14 pending a decision by BOPA.

**2022-63**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AUTHORIZING THE SUPERINTENDENT OF THE BOARD OF PUBLIC AFFAIRS TO ENTER INTO AN AGREEMENT WITH \_\_\_\_\_ FOR EXPANSION OF THE WASTEWATER TREATMENT PLANT.

The second reading is complete. The ordinance remained tabled.

---

Ordinance 2022-68 will need to be tabled pending a recommendation from the Finance Committee.

*Mrs. Frey moved to table ordinance 2022-68. The motion was seconded by Mrs. Rhoads. The motion passed unanimously.*

**2022-68**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, APPROVING THE VILLAGE'S BUDGET FOR THE YEAR 2023.

The second reading is complete.

---

Ordinance 2022-69 will need to be tabled pending a decision by BOPA. *Mr. Demiter made a motion to table the ordinance. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

**2022-69**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY; OHIO, AUTHORIZING THE SUPERINTENDENT OF THE BOARD OF PUBLIC AFFAIRS TO ENTER INTO AN AGREEMENT WITH \_\_\_\_\_ FOR ELECTRONIC TRANSFORMERS.

The second reading is complete.

---

**2022-71**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE MEDINA COUNTY ECONOMIC DEVELOPMENT CORPORATION.

*This is the third reading. Sue Frey made the motion to adopt ordinance 2022-71. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

---

**2022-73**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, APPROVING THE REPLAT OF THE AUTUMN MEADOWS SUBDIVISION PHASE V.

*Mrs. Miller made a motion to add emergency language to ordinance 2022-73. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mr. Vierheller made a motion to suspend the three reading rule for ordinance 2022-73. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mr. Sturgeon made a motion to adopt ordinance 2022-73. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

---

**2023-01**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, ESTABLISHING A NEW FUND TO ACCEPT OPIOID SETTLEMENT FUNDS.

*Mrs. Frey made a motion to suspend the three reading rule for ordinance 2023-01. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mrs. Rhoads made a motion to adopt ordinance 2023-01. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

---

**2023-02**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO TRANSFERRING FUNDS.

*Mr. Vierheller made a motion to suspend the three reading rule for ordinance 2023-02. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mrs. Miller made a motion to adopt ordinance 2023-02. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

---

**2023-03**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO TRANSFERRING FUNDS.

*Mrs. Miller made a motion to suspend the three reading rule for ordinance 2023-02. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mr. Demiter made a motion to adopt ordinance 2023-02. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

---

**2023-04**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO APPROVING THE MINUTES AND ADOPTING THE RECOMMENDATIONS FROM THE SEVILLE HOUSING COUNCIL/TAX INCENTIVE REVIEW BOARD.

The first reading is complete.

---

**2023-05**

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO APPROVING THE MINUTES AND ADOPTING THE RECOMMENDATIONS FROM THE SEVILLE HOUSING COUNCIL/TAX INCENTIVE REVIEW BOARD FOR THE "CREATIVE" AGREEMENTS.

The first reading is complete.

---

2023-06

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO ACCEPTING AN EASEMENT AGREEMENT WITH COLE CK PORTFOLIO VIII, LLC.

The first reading is complete.

---

2023-07

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AUTHORIZING THE VILLAGE ADMINISTRATIVE ASSISTANT TO DISCARD VILLAGE PROPERTY NO LONGER NEEDED FOR MUNICIPAL PURPOSES.

The first reading is complete.

---

2023-08

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, APPROVING A LOT SPLIT AND REPLAT FOR PHILLIP AND KERI CARPENTER AND BRENDA BUCKINGHAM.

The first reading is complete.

---

2023-09

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AUTHORIZING THE REEMPLOYMENT OF DONALD BURSON AS CHIEF OF POLICE, AND DECLARING AN EMERGENCY.

The first reading is complete.

---

2023-10

AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AMENDING ORDINANCE 2013-08, AS AMENDED ESTABLISHING AN EMPLOYEE HANDBOOK TO UPDATE THE CREDIT CARD POLICY.

*Mr. Vierheller made a motion to add emergency language to ordinance 2023-10. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mr. Sturgeon made a motion to suspend the three reading rule for ordinance 2023-10. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mrs. Miller made a motion to adopt ordinance 2023-10. Role call: Frey – Aye, Rhoads - Aye, Sturgeon - Aye, Vierheller - Aye, Miller – Aye, Demiter – Aye. Motion passes.*

---

**RESOLUTIONS UNDER CONSIDERATION:**

2023-01

A RESOLUTION OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AUTHORIZING THE MAYOR AND THE FISCAL OFFICER TO APPLY FOR ADVANCES IN TAXES RECEIVED FROM THE MEDINA COUNTY AUDITOR FOR THE TAX YEAR 2023.

*Mrs. Rhoads made a motion to add emergency language to resolution 2023-01. Role call: Frey – Aye, Rhoads – Aye, Sturgeon – Aye, Vierheller – Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mr. Demiter made a motion to suspend the three reading rule for resolution 2023-01. Role call: Frey – Aye, Rhoads – Aye, Sturgeon – Aye, Vierheller – Aye, Miller – Aye, Demiter – Aye. Motion passes.*

*Mrs. Frey made a motion to adopt resolution 2023-01. Role call: Frey – Aye, Rhoads – Aye, Sturgeon – Aye, Vierheller – Aye, Miller – Aye, Demiter – Aye. Motion passes.*

---

2023-02

A RESOLUTION OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO DECLARING IT NECESSARY TO CONSTRUCT AND/OR REPAIR CERTAIN SIDEWALKS.

The first reading is complete.

---

2023-03

A RESOLUTION OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AUTHORIZING THE MAYOR AND THE FISCAL OFFICER TO APPLY FOR A GRANT FROM THE 2023 COMMUNITY DEVELOPMENT BLOCK GRANT FROM MEDINA COUNTY.

The first reading is complete.

**NEW BUSINESS:**

Mayor Carter stated concerns with theft of mail and damage to the mailbox and suggested getting a P.O. Box.

*Mrs. Rhoads made a motion to go forward with getting a P.O. Box. Role call: Frey – Aye, Rhoads – Aye, Sturgeon – Aye, Vierheller – Aye, Miller – Aye, Demiter – Aye. Motion passes.*

**OLD BUSINESS:**

None

Mrs. Miller made a motion to go into executive session for personnel and litigation. There will be no business conducted after. Mayor Carter and Ted Lesiak were invited to join. *Role call: Frey – Aye, Rhoads – Aye, Sturgeon – Aye, Vierheller – Aye, Miller – Aye, Demiter – Aye. Motion passes.*

**ADJOURNMENT:**

Mr. Vierheller moved to adjourn the Council meeting. Mrs. Rhoads seconded that motion, all were in favor. The meeting ended at 8:51 p.m.

Minutes approved by:

X   
Carol Carter, Mayor

X   
James Carrick, Fiscal Officer

## VILLAGE OF SEVILLE

### WRITTEN STATEMENT IN OPPOSITION TO FLINT DEVELOPMENT INDUSTRIAL COMPLEX

Submitted on behalf of Michelle & Brian Rieg and Scott & Robin Wangler

(~~December 27, 2022~~ Village Council Meeting)

Jan 9 2023

**Introduction:** Michelle & Brian Rieg and Scott & Robin Wangler object to the approval of the Flint Development/NEO plat and submit the following:

Pursuant to Sub-Section 611.02(B) of the Village of Seville Zoning Code: "No MU shall be created unless a development plan is in **conformance with the provisions hereof.**" The proposed Flint Development Industrial Complex plan is not in conformance with the provisions of Section 611. It flagrantly violates the spirit and express purpose of the Mixed-Use Overlay District in Seville's Zoning Code Section 611 (hereinafter "MU District"), decimates the underlying R-1 Residential Zoning and seeks to accomplish all of this through unreasonable waivers of zoning code requirements and accommodations to those requirements under a recent zoning code amendment that is, itself, unconstitutional and invalid, and violative of the rights of other property owners in the area of the proposed development. As shown below, the Flint Development Plan directly violates nearly every applicable requirement of Section 611.06 and other code sections.

**Argument:** The Village of Seville 2019 Comprehensive Development Plan (Comprehensive Plan) identified the need for mixed use overlay district zoning in the Village of Seville. The Flint Development lies within area #2 identified on Page 32 of the Comprehensive Plan. While the overlay district did apply to a strip of commercially zoned property along Rt. 3, most of the land in the Flint Development is zoned R-1 low-density residential zoning. The description of mixed-use overlay districts on page 35 of the Comprehensive Plan directs that: "Mixed Use Overlay Districts can serve both local and regional industrial and commercial needs, while reflecting the scale and character of the Village of Seville **in a manner that protects adjacent areas from any adverse effects.**" (Emphasis added) More specifically, the applicable mixed-use district is identified in Chapter 5, Section A, Subsection 5 on page 45 of the Comprehensive Plan. Here, the intention of creating a mixed-use zoning for the Village of Seville is stated as:

The vision of this type of zoning [mixed use] is to **create a community of uses that overlap.** These uses, commercial, **light** industrial, and residential should **complement each other, but not make a major change to the underlying zoning.** For example, along the east side of the Route 3 corridor north of Greenwich Road [referring to the Flint Development Land], the development of retail and offices could be complemented by high density residential apartment/condominium living over the retail and office areas. Industrial could be developed further to the east. **Each component complements the other while not relying heavily on a single use.**

Subsection 5 of the comprehensive plan finished by stating: "The zoning code should be revised to further clarify the intended use of this type of zoning in the village."

The Code was so revised. Section 611 of the zoning code "Mixed-Use Overlay District (MU)" states in subsection 611.01, the very first provision, the purpose of the MU District. It states:

The purpose of this district is to require a mix of at least two industrial retail, service, office, high density housing and public activities **to coexist in a manner that reflects human scale**

**and emphasizes pedestrian orientation, taking advantage of the vitality that mixed uses can bring to a community. Mixed Use Overlay Districts can serve both local and regional industrial and commercial needs, while reflecting the scale and character of the Village of Seville in a manner that protects adjacent areas from any adverse effects.**

The next 12 pages of the zoning code then sets forth restrictions which advance the spirit of the MU District and its express purpose, carefully restricting such developments ensuring the development creates a community of overlapping uses, does not make major changes to the underlying zoning, reflects the character of the Village of Seville, and ensures the protection of adjacent areas from any adverse effects. The proposed Flint Development flagrantly violates both the spirit of the MU overlay and its expressly written purpose. The development brazenly and manifestly violates nearly every applicable requirement of the Zoning Code's MU District, Section 611.

The Village of Seville and Flint Development might believe the provisions of Section 611 may be waived or otherwise accommodated given the recent passage of Ordinance 2022-40 which amended Subsection 611.05. This Subsection states: "During the site plan review process the Planning and Zoning Commission may approve reasonable waivers and accommodations in the Zoning Code development standards and design principles necessary for the reasonable development of the Mixed-Use Overlay District". This language provides no legitimate basis for this development. First, none of numerous blatant violations are in any way reasonable waivers or accommodations. The violations are many, they are direct, and they are flagrant. The violations decimate the spirit and express purpose of the MU District and blatantly disregard the interests of those owning neighboring properties. Second, and just as important, this recent amendment allowing "reasonable waivers and accommodations" is not constitutional and violates the substantive and procedural due process rights of neighboring and nearby property owners. This language places in the Planning Commission arbitrary, capricious, and despotic zoning control over the land underlying the MU District. Except for an ambiguous reference to what some planning commission at some time might find a reasonable waiver or accommodation, it does not provide any standards or criteria to apply in making its waiver or accommodation decisions.

As to every other zoning district in the village, to waive or amend a district requirement, a variance is needed. For the protection of neighboring properties, the Seville Village Zoning Code and Ohio law requires strict compliance with numerous factors before a variance may be granted. The bar is high. These factors include the following for an area variance: (1) whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance; (2) whether the variance is substantial; (3) whether the essential character of the neighborhood will be substantially altered or whether adjoining properties will suffer a substantial detriment to the proper future development and rights and as a result of the variance; (4) whether the variance will adversely affect the delivery of governmental services; (5) whether the property owner purchase the property with knowledge of the zoning restrictions; (6) whether the property owners need for the variance can be resolved through some method other than a variance; (7) whether the spirit and intent of the ordinance will be observed and substantial justice done by granting the variance; and (8) whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district. The factors for a use variance are even more difficult requiring the showing of a substantial hardship and observance of the spirit of the zoning ordinance [Section 1406 – Area Variance and Use Variance requirements]. It is certain to say the Flint Development would never receive variances in as many, as varied, as direct, and as egregious ways as is required here. However, it appears the Planning and Zoning Commission in complete abdication of its responsibilities under the Zoning Code and its duties to fairly and impartially protect all property owners affected by this development found the waivers and accommodations to the MU District Zoning that is needed to allow this industrial development. Adjoining property owners of a development in every other area in the Village of Seville are protected by the variance procedures and requirements of the Zoning Code. Those owning properties that are neighboring a MU District are selectively denied the protection that other property owners are given in the variance procedures of the Zoning Code. Our Constitution will not stand for this.

The fact that Ordinance 2022-40 is unconstitutional will be left to the courts in our declaratory judgment action.



However, for now, Village Council must take note that this plat is part of a development plan that manifestly violates Section 611 in multiple, flagrant and egregious ways such that it should be prohibited. This evidence includes but is not limited to the following:

- (1) Section 611.01- The Flint Development does not reflect human scale and does not emphasize pedestrian orientation. The Flint Development does not reflect the scale and character of the Village of Seville in a manner that protects adjacent areas from adverse effects. It does not provide overlapping complimentary uses while maintaining the essential character of the underlying zoning, namely R-1 low density residential. Instead, it relies heavily upon a single industrial use over a large majority of the land. It is nothing more than and nothing less than the wholesale rezoning of the land from R-1 low density residential zoning to Industrial zoning.
- (2) Section 611.02(E) – The MU District is not being developed in conformance with a site plan that meets the requirements of Article X of the Village of Seville Zoning Code. For instance, in the application materials there does not appear to be any elevation drawings showing the facades of the buildings, materials and architectural designs used – these are documents absolutely essential to establish the criteria needed to ensure compliance with the MU District purpose and provisions. See Zoning Code Section 1003(B)(4). The sound study submitted does not prove the landscaping design provides “the maximum possible ... auditory privacy for surrounding properties and occupants.” Section 1003(B)(6). In fact, it shows the exact opposite, indicating sound levels at more than twice those generated from the neighboring properties. Likely this is the reason for an additional amendment quietly imbedded in Resolution 2022-40 amending Section 611.07(B) of the MU District eliminating auditory protection to neighboring property owners if the developer can show the use will not exceed average intensities for that particular use. More on this later, suffice to note for now, however, that Section 1003(B)(6) of the Zoning Code was not amended, and this plan violates it.
- (3) Section 611.06(A)(1) – the site plan does not include the entire MU District; it does not include a designation of the actual use of each building in the mixed-use plan (at last night’s Zoning Commission meeting the developer made clear the buildings were speculation buildings and did not provide their exact use; a mixture of uses on individual parcels and in individual buildings has not been accomplished.
- (4) Section 611.06(A)(2) -The buildings are not designed to respect the street context; do not create street walls; and they do not respect or create view corridors.
- (5) Section 611.06(A)(3) – The buildings and sites are not designed to emphasize pedestrian scale, human scale architecture and landscaping while avoiding large expanses of paved areas; the buildings are large, featureless, and monotonous.
- (6) Section 611.06 (A)(4) - the sides of the buildings open to view do not display a level of architectural quality expected in a mixed-use district. They are not subdivided and proportioned using features such as windows, entrances, arcades, awnings, or other such features.
- (7) Section 611.06(A)(5) – The plan includes plain monolithic structures with long monotonous walls which are prohibited. There are no massing configurations or variety of wall planes.

- (8) Section 611.06(A)(6) – The buildings do not incorporate design elements for each 20 horizontal feet, such as changes in color or texture, projections, recesses, and reveals, arcades, or pergolas providing pedestrian interest that subdivide the wall into human scale proportions. No large windows permitting views of building interiors or display windows are included.
- (9) Section 611.06(A)(7) - the building façades do not have highly visible customer service entrances that feature canopies, overhangs, arcades, distinctive roof forms, arches, display windows, or landscaped features. Primary entrances do not face streets on which they are located.
- (10) Section 611.06(A)(8) - the buildings do not have well-defined roof lines with attention to architectural detail. The roofs are not at all consistent the prevailing pattern of roofs in the area surrounding and within the District.
- (11) Section 611.06(B)(1) – The proposed buildings are not shown to be made from the materials specified in the regulations. (Brick, masonry, stucco, wood, fiber cement siding, wood shingle, wood siding, or cultured stone)
- (12) Section 611.06(C)(1) – No circulation system designed to efficiently facilitate traffic flow, yet designed to discourage speeds and volumes that impede pedestrian activity and safety exists. The traffic impact study itself is premised from a warehouse use and not a HUB Distribution Warehouse which generates 3 times the amount of traffic. This is according to correspondence and material provided to Seville by an ODOT representative. This is another reason why the developer is required to indicate the exact use of the buildings. It hasn't done this in violation of Section 611.06(A)(1).
- (13) Section 611.06(C)(2)–No traffic calming devices or techniques are included in the plan.
- (14) Section 611.06(C)(5) – There is no indication that consideration has been given to adequate site distance at intersections.
- (15) Section 611.06(D)(1) – No coordinated pedestrian system has been provided throughout the development. It is a self-contained, not community styled development. The uses are not overlapping or complimentary. If anything, the warehouse use is siloed, unfortunately it effects are not.
- (16) Section 611.06(D)(3) – No continuous sidewalks are provided between primary entrances to buildings. In fact, there are no sidewalks anywhere.
- (17) Section 611.06(D)(4)–No decorative sidewalks are provided at intersections.
- (18) Section 611.06(D)(5) – No street furniture or other amenities are provided.
- (19) 611.06(0)(6)–No open and public space is provided. 20% required.
- (20) Section 611.06(E)(2)–No interior landscaped island are shown. The parking is not divided into groupings.
- (21) Section 611.06(F)(2) – No year-round visual barrier between the site and all adjacent single-family uses are shown. A recent change provided for some sound barrier walls, but they do not shield all residential uses.
- (22) Section 611.06(F)(3) – Entryways do not appear to be planted with ornamental plant materials, flowering shrubs, and ground cover.
- (23) Section 611.06(G)(1) – No streetscape plan exists.
- (24) Section 611.06(G)(2) – The design of streets, pedestrian ways, landscaping, lighting, and

street furniture is not coordinated and integrated.

- (25) Section 611.06(G)(3) – Streets and driveways are not compatible with pedestrian ways and do not encourage a pedestrian friendly environment. In fact, there are no streets. Just access ways and parking lots.
- (26) 611.06(G)(4) – No benches, seating, trash receptacle, bike racks, lighting fixtures or tree grates are shown
- (27) 611.06(H)(1) – Service areas and mechanical equipment are not shown on plans.
- (28) 611.06(H)(2) – Plans do not indicate service areas and mechanical equipment are screened from public view.
- (29) 611.06(1) - No master sign plan exists.
- (30) 611.06(J)(I) - No lighting plan exists.
- (31) 611.06(K) – No obscuring fence wall or solid hedge along residential areas is shown and, although a partial sound wall was discussed, none was shown at the Zoning Commission Meeting..
- (32) 611.07(B) – Originally this Section stated: “There shall be no production of noise at any MU Overlay District boundary of any use in excess of the average intensity of street and traffic noise in the adjacent area.” A provision in ordinance 2022-40 changes this to now state: “There shall be no production of noise at any am you overlay District boundary of any use in excess of the average intensity of such particular use as measured by commercially reasonable industrial standards.” This appears to be a direct handout to the developer and violates the goals of ensuring “protection of adjacent areas from any adverse effects.” The original provision set the noise emanating from the adjacent area as a limitation on the noise that could be emanated from the MU District. Section 611.07 (B) now favors the developer instead of protecting the surrounding property owners. The new provision literally provides no protection whatsoever for the surrounding properties. The sound study done by Cavanaugh Tocci from August 2022 indicates that the Flint Development will produce sound levels more than twice the acceptable level for neighboring properties. It is only because of the recent amendment that this would be allowed.

Finally, both Mr. & Mrs. Rieg and Mr. & Mrs. Wangler are property owners in the vicinity of this development and both have concluded that their properties will be significantly damaged by the proposed development.

Submitted by: Jeffrey T. Witschey, attorney for Michelle & Brian Rieg and Scott & Robin Wangler.