

BEREA CITY COUNCIL

City of Berea, Ohio

ORDINANCE NO. 2022- __

By: _____ Sponsor: _____

AN ORDINANCE

AMENDING THE PURCHASE AGREEMENT WITH DMARK DEVELOPMENT, LLC, APPROVED IN ORDINANCE NO. 2021-62, FOR THE SALE OF PERMANENT PARCEL NUMBERS 362-02-003, 362-02-009, 362-02-011, 362-02-012, 362-02-014, 362-03-002, 362-03-013, and 362-03-014, WHICH ARE NO LONGER NEEDED FOR MUNICIPAL PURPOSES, FOR THE SUM OF THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) AND AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY TO EFFECTUATE THE SAME, AND DECLARING AN EMERGENCY.

WHEREAS, in Ordinance No. 2021-62, the Council of the City of Berea authorized the Mayor to enter into a Purchase Agreement with DMark Development, LLC for the sale of Permanent Parcel Numbers 362-02-003, 362-02-009, 362-02-011, 362-02-012, 362-02-014, 362-03-002, 362-03-013 and 362-03-014, which were no longer needed for municipal purposes, for the sum of Three Hundred Thousand Dollars (\$300,000.00) and authorized the execution of all documents necessary to effectuate the sale; and

WHEREAS, in accordance with the Purchase Agreement, the developer and the subsequent end-purchaser began the process required for Planned Use Development zoning, and received the unanimous support of the Municipal Planning Commission for Phase I of the PUD process; and the unanimous support of the Municipal Planning Commission in Phase II of the PUD process; and

WHEREAS, during the pendency of the PUD process, some members of Berea City Council and residents have expressed concerns about various issues related to the residential townhouse project; and

WHEREAS, in response to those concerns, the Mayor, in concert with the developer and subsequent end-purchaser (Triban Investments, LLC, an affiliate of Knez Homes), have determined that it is in the best interests of the City to place the project on-hold in order to fully address the concerns of City Council and the public; and

WHEREAS, in order to address those concerns, it is prudent for City officials to do the following during the period of extension:

- Complete the post-construction testing of the now-completed Northend Sewer Project; and

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- Assess the impact of the Northend flow connection project, scheduled for Spring 2023; and
- Determine whether the future development at the Williams' Ford site should include a requirement that the project's sanitary sewer be tied into the Front Street sewer; and
- Consider whether the construction of a new storm sewer from the Williams' Ford site to the Riveredge Parkway trunk via North Rocky River Drive is either feasible or necessary; and
- Discuss whether future development should include an analysis of detention basins from an outside engineering firm, selected by City Council, for the purpose of aiding the City Engineer is making the various approvals required for the development; and
- To inquire whether Tax Increment Financing could be applicable to overall development; and assuming it is both possible and feasible, whether it could possibly assist by providing future tax revenue that could be used, in part, for repairs to private property; and
- Investigate sources of grant funding, from the Regional Sewer District and other government entities, that could be used for the purpose of making sewer improvements on private property; and
- Examine ways to address concerns of existing businesses, especially as it relates to noise; and

WHEREAS, in order to fully address the concerns raised by some members of Berea City Council and the public, it is necessary to extend the terms of the Purchase Agreement, which was approved in Ordinance No. 2021-62 for a period of one year (365 days); and

WHEREAS, the parties to the amended Purchase Agreement acknowledge and agree that upon fully addressing the concerns of the parties, the project will require that the project be subject to the entire Planned Unit Development process as set forth in Chapter 210 of the Zoning Code of the City of Berea, and that the project will require that the developer, end-purchase and/or builder begin the process at Phase I; and

WHEREAS, by enacting the extension as stated herein, Berea City Council and the Municipal Planning Commission will be provided with several opportunities to provide input relating to design and site development, including infrastructure; and

WHEREAS, due to the delay in the project, the end-purchaser cannot guarantee that K. Hovnanian will be in a position to serve as the builder of the townhouses, so it is necessary to also amend the Purchase Agreement to allow Triban Investment, LLC and Knez Homes to select another builder, with the understanding that the design and other considerations will be subject to the required approvals of the Municipal Planning Commission and Berea City Council.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

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SECTION 1. That the Mayor is authorized to enter into an amended Purchase Agreement with DMark Development, LLC for the sale of Permanent Parcel Numbers 362-02-003; 362-02-009; 362-02-011; 362-02-012; 362-02-014; 362-03-002; 362-03-013; and 362-03-014, as further described in Exhibit A, for the price of Three Hundred Thousand Dollars (\$300,000), in substantial conformance with the Amended Purchase Agreement, attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the Mayor and any other city administrator, as necessary, is hereby authorized to prepare and/or execute any and all documents necessary to effectuate the purposes of this ordinance;

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption 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 immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that it is in the best interest of the City and public to return these long-vacant parcels to the tax duplicate as quickly as possible and to provide an anchor upon which future development could build. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED:

President of Council

ATTEST: _____
Clerk of Council

APPROVED:

Mayor

APPROVED AS TO FORM:

Director of Law