



**CITY OF WESTLAKE, OHIO
ORDINANCE NO. 2015-82:**

**AN ORDINANCE APPROVING (FOR
RECORDING PURPOSES ONLY) THE
FINAL PLAT OF THE MALLARD
COVE SUBDIVISION, IN THE CITY
OF WESTLAKE.**

WHEREAS, the Developer of the Mallard Cove Subdivision presented an application for approval of the Final Plat of the Mallard Cove Subdivision, pursuant to Section 1125.05 of the Planning and Platting Code; and

WHEREAS, this application was submitted to the Planning Commission for its approval or disapproval and Planning Commission, at its regular meeting of June 1, 2015, reviewed and determined that the Final Plat complied with subdivision regulations, subject to conditions within this Ordinance and recommended approval of said Final Plat; and

WHEREAS, any specific conditions contingent upon the approval of the Planning Commission to be performed by the developer, if any, have been noted on the Final Plat and in the Planning Commission Minutes; and

WHEREAS, this Council, as required by Section 1125.04(c), has reviewed the Final Plat heretofore approved by the Planning Commission and desires to consider the Final Plat of this major subdivision and set forth in this Ordinance any special conditions to be performed by the developer as a condition precedent to this Council's approval and that such special conditions shall be, where applicable, set forth on the Final Plat and Council Minutes.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WESTLAKE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1: That this Council, as required by Section 1125.05, entitled "Final Plat for Major Subdivision" of the Planning and Platting Code does hereby approve the Final Plat of the Mallard Cove Subdivision, subject to conditions and modifications contained in this Ordinance and Ordinance No. 2014-173.

Section 2: That this Council does hereby require as a condition precedent to its approval of this subdivision that the owner, shall perform and/or agrees to the following conditions, which

**CITY OF WESTLAKE, OHIO
ORDINANCE NO. 2015-82
PAGE 2**

said conditions shall be noted on the Final Plat for this subdivision and approved by the owner thereof:

1.1 Said plat, if not heretofore complied with, shall be submitted to the City Planning Commission for its approval or other action, and be subject to its rules and regulations.

1.2 The owner of said subdivision shall either first (upon improvement plan approval and supervision of construction by the Director of Engineering) install, at its own expense, in all streets or proposed streets as shown on said plat, sanitary sewers, storm sewers, water mains, public sidewalks and pave, grade, drain and curb same, or endorsed in writing on said subdivision plat that in consideration of accepting the subdivision plat by the City, agree to install all of the same at their own expense. In the latter event, they shall first place in escrow for the benefit of the City sufficient funds for the payment of the cost and expense of all of said improvements as estimated by the Director of Engineering or furnish an adequate bond, approved by the Director of Law, to the City for the installation, completion and payment of the cost and expense of all said improvements, as well as make a cash deposit with the Director of Finance, as provided by Codified Ordinance Section 1133.05, to defray the cost of inspection or all construction and the repairing, cleaning, and removal of obstructions therefrom by the City, if this is deemed necessary by the Director of Engineering. All of the above-mentioned plans, profiles, specifications and additional drawings will be approved by the Director of Engineering. The Director of Engineering, together with inspectors authorized by him, shall inspect and supervise the installation of all of the improvements.

1.3 The actual dedication for public use of streets in said subdivision shall be delayed until all of said improvements therein are completed, approved by the Director of Engineering and passed by a dedication ordinance of the Westlake City Council.

1.4 The owner of said subdivision shall also furnish to the City a public liability and property damage bond or insurance policy protecting the City from loss or damage by reason of accident or claims occurring or arising out of the installation and completion of said street improvements, and the limitation of which bonds or insurance policy shall be not less than \$100,000 to \$300,000 for liability, and \$50,000 for property damage. The City shall be named insured or beneficiary in such policy and/or bond.

1.5 It shall be the further obligation of said owner of the subdivision to keep all streets therein, insofar as possible, in a reasonably safe and passable condition for vehicular traffic and pedestrians until such streets are fully improved and accepted for dedication by this Council.

CITY OF WESTLAKE, OHIO
ORDINANCE NO. 2015-82
PAGE 3

1.6 The plat shall also provide a building set-back on all streets in the subdivision which shall, in the opinion of the City Planning Commission and Council, conform to the building set-back line of surrounding property.

1.7 When and in the event Council, by ordinance, has conditionally accepted said plat, and the owner of the subdivision has conformed to the foregoing regulations as to Item Numbers 1.1, 1.2, 1.4 and 1.6 hereof, and the provisions contained therein, the Director of Engineering is then directed to forward said plat to a reputable title company in this County with instruction to file the same for record, if and when it will issue its title guarantee in the sum of \$1,000 showing that the ownership of all land to be dedicated to public use is free of encumbrances except such as, in the opinion of the Law Director of the City, will not interfere or be adverse to use the land by the City for the purpose for which it is acquired.

1.8 Payment of past, present and future taxes and assessments on the property dedicated to the City as and for public use shall be the responsibility of the owner of the subdivision until said property is exempt from taxation by the Ohio Board of Tax Appeals or the County Auditor because of public use.

1.9 The expense of the title company, together with the payment of any amount of current as well as delinquent taxes and assessments and other charges necessarily paid to complete the recording of the plat, shall be the responsibility and obligation of the owners of said subdivision.

1.10 It is the further obligation of the owner of the subdivision that wherever any proposed street in said subdivision intersects an existing dedicated street which is used as means of ingress to and egress from said subdivision and the immediate vicinity thereof around said intersection shall be kept in a reasonably safe and passable condition for vehicular traffic and pedestrians, and reasonably safe and passable crosswalks shall be established and maintained at the sidewalk line of said existing dedicated streets for use of pedestrians.

1.11 It is the further obligation of the owner of the subdivision to pay for services of the Director of Engineering and the City Inspectors for the services they are to perform by virtue of the provisions of Subsection 1.2 of Section 2 hereof, the rate of pay to be the same as they receive for similar services rendered to the City. The cost of said services shall be included as an item of the cost and expense of all of the improvements as estimated by said Engineer, as provided in Subsection 1.7 of Section 2 of this Ordinance.

1.12 It is the further obligation of the owner of the subdivision to pay for the services of the Director of Engineering, rendered prior to the acceptance of the plat by the City, for examining the proposed plat of land to be subdivided and like services to be rendered by him in behalf of the City so that said plat meets the requirements of the rules and regulations and

CITY OF WESTLAKE, OHIO
ORDINANCE NO. 2015-82
PAGE 4

legislation of the City pertaining to the acceptance of the plat. An advanced cash deposit shall be made by said owner on these services as is provided in Codified Ordinance Section 1133.05, and the owner, in addition to said cash deposit, shall pay the plat filing fee provided in Codified Ordinance Section 1125.05(f). Said deposit shall be made with the Director of Finance, who shall note the receipt of said deposit on the proposed plat before the same is filed with the Clerk of Council for acceptance thereof by City Council.

1.13 The owner of the subdivision may be required to grant by separate instrument any easements in the form approved by the Director of Law conveying to the City of Westlake such easements, as required by the Director of Engineering, Planning Commission, or this Council, and thereafter as shown on the plat submitted through this Ordinance for recording purposes only. The legal description contained in any instrument of conveyance shall be approved by the Director of Engineering.

1.14 It is the further obligation of the owner and before recording and/or building permits are issued for the construction of any buildings upon the real property on any subplot contained in the subdivision, that the owner show evidence that all assessments, both general and special, which shall include, but not be limited to assessments for sanitary sewers, sidewalks, water lines, and other public improvements which have been levied upon any land contained in the subdivision, shall have been paid.

1.15 It is the further obligation of the owner of this subdivision to comply in the development of the subdivision with all rules and regulations established by the Director of Engineering and City ordinances.

1.16 It is the further obligation of the owner of this subdivision and the owner agrees to comply with the storm water drainage system requirements of Ordinance No. 1978-8 of the City of Westlake in the following respects:

- a. That the owner of the subdivision shall submit to the Director of Engineering for approval, a plan for the control of storm water in accordance with sound engineering practices and providing that the storm water from the subdivision will be released in such manner that the standards prescribed under Ordinance No. 1978-8 will be met.
- b. That the owner of this subdivision will pay to the City of Westlake, and which is to be deposited into a special fund designated by Council as Storm Drainage Capital Improvement Fund, a drainage charge per gross acre of area to be developed pro-rated at the rate of \$2,500 per acre.

1.17 It is the further obligation of the owner of the subdivision with reference to storm water retarding basin:

- a. To maintain the land reserved for use as a retarding basin or establish a homeowner's association consisting of property owners of the said subdivision to properly maintain the basin and to use said area designated as a retarding basin.
- b. To grant to the City of Westlake an easement for access to such storm water retarding basin in the subdivision for cleaning, maintenance or any other purpose necessary to preserve said retarding basin from a street or streets in the subdivision, unless no easement is necessary because said retarding basin is contiguous to a street or other public right-of-way.
- c. To erect a six-foot high galvanized chain link fence around the entire perimeter of the retarding basin unless the requirement of all or part of the perimeter fence is waived upon request by the owner of the subdivision by action of the Planning Commission prior to the issuance of any building permits for homes in the subdivision.
- d. To erect a four-foot high galvanized chain link fence around any control structure in excess of three feet in height if the said control structure is not inside the perimeter of the six-foot fence.
- e. To erect buffering if the retarding basin will be constructed adjacent to existing residential homes and said construction of the retarding basin requires the removal of existing woods unless the requirement of all or part of the buffering is waived, upon the request of the owner of the subdivision, by action of the Council of the City of Westlake after recommendation of the Planning Commission prior to the issuance of any building permits for homes in the subdivision. If buffering is required, it shall consist of two staggered rows of five-foot high evergreen trees ten feet of center, each row to be fifteen feet apart, along the berm within the fence or, if no fence is required, within the area where the fence would be erected if so required.
- f. To comply in all respects with requirements of the Engineer of the City of Westlake regarding construction and landscaping or retarding basins.

1.18 It is the further obligation of the owners and before dedication and/or the issuance of any building permits for the construction of any buildings upon the real property of any subplot contained in the subdivision that the owner shall submit to the Engineering Department all deeds and easements as may be called for by this Ordinance and further show evidence that all drainage

swales as shown on the grade plat, as required by ordinance and subject to Engineering Department inspection be completed in a rough graded condition.

1.19 It is the further obligation of the owners or their successors in title and before dedication and/or the issuance of any building permits for the construction of any building upon the real property of any subplot contained in the subdivision that the sanitary sewers and other improvements then existing are acceptable to the Director of Engineering and conform to the standards of the Engineering Department.

1.20 It is the further obligation of the owner of the subdivision to comply with the following conditions as well as others:

CONDITIONS

- 1. The improvement plan for construction shall be approved by the Engineering Department and improvements shall be made or bonded for prior to the recording of the plat; and**
- 2. Modification is granted for Lot 1 for a 1.1:1 lot to depth ratio; and**
- 3. Applicable items in Part III of the Department of Planning report dated May 6, 2015 shall be addressed; and**
- 4. Subject to the approval of the final plans by the Building and Engineering Departments in compliance with the Code and the Ordinances of the City of Westlake; and, in the development process, should there be any changes necessitated by engineering requirements that visually alter the appearance of the development approved by the Planning Commission, the plan shall be re-submitted to the Planning Commission.**

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to this legislation 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 action were in meetings open to the public in compliance with all legal requirements including Section 10, Article XI of the Charter of the City of Westlake and Section 121.22 of the Ohio Revised Code.

Section 4: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

CITY OF WESTLAKE, OHIO
ORDINANCE NO. 2015-82
PAGE 7

First Reading: 6/4/15

Second Reading: _____

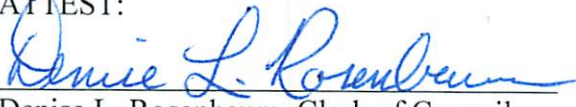
Passed: 6/4/15



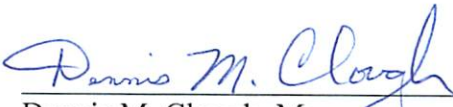
Michael F. Killeen
President of Council

Presented to Mayor: 6/5/15

Approved: 6/5/15

ATTEST:


Denise L. Rosenbaum, Clerk of Council



Dennis M. Clough, Mayor

I, Denise L. Rosenbaum, Clerk of Council of the City of Westlake do hereby certify that Ordinance/Resolution no. 2015-82 adopted 6/4/15 was duly posted on 6/5/15 and remained posted for a period of 15 days thereafter in not less than 2 of the most public places in the City as determined by the Charter of said City.