

**First Hearing Report
Villas at Maple Creek
Drainage Petition Per O.R.C. 6131
April 23, 2020**

This report has been prepared for the first hearing on a drainage petition filed by the Villas at Maple Creek Condo Association on December 6, 2019. The petition was signed by representatives of 5 of the 152 units.

The general location and course of the requested improvements is stated on the petition as follows:

“In Delaware County, Genoa and Orange Townships, in the Villas at Maple Creek condominium generally following the course and terrain of the existing flood control improvements.”

This petition specifically asks for:

“Replace, repair, or alter the existing improvements as required, and to maintain these improvements per the associated engineering designs.”

Petition Process

This petition has been submitted according to Section 6131 of the Ohio Revised Code, which authorizes the County Commissioners to act on behalf of benefited property owners to make drainage improvements and maintain those improvements. Should the Commissioners decide to proceed with this petition, the existing storm water drainage system will be evaluated for any deficiencies or immediate maintenance needs.

The decision to approve a petition project is a 3-step process. First, a viewing of the proposed drainage petition is conducted for the commissioners to familiarize themselves with the site. The commissioners conducted the viewing for this project on January 30, 2020. Next, the preliminary hearing, which is before us this morning, is held to consider the initial feasibility and benefit of the request. If the petition is approved at this preliminary hearing, a final hearing will be conducted to further consider the petition. At that time, final details such as any required repairs or modifications to the existing system and a schedule of assessments to benefited landowners will be available.

Existing Conditions

The development's infrastructure was constructed in the early 2000s. A preliminary review of the existing storm water management system plans and records has been conducted. The majority of the storm water system appears to be adequately reflected by the engineering plans; however, given this was a private development, there was no county inspection or verification of the installation of the system. It will be necessary to perform an extensive inspection of the entire system to determine its current condition.

Some areas of work have been preliminarily identified as being necessary prior to accepting the system onto Drainage Maintenance. Emergency spillways, as shown on the original engineering plans, will need to be constructed. Additionally, two retention ponds have shown indications of seepage through the constructed embankments. These ponds have been preliminarily evaluated for needed work, and a more detailed analysis will be conducted, including extensive onsite survey, evaluation, and testing, should the project be approved to move to a final hearing. Should any feature be found to meet current standards in its current condition, it may be accepted onto Drainage Maintenance without repair work or construction.

It is important to keep in mind the storm water management system is separate from the sanitary sewer system, and this review did not include the sanitary sewer system. This petition and associated information pertain to the storm water management system only.

Estimate of Cost, Factors Favorable/Unfavorable, Benefit vs Cost

O.R.C. 6131 requires the County Engineer to state in a report factors favorable and unfavorable to a proposed project, estimate the cost of the project, and state an opinion as to whether the benefits of the project exceed the cost. The following information is presented for your consideration:

Construction Estimate

The proposed construction portion of the project would include the following basic elements: reconstruction of the Worthington Road pond and Africa Road pond levees, replacement of the outlet pipes and outlet structures for both ponds, and seeding and mulching of all disturbed areas. Additionally, an inspection of the storm water system proposed to be accepted onto Drainage Maintenance will be conducted.

Construction	\$ 75,500.00
Inspection	\$ 10,000.00
TOTAL PROJECT CONSTRUCTION ESTIMATE	\$ 85,500.00

Maintenance Cost Estimate

The annual maintenance assessment for each of the parcels would be estimated as follows:

Estimated current value of original improvement: \$ 159,208.00

A per lot share of the current value is determined by dividing the total value by the number of units in the condominium. This value is commonly known as each unit's Base Value. The annual maintenance assessment per lot is calculated by multiplying the base value by the percentage to be collected. Initially, it would be anticipated that 2% to 3% of the full project value would be collected annually. The collection rate may increase or decrease depending on the maintenance needs of the infrastructure.

NOTES:

- **It is important to understand that the above estimates are preliminary and made in the absence of a current detailed inspection and investigation of the Villas at Maple Creek condominium.**
- **The construction estimate assumes no replacement of the existing storm tile will be necessary. Should part, or all, of the system require replacement, the construction costs will be higher than estimated here. The estimate also assumes complete reconstruction of the Worthington Road pond and Africa Road pond levees will be necessary. If part or all of this work is unnecessary, the construction costs may be lower.**
- **Should the project fail to be approved at the final hearing the benefiting land owners, as defined by O.R.C. 6131, may still be responsible for the cost of project administration, engineering design, and inspection.**

Factors Favorable/Unfavorable

Section 6131 of the Ohio Revised Code requires the County Engineer to state in a report favorable and unfavorable factors to a proposed project, estimate the cost of the project, and state an opinion as to whether the benefits of the project exceed the cost. The following information is presented for your consideration:

Factors favorable to the improvement:

1. Safeguard property values from decline due to poor drainage.
2. Annual inspection and maintenance of improvements in perpetuity.
3. Reduction in the liability of individual homeowners and the civic association for upkeep and maintenance of the storm water management system.

Factors unfavorable to the improvement:

1. Cost of maintenance assessment may be a burden to some landowners
2. Disruption of landscaping and lawn areas during some construction, maintenance, and repair activities.
3. The Condominium Association as a single entity already has the ability to make the necessary improvements and perform all maintenance.

Delaware County Engineer's opinion concerning benefits versus cost:

O.R.C. 6131.12 provides three criteria which must be satisfied to grant the prayer of petition for a drainage improvement.

1. First, the proposed improvement must be determined *necessary*;
2. Second, the improvement must be determined *conducive to the public welfare*; and
3. Third, it must be reasonably certain to the board that the *costs will be less than the benefits*.

In evaluating the necessity for this project, it should be considered whether the petitioner(s) have any other legal and reasonable means to undertake the improvement other than the drainage petition process. O.R.C. Section 5311 provides the power and duty upon a condominium association board of directors to hold financial reserves, to enter into contracts and incur liabilities relating to the operation of the condominium association owned common elements necessary or convenient to its existence, maintenance, and safety. Given that, the condominium association has legal access to the infrastructure in question, and, through the collection of fees from all owners within the association, has the means necessary to perform construction and maintenance on the common elements of the property.

Proper storm water flood control contributes to public health, safety and general welfare. The retention and detention basins identified in the condominium as providing storm water flood control for the site, and if not constructed as designed and maintained, will pose a flood risk for the surrounding and downstream areas. Therefore, in my opinion these basins contribute positively to the general public health safety and welfare. Conversely the internal storm sewer system provides only internal conveyance to the retention and detention basins thus having less impact on general public health, safety, and welfare.

I have evaluated the preliminary costs associated with the project and, in my opinion the benefits of assuming maintenance of the internal storm sewer system do not outweigh the individual unit cost liability associated with construction, inspection and long term maintenance of this project. Furthermore, the authority and obligation to maintain this system already exists for the condominium association. The cost estimate presented above does not include the value of this internal system.

In consideration of the factors specified above, I do believe there is *necessity* to undertake improvement or maintenance of the features identified as providing storm water flood control. Therefore, I recommend that the prayer of petition be granted for improvement and maintenance of the storm water management basins and outlet structures, and the first segments of the storm sewers entering the ponds; however, the testimony brought to the Board by the landowners as to whether the benefits of this project exceed the costs, should be given significant consideration in the decision to move forward with this project.

Should this project proceed to a final hearing, detailed plans, specifications, estimated costs and assessments would be prepared. A comprehensive benefit versus cost analysis will also be performed to determine the feasibility of advancing this proposed project.

Prepared by,

Approved by,



Bret Bacon
Resource Conservation Program Coordinator
Delaware Soil and Water
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Chris Bauserman P.E., P.S.
Delaware County Engineer