

*****AGENDA*****
CITY PLANNING COMMISSION
J. MARTIN GRIESEL ROOM
TWO CENTENNIAL PLAZA – SUITE 720
805 CENTRAL AVENUE
CINCINNATI, OH 45202

September 7, 2012
9:00 AM – 11:00 AM

CALL TO ORDER

MINUTES

Consider the minutes of November 20, 2009 (pgs 2-18), March 16, 2012 (pgs 19-24), and August 17, 2012 (pgs 25-27).

CONSENT ITEMS

- ITEM 1** A report and recommendation on a utility easement over City-owned property located at 1115 Bates Avenue in Camp Washington. (Kumar/Morbitzer) (pages 28-30)
- ITEM 2** A report and recommendation on a Dedication Plat for Regina Graeter Way and additional right-of-way on the western side of Paddock Road in the Bond Hill neighborhood. (Briggs) (pages 31-32)
- ITEM 3** A report and recommendation on balcony and footer encroachment easements in the Vine Street Right-of-Way in favor of Schiel LLC, the owners of property at 2821 Vine Street in the Corryville neighborhood. (Bere) (pages 33-34)
- ITEM 4** A report and recommendation on a lease with the Walnut Hills Redevelopment Foundation, Inc., for property located along East McMillan Street between Gilbert Avenue and Kemper Lane in Walnut Hills. (Bere) (pages 35-36)
- ITEM 5** A report and recommendation on a lease of a portion of Michael Bany Way in Over-the-Rhine to Hanke Associates LLC and Triage Properties, LLC for use as a private alley in connection with tenant's abutting properties. (Morbitzer/Kumar) (pages 37-39)

DISCUSSION ITEMS

- ITEM 6** A report and recommendation on the establishment of Interim Development Control (IDC) Overlay District No. 70, Walnut Hills Neighborhood Business District. (Peppers) (pages 40-44)
- ITEM 7** A report and recommendation on a zone change in the East Price Hill neighborhood along Price Avenue and Mt. Hope Avenue from SF-2 Single-Family and RMX Residential Mixed to CN-P Commercial Neighborhood-Pedestrian as recommended in the Incline Business District Master Plan. (Briggs) (pages 45-48)
- ITEM 8** A report and recommendation on a zone change in the Carthage neighborhood between 606 and 1076 W Seymour Avenue from MG, Manufacturing General to SF-4, SF-6, and SF-10, Single Family. (Briggs) (pages 49-71)

DIRECTOR'S REPORT

ADJOURN

**MINUTES OF THE
CITY PLANNING COMMISSION**

**NOVEMBER 20, 2009
9:00 A.M.**

**HUMAN RESOURCES CONFERENCE ROOM 2ND FLOOR
TWO CENTENNIAL PLAZA – SUITE 700
805 CENTRAL AVENUE**

CALL TO ORDER

Present: *Commission Members:* Caleb Faux, Roxanne Qualls, Michaele Pride, Scott Stiles, Rainer vom Hofe, Christie Bryant and John Schneider

Department of City Planning Staff: Charles Graves, Margaret Wuerstle, Felix Bere, Steve Briggs, Ryan Thomas, Anthony Bridgewater, Sarah Vaz, Joe Wagner, Katherine Keough-Jurs, and Cameron Ross.

Hillside Trust: Eric Russo

The meeting was called to order by Chairman Faux at 9:05A.M.

MINUTES

There were no minutes to be approved.

CONSENT ITEMS

Item #1 A report and recommendation on the granting of a permanent sanitary sewer easement, SS No. 5691, to the Board of County Commissioners of Hamilton County, Ohio, through property fronting on Este Avenue, in Winton Hills.

Item #2 A report and recommendation on an ordinance authorizing a permanent easement within the White and Faehr Streets to Panther Athletic Complex Fund for constructing and maintaining a storm water collection area and storm water sewer, and necessary grading, which interest is not adverse to the interest retained by the City.

Motion: Mr. vom Hofe moved to **approve** Consent Items #1 and #2.

Second: Ms. Pride seconded the motion.

Ayes: Mr. Faux, Mr. Stiles, Mr. Schneider, Mr. vom Hofe, Ms. Pride and Ms. Bryant.

Nays: **None, motion carried 6-0**

DISCUSSION ITEMS

Item #3 Report and recommendation on a Plat of Dedication for Mehring Way in the Central Business District, The Banks.

Steve Briggs, Senior City Planner, presented this item.

BACKGROUND:

McGill Smith Punshon, Inc. on behalf of the City of Cincinnati and The Board of County Commissioners of Hamilton County, Ohio, the owners has submitted a Plat of Dedication for Mehring Way between Elm Street and Main Street (Joe Nuxhall Way). The dedicated area is south of Theodore M. Berry Way and current phased development of the Banks Subdivision. The Plat of Dedication has been reviewed and approved by all reviewing agencies.

The Mehring Way dedication realigns the roadway north from its current configuration so as to provide sufficient land area for the future riverfront park. The dedicated right-of-way is 110 feet in width and is aligned with existing improved sections of Mehring Way between Elm Street and Main Street (Joe Nuxhall Way). A bike lane has been incorporated into the plan for the street. Utility lines for underground electric, water, sanitary and stormwater control are being relocated within the proposed dedicated area.

RECOMMENDATION:

The Department of City Planning and Buildings staff recommended that the City Planning Commission take the following action:

Approve Plat of Dedication for Mehring Way in the Central Business District, The Banks, for the reasons that the plat conforms to the Subdivision Regulations and has the approval of all reviewing agencies.

PLANNING COMMISSION PRESENTATION AND DISCUSSION

Roxanne Qualls arrived at 9:10 A.M.

Mr. Briggs explained that the roadway construction of Mehring Way would begin in the Spring of 2010. There was no discussion and Mr. Faux noted that there were no individuals wanting to speak on this item.

- Motion:** Michael Pride moved to approve the Plat of Dedication
- Second:** John Schneider seconded the motion
- Ayes:** Mr. Faux, Mr. Stiles, Mr. Schneider, Mr. vom Hofe, Ms. Pride, Ms. Bryant and Ms. Qualls
- Nays:** None, motion carried 7-0

Item #4 Report and Recommendation on a Final Development Plan for Planned Development District #57 Phase One, The Willows of Spring Grove Pet Cemetery and Dog Park in the Spring Grove Village neighborhood.

Steve Briggs, Senior City Planner, presented this item

BACKGROUND:

On June 19, 2009 the City Planning Commission approved a zone change and City Council on September 10, 2009 passed Ordinance No. 260-2009 creating Planned Development District No. 57, The Graystone Business Park and Pet Cemetery. The final development plan has been submitted for Phase One of The Willows at Spring Grove Pet Cemetery and Dog Park by Stephen Schweitzer.

FINAL DEVELOPMENT PLAN:

The Willows of Spring Grove Pet Cemetery and Dog Park will offer a final resting place to honor beloved pets. The Willows will be located in a professionally landscaped setting on 14 acres of the total 86-acre Graystone Business Park development site.

Access will be by a private drive located off of Gray Road opposite Spring Grove Cemetery. Low profile and brick entry monuments similar to those used at the Spring Grove Cemetery will mark the entrance to the Willows Pet Cemetery and Dog Park.

The land is gently sloping and is bordered by scattered trees, evergreens, and native vegetation. Site development will include a small office building with display room, and parking for 20 vehicles.

Walking trails through remembrance gardens, scenic vistas, and flowering trees will surround a central reflection pond with a fountain. A dog park will be located at the southern portion of the site. The dog park will be divided into separate play sections for large and small pets.

The Willows Pet Cemetery will provide over 40,000 burial plots in a landscaped setting with over a half mile of walking trails. Pets will be memorialized with tasteful markers, free standing burial columns and dedicated stone markers. A Columbarium wall will be constructed along the eastern edge of the site with 400-columbarium niches.

There will be a special memorial garden for service animals (police dogs, seeing eye dogs, and other therapy assistance animals). A small chapel will be constructed at the western edge of the site.

Landscaping

The landscaping plan shows various deciduous trees, evergreen trees and shrubbery.

Parking

Approximately 20 parking spaces are provided on this site.

Engineering

All utilities are available to the site with adequate capacities. Lee A. Knuppel & Associates, Inc has prepared site engineering.

Open Space

The site plan illustrates various structures, sculptures and monuments along pathways and landscaping with deciduous, and evergreen trees. The landscape plan was prepared by GroundWork Design Cincinnati, LLC.

Signage

The entrance monument will identify the Willows of Spring Grove Pet Cemetery and Dog Park.

Schedule

Initially site preparation will begin this winter weather permitting, and in the spring of 2010.

Differences between Concept Plan and Final Development Plan

The Concept Plan and Final Development Plan are similar, in that, the Cemetery is located where it was initially proposed. The trail network, and pond are also in similar locations.

PUBLIC COMMENT:

The community has been notified of the City Planning Commission meeting and sent a copy of the Pet Cemetery site development plan.

CONSISTENCY WITH EXISTING PLANS:

There are no adopted plans for this area.

CODE REQUIREMENTS:

Pursuant to Section 1429-13 Final Development Plan of the Cincinnati Zoning Code, a final Development Plan and Program Statement must be submitted to the City Planning Commission for any portion of an approved concept plan that an applicant wishes to develop. The final plan must conform substantially to the accepted concept plan. The final development plan requirements anticipate changes from the concept plan and require significantly more detail as approval of the final development plan precedes building permit application submission.

Under Section 1429-15, the City Planning Commission may approve a final development plan for a development in a PD District on consideration of the following:

(a) Consistency

Plan is consistent with the purpose of the PD District because it:

Allows for more efficient development of property.

Allows the developer to be more creative with the use of the space.

(b) Adequate Streets

The development has an adequate street network because it:

Provides access to a private circular drive and 20 space parking area.

(c) Adequate Infrastructure

The development has adequate infrastructure because:

All utilities are available to the site.

(d) Covenant

(e) Release of Covenants

(g) Sufficiency of Legal Documents

(h) Sufficiency of Provisions for Maintenance of Common Areas

(f) Compatibility

The proposed uses and arrangement are compatible with surrounding land uses because:

The proposed pet cemetery is compatible with the Spring Grove Cemetery, and land area to the north.

FINDINGS:

The final development plan is similar to the approved concept plan creating a visually appealing development that will be an asset to the Spring Grove Village community. Therefore, it is the opinion of staff of the Department of City Planning and Buildings that the proposed *The Willows of Spring Grove Pet Cemetery and Dog Park* development is in compliance with Section 1429-15 “Planning Commission Approval of Final Development Plan”. The proposal is consistent with the purpose of the Planned Development District Regulations and the previously accepted Concept Plan of June 19, 2009.

RECOMMENDATION:

The staff of the Department of City Planning and Buildings recommended that City Planning Commission take the following action:

Approve a Final Development Plan for Planned Development District #57 Phase One, The Willows of Spring Grove Pet Cemetery and Dog Park in the Spring Grove Village neighborhood.

PLANNING COMMISSION PRESENTATION AND DISCUSSION

Mr. Briggs showed a video that described the site and the programs. He explained that the pet cemetery was part of PD #57, Phase I. Rainer vom Hofe made a motion to approval the Final Development Plan and it was seconded by Mr. Schneider. Objections were made by Spring Grove members of the audience stating that they had not had a chance to review the proposed project.

Ms Pride asked if the overall plan was part of the previous zone change to a PD for the development and Mr. Briggs confirmed that it was.

Ms. Eileen Frechette, of 5081 Wooden Shoe Hollow stated that she has been working for a long time on the issue and supported the proposed plan for Graystone dog park. She expressed that the overall plan was very good. She, however, did not understand the Covenant, code requirements D, E, G and H. Amendments were reviewed at the most recent Spring Grove Community Council meeting. She also stated that at the aforementioned meeting there was no one present to explain the validity of the Covenant, and how it is enforced. She also requested that someone explain the term '*release of covenant*'.

C. Francis Barrett, of the law firm of Barrett and Weber, 105 E. Fourth Street, Suite 500 Cincinnati, Ohio stated that he was the attorney for Graystone. Mr. Barrett stated that when the rezoning was approved to PD, Graystone was requested to prepare a covenant with the Spring Grove Village Community Council. It was agreed upon that the document would be signed by Spring Grove Village Community Council and Graystone.

Mr. Faux alerted Mr. Barrett to the portion of Ms. Frechette's question which inquired about the term '*release of covenant*'. Mr. Barrett could not answer this question. Mr. Briggs replied that the term is employed when a covenant is in place that runs with the land and it is petitioned to have it released or it no longer applies to the site.

Ms. Frechette asked if either party could ask for a release from the covenant. Mr. Briggs indicated that the petition would be submitted to the City for release and the City Manager would sign it.

Ms. Frechette asked about the recourse for signatories if the terms of the covenant were not met. She asked again about the legally binding agreements, which had to be satisfied by the covenant. Mr. Briggs stated that those who felt that the requirements of the covenant were not being met would then have to file a lawsuit.

Commission members stated that they did not possess a copy of the covenant.

Ms. Frechette asked if the covenant was a legally binding document or a good faith agreement. Mr. Barrett confirmed that the covenant was legally binding and it would be enforced like any other final development plan.

Mr. Faux stated that the recourse would first be a call to the City to enforce, and second if the City did not act on the appeal then an appeal would be made to the courts. Ms. Frechette did not anticipate that it would go in that direction since they had spent significant time working on the document and have had a good back and forth conversation with the Schweitzer family. However, she felt it was important to know where they stood because the last time they were present at the Planning Commission, the topic of covenant language had not come up until the community asked about it.

David Rosenberg of 5115 Wooden Shoe Hollow Drive spoke next. He stated that his property borders the project and he had a process complaint. At the last Planning Commission meeting the community was promised by the Law Department to have the Covenant in advance to review before anything would be approved. It was only provided on the November 19, 2009. He did not believe that what transpired was good law making if the people involved do not a chance to review what was being passed.

Councilmember Qualls stated that the Community Council president's signature was on the document, which indicated that it had been reviewed. Mr. Rosenberg responded that he, along with other affected residents, were promised the opportunity to read the document. It would not be the first time a community council president would have accepted an amendment to a covenant without allowing anyone else to review it. He felt it was "bad process".

Mr. Briggs stated that upon receiving the drawings from Mr. Schweitzer, which included the Covenant language, he asked about the Covenant and he felt the issue had been settled. The language was found to be the same as what had been worked out with the community

Mr. Rosenberg also raised concerns about the section in the document called "differences between concept plan and final development plan". He wanted to know how the concept plan and final development plan were different. Mr. Briggs explained that the difference was that there is more detail in the final development plan whereas the concept plan lacked some of those details such as structures, monuments etc.

Mr. Rosenberg stated that after being involved for 5 years with the project, he felt strongly about the inadequate communication and transparency in the process. He stated that he could have been working, had the document been given to him in a timely fashion for review and he would not have had to attend the Commission meeting. He appealed to everyone involved to have better communication.

Ed Gutfreund stated that there was agreement on the document at the Community Council. There were 32 signatures.

Mr. Barrett stated that Mr. Schweitzer, the applicant, was present at the meeting and Mr. Barrett had talked on his behalf.

Mr. Faux announced that there was a motion to approve the Final Development Plan made by Rainer vom Hofe, and seconded by John Schneider.

- Motion:** Rainer von Hofe moved to approve the Final Development Plan for the pet cemetery
- Second:** John Schneider seconded the motion
- Ayes:** Mr. Faux, Mr. Stiles, Mr. Schneider, Mr. vom Hofe, Ms. Pride, Ms. Bryant and Ms. Qualls
- Nays:** None, motion carried 7-0

Item #5 A report and recommendation on the Columbia Parkway/River Road Scenic Study dated July 2009

Cameron Ross, City Planner, presented this item.

BACKGROUND:

In early 2007, The Scenic View Study for Cincinnati was completed. Planning Commission approved this document on June 1, 2007. The 2007 study identified seven different viewing locations along Columbia Parkway (between the Fifth Street viaduct and Delta Avenue) that offered scenic vistas for motorists and pedestrians. Cincinnati City Council recommended that a Blue Ribbon Committee be formed to take a closer look at the 2007 and determine action steps for implementation of the Study's recommendations. As part of these recommendations the Blue Ribbon Committee determined that a follow-up study should be conducted that would focus on the scenic attributes of U.S. Route 50 (including Columbia Parkway and River Road).

PURPOSE:

The purpose of this document is to examine the viewing opportunities relative to current zoning, land use and vacant property ownership; understand the impact that new development could have on the scenic quality of the Parkway; and to examine the scenic attributes of River Road.

STUDY OVERVIEW:

The study provides a comprehensive review of the methodology used to analyze current land use patterns along the Columbia Parkway and River Road. This methodology includes the development of a DEM (digital elevation model) and a "micro-study" analysis of three viewpoints located along and above Columbia Parkway. The micro-study includes a visual component consisting of structures built to moderate and maximum heights.

Results and recommendations from the study begin with a call for a comprehensive vegetation management plan and implementation strategies for this plan. Property ownership, hillside zoning and riverfront zoning results and recommendations are included in the discussion, as well as illustrated results from the micro-study. River Road is dissected in order to determine the existing conditions, property ownership, zoning districts, and potential impacts of development.

CONCLUSIONS:

The study recommended three strategies to maintain and enhance the scenic qualities of Columbia Parkway:

1. That zoning measures be approved and adopted by City Council to ensure that public view corridors along Columbia Parkway are respected. This effort would be include the Public View Corridor Overlay District and a review, replacement and upgrade of zoning along Riverside Drive;
2. The City consider listing Columbia Parkway on the National Historic Register; and

3. The Columbia Parkway is established as a scenic byway under the National Scenic Byways program that will serve to provide funding for vegetation management.

RECOMMENDATION:

The staff of the Department of City Planning and Buildings recommended that the City Planning Commission take the following action:

APPROVE the Columbia Parkway/River Road Scenic Study dated July 2009.

PLANNING COMMISSION PRESENTATION AND DISCUSSION

Cameron Ross gave an overview of the project. The original scenic view study was adopted by Planning Commission on June 1, 2007. Within that study seven (7) locations along Columbia Parkway were identified that offered scenic vistas for both motorists and pedestrians. A recommendation from Council was made to have a Blue Ribbon Committee and that commission included a follow-up study for US 50 that included Columbia Parkway and River Road. The purpose of that study was to examine the viewing opportunities relative to the current zoning within these areas to examine the land use and vacant property ownership and see to understand the impact development would have on the scenic views along the parkway and also to consider the scenic attributes of river road which were not included in the study in 2007. He invited Eric Russo to discuss the study in further detail.

Eric Russo, from the Hillside Trust made a PowerPoint presentation. He explained the eligibility status of Columbia Parkway for Scenic By-Way status, which would enable the project to apply for federal funding for promotion of the Parkway as a tourist attraction and for vegetation management. He showed several photographs of the Parkway.

Cameron Ross stated that an electronic copy of the document was posted on the City Planning website and the Department of Transportation and Engineering's website, where the original 2007 study can be found. He also stated that e-mail notification was sent out to a group of 400 concerned citizens who have been involved with the project.

John Schneider asked about what kind of feedback was received from people who saw it on the website or otherwise knew about it.

Mr. Ross explained that the first feedback that was received was regarding the link being broken on the City Planning website. The public was then referred to DOTE's website while the issue of City Planning's broken link was resolved. There were general questions about the report and how recommendations were made and legal implications. Mr. Schneider attempted to determine the volume of inquiries. Mr. Ross stated that 5 inquiries had been made. Planning staff requested that the Planning Commission adopt the report dated July 2009 in light of the new information with addendums.

Mr. Faux proceeded to the speakers.

Mr. C Francis Barrett, with the law firm of Barrett and Weber, 105 E. Fourth Street, Cincinnati, Ohio state that he was the attorney for clients of affected properties. He was concerned with addressing the issue for the Adam's Landing Master Plan. Mr. Barrett explained that he was asked by Mr. Arn Bortz of Towne Properties LLC to look into the issue of the development agreement signed by the City and Towne Properties, which allowed buildings of certain heights. Building heights in the study are inconsistent with designations in the development agreement. The development agreement is subject to reviews by the Urban Design Review Board, Mt. Adams Civic Association, the Planning Commission and by the Hillside Trust. Mr. Barrett stated that he document explicitly states that building heights are not to be arbitrarily reduced in the Master Plan. After speaking with Cameron Ross, Mr. Barrett was assured that this document would supersede anything subsequently adopted by the City. Mr. Patrick Ewing, Interim Director for the Economic Division, also confirmed this. Mr. Barrett requested affirmation that the Scenic Study would not supersede the provisions of the development agreement.

Councilwoman Quall asked if the Solicitor's Office agreed with Mr. Ewing's interpretation of the agreement. Mr. Ross responded that he was not sure, as he had not had any contact with the Solicitor's Office. He did speak to Mr. Ewing a moment before the current Planning Commission proceedings. Mr. Ewing's understanding was that the development agreement is now in the hands of the Department of Community Development, but it did allow for the provisions that Mr. Barrett mentioned.

Councilwoman Qualls stated that she would re-affirm the Mt. Adams Master Plan but would not accept Mr. Ewing's statement without confirmation from the Solicitor's Office. She stated that she respected Mr. Ewing but that he was not an attorney and it was important to know how to act in that case.

Charles Graves, assured the Commission that staff would confirm the interpretation of the development agreement before it goes before City Council for approval. Councilwoman Qualls stated that she would not be voting on the adoption of the study unless provided with a legal opinion from the Solicitor.

Ms. Pride's understanding from the last Planning Commission meeting, where the topic of process was raised, was that the report was being accepted and then would be taken to the next step, which was to go to City Council to be implemented. Only after implementation, would any steps be taken to possibly regulate zoning. Accepting the report would make no change in the current zoning or details of the report. Any new zoning would be reviewed along with the agreement.

Mr. Barrett asked if the study was to be accepted, would there be any possibility of further necessary changes being made.

Mr. Arn Bortz asked if the study was accepted, would it be subject to a pre-existing fully executed contract. Adam's Landing originally provided for 1200 units of housing. However, the plan adopted by the Planning Commission in 2002 approved 600 housing units, thereby cutting the density by 50%. Three villages in the plan have been developed in collaboration with Eric Russo of the Hillside Trust, following the terms of the contract. The next intended building is subject to the review of the Mt. Adams Civic Association, the Hillside Trust, and the Towne architect. Towne has every intention of continuing to honor the terms of the contract. Mr. Bortz requested that if the study is accepted, that it be subject to the pre-existing contract.

Mr. Faux clarified that the Planning Commission was not considering acceptance but rather approval. He agreed with Ms. Qualls on the need for input from the Solicitor on the matter before a position was taken by the Planning Commission.

Mr. Barrett stated that his clients did not receive a copy of the study. A number of inaccuracies were found in the study with respect to his clients' properties, Sawyer Place Properties. He stated that there were zoning inaccuracies as well as inaccurate computer modeling for his clients' properties. He said that the study focused on the wrong aspects of the buildings and not the ones that would allow for preservation of views and greater economic development. He explained that his client's properties are not located in the controversial hillside area but on the flat area between Riverside Drive and the river. He stated that the hillside is located between Columbia Parkway and the hillside, not Columbia Parkway and the river. Mr. Barrett then called Mr. Triantafillou to speak on the study as he was familiar with the study and its methodologies and had completed his own studies and modeling for development.

Mr. Triantafillou stated that he was a professor at the University of Cincinnati and a consultant. He had a day and half to review the report, digest it and then make comments. He is in full support of City policy and all efforts made to protect the hillsides. He stated that the report should be refined based on the data collected, analysis and recommendations made from the analysis. If not, he felt that problems would ensue in the future. He highlighted a few of the issues. He referred to page 2 of the study and explained that in the landscape analysis, there is a distinction between static views and views in motion while driving. The two cannot be considered in the same methodology. Highway studies show that what we see while driving is in constant change. Studies on motion views should be done in an animated environment and these studies involve extremely technical 3-D modeling techniques. This is not made clear in the study and there is a weakness to using static views. He also explained that there is a big difference in elevation between Columbia Parkway and subject properties along the river. He explained that two (2) issues arise. The first being how far buildings are from the river, and how much of the buildings can be seen from Columbia Parkway. There are mistakes in the simulation. He stated that the two illustrations on page 37 are inaccurate. Building heights as shown in the report suggest that they are situated much closer to or are on the hillside as opposed to the valley floor where they should be. If buildings are placed on the valley floor with average floor heights, the resultant buildings would not be able to be seen from atop the hill on Columbia Parkway. There is a contradiction that there should

be a cap in heights between 4 & 5 stories. This also contradicts the overlay district. Most buildings of the kind shown in the study usually have a 100' x 100' sq. ft. footprint. The ones shown in the study have extremely large footprints and this goes against the norm. The market is high-end residential with maximized views which means usually tall, slim buildings. This is not reflected in the report and thus the decision to cap heights is not justified.

Mr. Triantafillou explained that another issue is that the burden is on the property owner. Studies are very expensive to undertake to prove no visual impact. He explained that the Bartley Study methodologies were inaccurate. Mr. Triantafillou once provided Mr. Bartley with thesis advice. In merging simulated building renderings with images the foreground must be maintained in order to not compromise the true depth perspective. If the foreground is cropped, views appear to be closer than they really are. He gave further examples and explained the sight to distance relationship. He stated that in conclusion, if the study is approved, its data, methodologies and forthcoming recommendations are also approved. Mr. Triantafillou recommended that the document not be approved but that the errors be corrected and then re-submitted for approval. He also referred to a visualization that he did, to illustrate that if done right the results can be positive.

Mr. Faux asked if Mr. Barrett retained Mr. Triantafillou and Mr. Triantafillou responded yes. He also stated that he had been assisting Mr. Stuart, Mr. Verdin and Mr. Johnson with visual assessment of the properties since 2007.

Mr. Faux raised the concern that in light of Mr. Triantafillou admitting to only reviewing the document two days ago even though it had been available for two weeks an, a further postponement was not justifiable. Mr. Faux has noted that every time a meeting has been held to discuss scenic views, the emergent comments are that things need to be delayed for further efforts to review before approval. At some point the issue needs to move forward. Mr. Faux agreed with Mr. Triantafillou's presentation when he said that regulations require a certain amount of flexibility and negotiation. He explained that his statement was inconsistent with saying those two concepts are diametrically opposed.

Mr. Triantafillou disagreed with Mr. Faux, saying that regulations may venture to either extreme but there is a need for flexibility. The flexibility is key in achieving the ultimate goal, which is preservation of views. A regulation can be seen as vague if it doesn't give a specific number or dimension. The ultimate goal is to preserve the view. In this case it is to prevent view blockage or how much view will be allowed and how much will be absorbed. If someone is putting a building in a cornfield, it will not be absorbed. In the current situation on the river, the view is busy with the sky and Kentucky landscape and there are various textures. The guidelines should talk about that and the designer should come up with interpretations and recommendations on how to accomplish the view protection as opposed to saying the structures should be 4-5 stories.

Ms. Pride presented a sheet with definitions of *accept*, *approval* and *adoption*. She defined each term and stated that approval of the plan would mean there's still flexibility.

She anticipated that the zoning regulation would be PD for the key areas, which would allow for flexibility and review of every proposed development in the area.

Mr. Faux stated that "approval" would indicate not much more than a direction and that the Planning Commission retained the right to determine how the regulations are adopted.

Ms. Qualls had a clarification question for Mr. Triantafillou's argument that there are limitations to development resulting from approval of the study. She thought that Ms. Pride and Mr. Faux were saying that this study was a policy statement versus practical, implementable design standards. If this is true, there is the opportunity for a form-based code district in the area to allow developers flexibility without destroying views and without dictating form to the developers. If in fact the study is approved, it should be as policy and not what is contained in the Appendices.

Mr. Faux concurred with Mr. Triantafillou's concern about inaccuracies in building simulation. Having worked on such projects in the past, he understood how easily they can be manipulated. He believed that approval of the document does not mean vouching for the accuracy of each simulation in the document but whether or not the City is going to act in favor of protecting scenic views. This topic had been in discussion for quite some time. He took opposition to Mr. Barrett's opinion expressed in one of his two letters that protection of views equates to illegal taking of private property rights.

Mr. Barrett clarified that it could be a taking if not done the right way but not necessarily.

Mr. Faux said that the Planning Commission was proceeding on the proposition that scenic views are very important to the City of Cincinnati and at some point the City needs to move forward on the issue of preservation of views.

Mr. Barrett claimed that Mr. Triantafillou was able to design buildings up to twenty (20) stories with un-obscured views from Columbia Parkway.

Mr. Faux did not argue with Mr. Barrett's claim, but argued that in approving the study the Planning Commission was not foreclosing the option offered by Mr. Triantafillou.

Mr. Barrett posed a hypothetical situation in which Mr. Triantafillou designs a 12 story building and the adopted study provides for buildings of 4 and 5 stories in height. He stated that then there would be an issue. Mr. Triantafillou said that if approved, the language in the document would cause problems for all parties involved if the study becomes a foundation linked with the methodology and analysis.

Ms. Qualls wanted to know if the Planning Commission could approve the document as policy without approving the zoning measures. Ms. Pride proposed an approval with a caveat.

Ms. Qualls noted that if the document is approved, it does say specifically to cap building heights, which she does not agree with given the value of the riverfront property.

She felt that if the Planning Commission approved the study, they would put themselves in a very difficult position.

Mr. vom Hofe stated that if the topic of contention is Appendix No. 3, then resolve the situation by removing it. Mr. Triantafillou indicated that it was not just the Appendix but other simulations within the document.

Gerry Kraus a resident supported of the recommendation. She is a representative of 36 property owners who live at the Kingston House and who gave her permission to speak on their behalf. If the approval of the study goes forward it includes a designation for federal money to maintain the vegetation along Columbia Parkway. She understood, from previous discussions, that there is no absolute prohibition against certain types of development, but room for negotiation so the view is not completely violated. She felt that the property rights of residents and the public were more important than those of developers. It seems to be a recurring strategy to delay the process by those in opposition with no final decisions being reached. She referred to a view outside the window that was being destroyed by the construction of a building in the foreground.

Mr. Russo contended that it was indeed a hillside issue because the valley floor is very narrow. There is very little floodplain before the hillside. The underlying zoning used in conducting the study represented the worst-case scenario of 20 story buildings, which is what the underlying zoning allows and was also chosen by the student conducting his thesis. Mr. Russo stood behind the report 100 percent and claimed that if there were inaccuracies in the report on the part of Blake Bartley, then why did he graduate seeing as Mr. Triantafillou was his advisor. He believed that work done in the study by the recent graduate was some of the most cutting edge to date. The 4-5 story cap was not developed arbitrarily but was influenced by the 1992 East End Plan. If an architect cannot design within the parameters of a 4-5 story height then it calls into question the validity of their architectural design background. He believed the report had succeeded in obtaining a balance between view preservation and development potential.

Mr. Triantafillou stated that Mr. Bartley's thesis was not passed on the accuracy of his simulations but the presentation of the document in its entirety. He also said that there are many different ways to look at the study. He stated that a 3 1/2 story building could block the views depending on how it was situated.

Ms. Pride made a motion to approve the study with the exception of the zoning restrictions proposed in the recommendations asking for further study of that component to allow for reasonable balance between development opportunity and preservation of views. She felt it was important to move forward on this issue.

Ms. Qualls offered a friendly amendment to approve with the exception of the zoning restrictions asking for further study of that component of plan and to also include the applicability of form based codes to establish that balance and also affirming the agreement between Towne Properties and the City for the Adam's Landing Master Plan.

Mr. Faux states that there was a motion with a friendly amendment and it needed a second. Mr. Stiles seconded the motion.

Mr. vom Hofe asked if the elevation between Columbia Parkway was constantly changing. He wanted to know if it was feasible to give a specific height since the elevation depended on the specific site one was building on. Mr. Triantafillou explained the process again with the alternating heights along the roadway, with 600-619 feet being the average elevation, and explained that urban design has many factors to consider in dealing with this situation. He felt that the designer should be able to show the City how they were going to preserve the views.

John Schneider congratulated Mr. Triantafillou on his presentation and wished that he had it earlier. He emphasized that they were talking about public views and not private views. He likened an existing building on the Cincinnati riverfront, One Lytle Place, to the simulations in the document and said it was not a well designed building. He said that Cincinnati typically has boxy structures. He likes the buildings Mr. Triantafillou had designed but concedes that those types just aren't designed in Cincinnati. He says that Mr. Faux was right in that the approval of the study would be expressing a direction that the City would like to take in determining the type of city we would like to have. He is prepared to vote for the report, as is, without friendly amendments.

Scott Stiles explained that the reason he seconded the motion was on the condition that some type of form-based code could be incorporated in any development happening in the subject area. It is a tool that could prevent us from having a wall of 3 and 4 story buildings along the River Road, hindering views. He wanted assurance that an opinion would be sought from the Law Department on the Adam's Landing development agreement and also on the assumption that form based codes would protect the riverfront area and that whatever is in the development agreement would not prohibit the City from having form based codes in the riverfront area.

Mr. Faux said that if approved, the current study would need to move forward to be voted on by City Council. Mr. Ross indicated that the 2007 study was before Council and not the most recent version of the study.

Motion: Michael Pride made a motion to approve the study with the exception of the zoning restrictions proposed in the recommendations asking for further study of that component to allow for reasonable balance between development opportunity and preservation of views and to look at form based codes as an alternative and also affirming the development agreement between Towne Properties and the City for the Adam's Landing Master Plan.

Second: Scott Stiles seconded the motion

Ayes: Mr. Faux, Mr. Stiles, Mr. vom Hofe, Ms. Pride, and Ms. Qualls

Nayes: John Schneider, Christie Bryant, **Motion passes 5-2**

Ms. Qualls requested that staff transcribe the motion and give the Planning Commission a copy of the motion. Ms. Wuerstle read the motion to the Commission. Ms. Qualls thought that Scott Stile's comments were particularly important.

DIRECTOR'S REPORT

Mr. Charles C. Graves stated that there had been a series of meetings concerning I-75 the week before and several focus groups and a public meeting. He extended his thanks to Cameron Ross for all his work, City Commissioners, and Councilman Qualls.

Mr. Graves explained that in January a group of City staff would travel to Pittsburgh to gather more information. In the following month more detailed information would be given to the public. He stated that it was a great study surrounding the I-75 Corridor.

Mr. Graves explained that the form-based codes contract was being approved with OPTICOS out of California and more information would be provided to the Commission as it was made available.

Mr. Graves stated that staff was working diligently on the Neighborhood Summit. There would be several sessions within the Summit focused on individual elements of the Comprehensive Plan.

Ms. Qualls stated that Arts & Culture has been overlooked in Comp Plan elements. Mr. Graves responded by indicating that Arts & Culture was the top response to the question of *what makes a city great?* Staff would be adjusting and modifying the focus to see how they could include this as part of the Comp Plan.

Mr. Graves acknowledged Don Mooney's resignation and recognized his efforts and stated that he hoped to hold something in his honor.

Mr. Schneider asked about the plans concerning re-zoning for the streetcar district and also how the Planning Department did in the face of budget cuts.

Mr. Graves responded that there are some major planning issues that the Department will be addressing for the streetcar project. Staff will be looking at sites, reduction of parking requirements, and potentially new zoning. The City Manager had asked staff to look at the design and location of streetcar stops as they relate to historic districts. Over the next 2 months, staff will be looking at their work program for the next year.

Mr. Graves went on to explain that the Department is currently engaged in more projects than the total number of projects over the last 30 years. Staff has not been provided with a number in terms of the budget. There is a lot of planning being undertaken and the Department would like to at least maintain their current staff. There are about 5 major projects that will impact Cincinnati significantly for the next 100 years.

Mr. John Schneider stated that given the 2-3 year length of the development cycle, Staff should try to get a lot of these new policies out there to receive public consensus.

Mr. Graves stated that there will be budget implications related to the streetcar. We want to maintain balance in introducing the streetcar between development opportunities and preservation of existing assets.

Mr. Schneider asked if there was enough staff to do this or if there would there be a need for the hiring of outside consultants. Mr. Graves replied that staff was stretched and would need assistance. This will be a budget issue discussed with the City Manager.

ADJOURN

As there were no other items to be considered by the Commission, the meeting was adjourned at 11:12 A.M.

Charles C. Graves, III
Director, Department of City Planning

Caleb Faux, Chairman
City Planning Commission

Date: _____

Date: _____

PROCEEDINGS OF THE CITY PLANNING COMMISSION

March 16, 2012

Regular Meeting

A regular meeting of the City Planning Commission was held this day at 9 A.M. in the J. Martin Griesel Room of Two Centennial Plaza with the following members present: Chairman Faux, Mr. Schneider, Vice Mayor Qualls, Assistant City Manager Mr. Stiles, Mr. vom Hofe, and Ms. Bryant. Absent was Ms. Pride.

Also in attendance were Mr. Graves, Director of City Planning and Buildings, Mr. Suder, counsel, and City Planning staff: Messrs. Briggs and Lester.

Consent Agenda

Upon the request of Mr. Schneider, Item 3 was removed from the Consent Agenda and Item 4 was added to the Consent Agenda.

Vice Mayor Qualls entered the meeting at this point.

Chairman Faux stated that a member of the public was present who had requested to speak against Item 2, which was removed from the Consent Agenda.

Item 1 was a report and recommendation authorizing the City Manager to execute a Sale and Development Agreement with Kennedy Heights Development Corporation, an Ohio nonprofit corporation, which would provide for the sale and development of certain City-owned property located at 6620 Montgomery Road in the neighborhood of Kennedy Heights. Staff recommended that the Commission approve the item.

Item 4 was a report and recommendation on the establishment of a convenience market use, "The Market at Queen City Square," located at 301 East Fourth Street in the Central Business District and within the boundary of Interim Development Control Overlay District No. 66, Broadway Commons District. Staff recommended that the Commission approve the item.

The Commission adopted staff's recommendations for the Consent Agenda.

Ms. Schneider made the motion, which Mr. vom Hofe seconded.

Aye: Mr. Schneider, Vice Mayor Qualls, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, and Chairman Faux.

Discussion Items

Mr. Briggs presented Item 2, a report and recommendation on a Plat of Subdivision for Phase 2 of U Square at the Loop located south of Calhoun Street, east of West Clifton Avenue, and north of McMillan Street in the overlap area between CUF and Heights neighborhoods. Staff recommended that the Commission approve the item. Ms. Sandra Wilson spoke against staff's recommendation, stating that CUF residents had concerns about being included in the development.

The Commission adopted staff's recommendation for Item 2.

Mr. Schneider made the motion, which Ms. Bryant seconded.

Aye: Mr. Schneider, Vice Mayor Qualls, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, and Chairman Faux.

Mr. Lester presented Item 3, an update to the report and recommendation on the granting of easements for electric and telecommunication lines and related facilities to Duke Energy Ohio, Inc. ("Duke") on City of Cincinnati-owned properties as part of the anticipated reconstruction and widening of Colerain Avenue, between Virginia Avenue to Leeper Street, within the Northside neighborhood. Staff recommended that the Commission approve the item. Upon questioning by Mr. Schneider and Chairman Faux, Ms. Morgan Heilman of the Department of Transportation and Engineering stated that utility easements were revocable but that the City would have to pay the cost of relocation and that it was standard procedure as in the present case for the utility to bear the cost of relocating from the right-of-way in a road widening situation. Vice Mayor Qualls asked why the utilities could not be buried without extra cost to the City, to which Ms. Heilman replied that she did not know the reason but that in her experience the City had paid for requests that had been above the minimum cost of relocation. The Commission requested that staff prepare a general report explaining that precedent, including why it seemed not to have been applied to the streetcar project.

The Commission adopted staff's recommendation for Item 3.

Vice Mayor Qualls made the motion, which Ms. Bryant seconded.

Aye: Vice Mayor Qualls, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, and Chairman Faux.

Mr. Schneider did not vote.

Chairman Faux stated that Item 5, concerning the sale and development of Music Hall, had been removed from the agenda.

Mr. Briggs presented Item 6, an update on the conditions for approval of a One-Year extension for Planned Development District #46 (PD-46), located on the south side of Riverside Drive in the East End neighborhood. Staff recommended that the Commission approve the conditions proposed in the report for the one year extension of PD-46.

Mr. C. Francis Barrett, attorney for the property owner, stated that he concurred with staff's recommendation, except for the third condition for which he proposed the fifth condition as a replacement, and distributed a summary of terminal operations and a letter from Ms. Laura Brunner, president and CEO of the Port of Greater Cincinnati Development Authority,

supporting the barge terminal operation. Mr. Jeffrey Stewart, the property owner, stated that it was impossible to comply with the third condition. Mr. Barrett presented historical photographs, which indicated that the site had historically been used as a barge terminal, and stated that records indicated that Mr. Stewart had been clear to the developers of Twain's Point about his intentions for the site. Upon questioning by Vice Mayor Qualls and Chairman Faux, Mr. Briggs stated that if the PD expired, the site would revert to RF-R zoning, and Mr. Barrett stated that it was debatable what zoning would be applied if the PD expired, that it was his client's desire to extend the PD and maintain the terminal as an interim use until the market allowed for the development of the mixed-use concept plan, and that he was uncomfortable with the current designation of the terminal as a nonconforming use. Mr. Barrett further stated that in lieu of the third condition, he would be willing to screen the tracks from the road. Mr. Schneider asked if a siding could be built to house the gondola cars on the eastern portion of the property, to which Mr. Stewart replied that it would be very costly and noisy. Mr. Barrett stated that a one-year extension with unacceptable conditions would be preferable to the expiration of the PD and, upon a concern of Chairman Faux, suggested that Mr. Barrett should work with staff over the next six months to develop a PD that accommodated the existing use. Messrs. James Schwab and Tom Wilson, neighbors, spoke against staff's recommendation, stating that the property owner was already in violation of the conditions, that the permitted hours of operation were too broad, that the use had negatively impacted their residential property values, and that the proposal to average the noise levels was too broad and impossible to calculate. Mr. Schwab further stated that he would favor a barge terminal that was considerate of the surrounding uses. Ms. Gerry Kraus suggested a condition to prohibit the loading or unloading of hazardous materials.

Vice Mayor Qualls stated that it was the City's vision to reclaim the eastern riverfront and that property values had declined by an average of \$100,000 since the PD was created. Mr. Schneider suggested that a condition about hazardous waste be included in the next extension and that Mr. Barrett and staff involve the residents. Mr. Stiles stated that thought should be given to the long-term use of the site during the extension period. Mr. Barrett stated that no hazardous materials had been transported on the site and that there was no intention to do so, but that Mr. Stewart would like to see the exact language of a proposed condition and what materials would be considered hazardous.

The Commission approved an extension of PD-46 through September 30, 2012, with the following conditions:

- 1. Diesel engines shall not operate or be running on the property between the hours of 7:00PM and 7:00AM.**
- 2. Conveyor belts shall only be permitted to operate on the property between the hours of 7:00AM and 7:00PM, Monday through Friday, and between the hours of 9:00AM and 5:00PM on Saturdays, and not at all on Sundays.**
- 3. All rail cars shall be parked on the easternmost portion of the property in a location as far away from the Twain's Point residential development as possible.**
- 4. Sounds emitted from the subject property at the western end of the site opposite Twain's Point should not exceed the following levels during normal atmospheric conditions just beyond the property line**

of the subject property using appropriate instruments for establishing an average reading throughout a 6-minute period.

i. 7:00 a.m. to 7:00 p.m. — 75 decibels

ii. All other times — 70 decibels

- 5. Terminal operator must contact the railroad promptly to pick up and remove the gondola railroad cars from the railroad tracks opposite the residential units at Twain’s Point on the north side of Riverside Drive, recognizing that the terminal operator does not control the railroad which is exempt from zoning as a type of public utility that determines on its own when it will pick up these rail road cars. The terminal operator agrees to make periodic requests to the railroad to avoid the prolonged storage of the gondola railroad cars on the tracks opposite the residential units at Twain’s Point on the north side of Riverside Drive.**

Mr. Schneider moved to extend PD-46 through September 30, 2012 subject to staff’s recommended conditions, which Ms. Bryant seconded. Vice Mayor Qualls moved to amend the motion to amend the conditions of approval, to which there was no objection. Chairman Faux called the question.

Aye: Mr. Schneider, Vice Mayor Qualls, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, and Chairman Faux.

Mr. vom Hofe requested that staff prepare a report to determine if an average of decibels is a possible and effective measurement of noise levels. Chairman Faux suggested that an effective condition might require a maximum noise limit.

Mr. Schneider disclosed that he had ex parte communications with staff about Item 7. Mr. Suder advised that it was not necessary for Mr. Schneider to recuse himself.

Mr. Briggs presented Item 7, an update to the report and recommendation on the sale by auction of surplus city owned real property located at 838, 842, 844, 850, 854, and 856 Lincoln Avenue in the neighborhood of Walnut Hills. Mr. Michael Cervay, Director of Community Development, explained the details of the proposed auction, the background of the Walnut Woods development, and the status of an engineering study that the Commission had requested. Staff recommended that the Commission approve the item. Mr. Schneider stated that he had suggested that the City deposit money in escrow pending court action in order to separate the outstanding legal issues from the issue of the auction before the Commission. Deputy City Solicitor Mr. Aaron Herzig stated that resolutions outside of the courtroom tended to be better for situations such as the one before the Commission. Mr. Russell Hairston of the Department of Community Development (DCD) stated that he agreed with counsel to avoid litigation and supported the auction. Further discussion ensued.

Mr. Sam Malone, a property owner, spoke against staff’s recommendation, stating that there were property boundary and covenant disputes, that residents had been threatened by DCD, that the City had not followed through on its agreement with the homeowners, that the cost of rehabilitation was so steep that an auction would not be effective at solving the outstanding issues, and that residents were not notified of that day’s meeting. Mr. Stiles asked why a

homeowners' association existed when it appeared not to be required. Mr. Schneider asked if Mr. Malone had sued the City as he had threatened to do in 2006, to which Mr. Malone stated that he had not. Mr. Roderick Justice, a property owner, spoke against staff's recommendation, stating that Ms. Gloria Simmons, formerly of the Real Estate Division, had told him that the site would be part of a gated community. Mr. Jim Washington, a property owner, also spoke against staff's recommendation. Mr. Brent Semple, the auctioneer, explained the details of the auction and the assurances that bidders would be qualified to rehabilitate the properties, and stated that he had experience in auctioning properties of similar condition. Upon questioning by Messrs. Stiles and Schneider, Mr. Semple stated that the deed could be restricted so that if the conditions of sale were not met, the property could revert to the City for \$1 and that any information would be disclosed to prospective bidders except for information about third-party disputes. Mr. Clarence Taylor, president of the Walnut Hills Area Council and neighboring resident, spoke in support of staff's recommendation, expressed opposition to gating the community, and suggested that a minimum cash deposit for the auction be \$10,000 instead of \$3,000. Ms. Lillie Taylor, a neighboring resident, also spoke in support of staff's recommendation.

Upon questioning by Vice Mayor Qualls, Mr. Herzig stated that in November 2006, Mr. Cervay sent Mr. Malone a letter offering to complete the homeowners' punchlist items to which a response was never returned, and that if the auction were to proceed, DCD would remain committed to completing those items with sufficient council appropriation as a moral obligation, but that DCD was not legally obligated to complete those items. He further stated that DCD was requesting the establishment of an official homeowners' association for the long-term maintenance of common areas, as legally required. In response to another question from Vice Mayor Qualls, Mr. Hairston stated that the shared lighting, sidewalk, grass, and parking areas would be common elements under the homeowners' association's responsibility, which Vice Mayor Qualls noted did not agree with the draft homeowners' association agreement submitted by Mr. Malone. Vice Mayor Qualls asked if the deposit for the auction could be raised, to which Mr. Semple answered that it could be, at the City's option, but that a higher deposit would shut out some bidders. Vice Mayor Qualls further stated that the required letter of credit should reflect the cost of rehabilitation. Further discussion ensued. Mr. vom Hofe asked if the proceeds from the auction could be used to complete the punchlist items, to which Mr. Malone stated that the City had originally intended on using that financing model but it did not work, and Mr. Hairston stated that all funds generated from the development would be used to enhance Walnut Woods. In response to a request from Mr. Schneider, Mr. Cervay stated that DCD would prepare a disclosure document for prospective bidders, subject to review by the Law Department.

Mr. Stiles moved to adopt staff's recommendation, which Mr. Schneider seconded. Mr. Schneider moved to amend the motion to require a full and complete disclosure of the property, to which there was no objection. After extensive discussion, Ms. Bryant moved to amend the motion further to enumerate the items required to be disclosed, to which there was no objection. After further discussion, Vice Mayor Qualls moved to amend the motion further to require a minimum letter of credit, to which there was no objection. After final discussion, Chairman Faux called the question.

The Commission approved the sale by auction of surplus city owned real property located at 838, 842, 844, 850, 854, and 856 Lincoln Avenue in the neighborhood of Walnut Hills, and further provided that a full and complete disclosure of the items still in dispute, including the status of the homeowners' association, garages, fencing, parking lot, lighting maintenance, and internal pedestrian sidewalks of the Walnut Woods property, shall be made to all prospective purchasers, and that a letter of credit be required that certified buyer financing of \$75,000 for buildings or \$10,000 for vacant lots.

Aye: Mr. Schneider, Vice Mayor Qualls, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, and Chairman Faux.

By Leave

Chairman Faux allowed Mr. Jack Martin to address the Commission. Mr. Jack Martin, with his son Mr. Bryon Martin, stated that he intended to redevelop the Eden Park Pump Station into a brewery by working with Economic Development to lease the property with the support of the Parks Board and the five abutting community councils, and asked the Commission if there was any fundamental objection to a brewery use at that location. Vice Mayor Qualls stated that the questions which the Commission would consider would be what the ancillary services would be that would bring people to the park to drink, what would the parking requirements be, and what would the impact be on the park. Mr. Schneider suggested addressing those issues being addressed by the Moerlein Lager House, which was also near a park. Chairman Faux stated that the Commission had no fundamental objection to the use at that location but would consider the circumstances, especially as outlined by Vice Mayor Qualls.

Director's Report

Mr. Graves thanked the Commissioners who attended the Plan Cincinnati open house and reported that the comprehensive plan would be moving on toward the adoption process.

The meeting adjourned.

Charles C. Graves, III, Director
Department of City Planning and Buildings

Caleb Faux, Chairman
City Planning Commission

Date: _____

Date: _____

PROCEEDINGS OF THE CITY PLANNING COMMISSION

August 17, 2012

Regular Meeting

A regular meeting of the City Planning Commission was held this day at 9 A.M. in the J. Martin Griesel Room of Two Centennial Plaza with the following members present: Chairman Faux, Mr. Schneider, Assistant City Manager Mr. Stiles, Mr. vom Hofe, Ms. Bryant, and Ms. Selvey-Maddox. Absent was Vice Mayor Qualls.

Also in attendance were Mr. Suder, counsel, and City Planning staff: Messrs. Briggs, Bere, and Peppers and Mme. Kellam, Keough-Jurs, and Kumar. Mr. Graves, Director of City Planning and Buildings, was absent.

Minutes

The Commission approved the minutes of the meetings of November 6, 2009, November 4, 2011, February 17, 2012, July 20, 2012, and August 3, 2012 as prepared.

Mr. Schneider made the motion, which Ms. Bryant seconded.

Aye: Mr. Schneider, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, and Chairman Faux.

Ms. Selvey-Maddox did not vote.

Mr. Schneider requested that staff prepare a report on the status of the ventilation grate at 2645 Erie Avenue approved by the Commission on November 4, 2011.

Consent Agenda

Upon the request of Mr. Schneider, all items were removed from the Consent Agenda.

Discussion Items

Mr. Briggs presented Item 1, a report and recommendation on the sale of City owned property at 3114 Price Avenue in the East Price Hill neighborhood for use by a developer as part of a parking lot to serve the East Price Hill Incline Business District. Staff recommended that the Commission approve the item. In response to questions from Mr. Schneider, Mr. Bill Burwinkel stated that parking was needed for the uses at Price and Hawthorne, that the parking lot would be situated on adjacent property along Hawthorne, that the property in question would be used as a swale to capture runoff from the parking lot, and that he was talking with the Metropolitan Sewer District about making the site one of its Early Success Projects.

The Commission adopted staff's recommendation for Item 1.

Mr. Schneider made the motion, which Ms. Bryant seconded.

Aye: Mr. Schneider, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, Ms. Selvey-Maddox, and Chairman Faux.

Mr. Bere presented Item 2, a report and recommendation on a sale of City owned property at 350 Two Mile Road to Harbor View Holdings, LLC in the California neighborhood. Staff recommended that the Commission approve the item. In response to questions from Mr. Schneider, Mr. Jim Kersting, the developer, stated that the property was at the crown of a hill and would be naturally drained, that sanitary service would be brought in through the property allowing a separate stalled development to the north to occur, that the profile of Sutton Road would be raised out of the floodplain allowing separate commercial development to the west to occur, and that the developer was planning approximately thirty 100-foot residential lots on the property in question.

The Commission adopted staff's recommendation for Item 2.

Mr. Schneider made the motion, which Mr. vom Hofe seconded.

Aye: Mr. Schneider, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, Ms. Selvey-Maddox, and Chairman Faux.

Ms. Kumar presented Item 3, a report and recommendation on channel and highway easements over City-owned parcels adjacent to the Kellogg Avenue (U.S. Route 52) right-of-way for the rehabilitation of a stone arch culvert over the Lick Run waterway in the neighborhoods of California and Mt. Washington. Staff recommended that the Commission approve the item. Mr. Schneider asked if the historic stone arch would be rehabilitated, to which Mr. Tom Klumb of Real Estate Services answered that the arch was failing and would be replaced.

The Commission adopted staff's recommendation for Item 3.

Mr. Schneider made the motion, which Ms. Bryant seconded.

Aye: Mr. Schneider, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, Ms. Selvey-Maddox, and Chairman Faux.

Mr. Peppers presented Item 4, a report and recommendation on the extension of Interim Development Control (IDC) Overlay District No. 69, Pleasant Ridge Neighborhood Business District (NBD). Staff recommended that the Commission recommend that City Council extend Interim Development Control District No. 69, Pleasant Ridge Neighborhood Business District, for nine additional months until June 20, 2013. Speaking in support were Mr. Wendell Robinson and Ms. Patricia Boling.

The Commission adopted staff's recommendation for Item 4.

Ms. Bryant made the motion, which Mr. vom Hofe seconded.

Aye: Mr. Schneider, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, Ms. Selvey-Maddox, and Chairman Faux.

Ms. Keough-Jurs presented Item 5, a report and recommendation on the extension of Interim Development Control (IDC) Overlay District No. 67, Wasson Line District. Staff recommended

that the Commission recommend that City Council extend the Interim Development Control District No. 67, Wasson Line District, for nine additional months until June 20, 2013. Speaking in support were Messrs. Carl Uebelacker and Frank Henson. In response to a question from Mr. Schneider, Ms. Keough-Jurs stated that the land use study of the Wasson Line District would be done by staff and had not yet begun.

The Commission adopted staff's recommendation for Item 5.

Mr. vom Hofe made the motion, which Ms. Selvey-Maddox seconded.

Aye: Mr. Schneider, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, Ms. Selvey-Maddox, and Chairman Faux.

Ms. Kellam presented Item 6, a report and recommendation on the extension of Interim Development Control (IDC) Overlay District No. 68, Madisonville Neighborhood Business District (NBD). Staff recommended that the Commission recommend that City Council extend Interim Development Control District No. 68, Madisonville Neighborhood Business District, for nine additional months until June 20, 2013. Speaking in support were Ms. Sara Sheets and Mr. Don Stephan. In response to questions from Ms. Selvey-Maddox and Mr. Schneider, Ms. Keough-Jurs stated that of the four IDCs in place, only two required studies, the other two were in anticipation of form-based codes, and the current schedule would allow staff six months to implement form-based codes in those two neighborhoods.

The Commission adopted staff's recommendation for Item 6.

Ms. Selvey-Maddox made the motion, which Mr. Schneider seconded.

Aye: Mr. Schneider, Mr. Stiles, Mr. vom Hofe, Ms. Bryant, Ms. Selvey-Maddox, and Chairman Faux.

Director's Report

Ms. Keough-Jurs delivered the Director's Report for Mr. Graves, reporting that there would be a special meeting of the Commission on Thursday, August 30 at 6 P.M. for the consideration of the Plan Cincinnati comprehensive plan. She stated that the comprehensive plan was themed around livability, walkability, and improving upon the city's assets, and that it would be the City's first comprehensive plan in thirty years. Mr. Schneider suggested that staff market the plan by how it would impact residents.

The meeting adjourned.

Charles C. Graves, III, Director
Department of City Planning and Buildings

Caleb Faux, Chairman
City Planning Commission

Date: _____

Date: _____

Honorable City Planning Commission
Cincinnati, Ohio

September 7, 2012

SUBJECT:

A report and recommendation on a utility easement over City-owned property located at 1115 Bates Avenue in Camp Washington.

BACKGROUND:

A new City of Cincinnati Public Services building is being constructed and the City has requested electrical services from Duke Energy Ohio, Inc. for the building. Duke Energy has requested a utility easement over a portion of the property to install overhead and underground electrical facilities in order to provide the requested electrical services.

The City Manager has determined that the grant of the easement to Duke Energy Ohio Inc. is not adverse to the City's interest in the property. The City has determined that eliminating competitive bidding is in the best interest of the City because the easement is needed to allow the Duke Energy to provide electrical service necessary for the operation of the building. The city is granting the easement for \$0.00.

RECOMMENDATION:

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

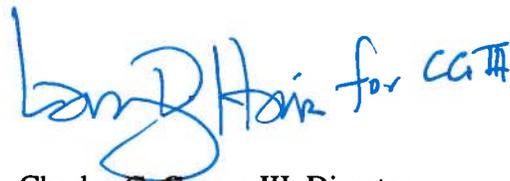
APPROVE a utility easement over City-owned property located at 1115 Bates Avenue in Camp Washington.

Respectfully submitted,

APPROVED:

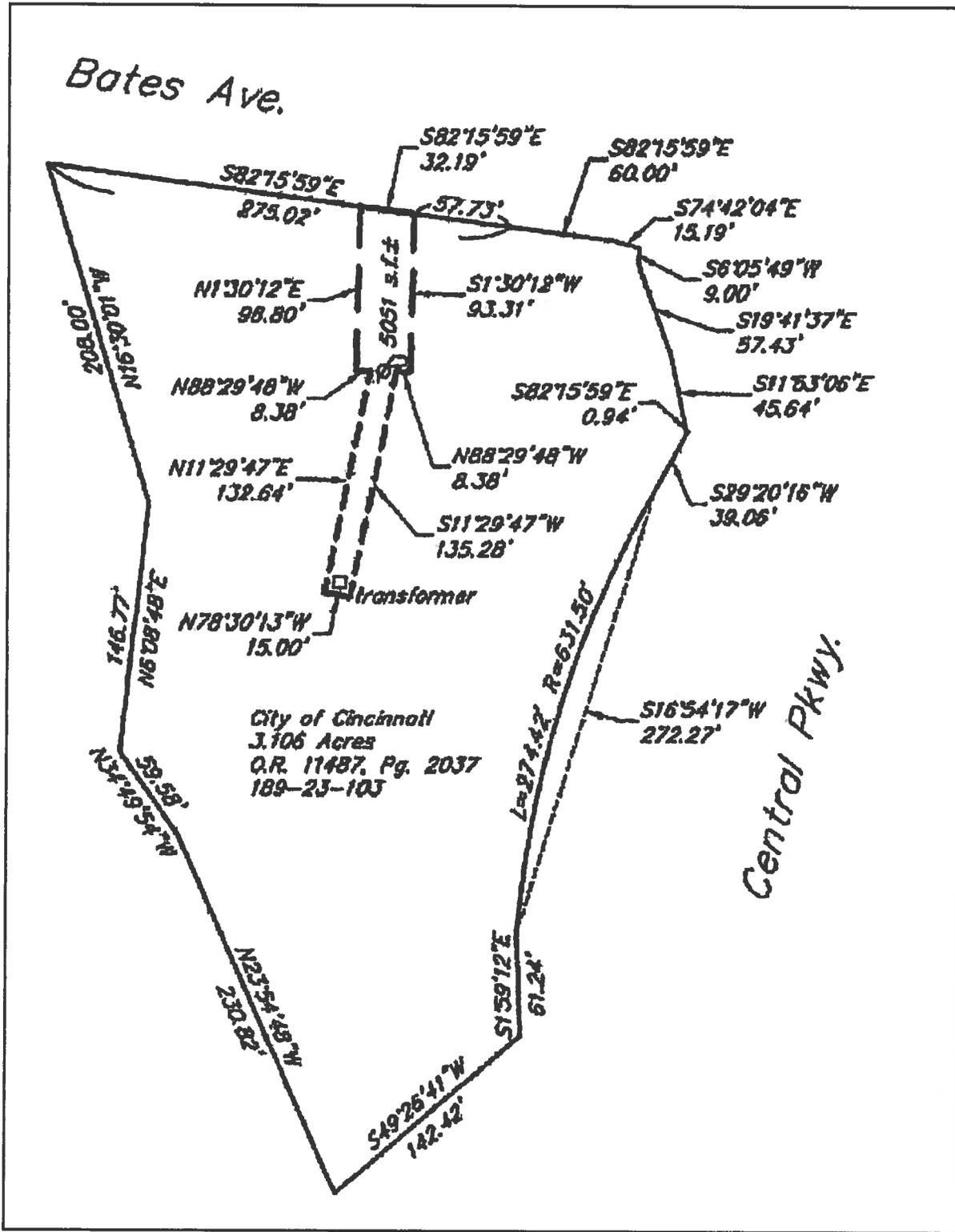


Rekha Kumar
Planning Intern



Charles C. Graves III, Director
Department of City Planning and Buildings

EASEMENT DRAWING



HONORABLE CITY PLANNING COMMISSION
CINCINNATI, OHIO

September 7, 2012

SUBJECT:

A report and recommendation on a Dedication Plat for Regina Graeter Way and additional right-of-way on the western side of Paddock Road in the Bond Hill neighborhood.

BACKGROUND:

The Department of Economic Development has submitted a Dedication Plat for Regina Graeter Way and additional right-of-way on the western side of Paddock Road in the Bond Hill neighborhood. The Dedication Plat was prepared by the Department of Transportation and Engineering. The dedication plat has been reviewed and approved by all reviewing agencies, Metropolitan Sewer District, Greater Cincinnati Water Works and Department of Transportation and Engineering.

Regina Graeter Way was formerly known as E. 66th Street. The street name was changed in the fall of 2010. The street has historically been a City owned undedicated service road providing vehicular access to 20.9 acres of land. The adjacent vacant land is being sold to the Rough Brothers, a green house manufacturing company. The Planning Commission recommended sale of the property on June 1, 2012.

The Graeters Manufacturing Company has their manufacturing facility on the corner of Regina Graeter Way and Paddock Road. The facility has been in operation since 2010. Givaudan Flavours Corporation is located north of Regina Graeter Way. Both companies use the street for access to employee parking and deliveries.

STREET:

The street has been improved. The proposed dedicated public right-of-way contains 1.934 acres. The right-of-way includes a five foot sidewalk and planting strip on the south side of the roadway for street trees. Regina Graeter Way is more than 50 feet in width including vertical curbs from Paddock Road to its western terminus a distance of 1,313.79 feet. There is a turnaround provided. In addition, more than 10 feet of land is proposed to be dedicated along the western side of Paddock Road

RECOMMENDATION:

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

APPROVE a Dedication Plat for Regina Graeter Way and additional right-of-way on the western side of Paddock Road in the Bond Hill neighborhood for the reason that the plat conforms to the subdivision regulations and complies with the requirements of all reviewing agencies.

Respectfully submitted:

Approved:



Stephen C. Briggs
Senior City Planner

Charles C. Graves III
Director, Department City Planning and Buildings

Honorable City Planning Commission
Cincinnati, Ohio

September 7, 2012

SUBJECT: A report and recommendation on balcony and footer encroachment easements in the Vine Street Right-of-Way in favor of Schiel LLC, the owners of property at 2821 Vine Street in the Corryville neighborhood.

BACKGROUND

The City of Cincinnati is the owner of the public right-of-way adjacent to the former Schiel School Site needed by Schiel LLC to facilitate the construction of a five-story mixed-use retail/office/residential building on property including balconies on each of the second through fifth floors, a roof projection at the roofline that will encroach upon Vine Street, and underground spread footers for the front wall of the building that will encroach upon Vine Street below grade. See *Exhibit C: Plat Showing Balcony Easement Area* and *Exhibit E: Plat Showing Footer Easement Area*. The property is located within the CN-P District which generally allows mixed-use development. A change in zoning may be necessary to accommodate the proposed project after a thorough review of the proposal. The easements were offered for a sum of \$3,060.00, the fair market value of the easement as determined by the City's Real Estate Division. The City is disposing of the property without competitive bidding because, as a practical matter, no one other than the grantee would have any use for the easements.

The City Manager, in consultation with DOTE, which controls the Right-of-way property, has determined that granting the easements will not have an adverse effect on the City's retained interest in Vine Street. The disposition of City property is subject to terms and conditions stipulating that the construction, maintenance and repairs of balconies and footers are in accordance with construction drawings approved in advance by DOTE. The grantee shall not interfere with the access of utility companies to maintain and repair third party utilities lines, maintain a policy of commercial general liability insurance, and that covenants shall run with the land.

RECOMMENDATION

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

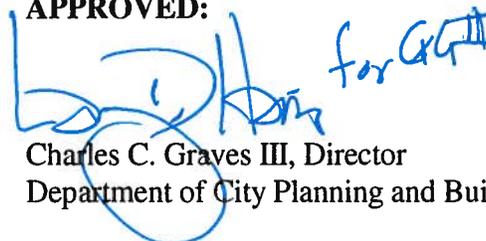
Approve the balcony and footer encroachment easements in the Vine Street Right-of-Way in favor of Schiel LLC, the owners of property at 2821 Vine Street in the Corryville neighborhood.

Respectfully submitted,



Felix F. Bere, AICP
Senior City Planner

APPROVED:



Charles C. Graves III, Director
Department of City Planning and Buildings



Balcony & Footer Encroachment Easements Area
Nhd: Corryville

Former Schlei School Site

RMX

CN-P

RM-0.7

RMX

R

**Honorable City Planning Commission
Cincinnati, Ohio**

September 7, 2012

SUBJECT: A report and recommendation on a lease with Walnut Hills Redevelopment Foundation Inc. for property located along East McMillan Street between Gilbert Avenue and Kemper Lane Walnut Hills, neighborhood.

BACKGROUND

The City acquired 23 properties in the 700 and 900 blocks of McMillan Street in 2010. The six parcels consist of four buildings comprising approximately six commercial units and thirty residential units along with two parking surfaces. All six of these properties are within the Peebles Corner National Register Historic District and are eligible for federal and state historic tax credits. The Walnut Hills Redevelopment Foundation (WHRF) is entering into a lease agreement with the City of Cincinnati in order to redevelop the properties and apply for state and federal Historic Tax Credits. The WHRF is working with a private developer to obtain private construction and build-out financing to complete the restoration of all six properties for market rate units and rentable commercial space. See attached map.

The terms of the 40-year lease include annual rent of one dollar (\$1.00) per year with an option to purchase for \$1.00. The lease and the option to purchase are granted without competitive bidding because the tenant is a local community group committed to completing the redevelopment of the property for the benefit of Walnut Hills. Conditions related to access, constructing, maintaining, repairing, alteration, and operations are stipulated.

RECOMMENDATION

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

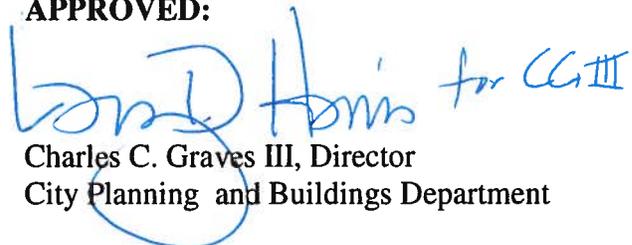
Approve the lease of the property located along East McMillan Street between Gilbert Avenue and Kemper Lane in Walnut Hills, in order to enable the tenant to rehabilitate the property into a mixed use residential/commercial development.

Respectfully submitted,

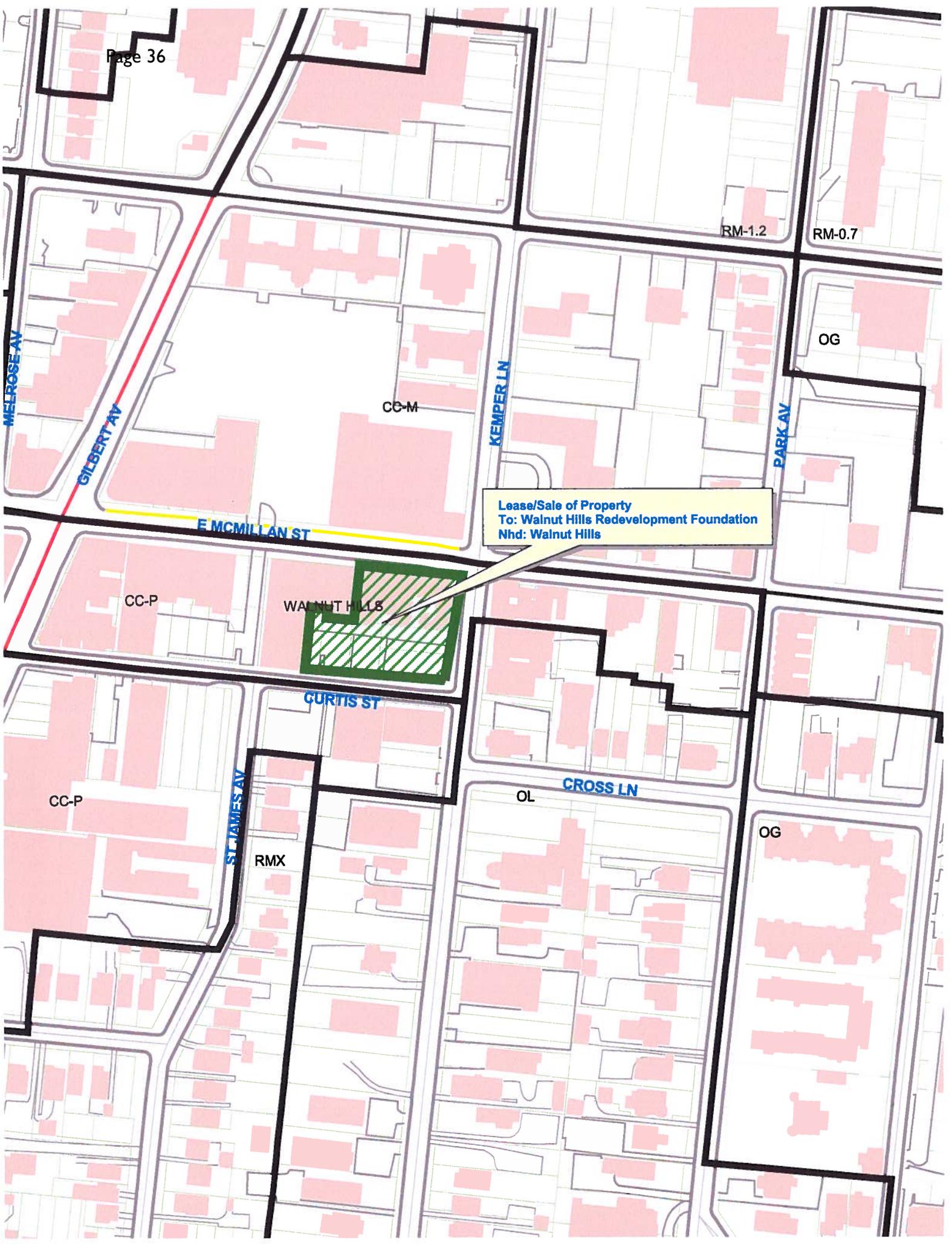


Felix F. Bere, AICP
Senior City Planner

APPROVED:



Charles C. Graves III, Director
City Planning and Buildings Department



RM-1.2

RM-0.7

OG

CC-M

CC-P

WALNUT HILLS

CURTIS ST

CC-P

ST JAMES AV

RMX

OL

CROSS LN

OG

Lease/Sale of Property
To: Walnut Hills Redevelopment Foundation
Nhd: Walnut Hills

Honorable City Planning Commission
Cincinnati, Ohio

September 7, 2012

SUBJECT: A report and recommendation on a lease of a portion of Michael Bany Way in Over-the-Rhine to Hanke Associates LLC and Triage Properties, LLC for use as a private alley in connection with tenant's abutting properties.

BACKGROUND:

Michael Bany Way is a narrow alley between Main and Sycamore Streets, opposite Twelfth Street, in Over-the-Rhine. Triage Properties, LLC, which owns most of the abutting property to the north, and Hanke Associates LLC, which owns all of the abutting property to the south, wish to lease the alley from the City and completely close it off to vehicular traffic, essentially converting it into a private alley. The abutting owners are concerned that a vehicle exiting the alley onto Main Street could strike a pedestrian because there is poor visibility at the intersection of the alley with Main Street. Furthermore, the Department of Transportation and Engineering (DOT) has determined that the alley is not being used to any significant degree by the general public as a vehicular through-street.

The lease agreement would permit the lessee to use the alley only as a private walkway, for private parking, and for other uses that serve the abutting properties, and for no other purpose. No specific use is currently proposed for the property as there is presently no ground-floor tenant at 1128 Main, although the property manager has speculated that a restaurant tenant, for example, could use the alley for outdoor seating. The agreement would prohibit the lessee to make any alteration or improvement to the alley or install any sign visible from outside the alley without written consent from DOT. The agreement also would require the lessee to maintain the alley, which they already do, to grant continuous access to the alley by the City and public utilities, and to construct a vehicular barricade. The lessee proposes to install large planter pots in the alley to prevent vehicular access, but the lease agreement would also permit the lessee to install metal bollards or a security fence for that purpose. The property manager has stated that she does not currently object to maintaining pedestrian access through the alley, but that a future tenant may wish to prevent pedestrian access through the alley in connection with its use.

The initial lease would run for five years and could be revoked at any time by the City for any municipal purpose with thirty days' notice. This lease could be renewed twice for an additional five years each. The annual rent would be equal to the fair market value as determined by the Real Estate Division, which would initially be \$600 per year. River City Alpine Development Group, which also owns property along the alley, has consented to the lease agreement.

RECOMMENDATION:

Staff of the Department of City Planning and Buildings recommends that the City Planning Commission:

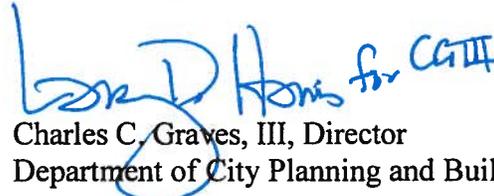
Approve a lease of a portion of Michael Bany Way in Over-the-Rhine to Hanke Associates LLC and Triage Properties, LLC for use as a private alley in connection with tenant's abutting properties.

Respectfully submitted,

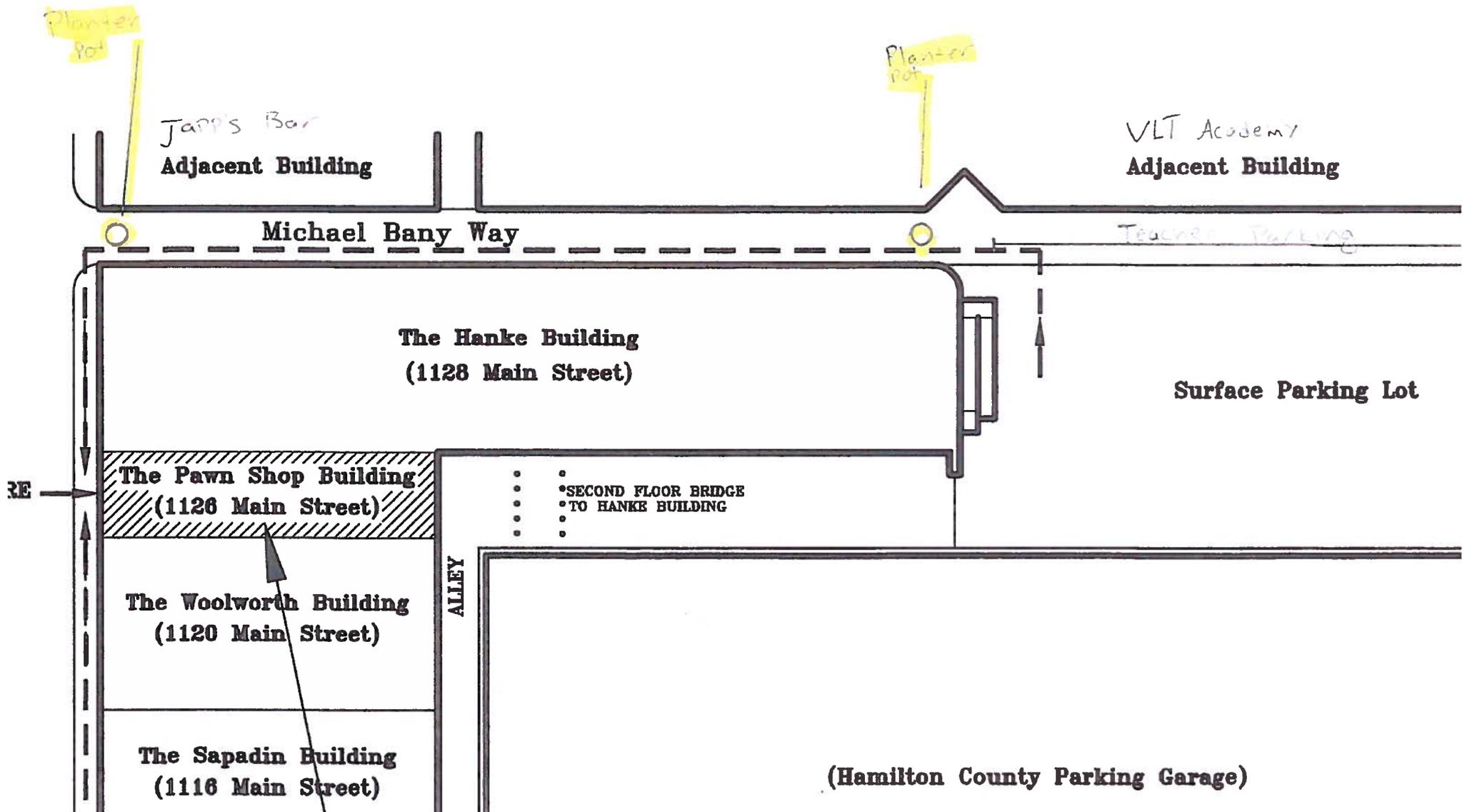


Christopher B. Morbitzer
City Planning Intern

APPROVED:



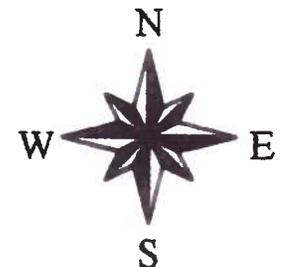
Charles C. Graves, III, Director
Department of City Planning and Buildings



Local View



- Parcel Attributes
- ▭ Parcel Polygons
- R-o-w
- ⊕ CWW Fire Hydrants
- ▭ Buildings
- Cww Water Mains
- STORMWATER SEWERS(CITY)
- Sewers
- Sidewalks
- Pavement



Honorable City Planning Commission
Cincinnati, Ohio

September 7, 2012

SUBJECT: A report and recommendation on the establishment of Interim Development Control (IDC) Overlay District No. 70, Walnut Hills Neighborhood Business District.

BACKGROUND:

On December 17, 2008, City Council directed City Planning staff to develop and implement a Form-Based Zoning Code, which is currently in the process of being developed with adoption of the necessary text amendments in the fall of 2012. Four initial neighborhoods (College Hill, Madisonville, Walnut Hills, and Westwood) are testing and implementing the Form-Based Code this fall in their Compact Walkable Areas as identified by Plan Cincinnati, the City's Comprehensive Plan.

Plan Cincinnati, currently in its final phase of development and adoption, recommends that Form-Based Code be used in Cincinnati's Compact Walkable Areas, which surround the City's 40 recognized NBDs, of which Walnut Hills is one. The Walnut Hills community has expressed an interest in adopting a Form-Based Code in the compact walkable NBD as identified by Plan Cincinnati in order to preserve the character of and improve walkability within the neighborhood.

The Neighborhood Business District (NBD) boundary is defined by the Compact Walkable Area in Plan Cincinnati and does not align 100% with the current City recognized NBD, but is a more updated boundary to reflect what the Walnut Hills NBD truly is. The City's Economic Development Division is currently working on a study to update the NBD boundary to reflect the Compact Walkable Area as defined in Plan Cincinnati. On August 14, 2012, the Walnut Hills Redevelopment Foundation requested that an Interim Development Control (IDC) Overlay District be established in this NBD while the Form-Based Code process is underway. The implementation of a Form-Based Code may substantially change the permitted form and uses within the NBD and will require the study and review by the City Administration, City Planning Commission, and City Council prior to its adoption.

Pursuant to Section 1431-01 of the Cincinnati Zoning Code, the purpose of an IDC is to temporarily regulate the establishment of uses, construction of new buildings and demolition or alteration of existing structures in areas where potential development could be detrimental or have adverse impacts on the implementation of approved amendments to the Cincinnati Zoning Code, approved or adopted plans, or current planning, land use or zoning studies.

CRITERIA FOR AN IDC DISTRICT:

Chapter 1431-05 of the Zoning Code states that City Council may establish an IDC District if the City Planning Commission recommends approval when Council finds the following:

- I. *Proposed Amendments.* Amendments to the Cincinnati Zoning Code have been approved or are under consideration through the following actions:
 - a. The City Planning Commission has approved amendments to the Cincinnati Zoning Code; or
 - b. The City Planning Commission has approved or adopted a comprehensive plan, community plan, urban design, urban renewal plan or other planning document which contains recommendations to amend the Cincinnati Zoning Code; or

- c. The City Planning Commission, City Council or the City Manager has directed city administration to study planning, land use or zoning issues in the proposed IDC Overlay District boundary.
- II. *Study and Review.* The proposed amendments may substantially affect permitted uses in the area of consideration and will require the study and review by the City Planning Commission, city administration and Council prior to adoption; and
 - III. *Public Interest.* The protection of the public interest requires that interim development controls be imposed during the period of study and review by the City Planning Commission.

Section 1431-011 – One-Year IDC Overlay Districts.

Council may establish IDC Overlay Districts to remain in effect for one year, or extend IDC Overlay Districts established pursuant to Section 1431-09 for nine additional months if notice has been given and a public hearing held in accordance with Section 111-1, Hearing on Zoning Amendments, of the Municipal Code and on findings that:

- a) **Ongoing Study.** The City Planning Commission is studying proposed Cincinnati Zoning Code or map amendments that would affect the area within the IDC District;
- b) **Study Completion.** The study is not yet completed, but may reasonably be expected to be completed and Cincinnati Zoning Code amendments enacted within the year; and
- c) **Inconsistent Uses.** There is a prospect of changes in use, construction of new structures or alteration or demolition of existing structures that would be inconsistent with preliminary objectives or findings for the area approved by the City Planning Commission.

REGULATIONS AND GUIDELINES FOR THE IDC:

The area proposed for the boundary of IDC Overlay District No. 70 is the Compact Walkable Area NBD, defined in Plan Cincinnati, as shown in Exhibit A.

According to §1431-15, the City Planning Commission will have the duty to review applications in the proposed IDC Overlay District No. 70. The Department of City Planning and Buildings staff will be the designated administrative reviewer. All permits that will fall within the IDC Overlay District No. 70 boundary for new construction, demolition of existing structures, exterior alterations or additions to existing structures, signs, site improvements and changes in use are made subject to review by the City Planning Commission in accordance with the “Regulations and Application Review Guidelines for Interim Development Control District No. 70, Walnut Hills Neighborhood Business District, and Designation of Administrative Reviewer” (see Exhibit B).

ANALYSIS:

In 2006, the Walnut Hills community drafted their own community visioning plan called *45206: Template for Tomorrow’s plan*. This document outlines a vision for the neighborhood that includes, among other things, a specific strategy for the NBD. This strategy focuses on rehabilitation, walkability, mixed-use structures, and the creation of a safe and secure pedestrian environment. This is part of the vision of the upcoming Form-Based Code. Current and past zoning has allowed auto-oriented development patterns that have compromised the community character and history of Walnut Hills. The option of

implementing a Form-Based Code will focus on the creation, revitalization, and preservation of a vibrant, compact walkable urban place.

While the Form-Based Code development is underway, the proposed IDC Overlay District will ensure the compatibility of development within the NBD. The proposed IDC Overlay District will be established for a one year period. In order to establish the IDC Overlay District, City Council must receive an affirmative recommendation from the City Planning Commission.

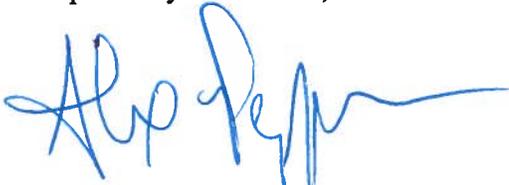
The general public was notified of the public hearing before the City Planning Commission on September 7, 2012 by means of all individual property owners within the boundary of proposed IDC Overlay District No. 70 being notified by a mailed letter, as well as the Walnut Hills Community Council and the Walnut Hills Redevelopment Foundation.

RECOMMENDATION

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

RECOMMEND that City Council establish Interim Development Control District No. 70, Walnut Hills Neighborhood Business District, for a period of one year.

Respectfully Submitted,



Alex Peppers, City Planner
Dept. of City Planning & Buildings

Approved:



Charles C. Graves, III, Director
Dept. of City Planning & Buildings

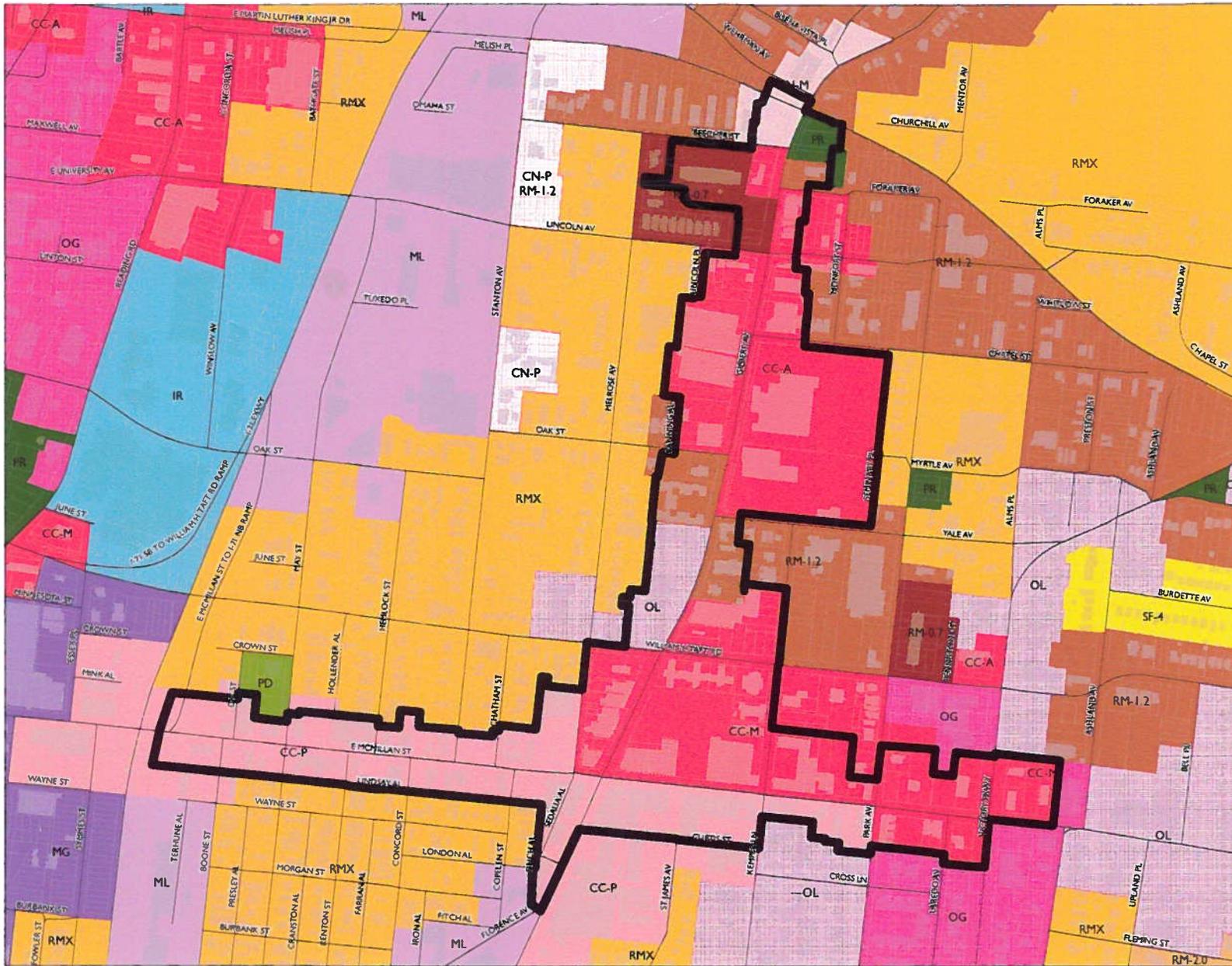
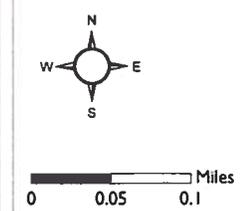


EXHIBIT A

Walnut Hills Interim Development Control District (IDC)

Parcels within Walnut Hills Neighborhood Business District (NBD)

- Legend**
-  Walnut Hills IDC Boundary
 -  Parcels
 -  Streets
 -  Railroads
 -  Buildings



Prepared by: Department of City Planning and Buildings
 Charles C. Graves, III, Director
 September, 2012

EXHIBIT B

**Regulations and Application Review Guidelines for
Interim Development Control (IDC) District No. 70,
Walnut Hills Neighborhood Business District
and
Designation of Administrative Reviewer**

Section I. Applications Subject to Review:

- (1) Building permits for new construction, demolition of existing structures, exterior alterations or additions to existing structures and changes in use.
- (2) Building permits for signs.
- (3) Building permits for site improvements.

Section II. Designated Administrative Reviewer:

Council designates the Department of City Planning and Buildings as the staff reviewing authority for IDC District No. 70, Walnut Hills Neighborhood Business District.

Section III. Application Review Guidelines:

All applications subject to review in Section I above shall be reviewed by the City Planning Commission in accordance with the general standards set forth in Section 1445-13 of the Cincinnati Zoning Code. The City Planning Commission's review of all such applications is separate and apart from all other reviews and approvals required by the Cincinnati Zoning Code and any other applicable laws or regulations, and nothing contained herein shall limit or obviate the jurisdiction or authority of any other tribunal or reviewing authority with respect to an application.

**HONORABLE CITY PLANNING COMMISSION
CINCINNATI, OHIO**

September 7, 2012

SUBJECT:

A report and recommendation on a zone change in the East Price Hill neighborhood along Price Avenue and Mt. Hope Avenue from SF-2 Single-Family and RMX Residential Mixed to CN-P Commercial Neighborhood-Pedestrian as recommended in the Incline Business District Master Plan.

BACKGROUND:

The Incline Business District Master Plan was initially presented to the City Planning Commission on February 4, 2011, and subsequently circulated for comments and revised with a recommended change in zoning along Price Avenue and Mt Hope Avenue from SF-2 Single-Family and RMX Residential Mixed to CN-P Commercial Neighborhood-Pedestrian. On October 21, 2011 the City Planning Commission approved the Plan.

The proposed change in zoning will extend from Purcell Avenue to Mt. Hope Avenue along Price Avenue. The commercial zoning will join with PD 53 Incline Village essentially establishing a commercial district that connects with the existing Warsaw Avenue Business District.

The land uses along Price Avenue and Mt Hope Avenue are primarily residential in character with a few small businesses located at Hawthorne Avenue and Price Avenue intersection and a convenience store at Summit and Price Avenue intersection. The remaining land uses include multi-family, two-family, and single family property.

A staff conference was held on June 18, 2012. There were twelve individuals in attendance. The general opinion was split between those in favor and those not wanting a change because of the potential for increased crime. There was a discussion about how parking requirements for businesses may affect land usage along Price Avenue.

ANALYSIS:

The new zoning will help implement the Plan which proposes to provide a unique pedestrian friendly commercial corridor that complements the Incline Village development. The new zoning will serve as a linkage between Incline Village and the existing Warsaw Avenue Business District. The new zoning will help create a distinctive neighborhood business area enhancing the quality of life, assist economic development, and attract new people to the area.

RECOMMENDATION:

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

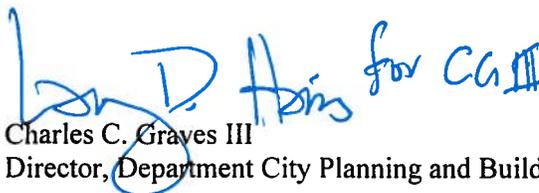
APPROVE a zone change in the East Price Hill neighborhood along Price Avenue and Mt. Hope Avenue from SF-2 Single-Family and RMX Residential Mixed to CN-P Commercial Neighborhood-Pedestrian as recommended in the Incline Business District Master Plan.

Respectfully submitted:

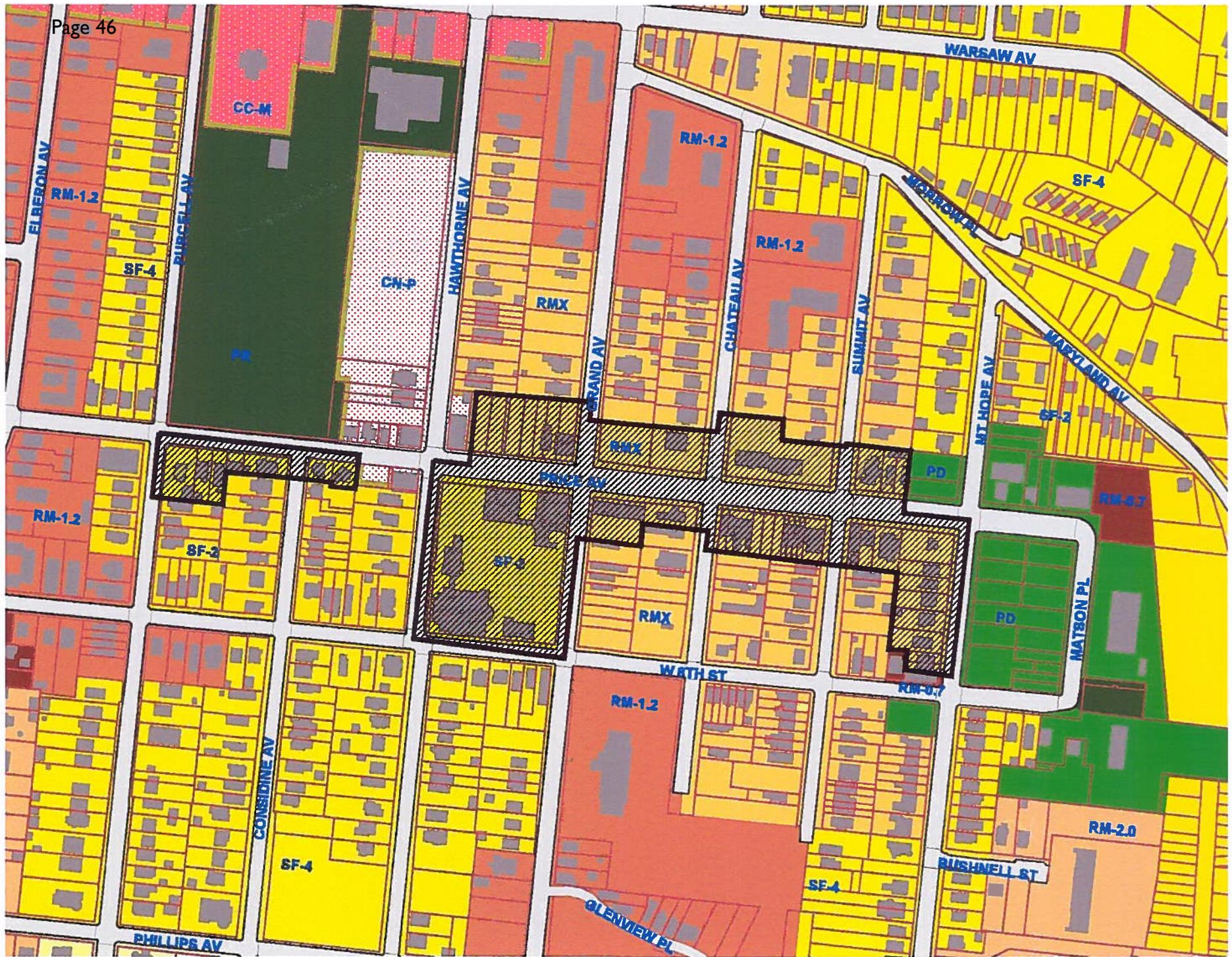
Approved:



Stephen C. Briggs
Senior City Planner



Charles C. Graves III
Director, Department City Planning and Buildings



A PUBLIC STAFF CONFERENCE ON A PROPOSED CHANGE IN ZONING
For
Price Avenue in East Price Hill from Purcell Avenue to Mt. Hope Avenue

East Price Hill

June 18, 2012 at 5:30 PM

CENTENNIAL PLAZA TWO
805 CENTRAL AVENUE, Suite 700
CINCINNATI, OHIO 45202

* = pls
email
plan

Please send Online
Business Plan

SIGN IN
(PLEASE PRINT)

Name	Address	Phone
* Janet Schroeder	821 Summit Ave. + 762 Mt. Hope Ave.	jschroeder821@aol.com 244-5995 *
Made Pruthi	758 MT HOPE AVE CIN OH 45204	853-8108
Roberta Elam	760 Mt Hope Cincinnati	386-7959
Jon + Brenda Underwoods	3302 Price Av Cin. Oh. 45205	720-2202
* John Duns	6027 Avalon Hill Dr P.O. 45233	404-1216
Ken Rothman	444 Grand Ave	471-1912
Diana Vatharia	3724 St Lawrence Ave	251-3800 r 103
* Pat Heider	927 Mt Hope	Patheider@gmail.com 251-6045
Ken Smith	3724 St Lawrence	251 3805
* Sheila Rosenthal	919 Mt Hope Ave	sk.rosenthal@gmail.com 378-4597
Bill Burwinkel	710 Mt Hope	265-6080
Susan Walker	2712 Price Ave.	321-5316

(PLEASE PRINT)

**NOTICE OF A PUBLIC CONFERENCE ON
A PROPOSED CHANGE OF ZONING**

On Monday June 18, 2012 at 5:30 P.M., the staff of the Department of City Planning and Buildings will hold a public conference in the J. Martin Griesel Room, Two Centennial Plaza, Seventh Floor, 805 Central Avenue, on a proposed change of zoning. The purpose of this conference is to gather information on how the proposed change will affect the general welfare of the community.

Location of Proposed Change: Price Avenue Site from Purcell Avenue to Mt Hope Avenue

Proposed Change: From SF-2 Single-Family and RMX Residential Mixed to CN-P Commercial Neighborhood-Pedestrian

Explanation of Zone Districts:

SF-2 Single-Family District

This sub-district district allows high-density, small lot, single-family developments. The minimum lot size is 2,000 square feet.

RMX Residential Mixed District

This sub-district is intended to create, maintain and enhance areas of the city that have a mix of lot sizes and house types at moderate intensities (one to three dwelling units). Existing multi-family buildings of four or more units are acknowledged but new construction is not permitted.

CN-P Commercial Neighborhood-Pedestrian District

The Commercial Neighborhood sub-district is intended to identify, create, maintain and enhance mixed-use neighborhood commercial centers that reflect smaller-scale, pedestrian-oriented development with continuous street frontage and a mix of commercial and residential uses. Typical uses include retail, services, housing, office, open space, eating and drinking establishments and smaller-scale public and recreation and entertainment uses. Future development must be of a pedestrian-oriented commercial or mixed-use nature, serving the immediate neighborhood.

The Pedestrian community character designations is intended for areas with a traditional urban character, where buildings are required to be built to the street or sidewalk line, to provide a close relationship between pedestrians and shops. Design standards will reinforce this character and require treatments that provide an interesting pedestrian environment. This designation may apply to some areas where a few auto-oriented uses exist, but where restoring the pedestrian character is specified in a community plan or other documentation approved by the Planning Commission.

Petitioner: City of Cincinnati
801 Plum Street
Cincinnati, Ohio 45202

Reason for Proposed Change: The approved Incline District Master plan recommends a change in zoning as outlined on the attached map.

Individuals with disabilities requiring special accommodations to participate in or attend this meeting should call Steve Briggs at 352-4840 seven days prior to the meeting. Information, requests, and communications should be directed to the office listed below.

Stephen C. Briggs
Senior City Planner, City Planning and Buildings
Two Centennial Plaza, 805 Central Avenue, Suite 700
Cincinnati, Ohio 45202
513-352-4840 (Phone),
513-352-4853 (FAX)
E-mail: steve.briggs@cincinnati-oh.gov

Rekha Kumar
Planning Intern, City Planning and Buildings
Two Centennial Plaza, 805 Central Avenue, Suite 700
Cincinnati, Ohio 45202
513-352-4841 (Phone),
513-352-4853 (FAX)
rekha.kumar@cincinnati-oh.gov

**HONORABLE CITY PLANNING COMMISSION
CINCINNATI, OHIO**

September 7, 2012

SUBJECT:

A report and recommendation on a zone change in the Carthage neighborhood between 606 and 1076 W Seymour Avenue from MG, Manufacturing General to SF-4, SF-6, and SF-10, Single Family.

MOTION:

On May 8, 2012 City Council passed the following Motion:

We MOVE that the Administration produce a report explaining, with complete history, the Manufacturing Zoning designation of over 50 Single Family homes along W. Seymour Avenue extending from 606 W. Seymour through to 1076 W. Seymour Avenue.

We FURTHER MOVE that this report shall compare this current zoning designation with the Comprehensive Plan and recommend steps to bring appropriate zoning to this portion of Carthage and its residents.

BACKGROUND:

Prior to 1963, the subject property was zoned Residence "B" equivalent to the R-4 Multi-Family Low Density District. From 1963 to 1993 the subject property was zoned R-4 Multi-Family Low Density District. In 1993 the portions of the subject property were rezoned from the R-4 Multi-Family Low Density District to R-2 Single Family Medium Density District in the vicinity of the even numbered addresses of 644-830 W. Seymour Avenue and the odd numbered addresses of 797-1051 W. Seymour Avenue by Ordinance 132-1993. In addition, the remaining subject property were rezoned R-3 Two-Family District in the vicinity of the even-numbered addresses of 832-1078 W. Seymour Avenue by Ordinance 133-1993.

Since before 1963 to 2004 the subject property has been zoned residential either multi-family or single family.

Prior to the enactment of the current zoning code in January 2004 planning staff participated in a City wide remapping exercise replacing the old zoning code map designations with the new zoning code map designations. This activity was largely based on the current land use patterns. There were three remapping teams, east, central, and west. The subject property, clearly residential, was remapped by mistake to MG, Manufacturing General. From 2004 to present the subject property has been part of a larger manufacturing district in Carthage along W. Seymour Avenue.

STAFF CONFERENCE:

A staff conference was held on Tuesday, July 17, 2012. At the staff conference there were seven individuals who attended. There were two individuals who spoke in favor of returning the zoning to residential as it previously had been prior to 2004. The other group represented the Mary Lou Morgan Trust owner of property at 1052 and 1100 W. Seymour Avenue and desires to maintain the current MG Manufacturing General zoning.

Proposed Driveway

The Morgan family owns approximately 14 acres of land that has lot frontage on Seymour Avenue, currently vacant land in the City limits. Most of the acreage is located in Springfield Township that is used by Seymour Clean Fill, LLC. The company accepts clean hard fill material such as concrete, brick, and/or stone. Current access for material delivery is at 1100 Seymour Avenue in Springfield Township over a narrow driveway. Mary Lou Morgan has applied for a Building Permit to install a 30 foot wide driveway located at 1052 W. Seymour Avenue that would provide wider vehicular truck access.

ANALYSIS:

The Planning Staff reviewed all of the parcels within the subject property looking at lot size, lot width, previous zoning and each lot's relationship to current zone district requirements to determine the proper zone district designation for this area (see attached table). Based on this analysis the suggested zoning for the subject property should range from SF-4, SF-6, and SF-10. It must restated that since before 1963 to 2004 the subject property has been zoned residential either multi-family or single family.

RECOMMENDATION:

The staff of the Department of City Planning and Buildings recommends that the City Planning Commission take the following action:

APPROVE a zone change in the Carthage neighborhood between 606 and 1076 W Seymour Avenue from MG (Manufacturing General) to SF-4, SF-6, and SF-10 (Single Family) as follows:

606 – 1008 W. Seymour Avenue from MG Manufacturing General to SF-6 Single Family

1012 – 1032 W. Seymour Avenue from MG Manufacturing General to SF-4 Single Family

1034 – 1076 W. Seymour Avenue from MG Manufacturing General to SF-10 Single Family

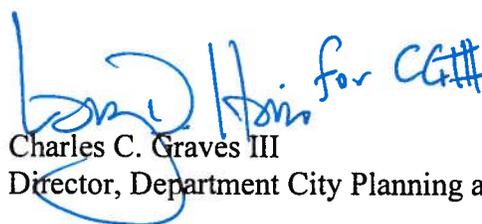
707 – 1051 W. Seymour Avenue from MG Manufacturing General to SF-6 Single Family

Respectfully submitted:



Stephen C. Briggs
Senior City Planner

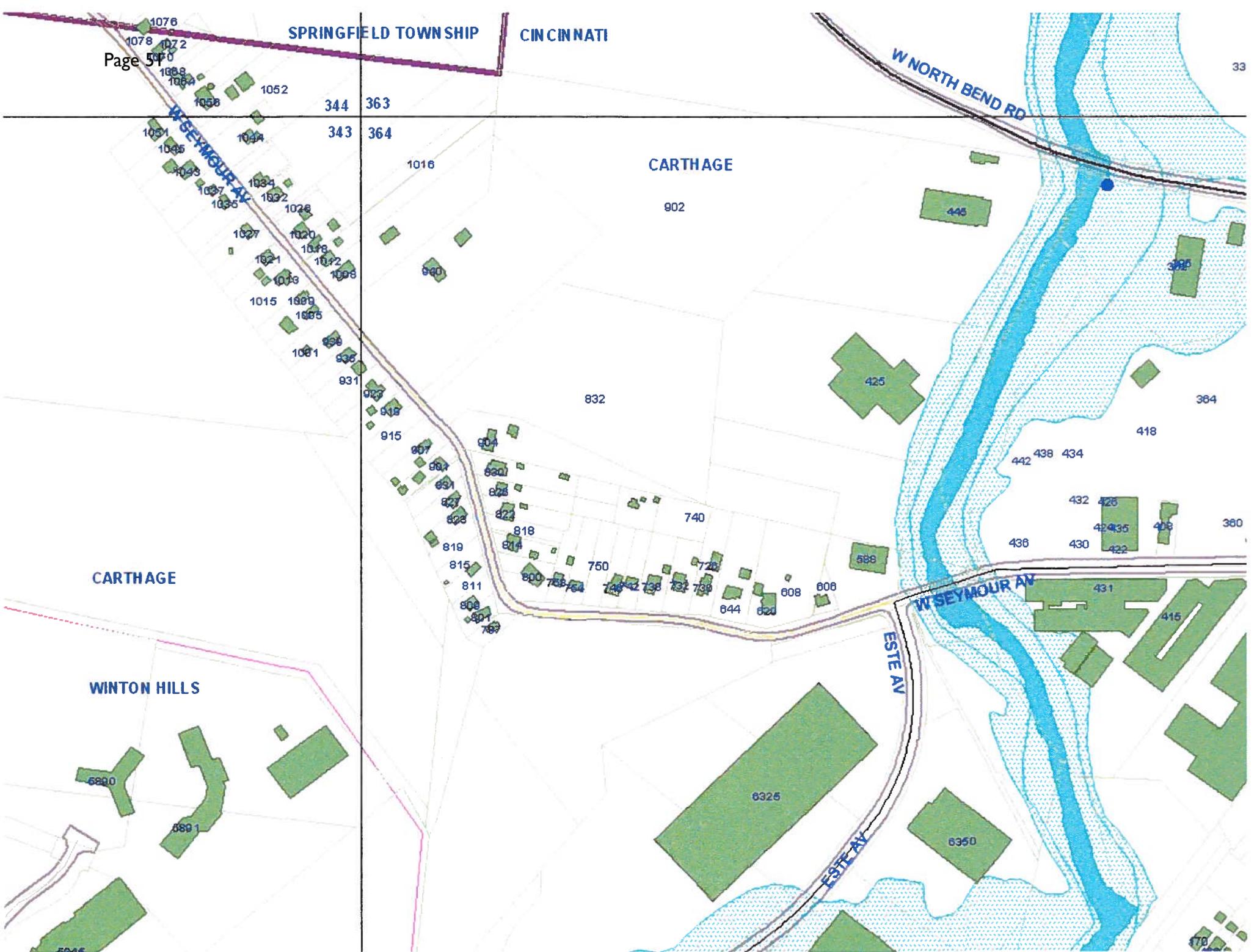
Approved:



Charles C. Graves III
Director, Department City Planning and Buildings

SPRINGFIELD TOWNSHIP

CINCINNATI



CARTHAGE

WINTON HILLS

CARTHAGE

W SEYMOUR AV

ESTE AV

W NORTH BEND RD

1078
1072
1070
1068
1064
1058
1052
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1045
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415

170

SPRINGFIELD TOWNSHIP

CINCINNATI

PK
Caldwell Park

W NORTH BEND RD



Seymour Preserves
PK

PK
Seymour Preserves

CARTHAGE

CARTHAGE

MG

CROSLY FIELD
SPORTS COMPLEX

WINTON HILLS

W SEYMOUR AV

ESTE AV

ESTE AV

NEIGHBORHOOD OF CARTHAGE ZONE CHANGE

<u>ADDRESS</u>	<u>ACRE</u> <u>1</u>	<u>SQ. FT</u> <u>43560</u>	<u>SF-20</u> <u>≥ 20K sq. ft.</u>	<u>SF-10</u> <u>≥ 10K sq. ft.</u>	<u>SF-6</u> <u>≥ 6K sq. ft.</u>	<u>SF-4</u> <u>≥ 4K sq. ft.</u>	<u>2003</u> <u>Zoning</u>	<u>Lot (ft)</u> <u>Width</u>	<u>Suggested</u> <u>Zoning</u>
606 W Seymour Ave	0.11	4,792				X	R-4T	43	SF-6
620 W Seymour Ave	1.2	52,272	X				R-4T	182	SF-6
644 W Seymour Ave	0.701	30,536	X				R-2	95	SF-6
726 W Seymour Ave	0.455	19,820		X			R-2	62	SF-6
732 W Seymour Ave	0.362	15,769		X			R-2	75	SF-6
738 W Seymour Ave	0.377	16,422		X			R-2	73	SF-6
740 W Seymour Ave							R-2		SF-6
742 W Seymour Ave	0.25	10,890		X			R-2	49	SF-6
746 W Seymour Ave	0.274	11,935		X			R-2	101	SF-6
754 W Seymour Ave	0.288	12,545		X			R-2	50	SF-6
758 W Seymour Ave	0.27	11,761		X			R-2	50	SF-6
800 W Seymour Ave	0.369	16,074		X			R-2	125	SF-6
814 W Seymour Ave	0.257	11,195		X			R-2	67	SF-6
822 W Seymour Ave	0.47	20,473	X				R-2	95	SF-6
826 W Seymour Ave	0.316	13,765		X			R-2	54	SF-6
830 W Seymour Ave	0.579	25,221	X				R-2	70	SF-6
904 W Seymour Ave	1.225	53,361	X				R-3	130	SF-6
940 W Seymour Ave	4.892	213,096	X				R-3	310	SF-6
1008 W Seymour Ave	1.581	68,868	X				R-3	121	SF-6
1012 W Seymour Ave	0.786	34,238	X				R-3	50	SF-6
1018 W Seymour Ave	0.178	7,754			X		R-3	57	SF-4
1020 W Seymour Ave	0.29	12,632		X			R-3	82	SF-4
1032 W Seymour Ave	0.109	4,748				X	R-3	51	SF-4
1034 W Seymour Ave	0.207	9,017			X		R-3	76	SF-4
1044 W Seymour Ave	0.574	25,003	X				R-3	121	SF-10
1056 W Seymour Ave	0.749	32,626	X				R-3	112	SF-10
1064 W Seymour Ave	0.287	12,502		X			R-3	82	SF-10
1070 W Seymour Ave	0.295	12,850		X			R-3	74	SF-10
1076 W Seymour Ave	0.122	5,314				X	R-3	88	SF-10
1076 W Seymour Ave								87	SF-10
1100 W Seymour Ave	1.093	47,611	X			X	R-3		SF-10

<u>ADDRESS</u>	<u>ACRE</u> <u>1</u>	<u>SQ. FT</u> <u>43560</u>	<u>SF-20</u> <u>≥ 20K sq. ft.</u>	<u>SF-10</u> <u>≥ 10K sq. ft.</u>	<u>SF-6</u> <u>≥ 6K sq. ft.</u>	<u>SF-4</u> <u>≥ 4K sq. ft.</u>	<u>2003</u> <u>Zoning</u>	<u>Lot (ft)</u> <u>Width</u>	<u>Suggested</u> <u>Zoning</u>
797 W Seymour Ave	0.136	5,924				X	R-2	53	SF-6
801 W Seymour Ave	0.147	6,403			X		R-2	54	SF-6
809 W Seymour Ave	0.147	6,403			X		R-2	50	SF-6
811 W Seymour Ave	0.163	7,100			X		R-2	54	SF-6
815 W Seymour Ave								54	SF-6
819 W Seymour Ave	0.184	8,015			X		R-2	54	SF-6
823W Seymour Ave	0.195	8,494			X		R-2	51	SF-6
827 W Seymour Ave	0.227	9,888			X		R-2	60	SF-6
831 W Seymour Ave	0.203	8,843			X		R-2	48	SF-6
901 W Seymour Ave	0.236	10,280		X			R-2	54	SF-6
907 W Seymour Ave	0.229	9,975			X		R-2	51	SF-6
919 W Seymour Ave	0.229	9,975			X		R-2	52	SF-6
923 W Seymour Ave	0.458	19,950		X			R-2	100	SF-6
931 W Seymour Ave	0.229	9,975			X		R-2	51	SF-6
935 W Seymour Ave	0.23	10,019		X			R-2	50	SF-6
939 W Seymour Ave	0.23	10,019		X			R-2	50	SF-6
1001 W Seymour Ave	0.23	10,019		X			R-2	50	SF-6
1005 W Seymour Ave	0.23	10,019		X			R-2	51	SF-6
1009 W Seymour Ave	0.221	9,627			X		R-2	48	SF-6
1013 W Seymour Ave	0.459	19,994		X			R-2	100	SF-6
1021 W Seymour Ave	0.468	20,386	X				R-2	50	SF-6
1027 W Seymour Ave	0.335	14,593		X			R-2	72	SF-6
1035 W Seymour Ave	0.354	15,420		X			R-2	77	SF-6
1037 W Seymour Ave	0.345	15,028		X			R-2	75	SF-6
1043 W Seymour Ave	0.413	17,990		X			R-2	89	SF-6
1045 W Seymour Ave	0.276	12,023		X			R-2	61	SF-6
1051 W Seymour Ave	0.344	14,985		X			R-2	75	SF-6

2012 00737

MOTION

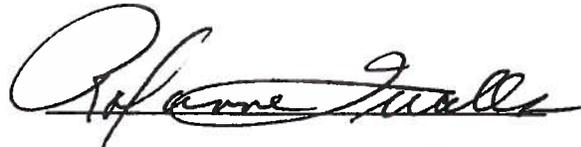
May 8, 2012

We MOVE that the Administration produce a report explaining, with complete history, the Manufacturing Zoning designation of over 50 Single Family homes along W Seymour Ave extending from 606 W Seymour Ave through to 1076 W Seymour Ave.

We FURTHER MOVE that this report shall compare this current zoning designation with the Comprehensive Plan and recommend steps to bring appropriate zoning to this portion of Carthage and its residents.

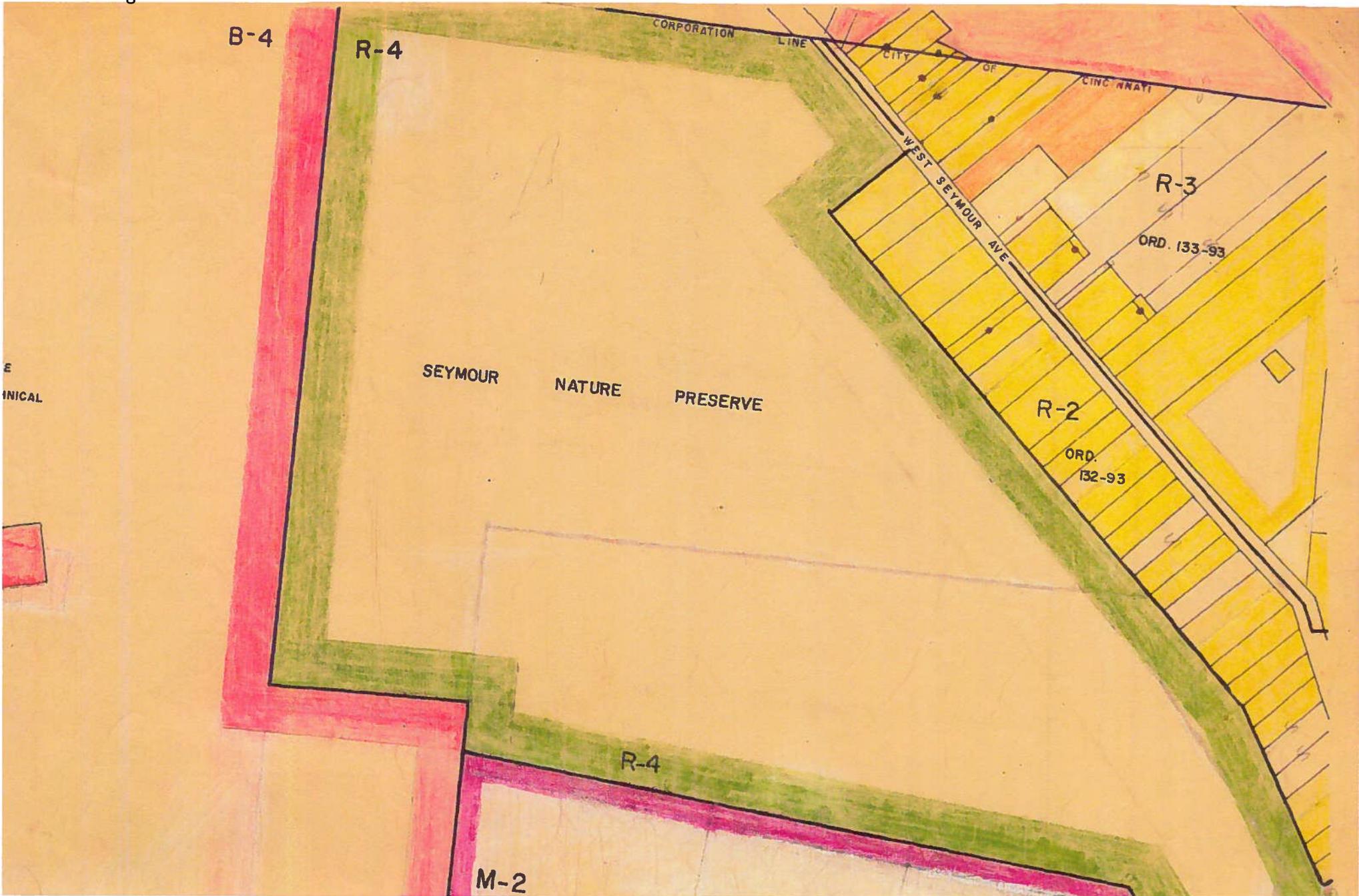


Councilmember Chris Seelbach





2011



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PRE-2004

343-1

IN COUNCIL OF CINCINNATI

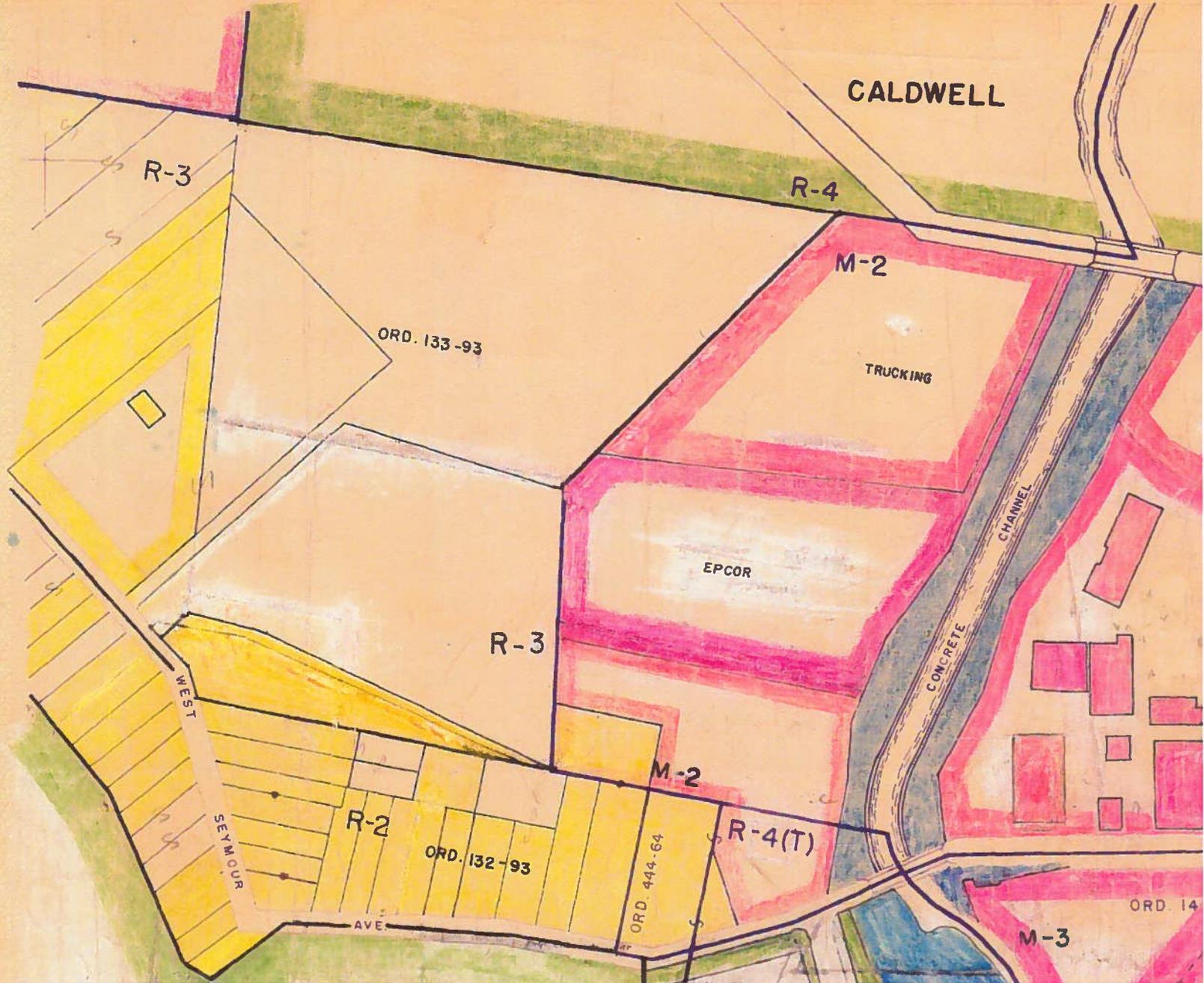
JUNE 26 - 1963
ADOPTED

ATTEST *Dale Schmidt*
CLERK OF COUNCIL

CITY PLANNING COMMISSION

MAY 15 - 1963

APPROVED *W. Stevens*
DIRECTOR OF PLANNING



PRE-2004



**NOTICE OF A PUBLIC CONFERENCE
ON A PROPOSED ZONE CHANGE**

Subject: Zone Change in Carthage between 606 and 1076 W. Seymour Avenue from MG (Manufacturing General) to SF-4, SF-6, and SF-10 (Single-Family).
Meeting Date: Tuesday, July 17, 2012
Time: 5:30 p.m.
Location: 805 Central Avenue, Two Centennial Plaza, 7th Floor, Griesel Room

You received notice of this meeting because you own property within 400 feet of the proposed development.

The purpose of this meeting is to gather public comment to be used in staff's recommendation to the City Planning Commission and City Council.

Location of Proposed Zone Change: The study area is between 606 and 1076 W. Seymour Avenue. (Map on back of notice)

Reason for Zone Change:

On May 8th 2012, Cincinnati City Council made a motion to the City Administration to produce a report explaining the history of the MG – Manufacturing General zoning of the single-family properties between 606 and 1076 W. Seymour Avenue and further moved to request a recommendation on the appropriate rezoning of these properties.

Description of Zones:

MG: Manufacturing General. - To create, preserve and enhance areas that are appropriate for a wide variety of supporting and related commercial and manufacturing establishments that may have the potential to generate off-site impacts. Future development will accommodate heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution and similar and related supporting uses. These uses typically require sites with good transportation access. Uses that may inhibit industrial development are prohibited.

SF: Single-Family. - The specific purposes of the SF single-family districts are to create, maintain and enhance neighborhood residential areas that are characterized by detached, single-unit structures with typical lot sizes ranging from 2,000 square feet to one-half acre or more in size. Future development must remain single-family residential in character, although some public and non-residential uses may be permitted in certain districts. Five subdistricts are established:

- (a) *SF-20 Single-family.* This subdistrict allows large-lot single-family housing at very low densities found in suburban residential districts. The minimum lot size is 20,000 square feet.
- (b) *SF-10 Single-family.* This subdistrict allows single-family housing at low densities. The minimum lot size is 10,000 square feet.
- (c) *SF-6 Single-family.* This subdistrict allows medium-density, single-family housing. The minimum lot size is 6,000 square feet.
- (d) *SF-4 Single-family.* This subdistrict allows moderately high density single-family housing. The minimum lot size is 4,000 square feet.
- (e) *SF-2 Single-family.* This district allows high-density, small lot, single-family developments. The minimum lot size is 2,000 square feet.

You are invited to attend this meeting to learn more about the proposed zone change.

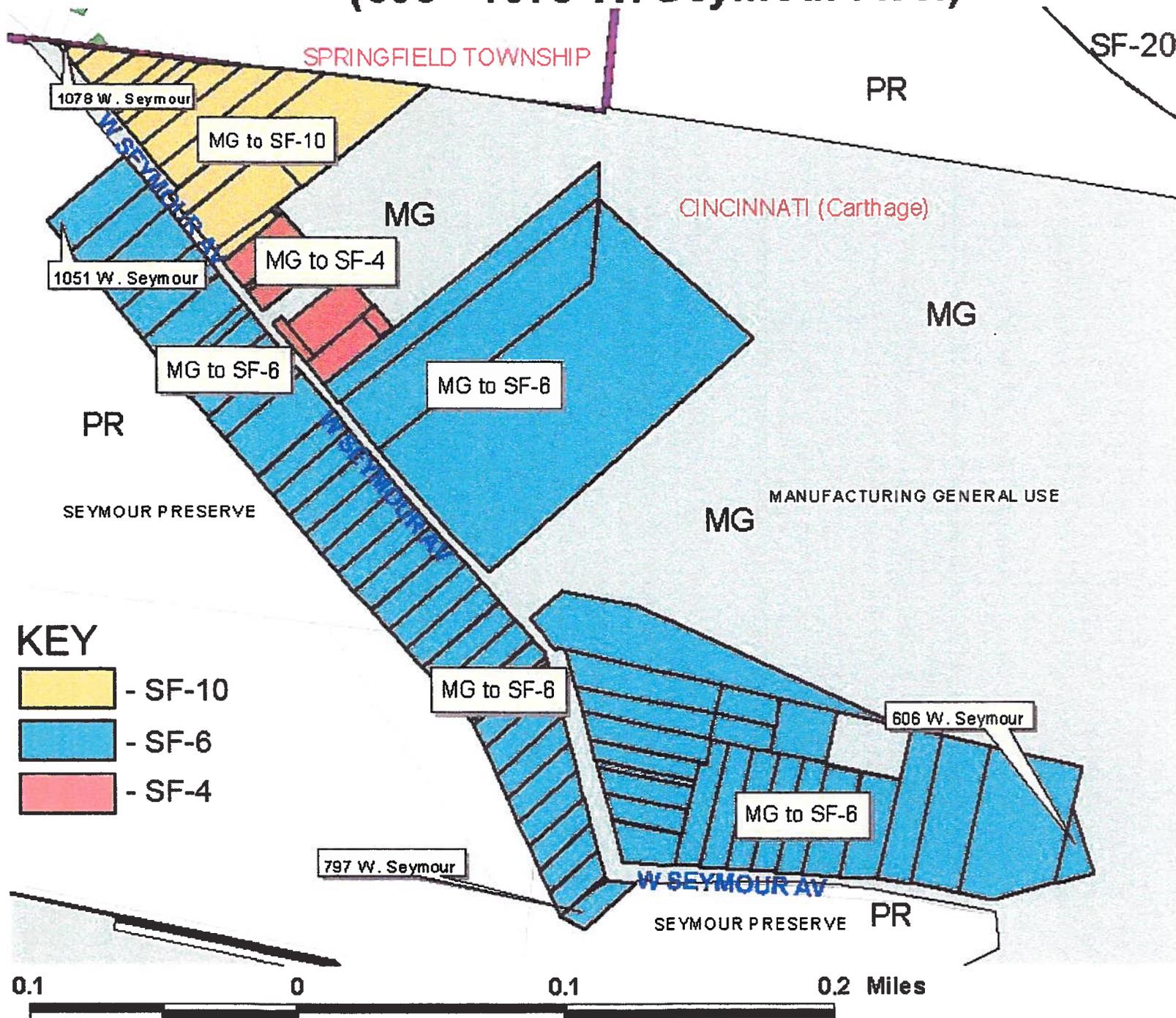
Individuals with disabilities requiring special accommodations to participate in or attend this meeting should call 352-4888 seven days prior to the meeting. Any written statement to the Department of City Planning and Buildings is welcome. Please direct written statements, requests, and other communications to the office listed below:

Dustin Lester, Planner
Department of City Planning and Buildings
805 Central Avenue, Suite 720, Cincinnati, Ohio 45202
513-352-4854 (Phone) 513-352-4853 (Fax)
dustin.lester@cincinnati-oh.gov (Email)

or

Steve Briggs, Senior City Planner
Department of City Planning and Buildings
805 Central Avenue, Suite 720, Cincinnati, Ohio 45202
513-352-4840 (Phone) 513-352-4853 (Fax)
steve.briggs@cincinnati-oh.gov (Email)

Zone Change of Single Family Homes in Carthage (606 - 1078 W. Seymour Ave.)



KEY

-  - SF-10
-  - SF-6
-  - SF-4

Between
606 and 1076 W. Seymour Avenue
From MG Manufacturing General to SF-4, SF-6, and SF-10 Single Family
Carthage

July 17, 2012 at 5:30 PM

CENTENNIAL PLAZA TWO
805 CENTRAL AVENUE, Suite 700
CINCINNATI, OHIO 45202

SIGN IN
(PLEASE PRINT)

Name Address Phone

ROBERT RUDT 1034 W. SEYMOUR 821-9761

Robert Hartlaub 144 W 66 St 45216 604-3958

Sharon Tebbe 3958 Schroeder Drive 942-0874

Alan Woodfall 9248 LINK Rd 792-9004

Roy Morgan 1617 Mandarin Dr. ^{Cinti} 45240 851-6242

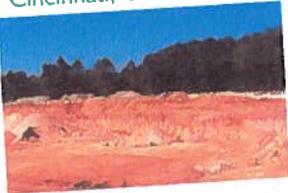
Beverly Morgan " " "

Julia Carney 225 W. Cart St 45202 721-5525

(PLEASE PRINT)

John Woodall **Seymour Clean Fill**
Accepting Concrete, Dirt, Brick And Blacktop

(513) 766-6476
(513) 792-9004
1100 W. Seymour Ave.
Cincinnati, OH 45216



MANLEY BURKE

A LEGAL PROFESSIONAL ASSOCIATION

ROBERT E. MANLEY (1935-2006)

TIMOTHY M. BURKE
ROBERT H. MITCHELL
SEAN P. CALLAN*
JOHN E. CHRISTOPHER*

EMILY T. SUPINGER
DANIEL J. MCCARTHY**
JULIA B. CARNEY
JACKLYN D. OLINGER
JAMES M. COONEY

225 WEST COURT STREET
CINCINNATI 45202-1098
TELEPHONE: (513) 721-5525
TOLL FREE: (800) 708-0798
FACSIMILE: (513) 721-4268

jcarney@manleyburke.com

COUNSEL

WILLIAM A. MCCLAIN, RETIRED
GARY MOORE EBY*
GEORGE F. MOELLER

URBAN PLANNER

KATHY A. FARRO

*Also admitted in Kentucky

**Also admitted in Illinois and Missouri

August 2, 2012

VIA HAND DELIVERY

Mr. Steve Briggs
Senior City Planner
Planning and Buildings Department
805 Central Avenue, Suite 700
Cincinnati, Ohio 45202

Re: Proposed Zone Change along W. Seymour Avenue

Dear Mr. Briggs:

I represent the Mary Lou Morgan Trust, the owner of property at 1052 and 1100 W. Seymour Avenue, Mary Lou Morgan who resides on the property, and Seymour Clean Fill, LLC, which operates a clean fill facility on a portion of the site. First, I would like to thank you for taking the time, on July 17th to explain the proposed zone change to my clients and myself.

The fourteen-acre Morgan property along W. Seymour Avenue has been in the Morgan family since most of it was acquired by Mr. Clovis Morgan in the 1970s from the Rumpke family who had historically operated a landfill on the site. The majority of the fourteen-acres are located in Springfield Township, but the only access to the property is located on W. Seymour Avenue within the City of Cincinnati corporation boundary.

The property has historically and continues to be used for industrial and manufacturing type uses, which is why we are opposed to any zone change that would limit or restrict the manufacturing uses, which have been on this property for decades. In the 1930's the Rumpke Landfill, began operations with the associated garbage trucks entering and exiting the property. The property also supported an industrial scrap hauling company beginning in 1975. The scrap hauling business included the use of trucks and the storage of large numbers of vehicles and trailers on the site.

The current use of the site by Seymour Clean Fill, LLC, involves the acceptance of clean hard fill materials, meaning hard fill materials such as concrete, brick, and/or stone. The clean hard fill operations do not include any construction materials such as lumber, drywall or particleboard. Nor is any solid waste, hazardous waste or radioactive waste accepted at the site.

MANLEY BURKE
A LEGAL PROFESSIONAL ASSOCIATION

Mr. Steve Briggs
August 2, 2012
Page 2

The property abuts W. Seymour Avenue in two separate locations. The property is only accessible through an existing narrow, winding driveway along the northern portion of the property. This driveway is only one lane in width and creates safety issues and operational difficulties, as trucks cannot enter and exit the premises at the same time. The current clean fill operations will be improved and enhanced if a separate double lane access point to the fill acceptance location is established. With the creation of a separate access point for the fill operations, the current single lane driveway will only be used for access to Mrs. Morgan's home. Any change of zoning to a residential district will hamper plans to provide a safer and more efficient access into the property.

The current Manufacturing General (MG) zoning designation provides for the continued use of the property in compliance with the City of Cincinnati's Zoning Code. A change in zoning needlessly jeopardizes the business operations which have long legally occupied the site and were acknowledged as appropriate just a few years ago when zoning reflecting the historic and continuing use of the property was placed on the property. In fact, the current uses serve an important and valuable purpose in supporting redevelopment and construction in Cincinnati. The property also supports the local economy by providing jobs and generating income, which provides tax revenue to the City.

Due to the established industrial uses on the property, my clients are opposed to the proposed W. Seymour Avenue zone change, due to the more restrictive regulations that will be placed on their existing operations and any potential reutilization of the site, once fill activities are completed. The Morgan family has been opposed to any zone changes in this vicinity and has previously testified against a similar zone change request in 1992. At the very least, we request that the property identified as Hamilton County Auditor's Parcel No. 238-5-37 remain in the existing MG zone, as is proposed for many of the other larger parcels on the north side of W. Seymour Avenue.

Sincerely,



Julia B. Carney

cc: Sharon Tebbe



3300 CENTRAL PARKWAY
CINCINNATI OHIO 45225
(513) 352-3271
(513) 352-2579 (FAX)
WWW.CINCINNATI-OH.GOV
CAGIS.HAMILTON-CO.ORG

BUILDING PERMIT APPLICATION NUMBER
2012P05677
HISTORIC - Y / N
DIGITAL - Y / N
CHANGE OF USE - Y / N
INITIALIZED BY

CONTRACT REG # (REQUIRED)

Part A - Identification

Project Address (Please Print in Blue or Black Ink Only)		Floor/Suite/Unit /Bldg/Lot	
10 52 W SEYMOUR Ave. Cincinnati, Ohio 45216			
Owner - Name (Print)	Street Number & Name	City / State / Zip Code	Phone No / FAX No
MARY LOU MORGAN	1100 West Seymour	1052	513-942-0874 513-967-1121
Contractor - Name (Print)	Street Number & Name	City / State / Zip Code	Phone No / FAX No
Property Owner (same) ET			
Contact Person (Print)	Street Number & Name	City / State / Zip Code	Phone No / FAX No
John Woodall (766-6476)	Sharon Tebbe	3958 Schroeder Drive	same
E-mail Address Sharon T @ fusc . net		Fairfield, Ohio 45011	

Part B - Main Use Of Primary Building On Property. (Office, Residential, Mercantile, Restaurant, Etc)

Current Use	Use Group (see back)	Number Of Dwelling Units
Open - SFD		
Proposed Use	Use Group (see back)	Number Of Dwelling Units
Driveway SFD		

Part C - Description Of Work

New Building	<input type="checkbox"/>	SQ FT _____	WORK DESCRIPTION driveway
Addition	<input type="checkbox"/>		
Alteration	<input type="checkbox"/>		
Repair	<input type="checkbox"/>		
Other	<input checked="" type="checkbox"/>		
Sewer Availability	<input type="checkbox"/>	YES / NO (Circle One)	
Sprinkler/Standpipes	<input type="checkbox"/>	New or Modify existing? (Circle One)	Associated Building Permit No? _____
Fire Alarm	<input type="checkbox"/>	New or Modify existing? (Circle One)	Associated Building Permit No? _____
Retaining Wall	<input type="checkbox"/>	Length _____	Average Height _____ Max Height _____
Excavation / Fill	<input checked="" type="checkbox"/>	Quantity of Fill _____	CY / Borrow Site _____
	<input type="checkbox"/>	Quantity of Excavation _____	CY / Disposal Site _____
Sign	<input type="checkbox"/>	Does the copy pertain to the business conducted on the property? Yes / No	
		Type of illumination? _____ Ground Sign? Yes / No	
Wrecking	<input type="checkbox"/>	Dimensions of the Building ? Length X Width _____ X _____	# of Stories _____
			Depth of Basement _____
	<input type="checkbox"/>	Certificate of Use and Occupancy: _____ Square Footage	
	<input type="checkbox"/>	Certificate of Inspection	
	<input type="checkbox"/>	Vacant Building Maintenance License	
	<input type="checkbox"/>	Daycare Center Certificate of Inspection - Type A or Type B (Circle One)	

Part D - Costs and Authorizations

FAIR MARKET VALUE OF LABOR AND MATERIALS FOR THIS APPLICATION. \$ X 4000

Do not include cost of electrical, plumbing, or mechanical.

The owner or agent of this building and undersigned does hereby certify that the information and statements given on the application, drawings, and inspections are to the best of their knowledge, true and correct. The undersigned further certifies their authorization to grant consent to the inspection by employees of the City of Cincinnati of the described premises at any time when work on those premises is ongoing and hereby grants their consent.

Applicant's Signature Sharon Tebbe Date 8-6-12

FOR OFFICE USE ONLY

Permit Processing Fee _____

Approvals:

Zoning	Date	Plans Exam	Date

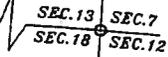
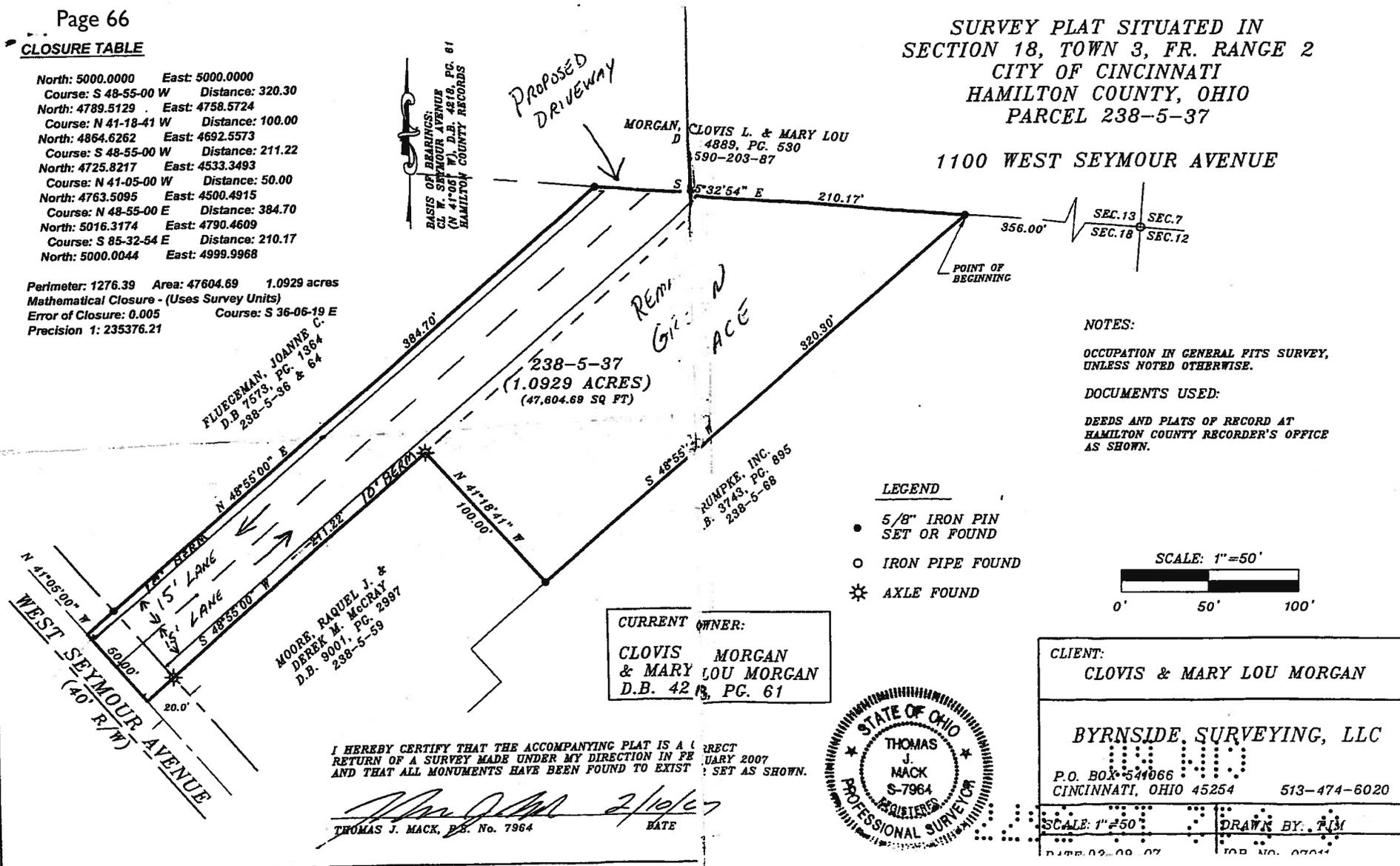
CLOSURE TABLE

North: 5000.0000	East: 5000.0000
Course: S 48-55-00 W	Distance: 320.30
North: 4789.5129	East: 4758.5724
Course: N 41-18-41 W	Distance: 100.00
North: 4864.6262	East: 4692.5573
Course: S 48-55-00 W	Distance: 211.22
North: 4725.8217	East: 4533.3493
Course: N 41-05-00 W	Distance: 50.00
North: 4763.5095	East: 4500.4915
Course: N 48-55-00 E	Distance: 384.70
North: 5016.3174	East: 4790.4609
Course: S 85-32-54 E	Distance: 210.17
North: 5000.0044	East: 4999.9968

Perimeter: 1276.39 Area: 47604.69 1.0929 acres
 Mathematical Closure - (Uses Survey Units)
 Error of Closure: 0.005 Course: S 36-06-19 E
 Precision 1: 235376.21

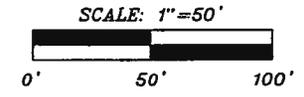
SURVEY PLAT SITUATED IN SECTION 18, TOWN 3, FR. RANGE 2 CITY OF CINCINNATI HAMILTON COUNTY, OHIO PARCEL 238-5-37

1100 WEST SEYMOUR AVENUE



NOTES:
 OCCUPATION IN GENERAL FITS SURVEY, UNLESS NOTED OTHERWISE.
DOCUMENTS USED:
 DEEDS AND PLATS OF RECORD AT HAMILTON COUNTY RECORDER'S OFFICE AS SHOWN.

- LEGEND**
- 5/8" IRON PIN SET OR FOUND
 - IRON PIPE FOUND
 - ⊗ AXLE FOUND



CURRENT OWNER:
 CLOVIS MORGAN & MARY LOU MORGAN
 D.B. 4213, PG. 61

I HEREBY CERTIFY THAT THE ACCOMPANYING PLAT IS A DIRECT RETURN OF A SURVEY MADE UNDER MY DIRECTION IN FEBRUARY 2007 AND THAT ALL MONUMENTS HAVE BEEN FOUND TO EXIST AS SET AS SHOWN.

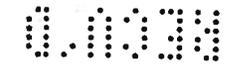
Thomas J. Mack 2/16/07
 THOMAS J. MACK, P.S. No. 7964 DATE



CLIENT:
 CLOVIS & MARY LOU MORGAN

BYRNSIDE SURVEYING, LLC
 P.O. BOX 541066
 CINCINNATI, OHIO 45254 513-474-6020

SCALE: 1"=50' DRAWN BY: TJM



PROCEEDINGS OF THE CITY PLANNING COMMISSION MEETING**FEBRUARY 12, 1993****9:00 A.M.****CITY HALL, ROOM 226**

Present: Chairman Terry Hankner; Ms. Bobbie Sterne, Messrs. Richard Castellini, James Huhn, Donald Mooney, and Leon A. Meyer, Director of City Planning.

Absent: Ms. Daphne Sloan and Mr. Monty Erb.

Since the City Planning Commission (CPC) did not vote on the issue of updating the zoning code at its February 5, 1993, Mr. Donald Mooney made the motion:

The CPC accept the work program outlined in the staff report and recommend its implementation to City Council.

Ms. Sterne seconded the motion and the motion passed. Aye: Mesdames Hanker and Sterne; Messrs. Castellini, Huhn and Mooney.

PROPOSED COMMUNITY-WIDE ZONE CHANGE ALONG WEST SEYMOUR AVENUE IN CARTHAGE

Action requested: The petitioners request rezoning of the properties in the vicinity of 644-1076 W. Seymour Avenue from the R-4 Multi-Family, Low Density District to the R-2 Single-Family, Medium Density district to create compatibility between the zoning and the current land use.

Staff report presented by Cheri Rekow, City Planner, recommending approval.

Issue: The City Planning Department (CPD) received a petition by 70% of the property owners in the zone change area. The reason for the proposed zone change is that the petitioners wish to maintain the single-family character of the area, consistent with the existing uses.

The area was subdivided into two areas Subarea A and Subarea B. The properties in Subarea A are predominantly smaller lots and are single-family uses. CPD staff received no opposition to the proposed zone change from owners of properties on the south and west side of West Seymour (Subarea A), all of which conform to R-2 zone district regulations.

The properties in Subarea B are larger, irregular lots. All but one of the developed properties are single-family uses. The property at 1044 W. Seymour is a two-family and would become nonconforming under the proposed R-2 zoning. Three property owners in Subarea B stated opposition to rezoning. The R-3 zone district permits two-family uses and limited multi-family development under Planned Unit Development guidelines and a public hearing process. Rezoning Subarea B to R-3 will not create nonconforming uses. Those in opposition were not present and have not responded to the staff's recommendation.

Mr. Mooney made the motion that the CPC take the following action:

City Planning Commission

-2-

February 12, 1993

Disapprove a zone change, as requested, in the vicinity of 644-1076 W. Seymour Avenue from R-4 to the R-2 zone district.

Approve a zone change for Subarea A which includes properties at 644-830 W. Seymour Avenue (north side) and 797-1051 West Seymour (west side) from R-4 to the R-2 district.

Approve a zone change for Subarea B, which includes properties 832-1078 W. Seymour (northeast side) from R-4 to the R-3 zone district.

Mr. Castellini seconded the motion and the motion passed. Aye: Mesdames Hankner and Sterne; Messrs. Castellini, Huhn and Mooney.

RESOLUTION TO APPROPRIATE PROPERTY FOR THE IMPROVEMENT OF COLERAIN AVENUE FROM NORTH BEND ROAD TO ROBERS AVENUE IN MT. AIRY

Action requested: To appropriate to public use the property required for the improvement of Colerain Avenue.

Staff report presented by Rodney C. Gray, City Planner, recommending approval.

Issue: The Department of Public Works plans to widen the existing traffic lanes along Colerain Avenue to provide left turn lanes, thereby improving safety at this location. The intent of this resolution is to allow for the timely completion of this project during the 1993 construction season.

Mr. Huhn made the motion that the CPC take the following action:

Approve a resolution declaring the intent of Council to appropriate to public use all right, title and interest in certain parcels of real property required for the improvement of Colerain Avenue from North Bend Road to Robers Avenue in Mt. Airy.

Mr. Mooney seconded the motion and the motion passed. Aye: Mesdames Hankner and Sterne; Messrs. Castellini, Huhn and Mooney.

ORDINANCE TO APPROPRIATE PROPERTY ON COLERAIN AVENUE - NORTH BEND ROAD TO ROBERS AVENUE AND JESSUP ROAD FROM COLERAIN AVENUE IN MT. AIRY

Action requested: To declare the intent to appropriate property on Colerain Avenue - North Bend Road to Robers Avenue and Jessup Road from Colerain Avenue to Vogel Road.

Staff report presented by Rodney C. Gray, City Planner, recommending approval.

Issue: In August, 1993, the CPC and City Council approved a resolution to appropriate properties needed for the improvement of the aforementioned streets. The Real Estate Services has not been able to reach agreement with all of the property owners.

Mr. Huhn made the motion that the CPC take the following action:

AAI NEW 01/10



3300 CENTRAL PARKWAY
CINCINNATI OHIO 45225
(513) 352-3271
(513) 352-2579 (FAX)
WWW.CINCINNATI-OH.GOV
CAGIS.HAMILTON-CO.ORG

BUILDING PERMIT APPLICATION NUMBER	
2012P05677	
HISTORIC - Y / N	DIGITAL - Y / N
CHANGE OF USE - Y / N	
INITIALIZED BY	

CONTRACT REG # (REQUIRED)

Part A - Identification

Project Address (Please Print in Blue or Black Ink Only)		Floor/Suite/Unit /Bldg/Lot	
1052 W SEYMOUR Ave. Cincinnati, Ohio		45216	
Owner - Name (Print)	Street Number & Name	City / State / Zip Code	Phone No / FAX No
MARY LOU MORGAN	1100 West Seymour	1052	513-942-0874 513-967-1121
Contractor - Name (Print)	Street Number & Name	City / State / Zip Code	Phone No / FAX No
Property Owner (same)	ET		
Contact Person (Print)	Street Number & Name	City / State / Zip Code	Phone No / FAX No
John Woodall (766-6476)	Sharon Tebbe	3958 Schroeder Drive	same
E-mail Address Sharon T e fuse . net		Fairfield, Ohio 45011	

Part B - Main Use Of Primary Building On Property. (Office, Residential, Mercantile, Restaurant, Etc)

Current Use	Use Group (see back)	Number Of Dwelling Units
Open - SFD		
Proposed Use	Use Group (see back)	Number Of Dwelling Units
Driveway SFD		

Part C - Description Of Work

New Building	<input type="checkbox"/>	SQ FT _____	WORK DESCRIPTION driveway
Addition	<input type="checkbox"/>		
Alteration	<input type="checkbox"/>		
Repair	<input type="checkbox"/>		
Other	<input checked="" type="checkbox"/>		
Sewer Availability	<input type="checkbox"/>	YES / NO (Circle One)	
Sprinkler/Standpipes	<input type="checkbox"/>	New or Modify existing? (Circle One)	Associated Building Permit No? _____
Fire Alarm	<input type="checkbox"/>	New or Modify existing? (Circle One)	Associated Building Permit No? _____
Retaining Wall	<input type="checkbox"/>	Length _____	Average Height _____ Max Height _____
Excavation / Fill	<input checked="" type="checkbox"/>	Quantity of Fill _____ CY / Borrow Site _____	Quantity of Excavation _____ CY / Disposal Site _____
Sign	<input type="checkbox"/>	Does the copy pertain to the business conducted on the property? Yes / No	
		Type of Illumination? _____ Ground Sign? Yes / No	
Wrecking	<input type="checkbox"/>	Dimensions of the Building ? Length X Width _____ X _____	# of Stories _____
			Depth of Basement _____
<input type="checkbox"/>		Certificate of Use and Occupancy: _____ Square Footage	
<input type="checkbox"/>		Certificate of Inspection	
<input type="checkbox"/>		Vacant Building Maintenance License	
<input type="checkbox"/>		Daycare Center Certificate of Inspection - Type A or Type B (Circle One)	

Part D - Costs and Authorizations

FAIR MARKET VALUE OF LABOR AND MATERIALS FOR THIS APPLICATION. \$ X 4000

Do not include cost of electrical, plumbing, or mechanical.

The owner or agent of this building and undersigned does hereby certify that the information and statements given on the application, drawings, and inspections are to the best of their knowledge, true and correct. The undersigned further certifies their authorization to grant consent to the inspection by employees of the City of Cincinnati of the described premises at any time when work on those premises is ongoing and hereby grants their consent.

Applicant's Signature Sharon Tebbe Date 8-6-12

FOR OFFICE USE ONLY

Approvals: _____ Permit Processing Fee _____

Zoning _____ Date _____ Plans Exam _____ Date _____

\\BUILDIMAGE\CBSRV1\DOCOPEN\PROG\CBS1\DOCSVC\KID2\$011.TIF

CLOSURE TABLE

North: 5000.0000	East: 5000.0000
Course: S 48-55-00 W	Distance: 320.30
North: 4789.5129	East: 4758.5724
Course: N 41-18-41 W	Distance: 100.00
North: 4864.6262	East: 4692.5573
Course: S 48-55-00 W	Distance: 211.22
North: 4725.8217	East: 4533.3493
Course: N 41-05-00 W	Distance: 50.00
North: 4763.5095	East: 4500.4915
Course: N 48-55-00 E	Distance: 384.70
North: 5016.3174	East: 4790.4609
Course: S 85-32-54 E	Distance: 210.17
North: 5000.0044	East: 4999.9968

Perimeter: 1276.39 Area: 47604.69 1.0929 acres
 Mathematical Closure - (Uses Survey Units)
 Error of Closure: 0.005 Course: S 36-06-19 E
 Precision 1: 235376.21

SURVEY PLAT SITUATED IN
 SECTION 18, TOWN 3, FR. RANGE 2
 CITY OF CINCINNATI
 HAMILTON COUNTY, OHIO
 PARCEL 238-5-37

1100 WEST SEYMOUR AVENUE

BASIS OF BEARINGS:
 CL W. SEYMOUR AVENUE
 (N 41°05' W), D.B. 4216, PG. 61
 HAMILTON COUNTY RECORDS

PROPOSED DRIVEWAY

MORGAN, D
 CLOVIS L. & MARY LOU
 4889, PG. 530
 590-203-87

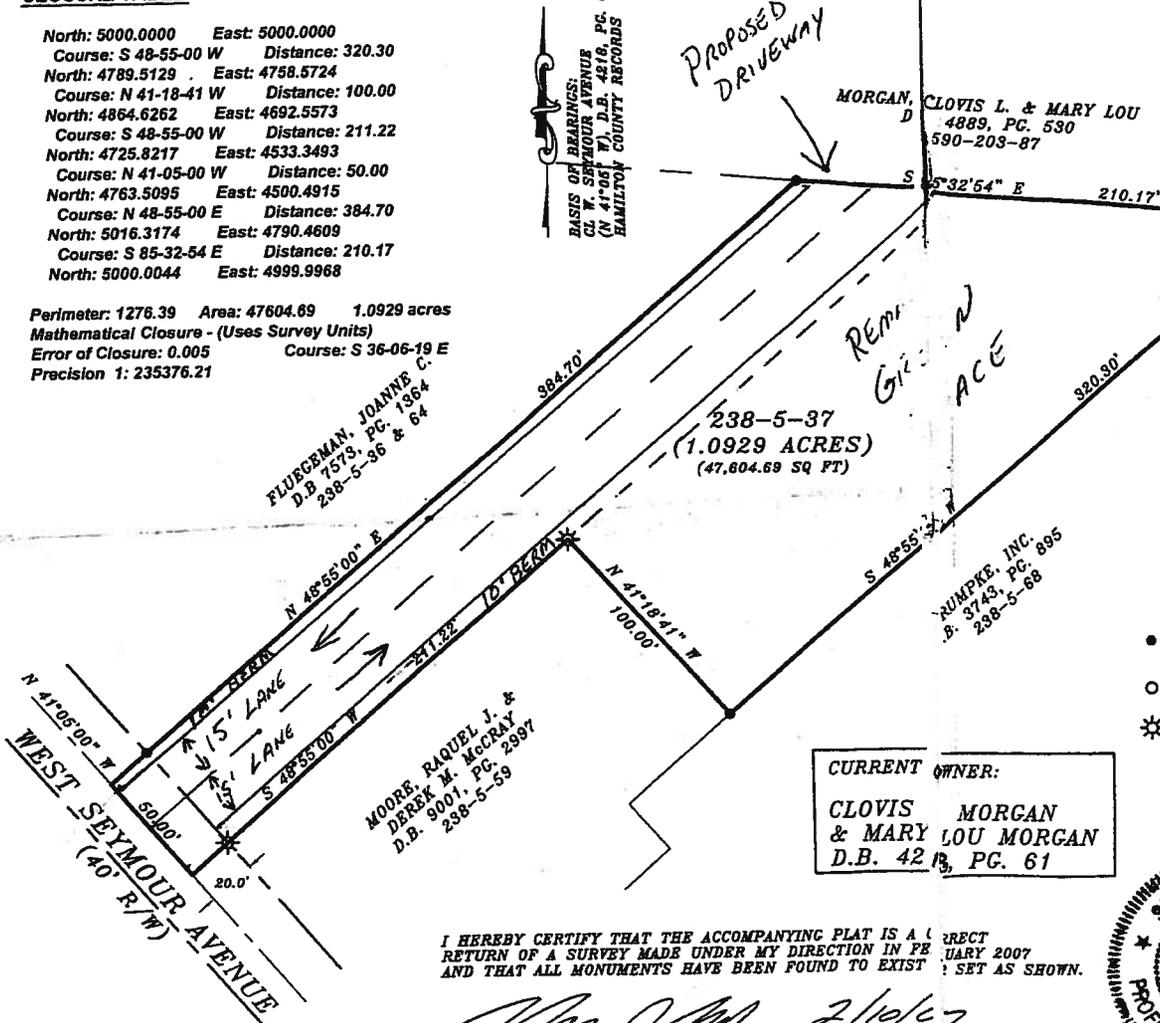
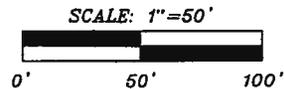
SEC. 13 SEC. 7
 SEC. 18 SEC. 12

POINT OF BEGINNING

NOTES:
 OCCUPATION IN GENERAL FITS SURVEY,
 UNLESS NOTED OTHERWISE.
 DOCUMENTS USED:
 DEEDS AND PLATS OF RECORD AT
 HAMILTON COUNTY RECORDER'S OFFICE
 AS SHOWN.

LEGEND

- 5/8" IRON PIN SET OR FOUND
- IRON PIPE FOUND
- * AXLE FOUND



CURRENT OWNER:
 CLOVIS MORGAN
 & MARY LOU MORGAN
 D.B. 4213, PG. 61

I HEREBY CERTIFY THAT THE ACCOMPANYING PLAT IS A DIRECT
 RETURN OF A SURVEY MADE UNDER MY DIRECTION IN FEBRUARY 2007
 AND THAT ALL MONUMENTS HAVE BEEN FOUND TO EXIST AND SET AS SHOWN.

Thomas J. Mack 2/10/07
 THOMAS J. MACK, D.B. No. 7964 DATE



CLIENT:
 CLOVIS & MARY LOU MORGAN

BYRNSIDE SURVEYING, LLC
 P.O. BOX 541066
 CINCINNATI, OHIO 45254 513-474-6020

SCALE: 1"=50' DRAWN BY: TJM

SEYMOUR CLEAN LAUNDRY LLC

August 10, 2012
August 27, 2012 revised

John Woodall / Sharon Tebbe
3958 Schroeder Drive
Fairfield, Ohio 45011

Subject: **Plan No.** 2012P05677
 Location: 1052 Seymour Avenue
 Request: Driveway
 Zoning: Manufacturing General (MG)

Dear John / Sharon:

I have received and reviewed the above Building Permit for compliance with the Zoning Code of the City of Cincinnati and it is being delayed for the following reason:

- CZC 1413 -05 Use Regulations – Manufacturing Districts : The subject property is currently lacking a permitted principal land use. A driveway would be considered to be accessory and incidental to a permitted use.
- CZC 1425-35 Access Drive and Maneuvering Aisles – (a) Parking Access. An access drive connecting the required parking spaces to a street must be provided either on the same premises as the principal building or in the form of a recorded easement.
- A Zoning Hearing application can be found on our website www.cincinnati-oh.gov/buildings. Click on handouts and forms.
-

All revisions to plans must be made **in person** at the Permit Counter at the Business Development and Permit Center located at 3300 Central Parkway. Please submit as many copies of the revisions as were submitted with the original Building Permit Application.

Please note: This letter does not include comments or requirements of any other reviewing agencies.

I will be happy to assist you with any Zoning questions or concerns you may have. For consultation, please call or to arrange an appointment with me (513) 352-3315.

Sincerely,

Otto Bauer-Nilsen, Jr., R.A.
Zoning Plans Examiner