



Pat Moeller

Mayor

Carla Fiehrer

Vice Mayor

Matthew Von Stein

Council Member

Kathleen Klink

Council Member

Rob Wile

Council Member

Robert Brown

Council Member

Timothy Naab

Council Member

2 Public Hearings

Call to Order

Offering of Prayer – Timothy Naab

Pledge of Allegiance

Special Presentations by City Council or the City Manager/ Proclamations/ Verbal Reports

1. Miami University's Reading with the RedHawks Program
2. Public Utilities Commission Recognition of Ed Loving and David Brownfield
3. 17 Strong Presentation by Boyce Swift

Audience of Citizens

Individuals who wish to make comments regarding items scheduled on the Agenda may speak during this part of the agenda or may reserve the right to speak specifically when that item is up for a vote on Council floor. Individuals who wish to speak regarding items not specifically scheduled may do so at this time. All individuals who intend to address City Council are required to sign in at the table in the back of the room. Each speaker is allowed 5 minutes.

Consent Agenda

The Consent Agenda is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Agenda. Anyone may request an item on this calendar to be "pulled" off the Consent Agenda and considered separately. Agenda items pulled from the Consent Agenda will be considered separately under Pulled Consent Items.

- Approval of Minutes
- All Staff Reports
- Committee of the Whole Report (Includes all Caucus Reports)

Caucus Agenda April 13, 2016

1. [Recommendation Relative to **Change Order #3 – Contract 10-33 Utility Cut, Street, Curb and Gutter Repair and Resurfacing Services.**](#)
2. [Recommendation Relative to **Change Order #1 – Contract 15-24 – LED Street Light Conversion.**](#)
3. [Recommendation Relative to the **Inter-Governmental Agreement \(IGA\) between City and Butler County Transportation Improvement District \(BCTID\) for South Hamilton Crossing Project – Amendment No. 3.**](#)
4. [Recommendation Relative to the **Amending, Transferring, and Budgeting up to \\$ 50,802 of FY 2015 through 2016 CDBG Funds.**](#)
5. [Recommendation Relative to the **Request to Rezone 115 Dayton \(City Lot No. 31128\), located in the City of Hamilton, Second Ward, from B-3 Central Business District to DT-2 Downtown Support District. \(City of Hamilton, Applicant\).**](#)
6. [Recommendation Relative to the **Request to approve Replat & Right-of-Way Dedication for Part of Lots 24202-24203, and 25238, located in the First Ward, South Side, 1425 Millville Avenue, General Scott Subdivision. \(General Scott LLC, Applicant\).**](#)
7. [Recommendation Relative to the **Request to Amend the Zoning Ordinance of the City of Hamilton, Ohio regarding the Industrial Planned Development \(IPD\) Zoning District \(City of Hamilton, Applicant\).**](#)





8. [Recommendation Relative to the Request to Amend the Zoning Ordinance of the City of Hamilton, Ohio regarding Adult Businesses i.e. Sexual Encounter Establishments \(City of Hamilton, Applicant\).](#)

Public Hearings

4. [A public hearing regarding a request to Rezone 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue \(City Lot Nos. 6546, 6545, 6544, 16545, 27530 and 27531\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two Family Residence District.](#)
5. [A public hearing regarding a request to Rezone 816 Park Avenue \(City Lot No. 6551\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two Family Residence District.](#)

These icons illustrate which strategic goals Council Actions align to

<p>Live</p> <p>I Increase residential property values by CPI + 5%</p> <p>D Decrease vacant residential structures by 30% (1000 total)</p>	<p>Work</p> <p>R Realize \$150 million of new private industrial/commercial investment</p> <p>A Add 2,000 net new jobs</p>	<p>Play</p> <p>G Generate \$20 M in investment for recreational amenities with \$10 M around the Great Miami River</p> <p>E Engage 50,000 participants annually in special events, arts, and recreation activities</p>
<p>O General Operations and Government Business</p>		

Council Actions Pertaining to Legislative Items:

Pending Legislation:

6. [An ordinance amending Zoning Ordinance No. 7503 by changing the zoning of vacant property located at the Eastern terminus of Lincoln Avenue \(City Lot No. 23680\), located in the City of Hamilton, Fifth Ward, from R-2 Single-Family Residence District to R-4 Multi-Family Residence District \(AHEPA Senior Living, Applicant\). \(Second Reading\).](#) **I A R O**
7. [An ordinance renaming Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio, and supplementing and amending certain sections of Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio, relative to peddlers, solicitors, itinerant vendors, and canvassers. \(Second Reading\).](#) **R**
8. [An ordinance renaming Chapter 754 and amending various sections of Chapter 754 and 901 of the Codified Ordinances of the City of Hamilton, Ohio relative to Street Vending. \(Second Reading\).](#) **R**





New Legislation:

9. [An ordinance amending zoning ordinance No. 7503 by changing the zoning of the properties located at 200 N. Dick Avenue and 770 Park Avenue \(City Lot Nos. 6546, 27530, and 27531\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two-Family Residence District \(Penny N. Jackson, Applicants\). \(First Reading\).](#) ①
10. [An ordinance amending zoning ordinance No. 7503 by changing the zoning of the property located at 202 N. Dick Avenue \(City Lot No. 6545\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two-Family Residence District \(Brenda S. Oliver, Applicant\). \(First Reading\).](#) ①
11. [An ordinance amending zoning ordinance No. 7503 by changing the zoning of the property located at 204 N. Dick Avenue \(City Lot No. 6544\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two-Family Residence District \(Donna M. Baden, Applicant\). \(First Reading\).](#) ①
12. [An ordinance amending zoning ordinance No. 7503 by changing the zoning of the property located at 206 N. Dick Avenue \(City Lot No. 16545\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two-Family Residence District \(Pamela C. Lunsford., Applicant\). \(First Reading\).](#) ①
13. [An ordinance amending zoning ordinance No. 7503 by changing the zoning of the property located at 814 – 816 Park Avenue \(City Lot No. 6551\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two-Family Residence District \(Robert and Janet Hoffman, Applicants\). \(First Reading\).](#) ①
14. [An ordinance amending Schedule “A” of the City’s Classification and Compensation Plan, as set forth in ordinance No. OR2016-1-4, adopted January 13, 2016 and as amended from time to time, relative to the classification of Electric Distribution Supervisor, and repealing relevant portion of existing Schedule “A”. \(Two Readings\).](#) ①
15. [An ordinance making supplemental appropriations for current expenses and other expenditures of the City of Hamilton, during the fiscal year ending December 31, 2016. \(Two Readings\).](#) ①
16. [An ordinance waiving requirements of Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio, ratifying bid process and approving award of 2016 Miscellaneous Water Main Replacements Contract to Adleta Construction. \(Two Readings\).](#) ①
17. [An ordinance waiving requirements of Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio, ratifying bid process and approving award of 2016 Miscellaneous Natural Gas Main Replacements Contract to Premier Energy Services, LLC. \(Two Readings\).](#) ①
18. [An Emergency Ordinance adding Subparagraph 943.19 to Chapter 943 – Electricity, of the Codified Ordinances of the City of Hamilton, Ohio, relative to Fiber Optic Lease Rates. \(Two Readings\).](#) A R ①
19. [An ordinance authorizing and directing the City Manager to execute an agreement for the lease of fiber optic facilities between the City of Hamilton, Ohio, Department of Utilities and Level 3 Communications, LLC. \(Two Readings\).](#) ①





20. [A resolution approving the terms and conditions of a successor Collective Bargaining Agreement negotiated between the City of Hamilton, Ohio, and the Fraternal Order of Police / Ohio Labor Council, Inc. \(FOP/OLC\), authorizing and directing the execution of said Collective Bargaining Agreement.](#) ①
21. [A resolution authorizing and directing the City Manager to execute an agreement consenting to the assignment and transfer of an Economic Development Agreement from Jackson's Market & Deli to KJ Rooney Enterprises, LLC.](#) ①

Audience of the City Manager

Audience of City Council

Executive Session

Adjournment



City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council

RE: Change Order #3 – Contract 10-33 Utility Cut, Street, Curb and Gutter Repair and Resurfacing Services

<input checked="" type="checkbox"/> 1 st Reading Date: 4-13-16
<input type="checkbox"/> 2 nd Reading Date:
<input type="checkbox"/> Public Hearing Date:

Dear Mayor and Members of Council:

As the result of the competitive bidding process, Contract #10-33 Utility Cut, Street, Curb and Gutter Repair and Resurfacing was awarded to Boykin Construction, a local Hamilton minority owned business, in July, 2010 in the amount of \$249,312.50. The second low bidder was Barry Brown Paving at \$251,585.

Boykin Construction, under this contract, is required to repair City roadways and right of ways, resulting from damage created by the City's utility crews while making repairs to underground utilities. Original contract provisions allowed the contract to be renewed for two additional one year terms for a total of three years. In May of 2013 Change Order #1 was issued to Boykin renewing the Contract under the original contract terms in exchange for a 5% reduction in contract price. In October, 2015, Change Order #2 was issued to Boykin renewing the Contract under the original contract terms in exchange for a 5% reduction in contract price.

Therefore, the Department of Underground Utilities is requesting that a change order be issued decreasing the current contract term amount of \$258,114.36 by \$11,655.72 to a total of \$246,458.64. Funds are available in accounts 501.540.887.640.700 and 503.540.620.640.700.

This is being reported to City Council in accordance with Section 9.02 of the City of Hamilton Charter, which permits the alteration of contracts with the approval of City Council.

It is the recommendation of this office that Council receives this report and concurs in the recommendation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
City Manager

Daniel Flum
Associate Civil Engineer



Choose Strategic Goal(s)

- R** Realize \$150 million of new private industrial/commercial investment
- A** Add 2,000 new jobs
- I** Increase residential property values by CPI + 5%
- D** Decrease vacant residential structures by 30% (1,000 total)
- G** Generate \$20 M in investment for recreational amenities with \$10 M around the Great Miami River
- E** Engage 50,000 participants annually in special events, arts and recreation activities
- O** General Operations/ Government Business



City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council
RE: Change Order #1 – Contract 15-24 – LED Street Light Conversion

<input type="checkbox"/>	1 st Reading Date:
<input type="checkbox"/>	2 nd Reading Date:
<input type="checkbox"/>	Public Hearing Date:

Dear Mayor and Members of Council:

As the result of the competitive bidding process, Contract #15-24, 2015 LED Street Light Conversion, was awarded to Xtreme Powerline Construction, in October, 2015, in the amount of \$35,000.00. The second lowest bidder was Amerilect, Inc., at \$49,975.00.

Xtreme Powerline Construction, under this contract, is required to remove high pressure sodium and metal halide roadway fixtures and replace with LED roadway lighting fixtures. Contract provisions allow the contract to be renewed for three additional one year terms for a total of four years. Contract provisions do not allow for price adjustments, based on the Cincinnati region's Consumer Price Index (CPI), until contract years three and four.

The Department of Electric has identified an estimated 732 fixtures to be replaced, in 18 locations, during 2016. The targeted replacement areas include New London Road, Columbia Road, Main Street, Knightsbridge Drive, Symmes Road, and Eaton Avenue. The 2016 target of 732 fixtures represents a 46% increase over the 500 fixtures replaced in 2015. This higher volume of replacements will increase the 2016 portion of the contract by an estimated \$11,600.00, to a total estimated amount of (Estimated 732 units multiplied by \$50.00 per unit plus \$10,000.00 contingency) \$46,600.

Therefore, the Department of Electric is requesting that a change order be issued renewing the contract for the initial term in the amount \$46,600.00. Funds are available in account 525.540.107.002

It is the recommendation of this office that Council receives this report and concurs in the recommendation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
City Manager

Jim Marshall
Utilities Engineering



Choose Strategic Goal(s)

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City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council

RE: **Inter-Governmental Agreement (IGA) between City and Butler County Transportation Improvement District (BCTID) for South Hamilton Crossing Project – Amendment No. 3**

<input type="checkbox"/>	1 st Reading Date: 4/27/16
<input type="checkbox"/>	2 nd Reading Date:
<input type="checkbox"/>	Public Hearing Date:

Dear Mayor and Members of Council:

The South Hamilton Crossing Project will replace an existing at-grade railroad crossing on Central Avenue in the City of Hamilton, Ohio, with a railroad overpass.

In an effort to obtain regional support and to leverage federal and state funding, the City and the BCTID agreed to cooperate in the funding, development, coordination, management and construction of the South Hamilton Crossing Project as set forth in the Intergovernmental Agreement executed on November 29, 2010.

Within the next 30 to 60 days, BCTID will be entering into a construction contract and technical services agreements to complete construction of the South Hamilton Railroad Grade Separation Project. Exclusive of the grant funding contributions designated for the South Hamilton Project, the City will be responsible for all remaining costs. It is recommended the City enter into the IGA – Amendment No. 3 and agree to reimburse BCTID for payment of actual costs associated with the necessary construction and technical services for the project.

It is the recommendation of this office that Council receives this report, concurs in the recommendation, and directs the preparation of the necessary legislation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
City Manager

Richard A. Engle, P.E.
Director of Public Works/City Engineer

Choose Strategic Goal(s)

- R** Realize \$150 million of new private industrial/commercial investment
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City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council

RE: Amend, Transfer, and Budget up to \$ 50,802 of FY 2015 through 2016 CDBG Funds

- 1st Reading Date: 4/27/16
- 2nd Reading Date: 5/11/16
- Public Hearing Date: 5/11/16

Dear Mayor and Members of Council:

City Council is asked to consider amending, transferring and budgeting up to \$50,802 of FY 2015 through 2016 CDBG funds for the following activities.

- \$ 8,500 for a Youth Mentoring Program
- \$ 10,500 for the Emergency/Minor Home Repair Program
- \$ 19,000 for the Fitton Center Outreach Program
- \$ 12,802 for SELF's Home Repair Program

It is the recommendation of this office that Council receives this report, concurs in the recommendation, and directs the preparation of the necessary legislation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
 City Manager

Eugene F. Scharf
 Community Development Director

Choose Strategic Goal(s)

- R** Realize \$150 million of new private industrial/commercial investment
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FROM

916-820-910-000-910-066

TO

916-820-910-000-910-New

FROM

916-820-910-000-910-066

TO

916-805-910-140-903-072

FROM

916-820-910-000-910-066

916-840-910-135

916-840-610-100

TO

916-820-910-000-910-064 (NEW)

FROM

916-835-610-100

916-840-610-100

916-840-620-200

916-840-630-260

916-840-640-500

916-840-640-580

916-850-850-300

TO

916-805-910-000-910-057

Butler County Community Health

TOTAL

Youth Mentoring Program

TOTAL

Butler County Community Health

TOTAL

Emergency Minor Home Repair

TOTAL

Butler County Community Health
Planning Division - Consolidated Plan
Administration - Salaries and Wages

TOTAL

Arts in Common

TOTAL

Housing-Salaries and Wages
Administration - Salaries and Wages
Training
Contractual
Legal Advertising
Delivery
Contingencies

TOTAL

SELF - Hamilton Home Repair Program

TOTAL

\$ 8,500.00
\$ **8,500.00**

\$ 8,500.00
\$ **8,500.00**

\$ 10,500.00
\$ **10,500.00**

\$ 10,500.00
\$ **10,500.00**

\$ 1,000.00
\$ 13,000.00
\$ 5,000.00
\$ **19,000.00**

\$ 19,000.00
\$ **19,000.00**

\$ 1,860.00
\$ 5,800.00
\$ 500.00
\$ 3,292.00
\$ 400.00
\$ 200.00
\$ 750.00
\$ **12,802.00**

\$ 12,802.00
\$ **12,802.00**

City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council

<input checked="" type="checkbox"/> 1 st Reading Date: 04/27/2016
<input checked="" type="checkbox"/> 2 nd Reading Date: 05/11/2016
<input checked="" type="checkbox"/> Public Hearing Date: 04/27/2016

RE: **Request to Rezone 115 Dayton (City Lot No. 31128), located in the City of Hamilton, Second Ward, from B-3 Central Business District to DT-2 Downtown Support District. (City of Hamilton, Applicant).**

Dear Mayor and Members of Council:

BACKGROUND INFORMATION

The City of Hamilton is requesting to rezone 115 Dayton Street to encourage the future development of the site. The property is currently owned by the City of Hamilton and was acquired by the City of Hamilton as part of the Mercy Hospital closure and demolition. The property is currently zoned B-3 Central Business District and the proposed change is to DT-2 Downtown Support District, a form based zoning district similar to the surrounding zoning designation. The reason for the rezoning request is to allow for the possible future development of the site.

A total of twenty six (26) public hearing notices were mailed to property owners within 500 feet of the subject property. At the time this report was written no calls were received from individuals objecting to the rezoning request.

PLAN/PROPOSAL ANALYSIS

Zoning

The property located at 115 Dayton Street is currently zoned B-3 Central Business District. The area surrounding 115 Dayton Street is B-3 Central Business District to the north and DT-2 Downtown Support District to the West, South, and east. The existing property has a total of approximately 401 feet of frontage along Dayton Street, 150 feet of frontage along Riverfront Plaza, and 170 feet of frontage along North Second Street. There is one (1) parcel associated with this request.



Building

There is no proposed building or construction at this time. However, any future development plans would go through the Interdepartmental Review process once plans are submitted. Any future building or development plans must adhere to all applicable building and zoning regulations.

RECOMMENDATION

The Planning Commission held a public hearing and reviewed the proposed rezoning regarding the rezoning of 115 Dayton Street, Located in the 2nd Ward, City Lot No. 31128, from B-3 Central Business District to DT-2 Downtown Support District on March 21, 2016 and recommend approval by City Council.

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and directs the preparation of the necessary legislation to rezone 115 Dayton Street, Located in the 2nd Ward, City Lot No. 31128, from B-3 Central Business District to DT-2 Downtown Support District.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
City Manager

John Creech
Senior Planner

Attachments to this report include:

1. Public Hearing Map
2. Zoning Map

Choose Strategic Goal(s)

- R** Realize \$150 million of new private industrial/commercial investment
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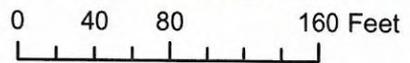


115 DAYTON
PUBLIC HEARING MAP



City of Hamilton, ©nio

 115 Dayton



115 DAYTON
PUBLIC HEARING MAP



 115 Dayton

0 40 80 160 Feet

City of Hamilton, Ohio



City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council

<input checked="" type="checkbox"/> 1 st Reading Date: 04/27/2016
<input checked="" type="checkbox"/> 2 nd Reading Date: 05/11/2016
<input type="checkbox"/> Public Hearing Date:

RE: **Request to approve Replat & Right-of-Way Dedication for Part of Lots 24202-24203, and 25238, located in the First Ward, South Side, 1425 Millville Avenue, General Scott Subdivision. (General Scott LLC, Applicant).**

Dear Mayor and Members of Council:

BACKGROUND INFORMATION

CESO Inc., on behalf of General Scott LLC, has submitted a request for review and approval of the Replat and Right-of-Way dedication for 1425 Millville Avenue. The plat will dedicate approximately 22,158 Square Feet or 0.50 Acres of land as public right-of-way along the southwest corner of Wasserman Road and Millville Avenue. The property proposed for dedication includes the following: an additional 10 feet in width along the Millville Avenue frontage totaling 40 feet in width and 330 feet in length; and an additional 10 feet in width along the Wasserman Road frontage totaling approximately 40 feet in width and 264 feet in length.

Additionally, the plat will combine three separate lots: Lot 25238, Lot 24202, and Lot 24203, for a proposed new City Lot, Lot 32101 at a net combined acreage of 1.49 Acres.

The right-of-way proposed for dedication is the final portion of the recent improvements to the Millville Avenue, Wasserman Road intersection adjacent to Dollar General retail establishment. All improvements have been completed, inspected and approved by the City of Hamilton.

This request for public right-of-way dedication and lot combination has been reviewed and approved by all City of Hamilton Departments through the Interdepartmental Review. The right-of-way dedication along Millville and Wasserman and the combination of the three separate lots into a single parcel were a condition of approval of the development of the property at 1425 Millville Avenue on May 9, 2013.



RECOMMENDATION

The Planning Commission reviewed and approved the Replat and Right-of-Way Dedication for the Millville Avenue and Wasserman Road Right-of-Way on March 21, 2016 and recommend that City Council approve the Replat and Right-of-Way Dedication for Part of Lots 24202-24203, and 25238 for the General Scott Subdivision located at 1425 Millville Avenue.

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and directs the preparation of the necessary legislation to approve the Replat and Right-of-Way Dedication for Part of Lots 24202-24203, and 25238 for the General Scott Subdivision located at 1425 Millville Avenue.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
City Manager

John Creech
Senior Planner

EXHIBITS

1. Aerial Location Map
2. Dedication Plat for General Scott Subdivision

COPIES PROVIDED TO:

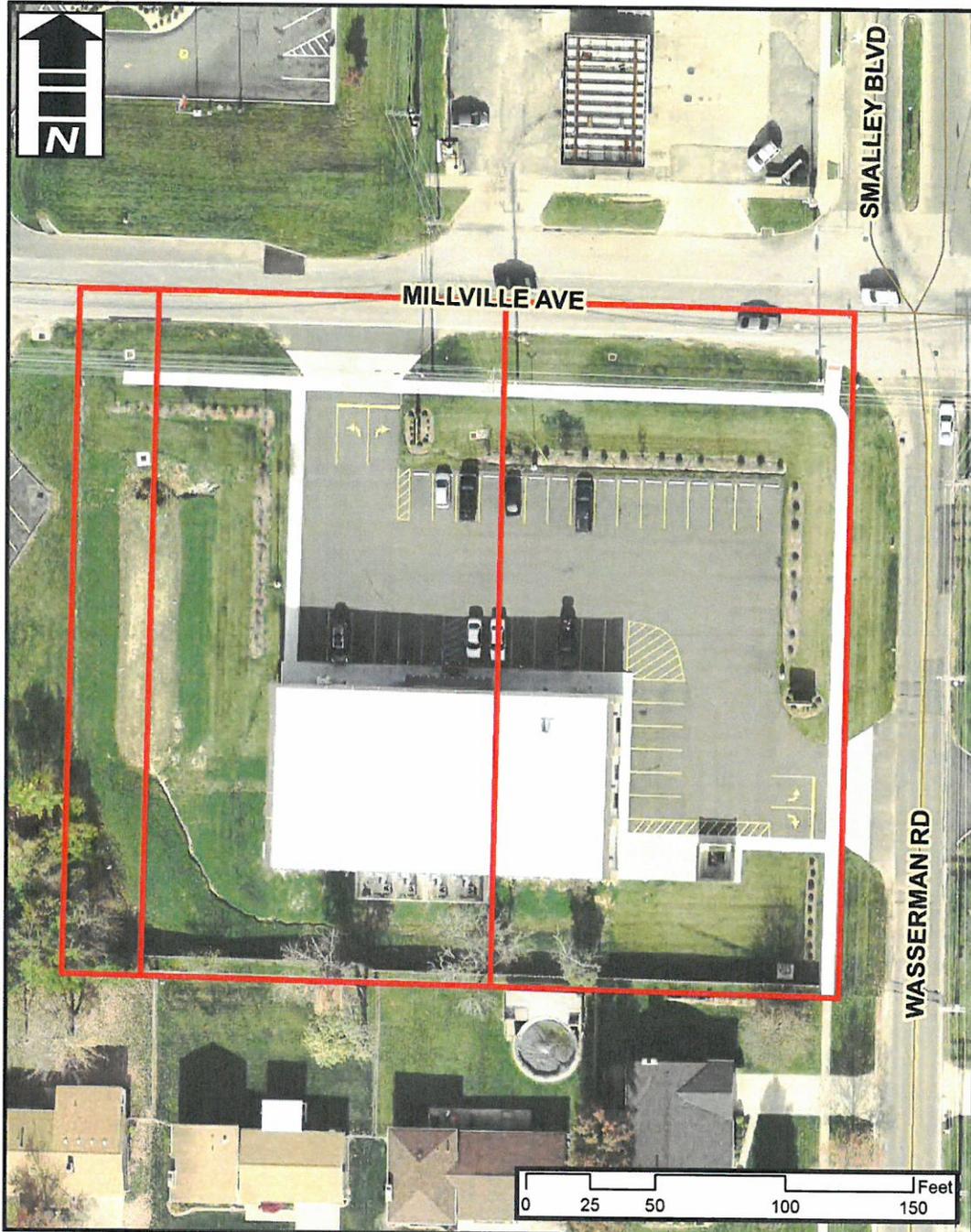
1. CESO, Inc.
2. Rich Engle, Public Works Director

Choose Strategic Goal(s)

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Aerial Location Map 1425 and 1431 Millville Avenue



City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council

<input checked="" type="checkbox"/>	1 st Reading Date: 04/27/2016
<input checked="" type="checkbox"/>	2 nd Reading Date: 05/11/2016
<input checked="" type="checkbox"/>	Public Hearing Date: 04/27/2016

RE: **Request to Amend the Zoning Ordinance of the City of Hamilton, Ohio regarding the Industrial Planned Development (IPD) Zoning District (City of Hamilton, Applicant).**

Dear Mayor and Members of Council:

BACKGROUND INFORMATION

There are a number of land uses within the Hamilton Enterprise Park (HEP) ranging from office, industrial, transportation, manufacturing and health care. Tri-Health and Duke Realty own and operate the Tri-Health Bethesda Butler County Hospital on approximately 22 acres. The healthcare campus encompasses a full scale hospital, surgery, inpatient & outpatient care, 24-hour emergency department, imaging/radiology, infusion therapy, cancer Institute, digestive institute, heart institute, cardiologists and cardiac testing, surgical institute, physical therapy, mammography, sleep disorder center, laboratory services, and individual health care provider offices. As part of the growing services located on the campus, Tri-Health from time to time offers "Addiction Medicine" services to individuals both on an inpatient and outpatient basis. "Addiction Medicine" is defined in Section 1108.00 of the Hamilton Zoning Ordinance as "The field of healthcare which addresses the needs of individuals addicted to substances of abuse, including alcohol, legal and illicit drugs and others. Addiction medicine may include but is not limited to: counseling, psychology, social work, psychiatry, internal medicine, and the administering of medication for treatment purposes." (OR 2014-8-71)

Further, the Hamilton Zoning Ordinance explicitly prohibits the following uses from the IPD zoning district:

Alcohol and Drug Addiction Treatment Clinics & Facilities, Inpatient: shall mean any business, building, structure, or land used for the inpatient treatment, counseling, and administering of addiction medicine for recovery purposes. (OR 2014-8-71)

Alcohol and Drug Addiction Treatment Clinics & Facilities, Outpatient: shall mean any business, building, structure, or land used for the outpatient treatment, counseling,



and administering of addiction medicine for recovery purposes. (OR 2014-8-71)

Therefore, the practice of “Addiction Medicine” associated with Alcohol and Drug Addiction Treatment both inpatient and outpatient at Tri-Health Bethesda Butler County Hospital is technically a violation of the Hamilton Zoning Ordinance. The amendment of the Hamilton Zoning Ordinance as outlined below would address the issue.

In addition, the City of Hamilton owns approximately 163 acres of vacant land within HEP and the current zoning prohibition severely restricts other health care and medical uses that practice Addiction Medicine in whole or in part as part of their health care and medical offerings.

PROPOSED ZONING AMENDMENT

The proposed zoning ordinance amendment will remove Alcohol and Drug Addiction Treatment Clinics & Facilities (inpatient & outpatient) from the list of prohibited uses in the Industrial Planned Development (IPD) zoning district. In addition, the amendment will create the following minimum zoning standards for land uses within the IPD zoning district for Alcohol and Drug Addiction Treatment Clinics & Facilities (inpatient & outpatient). The use(s) would have to still meet the minimum Industrial Planned Development (IPD) zoning standards as follows:

Minimum lot size:	Ten (10) Acres
Use Setbacks:	<ol style="list-style-type: none">1.Setback five hundred (500) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public park, church, or religious institution.2.Setback five hundred (500) feet of any business that serves and/or sells Alcoholic beverages.

RECOMMENDATION

The Planning Commission held a public hearing and reviewed the proposed text amendment regarding the Industrial Planned Development (IPD) Zoning District on March 21, 2016 and recommend approval by City Council.

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and directs the preparation of the necessary legislation to amend the Zoning Ordinance of the City of Hamilton, Ohio regarding the Industrial Planned Development (IPD) Zoning District.



Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
City Manager

John Creech
Senior Planner

Attachments to this report include:
Exhibit 1 - Proposed Zoning Amendments

Choose Strategic Goal(s)

- R** Realize \$150 million of new private industrial/commercial investment
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**Exhibit 1 – Proposed Zoning Amendment to Section 1125.00
of the City of Hamilton Zoning Ordinance:**

Add Section 1125.32 as follows:

1125.32 Principal Uses:

Alcohol and Drug Addiction Treatment Clinics & Facilities, Inpatient or Outpatient

Minimum lot size: Ten (10) Acres

Use Setbacks:

1. Setback five-hundred (500) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public park, church, or religious institution.
2. Setback five-hundred (500) feet of any business that serves and/or sells Alcoholic beverages.

Amend Section 1125.40 Prohibited Uses by deleting the following:

1125.419 Alcohol and Drug Addiction Treatment Clinics & Facilities, Inpatient:
As Defined in Section 1108.00 (OR2014-8-71)

1125.420 Alcohol and Drug Addiction Treatment Clinics & Facilities, Outpatient:
As Defined in Section 1108.00 (OR2014-8-71)

City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the
City Council

<input checked="" type="checkbox"/>	1 st Reading Date: 04/27/2016
<input checked="" type="checkbox"/>	2 nd Reading Date: 05/11/2016
<input checked="" type="checkbox"/>	Public Hearing Date: 04/27/2016

RE: **Request to Amend the Zoning Ordinance
of the City of Hamilton, Ohio regarding Adult Businesses i.e. Sexual
Encounter Establishments (City of Hamilton, Applicant)**

Dear Mayor and Members of Council:

BACKGROUND INFORMATION

The City of Hamilton Zoning Ordinance was adopted in 1971. From time to time, as newly defined land uses occur, the current zoning definitions, permitted and conditional land uses found within the City of Hamilton zoning ordinance may require amendment or revision to bring the zoning ordinance up to date. The City of Hamilton proposes to amend the current zoning definition of Adult Business.

PROPOSED ZONING AMENDMENT

The proposed zoning ordinance amendment will add a definition for "Sexual Encounter Establishment" and also amend the current definition of "Adult Business" to include "Sexual Encounter Establishment" found in Section `1108 of the City of Hamilton Zoning Ordinance. The current definition of an "Adult Business" in the Hamilton Zoning Ordinance reads as follows:

Adult Business: Any Adult Arcade, Adult Book/Video Store, Adult Cabaret, Adult Drive-in Theater, Adult Mini Motion Picture Theater, Adult Motel, Adult Motion Picture Theater, Massage Establishment, Nude Model Studio, or any other business providing Adult Material, Adult Entertainment, or Adult Services. (OR96-8- 85)

The definition to be added is for a "Sexual Encounter Establishment" which is defined in the Ohio Revised Code and reads in part as follows:

Sexual Encounter Establishment: A Sexual Encounter Establishment is a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where two or more



persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.

If approved, the new zoning definition for an “Adult Business” will read as follows with the addition of “Sexual Encounter Establishment”:

Adult Business: Any Adult Arcade, Adult Book/Video Store, Adult Cabaret, Adult Drive-in Theater, Adult Mini Motion Picture Theater, Adult Motel, Adult Motion Picture Theater, Massage Establishment, Nude Model Studio, Sexual Encounter Establishment, or any other business providing Adult Material, Adult Entertainment, or Adult Services. (OR 96-8- 85)

Adult Businesses will remain “Conditional Uses” within the City of Hamilton Zoning Ordinance to be reviewed by the Planning Commission and a recommendation to approve or deny would be forwarded to City Council for final consideration.

RECOMMENDATION

The Planning Commission held a public hearing and reviewed the proposed zoning amendment on March 21, 2016 regarding Adult Businesses encompassing Section 1108.00 of the Hamilton Zoning Ordinance and recommend approval by City Council.

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and directs the preparation of the necessary legislation to amend Section 1108.00 of the Hamilton Zoning Ordinance regarding Adult Businesses.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
City Manager

John Creech
Senior Planner

Attachments to this report include:
Exhibit No. 1 – Proposed Zoning Amendments

Choose Strategic Goal(s)	
<input type="checkbox"/>	R Realize \$150 million of new private industrial/commercial investment
<input type="checkbox"/>	A Add 2,000 new jobs
<input type="checkbox"/>	I Increase residential property values by CPI + 5%
<input type="checkbox"/>	D Decrease vacant residential structures by 30% (1,000 total)
<input type="checkbox"/>	G Generate \$20 M in investment for recreational amenities with \$10 M around the Great Miami River
<input type="checkbox"/>	E Engage 50,000 participants annually in special events, arts and recreation activities
<input checked="" type="checkbox"/>	O General Operations/ Government Business



**Exhibit 1 – Proposed Zoning Amendment to Section 1108 of the
City of Hamilton Zoning Ordinance:**

1. Add the following Definition to 1108.00:

Sexual Encounter Establishment: A Sexual Encounter Establishment is a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.

2. Amend the following Definition in 1108.00 by adding “Sexual Encounter Establishment”:

Adult Business: Any Adult Arcade, Adult Book/Video Store, Adult Cabaret, Adult Drive-in Theater, Adult Mini Motion Picture Theater, Adult Motel, Adult Motion Picture Theater, Massage Establishment, Nude Model Studio, Sexual Encounter Establishment, or any other business providing Adult Material, Adult Entertainment, or Adult Services. (OR96-8- 85)

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: John Creech, Senior Planner

Agenda Item: Request to Rezone the vacant property located at the eastern terminus of Lincoln Avenue from R-2 Single Family Residence to R-4 Multi-Family Residence, City Lot No. 23680, situated in the Fifth Ward, City of Hamilton, Butler County, Ohio (AHEPA Senior Living, Applicant).

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input checked="" type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input checked="" type="checkbox"/> A Add new jobs <input checked="" type="checkbox"/> R Realize new investments <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution Ordinance</p>	<input checked="" type="checkbox"/> 1 st Reading Date: 03-23-2016 <input checked="" type="checkbox"/> 2 nd Reading Date: 04-13-2016 <input checked="" type="checkbox"/> Public Hearing Date: 03-23-16	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other): Planning Commission: 02-15-2016</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	<p>Budgeted: No General Fund: \$200.00 Other Funds: \$ 0.00</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

POLICY ISSUE

Does City Council wish to approve the rezoning of property located at the eastern terminus of Lincoln Avenue(City Lot No. 23680), located in the City of Hamilton, from R-2 Single Family Residence District to R-4 Multi-Family Residence District?

POLICY ALTERNATIVE(S)

Council may choose to not approve the rezoning of property located at the eastern terminus of Lincoln Avenue(City Lot No. 23680), located in the City of Hamilton, from R-2 Single Family Residence District to R-4 Multi-Family Residence District.

STAFF RECOMMENDATION

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and adopts the necessary legislation to rezone property located at the eastern terminus of Lincoln Avenue (City Lot No. 23680), located in the City of Hamilton, from R-2 Single Family Residence District to R-4 Multi-Family Residence District.



STATUTORY/POLICY AUTHORITY

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton

FISCAL IMPACT SUMMARY

The City's current fiscal impact includes any staff time allotted to application to rezone the property located at the eastern terminus of Lincoln Avenue (City Lot No. 23680), located in the City of Hamilton, from R-2 Single Family Residence to R-4 Multi-Family Residence District estimated at approximately \$200.00.

INTRODUCTION

AHEPA (American Hellenic Educational Progressive Association) Senior Living has submitted an application for the rezoning of an 11.78 acre parcel located at the eastern terminus of Lincoln Avenue (public hearing map - Exhibit A). The property is currently zoned R-2 Single Family Residence. The applicant is proposing a zoning change from R-2 Single Family Residence to R-4 Multi Family Residence.

The property was the former Van Buren School site, which operated on the property from the mid 1950s to 2009. The City of Hamilton acquired the property as part of a land transfer with the Hamilton City School District in 2011. The property is currently a vacant lot. The reason for this rezoning is to allow for the future development of a senior living apartment community with 125 units of assisted living and 44 units of senior living cottages (conceptual site plan and building renderings attached as Exhibit B).

On March 30, 2015 the City of Hamilton placed an ad in the Journal News seeking Development Proposals for the Lincoln Avenue property. The deadline to apply was June 2, 2015. The development proposal from AHEPA was the accepted bid and on December 9, 2015 City Council approved the sale of the property.

At the request of the City of Hamilton, AHEPA held a neighborhood meeting to provide information to abutting residents about the development proposal. AHEPA notified all property owners within 500 feet of the property with a letter of introduction and details of their project attached as Exhibit C. City of Hamilton staff also attended the neighborhood meeting. There were a number of questions raised by abutting property owners at the meeting that were addressed by the architect and engineer of AHEPA. At the conclusion of the meeting AHEPA agreed to hold another meeting with area residents to share their plan.

PLAN/PROPOSAL ANALYSIS

ZONING

The property located at eastern terminus of Lincoln Avenue is currently zoned R-2 Single Family Residence District. The area surrounding Lincoln Avenue is predominantly R-2 Single Family Residence District directly to the north and west and R-3 One to Four Family Residence District further west. The south and east boundary of the property abuts Fairfield Township. The abutting properties in Fairfield Township are residential and zoned R-3 One to Two Family Residence District (Exhibit D).

The applicant is requesting to rezone the subject property to R-4 Multi Family Residence to allow for the construction of a senior living apartment community with 125 units of assisted living and 44 units of senior living cottages. Lincoln Avenue currently terminates into the property and is proposed to be the vehicular access point on the development if the rezoning request is approved.

BUILDING

If the rezoning request is approved, AHEPA intends to submit detailed plans for a two phase development for senior living apartments. Phase 1 would be 125 units of assisted living in a single building. Phase 2 would be 44 units of senior living cottages in 12 buildings. Conceptual development plans are attached as Exhibit B.

Final plans for development and construction on this property would first be reviewed by City of Hamilton Departments through the Interdepartmental Review process prior to any building or construction approvals and must adhere to all applicable building and land development regulations.



A total of two hundred and seventeen (217) public hearing notices were mailed to property owners within 500 feet of the Lincoln Avenue property before the Planning Commission public hearing which included residents of the City of Hamilton and Fairfield Township.

RECOMMENDATION

The Planning Commission held a public hearing and reviewed the proposed rezoning regarding the 11.78 acres property on February 15, 2016 and recommend approval by City Council.

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and directs the preparation of the necessary legislation to rezone the vacant property located at eastern terminus of Lincoln Avenue from R-2 Single Family Residence to R-4 Multi-Family Residence, City Lot No. 23680, situated in the Fifth Ward, City of Hamilton, Butler County, Ohio.

ATTACHED INFORMATION

1. Exhibit A – Public Hearing Map
2. Exhibit B – Conceptual Site Plan & Building Plans
3. Exhibit C – AHEPA Neighborhood Meeting Notification
4. Exhibit D – Zoning Map
5. Exhibit E – Application for Rezoning

COPIES PROVIDED TO:

AHEPA Senior Living, Applicant



1. Exhibit A - Public Hearing Map

2311 LINCOLN AVENUE PUBLIC HEARING MAP



 2311 Lincoln Avenue

0 100 200 400 Feet



2. Exhibit B - Conceptual Site Plan & Building Plan

AHEPA
Senior Living Apartments
of Hamilton Ohio

11/15/2011
PROJECT #

DEVELOPMENT SUMMARY

Site Area: 11.7 acres (500,940 s.f.)

Lot Coverage:

Buildings: 108,938 s.f.
- Main Bldg: 57,570 s.f.
- Cottages: 51,368 s.f.
Pavement: 47,742 s.f.
Asphalt: 11,692 s.f.
Green Space: 239,045 s.f.

Buildings:

(1) RPD
(3) 4-Unit Buildings
(2) 2-Unit Buildings
TOTAL: 11

RESIDENTIAL PLANNED DEVELOPMENT (RPD):

Units:
1st: 59
2nd: 66
TOTAL: 125

Parking: 82 (2 HC)

4-UNIT BUILDINGS:

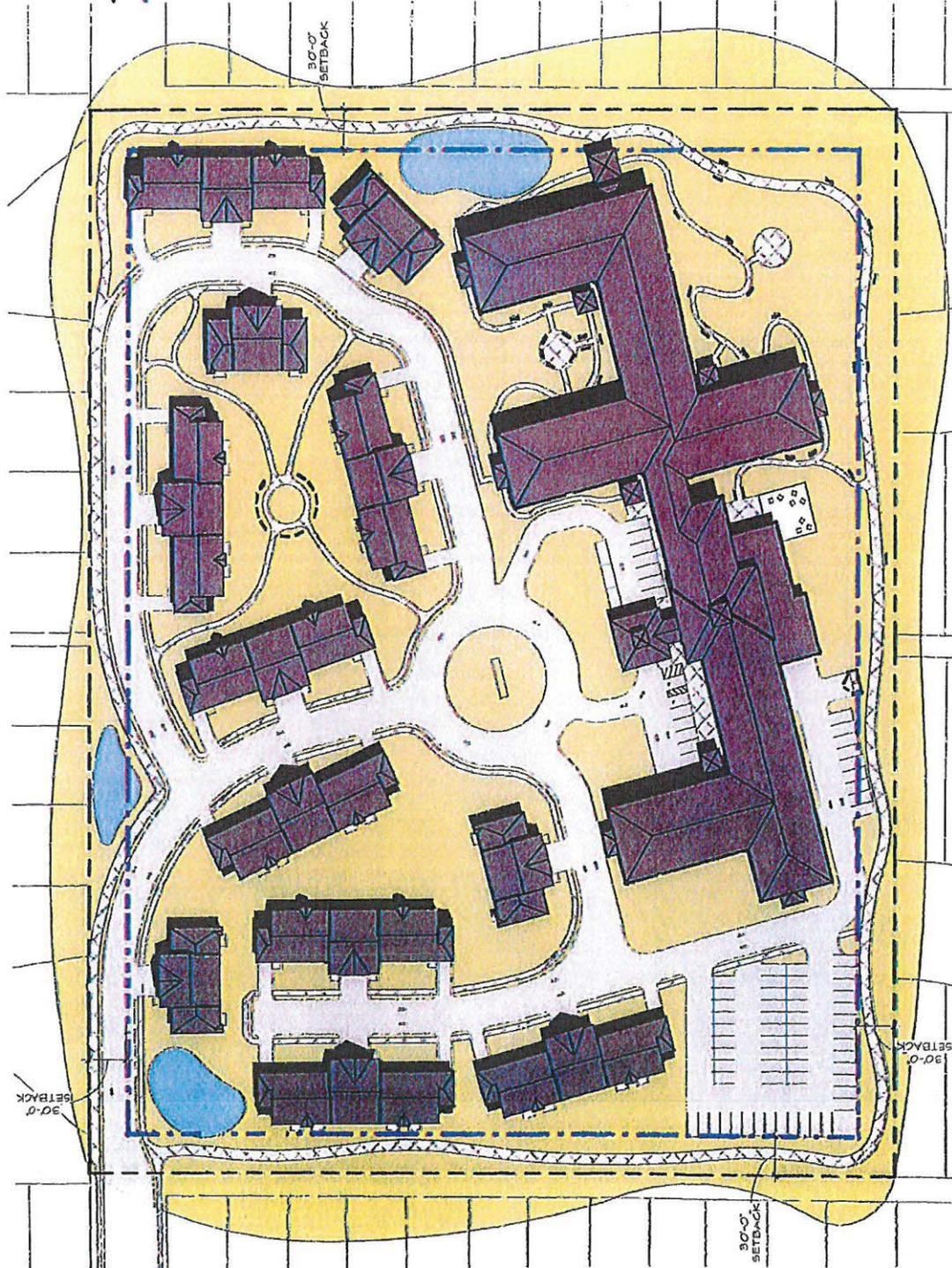
1-BR: 20
2-BR: 20
TOTAL: 40
Parking: 40 garage
40 driveway
TOTAL: 80

SCHEMATIC

11/15/2011
PROJECT #

SITE PLAN

1A

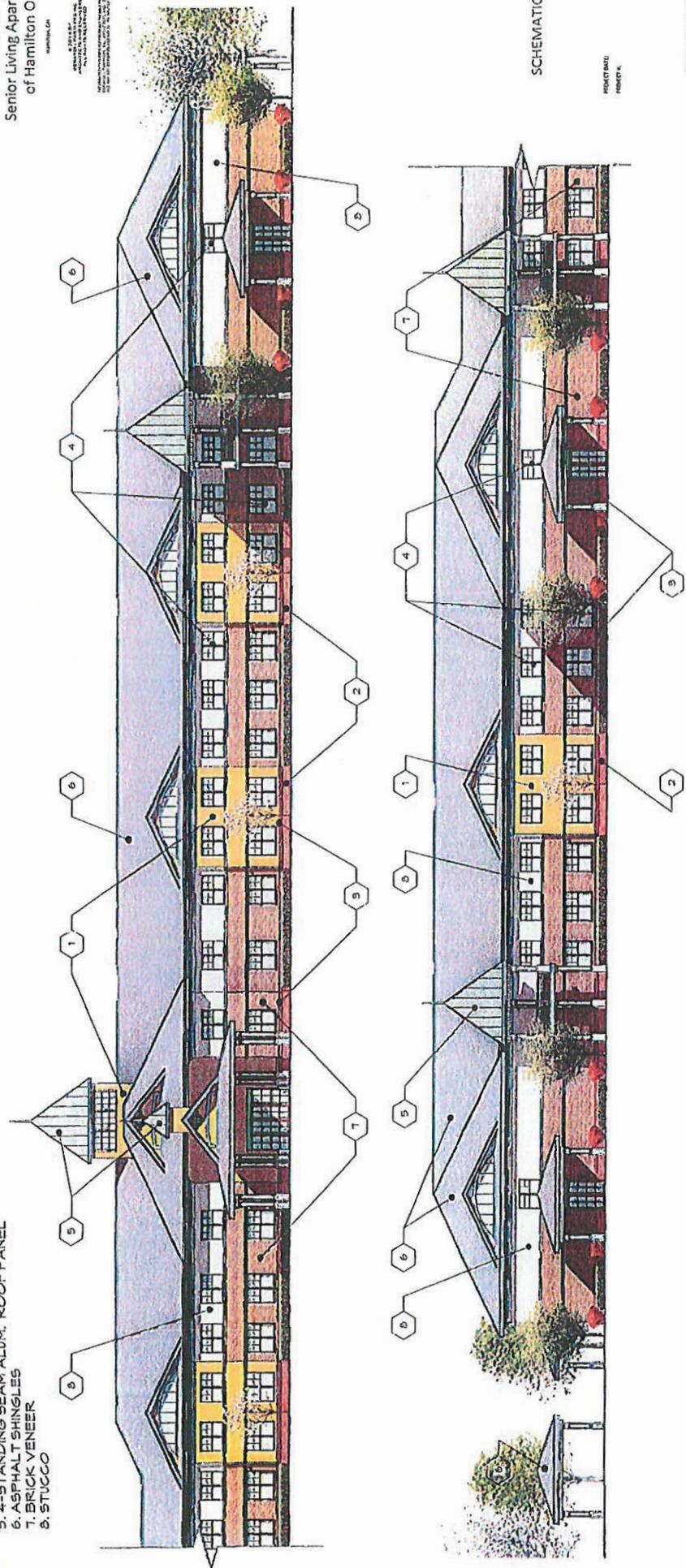


site plan 1" = 80'-0"

ARCHITECT
AHEPA
1000 W. WASHINGTON ST. SUITE 200
HAMILTON, OH 45011
PH: 513.263.1111
WWW.AHEPA.COM

MATERIALS

1. STONE VENEER
2. BRICK BASE
3. ROWLOCK
4. CLAD WINDOW
5. 4-STANDING SEAM ALUM. ROOF PANEL
6. ASPHALT SHINGLES
7. BRICK VENEER
8. STUCCO



SCHEMATIC

PROJECT #101
PROJECT #101

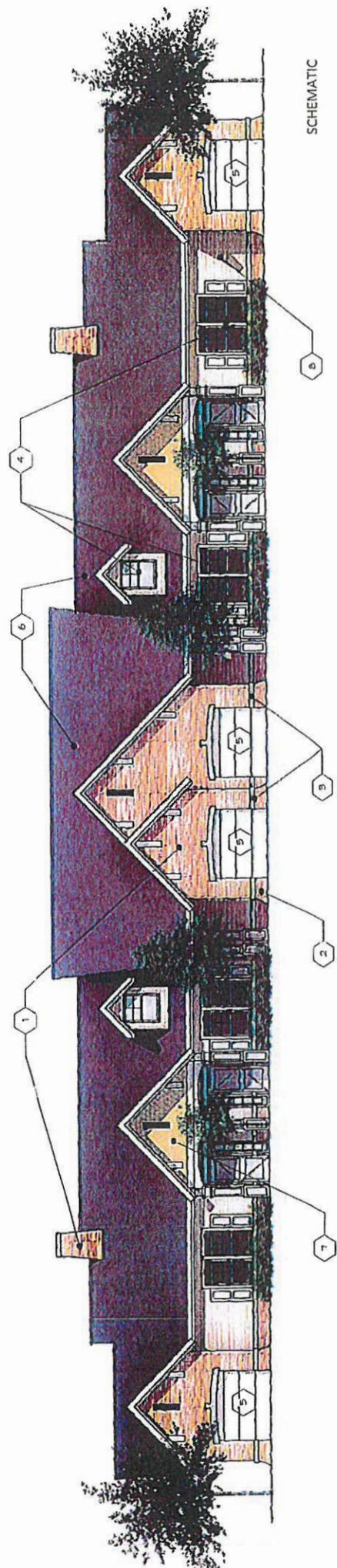
ELEVATIONS



west elevation 1" = 20'-0"

ARCHITECT
BERARDI + ASSOCIATES
1000 W. WASHINGTON ST.
CINCINNATI, OH 45202
TEL: 513.251.1111
WWW.BERARDI-ARCHITECTS.COM

- MATERIALS**
1. STONE VENEER
 2. STONE BASE
 3. SYNTHETIC STONE BAND
 4. CLAD WINDOW
 5. 4-PANEL GARAGE DOOR
 6. ASPHALT SHINGLES
 7. FISH-SCALE SIDING
 8. SIDING



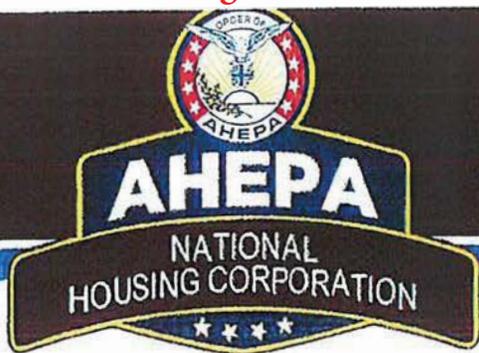
SCHEMATIC

PROJECT DATE: 10/20/2015
PROJECT #: 13118

ELEVATIONS

unit building elevation 3/32" = 1'-0"

3. Exhibit C – AHEPA Neighborhood Meeting Notification



10706 Sky Prairie Street, Fishers, IN 46038
317-845-5890 :office 317-288-0811 :fax
www.ahepahousing.org info@ahepahousing.org

Date: Jan 28, 2016

Dear Hamilton Area Property Owner:

The purpose of this letter is to notify you of an application that will be filed with the City of Hamilton for a land use proposal involving property adjacent to, or in close proximity to, property shown in your ownership by Butler County tax records.

AHEPA National Housing Corporation is holding a neighborhood meeting to provide information to area residents about the nature of the proposal. Representatives of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: February 8, 2016

Location: Cherry Valley United Baptist Church
Corner of Lincoln & Parkamo

Time: 6:00 PM

Type of Application: Rezoning Request of 2231 Lincoln Avenue from R-2 to R-4

General Description: Enclosed find City of Hamilton Public Notice, description and site map.

If you have any questions prior to or after this meeting, you may contact us at 317-845-5890.

Sincerely,

Demetri N. Damaskos, Director of Development

cc: City of Hamilton Planning Department

Classis

DAILY JOURNAL

**NOTICE TO BIDDERS
PUBLIC AUCTIONS/SALES
PUBLIC HEARINGS
PUBLIC NOTICES
SEIZED PROPERTY
SHERIFF SALES
ZONINGS**

SAID ROAD AND THE EAST LINE OF SECTION NUMBER 2, THENCE SOUTH 2 DEG. 43' EAST, 1316.79 FEET; THENCE NORTH 2 DEG. 43' EAST, 1316.79 FEET TO THE CENTER OF THE OXFORD STATE ROAD, THENCE ALONG THE CENTER OF SAID ROAD, N 81 DEG. 00' WEST 325.02 FEET TO THE POINT OF BEGINNING, CONTAINING 4.885 ACRES EXCEPTING SO MUCH OF SAID LAND AS OWNED BY THE STATE OF OHIO TO BE USED FOR ROAD PURPOSES.

SAVE AND EXCEPTING, HOWEVER, CERTAIN PORTION OF THE ABOVE PREMISES CONTAINING 1.137 ACRES, MORE OR LESS CONVEYED TO THE STATE OF OHIO ON DECEMBER 17, 1964, AND BEING DESCRIBED AS FOLLOWS: BEING A PARCEL OF LAND LYING ON THE RIGHT SIDE OF THE CENTER LINE OF A SURVEY, MADE BY THE DEPARTMENT OF HIGHWAYS, AND RECORDED IN BOOK PAGE OF THE RECORDS ON BUTLER COUNTY, OHIO, AND BEING LOCATED WITHIN THE FOLLOWING DESCRIBE POINTS IN THE BOUNDARY THEREOF: COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 2, THENCE SOUTH 17 DEG. 25' 17" EAST ALONG THE EAST LINE OF SECTION 2 A DISTANCE OF 1335.43 FEET TO A POINT IN THE CENTER LINE OF EXISTING STATE ROUTE 73; THENCE NORTH 79 DEG. 47' 46" WEST ALONG SAID EXISTING CENTERLINE A DISTANCE OF 1317.67 FEET TO THE GRANTOR'S NORTHWESTERLY PROPERTY CORNER; THENCE SOUTH 9 DEG. 35' 44" EAST ALONG THE GRANTOR'S WESTERLY PROPERTY LINE A DISTANCE OF 696.39 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 11 DEG. 16' 34" EAST A DISTANCE OF 172,480 FEET TO A POINT IN THE GRANTOR'S EASTERLY PROPERTY LINE; THENCE SOUTH 100 DEG. 49' 58" WEST ALONG SAID EASTERLY LINE A DISTANCE OF 614.00 FEET TO THE GRANTOR'S SOUTHERLY PROPERTY CORNER; THENCE NORTH 9 DEG. 35' 44" WEST ALONG THE GRANTOR'S WESTERLY LINE A DISTANCE OF 694.55 FEET TO THE POINT OF BEGINNING.

IT IS UNDERSTAND THAT THE LAND BEING CONVEYED CONTAINS 3.748 ACRES, MORE OR LESS.

APPRAISED AT: \$123,933.33
MINIMUM BID: \$32,622.22

There was not an inside inspection of the property and the master commissioner is not liable for conditions of the property upon confirmation of the sale.

TERMS OF SALE: 10% buyer's premium to be added to successful high bid. 10% of the sale price down at time of sale with check or money order; balance due thirty days from sale.

**MASTER COMMISSIONER:
BRENT SEMPLE,
C. GARTH SEMPLE & ASSOCIATES, INC.**
www.semplesells.com
ATTORNEYS: FLAGEL & PAPAKIRK LLC
BENJAMIN M. RODRIGUEZ, ESQ., 50 EMBASSY BUSINESS WAY, SUITE 410, CINCINNATI, OHIO 45241, (513) 984-8111.
17138332 3-30, 4-6, 4-13/2015

**COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

**U.S. Bank National Association
Plaintiff,**

**The Unknown Heirs, Devises,
Legatees, Executors, Administrators,
Spouses and Assigns and the
Unknown Guardians of Minor
and/or Incompetent Heirs of
Chris A. Miller, et al.**

erly, and the proceeds of said sale be applied according to law.
Said Defendant is required to file an Answer within twenty-eight (28) days after last publication, which shall be published once a week for three (3) consecutive weeks, or they might be denied a hearing in the case.

Submitted by:
Daniel A. Cox (0076469)
D. Anthony Sottile (0075101)
Attorneys for Plaintiff
Anselmo Lindberg Oliver LLC
1771 W. Dell, Suite 120
Naperville, Illinois 60563
Voice: (513) 965-3131
Fax: (630) 428-4620
Email: OhioCourts@alcilawgroup.com
17137989 3-30, 4-6, 4-13/2015

**LEGAL NOTICE OF PUBLICATION
COMMON PLEAS COURT,
BUTLER COUNTY, OHIO**

Defendant:
JORGE HERRERA ANDRADE
Last Address: UNKNOWN ADDRESS

The defendant, whose place of residence is unknown, will take notice that a complaint for divorce has been filed against you in the Domestic Relations Division of the Butler County Court of Common Pleas, 315 High Street, 2nd Floor, Hamilton, Ohio 45011, (513) 887-3352. If you do not file an answer with the court, a judgment may be granted to the defendant for the relief demanded.

Case Number: DR2015020110
File Date: FEBRUARY 25, 2015
Plaintiff: MARIA ANDREA GRANADOS LEDEZMA
Attorney: MICHELE L FLANNIGAN
432 WALNUT STREET SUITE 1100
CINCINNATI, OH 452020

MARY L SWAIN
Butler County Clerk of Courts
Jody Whisman Miller
Deputy Clerk
17122243
3-16, 3-23, 3-30, 4-6, 4-13, 4-20/2015

LEGAL NOTICE

Notice is hereby given that the West Chester Township Trustees adopted the following resolution at their regular meeting on Tuesday, March 24, 2015: statutory Res. No. 08-2015 rescinding resolution No. 94-15 and replacing and revising the name, members and meeting schedule of the West Chester Township Records Commission - attest: Bruce Jones, Fiscal Officer. Complete text may be viewed or obtained at the office of the West Chester Township Fiscal Officer, 9113 Cincinnati-Dayton Road, West Chester, Ohio 45069, 8:30 a.m. to 4:30 p.m. Monday through Friday.
West Chester Township Trustees
Bruce Jones, Fiscal Officer
Judith C. Boyko, Administrator
17135757 3-30, 4-9/2015

**PROBATE COURT OF
BUTLER COUNTY, OHIO
RANDY T. ROGERS, JUDGE
IN RE: CHANGE OF NAME OF
Melinda Chyenne McBride - Tuggle
CASE NO. P13-02-0077
NOTICE OF HEARING ON
CHANGE OF NAME**

Applicant hereby gives notice to all interested persons and to Christopher Sheridan Wado whose last known address is 8370

Pippen Road, Cincinnati, Ohio 45239 that the applicant has filed an Application for Change of Name in the Probate Court of Butler County, Ohio, requesting the change of name of Melinda Chyenne Wade to Melinda Chyenne McBride-Tuggle. The hearing on the application will be held on the 4th day of May 2015, at 2:30 o'clock p.m. in the Probate Court of Butler County located in the Historical Butler County Courthouse, 101 High St., Second Floor, Hamilton, OH 45011.
17137617 3-30/2015

**LEGAL NOTICE OF PUBLICATION
COMMON PLEAS COURT,
BUTLER COUNTY, OHIO**

Defendant:
NOEL A. KRATZER
Last Address: UNKNOWN ADDRESS

The defendant, whose place of residence is unknown, will take notice that a complaint for divorce has been filed against you in the Domestic Relations Division of the Butler County Court of Common Pleas, 315 High Street, 2nd Floor, Hamilton, Ohio 45011, (513) 887-3352. If you do not file an answer with the court, a judgment may be granted to the defendant for the relief demanded.

Case Number: DR2015020121
File Date: FEBRUARY 27, 2015
Plaintiff: MICHAEL R KRATZER
Attorney: TYLER P WEBB
423 READING ROAD
MASON, OH 45040

MARY L SWAIN
Butler County Clerk of Courts
Jody Whisman Miller
Deputy Clerk
17122243
3-16, 3-23, 3-30, 4-6, 4-13, 4-20/2015

NOTICE OF FILING CREDITOR'S BILL, Theodore Cole, Plaintiff, versus Ellen R. Cole, Defendant (last known address 5238 Lancaster Trail, Middletown, OH, 45044). Butler County Court of Common Pleas, 315 High Street, Hamilton, OH, 45011, Case No. CV-2015-02-0447. To collect on Judgment. Defendant is required to answer the complaint within 28 days of this publication.
17107048
3-1, 3-8, 3-15, 3-22, 3-29, 4-5/2015

**COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO
NOTICE OF SUIT FOR FORECLOSURE OF LIEN
FOR DELINQUENT TAXES BY THE TREASURER
OF BUTLER COUNTY, OHIO**

TO: The following individuals and entities, and their respective unknown heirs, devisees, legatees, executors, administrators, spouses, successors, and assigns and unknown guardians of minor and/or incompetent heirs:

**WILLIAM F. BURGER, AND JANE DOE,
UNKNOWN SPOUSE OF WILLIAM F.
BURGER, LKA 7826 MEYERS ROAD,
MIDDLETOWN, OH 45042
BRENDA BURGER, AND JOHN DOE, UN-
KNOWN SPOUSE OF BRENDA BURGER,
LKA 7826 MEYERS ROAD, MIDDLETOWN,
OH 45042**

NOTICE is hereby given that on January 8, 2015, Nancy E. Tressler, Treasurer of Butler County, Ohio, filed a Complaint in the Court of Common Pleas of Butler County, Ohio, case no. CV2015-01-0029, to foreclose upon the lien of the State of Ohio for delinquent real estate taxes, assessments and penalties upon the below described real estate in which the above-described persons or entities may claim an interest as owners, beneficiaries, or otherwise, to-wit:

Being all of Lot Number Fourteen (14) con-

taining 5.32 acres on the recorded plat of Poestlow Heights, Part One, also the following described part of Lot Number Thirteen (13) of the above noted plat:

Beginning at a point at the Southwest corner of said Lot Number Thirteen (13); thence Eastward along the South line thereof 150.0 feet to a point which point is 325 feet Eastward from the Southwest corner of said Lot Number Fourteen (14); thence Northwest parallel with the West line of said Lot Number Fourteen (14), a distance of 1327.9 feet to a point on the North line of said Lot Number Thirteen (13), which point is approximately 203.73 feet Eastward from the Northwest corner of said Lot Number Fourteen (14); thence Westward along the North line of said Lot Number Thirteen (13) a distance of 150.0 feet to the Northwest corner thereof; thence Southward along the West line of said Lot Number Thirteen (13) 1327.76 feet to the place of beginning, containing 4.58 acres.

Saving and excepting from the above described real estate that part of Lot Number Fourteen (14) Poasttown Heights Plat, Part One, recorded in Plat 8, Page 2 of the Records of Butler County, Ohio, bounded as described as follows

Beginning at a point at the southwest corner of said Lot No. 14; thence northward along the west line of said Lot, 289 feet to a point thence eastward parallel with the south line of said tract 112 feet to a point; thence southward parallel with the west line of said Lot, 389 feet to a point on the south line thereof; thence westward along the south line of said Lot, 112 feet to the place of beginning containing one acre, more or less.

Property Address: 7826 Myers Road
Middletown, Ohio 45042 (and vacant land)
Permanent Parcel Number:
E2220-041-000-038 and E2220-041-000-039

Within twenty-eight days after the publication of this notice, each of the above-named defendants is required to serve upon the Prosecuting Attorney of Butler County, Ohio, the address listed below, a copy of an answer to the complaint. Within three days of the service of a copy of the answer on the Prosecuting Attorney, your answer must be filed with the Clerk of the Court, 315 High Street, Hamilton, Ohio 45011.

**DAN L. FERGUSON, 0036957
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
315 High Street, 11th Floor
Hamilton, Ohio 45011
(513) 887-3478
17121131 3-16, 3-23, 3-30/2015**

What's at Journal-News.com? Join homes for sale and rent, merchandise and announcements, obituary notices, garage sales, autos for sale - and much more!

CONTRACT #15-13

**SALE OF SURPLUS REAL PROPERTY -
2311 Lincoln Avenue, Hamilton, Ohio**

THE CITY OF HAMILTON, OHIO

The City of Hamilton, Ohio invites interested parties to submit Development Proposals for the purchase of surplus real property.

The City of Hamilton is seeking development proposals for 2311 Lincoln Avenue, an 11.78 acre parcel owned by the City of Hamilton approximately 0.5 miles east of State Route 4 and 2.5 miles southeast of downtown Hamilton.

Electronic proposals will be received on or before June 2, 2015 at 4 PM (E.D.T.), respondents should submit one electronic copy in PDF format of the Development Proposal to the City of Hamilton at econdeve@hamilton-oh.gov.

Copies proposal forms may be obtained from the Purchasing Agent, One Renaissance Center, 345 High Street, Finance Dept. 7th Floor, Hamilton, Ohio 45011 or via email request at econdeve@hamilton-oh.gov.

The City reserves the right to reject any and all responsive proposals, and advertise again, or to accept any Proposal which may be deemed to advance the best interest of the City of Hamilton, Ohio.

John Hoskinson
Purchasing Agent

Joshua A. Smith
City Manager
17140055 3-30/2015

**MASTER COMMISSIONER'S
PUBLIC AUCTION SALE
CASE NO. CV 2014 04 1538
FIRST FINANCIAL BANK, NA,
PLAINTIFF
VS.
RONALD BAKER, ET AL.,
DEFENDANTS
BUTLER COUNTY
COMMON PLEAS COURT**

By virtue of a court order in the above case, the duly appointed Master Commissioner, Brent Semple of C. Garth Semple and Associates, Inc., will sell by auction at 15 Oxford State Rd., Middletown, OH 45044 on Tuesday, the 28th day of April, 2015 at 11:00 o'clock A.M. the following described Real Estate, to-wit:
Property Address: 15 OXFORD STATE ROAD, MIDDLETOWN, OH 45044
PPN: C1710-019-000-019 AND
C1710-019-000-020
SITUATED IN SECTION 2, TOWN 1, RANGE 4, AND IN LEMON TOWNSHIP, BUTLER COUNTY, OHIO, AND BEING BOUNDED AND DESCRIBED AS FOLLOWS BEGINNING AT A POINT IN THE OXFORD STATE ROAD, NORTH 81 DEG. 00' WEST, 1317.49 FEET FROM THE POINT OF INTERSECTION OF THE CENTER OF

AHEPA SENIOR LIVING APARTMENTS OF HAMILTON

Hamilton, Butler County, Ohio

PROJECT NARRATIVE—January 26, 2016

AHEPA National Housing Corporation is pleased to present the development of 125 Senior Living Apartment dwelling specifically designed to provide **Enhance Living opportunities** for our clients as they **'age in place'**. Effectively an Assisted Living environment is being created which will address the most typical Activities of Daily Living. Residents will be screened thoroughly by Gardant Communities, our Operations Company, and determinations will be made of whether residents are qualified for our facilities....individuals with critical needs will be recommended for placement at other facilities including Skilled Nursing Care. Our building will be located on vacant land located at 2311 Lincoln Avenue in Hamilton, Butler County, Ohio, and consisting of 11.78 acres. The proposed development is provided with a keen interest to meet all of the Development Objectives defined for the City of Hamilton, aligning with the City's goals to activate vacant underutilized properties, while enhancing the overall vitality of the community.

This project's primary goal is an overarching response to need for supporting a significant elderly population in Hamilton, largely through the development of **a two-story Senior Development** enhanced by all components and services attached to traditional Assisted Living. Additionally housing, though modest dwellings, is also provided for the more independent elderly as part of the 'campus'.

Considering development of the entire 11.78 acre parcel, we have introduced these two distinct components of housing. Upon entering the site we move through a view corridor flanked by 'Cottage Style' dwellings, creating the sense of a traditional neighborhood street, which ultimately leads us to our 2-story 'Central Building'. The 'Cottages' will be developed as part of second Phase, and will likely be funded through the 9% Low Income Housing Tax Credit program. And the Central Building will house 125 dwelling specifically designed for use by our Elderly Population with special needs for assistance in daily living. Additionally the Central Building will be our 'Campus Hub' for socialization and services available to all Campus Residents.

Perhaps the most significant part as **'innovation'** for planning of the Central Building is the creating **'distinct neighborhoods'**, which can easily support the varying needs of our populations as the age in place. As examples, and without specific definition for location within the Central Building, we could easily define one neighborhood to provide services to elderly with rehabilitation needs...recent release from hospitals or other care settings. Another neighborhood could be adjusted and defined for elderly with early onset stages of dementia.

January 26, 2016

AHEPA Senior Living Apartments---Hamilton

Project Narrative and Design Concept

Page 2 of 4

And of course any neighborhood could simply respond to any of the characteristic needs to support a menu of activities for daily living. Each of these neighborhoods are planned to include ample socialization spaces and facilities for satellite dining, while central building facilities respond to all psycho-social needs of the elderly. Special spaces and accommodations will include:

- *Central dining, with the addition of private dining areas*
- *Central activities spaces, which will include theater lounge, casual living rooms, libraries, barber/beauty areas, and craft areas*
- *Active spaces to included wellness and fitness areas*
- *Space designated to provide facilities for visiting medical staff*
- *Various lounge areas and private spaces for family gatherings*
- *Limited central therapeutic bathing and therapy areas*
 - *It must be clearly understood that limited therapies and assistance with bathing could be provided with each dwelling unit, given ample resources planned therein....fostering dignity and privacy!*
- *Additionally exterior open site areas will be defined by an 8' wide multi-modal perimeter trail which travels the entire perimeter of the site and is measured to be in excess of 2,000 feet*
- *Passive and active open space amenities will exceed 5% of the site....raised garden and flower areas, and outdoor fitness as part of the trail, as well as open lawn areas.*

Other innovations for the total development will become manifest as part of building systems design, all of which have been self-scored with SOL Development LLC, the project LEED Consultants of Cincinnati, to achieve a minimum of a LEED Silver designation, and may include:

- *Special lighting systems*
- *Energy monitoring systems controls for electrical and mechanical services*
- *High efficiency HVAC systems*
- *Low-flow water savings fittings*
- *Rain gardens for on-site water controls*
- *Material waste and controls during the construction period, etc....*

berardi +

January 26, 2016

AHEPA Senior Living Apartments---Hamilton

Project Narrative and Design Concept

Page 3 of 4

Specifically considering dwelling units, they have been planned providing fully accessible bathing, and limited kitchen facilities; the latter is designated as limited since our proposal include a central dining and dietary department, fostering both socialization as well as maintaining strict dietary controls..... the latter to ensure proper and adequate food intake, most often set aside and forgotten by our elderly. At the same time while dwellings for our 'cottagers' promote more independent living, given complete apartments with full kitchens and accessible bathing, our intent is to offer meals programs which can be easily accessed by our more independent elderly from the cottages, through use of the 'restaurant style dining' within the Central Building. Not only dining is offered here, but this expands the socialization aspect of 'campus life' for all residents of AHEPA Senior Living Apartments. And as evident from review of our Cottage dwelling unit planning, each dwelling is providing with one garage space along with one open driveway space. Private patios and covered porches are also noted for inclusion and enjoyment of each Cottager.

DESIGN CONCEPT

The principal tenet which we at **Berardi+** hold close as we develop all planning for the AHEPA organization is to provide sustainable architecture through effective and efficient planning, as well as the use of good choices when selecting materials which provide for long term useful life. While planning may be our first agenda item to ensure that we respond to the needs of our user populations, careful thought for on-going maintenance and uninterrupted operations is always a parallel direction.

Following those guidelines by LEED is a good beginning step, but creating environments, with special consideration to the building envelope leads to good architecture with a minimum of cost attributed to regular maintenance. The use of 'all masonry' exterior is always a good beginning to ensure positive results in reductions for maintenance but is also a substantial attribute when considering energy conservation. In this instance we are providing an exterior envelope which is not less than 70% masonry, using a combination of brick and stone, in conjunction with pre-finished cementitious materials for the balance of surface veneer.

Other considerations associated with site planning, provide an internalized plan to maximize our own security and defensible environment. Our perimeter may include a combination of decorative fencing as well as screen mounding combined with opaque planting details above mounds. And for the convenience of our residents we will provide connectivity to the community at large with a connector walk system from the public right of way to our internal sidewalks.

berardi+

January 26, 2016

AHEPA Senior Living Apartments---Hamilton

Project Narrative and Design Concept

Page 4 of 4

As noted by appended site planning, the site area is 500,940 +/- square feet, while our building cover is 119,033 sf or the equivalent of 23%; pavement areas and asphalt are 131,538 sf. Our green space is 250,399 sf or the equivalent of 49.98%. Effectively our open Space Ratio is approximately 77%.

And while a tree survey remains to be completed, our commitment is to retain as much of the natural environment as possible, permitting for the best building placement and development of the most desirable site features.

Finally note that we have elected a soft traditional style of architecture which blends several characteristic elements of varied form, as we created a resort style environment. And while styles may vary, a more distinct singular style can easily be achieved within the plan forms that we are suggesting.

END OF NARRATIVE

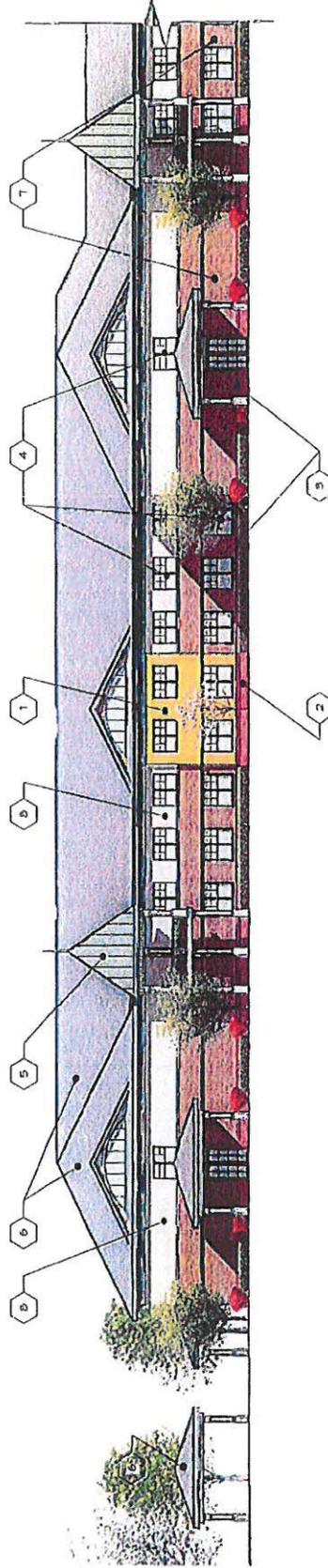
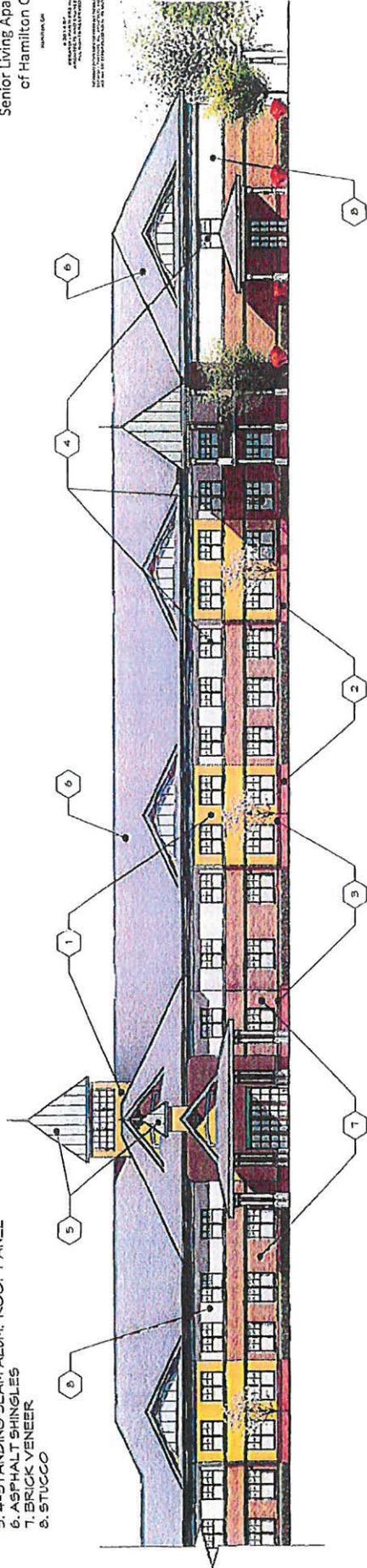
berardi +
ARCHITECTS

MATERIALS

1. STONE VENEER
2. BRICK BASE
3. ROWLOCK
4. CLAD WINDOW
5. 4"-STANDING SEAM ALUM. ROOF PANEL
6. ASPHALT SHINGLES
7. BRICK VENEER
8. STUCCO

AHEFA
Senior Living Apartments
of Hamilton Ohio
Hamilton, OH

ARCHITECT: BERARDI + PARTNERS
PROJECT NO. 13118
DATE: 08/14/18

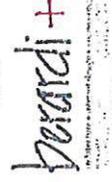


SCHEMATIC

PROJECT NO: 13118
DATE: 08/14/18

ELEVATIONS

3A



west elevation 1" = 20'-0"



Application # A160055
Approval # A160056

5. Exhibit E - Application for Rezoning



Community Development
345 High Street, Suite 370
Hamilton, Ohio 45011

PLANNING DIVISION APPLICATION

Site Address:	2311 Lincoln Avenue		Project Name:	AHEPA Senior Living Apartments of Hamilton	
Lot #	236890	Zoning:	R-2	Subdivision:	N/A
	OWNER / DEVELOPER		AGENT / APPLICANT		ARCHITECT / ENGINEER
Name	AHEPA-Demetri Damaskos		Rolando Matias		Berardi +, Inc.
Street Address	10706 Sky Prairie St.		1398 Goodale Blvd.		1398 Goodale Blvd.
City, State, Zip	Fishers, IN 46038		Columbus, OH 43212		Columbus, OH 43212
Phone# / Fax#	317-845-3410 / 317-288-0816		614-221-1110 / 614-221-0831		614-221-1110 / 614-221-0831
Cell			614-204-8832		
Email	ddamaskos@ahepahousing.org		rmatias@berardipartners.com		george@berardipartners.com

ZONING (\$300 application fee) \$ 300.00
 Existing property use: _____ Present Zoning District: R-2
 Proposed use: Senior Living Facility & Cottages Requested Zoning District: R-4

LOT SPLIT / COMBINATION (Fee \$100, except if non-buildable lot split \$20) \$ _____

PRELIMINARY PLAT / FINAL PLAT APPROVAL (Fee as below) \$ _____

Sketch (\$100 fee)
 Preliminary (\$300 fee)
 Construction Plans (No Fee)
 Final (\$500 fee)
 \$40 / lot
 Sewer Impact Fee \$1,875 / lot

PLANNED DEVELOPMENT APPROVAL (Fee as below) \$ _____

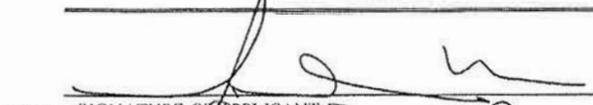
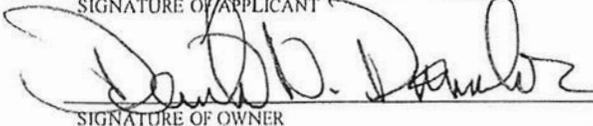
Sketch (\$100 fee)
 Preliminary (\$300 fee)
 Final (\$500 fee)
 Revision to Final Planned Development Plan
 Major (\$500 fee)
 Moderate (\$250 fee)
 Minor (\$150 fee)

Certificate of Zoning Compliance (\$50.00 fee) \$ _____

Home Occupation Approval (\$50.00 fee) \$ _____

Telecommunication Registration Fee (\$300.00 fee) \$ _____

TOTAL AMOUNT OF FEE ----- \$ _____


 SIGNATURE OF APPLICANT 1/20/2016
 DATE

 SIGNATURE OF OWNER 1/20/2016
 DATE

Rolando Matias
 PRINT NAME
 Demetri N. Damaskos
 PRINT NAME

City of Hamilton
 Planning Division
 # 00234065
 Payment Total: \$300.00
 1/20/2016 3:53 PM
 \$300.00



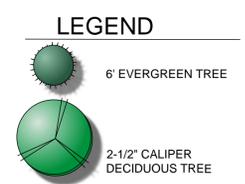
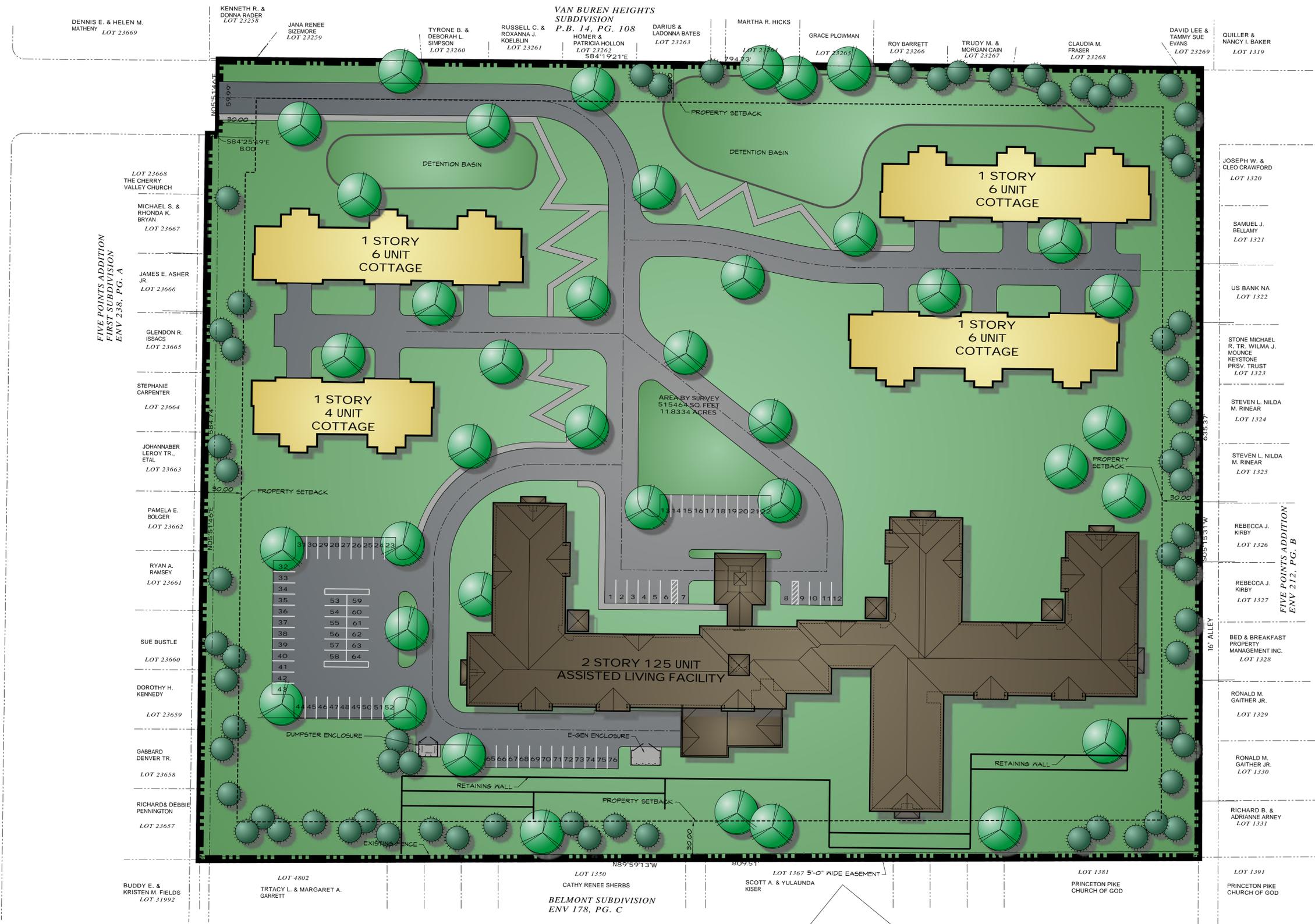
MEETING MINUTES

Date: April 8, 2016
Project Title: Helenic Senior Living Center – Community Meeting
Locations: Cherry Valley Baptist Church
Project #: A3400001
Owner: AHEPA
Prepared By: Ralph Terbrueggen

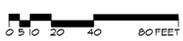
Attendees:
<ul style="list-style-type: none">Surrounding Neighbors (Approximately 30 people)Demetri Damaskos (AHEPA)Bob Dine (AHEPA)Stacey Dietrich-Dudas (City of Hamilton Community Development)Steven Hermiller (Mannik & Smith Group)Ismail Jallaq (Mannik & Smith Group)Ralph Terbrueggen (Mannik & Smith Group)
CC (Not In Attendance):
<ul style="list-style-type: none">Rolando Matias (Berardi + Partners)George Berardi (Berardi + Partners)

This Document sets forth the understanding of the parties. The parties rely upon the contents unless the writer receives notice of specific discrepancies with proposed revised wording within two weeks of the date of transmission of this document. Parties responsible for action items are listed in BOLD font in the right column.

The following items were discussed:
<p><u>Color Site Plan</u></p> <ul style="list-style-type: none">The current color site plan (attached) was reviewed. Discussed the variations of the plan and how the project team arrived at the current plan which was strongly influenced by the site topography. Previous plans were adjusted so the buildings better aligned with the site's significant existing topography. The number of cottages were also reduced to allow for more site area to better address the amount of grade change between the building pads.It was also noted that the team believes that this Site Plan will be the plan moving forward.Landscaping which consists of 104 trees (39 deciduous and 65 evergreens) meeting the City requirements of one tree per 5000 sf of site area is indicated on the color site plan and was discussed. The evergreens are placed along the project perimeter to help screen the buildings from the neighbors.Walks are shown zig-zagging up the site topography to keep the walk slope under the ADA accessibility requirement of 5% maximum.Detention basins are shown along the north property boundary (and the lower portion of the site) to intercept the storm water run-off and reduce run-off impacts to those neighbors. Detention and storm water design will follow City requirements. <p><u>Site Cross Sections</u></p> <ul style="list-style-type: none">Four cross sections (three north-south and one east-west) through various points on the site were presented. The adjoining neighbors at the beginning and end of each cross sections were noted. For instance, Section 1-1 begins at Margaret Garrett's and ends at Janet Sizemore's property. <p><u>Building Elevations</u></p> <ul style="list-style-type: none">The building elevations for the main building and cottages, as shared in the previous meetings, were presented to the neighbors. <p><u>Neighbor Issues</u></p> <ul style="list-style-type: none">No issues, from the attending neighbors, were voiced at the meeting over information that was presented.Margaret Garrett, who voiced concerns at the first community meeting and at the first Council meeting, was not in attendance.

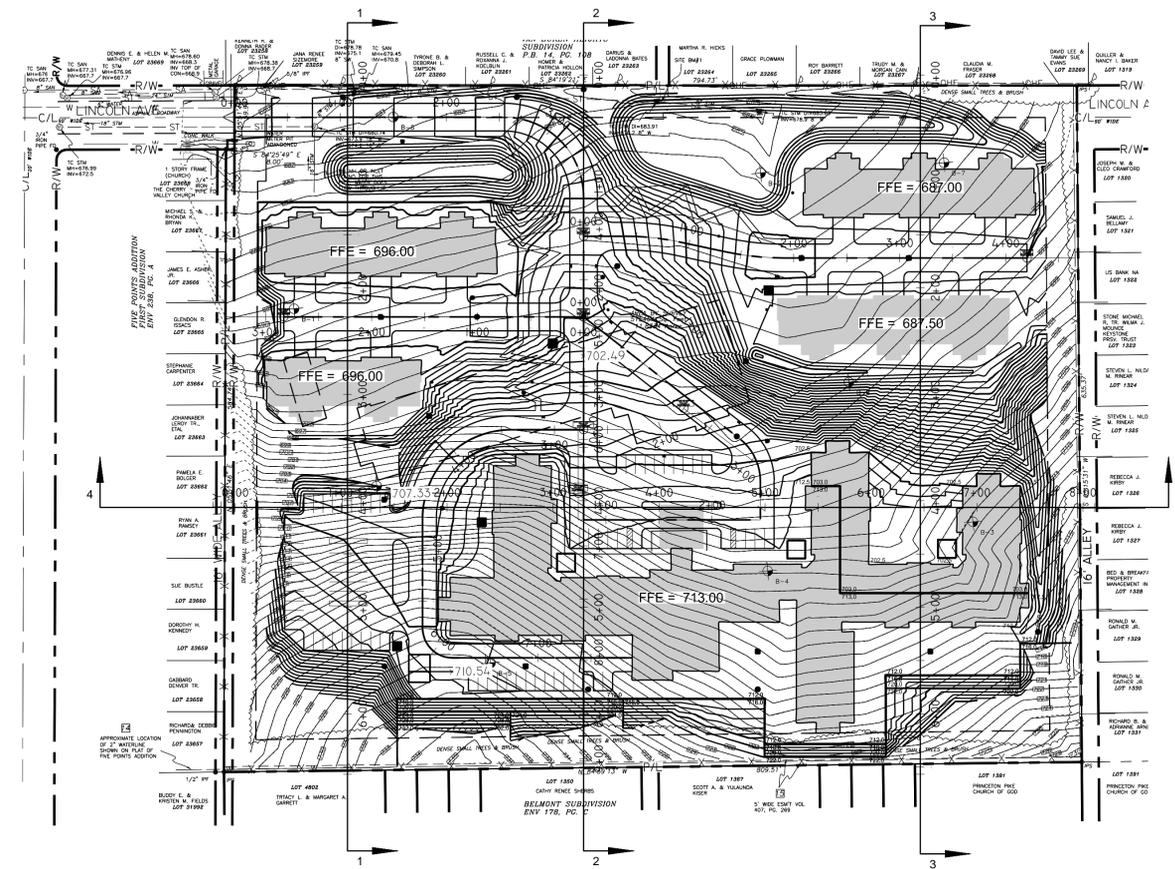


site development plan
 scale: 1:40

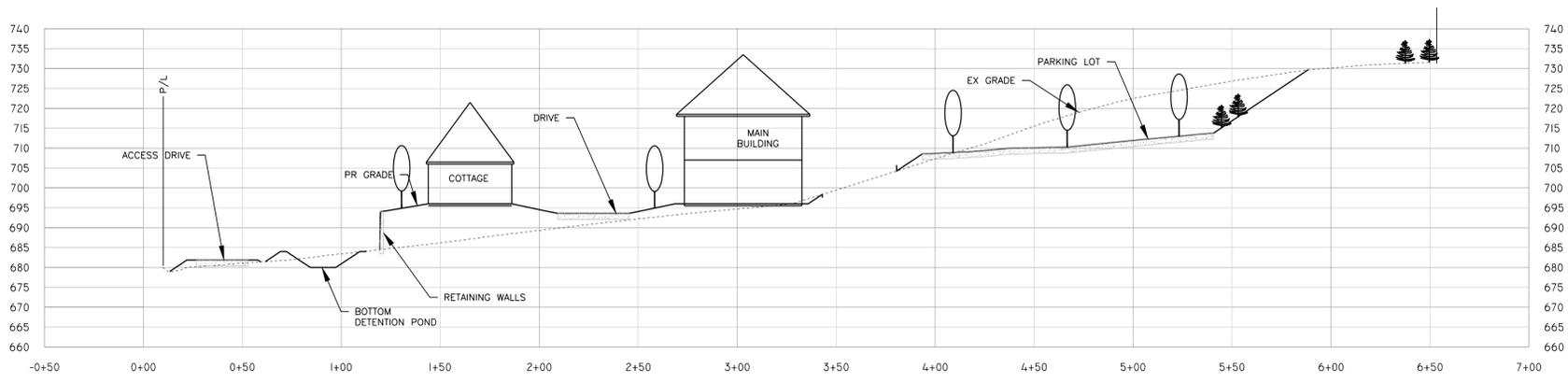


Hellenic Senior Living of Hamilton

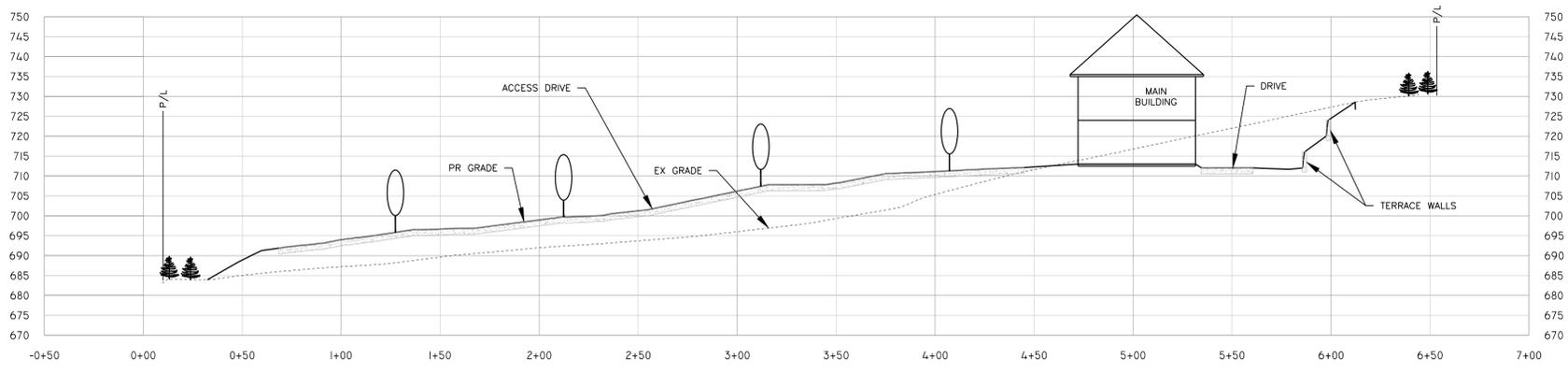
Hamilton, OH



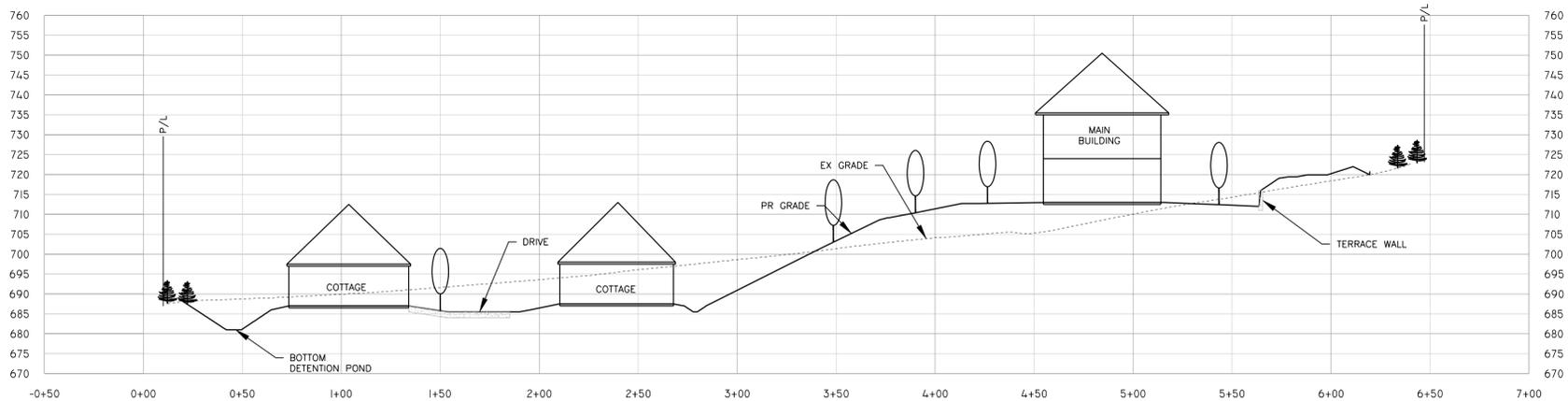
CROSS SECTION KEY PLAN
SCALE = 1"=80'



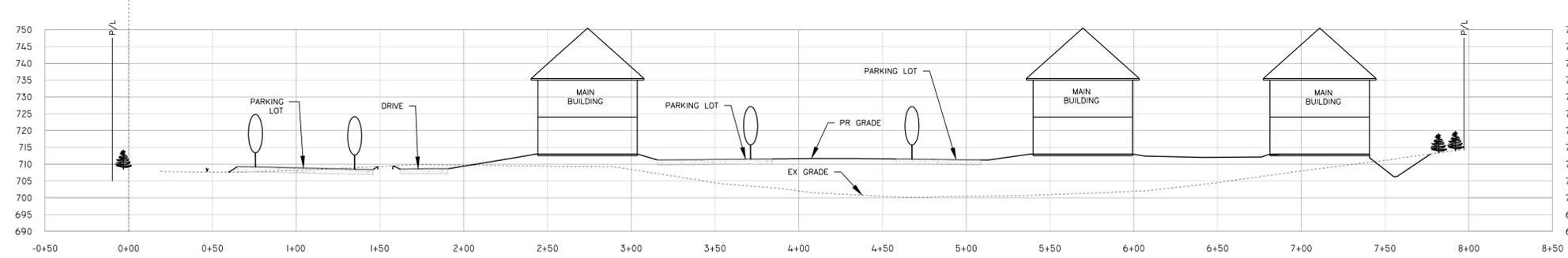
SECTION 1-1



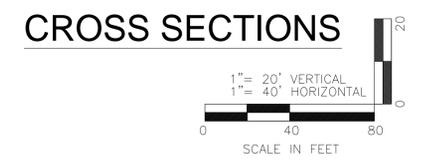
SECTION 2-2



SECTION 3-3



SECTION 4-4



Hellenic Senior Living of Hamilton

Hamilton, OH





MEETING MINUTES

Date: April 8, 2016
Project Title: Helenic Senior Living Center – Fire Access & Protection Discussion
Project #: A3400001
Owner: AHEPA
Prepared By: Ralph Terbrueggen

Attendees:

- Deputy Chief Ken Runyan (City of Hamilton Fire Department)
- Ken Rivera (City of Hamilton Building Official)
- Joy Rodenburgh, PE (City of Hamilton Utilities)
- Rolando Matias (Berardi + Partners)
- Ralph Terbrueggen (Mannik & Smith Group)

CC (Not In Attendance):

- Bob Dine (AHEPA)
- Steven Hermiller (Mannik & Smith Group)

This Document sets forth the understanding of the parties. The parties rely upon the contents unless the writer receives notice of specific discrepancies with proposed revised wording within two weeks of the date of transmission of this document. Parties responsible for action items are listed in BOLD font in the right column.

The following items were discussed:

- Review the Preliminary Utility Plan.
- Fire Truck Access: 26' minimum drive width. 28' minimum radius.
- Fire Hydrant Spacing and Locations: Acceptable to Deputy Chief Runyan with the changes shown on the attached plan.
- Flow Requirements: 52,000 sf main building area, Type 5A Construction requires 1000 gpm with 20 psi residual minimum. Joy will request an updated flow test following this criteria.
- Fire Department Connection locations: In front of the main building. See attached plan.
- Building Construction Type: Type 5A main bldg. Chief Runyan has requested that the project consider suppressed cottages.
- A discussion on fire fighting on the easternmost housing wings included adding an access drive across the front of the main building; reconfiguring the east cottages to allow a drive to come up the hill on the east side of the site and adding a 16' fire access drive to the rear of the main building. Given the significant existing topography of the site, it was decided that this last option was the best approach. To provide room for the 16' wide access drive, reconfiguration of the southeast housing wing will be required. The Preliminary Utility Plan attached has been modified per meeting discussion.
- Meter locations: Main building – meter in the mechanical room. Future cottages meter box outside the building. A public water main within an easement was discussed and Joy was agreeable to this approach.

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7503 BY CHANGING THE ZONING OF VACANT PROPERTY LOCATED AT THE EASTERN TERMINUS OF LINCOLN AVENUE. (CITY LOT NO. 23680), LOCATED IN THE CITY OF HAMILTON, FIFTH WARD, FROM R-2 SINGLE-FAMILY RESIDENCE DISTRICT TO R-4 MULTI-FAMILY RESIDENCE DISTRICT (AHEPA Senior Living, Applicant).

WHEREAS, the Administration of the City of Hamilton, Ohio, has received a request from AHEPA Senior Living, for property located at the eastern terminus of Lincoln Avenue (City Lot No. 23680), for a change in the zoning designation for said property, located in the Fifth Ward, from "R-2" Single-Family Residence District to "R-4" Multi-Family Residence District; and

WHEREAS, AHEPA Senior Living has proposed the rezoning from "R-2" to "R-4" in order to facilitate the future development of the property; and

WHEREAS, the City Planning Commission held a public hearing and reviewed the rezoning request at their February 15, 2016 meeting and property owners within 500 feet of the subject property were notified by mail of the public hearing before the City Planning Commission; and

WHEREAS, after holding a public hearing and reviewing the rezoning request, the City Planning Commission approved the request to rezone property located at the eastern terminus of Lincoln Avenue (City Lot No. 23680) from "R-2" to "R-4"; and

WHEREAS, the City Planning Commission recommends that City Council approve the request to rezone property located at the eastern terminus of Lincoln Avenue (City Lot No. 23680), located in the Fifth Ward, City of Hamilton, Butler County, Ohio.

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

SECTION I: That the zoning of the following described lot, to-wit:

- (1) property located at the eastern terminus of Lincoln Avenue (City Lot No. 23680), located in the Fifth Ward, City of Hamilton, Butler County, Ohio

as the same are known and designated on the revised list of lots in the Fifth Ward of the City of Hamilton, Butler County, Ohio, and as set forth in detail in Exhibit No. 1, attached hereto, made a part hereof and incorporated herein by reference, be and are hereby changed from "R-2" Single-Family Residence District to "R-4" Multi-Family Residence District, and the District Map provided by Section 1103.00 of the Zoning Ordinance No. 7503 shall be altered to show such changes.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Effective Date: _____

ATTEST: _____

City Clerk

Mayor

CERTIFICATE

Ordinance No. _____ **(cont'd)**

I, Nick Garuckas, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided in Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

Nick Garuckas, City Clerk
CITY OF HAMILTON, OHIO

EXHIBIT NO. 1

**LINCOLN AVENUE PROPERTY
PUBLIC HEARING MAP**



City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Liz Hayden, Economic Development Specialist

Agenda Item: Report regarding amendments and supplements to Peddler and Street Vending Ordinance and Solicitors and Transient Dealers Ordinance

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input checked="" type="checkbox"/> R Realize new investments <input type="checkbox"/> A Add new jobs <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input type="checkbox"/> O General operations
Ordinance or Resolution <i>Ordinance</i>	1 st Reading Date: 3-23-16 2 nd Reading Date: 4-13-16 Public Hearing Date:	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other):	
Contract	<input type="checkbox"/> Contract Required	
Fiscal Impact	Budgeted: \$0 Expenditure: \$0 Source Funds: 0	<input checked="" type="checkbox"/> Additional Document(s) Attached <i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

Policy Issue

Does City Council wish to adopt legislation to rename, supplement and amend Chapters 753 and 754 and amend Section 901.04 of the Codified Ordinances of the City of Hamilton, Ohio to clarify the requirements for peddlers, solicitors, itinerant vendors, canvassers and street vendors for the purpose of promoting safety and business development within the City?

Policy Alternative(s)

Council may choose not to adopt legislation to rename, supplement and amend Chapters 753 and 754 and amend Section 901.04 of the Codified Ordinances of the City of Hamilton, Ohio. If such legislation is not adopted, the existing Ordinances will continue in their current form and may be reconsidered when a safety-specific ordinance is proposed by the Fire Division at some time in the future.

Staff Recommendation

Staff recommends that Council receive this report and adopt legislation to rename, supplement and amend Chapters 753 and 754 and amend Section 901.04 of the Codified Ordinances of the City of Hamilton, Ohio. It is anticipated that these changes will promote safety and business development within the City.

Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton



- Chapter 753 of the Codified Ordinances of the City of Hamilton
- Chapter 754 of the Codified Ordinances of the City of Hamilton
- Section 901.04 of the Codified Ordinances of the City of Hamilton, Ohio

Fiscal Impact Summary

This is not projected to have a fiscal impact.

Background Information

The proposed changes are aimed at improving safety and promoting business development. The proposed changes will:

1. Add peddler and canvasser regulations to Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio.
2. Change the name of Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio from “Solicitors and Transient Dealers” to “Peddlers, Solicitors, Itinerant Vendors and Canvassers.”
3. Add section 753.10 of the Codified Ordinances of the City of Hamilton, Ohio to address enforcement.
4. Eliminate peddler regulations from Chapter 754 of the Codified Ordinances of the City of Hamilton, Ohio. This change will allow the ordinance to focus specifically on Street Vending.
5. Change the name of Chapter 754 of the Codified Ordinances of the City of Hamilton, Ohio from “Peddlers and Street Vendors” to “Street Vending.”
6. Amend Section 754.02 of the Codified Ordinances of the City of Hamilton, Ohio to eliminate the Street Vending District (map attached) and permit street vending throughout the City of Hamilton with restrictions on High Street between the High-Main Bridge and the High Street/Martin Luther King Jr. Boulevard intersection from 7 a.m. to 6 p.m. Monday through Friday.
7. Amend Chapter 754 of the Codified Ordinances of the City of Hamilton, Ohio, to restrict street vending at City Markets, special events, RiversEdge amphitheater and the surrounding area, and Third Street Plaza and the surrounding area without the permission of the organizer of the Market or event.
8. Amend Chapter 754 of the Codified Ordinances of the City of Hamilton, Ohio to require that food-related street vendors operate 100 feet away from existing restaurants unless they secure written permission.
9. Eliminate the requirement in Section 754.08(b) of the Codified Ordinances of the City of Hamilton, Ohio, that vendors stay 40 feet away from each other.
10. Eliminate the vending hour restrictions set forth in Section 754.10 of the Codified Ordinances of the City of Hamilton, Ohio.
11. Amend Section 754.10 of the Codified Ordinances of the City of Hamilton, Ohio to address enforcement.
12. Amend Section 901.04 of the Codified Ordinances of the City of Hamilton, Ohio pertaining to Merchandise on Thoroughfares to clarify that street vendors may carry on the business for which they are licensed pursuant to Chapter 754.

The proposed changes were developed in response to concerns raised by Public Safety and downtown businesses and administration’s request that current policies regarding street vendors and peddlers be reviewed. The Ordinance Review Committee reviewed the proposed amendments, invited public input and received comments from representatives of various City departments including the City Manager, Public Safety, Economic Development, Community Development and Resident Services.

It is anticipated that the proposed changes will further public safety and encourage business development in downtown Hamilton. The needs of multiple parties were considered when developing the proposed changes. The primary concern was related to safety considering the high volume of traffic on High Street in downtown Hamilton, particularly during business hours. Special consideration was also given to protect the City’s existing brick and mortar businesses while maximizing business development for the City by allowing street vending activities.

Attached Information

- Existing vendor district map
- Redline of Chapter 753



- Redline of Chapter 754
- Redline of Section 901.04

Copies Provided to:

- Copies will be provided to existing street vendors, peddlers, solicitors, itinerant vendors, canvassers and businesses currently operating on High Street in downtown Hamilton.



CHAPTER 753 — PEDDLERS, SOLICITORS, ITINERANT VENDORS, AND TRANSIENT DEALERS/CANVASSERS

Sec. 753.01: Definitions.

“Canvasser” or “solicitor” For the purpose of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

(a) “Peddler” means any person, ~~whether resident of the City or not,~~ traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house door-to-house-door selling, or from street offering to street, sell or barter, or taking or attempting to take orders ~~in person or by telephone for sale of~~ of, any goods, wares ~~and,~~ merchandise, or personal property of any nature whatsoever, for present or future delivery, or ~~for any~~ services to be furnished or performed in the future.

(b) “Solicitor” means any person traveling from door-to-door seeking to obtain funds for any cause whatsoever.

~~(b)(c)~~ “Itinerant vendor” or “transient dealer” means ~~and includes~~ any person, either principal or agent, who engages in or conducts in this City a temporary or transient business of selling goods, wares ~~and,~~ merchandise, or personal property of any nature whatsoever, with the intention of continuing in such business for a period of not more than 120 days and who, for the purpose of carrying on such business, hires, leases or occupies either in whole or in part a room, building or other structure for the exhibition and sale of such goods, wares ~~and,~~ merchandise, or personal property.

~~(c)~~ Exceptions to the definitions of the terms “canvasser” or “solicitor” are the following:

~~(1)~~ A person selling or making delivery of goods, wares or merchandise previously sold by an establishment having a permanent place of business within the City.

~~(2)~~ A person making sales of the following items for daily household consumption:

~~A.~~ Baked goods.

~~B.~~ Fruits, vegetables, eggs and similar agricultural products; and

~~C.~~ Dairy products, except dealers of frozen desserts from vehicles.

~~(3)~~ A person working for or on behalf of any recognized educational, political, civic, religious, medical or charitable organization or causes.

~~(d)~~ “Canvasser” means any person who seeks to disseminate any lawful message by means of traveling from door-to-door, without soliciting funds or donations.

Sec. 753.02: License Required.

No person, for him or herself, or for any business, firm, or corporation, either as principal or agent, shall engage in the business or activity of a peddler, solicitor, ~~canvasser,~~ itinerant vendor, or transient dealer within the City without first obtaining a license and identification card therefor, as provided in this chapter, except that no license or identification card shall be required of any individual who, without compensation, acts as a peddler or solicitor for or on behalf of any recognized educational, political, civic, religious, medical or charitable organization or cause.

Sec. 753.03: License Application Requirements.

(a) Applications for licenses for peddlers, solicitors, ~~canvassers,~~ itinerant vendors ~~and, or~~ transient dealers shall be filed with the Director of Finance on a form to be furnished by the Director which shall require, at least, the following information:

(1) Name of applicant;

- (2) Home address and telephone number of applicant;
- (3) Name and address of the person by whom employed;
- (4) Length of service with such employer;
- (5) All places of residence and all employment during the preceding year;
- (6) The nature and character of the goods to be sold or service to be furnished by

the applicant; ~~and~~

~~(7) Names of all other towns in which the applicant has within the past year conducted a business for which a license is herein required; and~~

~~(8)(7) A personal description and history of the applicant.~~

(b) The applicant shall furnish a recent photograph of himself not more than one year old and approximately three inches by three inches in size. The application shall be made at least ten days before the license is required.

(c) If the Director of Finance determines after an investigation, that the applicant proposes to engage in a lawful, commercial or professional enterprise and does not, based upon past record, constitute a clear and present danger to the residents of the City, he shall issue a license to the applicant.

Sec. 753.04: Fees.

~~For the~~The license ~~to be fee for~~ a peddler, solicitor, ~~canvasser~~, itinerant vendor, or transient dealer, ~~each applicant~~ shall ~~pay the sum of~~ be fifty dollars (\$50.00) to the City. All licenses issued hereunder shall be for a period of one year or less which shall end on December 31 of that calendar year in which they are acquired, regardless of the date such license is issued.

Sec. 753.05: Carrying or Exhibiting License and Identification Card.

The license issued under the provisions of this chapter shall be exhibited in the place of business by an itinerant vendor or transient dealer, ~~and~~ shall be carried by any peddler or solicitor ~~or canvasser~~ at all times when peddling or soliciting ~~or canvassing~~, and shall be displayed conspicuously at all times upon the operator's stand, cart or container, or exhibited to any person being solicited or any police officer on request. Any and all additional licenses or permits required pursuant to law shall be displayed conspicuously at all times ~~upon the operator's stand, cart or container.~~ Further, an identification badge shall be issued to all peddlers or solicitors ~~or canvassers~~, which shall be worn conspicuously and affixed to the outer garment of the operator at all times when peddling or soliciting ~~or canvassing~~. The identification card is not a license and shall so state.

Sec. 753.06: Hours Regulated.

~~All~~Any peddling, soliciting, or canvassing ~~done under license issued by virtue of this chapter~~conducted within the City shall be conducted between 9:00 a.m. and 7:00 p.m. on Mondays through Saturdays. No peddling, soliciting, or canvassing shall be conducted on Sunday.

Sec. 753.07: Loud Noises and Speaking Devices.

No ~~operator~~peddler, solicitor, itinerant vendor, or transient dealer, or any person ~~in~~on his behalf, shall shout, ~~make any cryout or cry out~~, blow a horn, ring a bell, or use any sound device, including any loud speaking radio or sound amplifying system, upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City, where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such operator~~person~~ proposes to sell.

Sec. 753.08: License Not Transferable; Separate Licenses and Identification Cards Required.

No license shall be assigned or transferred. No licensee shall authorize any person, firm or corporation other than the one named therein to do business. No licensee shall conduct any other business than is listed in his application to be transacted. A separate license and identification card shall be required for each individual peddler, solicitor, canvasser, itinerant vendor, or transient dealer, whether or not employed by one person, firm or corporation.

Sec. 753.09: Revocation of License.

Any license issued under the provisions of this chapter may be revoked at any time, should the person to whom it is issued be guilty of any fraud, misrepresentation or unlawful act in connection with his business, or otherwise; is found to be a person not fit to be engaged in such business; or violates any provisions of this chapter.

Sec. 753.10: Enforcement.

In addition to any City Department authorized to enforce any provisions of the Codified Ordinances of the City of Hamilton, Ohio as they pertain to the activities set out in this Chapter 754, the Division of Police is hereby authorized to enforce Chapter 753.

Sec. 753.99: Penalty.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Each day of violation shall constitute a separate offense.

CHAPTER 754 – ~~PEDDLERS AND STREET VENDORS~~ VENDING

Sec. 754.01: Definitions.

For the purpose of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

~~“Peddler or street vendor” means any person who goes from city to city, or from place to place, or from door to door, selling or offering to sell or barter, or carrying for sale or barter, or exposing therefor, any~~ Street vending” means the sale, or offer for sale, of goods, wares, merchandise, food, confectionery, drink, or other commodity, carried by hand, from commodities, on the City of Hamilton’s streets, highways, sidewalks, or other outdoor City-owned property, from temporary displays, portable stands or tables, or by manually propelled vehicles, or by from motor- or animal-drawn vehicles.

Sec. 754.02: Street Vending ~~District~~ Location and Operation Restrictions.

~~“Street Vending District” means the area within the boundaries indicated on the map attached hereto and made a part of this legislation, consistent with the renewal community designation and all municipally recognized business districts.~~

Licensed street vending may be conducted within the City of Hamilton, except as follows:

(a) No street vending shall be conducted on, and no street vendor’s display stand, table, cart, container or other appurtenance or paraphernalia shall be set up on, private property, or on the sidewalks adjacent to private property, without prior written consent of such property owner and of the owners of any property adjoining or abutting such property.

(b) Street vending is not permitted on High Street between the west side of the High-Main Bridge and the intersection of High Street and Martin Luther King Jr. Boulevard, Monday through Friday, between the hours of 7:00 a.m. and 6:00 p.m.

(c) Street vending is not permitted at any City Market established pursuant to Chapter 717, except for such sales permitted by, and so long as the street vendor is in complete compliance with, the provisions of all laws, regulations, and City ordinances governing said City Markets.

(d) Except by written permission granted by the organizer of a special event, which permission shall not be withheld based upon any political, religious, ethnic, race, disability, sexual orientation or gender related grounds, street vending is not permitted within the following areas during the period one hour before and one hour following a special event held:

(1) At RiversEdge Amphitheater: the area enclosed by Linden Street to the North, North Third Street to the East, Market Street to the South, and the East bank of Great Miami River to the West.

(2) At Third Street Plaza: the area enclosed by Race Street to the North, North Martin Luther King Jr. Boulevard to the East, Market Street to the South, and North Second Street to the West.

(e) Except by written permission granted by the holder of a permit issued pursuant to Chapter 315, which permission shall not be withheld based upon any political, religious, ethnic, race, disability, sexual orientation or gender related grounds, street vending is not permitted within streets and intersections blocked for purposes related to the permit, or on any street within one city block of the permitted event and any street designated by the Chief of Police as a detour for the blocked streets and intersections.

Sec. 754.03: Scope of Chapter.

The provisions of this chapter do not apply to:

- (a) Sales made to dealers by commercial travelers or selling agents in the usual course of business;
- (b) Bona fide sales of goods, wares, or merchandise by samples for future delivery;
- (c) Sales at trade shows or conventions;

~~(a) Sales from City market spaces regulated under Chapter 717, City Market; or sales otherwise authorized by Chapter 717; or~~

- (d) Sales of tickets to an event; or

(e) Any person conducting a garage sale, lawn sale, yard sale, or basement sale at or within reasonable proximity of his/her garage, lawn, yard, or basement.

Sec. 754.04: Operation Without License Unlawful; Failure to Display License ~~and/~~ Identification Card.

No person shall engage in the business or trade of ~~peddler or~~ street ~~vendor~~ vending without first obtaining a license and identification card from the Director of Finance. ~~The peddler or~~ street vendor license shall be displayed conspicuously at all times upon the ~~peddler's or~~ street vendor's stand, cart or container. ~~Any and all additional licenses or permits required pursuant to law shall be displayed conspicuously at all times upon the peddler's or~~ street vendor's stand, cart or container. ~~The identification card issued by the Director of Finance shall be worn conspicuously and affixed to the outer garment of the peddler or~~ street vendor at all times. ~~The identification card is not a license and shall so state.~~

Sec. 754.05: License and Parking Fees.

(a) The license fee for engaging in the trade or business of ~~peddler or~~ street ~~vendor~~ vending shall be one hundred fifty dollars (\$150.00). ~~All licenses issued hereunder shall be for a period of one year or less which shall end on December 31 of that calendar year in which they are acquired, regardless of the date such license is issued.~~

(b) Except as otherwise prohibited by Chapter 754, street vendors may use the City's parking spaces for up to twelve (12) consecutive hours, and except that no disability parking spaces or spaces providing time-limited parking of thirty (30) minutes or less may ever be used. Street vendors' use of any metered parking space or time-limited parking space at any time between 9:00 a.m. and 5:00 p.m., Monday through Friday, shall require a permit. Such permits shall be issued upon application to and approval by the Director of Public Works and payment of the appropriate fee. The fee for such permits shall be ten dollars (\$10.00) per day, or two hundred fifty dollars (\$250.00) per year.

Sec. 754.06: Application for License.

Each applicant for a ~~peddler~~street vending license shall file an application with the Director of Finance in such form as prescribed by the Director of Finance. -The applicant may be an individual ~~peddler or~~ street vendor or a person, firm or corporation on behalf of an individual ~~peddler or~~ street vendor. -In the case where a person, firm or corporation applies for the license on behalf of an individual ~~peddler or~~ street vendor, the license shall be issued in the name of the applicant; the license shall also bear the name and identification card number of the ~~peddler or~~ street vendor on whose behalf the license is issued. -The identification card shall be issued in the name of the ~~peddler or~~ street vendor on whose behalf the license was purchased. -Each applicant for a ~~peddler or~~ street vendorvending license shall furnish two photographs of the ~~peddler or~~ street vendor on whose behalf the license is purchased, taken within thirty days preceding the date of application, of a size designated by the Director of Finance, one of which shall be attached to a consecutively numbered identification card. -Applicants ~~for the sale of~~that intend to sell food or beverages shall exhibit to the Director of Finance the necessary permit(s) from the Department of Health.

Each applicant for a ~~peddler or~~ street vendorvending license must provide evidence of having established a City income tax account with the application.

In the case of loss of an identification card, the licensee shall file with the Director of Finance a signed and sworn affidavit that the identification card was lost or in the case of theft, a copy of the theft report submitted to any law enforcement agency and upon payment of twenty- five dollars (\$25.00) shall receive a replacement identification card. -Each applicant for a replacement identification card shall furnish two photographs of the ~~peddler~~street vendor on whose behalf the license was issued, of a size designated by the Director of Finance, which photographs shall have been taken within thirty days of the date of application. -The replacement identification card shall expire on the same date as the original being replaced.

Sec. 754.07: Transfer of Identification Card.

The ~~peddler or~~ street vendorvending license is nontransferable. -When the license is issued to a person, firm or corporation on behalf of another ~~peddler or~~ street vendor, the licensee may make application with the Director of Finance to transfer the identification card from one ~~peddler or~~ street vendor to another ~~peddler or street vendor.~~ The licensee must exhibit the original license receipt and surrender the identification card to the Director of Finance at the time of application for transfer. -Each applicant for transfer of the identification card shall furnish two photographs of the ~~peddler~~street vendor on whose behalf the identification card is to be issued of a size designated by the Director of Finance, which photographs shall have been taken within thirty days of the date of application for transfer.

A fee of fifteen dollars (\$15.00) shall be charged for the transfer of an identification card. -The transferred identification card shall expire on the same date as the original being transferred.

In the event the licensee fails to surrender the original identification card because it is lost or stolen, the application for transfer shall be accompanied by a signed and sworn affidavit that the identification card was lost or in the case of theft, a copy of the theft report submitted to any law enforcement agency. -The fee for a replacement identification card shall be paid in addition to the transfer fee.

Sec. 754.08: Street Sales - General.

No person licensed as a ~~peddler or~~ street vendor shall demonstrate, sell or offer for sale or barter any goods, wares, merchandise, food, confection or drink upon any highway or sidewalk or any other City-owned property within the City except in accordance with all of the following provisions:

~~(a) No merchandise shall be displayed or sold by a peddler or street vendor in any place within the City except a Street Vending District. This section shall not apply to a peddler or street vendor selling prepackaged ice cream, popsicles or frozen desserts of any kind for purposes of retail sale, or offered for retail sale, while operating a motor vehicle within the City.~~

(a) All street vendors must abide by all safety and health regulations as defined by the City of Hamilton Health Code, the City of Hamilton Fire Prevention Code, and the Ohio Fire Code. All food vendors must abide by all rules and regulations pertaining to the Ohio Uniform Food Safety Code Chapter 3717-1, Ohio Administrative Code Chapters 901:301-4-01 and the Ohio Revised Code Chapter 3717.

~~(a)(b)~~ No merchandise shall be displayed or sold to the occupants of vehicles stopped in traffic.

(c) No street vendor shall park or locate any motor vehicle, trailer, or motor-drawn vehicle on any sidewalk within the City.

~~(b)(d)~~ Each ~~peddler or~~ street vendor selling from a motor or animal-drawn vehicle must comply with all traffic regulations at the location the vehicle is parked or standing.

~~(c)(e)~~ No merchandise shall be displayed or sold at any sidewalk location where the sidewalk/right-of-way is less than twelve feet in width ~~from the private property line to the curblines.~~

~~(d)(f)~~ No merchandise shall be displayed or sold within twenty feet from the point of intersection of the curblines (except alleys), crosswalks or bus stop or stairway leading to or from any overhead walkway.

~~(e)(g)~~ No merchandise shall be displayed or sold within ten feet of a fire hydrant, a standpipe, a sprinkler intake, a doorway or other access point to abutting property, ~~a store window~~ or a sidewalk elevator.

~~(f)(h)~~ No merchandise shall be displayed, or sold at a location which hinders or restricts access to a telephone booth, mailbox, parking meter, fire alarm call box or traffic ~~control~~ box.

~~(b) No merchandise shall be displayed or sold within forty feet of the location at which another peddler or street vendor is already displaying or selling merchandise. In the case of a dispute between peddlers or street vendors, the peddler or street vendor who arrived first on the day involved shall be deemed to have the privilege of operating at that location on that day. A peddler must continue to be there in person with wares to claim such privilege. Such distance shall be measured from the end of one display stand, table, cart, container or other appurtenance to the beginning of the next.~~

~~(g)~~(i) No merchandise shall be displayed or sold in a manner that blocks, obstructs or restricts the free passage of pedestrians or vehicles in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.

~~(h)~~(j) All merchandise shall be displayed or sold from portable stands or containers. ~~Each peddler or~~ street vendor shall remove all merchandise, packaging, paper, containers, display stands or tables, or other materials brought to the vending location at the termination of sales each day. ~~No permanent stands or displays will be permitted.~~

~~(i)~~(k) No ~~peddler's or~~ street vendor's display stand, cart, container or other appurtenances, paraphernalia, merchandise, supplies or signage shall occupy more than fifty inches of lateral sidewalk width, nor more than seventy-two inches of longitudinal sidewalk area.

~~(j)~~(l) Each ~~peddler or~~ street vendor during the period of selling shall keep the area within ten feet of the location where the ~~peddler or~~ street vendor sells or displays merchandise free from all litter and debris arising from the operations, including the litter which arises from actions of customers in disposing of wrapping or packaging materials on merchandise sold by the ~~peddler or~~ street vendor.

~~(k)~~(m) No ~~peddler's or~~ street vendor's display stand, cart, container, or other appurtenance or paraphernalia shall be set up along street plantings or street furniture.

~~(l)~~(n) ~~Peddlers or street~~Street vendors shall at all times exercise reasonable care that their merchandise, packaging material, display equipment and other paraphernalia shall not create a safety or health hazard to customers or other persons using the public highways or sidewalks or to persons on or in abutting property.

~~(c) — No in the event a street vendor sells food, confection confectionery, or drink except prepackaged and/or containerized products items, the street vendor shall be displayed or sold positioned at least 100 feet from any unimproved public property, including unimproved sidewalks or pedestrian walkways.~~

~~(d) — No street sales shall be conducted nor shall any display stand, cart, container, or other appurtenances be permitted on any public property between the the customer entrance of an existing restaurant during its hours of midnight and 7:00 a.m. daily.~~

~~(e) — Each peddler or street vendor must police their own area and a ten-foot radius of same to keep it free from debris and litter.~~

~~(m)~~(o) ~~No operation, unless the street sales shall be conducted and no peddler's or street vendor's display stand, cart, container or other appurtenance or paraphernalia shall be set up on private property, or on the sidewalks adjacent to private property, without prior written consent of such property vendor provides documentation that the restaurant owner or without prior written consent of the owners of any property adjoining or abutting such property supports a closer proximity.~~

Nothing herein shall be construed to prohibit the distribution of noncommercial handbills, cards, leaflets, other literature or the sale of newspapers and magazines on the sidewalks.

Sec. 754.09: Insurance Requirements.

~~The~~Each applicant for a street vending license is required to post a satisfactory certificate of insurance, to be approved by the Director of Law, including general liability insurance and product liability insurance ~~providing the City with, which shall be endorsed to include the City as additional insured, providing~~ indemnification against any claims, demands, lawsuits, or judgments arising out of the exercise of the ~~privilege~~privileges granted by the license; such policy of liability insurance is to guarantee at one million dollars (\$1,000,000).

Sec. 754.10: Hours of Operation Enforcement.

~~All peddling or street vending done under license issued by virtue of this chapter shall be conducted between 9:00 a.m. and 9:00 p.m. on Mondays through Saturdays. The City reserves the right to permit such peddling or street vending on Sunday or holidays.~~

In addition to any City Department authorized to enforce any provisions of the Codified Ordinances of the City of Hamilton, Ohio as they pertain to the activities set out in this Chapter 754, the Division of Police is hereby authorized to enforce Chapter 754.

Sec. 754.99: Penalty.

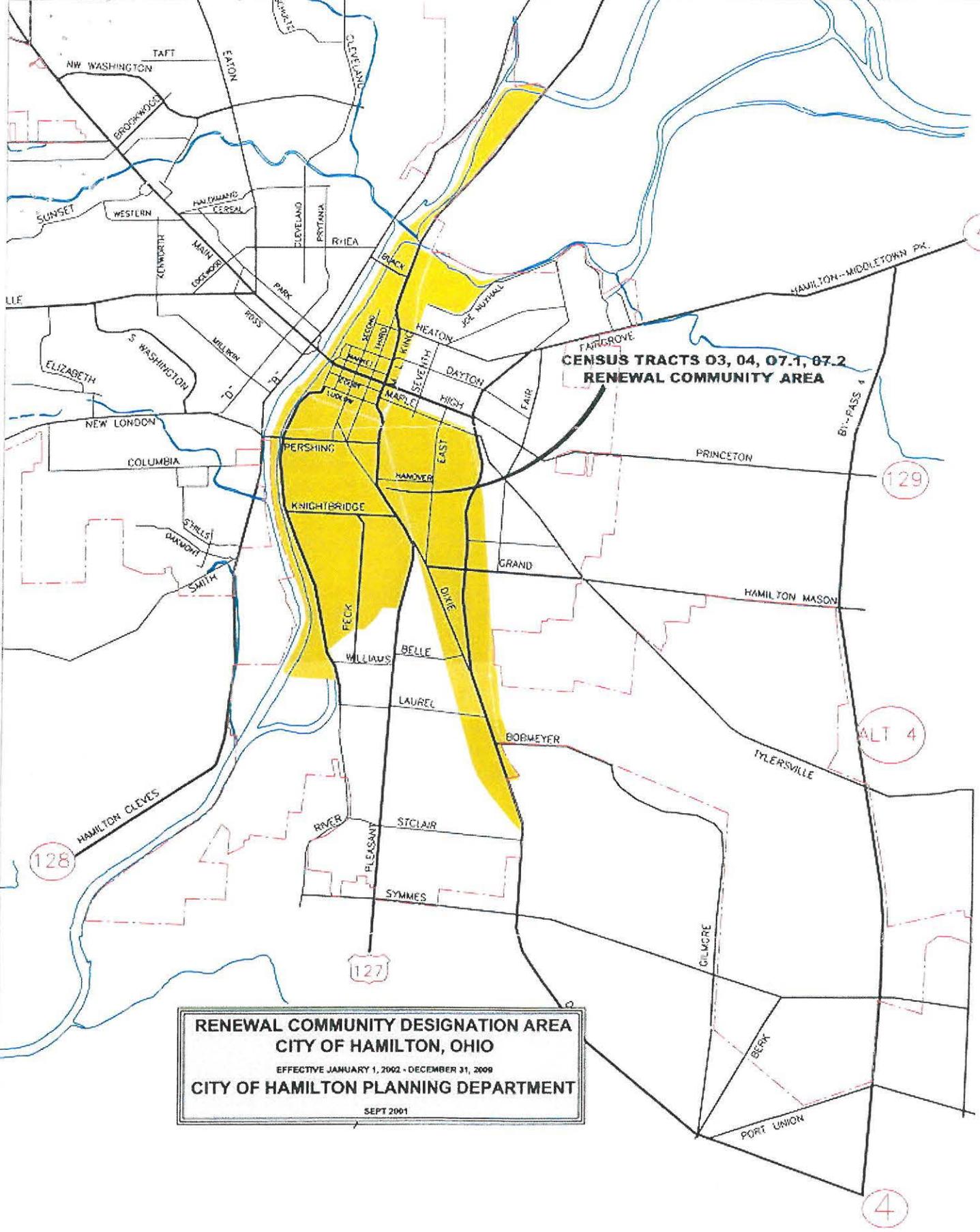
Whoever violates the provisions of Section 754.04, ~~of operating as a peddler or street vendor without a license~~ is guilty of a misdemeanor of the third degree. ~~Each subsequent violation is a misdemeanor of the second degree. In addition, offenders will forfeit their goods upon each conviction.~~

Whoever violates any ~~provision~~other provision of this chapter, ~~even though operating with a valid license~~ is guilty of a misdemeanor of the fourth degree. Each subsequent violation of this chapter ~~while operating with a valid license~~ shall be a misdemeanor of the third degree, ~~including forfeiture of goods.~~

Whoever is convicted of violating any provision of this chapter shall surrender to the court all licenses and identification cards issued by the Director of Finance pursuant to this chapter for return and revocation by the Director of Finance for a period of one year from date of conviction.

Sec. 901.04: Merchandise on Thoroughfares.

Except in the market and during market hours as established and provided under the provisions of Chapter 717 of the Business Regulation Code, and except as ~~street vendors~~~~peddlers~~ may carry on the business for which they are licensed under the provisions of Chapter 754 of said Code, no person shall place, store or keep merchandise in piles or containers, on counters, benches, parked vehicles or otherwise upon any part of sidewalk, street or other thoroughfare or public place, for the purpose of selling such merchandise there, or for any other purpose other than such temporary deposit as may be necessary in the transfer of such merchandise or commodities between the premises and conveyances in the thoroughfare in the regular course of business. However, the provisions of this section shall not be construed to apply to building or construction materials for use on any work or construction authorized by or under the authority of any other ordinance provision to be stored or kept in or upon any sidewalk, street or other thoroughfare.



RENEWAL COMMUNITY DESIGNATION AREA
CITY OF HAMILTON, OHIO
 EFFECTIVE JANUARY 1, 2002 - DECEMBER 31, 2009
CITY OF HAMILTON PLANNING DEPARTMENT
 SEPT 2001

ORDINANCE NO. _____

AN ORDINANCE RENAMING CHAPTER 753 OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, AND SUPPLEMENTING AND AMENDING CERTAIN SECTIONS OF CHAPTER 753 OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, RELATIVE TO PEDDLERS, SOLICITORS, ITINERANT VENDORS, AND CANVASSERS

WHEREAS, Administration has requested certain amendments and supplements to Chapter 753 of the City of Hamilton's Codified Ordinances pertaining to peddlers, solicitors, itinerant vendors and canvassers within the City of Hamilton; and

WHEREAS, it is anticipated that these changes will improve safety and promote business development and clarify the regulations as they apply to peddlers, solicitors, itinerant vendors and canvassers; and

WHEREAS, the Ordinance Review Committee has reviewed the proposed amendments and supplements and received public input;

WHEREAS, the Ordinance Review Committee at their meeting on March 18, 2016 recommended approval of the proposed amendments and supplements; and

WHEREAS, the Council desires that said Chapter 753 be renamed, supplemented and amended in order to accomplish the forgoing purposes.

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

SECTION I: That Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio is hereby renamed "Peddlers, Solicitors, Itinerant Vendors and Canvassers", to be and read as set forth in Exhibit No. 1 attached hereto, incorporated herein by reference and made a part hereof.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

CERTIFICATE

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

Nicholas Garuckas, City Clerk
City of Hamilton, Ohio

Exhibit No. 1

CHAPTER 753 – PEDDLERS, SOLICITORS, ITINERANT VENDORS, AND CANVASSERS

Sec. 753.01: Definitions.

For the purpose of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

(a) "Peddler" means any person traveling from door-to-door selling, or offering to sell or barter, or taking or attempting to take orders of, any goods, wares, merchandise, or personal property of any nature whatsoever, for present or future delivery, or any services to be furnished or performed in the future.

(b) "Solicitor" means any person traveling from door-to-door seeking to obtain funds for any cause whatsoever.

(c) "Itinerant vendor" or "transient dealer" means any person, either principal or agent, who engages in or conducts in this City a temporary or transient business of goods, wares, merchandise, or personal property of any nature whatsoever, with the intention of continuing in such business for a period of not more than 120 days and who, for the purpose of carrying on such business, hires, leases or occupies either in whole or in part a room, building or other structure for the exhibition and sale of such goods, wares, merchandise, or personal property.

(d) "Canvasser" means any person who seeks to disseminate any lawful message by means of traveling from door-to-door, without soliciting funds or donations.

Sec. 753.02: License Required.

No person, for him or herself, or for any business, firm, or corporation, either as principal or agent, shall engage in the business or activity of a peddler, solicitor, itinerant vendor, or transient dealer within the City without first obtaining a license and identification card therefor, as provided in this chapter, except that no license or identification card shall be required of any individual who, without compensation, acts as a peddler or solicitor for or on behalf of any recognized educational, political, civic, religious, medical or charitable organization or cause.

Sec. 753.03: License Application Requirements.

(a) Applications for licenses for peddlers, solicitors, itinerant vendors, or transient dealers shall be filed with the Director of Finance on a form to be furnished by the Director which shall require, at least, the following information:

- (1) Name of applicant;
- (2) Home address and telephone number of applicant;
- (3) Name and address of the person by whom employed;
- (4) Length of service with such employer;
- (5) All places of residence and all employment during the preceding year;
- (6) The nature and character of the goods to be sold or service to be furnished by the applicant; and
- (7) Names of all other towns in which the applicant has within the past year conducted a business for which a license is herein required.

(b) The applicant shall furnish a recent photograph of himself not more than one year old and approximately three inches by three inches in size. The application shall be made at least ten days before the license is required.

(c) If the Director of Finance determines after an investigation, that the applicant proposes to engage in a lawful, commercial or professional enterprise and does not, based upon past record,

constitute a clear and present danger to the residents of the City, he shall issue a license to the applicant.

Sec. 753.04: Fees.

The license fee for a peddler, solicitor, itinerant vendor, or transient dealer shall be fifty dollars (\$50.00) to the City. All licenses issued hereunder shall be for a period of one year or less which shall end on December 31 of that calendar year in which they are acquired, regardless of the date such license is issued.

Sec. 753.05: Carrying or Exhibiting License and Identification Card.

The license issued under the provisions of this chapter shall be exhibited in the place of business by an itinerant vendor or transient dealer, or shall be carried by a peddler or solicitor at all times when peddling or soliciting, and shall be displayed conspicuously at all times upon the operator's stand, cart or container, or exhibited to any person being solicited or any police officer on request. Any and all additional licenses or permits required pursuant to law shall be displayed conspicuously at all times. Further, an identification badge shall be issued to all peddlers or solicitors, which shall be worn conspicuously and affixed to the outer garment of the operator at all times when peddling or soliciting. The identification card is not a license and shall so state.

Sec. 753.06: Hours Regulated.

Any peddling, soliciting, or canvassing conducted within the City shall be conducted between 9:00 a.m. and 7:00 p.m. on Mondays through Saturdays. No peddling, soliciting, or canvassing shall be conducted on Sunday.

Sec. 753.07: Loud Noises and Speaking Devices.

No peddler, solicitor, itinerant vendor, or transient dealer, or any person on his behalf, shall shout or cry out, blow a horn, ring a bell, or use any sound device, including any loud speaking radio or sound amplifying system, upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City, where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such person proposes to sell.

Sec. 753.08: License Not Transferable; Separate Licenses and Identification Cards Required.

No license shall be assigned or transferred. No licensee shall authorize any person, firm or corporation other than the one named therein to do business. No licensee shall conduct any other business than is listed in his application to be transacted. A separate license and identification card shall be required for each individual peddler, solicitor, itinerant vendor, or transient dealer, whether or not employed by one person, firm or corporation.

Sec. 753.09: Revocation of License.

Any license issued under the provisions of this chapter may be revoked at any time, should the person to whom it is issued be guilty of any fraud, misrepresentation or unlawful act in connection with his business, or otherwise; is found to be a person not fit to be engaged in such business; or violates any provisions of this chapter.

Sec. 753.10: Enforcement.

In addition to any City Department authorized to enforce any provisions of the Codified Ordinances of the City of Hamilton, Ohio as they pertain to the activities set out in this Chapter 754, the Division of Police is hereby authorized to enforce Chapter 753.

Sec. 753.99: Penalty.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Each day of violation shall constitute a separate offense.

ORDINANCE NO. _____

AN ORDINANCE RENAMING CHAPTER 754 AND AMENDING VARIOUS SECTIONS OF CHAPTER 754 and 901 OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, RELATIVE TO STREET VENDING

WHEREAS, Administration has requested certain amendments and supplements to Chapter 754 of the Codified Ordinances of the City of Hamilton, Ohio pertaining to the regulation of Street Vending within the City of Hamilton, Ohio; and

WHEREAS, it is anticipated that these changes will improve safety, promote business development and clarify the requirements for street vendors; and

WHEREAS, in order to be consistent, amendment to Section 901.04 is necessary to avoid a potential conflict between that Section and Chapter 754; and

WHEREAS, the Ordinance Review Committee has reviewed the proposed amendments and supplements and received public input; and

WHEREAS, the Ordinance Review Committee at their meeting on March 18, 2016 recommended approval of the proposed amendments and supplements; and

WHEREAS, the Council desires that said Chapter 754 be renamed, amended and supplemented and Section 901.04 be amended in order to accomplish the foregoing purposes.

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

SECTION I: That Chapter 754 of the Codified Ordinances of the City of Hamilton, Ohio is hereby renamed "Street Vending" and is hereby amended and supplemented to be and read as set forth in Exhibit No. 1 attached hereto, incorporated herein by reference and made a part hereof.

SECTION III: That Section 901.04 of the Codified Ordinances of the City of Hamilton, Ohio is hereby amended to be and read as set forth in Exhibit No. 2 attached hereto, incorporated herein by reference and made a part hereof.

SECTION III: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

CERTIFICATE

I, Nick Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

Nick Garuckas, City Clerk
City of Hamilton, Ohio

Ordinance No. _____ (cont'd)

Exhibit No. 1

CHAPTER 754 – STREET VENDING

Sec. 754.01: Definitions.

For the purpose of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

“Street vending” means the sale, or offer for sale, of goods, wares, merchandise, food, confectionery, drink, or other commodities, on the City of Hamilton’s streets, highways, sidewalks, or other outdoor City-owned property, from temporary displays, portable stands or tables, manually propelled vehicles, or from motor or animal-drawn vehicles.

Sec. 754.02: Street Vending Location and Operation Restrictions.

Licensed street vending may be conducted within the City of Hamilton, except as follows:

(a) No street vending shall be conducted on, and no street vendor’s display stand, table, cart, container or other appurtenance or paraphernalia shall be set up on, private property, or on the sidewalks adjacent to private property, without prior written consent of such property owner and of the owners of any property adjoining or abutting such property.

(b) Street vending is not permitted on High Street between the west side of the High-Main Bridge and the intersection of High Street and Martin Luther King Jr. Boulevard, Monday through Friday, between the hours of 7:00 a.m. and 6:00 p.m.

(c) Street vending is not permitted at any City Market established pursuant to Chapter 717, except for such sales permitted by, and so long as the street vendor is in complete compliance with, the provisions of all laws, regulations, and City ordinances governing said City Markets.

(d) Except by written permission granted by the organizer of a special event, which permission shall not be withheld based upon any political, religious, ethnic, race, disability, sexual orientation or gender related grounds, street vending is not permitted within the following areas during the period one hour before and one hour following a special event held:

(1) At RiversEdge Amphitheater: the area enclosed by Linden Street to the North, North Third Street to the East, Market Street to the South, and the East bank of Great Miami River to the West.

(2) At Third Street Plaza: the area enclosed by Race Street to the North, North Martin Luther King Jr. Boulevard to the East, Market Street to the South, and North Second Street to the West.

(e) Except by written permission granted by the holder of a permit issued pursuant to Chapter 315, which permission shall not be withheld based upon any political, religious, ethnic, race, disability, sexual orientation or gender related grounds, street vending is not permitted within streets and intersections blocked for purposes related to the permit, or on any street within one city block of the permitted event and any street designated by the Chief of Police as a detour for the blocked streets and intersections.

Sec. 754.03: Scope of Chapter.

The provisions of this chapter do not apply to:

- (a) Sales made to dealers by commercial travelers or selling agents in the usual course of business;
- (b) Bona fide sales of goods, wares, or merchandise by samples for future delivery;
- (c) Sales at trade shows or conventions;
- (d) Sales of tickets to an event; or
- (e) Any person conducting a garage sale, lawn sale, yard sale, or basement sale at or within reasonable proximity of his/her garage, lawn, yard, or basement.

Sec. 754.04: Operation Without License Unlawful; Failure to Display License/ Identification Card.

No person shall engage in the business or trade of street vending without first obtaining a license and identification card from the Director of Finance. The street vendor license shall be displayed conspicuously at all times upon the street vendor's stand, cart or container. Any and all additional licenses or permits required pursuant to law shall be displayed conspicuously at all times upon the street vendor's stand, cart or container. The identification card issued by the Director of Finance shall be worn conspicuously and affixed to the outer garment of the street vendor at all times. The identification card is not a license and shall so state.

Sec. 754.05: License and Parking Fees.

(a) The license fee for engaging in the trade or business of street vending shall be one hundred fifty dollars (\$150.00). All licenses issued hereunder shall be for a period of one year or less which shall end on December 31 of that calendar year in which they are acquired, regardless of the date such license is issued.

(b) Except as otherwise prohibited by Chapter 754, street vendors may use the City's parking spaces for up to twelve (12) consecutive hours, and except that no disability parking spaces or spaces providing time-limited parking of thirty (30) minutes or less may ever be used. Street vendors' use of any metered parking space or time-limited parking space at any time between 9:00 a.m. and 5:00 p.m., Monday through Friday, shall require a permit. Such permits shall be issued upon application to and approval by the Director of Public Works and payment of the appropriate fee. The fee for such permits shall be ten dollars (\$10.00) per day, or two hundred fifty dollars (\$250.00) per year.

Sec. 754.06: Application for License.

Each applicant for a street vending license shall file an application with the Director of Finance in such form as prescribed by the Director of Finance. The applicant may be an individual street vendor or a person, firm or corporation on behalf of an individual street vendor. In the case where a person, firm or corporation applies for the license on behalf of an individual street vendor, the license shall be issued in the name of the applicant; the license shall also bear the name and identification card number of the street vendor on whose behalf the license is issued. The identification card shall be issued in the name of the street vendor on whose behalf the license was purchased. Each applicant for a street vending license shall furnish two photographs of the street vendor on whose behalf the license is purchased,

taken within thirty days preceding the date of application, of a size designated by the Director of Finance, one of which shall be attached to a consecutively numbered identification card. Applicants that intend to sell food or beverages shall exhibit to the Director of Finance the necessary permit(s) from the Department of Health.

Each applicant for a street vending license must provide evidence of having established a City income tax account with the application.

In the case of loss of an identification card, the licensee shall file with the Director of Finance a signed and sworn affidavit that the identification card was lost or in the case of theft, a copy of the theft report submitted to any law enforcement agency and upon payment of twenty- five dollars (\$25.00) shall receive a replacement identification card. Each applicant for a replacement identification card shall furnish two photographs of the street vendor on whose behalf the license was issued, of a size designated by the Director of Finance, which photographs shall have been taken within thirty days of the date of application. The replacement identification card shall expire on the same date as the original being replaced.

Sec. 754.07: Transfer of Identification Card.

The street vending license is nontransferable. When the license is issued to a person, firm or corporation on behalf of another street vendor, the licensee may make application with the Director of Finance to transfer the identification card from one street vendor to another. The licensee must exhibit the original license receipt and surrender the identification card to the Director of Finance at the time of application for transfer. Each applicant for transfer of the identification card shall furnish two photographs of the street vendor on whose behalf the identification card is to be issued of a size designated by the Director of Finance, which photographs shall have been taken within thirty days of the date of application for transfer.

A fee of fifteen dollars (\$15.00) shall be charged for the transfer of an identification card. The transferred identification card shall expire on the same date as the original being transferred.

In the event the licensee fails to surrender the original identification card because it is lost or stolen, the application for transfer shall be accompanied by a signed and sworn affidavit that the identification card was lost or in the case of theft, a copy of the theft report submitted to any law enforcement agency. The fee for a replacement identification card shall be paid in addition to the transfer fee.

Sec. 754.08: Street Sales - General.

No person licensed as a street vendor shall demonstrate, sell or offer for sale or barter any goods, wares, merchandise, food, confection or drink upon any highway or sidewalk or any other City-owned property within the City except in accordance with all of the following provisions:

(a) All street vendors must abide by all safety and health regulations as defined by the City of Hamilton Health Code, the City of Hamilton Fire Prevention Code, and the Ohio Fire Code. All food vendors must abide by all rules and regulations pertaining to the Ohio Uniform Food Safety Code Chapter 3717-1, Ohio Administrative Code Chapters 901:301-4-01 and the Ohio Revised Code Chapter 3717.

(b) No merchandise shall be displayed or sold to the occupants of vehicles stopped in traffic.

(c) No street vendor shall park or locate any motor vehicle, trailer, or motor-drawn vehicle on any sidewalk within the City.

(d) Each street vendor selling from a motor or animal-drawn vehicle must comply with all traffic regulations at the location the vehicle is parked or standing.

(e) No merchandise shall be displayed or sold at any sidewalk location where the right-of-way is less than twelve feet in width.

(f) No merchandise shall be displayed or sold within twenty feet from the point of intersection of the curblines (except alleys), crosswalks or bus stop or stairway leading to or from any overhead walkway.

(g) No merchandise shall be displayed or sold within ten feet of a fire hydrant, a standpipe, a sprinkler intake, a doorway or other access point to abutting property, or a sidewalk elevator.

(h) No merchandise shall be displayed, or sold at a location which hinders or restricts access to a telephone booth, mailbox, parking meter, fire alarm call box or traffic-control box.

(i) No merchandise shall be displayed or sold in a manner that blocks, obstructs or restricts the free passage of pedestrians or vehicles in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.

(j) All merchandise shall be displayed or sold from portable stands or containers. Each street vendor shall remove all merchandise, packaging, paper, containers, display stands or tables, or other materials brought to the vending location at the termination of sales each day. No permanent stands or displays will be permitted.

(k) No street vendor's display stand, cart, container or other appurtenances, paraphernalia, merchandise, supplies or signage shall occupy more than fifty inches of lateral sidewalk width, nor more than seventy-two inches of longitudinal sidewalk area.

(l) Each street vendor during the period of selling shall keep the area within ten feet of the location where the street vendor sells or displays merchandise free from all litter and debris arising from the operations, including the litter which arises from actions of customers in disposing of wrapping or packaging materials on merchandise sold by the street vendor.

(m) No street vendor's display stand, cart, container, or other appurtenance or paraphernalia shall be set up along street plantings or street furniture.

(n) Street vendors shall at all times exercise reasonable care that their merchandise, packaging material, display equipment and other paraphernalia shall not create a safety or health

hazard to customers or other persons using the public highways or sidewalks or to persons on or in abutting property.

(o) In the event a street vendor sells food, confectionery, or drink items, the street vendor shall be positioned at least 100 feet from the customer entrance of an existing restaurant during its hours of operation, unless the street vendor provides documentation that the restaurant owner supports a closer proximity.

Nothing herein shall be construed to prohibit the distribution of noncommercial handbills, cards, leaflets, other literature or the sale of newspapers and magazines on the sidewalks.

Sec. 754.09: Insurance Requirements.

Each applicant for a street vending license is required to post a satisfactory certificate of insurance, to be approved by the Director of Law, including general liability insurance and product liability insurance, which shall be endorsed to include the City as additional insured, providing indemnification against any claims, demands, lawsuits, or judgments arising out of the exercise of the privileges granted by the license; such policy of liability insurance is to guarantee at one million dollars (\$1,000,000).

Sec. 754.10: Enforcement.

In addition to any City Department authorized to enforce any provisions of the Codified Ordinances of the City of Hamilton, Ohio as they pertain to the activities set out in this Chapter 754, the Division of Police is hereby authorized to enforce Chapter 754.

Sec. 754.99: Penalty.

Whoever violates the provisions of Section 754.04 is guilty of a misdemeanor of the third degree. Each subsequent violation is a misdemeanor of the second degree.

Whoever violates any other provision of this chapter is guilty of a misdemeanor of the fourth degree. Each subsequent violation of this chapter shall be a misdemeanor of the third degree.

Whoever is convicted of violating any provision of this chapter shall surrender to the court all licenses and identification cards issued by the Director of Finance pursuant to this chapter for return and revocation by the Director of Finance for a period of one year from date of conviction.

Sec. 901.04: Merchandise on Thoroughfares.

Except in the market and during market hours as established and provided under the provisions of Chapter 717 of the Business Regulation Code, and except as street vendors may carry on the business for which they are licensed under the provisions of Chapter 754 of said Code, no person shall place, store or keep merchandise in piles or containers, on counters, benches, parked vehicles or otherwise upon any part of sidewalk, street or other thoroughfare or public place, for the purpose of selling such merchandise there, or for any other purpose other than such temporary deposit as may be necessary in the transfer of such merchandise or commodities between the premises and conveyances in the thoroughfare in the regular course of business. However, the provisions of this section shall not be construed to apply to building or construction materials for use on any work or construction authorized by or under the authority of any other ordinance provision to be stored or kept in or upon any sidewalk, street or other thoroughfare.

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: John Creech, Senior Planner

Agenda Item: Request to Rezone 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue (City Lot Nos. 6546, 6545, 6544, 16545, 27530 and 27531), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two Family Residence District (Pamela C. Lunsford, Donna M. Baden, Brenda S. Oliver, and Penny N. Jackson, Applicants).

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> A Add new jobs <input type="checkbox"/> R Realize new investments <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 st Reading Date: 04-13-2016 <input checked="" type="checkbox"/> 2 nd Reading Date: 04-27-2016 <input checked="" type="checkbox"/> Public Hearing Date: 04/13/2016	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other): Planning Commission: 03-21-2016</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	Budgeted: No General Fund: \$200.00 Other Funds: \$ 0.00	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

POLICY ISSUE

Does City Council wish to approve the rezoning of 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District?

POLICY ALTERNATIVE(S)

Council may choose to not approve the rezoning of 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District.

STAFF RECOMMENDATION

It is the recommendation of this office that Council receives this report, concurs in the Recommendation of the Planning Commission, and adopts the necessary legislation to approve rezoning of 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District.

STATUTORY/POLICY AUTHORITY

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton



FISCAL IMPACT SUMMARY

The City's current fiscal impact includes any staff time allotted to the request to rezone the properties located at 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District estimated at approximately \$200.00.

INTRODUCTION

Pamela C. Lunsford, Donna M. Baden, Brenda S. Oliver, and Penny N. Jackson have submitted an application for the rezoning of 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue. The properties are currently zoned R-1 Single Family Residence District. The applicants are proposing a zoning change from R-1 Single Family Residence District to R-2A Two Family Residence District. The properties are currently being used as duplexes (two-family dwellings) According to Butler County Auditor records the three homes on Dick Avenue, 206, 204, and 202; were built in 1951 as duplexes. The house located at 770 Park Avenue was built in 1920 and is also currently being used as a duplex. The reason for the rezoning request is to make the existing two-family dwellings permitted uses. Currently, the two-family dwellings are grandfathered land uses and allowed to continue as long as they remain and do not cease for more than six (6) months, per Section 1109.33 of the Hamilton Zoning Ordinance. Two-family dwellings are not permitted land uses in the R-1 Single Family Residence District but are permitted uses in R-2A Two Family Residence District.

NOVEMBER 2015 REZONING REQUEST

On November 16, 2015 the Planning Commission heard and denied a request to rezone the subject properties from R-1 Single Family to R-3 One to four Family Residence District. A number of phone calls, emails, including a petition were presented to the Planning Commission opposing the rezoning from R-1 to R-3.

At that meeting (November 16, 2015) the Planning Commission directed Community Development to create and propose a new zoning designation that would permit two-family dwellings units, but not three to four family dwelling units. The Planning Commission approved a zoning ordinance amendment to create the R-2A zoning district on December 7, 2015; City Council held a public hearing and approved the zoning amendment on February 10, 2016. The R-2A Two-Family zoning ordinance amendment became effective on March 11, 2016. The applicants are now requesting to rezone their properties from R-1 to R-2A in accordance with the recently adopted zoning amendment that created the R-2A Two-Family zoning district.

PLAN/PROPOSAL ANALYSIS

Zoning

The properties located at 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue are currently zoned R-1 Single Family Residence District. The area surrounding 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue is currently a mix of R-1 Single Family zoning and R-3 One to Four Family Residence. There are a total of six (6) parcels associated with this request. All six parcels have always been zoned R-1 Single Family, and in the case of the three homes on Dick Avenue, 206, 204, and 202 were allowed to be built in the early 1950s as duplexes while zoned Single Family Residential.

RECOMMENDATION

The Planning Commission held a public hearing and reviewed the proposed rezoning regarding the properties located at 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue on March 21, 2016. The Planning Commission was made aware of a number of phone calls and provided copies of emails from residents opposed to the rezoning. Residents spoke in favor of and in opposition to the rezoning at the March 21, 2016 Planning Commission meeting. After consideration, the Planning Commission approved the request to rezone the subject properties and recommend approval by City Council.

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and directs the preparation of the necessary legislation to rezone 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue (City Lot Nos. 6546, 6545, 6544, 16545, 27530 and 27531), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two Family Residence District (Pamela C. Lunsford, Donna M. Baden, Brenda S. Oliver, and Penny N. Jackson, Applicants).



ATTACHED INFORMATION

1. Public Hearing Notification Map
2. Area Zoning Map
3. Correspondence opposing the Rezoning



200, 202, 204, 206 NORTH DICK AND 770 PARK
PUBLIC HEARING MAP



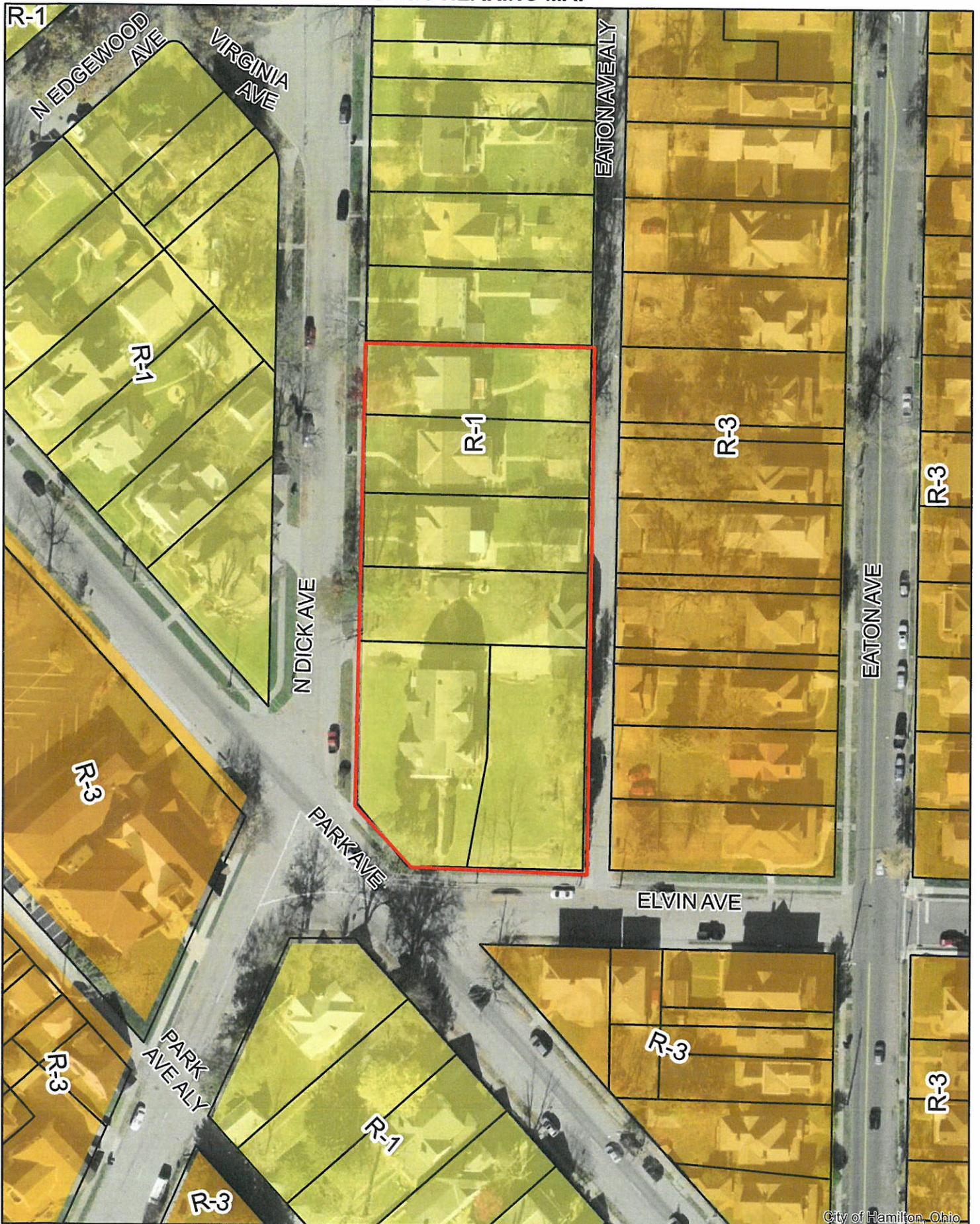
© City of Hamilton, Ohio

 200, 202, 204, 206 North Dick and 770 Park

0 35 70 140 Feet

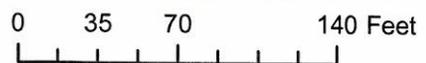


200, 202, 204, 206 NORTH DICK AND 770 PARK
PUBLIC HEARING MAP



City of Hamilton, Ohio

 200, 202, 204, 206 North Dick and 770 Park





Meredith Murphy <meredith.murphy@hamilton-oh.gov>

Highland Park Rezoning Letter

Terie Kleman <tkleman@hotmail.com>
To: "Murphy, Meredith" <murphym@ci.hamilton.oh.us>

Mon, Mar 21, 2016 at 8:58 AM

Good morning, Meredith,

I received two more letters regarding the public hearing this afternoon concerning rezoning requests for **four properties on Dick Avenue** and **one property on Park Avenue** in Highland Park. Holding these meetings at 1:30 on a Monday is not convenient for anyone holding a regular job. Can you please consider moving these to later in the day when neighbor with questions and concerns can actually attend?

My position on this as stated in my previous letter last fall (see below) still stands; I stand with my fellow neighbors AGAINST further rezoning of any properties in the Highland Park neighborhood away from single-family residences.

Rezoning from single family to multi-family residences devalues properties in the city as a whole and in our historic neighborhood. We are already surrounded with R-2 to R-4 housing all up and down Eaton, parts of Main, Park, and beyond. Converting additional single-family homes over to multi- is not to the benefit of the community in general.

Thank you,
-Terie Kleman
707 Rhea Avenue

Date: Mon, 16 Nov 2015 09:06:26 -0500
Subject: RE: Highland Park Rezoning Letter
From: tkleman@hotmail.com
To: murphym@ci.hamilton.oh.us

Thank you very much, Meredith. Much appreciated... Terie

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----
From: "Murphy, Meredith" <murphym@ci.hamilton.oh.us>
Date: 11/16/2015 9:04 AM (GMT-05:00)
To: Terie Kleman <tkleman@hotmail.com>
Subject: RE: Highland Park Rezoning Letter

I will pass your email along to the Planning Commission at this afternoons meeting.

Thanks,

Meredith Murphy

City of Hamilton

Community Development

345 High Street, 3rd Floor

Hamilton OH 45011

Phone: (513) 785-7356

murphym@ci.hamilton.oh.us

From: Terie Kleman [mailto:tkleman@hotmail.com]**Sent:** Sunday, November 15, 2015 10:09 PM**To:** Murphy, Meredith**Subject:** Highland Park Rezoning Letter

Dear Planning Commission,

As the November 16 meeting in consideration of rezoning the properties on Dick Avenue in Highland Park is being held mid-day during the week, I am unable to attend--as are the majority of my neighbors--due to work obligations. In lieu of attending, I am sending this letter per the "Notice of Public Hearing" I received in the mail on Monday, November 9.

First off, I'd like to say I am disappointed with the way this has been handled by the city so far. The date on the letter is November 5, but my neighbors and I did not receive the letter in the mail until four days later. Four days later (November 9) also happened to be *exactly* one week before the meeting was set to be held. One week is insufficient time to read, research, discuss with fellow neighbors, and come up with a reply, which leads many to believe that this was by design. I did call the Department of Community Development (no email was provided) as did several of my neighbors, which is the opposite of what is stated in the meeting agenda.

Many of my neighbors were very dismayed that they were not made aware of the rezoning meeting. The fact that these notices were only mailed to residences within a 500 foot radius of the properties shows poor judgement and disregard on the part of the City Planning Commission in that these residences form the southern entryway into the HISTORICAL HIGHLAND PARK NEIGHBORHOOD. What is apparently misunderstood by the commission that a rezoning change to R3 on these homes in Highland Park affects everyone in the tightly-knit Highland Park neighborhood, and not only homes with 500 feet of them. Highland Park is a single-family residence neighborhood that is essentially bordered by multi-family and mixed use; the last thing it needs is to rezone existing single-family structures into multi-family dwellings to bring it in. As a homeowner of property that shares an alley with rental property on Eaton Avenue, I can personally attest to what multi-family dwellings bring with it that single-family dwellings do not: a general lack of care, regard, respect, and permanence. Of course this is a generalization, but obviously the person who is fully vested in the neighborhood, paying property taxes, investing in a property and it's upkeep and appearance is naturally going to take better care than the renter or transient living nextdoor in the upstairs apartment on a 6-month or 1-year lease, for example.

We moved here to Highland Park over the summer BECAUSE it was a quiet, up kept, charming, old, beautiful pocket of residences that took painstaking care of their homes and property. We moved from Liberty Township, where a home comparable to what we purchased in Highland Park would easily fetch 3xs the value in the real estate market. The reason Highland Park property values are so ridiculously low is precisely because we are surrounded by low-rent, R3 dwellings. Hamilton is full of low-rent, R3 dwellings, so WHY does it make sense to ensure that these properties are rezoned to R3? It doesn't. This is a giant step backwards for the city that is fighting so hard to move forward. I sincerely hope the City Planning Commission will let the voices of Highland Park be heard on this matter.

Kind regards,

-Terie A. Kleman

707 Rhea Avenue

tkleman@hotmail.com

513.290.6484



Meredith Murphy <meredith.murphy@hamilton-oh.gov>

Rezoning in Highland Park

1 message

Aaron Grant <a_grant05@yahoo.com>
Reply-To: Aaron Grant <a_grant05@yahoo.com>
To: Meredith Murphy <murphym@ci.hamilton.oh.us>

Mon, Mar 21, 2016 at 12:15 PM

Ms. Murphy,

I live at 707 Rhea Avenue. In the mail I received the proposal of rezoning on Park. Last time this came up the people of Highland Park made it clear we do not want any rezoning from R-1 to multi-family homes. It encourages rental properties and there is enough of that in Hamilton. We do not want it filtering into Highland Park. The only people that want this are the people who want them rezoned so they can make more money. We want to keep our neighborhood beautiful, and promoting rental properties goes against that idea.

I do not support or want any type of multi-family rezoning taking place in Highland Park. It's taking a step in the wrong direction for the entire city.

Sincerely,

Aaron Grant



John Creech <john.creech@hamilton-oh.gov>

Rezoning of residential properties in Highland Park

Peter Chadwick <PChadwick@clarkecontractors.com>

Mon, Mar 21, 2016 at 1:22 PM

To: "john.creech@hamilton-oh.gov" <john.creech@hamilton-oh.gov>

To whom it may concern,

I was made aware this morning after not receive in a letter but my neighbor had one week ago pertaining to two properties asking to be rezoned into multi family's.

Last year the one property owners attempted this by requesting changing it to a 4 family and there was a petition signed by members of the neighborhood and sent to the board.

Now they are back again as well as another location in our same area. It is bad enough now with all the rental properties which are not cared for and neglected by some owners. The renters do not respect the owners and due to having so many cars, trucks and such continue to park where ever they chose to including in front of and on the side of corners of homes they do not live in. They will park and leave there vehicles for 5-6 days at a time.

We would like to keep our subdivision as historical as possible. We are being swollen up around our homes and the home values keep depreciating.

This is not benefitting the residential tax base and helping to bring in family's who will appreciate, care and respect where they place there roots.

If this were to pass I would hope to receive a letter this time so I can seek further legal advise.

Sincerely Peter Chadwick

716 Rhea ave.

Hamilton Ohio 45013. FYI-corner of Rhea and Park Ave.

Peter Chadwick

Clarke Contractors, Inc.

4475 Muhlhauser Rd.

West Chester, Ohio 45011

Cell Phone [513-508-9462](tel:513-508-9462)

Cincinnati Office [513-874-3995](tel:513-874-3995)

Dayton Office [937-610-3959](tel:937-610-3959)

Kentucky Office [859-441-3995](tel:859-441-3995)

Toll Free [888-823-0907](tel:888-823-0907)

Fax [513-874-3998](tel:513-874-3998)

www.clarkecontractors.com

www.iceblastersusa.com

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7503 BY CHANGING THE ZONING OF THE PROPERTIES LOCATED AT 200 N. DICK AVENUE AND 770 PARK AVENUE (CITY LOT NOS. 6546, 27530 and 27531), LOCATED IN THE CITY OF HAMILTON, FIRST WARD NORTH SIDE, FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO R-2A TWO-FAMILY RESIDENCE DISTRICT (Penny N. Jackson, Applicant)

WHEREAS, the Administration of the City of Hamilton, Ohio, has received request from Penny N. Jackson, for properties located at 200 N. Dick Avenue and 770 Park Avenue (City Lot Nos. 6546, 27530 and 27531), for a change in the zoning designation for said properties, located in the First Ward North Side, from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District; and

WHEREAS, Penny N. Jackson has proposed the rezoning from "R-1" to "R-2A" in order to make the existing two-family dwellings permitted uses, and

WHEREAS, the City Planning Commission held a public hearing and reviewed the rezoning request at its March 21, 2016 meeting and property owners within 500 feet of the subject property were notified by mail of the public hearing before the City Planning Commission; and

WHEREAS, after holding a public hearing and reviewing the rezoning request, the City Planning Commission approved the request to rezone the subject properties located 200 N. Dick Avenue and 770 Park Avenue (City Lot Nos. 6546, 27530 and 27531) from "R-1" to "R-2A"; and

WHEREAS, the City Planning Commission reviewed the proposed rezoning on March 21, 2016 and after holding a public hearing and consideration, the Planning Commission approved the rezoning request and recommends that City Council approve the request to rezone the properties located at 200 N. Dick Avenue and 770 Park Avenue (City Lot Nos. 6546, 27530 and 27531), located in the First Ward North Side, City of Hamilton, Butler County, Ohio.

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

SECTION I: That the zoning of the following described lot, to-wit:

- (1) properties located at 200 N. Dick Avenue and 770 Park Avenue (City Lot Nos. 6546, 27530 and 27531), located in the First Ward North Side, City of Hamilton, Butler County, Ohio

as the same are known and designated on the revised list of lots in the First Ward North Side of the City of Hamilton, Butler County, Ohio, and as set forth in detail in Exhibit No. 1, attached hereto, made a part hereof and incorporated herein by reference, be and are hereby changed from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District, and the District Map provided by Section 1103.00 of the Zoning Ordinance No. 7503 shall be altered to show such changes.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Effective Date: _____

ATTEST: _____

City Clerk

Mayor

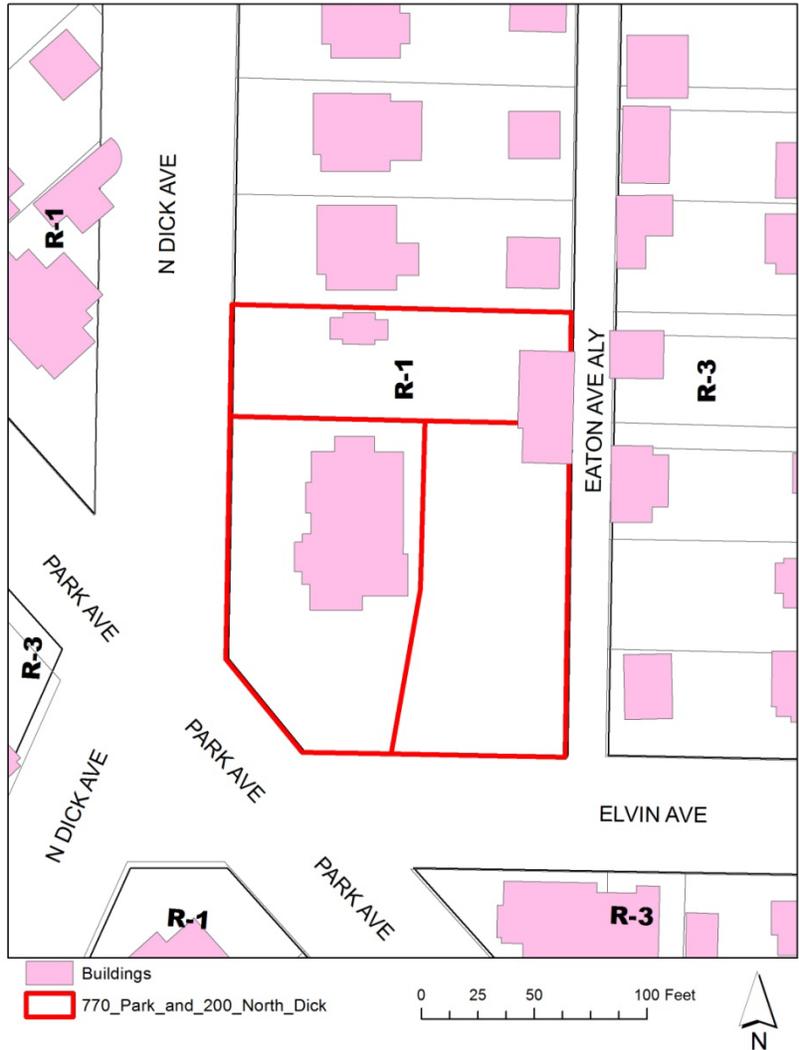
Ordinance No. _____ (cont'd)

CERTIFICATE

I, Nick Garuckas, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided in Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

**Nick Garuckas, City Clerk
CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1
200 NORTH DICK AND 770 PARK
PUBLIC HEARING MAP**



ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7503 BY CHANGING THE ZONING OF THE PROPERTY LOCATED AT 202 N. DICK AVENUE (CITY LOT NO. 6545), LOCATED IN THE CITY OF HAMILTON, FIRST WARD NORTH SIDE, FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO R-2A TWO-FAMILY RESIDENCE DISTRICT (Brenda S. Oliver, Applicant)

WHEREAS, the Administration of the City of Hamilton, Ohio, has received request from Brenda S. Oliver, for property located at 202 N. Dick Avenue (City Lot No. 6545), for a change in the zoning designation for said property, located in the First Ward North Side, from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District; and

WHEREAS, Brenda S. Oliver has proposed the rezoning from "R-1" to "R-2A" in order to make the existing two-family dwelling a permitted use, and

WHEREAS, the City Planning Commission held a public hearing and reviewed the rezoning request at its March 21, 2016 meeting and property owners within 500 feet of the subject property were notified by mail of the public hearing before the City Planning Commission; and

WHEREAS, after holding a public hearing and reviewing the rezoning request, the City Planning Commission approved the request to rezone the subject property located 202 N. Dick Avenue (City Lot No. 6545) from "R-1" to "R-2A"; and

WHEREAS, the City Planning Commission reviewed the proposed rezoning on March 21, 2016 and after holding a public hearing and consideration, the Planning Commission approved the rezoning request and recommends that City Council approve the request to rezone the property located at 202 N. Dick Avenue (City Lot No. 6545), located in the First Ward North Side, City of Hamilton, Butler County, Ohio.

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

SECTION I: That the zoning of the following described lot, to-wit:

- (1) property located at 202 N. Dick Avenue (City Lot No. 6545), located in the First Ward North Side, City of Hamilton, Butler County, Ohio

as the same are known and designated on the revised list of lots in the First Ward North Side of the City of Hamilton, Butler County, Ohio, and as set forth in detail in Exhibit No. 1, attached hereto, made a part hereof and incorporated herein by reference, be and are hereby changed from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District, and the District Map provided by Section 1103.00 of the Zoning Ordinance No. 7503 shall be altered to show such changes.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Effective Date: _____

ATTEST: _____

City Clerk

Mayor

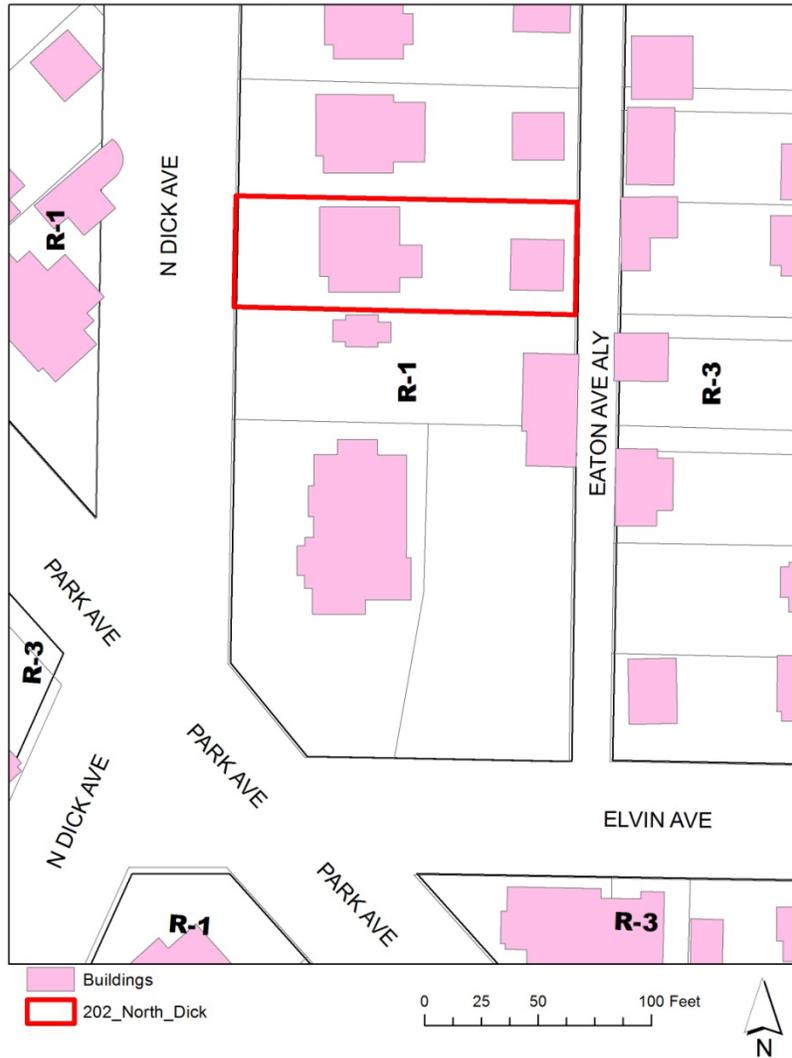
Ordinance No. _____ (cont'd)

CERTIFICATE

I, Nick Garuckas, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided in Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

**Nick Garuckas, City Clerk
CITY OF HAMILTON, OHIO**

EXHIBIT NO. 1
**202 NORTH DICK
PUBLIC HEARING MAP**



ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7503 BY CHANGING THE ZONING OF THE PROPERTY LOCATED AT 204 N. DICK AVENUE (CITY LOT NO. 6544), LOCATED IN THE CITY OF HAMILTON, FIRST WARD NORTH SIDE, FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO R-2A TWO-FAMILY RESIDENCE DISTRICT (Donna M. Baden, Applicant)

WHEREAS, the Administration of the City of Hamilton, Ohio, has received request from Donna M. Baden, for property located at 204 N. Dick Avenue (City Lot No. 6544), for a change in the zoning designation for said property, located in the First Ward North Side, from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District; and

WHEREAS, Donna M. Baden has proposed the rezoning from "R-1" to "R-2A" in order to make the existing two-family dwelling a permitted use, and

WHEREAS, the City Planning Commission held a public hearing and reviewed the rezoning request at its March 21, 2016 meeting and property owners within 500 feet of the subject property were notified by mail of the public hearing before the City Planning Commission; and

WHEREAS, after holding a public hearing and reviewing the rezoning request, the City Planning Commission approved the request to rezone the subject property located 204 N. Dick Avenue (City Lot No. 6544) from "R-1" to "R-2A"; and

WHEREAS, the City Planning Commission reviewed the proposed rezoning on March 21, 2016 and after holding a public hearing and consideration, the Planning Commission approved the rezoning request and recommends that City Council approve the request to rezone the property located at 204 N. Dick Avenue (City Lot No. 6544), located in the First Ward North Side, City of Hamilton, Butler County, Ohio.

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

SECTION I: That the zoning of the following described lot, to-wit:

- (1) property located at 204 N. Dick Avenue (City Lot No. 6544), located in the First Ward North Side, City of Hamilton, Butler County, Ohio

as the same are known and designated on the revised list of lots in the First Ward North Side of the City of Hamilton, Butler County, Ohio, and as set forth in detail in Exhibit No. 1, attached hereto, made a part hereof and incorporated herein by reference, be and are hereby changed from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District, and the District Map provided by Section 1103.00 of the Zoning Ordinance No. 7503 shall be altered to show such changes.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Effective Date: _____

ATTEST: _____

City Clerk

Mayor

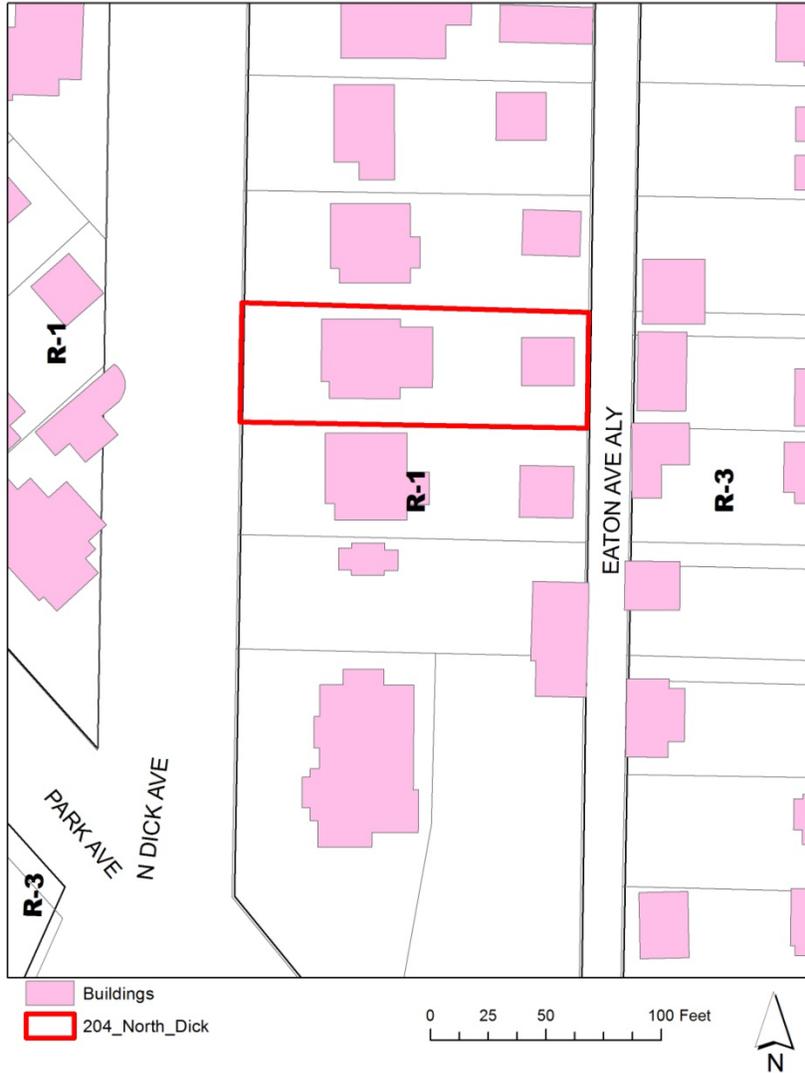
Ordinance No. _____ (cont'd)

CERTIFICATE

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**Nick Garuckas, City Clerk
CITY OF HAMILTON, OHIO**

EXHIBIT NO. 1
204 NORTH DICK
PUBLIC HEARING MAP



ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7503 BY CHANGING THE ZONING OF THE PROPERTY LOCATED AT 206 N. DICK AVENUE (CITY LOT NO. 16545), LOCATED IN THE CITY OF HAMILTON, FIRST WARD NORTH SIDE, FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO R-2A TWO-FAMILY RESIDENCE DISTRICT (Pamela C. Lunsford, Applicant)

WHEREAS, the Administration of the City of Hamilton, Ohio, has received request from Pamela C. Lunsford, for property located at 206 N. Dick Avenue (City Lot No. 16545), for a change in the zoning designation for said property, located in the First Ward North Side, from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District; and

WHEREAS, Pamela C. Lunsford has proposed the rezoning from "R-1" to "R-2A" in order to make the existing two-family dwelling a permitted use, and

WHEREAS, the City Planning Commission held a public hearing and reviewed the rezoning request at its March 21, 2016 meeting and property owners within 500 feet of the subject property were notified by mail of the public hearing before the City Planning Commission; and

WHEREAS, after holding a public hearing and reviewing the rezoning request, the City Planning Commission approved the request to rezone the subject property located 206 N. Dick Avenue (City Lot No. 16545) from "R-1" to "R-2A"; and

WHEREAS, the City Planning Commission reviewed the proposed rezoning on March 21, 2016 and after holding a public hearing and consideration, the Planning Commission approved the rezoning request and recommends that City Council approve the request to rezone the property located at 206 N. Dick Avenue (City Lot No. 16545), located in the First Ward North Side, City of Hamilton, Butler County, Ohio.

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

SECTION I: That the zoning of the following described lot, to-wit:

- (1) property located at 206 N. Dick Avenue (City Lot No. 16545), located in the First Ward North Side, City of Hamilton, Butler County, Ohio

as the same are known and designated on the revised list of lots in the First Ward North Side of the City of Hamilton, Butler County, Ohio, and as set forth in detail in Exhibit No. 1, attached hereto, made a part hereof and incorporated herein by reference, be and are hereby changed from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District, and the District Map provided by Section 1103.00 of the Zoning Ordinance No. 7503 shall be altered to show such changes.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Effective Date: _____

ATTEST: _____

City Clerk

Mayor

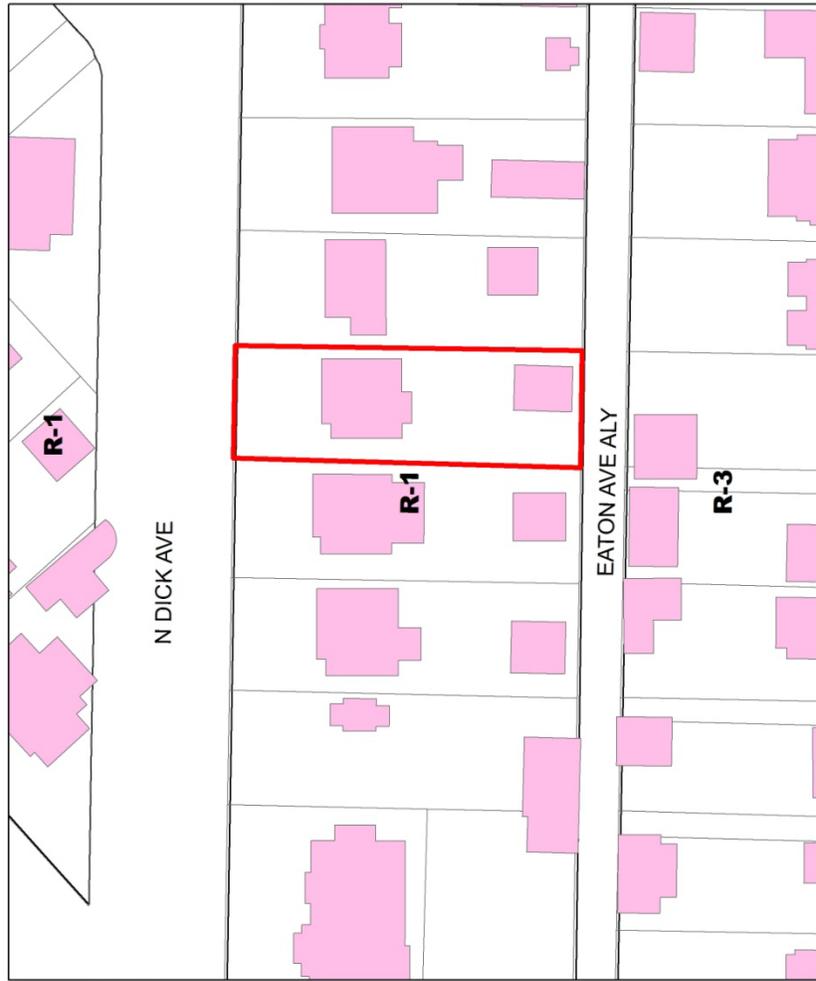
Ordinance No. _____ (cont'd)

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Nick Garuckas, City Clerk
CITY OF HAMILTON, OHIO

EXHIBIT NO. 1
206 NORTH DICK
PUBLIC HEARING MAP



Buildings
206_North_Dick

0 25 50 100 Feet



City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: John Creech, Senior Planner

Agenda Item: Request to Rezone 814-816 Park Avenue (City Lot No. 6551), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two Family Residence District (Robert and Janet Hoffman Applicants).

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> A Add new jobs <input type="checkbox"/> R Realize new investments <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 st Reading Date: 04-13-2016 <input checked="" type="checkbox"/> 2 nd Reading Date: 04-27-2016 <input checked="" type="checkbox"/> Public Hearing Date: 04-13-2016	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other): Planning Commission: 03-21-2016</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	
<p>Fiscal Impact</p>	<input checked="" type="checkbox"/> Additional Document(s) Attached	
<p>Budgeted: No General Fund: \$200.00 Other Funds: \$ 0.00</p>		<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

POLICY ISSUE

Does City Council wish to approve the rezoning of 814-816 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District?

POLICY ALTERNATIVE(S)

Council may choose to not approve the rezoning of 814-816 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District.

STAFF RECOMMENDATION

It is the recommendation of this office that Council receives this report, concurs in the Recommendation of the Planning Commission, and adopts the necessary legislation to approve rezoning of 814-816 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District.

STATUTORY/POLICY AUTHORITY

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton



FISCAL IMPACT SUMMARY

The City's current fiscal impact includes any staff time allotted to the request to rezone the property located at 814-816 Park Avenue from R-1 Single Family Residence District to R-2A Two Family Residence District estimated at approximately \$200.00.

INTRODUCTION

Robert Hoffman and Janet Hoffman have submitted an application for the rezoning of 814-816 Park Avenue. The property is currently zoned R-1 Single Family Residence District. The applicants are proposing a zoning change from R-1 Single Family Residence District to R-2A Two Family Residence District. The property is currently being used as a duplex. According to Butler County Auditor records the house was built in 1920. According to the Applicants, the reason for the rezoning request is to make the existing two-family dwelling a permitted use. Currently, the two-family dwelling is a grandfathered land use in the R-1 zoning district and allowed to continue as long as it remains and do not cease for more than six (6) months, per Section 1109.33 of the Hamilton Zoning ordinance. A two-family dwelling is not a permitted land use in the R-1 Single Family Residence District but is a permitted use in R-2A Two Family Residence District

According to the Applicants, they received notice of the November 16, 2015 Planning Commission meeting where the request to rezone properties located at 200, 202, 204, 206 N. Dick Avenue and 770 Park Avenue from R-1 Single Family to R-3 One to Four Family Residence District was denied. They were aware of the R-2A zoning code amendment to create the two-family zoning district and have submitted an application to rezone their property from R-1 to R-2A to comply with the zoning.

PLAN/PROPOSAL ANALYSIS

Zoning

The property located at 814-816 Park Avenue is currently zoned R-1 Single Family Residence District. The area surrounding 814-816 Park Avenue is currently a mix of R-1 Single Family zoning and R-3 One to Four Family Residence. There is one (1) parcel associated with this request.

RECOMMENDATION

The Planning Commission held a public hearing and reviewed the proposed rezoning regarding the property located at 814-816 Park Avenue on March 21, 2016. The Planning Commission was made aware of a number of phone calls and provided copies of emails from residents opposed to the rezoning. Residents spoke in favor of and in opposition to the rezoning at the March 21, 2016 Planning Commission meeting. After consideration, the Planning Commission approved the request to rezone the subject property and recommend approval by City Council.

It is the recommendation of this office that Council receives this report, concurs in the recommendation of the Planning Commission, and directs the preparation of the necessary legislation to rezone 814-816 Park Avenue (City Lot No. 6551), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two Family Residence District (Robert and Janet Hoffman, Applicants).

ATTACHED INFORMATION

1. Public Hearing Notification Map
2. Area Zoning Map
3. Correspondence opposing the Rezoning



814-816 PARK AVE.
PUBLIC HEARING MAP



City of Hamilton, Ohio

 814-816 Park Ave.

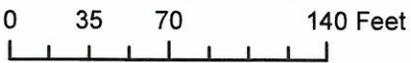
0 35 70 140 Feet



814-816 PARK AVE.
PUBLIC HEARING MAP



 814-816 Park Ave.





Meredith Murphy <meredith.murphy@hamilton-oh.gov>

Highland Park Rezoning Letter

Terie Kleman <tkleman@hotmail.com>
To: "Murphy, Meredith" <murphym@ci.hamilton.oh.us>

Mon, Mar 21, 2016 at 8:58 AM

Good morning, Meredith,

I received two more letters regarding the public hearing this afternoon concerning rezoning requests for **four properties on Dick Avenue** and **one property on Park Avenue** in Highland Park. Holding these meetings at 1:30 on a Monday is not convenient for anyone holding a regular job. Can you please consider moving these to later in the day when neighbor with questions and concerns can actually attend?

My position on this as stated in my previous letter last fall (see below) still stands; I stand with my fellow neighbors AGAINST further rezoning of any properties in the Highland Park neighborhood away from single-family residences.

Rezoning from single family to multi-family residences devalues properties in the city as a whole and in our historic neighborhood. We are already surrounded with R-2 to R-4 housing all up and down Eaton, parts of Main, Park, and beyond. Converting additional single-family homes over to multi- is not to the benefit of the community in general.

Thank you,
-Terie Kleman
707 Rhea Avenue

Date: Mon, 16 Nov 2015 09:06:26 -0500
Subject: RE: Highland Park Rezoning Letter
From: tkleman@hotmail.com
To: murphym@ci.hamilton.oh.us

Thank you very much, Meredith. Much appreciated... Terie

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----
From: "Murphy, Meredith" <murphym@ci.hamilton.oh.us>
Date: 11/16/2015 9:04 AM (GMT-05:00)
To: Terie Kleman <tkleman@hotmail.com>
Subject: RE: Highland Park Rezoning Letter

I will pass your email along to the Planning Commission at this afternoons meeting.

Thanks,

Meredith Murphy

City of Hamilton

Community Development

345 High Street, 3rd Floor

Hamilton OH 45011

Phone: (513) 785-7356

murphym@ci.hamilton.oh.us

From: Terie Kleman [mailto:tkleman@hotmail.com]**Sent:** Sunday, November 15, 2015 10:09 PM**To:** Murphy, Meredith**Subject:** Highland Park Rezoning Letter

Dear Planning Commission,

As the November 16 meeting in consideration of rezoning the properties on Dick Avenue in Highland Park is being held mid-day during the week, I am unable to attend--as are the majority of my neighbors--due to work obligations. In lieu of attending, I am sending this letter per the "Notice of Public Hearing" I received in the mail on Monday, November 9.

First off, I'd like to say I am disappointed with the way this has been handled by the city so far. The date on the letter is November 5, but my neighbors and I did not receive the letter in the mail until four days later. Four days later (November 9) also happened to be *exactly* one week before the meeting was set to be held. One week is insufficient time to read, research, discuss with fellow neighbors, and come up with a reply, which leads many to believe that this was by design. I did call the Department of Community Development (no email was provided) as did several of my neighbors, which is the opposite of what is stated in the meeting agenda.

Many of my neighbors were very dismayed that they were not made aware of the rezoning meeting. The fact that these notices were only mailed to residences within a 500 foot radius of the properties shows poor judgement and disregard on the part of the City Planning Commission in that these residences form the southern entryway into the HISTORICAL HIGHLAND PARK NEIGHBORHOOD. What is apparently misunderstood by the commission that a rezoning change to R3 on these homes in Highland Park affects everyone in the tightly-knit Highland Park neighborhood, and not only homes with 500 feet of them. Highland Park is a single-family residence neighborhood that is essentially bordered by multi-family and mixed use; the last thing it needs is to rezone existing single-family structures into multi-family dwellings to bring it in. As a homeowner of property that shares an alley with rental property on Eaton Avenue, I can personally attest to what multi-family dwellings bring with it that single-family dwellings do not: a general lack of care, regard, respect, and permanence. Of course this is a generalization, but obviously the person who is fully vested in the neighborhood, paying property taxes, investing in a property and it's upkeep and appearance is naturally going to take better care than the renter or transient living nextdoor in the upstairs apartment on a 6-month or 1-year lease, for example.

We moved here to Highland Park over the summer BECAUSE it was a quiet, up kept, charming, old, beautiful pocket of residences that took painstaking care of their homes and property. We moved from Liberty Township, where a home comparable to what we purchased in Highland Park would easily fetch 3xs the value in the real estate market. The reason Highland Park property values are so ridiculously low is precisely because we are surrounded by low-rent, R3 dwellings. Hamilton is full of low-rent, R3 dwellings, so WHY does it make sense to ensure that these properties are rezoned to R3? It doesn't. This is a giant step backwards for the city that is fighting so hard to move forward. I sincerely hope the City Planning Commission will let the voices of Highland Park be heard on this matter.

Kind regards,

-Terie A. Kleman

707 Rhea Avenue

tkleman@hotmail.com

513.290.6484



Meredith Murphy <meredith.murphy@hamilton-oh.gov>

Rezoning in Highland Park

1 message

Aaron Grant <a_grant05@yahoo.com>

Mon, Mar 21, 2016 at 12:15 PM

Reply-To: Aaron Grant <a_grant05@yahoo.com>

To: Meredith Murphy <murphym@ci.hamilton.oh.us>

Ms. Murphy,

I live at 707 Rhea Avenue. In the mail I received the proposal of rezoning on Park. Last time this came up the people of Highland Park made it clear we do not want any rezoning from R-1 to multi-family homes. It encourages rental properties and there is enough of that in Hamilton. We do not want it filtrating into Highland Park. The only people that want this are the people who want them rezoned so they can make more money. We want to keep our neighborhood beautiful, and promoting rental properties goes against that idea.

I do not support or want any type of multi-family rezoning taking place in Highland Park. It's taking a step in the wrong direction for the entire city.

Sincerely,

Aaron Grant



John Creech <john.creech@hamilton-oh.gov>

Rezoning of residential properties in Highland Park

Peter Chadwick <PChadwick@clarkecontractors.com>

Mon, Mar 21, 2016 at 1:22 PM

To: "john.creech@hamilton-oh.gov" <john.creech@hamilton-oh.gov>

To whom it may concern,

I was made aware this morning after not receive in a letter but my neighbor had one week ago pertaining to two properties asking to be rezoned into multi family's.

Last year the one property owners attempted this by requesting changing it to a 4 family and there was a petition signed by members of the neighborhood and sent to the board.

Now they are back again as well as another location in our same area. It is bad enough now with all the rental properties which are not cared for and neglected by some owners. The renters do not respect the owners and due to having so many cars, trucks and such continue to park where ever they chose to including in front of and on the side of corners of homes they do not live in. They will park and leave there vehicles for 5-6 days at a time.

We would like to keep our subdivision as historical as possible. We are being swollen up around our homes and the home values keep depreciating.

This is not benefitting the residential tax base and helping to bring in family's who will appreciate, care and respect where they place there roots.

If this were to pass I would hope to receive a letter this time so I can seek further legal advise.

Sincerely Peter Chadwick

716 Rhea ave.

Hamilton Ohio 45013. FYI-corner of Rhea and Park Ave.

Peter Chadwick
Clarke Contractors, Inc.
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ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7503 BY CHANGING THE ZONING OF THE PROPERTY LOCATED AT 814-816 PARK AVENUE (CITY LOT NO. 6551), LOCATED IN THE CITY OF HAMILTON, FIRST WARD NORTH SIDE, FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO R-2A TWO-FAMILY RESIDENCE DISTRICT (Robert and Janet Hoffman, Applicants).

WHEREAS, the Administration of the City of Hamilton, Ohio, has received request from Robert and Janet Hoffman, for the property located at 814-816 Park Avenue (City Lot No. 6551) for a change in the zoning designation for said property, located in the First Ward North Side, from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District; and

WHEREAS, Robert and Janet Hoffman have proposed the rezoning from "R-1" to "R-2A" in order to make their existing two-family dwelling a permitted use, and

WHEREAS, the City Planning Commission held a public hearing and reviewed the rezoning request at their March 21, 2016 meeting and property owners within 500 feet of the subject property were notified by mail of the public hearing before the City Planning Commission; and

WHEREAS, after holding a public hearing and reviewing the rezoning request, the City Planning Commission approved the request to rezone the subject property located 814-816 Park Avenue (City Lot No. 6551) from "R-1" to "R-2A"; and

WHEREAS, the City Planning Commission reviewed the proposed rezoning on March 21, 2016 and after holding a public hearing and consideration, the Planning Commission approved the rezoning request and recommends that City Council approve the request to rezone the property located at 814-816 Park Avenue (City Lot No. 6551), located in the First Ward North Side, City of Hamilton, Butler County, Ohio.

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

SECTION I: That the zoning of the following described lot, to-wit:

- (1) property located at 814-816 Park Avenue (City Lot No. 6551), located in the First Ward North Side, City of Hamilton, Butler County, Ohio

as the same are known and designated on the revised list of lots in the First Ward North Side of the City of Hamilton, Butler County, Ohio, and as set forth in detail in Exhibit No. 1, attached hereto, made a part hereof and incorporated herein by reference, be and are hereby changed from "R-1" Single-Family Residence District to "R-2A" Two-Family Residence District, and the District Map provided by Section 1103.00 of the Zoning Ordinance No. 7503 shall be altered to show such changes.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Effective Date: _____

ATTEST: _____

City Clerk

Mayor

Ordinance No. _____ (cont'd)

CERTIFICATE

I, Nick Garuckas, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided in Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

Nick Garuckas, City Clerk
CITY OF HAMILTON, OHIO

EXHIBIT NO. 1

**814-816 PARK AVENUE
PUBLIC HEARING MAP**



City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Kevin Maynard, Director of Public Utilities

Agenda Item: Report regarding legislation to amend existing Schedule “A” of the City’s Classification and Compensation Plan to change the Pay Range for the Classification of Electric Distribution Supervisor.

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> R Realize new investments <input type="checkbox"/> A Add new jobs <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Ordinance</i></p>	<p>1st Reading Date: 4/13/16 2nd Reading Date: 4/13/16 Public Hearing Date:</p>	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other):</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	<p>Budgeted: No – 2016 Budget Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

Policy Issue

Does City Council wish to adopt legislation to amend Schedule “A” of the City’s Classification and Compensation Plan to change the pay range for the classification of Electric Distribution Supervisor from pay range 47 to 51?

Policy Alternative(s)

City Council can decide not to amend said Classification and Compensation Plan.

Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to amend existing Schedule “A” of the City’s Classification and Compensation Plan as set forth in Ordinance No. R-2016-1-4 adopted January 13, 2016, by changing the pay range for the classification of Electric Distribution Supervisor from pay range 47 to 51.

Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.



Fiscal Impact Summary

Class Code	Title	Pay Range	Annual Salary
6240	Electric Distribution Supervisor	47	\$62,400 to \$79,189
6240	Electric Distribution Supervisor	51	\$68,162 to \$87,422

Background Information

This existing non-union supervisory position has been vacant since Mike Neuman's retirement in January 2014. In July 2014, the City and IBEW Local 648 executed a Memorandum of Understanding that allowed the City to temporarily assign bargaining unit employees to act as Electric Distribution Supervisor. This action was taken to address duties and responsibilities of the Electric Distribution Supervisor position on a temporary basis while the City developed its Electric Transmission and Distribution System long-term capital improvement plan. Bargaining unit members received a 3% increase in pay while serving as Acting Electric Distribution Supervisor and remained overtime eligible.

The Electric Transmission and Distribution Division has begun implementing its capital improvement plan including increased pole replacements, replacement of direct buried underground distribution lines, conversion of incandescent streetlights to light emitting diode (LED) technology and greater focus on line clearance (tree trimming) work. Much of this work is being performed by qualified contractors, although the City recently added a journeyman lineworker and two apprentice lineworkers to allow one three-person crew to focus on the goal of replacing 500-600 aging wooden poles annually.

Staff believes it prudent to discontinue the practice of rotating bargaining unit members serving as Acting Electric Distribution Supervisor and to fill the vacancy with a permanent supervisory employee. However, to attract and retain qualified candidates, staff recommends modifying the Electric Distribution Supervisor pay range from pay range 47 to 51. This change will more closely align the position compensation with that of its direct reports, the Lineman III and Crew Leader. Currently the Lineman III annual base pay is \$64,418.00 - \$67,642 with an additional 2015 overtime pay average of \$20,651.05. The current Crew Leader annual base pay is \$67,038.00 - \$70,378.00 with an additional 2015 overtime pay average of \$19,619.80. The Electric Distribution Supervisor is a salaried position with no overtime eligibility. By modifying the pay range we hope to attract qualified existing staff to this supervisory position.

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE AMENDING SCHEDULE "A" OF THE CITY'S CLASSIFICATION AND COMPENSATION PLAN, AS SET FORTH IN ORDINANCE NO. OR2016-1-4, ADOPTED JANUARY 13, 2016, AND AS AMENDED FROM TIME TO TIME, RELATIVE TO THE CLASSIFICATION OF ELECTRIC DISTRIBUTION SUPERVISOR, AND REPEALING THE RELEVANT PORTION OF EXISTING SCHEDULE "A".

WHEREAS, the Administration of the City of Hamilton, Ohio recommends that the pay range for the position of Electric Distribution Supervisor with pay range 47 be reclassified within pay range 51 in order to align with city personnel reporting to this position; and

WHEREAS, to accomplish the aforesaid it is necessary to amend existing Schedule "A" of the City's Classification and Compensation Plan as set forth in Ordinance No. OR2016-1-4 by revising said pay range; and

WHEREAS, the Council desires to amend Schedule "A" to make said pay range change; and

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

SECTION I: That the portion of Schedule "A" of the City's Classification and Compensation Plan as set forth in Ordinance No. OR2016-1-4 adopted January 13, 2016, and as amended from time to time, relative to the classification of Electric Distribution Supervisor currently within pay range 47, is hereby amended to be read as follows, effective as of the date this legislation becomes effective.

<u>Class Code</u>	<u>Title</u>	<u>Pay Range</u>	<u>Annual Salary Minimum-Maximum</u>
6240	Electric Distribution Supervisor	51	\$68,162 - \$87,422

SECTION II: That the existing Schedule "A" as set forth in Ordinance No. OR2016-1-4 adopted January 13, 2016, relative to the classification of Electric Distribution Supervisor, be and the same is hereby repealed.

SECTION III: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: _____

Effective Date: _____

Mayor

ATTEST: _____
City Clerk

CERTIFICATE

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED:

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Tom Vanderhorst, Finance Director

Agenda Item: Report regarding passing an ordinance for this supplemental appropriation amending the 2016 budget.

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> A Add new jobs <input type="checkbox"/> R Realize new investments <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
Ordinance or Resolution <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 st Reading Date: 4/13/16 <input checked="" type="checkbox"/> 2 nd Reading Date: 4/13/16 <input type="checkbox"/> Public Hearing Date:	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other):	
Contract	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
Fiscal Impact	Total Appropriated Increases: \$5,055,599 General Fund Impact: \$1,839,438 increase in appropriations All Other Funds Impact: \$3,216,161 increase in appropriations	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

Policy Issue

Does City Council wish to adopt legislation to approve this 2016 Supplemental Ordinance?

Policy Alternative(s)

Council may choose to not adopt this Supplemental Appropriation Ordinance. If Council does not adopt legislation, the City will not have enough funds appropriated to cover costs associated with the items addressed in the Fiscal Impact Summary.

Staff Recommendation

Staff recommends that Council receive this report, concur in the recommendation and adopt the necessary legislation. The ordinance will balance accounts and provide the authority to make expenditures.



Statutory/Policy Authority

- ORC 5705.38 Annual appropriation measures; classification
- ORC 5705.40 Amending or supplementing appropriation; transfer unencumbered balance; contingencies
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

Fiscal Impact Summary

GENERAL FUND:

- Increase appropriations \$4,215 for personnel and benefit expenditures related to an intern for the City Manager's Office. The internship would be approximately for 30 hours per week for 12 weeks.
- Increase appropriations \$1,500,000 for an advance to the Parking Capital Improvement Fund (551) related to the improvements to the McDulin Parking Garage. The plan is to reimburse these capital expenditures when the City goes to the bond market later in 2016 to issue General Obligation debt. The advance would then be returned to the General Fund (100) for the \$1,500,000.
- Increase appropriations \$300,510 to transfer to the Hamilton Capital Improvement & Debt Service Fund (215). These funds are estimated for the re-classification of utilities paid by the General Fund (100) for an account associated with the South Wells that should have been paid by the Water Utility Fund (503). This re-classification dates back to 2009.
- Increase appropriations \$34,713 to account for a re-classification of a City of Hamilton Park's utility account that was paid by the Electric Utility Fund (502). This re-classification also dates back to 2009.

SPECIAL REVENUE FUNDS:

- Increase appropriations \$250,000 in the Hamilton Capital Improvement & Debt Service Fund (215) for property acquisition.
- Increase appropriations in the Hamilton Capital Improvement & Debt Service Fund (215) \$767,000 to transfer as a reimbursement to the Infrastructure Renewal Program Fund (311). This money was appropriated on a previous supplemental appropriation for the RiversEdge Trail Connection project to Fund 311.
- Increase appropriations in the Hamilton Capital Improvement & Debt Service Fund (215) \$100,000 to purchase additional vehicles needed in 2016 for the Police Department.
- Increase appropriations \$25,000 in the Law Enforcement Trust Fund (231) for a grant from the City for additional police patrol.
- Increase appropriations \$1,161 in the Kathryn Weiland Trust Fund (261) to purchase pamphlets for educational purposes. The interest received in this fund from the Hamilton Community Foundation will offset the additional appropriations.
- Increase appropriations in the Parking Capital Improvement Fund (551) \$1,500,000 to return the advance from the General Fund (100) associated with the McDulin Parking Garage improvements. The plan is to use to General Obligation debt proceeds to reimburse these project costs when the City goes to the bond market later in 2016.

CAPITAL FUNDS:

- Increase appropriations in the Infrastructure Renewal Program Fund (311) \$98,000 for Main Street design and consultant expenditures.

INTERNAL SERVICE FUNDS:

- Increase appropriations \$400,000 out of the Fleet Maintenance Fund (610). This transfer is to return built up cash balance in the Fleet Maintenance Fund (610) back to the funds where the money originated.

ENTERPRISE FUNDS:

- Increase appropriations in the personnel and benefit classification \$25,000 in the Gas Utility Fund (501) for overtime costs related to the gas main outage in the Lindenwald neighborhood over a five day period in March.



- Increase appropriations \$50,000 to the other expenditure classification in the Gas Utility Fund (501) for the additional costs associated with the gas main outage in the Lindenwald neighborhood over a five day period in March.

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF HAMILTON, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2016.

BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the following unappropriated or unencumbered balances of funds be and the same are hereby re-appropriated as follows:

NUMBER	FUND NAME	AMOUNT
100	From the General Fund	<u>44,471,265</u> 46,310,703
	Personnel Subtotal:	<u>34,239,173</u> 31,243,388
	Non-Personnel Subtotal:	<u>13,232,092</u> 15,067,315
200	From the One Renaissance Fund	2,371,453
213	Municipal Income Tax Aggregation Fd	0
2010	From the Home Fund 2010	0
2013	From the Home Fund 2013	<u>0</u>
	Personnel Subtotal:	
	Non-Personnel Subtotal:	
2014	From the Home Fund 2014	<u>0</u>
	Personnel Subtotal:	
	Non-Personnel Subtotal:	
207	From thre Hamilton Court Sec. Proj	70,500
208	From the Hamilton Court Sp Proj Fd	<u>40,375</u>
	Personnel Subtotal:	5,000
	Non-Personnel Subtotal:	35,375
210	From the Public Safety Health Inc Tax	3,281,250
211	From the Rounding Up Util Acct	3,500
212	From the Hamilton Muni Ct Cap Imp	<u>106,045</u>
	Personnel Subtotal:	24,620
	Non-Personnel Subtotal:	81,425
213	From the MIT Aggregatn/Verifctn Fd	
215	From the Ham Cap Imp Debt Serv	<u>4,496,865</u> 5,613,865
221	From the Dispute Resolution Proc Fd	<u>7,650</u>
	Personnel Subtotal:	6,650
	Non-Personnel Subtotal:	1,000
225	From the Justice Assistance Grant	34,917

Ordinance No. _____ (Cont'd)

NUMBER	FUND NAME	AMOUNT
227	From the Land Reutilization Fund	979,802
231	From the Law Enforcement Trust	42,600 67,600
233	From the Safety Seat Belt Grant	
235	From the Public Safety Spec Proj	71,853
	Personnel Subtotal:	37,900
	Non-Personnel Subtotal:	33,953
238	From the Probation Services	230,537
	Personnel Subtotal:	223,896
	Non-Personnel Subtotal:	6,641
240	From the Drug Law Enforcement Trust	44,092
241	From the DUI Enforcement & Eductn Trst	4,500
242	From the Indignt Drivers Alcohol Trt	60,000
246	From the Police Pension Fund	240,000
249	From the Police Levy Fund	730,000
250	From the Firemen's Pension Fund	225,000
251	From the Emergency Medical Serv Grant	2,500
252	From the Charter Fire Force Fund	745,000
253	From the Fire EMS Levy Fund	720,000
260	From the Immunization Action Plan Grant	90,095
	Personnel Subtotal:	69,351
	Non-Personnel Subtotal:	20,744
261	From the Kathryn Weiland Trust	380 1,541
	Personnel Subtotal:	100 100
	Non-Personnel Subtotal:	280 1,441
270	From the Street & Parks Beautification	
279	From the Stormwater Mgmt Fund	3,230,421
	Personnel Subtotal:	910,211
	Non-Personnel Subtotal:	2,320,210

Ordinance No. _____ (Cont'd)

NUMBER	FUND NAME	AMOUNT
280	From the Refuse Fund	4,463,159
	Personnel Subtotal:	705,170
	Non-Personnel Subtotal:	3,757,989
281	From the Street Maintenance Fund	3,561,035
	Personnel Subtotal:	1,233,350
	Non-Personnel Subtotal:	2,327,685
283	From the Convention & Visitors Bur Fd	84,000
301	From the Special Assessments	1,034,815
303	From the Lowes MITIE Talawanda Fund	100,000
304	From the Walmart MITIE Hamilton Fund	175,000
307	From the Issue II Project Fund	1,000,000
308	From the Matandy Steel MPITIE Fund	46,890
309	From the Robinson Schwenn MPITIE Fund	4,550
310	From the Clean Ohio Grants Program	36,116
311	From the Infrastructure Renewal Program	8,048,284
348	From the RIDs - MPITIE Citywide District	400,000
349	From the RIDs - MPITIE North District	17,500
350	From the RIDs - MPITIE South District	36,000
351	From the Quality Publishing MPITIE Fd	10,500
352	From the Shoppes @ Hamilton MPITIE Fd	114,100
353	From the Historic Developers - Mercantile	28,000
354	From the Tippman Properties MPITIE Fd	150
355	Neturen Manufacturing TIF	62,000
501	From the Gas Utility	26,063,396
	Personnel Subtotal:	2,071,460
	Non-Personnel Subtotal:	23,991,936
502	From the Electric Utility	220,471,032
	Personnel Subtotal:	8,655,983
	Non-Personnel Subtotal:	211,815,049
503	From the Water Utility	13,877,376
	Personnel Subtotal:	2,831,520
	Non-Personnel Subtotal:	11,045,856

Ordinance No. _____ (Cont'd)

NUMBER	FUND NAME	AMOUNT
504	From the Wastewater Utility	14,396,660
	Personnel Subtotal:	<u>2,231,059</u>
	Non-Personnel Subtotal:	12,165,601
515	From the Gas Capital Improvement Fund	3,069,740
516	From the Gas Rate Stabilization Fd	0
517	From the Gas System Reserve	0
518	From the Gas Bond Service Fund	434,000
522	From the Electric Construction	646,595
524	From the Hydroelectric operations Fd	2,282,763
	Personnel Subtotal:	<u>1,445,400</u>
	Non-Personnel Subtotal:	837,363
525	From the Electric Cap Improvement Fd	10,084,983
526	From the Electric Rate Stabilization Fd	1,350,000
527	From the Electric System Reserve	34,860,350
528	From the Electric Bond Service Fd	2,471,000
531	From the Water Construction Fd	248,238
535	From the Water Cap Improvement Fd	5,000,402
536	Water Rate Stabilization Fund	0
538	From the Water Bond service Fund	2,065,000
541	From the Wastewater Construction Fd	9,998,347
	Personnel Subtotal:	<u>111,320</u>
	Non-Personnel Subtotal:	9,887,027
545	From the Wastewater Cap Imp Fd	5,645,477
548	From the Wastewater Bond Service Fd	4,847,000
550	From the Parking Fund	388,916
	Personnel Subtotal:	<u>134,978</u>
	Non-Personnel Subtotal:	253,938
551	From the Parking Cap Improvement Fund	1,500,000 3,000,000
560	From the Golf Fund	1,402,117
	Personnel Subtotal:	<u>640,345</u>
	Non-Personnel Subtotal:	761,772
610	From the Fleet Mtce Fund	2,909,278
	Personnel Subtotal:	<u>909,031</u>
	Non-Personnel Subtotal:	2,000,247 2,400,247
620	From the Central Services Fund	8,590,972
	Personnel Subtotal:	<u>4,724,328</u>
	Non-Personnel Subtotal:	3,866,644

Ordinance No. _____ (Cont'd)

NUMBER	FUND NAME	AMOUNT
640	Central Benefits Fund	0
650	Economic Budget Stabilization Fund	0
715	From the Unclaimed Monies Fund	25,000
730	From the Benninghoffen Trust Fd	250
775	From the Sinking Fund	4,507,217
800	CDBG Revolving Loan Fd	
802	From the Neighborhood Stabl Prgrm	
804	From the Neighborhood Stabl Prgm 3	
912	From the CDBG 2011-2012	
913	From the CDBG 2012-2013	
914	From the CDBG Fund 2014	
	Personnel Subtotal:	
	Non-Personnel Subtotal:	
915	From the CDBG Fund 2015	
	Personnel Subtotal:	
	Non-Personnel Subtotal:	

The Fund appropriations include these transfer limits:

Into the Hamilton Cap. Imp. Debt Service Fund - 215	Out of the General Fund - 100	300,510
Into the Infrastructure Renewal Program Fund - 311	Out of the Hamilton Cap. Imp. Debt Service Fund - 215	767,000
Into the General Fund - 100	Out of the Fleet Maintenance Fund - 610	622
Into the Hamilton Cap. Imp. Debt Service Fund - 215	Out of the Fleet Maintenance Fund - 610	280,524
Into the Stormwater Management Fund - 279	Out of the Fleet Maintenance Fund - 610	6,905
Into the Street Maintenance Fund - 281	Out of the Fleet Maintenance Fund - 610	27,226
Into the Gas Fund - 501	Out of the Fleet Maintenance Fund - 610	9,128
Into the Electric Fund - 502	Out of the Fleet Maintenance Fund - 610	28,341
Into the Water Fund - 503	Out of the Fleet Maintenance Fund - 610	17,839
Into the Wastewater Fund - 504		

	Out of the Fleet Maintenance Fund - 610	10,912
Into the Parking Fund - 550		
	Out of the Fleet Maintenance Fund - 610	726
Into the Golf Fund - 560		
	Out of the Fleet Maintenance Fund - 610	1,478
Into the Central Services Fund - 620		
	Out of the Fleet Maintenance Fund - 610	16,299

The Fund appropriations include these advance limits:

Into the Parking CIP Fund - 551	Out of the General Fund - 100	1,500,000
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The Fund appropriations include these return of advance limits:

Into the General Fund - 100	Out of the Parking CIP Fund - 551	1,500,000
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Ordinance No. _____ (Cont'd)

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____
_____ Mayor

Effective Date: _____

ATTEST: _____
City Clerk

CERTIFICATE

I, Nick Garuckas, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. Posted: _____

 Nick Garuckas, City Clerk
 CITY OF HAMILTON, OHIO

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Kevin M. Maynard, Director of Public Utilities

Agenda Item: 2016 Miscellaneous Water Main Replacements Bid Award

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> R Realize new investments <input type="checkbox"/> A Add new jobs <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Ordinance</i></p>	<p>1st Reading Date: 4-13-16 2nd Reading Date: 4-13-16 Public Hearing Date:</p>	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other):</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	<p>Budgeted: \$ Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

Policy Issue

Does City Council wish to adopt legislation to waive any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for the 2016 Miscellaneous Water Main Replacements; and approve the award of said bid to the apparent low bidder, Adleta Construction?

Policy Alternative(s)

Council may choose not to adopt legislation to waive any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for the 2016 Miscellaneous Water Main Replacements Project; and approve the award of said bid to the apparent low bidder, Adleta Construction. If Council chooses not to adopt the legislation, all bids will be formally rejected and staff will review options for rebidding said project.

Staff Recommendation

Staff recommends that Council adopt legislation to waive any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for the 2016 Miscellaneous Water Main Replacements Project; and approve the award of said bid to the apparent low bidder, Adleta Construction, in the amount of \$2,650,659.14.



Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

Fiscal Impact Summary

	Engineer's Estimate	Adleta Construction	G.M. Pipeline, Inc.	Larry Smith, Inc.	Ford Development Corporation	Rack & Ballauer Excavating	Fields Excavating, Inc.
Base Bid	\$1,128,757.30	\$1,014,299.20	\$1,054,307.85	\$1,076,936.15	\$1,081,001.15	\$1,143,866.15	\$1,226,538.65
Alternate 1	1,860,744.86	1,634,853.04	1,643,311.43	1,622,868.43	1,629,059.43	1,651,856.43	1,798,597.43
Alternate 2	156,409.00	143,076.90	157,102.00	154,722.00	174,021.00	168,417.00	182,537.00
Total Bid	\$3,145,911.16	\$2,650,659.14	\$2,854,721.28	\$2,854,526.58	\$2,884,081.58	\$2,964,139.58	\$3,207,673.08

Background Information

On February 10, 2016, the City of Hamilton advertised for bids for Contract 16-11, 2016 Miscellaneous Water Main Replacements, in the Hamilton Journal News. Two weeks later, on February 24, 2016, sealed bids for this project were received and read at a public bid opening.

On March 14, 2016, upon return of the executed bid tabulation, it was discovered that the solicitation for bids had inadvertently not been publicly advertised a second time through the City of Hamilton website as required by H.C.O. 169.02.

Staff believes that rejecting the February 24, 2016, bids and rebidding the project is not in the public interest. Utilities Engineering staff worked for the past year to ensure that project plans and specifications were prepared in time to solicit bids prior to commencement of the 2016 construction season. By soliciting bids before qualified contractors have their 2016 construction season work scheduled, staff hoped to ensure that the City received competitive bids from multiple qualified contractors. This goal was achieved with six competitive bids received. The low bidder's proposed price was approximately \$495,000 (nearly 16%) below the engineer's estimated project cost and \$203,867.40 below the next lowest bidder.

Staff is concerned that rejecting the February 24, 2016 bids and soliciting new bids may result in greater project costs and unnecessary delay. Neither of these outcomes serve the public interest. Although the bid process in this instance did not meet the requirements of C.O. 169.02, staff feels the public interest has been properly served and protected in this case by the bid process described above. In staff's opinion, rebidding the project is not likely to result in lower or better bids.

No bidders on the 2016 Water Main Replacements Project had an unfair advantage by virtue of the City's failure to advertise of bids for the project via the Internet since they all submitted bids. None of the six project bidders were disqualified for noncompliance with the bid requirements. No objections have been raised.

Staff recommends that City Council waive any additional advertising, bid or other requirements as set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for Contract 16-11, 2016 Miscellaneous Water Main Replacements; and approve the award of the bid for said project to the apparent low bidder, Adleta Construction, in the amount of \$2,650,659.14.

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE WAIVING REQUIREMENTS OF CHAPTER 169 OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, RATIFYING BID PROCESS AND APPROVING AWARD OF 2016 MISCELLANEOUS WATER MAIN REPLACEMENTS CONTRACT TO ADLETA CONSTRUCTION.

WHEREAS, on February 10, 2016, the City of Hamilton, Ohio ("City") advertised for bids for Contract 16-11, 2016 Miscellaneous Water Main Replacements, in the Hamilton Journal News and on February 24, 2016, sealed bids for this project were received and opened at a public bid opening; and

WHEREAS, on March 14, 2016, upon return of the executed bid tabulation, it was discovered that the solicitation for bids had inadvertently not been advertised a second time through the City of Hamilton website as required by Section 169.02 of the Codified Ordinances of the City of Hamilton, Ohio; and

WHEREAS, Administration believes that rejecting the bids and rebidding the project may result in greater project costs and unnecessary delay and it is therefore not in the public interest to reject the bids and rebid the project; and

WHEREAS, Administration believes that public interest has been properly served and protected by the bid process and no bidder has received an unfair advantage in the bid process; and

WHEREAS, Administration recommends that Council waive any additional advertising, bid or other requirements as set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio, ratify the bid process for Contract 16-11, 2016 Miscellaneous Water Main Replacements and approve the award of said bid to Adleta Construction in the amount of \$2,650,659.14; and

WHEREAS, Administration recommends that Council authorize the City Manager to execute any documents necessary to award the bid and enter into Contract 16-11, 2016 Miscellaneous Water Main Replacements with Adleta Construction.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio that:

SECTION I: Council hereby waives any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio in connection with Contract 16-11, 2016 Miscellaneous Water Main Replacements; ratifies the bid process undertaken by Administration in connection with said contract; and approves the award of said bid to Adleta Construction in the amount of \$2,650,659.14.

SECTION II: The City Manager be and is hereby authorized to execute any documents necessary to award the bid and enter into Contract 16-11, 2016 Miscellaneous Water Main Replacements with Adleta Construction.

SECTION III: That Council specifically finds that no bidder received an unfair advantage in connection with the bid process.

SECTION IV: That Council specifically finds that to engage in further advertising or rebidding would constitute a waste of municipal resources and result in unnecessary delay.

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

Ordinance No. _____ (cont'd)

CERTIFICATE

I, Nicholas Garuckas, Acting City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____.

Nicholas Garuckas, Acting City Clerk
CITY OF HAMILTON, OHIO

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Kevin M. Maynard, Director of Public Utilities

Agenda Item: 2016 Miscellaneous Natural Gas Main Replacements Bid Award

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> R Realize new investments <input type="checkbox"/> A Add new jobs <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Ordinance</i></p>	<p>1st Reading Date: 4-13-16 2nd Reading Date: 4-13-16 Public Hearing Date:</p>	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other):</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	<p>Budgeted: \$ Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

Policy Issue

Does City Council wish to adopt legislation to waive any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for the 2016 Miscellaneous Natural Gas Main Replacements Project; and approve the award of said bid to the apparent low bidder, Premier Energy Services, LLC?

Policy Alternative(s)

Council may choose not to adopt legislation to waive any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for the 2016 Miscellaneous Natural Gas Main Replacements Project; and approve the award of said bid to the apparent low bidder, Premier Energy Services, LLC. If Council chooses not to adopt the legislation, all bids will be formally rejected and staff will review options for rebidding said project.

Staff Recommendation

Staff recommends that Council adopt legislation to waive any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for the 2016 Miscellaneous Natural Gas Main Replacements Project; and approve the award of said bid to the apparent low bidder, Premier Energy Services, in the amount of \$599,989.52



Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

Fiscal Impact Summary

	Premier Energy Services, LLC	RLA Utilities
Total Bid	\$599,989.52	\$699,999.99

Background Information

On February 10, 2016, the City of Hamilton advertised for bids for Contract 16-04, 2016 Miscellaneous Natural Gas Main Replacements, in the Hamilton Journal News. Two weeks later, on February 24, 2016, sealed bids for this project were received and read at a public bid opening.

On March 14, 2016, upon return of the executed bid tabulation, it was discovered that the solicitation for bids had inadvertently not been publicly advertised a second time through the City of Hamilton website as required by H.C.O. 169.02.

Staff believes that rejecting the February 24, 2016 bids and rebidding the project is not in the public interest. Utilities Engineering staff worked for the past year to ensure that project plans and specifications were prepared in time to solicit bids prior to commencement of the 2016 construction season. By soliciting bids before qualified contractors have their 2016 construction season work scheduled, staff hoped to ensure that the City received competitive bids from multiple qualified contractors. This goal was achieved with two competitive bids received. Staff anticipated fewer bids on the Natural Gas Main Replacements Project than on the Water Main Replacements Project due to fewer U.S. Department of Transportation Operator Qualified contracting firms that are qualified perform natural gas main replacement work. The low bidder's proposed price was approximately \$100,000 (15%) below the engineer's estimated project cost of \$699,354.58 and the next lowest bidder.

Staff is concerned that rejecting the February 24, 2016 bids and soliciting new bids may result in greater project costs and unnecessary delay. Neither of these outcomes serves the public interest. Although the bid process in this instance did not meet the requirements of H.C.O. 169.02, staff feels the public interest has been properly served and protected in this case by the bid process described above. In staff's opinion, rebidding the project is not likely to result in lower or better bids.

No bidders on the 2016 Natural Gas Main Replacements Project had an unfair advantage by virtue of the City's failure to advertise solicitation of bids for the project via the Internet, since both submitted bids. Neither of the two project bidders was disqualified for noncompliance with the bid requirements. No objections have been raised.

Staff recommends that City Council waive any additional advertising, bid or other requirements as set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio; ratify the bid process for Contract 16-04, 2016 Miscellaneous Natural Gas Main Replacements; and approve the award of the bid for said project to the apparent low bidder, Premier Energy Services, in the amount of \$599,989.52.

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE WAIVING REQUIREMENTS OF CHAPTER 169 OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, RATIFYING BID PROCESS AND APPROVING AWARD OF 2016 MISCELLANEOUS NATURAL GAS MAIN REPLACEMENTS CONTRACT TO PREMIER ENERGY SERVICES, LLC.

WHEREAS, on February 10, 2016, the City of Hamilton, Ohio ("City") advertised for bids for Contract 16-04, 2016 Miscellaneous Natural Gas Main Replacements, in the Hamilton Journal News and on February 24, 2016, sealed bids for this project were received and opened at a public bid opening; and

WHEREAS, on March 14, 2016, upon return of the executed bid tabulation, it was discovered that the solicitation for bids had inadvertently not been advertised a second time through the City of Hamilton website as required by Section 169.02 of the Codified Ordinances of the City of Hamilton, Ohio; and

WHEREAS, Administration believes that rejecting the bids and rebidding the project may result in greater project costs and unnecessary delay and it is therefore not in the public interest to reject the bids and rebid the project; and

WHEREAS, Administration believes that public interest has been properly served and protected by the bid process and no bidder has received an unfair advantage in the bid process; and

WHEREAS, Administration recommends that Council waive any additional advertising, bid or other requirements as set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio, ratify the bid process for Contract 16-04, 2016 Miscellaneous Natural Gas Main Replacements and approve the award of said bid to Premier Energy Services, LLC in the amount of \$599,989.52; and

WHEREAS, Administration recommends that Council authorize the City Manager to execute any documents necessary to award the bid and enter into Contract 16-04, 2016 Miscellaneous Natural Gas Main Replacements with Premier Energy services, LLC.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio that:

SECTION I: Council hereby waives any additional advertising, bid or other requirements set forth in Chapter 169 of the Codified Ordinances of the City of Hamilton, Ohio in connection with Contract 16-04, 2016 Miscellaneous Natural Gas Main Replacements; ratifies the bid process undertaken by Administration in connection with said contract; and approves the award of said bid to Premier Energy Services, LLC in the amount of \$599,989.52.

SECTION II: The City Manager be and is hereby authorized to execute any documents necessary to award the bid and enter into Contract 16-04, 2016 Miscellaneous Natural Gas Main Replacements with Premier Energy Services, LLC.

SECTION III: That Council specifically finds that no bidder received an unfair advantage in connection with the bid process.

SECTION IV: That Council specifically finds that to engage in further advertising or rebidding would constitute a waste of municipal resources and result in unnecessary delay.

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

Ordinance No. _____ (cont'd)

CERTIFICATE

I, Nicholas Garuckas, Acting City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____.

Nicholas Garuckas, Acting City Clerk
CITY OF HAMILTON, OHIO

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Kevin M. Maynard, Director of Public Utilities

Agenda Item: Establish Fiber Optic System Lease Rates

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input checked="" type="checkbox"/> A Add new jobs <input checked="" type="checkbox"/> R Realize new investments <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 st Reading Date: 4/13/16 <input checked="" type="checkbox"/> 2 nd Reading Date: 4/13/16 <input type="checkbox"/> Public Hearing Date:	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other):</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	<p>Budgeted: \$</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

Policy Issue

Does City Council wish to adopt legislation to establish Fiber Optic System Lease Rates? Adoption of the legislation would establish lease rates designed to recover the cost of providing such service to interested third parties, including recovery of the City's investment in fiber optic infrastructure, operation and maintenance expenses, and replacement costs.

Policy Alternative(s)

Council may choose not to adopt such legislation to establish Fiber Optic System Lease Rates.

Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to establish Fiber Optic Lease Rates. Staff further recommends that the rates become effective upon adoption by City Council to allow the proposed Agreement for the Lease of Fiber Optic Facilities between the City and Level 3 Communications LLC to be executed without delay.



Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

Fiscal Impact Summary

N/A

Background Information

The City of Hamilton Fiber Optic System was constructed in 2004-2005 at a cost of approximately \$1.5 million. The system includes approximately 60 miles of overhead and underground fiber optic cable. The Electric Department staff installs, maintains and makes connections to the Fiber Optic System. The Current System uses include City telephone and information technologies (IT) networks, utility Supervisory Control and Data Acquisition Systems (SCADA), and other governmental purposes.

The System includes spare fiber optic strands that are not currently needed for municipal purposes. The City is interested in exploring opportunities to leverage existing fiber optic infrastructure for the benefit of the community and for economic development purposes.

In 2015, the City engaged Utility Financial Solutions LLC of Holland, Mich., to prepare a fiber optic lease cost of service and rate study. The study was prepared to establish fiber optic lease rates designed to recover the cost of providing such service to interested third parties, including recovery of the City's investment in fiber optic infrastructure, operation and maintenance expenses, and replacement costs.

The report prepared by Utility Financial Solutions is attached for your information, including proposed fiber optic system lease rates.

Under the proposed arrangement, the City will continue to own, operate and maintain its fiber optic infrastructure. Surplus fiber optic strands will be available for lease to interested parties under the terms and conditions of a fiber optic lease agreement using the proposed rates subject to City Council authorization. The City will provide fiber optic service only—all telecommunications services such as Internet, data, and telephone will be provided by others using the leased fiber optic cable. City staff will install, operate and maintain all connections between the existing fiber optic system and individual customers.

Attached Information

- Utility Financial Solution Fiber Optic cost of service and rate study dated May 28, 2015
- Fiber Optic Lease Rates Effective April 13, 2016

Copies Provided to:

N/A



**CITY OF HAMILTON
FIBER OPTIC DEPARTMENT
COST OF SERVICE AND RATE STUDY**

MAY 28, 2015



UTILITY FINANCIAL SOLUTIONS, LLC
185 SUN MEADOW COURT
HOLLAND, MI USA 49424
(616) 393-9722
FAX (616) 393-9721
EMAIL: mbeauchamp@ufsweb.com

**SUBMITTED RESPECTFULLY BY:
MARK BEAUCHAMP, CPA, CMA, MBA
PRESIDENT, UTILITY FINANCIAL SOLUTIONS**

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

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**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

INTRODUCTION

This report documents results of the fiber optic cost of service study performed for the City of Hamilton. The purpose of this study is to review and provide recommendations for the following:

1. The primary purpose of this analysis was to develop fiber optic lease rates for current and potential customers. The analysis identified a rate per backbone fiber connection and a rate per foot for maintenance of the extension of service between the backbone fiber system and the extension into customer facilities. The table below is the proposed fiber rates.

Governmental Rates	
Per Connection Point on Backbone	\$ 9,927
Charge per Foot Connection - Maintenance Only	0.17
Non-Governmental Rates	
Per Fiber Strand	\$ 10,791
Charge per Foot Connection - Maintenance Only	0.17

2. As part of this analysis, UFS developed a methodology to extend service to new customers. The analysis identified the maximum investment for governmental customers and non-governmental customers. The maximum investment is in Appendix B.
3. This report includes the identification and allocation of telecommunication expenses to users of the system and allocates the costs to users of the fiber system.

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

EXECUTIVE SUMMARY

Fiber Optic Department’s Revenue Requirements

Surrogate expenses were utilized to determine revenue requirements for 2016.

The projected financial statements are for cost of service purposes only.

The 2016 target operating income established is \$33,782 as calculated in Table Four of this report. Based on assumptions used in developing the projection, net operating income for 2016 is projected to be \$42,897 as identified in Table One below:

TABLE ONE – 2016 Projected Financials – With Proposed COS Rates

	Projected FY2016
<u>Revenues</u>	
Hamilton Mills	\$ 9,927
Schools	\$ 29,782
Electric Department O&M Charges	256,910
Electric Department Charges	68,964
Total Operating Revenues	<u>\$ 365,583</u>
<u>Expenses</u>	
Fiber Expense Allocation	\$ 276,710
Depreciation Expense	45,976
	-
Total O&M	<u>\$ 322,686</u>
Operating Income(Loss)	<u>\$ 42,897</u>
Adjusted Operating Income [1]	

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

EXECUTIVE SUMMARY

Recommended Minimum Cash Reserve

Table Two shows the calculations used to assist the Fiber Optic Department in establishing minimum cash reserve levels. The methodology used to establish the minimum cash level is based on certain assumptions related to specific percentage of operation & maintenance, rate base, capital improvements, and debt service. The establishment of minimum cash reserves takes into consideration a number of factors including

- Timing differences between when expenses are incurred and revenues received from customers
- Investment in assets
- Annual debt service
- Capital improvement program
- Insurance Deductible

Based on the assumptions listed below, the Fiber Optic Department should maintain a minimum cash reserve level of \$83,988 throughout the projection period. It is recommended that the Fiber Optic Department should have a minimum cash reserve policy to help ensure the financial integrity of the Department.

TABLE TWO – Fiber Optic 2016 Minimum Recommended Cash Reserves

Recommended Minimum Cash Reserve

O&M Less Depreciation	\$	276,710
Historical Rate Base		1,539,064
Current Portion of Debt Service		68,964
Five Year Capital Improvements - Net of bond proceeds		-
<u>Recommended Minimum Cash Reserve</u>		
O&M Less Depreciation		12%
Historical Rate Base		1%
Current Portion of Debt Service		50%
Five Year Capital Improvements - Net of bond proceeds		20%

	Percent	Projected FY2016
O&M Less Depreciation	12.3%	\$ 34,115
Historical Rate Base	1%	15,391
Current Portion of Debt Service	50%	34,482
Five Year Capital Improvements - Net of bond	20%	-
<u>Recommended Minimum Cash Reserve</u>		<u>\$ 83,988</u>

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

EXECUTIVE SUMMARY

Projected Cash Reserves

Table Three is the projected cash flows in and out of the reserve in 2016. Changes in the capital improvement plan can greatly affect the projected cash balance. Projected cash flows should be reviewed annually to reflect capital improvements and expenses as they materialize. Cash balances for 2016 are projected at \$19,909 provided the recommended cost of service rates are implemented. This cash balance is projected to grow to \$59,728 by FY2018 – getting closer each year to the cost of service recommended minimum of \$83,988.

TABLE THREE – Projected Cash Reserves - With Proposed COS Rates

Projected Cash Flows	
	Projected FY2016
Add Net Income	\$ 42,897
Add Back Depreciation Expense	45,976
Subtract Debt Principal	68,964
Add Bond Sale Proceeds	0
Cash Available from Operations	\$ 19,909
Estimated Annual Capital Additions	-
Net Cash From Operations	\$ 19,909
Beginning Cash Balance	0
Ending Cash Balance	\$ 19,909
Projected Cash Available	\$ 19,909
Recommended Minimum	\$ 83,988

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

EXECUTIVE SUMMARY

Cost of Service Results

The purpose of a cost of service study is to allocate costs between customer classes. The cost of service study was based on recognized cost of service procedures.

Operation and Maintenance Costs: Allocation factors were used to allocate the costs of maintaining and operating the system. These are costs that tend to vary with the number of fibers leased, the distance and the drop of the fiber.

Customer Costs: Are costs associated with serving customers regardless of their usage or demand characteristics. Customer costs include: marketing, customer support and billing and collection costs. Customer costs were allocated on the basis of the relative number of services and the number of customers.

Rate Design: The cost of service model is a method to help determine the revenue requirement and ensure correct allocation of costs between customer classes.

The table below identifies cost of service results for both the backbone and fiber drops. The cost of providing service was based on cost allocation procedures and assumptions included in the Significant Assumptions section of this report.

TABLE FIVE – Cost of Service Rates by Rate Component

Customer	Current Rate	Cost of Service Rates	Percent Difference
Hamilton Mills	1,800	9,927	452%
Schools	18,000	29,782	65%
Electric	325,874	325,874	0%
Total	\$ 345,674	\$ 365,583	6%

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

SIGNIFICANT ASSUMPTIONS

Summary of Significant Assumptions

This section outlines the procedures used to develop the cost of service study for the City of Hamilton Fiber Department and the related significant assumptions.

Projected Operating Expenses

Surrogate expenses were utilized to determine revenue requirements for 2016.

Projected Revenues from Sales

Revenue requirements for 2016 were calculated based on implementation of cost of service rates determined by this study.

Assets of Fiber System

Assets were provided by the City of Hamilton and distributed between Backbone and Connection services as identified below:

Capital Date	Asset Description	Acquisition Value	Accumulated Depreciation	Book Value
2006	FIBER OPTICS 2014 Book value	1,379,280	558,608	820,672
Totals	Totals	1,379,280	558,608	820,672
Annual Depreciation Expense - Back Bone		\$ 45,976		
Rate of Return		42,758		
Age of System		12		

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

SIGNIFICANT ASSUMPTIONS

Fiber System Assumptions

Fiber system detail was provided by the City of Hamilton and distributed as identified below:

Account	Total	Rate Per Connection - Governmental	Rate per Fiber Pair - Non Governmental	Extension Per Foot Charge
Depreciation	45,976	45,976	45,976	
Fiber Expenses	268,651	268,651	268,651	53,489
Rate of Return	42,758	42,758	73,860	
Revenue Requirements	357,384	357,384	388,487	53,489
Feet of Fiber	316,800	1.00	1.00	316,800
Rate per Foot - Year	1.13	357,384	388,487	
Monthly Breakdown per Mile		\$ 357,384	\$ 388,487	\$ 0.17
Number of Fiber Pairs	96.00	48.00	48.00	
Price per Stand - 100% usage		7,446	8,093	
Usage Factor	75%	75%	75%	
Rate per Connection (Fiber Pair)		\$ 9,927	\$ 10,791	

**CITY OF HAMILTON
FIBER OPTIC COST OF SERVICE AND RATE STUDY**

RECOMMENDATIONS

- 1) It is recommended the City of Hamilton implement the proposed cost of service rates as listed below in Table Seven.

Table Seven – Proposed Rates

Backbone Connection Rates	Annual	Monthly
Governmental Rate per Connection	\$ 9,927	\$ 827
Private Rate per Fiber Strand Loop	10,791	899
Extensions	Annual	Monthly
Private		
Customer Installed	0.17	0.0141
Utility Installed	0.69	0.0577
Governmental Existing		
Customer will replace	0.17	0.0141
Utility will replace	0.25	0.0208
Governmental New		
Customer will replace	0.17	0.0141
Utility will replace	0.54	0.0449

- 2) It is recommended that the City of Hamilton record the following statistics to help separate the fiber department and provide data for use in determining key allocators for future cost of service studies:
- a. O&M labor hours (administration time not required)
 - b. Separation of fiber system assets

Utility Financial Solutions
185 Sun Meadow Ct.
Holland, MI 49424
Phone: 616-393-9722
Fax: 616-393-9721

ACCOUNTANTS' COMPILATION REPORT

City Council
City of Hamilton

The accompanying forecasted statements of revenues and expenses of the City of Hamilton Fiber Optic Department (department) were compiled for the year ending 2016 in accordance with guidelines established by the American Institute of Certified Public Accountants.

The purpose of this report is to assist management in forecasting revenues, expenses and capital investments to identify department revenue requirements and to assist in developing rates for the department. This report should not be used for any other purpose. Any reader of this report should review the significant assumptions used to develop the projections.

Differences between forecasted and actual results will occur since some assumptions may not materialize and events and circumstances may occur that were not anticipated, some of these variations may be material. Utility Financial Solutions has no responsibility to update this report after the date of this report.

This report is intended for information and use by the City Council and management for the purposes stated above. This report is not intended to be used by anyone except the specified parties.

UTILITY FINANCIAL SOLUTIONS

Mark Beauchamp, CPA, CMA, MBA
Holland, MI

May 28, 2015

APPENDIX A

The following rate survey is provided as reference only.

Utility	Average \$ / Fiber Mile	Rank
Palo Alto, CA	\$ 500.00	1
Bowling Green, MI	525.48	2
Wyandotte, MI	567.12	3
Holland, MI	695.92	4

Draft

**CITY OF HAMILTON
TELECOMMUNICATIONS LINE EXTENSION POLICY**

LINE EXTENTION POLICY

Proposed Policy

I. Objectives:

To provide a method by which Hamilton Ohio Telecommunications Department will extend services from the backbone infrastructure to provide service to new customers that have made a written application for telecommunication service within the Hamilton Ohio service area.

II. Policy Content:

- A. In the event that upgrading, construction, or extension of facilities is required to provide service to the Applicant, Hamilton Ohio Telecommunications Department will furnish the facilities required but at a cost not to exceed the allowable construction credit for service extension, unless the Applicant makes an aid-to-construction contribution before work on the extensions begins in an amount determined by the City of Hamilton.
- B. The estimated construction investment shall include the costs of materials, equipment, engineering and labor, including administration overheads, and fringe benefits needed to complete the applied for service extension and excludes the costs of replacement or addition of facilities solely for the benefit and at the election of the City of Hamilton.
- C. Where the estimated construction investment exceeds the established allowable construction credit the City of Hamilton will receive from the Applicant an “Aid-To-Construction” contribution. The Aid-To-Construction contribution will be determined as the monetary difference of the non-betterment portion of the estimated construction investment less the allowable construction credit established by this policy.

**CITY OF HAMILTON
TELECOMMUNICATIONS LINE EXTENSION POLICY**

LINE EXTENSION POLICY

C. The allowable construction credits established by this policy are:

\$2.30 per foot of extension for governmental entities

\$1.32 per foot of extension for non-governmental entities

- a) Non-Governmental entities that make connections under this policy are required to sign a three (3) year continuous service contract with the City of Hamilton.
- b) Governmental entities who make connections under this policy are required to sign a seven (7) year continuous service contract with the City of Hamilton
- c) The City of Hamilton will construct facilities up to a specified point outside of the customer's facilities. Construction of specified point is the responsibility of the customer.

Date Adopted:

Draft



Nathan Perry <nathan.perry@hamilton-oh.gov>

Fw: Per Mile

1 message

Mark Beauchamp <mbeauchamp@ufsweb.com>
Reply-To: Mark Beauchamp <mbeauchamp@ufsweb.com>
To: "Perry, Nathan" <Nathan.Perry@hamilton-oh.gov>

Fri, Nov 6, 2015 at 10:22 AM

Nathan,
Below is what was sent on Monday.

Thanks,

Mark Beauchamp, President
Utility Financial Solutions, LLC
mbeauchamp@ufsweb.com
616-393-9722 office
616-403-5450 mobile



----- Forwarded Message -----

From: "Mark Beauchamp" <mbeauchamp@ufsweb.com>
To: "Kevin Maynard" <kmaynard@wyan.org>; "Chris Lund" <clund@ufsweb.com>
Sent: 11/2/2015 6:23:29 PM
Subject: Per Mile

Kevin,
Below are the per mile fiber rate, I had to make an assumption that I want to review with you. Also this rate does not include any extension charges that may apply.

Rate per Fiber Pair per Mile	Monthly Rate	Annual Rate
First Fiber Mile per Pair	\$ 44.96	\$ 539.57
Additional fiber mile price on same pair	29.98	359.71

Thanks,

Mark Beauchamp, President
Utility Financial Solutions, LLC

4/7/2016

City of Hamilton, Ohio Mail - Fw: Per Mile

mbeauchamp@ufsweb.com

616-393-9722 office

616-403-5450 mobile



Fiber Optic Lease Rates
Effective April 13, 2016
City of Hamilton, Ohio

Description ⁽¹⁾	Monthly Rate	Annual Rate
Point to Point Fiber Pair Lease Rate		
First Fiber Mile	\$44.96	\$539.57
All Additional Miles ⁽²⁾	\$29.98	\$359.71
Backbone Network Fiber Lease Rate		
Governmental Rate per Connection	\$827.25	\$9,927.00
Private Rate per Fiber Strand Loop	\$899.25	\$10,791.00
Maintenance Cost for System Extensions (\$/foot)	\$0.0142	\$0.1700

⁽¹⁾ Rates applicable to existing fiber optic infrastructure only. Does not include capital costs of system extensions or expansions.

⁽²⁾ Additional mile lease rate for same fiber pair.

EMERGENCY ORDINANCE NO. _____

AN EMERGENCY ORDINANCE ADDING SUBPARAGRAPH 943.19 TO CHAPTER 943 – ELECTRICITY, OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, RELATIVE TO FIBER OPTIC LEASE RATES.

WHEREAS, on November 19, 2014, Hamilton City Council adopted Ordinance No. 2014-11-105, establishing the City's current electric rate schedules, as set forth in Subparagraph 943.05 and 943.06 of the Codified Ordinances of the City of Hamilton, Ohio; and

WHEREAS, the Utility Administration, along with the City's rate consultant, Utility Financial Solutions LLC, have analyzed the City's investment in fiber optic infrastructure, operation and maintenance expenses and replacement costs of the Fiber Optic System, and have determined the need to implement fiber optic lease rates; and

WHEREAS, the new fiber optic lease rates are designed to address the long-term needs of the Fiber Optic System while also keeping the City's fiber optic rates competitive with neighboring communities in southwest Ohio; and

WHEREAS, this emergency measure is necessary in order to allow negotiation of fiber optic lease agreements between the City and potential customers which are or may be imminent, and to allow for the orderly administration of government; and

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

SECTION I: That Subparagraph 943.19 of Chapter 943 – Electricity, of the Codified Ordinances of the City of Hamilton, Ohio, be and are hereby added to be and read as follows:

943.19 FIBER OPTIC LEASE RATES

(a) The following rates are hereby established for leasing fiber optic infrastructure to users of the City's fiber optic system:

Description(1)	Monthly Rate	Annual Rate
Point to Point Fiber Pair Lease Rate		
First Fiber Mile	\$44.96	\$539.57
All Additional Miles(2)	\$29.98	\$359.71
Backbone Network Fiber Lease Rate		
Governmental Rate per Connection	\$827.25	\$9,927.00
Private Rate per Fiber Strand Loop	\$899.25	\$10,791.00
Maintenance Cost for System Extensions (\$/foot)	\$0.0142	\$0.1700

(1) Rates applicable to existing fiber optic infrastructure only. Does not include capital costs of system extensions or expansions.

(2) Additional mile lease rate for same fiber pair.

SECTION II: That the rates established in SECTION I hereof shall be effective **April 13, 2016.**

SECTION III: That Council finds that this is an emergency measure for the reasons set forth in the preamble hereto.

SECTION IV: This emergency ordinance shall take effect and be in force from and after the earliest period allowed by law.

Emergency Ordinance No. _____ **(cont'd)**

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

CERTIFICATE

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Emergency Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Kevin Maynard, Director of Public Utilities

Agenda Item: City of Hamilton-Level 3 Communications Fiber Optic Lease Agreement

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input type="checkbox"/> R Realize new investments <input type="checkbox"/> A Add new jobs <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
Ordinance or Resolution <i>Ordinance</i>	1 st Reading Date: 4-13-16 2 nd Reading Date: 4-13-16 Public Hearing Date:	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other):	
Contract	<input checked="" type="checkbox"/> Contract Required	
Fiscal Impact	Budgeted: Expenditure: Source Funds:	<input type="checkbox"/> Additional Document(s) Attached <i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

Policy Issue

Does City Council wish to adopt legislation to authorize the execution of a Fiber Optic Lease Agreement with Level 3 Communications?

Policy Alternative(s)

Council may choose not to adopt such legislation to authorize execution of a Fiber Optic Lease Agreement with Level 3 Communications. Alternately, Council may choose to authorize execution of a Fiber Optic Lease Agreement with Level 3 Communications.

Staff Recommendation

Staff recommends that Council receive this report and adopt the necessary legislation to authorize execution of a Fiber Optic Lease Agreement with Level 3 Communications. Entering into this Agreement will provide local business and industry access to an additional provider of telecommunications services, leveraging the City's investment in fiber optic infrastructure.

Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.



Fiscal Impact Summary

The fiscal impact of the proposed Fiber Optic Lease Agreement is projected additional revenue of \$1,172.75 monthly for the lease of existing dark fiber optic strands. No capital investment by the City is anticipated, as Level 3 plans to construct an extension to connect its facilities with the municipal fiber optic system.

Background Information

Level 3 Communications is interested in leasing existing City dark fiber optic cable to connect its facilities to the Vora Technology Park. This connection would provide an additional telecommunications option to local business and industry. There are no anticipated capital expenses as Level 3 plans to extend its fiber optic system to connect with the City's existing fiber optic system. The initial term of the agreement is three years with annual renewals thereafter by mutual agreement. The lease is anticipated to generate additional estimated monthly revenue of \$1,172.75.

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE LEASE OF FIBER OPTIC FACILITIES BETWEEN THE CITY OF HAMILTON, OHIO, DEPARTMENT OF UTILITIES AND LEVEL 3 COMMUNICATIONS, LLC

WHEREAS, the Administration of the City of Hamilton, Ohio, has recommended that the City enter into an Agreement for the Lease of Fiber Optic Facilities with Level 3 Communications, LLC (hereinafter referred to as "Level 3"), relative to the use of certain surplus fiber optic filaments owned by the City, pursuant to the terms, conditions, and rates of the attached Agreement; and

WHEREAS, the Administration recommends that Council waive any requirements as set forth in Chapter 173.06 of the Codified Ordinances of the City of Hamilton, Ohio, and enter into an Agreement for the Lease of Fiber Optic Facilities with Level 3; and

WHEREAS, said Agreement would provide an additional telecommunications option to local business and industry and generate additional monthly revenue for the lease of existing municipal fiber optic filaments;

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

SECTION I: Council hereby waives the requirements of Chapter 173.06 of the Codified Ordinances of the City of Hamilton, Ohio.

SECTION II: That the City Manager is hereby authorized and directed to execute an Agreement for the Lease of Fiber Optic Facilities with Level 3 Communications, LLC, relative to the use of certain fiber optic filaments owned by the City, pursuant to the terms, conditions, and rates of the attached Agreement. Said agreement shall be and read substantially in the form of Exhibit No. 1, attached hereto, incorporated herein by reference and made a part hereof, subject to any amendments recommended to the City Manager by the Law Director and the Public Utility Director.

SECTION III: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

CERTIFICATE

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

Ordinance No. _____ (cont'd)

Exhibit No. 1

AGREEMENT FOR THE LEASE

OF FIBER OPTIC FACILITIES

BETWEEN THE

CITY OF HAMILTON, OHIO, DEPARTMENT OF UTILITIES

AND

LEVEL 3 COMMUNICATIONS, LLC

This Agreement for the Lease of Fiber Optic Facilities (“Agreement”) is entered into on this ____ day of _____, 2016, (“Effective Date”) between City of Hamilton, Ohio, acting through its Department of Utilities, a municipal utility organized and existing under the provisions of Article XVIII of the Ohio Constitution, and the applicable provisions of the Ohio Revised Code and the Charter of the City of Hamilton, as amended from time to time, having its principal place of business at 345 High Street, 4th Floor, Hamilton, Ohio 45011 (“Hamilton”), and Level 3 Communications, LLC, a corporation having a place of business at 1025 Eldorado Boulevard, Broomfield, CO 80021 (“Level 3”), each individually, a “Party,” and collectively, the “Parties.”

RECITALS

WHEREAS, Hamilton is the full or joint owner of utility poles and conduit (“Structures”) and has rights to use the Structures as part of the Hamilton’s electric utility and utility operations generally;

WHEREAS, Level 3 seeks use of certain fiber optic filaments owned by Hamilton, pursuant to the terms, conditions, and rates of this Agreement; and

WHEREAS, Hamilton is willing to grant the use of the fiber optic filaments along the Route described in Exhibit A in exchange for the payment of certain lease payments by Level 3, pursuant to the terms, conditions, and rates of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises set forth below, and for other good and valuable consideration, the adequacy of which is acknowledged, Hamilton and Level 3 agree as follows:

ARTICLE 1
SCOPE AND PURPOSE OF AGREEMENT

Scope and Purpose of Agreement. This Agreement sets forth the terms and conditions under which Hamilton will own and operate the Level 3 Leased Fibers for use by Level 3. For purposes of this Agreement the term "Level 3 Leased Fibers" shall mean fiber optic filaments, contained in any suitable jacketing or sheath ("Cable"), which have been accepted or which are deemed to have been accepted by Level 3 as meeting the Fiber Acceptance Testing Procedures and Standards attached to this Agreement as Exhibit B. For aerial installations, the Hamilton Cable includes any internal or external strength member, whether entirely dielectric or not. The Level 3 Leased Fibers shall consist of those described in Exhibit A-1 to this Agreement, which traverse the route(s) shown in the map attached as Exhibit A-2 to this Agreement.

ARTICLE 2
TERM AND TERMINATION

2.1 Term. The Term of this Agreement shall extend for three (3) years from the Effective Date and any one- (1) year extension period mutually agreed to in writing by the Parties.

2.2 Renewals and Termination. This Agreement may be terminated at the end of the initial three- (3) year period, or at the end of any one- (1) year extension period agreed to by the Parties, by either Party providing written notice to the other Party of its intent to terminate this Agreement. Such notice shall be given at least one hundred eighty (180) days prior to the stated expiration date.

2.3 Early Termination of Agreement. This Agreement may be terminated prior the end of the Term upon any one of the following events:

(a) by either Party following an Event of Default, by the other Party, as set forth in Article 9 below;

(b) by either Party if the other Party consents to the appointment of, or taking possession by, a receiver, trustee, custodian or liquidator of a substantial part of its assets, files a bankruptcy petition in any bankruptcy court proceeding or answers, consents or seeks relief under any bankruptcy or similar law or fails to obtain a dismissal of an involuntary petition within 60 days of filing; or

(c) by either Party if the other Party makes any material representation or warranty in this Agreement, which is incorrect and has a material and adverse effect on the other Party (as reasonably determined by such non-breaching Party), and

such incorrect representation or warranty shall continue uncured for a period of thirty (30) days after written notice of such incorrect representation or warranty (except only where this Agreement specifically provides additional time and/or other options or remedies for any such failure; or, with respect to an obligation that is susceptible of cure within a reasonable time period so long as such Party is using its best efforts to promptly cure).

ARTICLE 3
OWNERSHIP AND RIGHT TO USE

3.1 Ownership. At all times, the ownership and possession rights to the Cable, and the ownership rights to the Level 3 Leased Fibers, shall remain in Hamilton and Level 3 shall have no ownership interest therein.

3.2 Grant of Right to Use. Hamilton grants to Level 3 for the Term of this Agreement the exclusive right to use the Level 3 Leased Fibers along the routes as set forth in Exhibit A ("Route"), which may occupy portions of Hamilton's electric distribution or transmission system, subject to the terms and conditions of this Agreement. Level 3's right to use the Cable along the Route at all times shall be subordinate to Hamilton's obligation to provide a safe and reliable supply of electricity and other utility services to its customers. Nothing in this Agreement shall give Level 3 any right to sublease or assign in any way the Level 3 Leased Fibers or any portion thereof except with the express written approval of Hamilton. Nothing in this Agreement shall give Level 3 any right to use any Structure or other facility of Hamilton's except for the Level 3 Leased Fibers along the Route as covered by the terms and conditions of this Agreement. The grant in this Article 3.2 does not give Level 3 the right to splice the Level 3 Leased Fibers; provided, however, that upon reasonable request Hamilton agrees to splice Level 3 Leased Fibers at Level 3's request at cost-based time and materials rate.

ARTICLE 4
INSTALLATION, OPERATION AND MAINTENANCE

4.1 Installation, Operation and Maintenance. Hamilton shall install, construct, operate, and maintain the Cable as defined in Article 1 and Exhibit A along the Route, in accordance with the terms and conditions set forth in this Agreement.

4.2 Casualty. If any portion of the Cable or the Level 3 Leased Fibers is damaged or destroyed by casualty at any time during the Term of this Agreement, the repairs and/or replacement will be performed in accordance with this Article 4.

4.3 Hamilton's Right to Maintain Service. Hamilton shall have the right to take all action necessary to maintain and repair Hamilton's property and maintain Hamilton's provision of utility services to its customers, provided that Hamilton

shall take reasonable precautions to protect the Cable against damage. In the event of any service outage affecting the Cable, Hamilton shall have the right to repair its electric facilities first. If conditions permit, Hamilton may repair its utility facilities concurrently with the Cable or the Level 3 Leased Fibers. Level 3 acknowledges that a portion of the Cable containing Level 3 Leased Fibers will be placed on Structures that are part of Hamilton's electric distribution or transmission system and that at all times the safe and continuous operation of such system and the provision of electric service is Hamilton's foremost priority.

4.4 Relocations. In the event that, during the term of this Agreement, Hamilton is required by public authorities or by lawful order or decree of a regulatory agency or court to relocate or modify any or all Structures upon which the Level 3 Leased Fibers or any part thereof are located, Hamilton shall provide notice to Level 3 within forty-five (45) days after Hamilton is notified and prior to beginning such relocation. In any such an event, the costs of relocating, modifying or replacing the Cable and any Level 3 Leased Fibers thereby affected shall be paid by Hamilton. The Parties shall cooperate in performing such relocation or modifications of the Structures so as to minimize any interference with the use of the Level 3 Leased Fibers by Level 3.

In the event of an emergency affecting Hamilton's Structures, Hamilton's provision of utility service to its customers, any of Hamilton's facilities or public safety, Hamilton shall be permitted to replace, remove and relocate the Cable or any portion thereof without prior notice to Level 3, when such notice is not possible. Notice will be provided at the earliest possible time and Hamilton shall incur no liability to Level 3 or its customers for service interruptions in connection with any such removal or relocation.

4.5 Rights of Way. Subject to the provisions of Article 4.4, above, Hamilton's obligations to install and maintain the Cable and the Level 3 Leased Fibers along the Route(s) is limited by the rights of way, easements, locations, licenses, or other land rights currently held by Hamilton or made available to Hamilton by Level 3. Level 3 shall not be responsible to obtain any additional easements, rights of way, permits, licenses, or other permissions for the installation of the Cable along the Routes or for any modifications or extensions thereof. Hamilton shall be responsible to acquire any additional rights of way, easements or other land rights necessary to install the Cable along the Route(s) or for any modification or extension thereof, and any costs incurred by Hamilton in so doing shall be for Level 3's account.

4.6 Rights to Locate Structures. Hamilton represents that, to the best of its knowledge, Hamilton has sufficient legal rights (whether contractual, pursuant to applicable law, arising from Hamilton's relationship with the underlying property owner or otherwise) authorizing it to locate its Structures and the Cable on the Route and that it is not aware of any prohibitions or restrictions in any of the rights

that it may have to its leasing the Level 3 Leased Fibers to Level 3. In the event that Hamilton should intend in the future to abandon any Structure bearing the Cable, Hamilton shall notify Level 3 of its intent to abandon the Structure(s) and the Cable located on the Route as soon as is reasonably possible following Hamilton's decision to abandon the Structure(s) and the Cable but in no event less than ninety (90) days prior to the effective date of such abandonment.

ARTICLE 5
COSTS AND CHARGES

5.1 **Lease Payment.** Level 3 shall pay Hamilton, annually in advance, per fiber optic pair for the first fiber optic mile, a monthly lease rate of \$44.96 (annual rate, \$539.57). Level 3 shall pay Hamilton, annually in advance, per fiber optic pair for additional fiber optic miles on the same pair, a monthly lease rate of \$29.98 (annual rate, \$359.71), per mile (for the existing Hamilton facilities shown on Exhibit A), for a total base rental of \$_____ per month.

5.2 **Extensions.** In the event that additional extensions of Hamilton facilities are required under this Agreement, the terms, conditions and pricing governing the installation and implementation of each such extension shall be separately negotiated by the parties.

5.3 **Performance Conditioned on Payment.** Payment in full of all costs due hereunder shall be a condition precedent to Hamilton's obligations under this Agreement.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

6.1 **Work Clearances and Related Delays.** Level 3 acknowledges that, with respect to contingency line operating conditions and all other issues affecting clearance to work on the Cable by the City, such work shall be subordinate to Hamilton's obligation to provide a safe and reliable supply of electricity and other utility services to its customers.

6.2 **Interruption of Service.** Hamilton makes no representations or warranties for continuous service. The Parties acknowledge that service interruptions may occur from time to time in which case Hamilton will use reasonable efforts in accordance with Good Utility Practice to restore service in a prompt manner. Hamilton's obligation to restore service, however, is subordinate to its obligation to provide utility services to its customers. For purposes of this Agreement "Good Utility Operating Practice" means the practices, methods and acts engaged in or approved by a significant portion of the electric power industry during the relevant time period, or the practices, methods and acts which in the exercise of reasonable

judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, safety, expedition, the requirements of governmental agencies having jurisdiction; such term is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to constitute a spectrum of acceptable practices, methods or acts.

ARTICLE 7
FORCE MAJEURE

Force Majeure. Neither Party shall be liable for any costs, losses or damages incurred by the other Party for any failure to perform its obligations hereunder where such failures arise from or are in consequence of any event of Force Majeure, including but not limited to an act of God, natural disaster, war, civil disturbance, fire, explosion, failure of electrical distribution equipment, any federal, state or local law or any rule, regulation or order of a court or other governmental agency, labor disputes, inability to secure materials, or any other cause or causes, whether similar or dissimilar to the causes enumerated above, beyond the reasonable control and without the fault or negligence of the party asserting Force Majeure. In no event shall a claim of Force Majeure excuse the timely payment of amounts due and owing under this Lease. The Party asserting Force Majeure must give notice in writing to the other Party as soon as practicable after the occurrence of the cause relied on, and such cause shall be remedied with all reasonable dispatch.

ARTICLE 8
LIMITATION OF LIABILITY

8.1 Limitation of Hamilton's Liability. Except for gross negligence, willful misconduct, or as otherwise provided for herein, Hamilton shall not be liable to Level 3 with respect to any action, claim, damages or expense, brought on or incurred by Level 3 in connection with the occupancy of the space or installation, provision, preemption, termination, maintenance, repair or restoration of services hereunder. Hamilton disclaims any and all loss or liability resulting for access delays or interruptions in service. **IN NO EVENT SHALL HAMILTON BE LIABLE TO LEVEL 3 OR TO ITS CUSTOMERS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING STRICT LIABILITY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR ANY LOST BUSINESS DAMAGES IN THE NATURE OF LOST REVENUES OR PROFITS. IN NO EVENT SHALL HAMILTON'S LIABILITY IN TORT EXCEED THAT PROVIDED BY THE OHIO POLITICAL SUBDIVISION TORT CLAIMS ACT, OHIO REVISED CODE CHAPTER 2744.**

8.2 Limitation of Level 3's Liability. **IN NO EVENT SHALL LEVEL 3 BE LIABLE TO HAMILTON OR TO ITS CUSTOMERS, WHETHER IN CONTRACT,**

TORT, OR OTHERWISE, INCLUDING STRICT LIABILITY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR ANY LOST BUSINESS DAMAGES IN THE NATURE OF LOST REVENUES OR PROFITS.

8.3 Waiver of Jury Trial. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

ARTICLE 9
DEFAULT

9.1 Events of Default. Unless excused by an Event of Force Majeure as defined in Article 7, a Party shall be considered in default of this Agreement should one or more of the following events occur:

(a) Admission in writing of the Party's inability to pay its debts when due; making a general assignment for the benefit of creditors; the institution of any proceeding, whether voluntary or involuntary, seeking to adjudicate that Party bankrupt or insolvent; seeking reorganization, arrangement, adjustment, or composition of it or its debt under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, seeking appointment of a receiver, trustee, or other similar official for it or for any substantial part of its property; or taking any action to authorize any of the actions set forth above;

(b) Failure of that Party to perform, in a material respect, any other obligation under this Agreement in accordance with the terms hereof. For purposes of this Agreement a material breach shall mean a failure to perform (whether any such failure shall arise as the result of the voluntary or involuntary action or inaction of such Party), in any material respect, any of its obligations set forth in this Agreement, including without limitation failure to make payments when due, and any violation of law (which is material and which adversely affects either Party's obligations under the Agreement) and such failure shall continue uncured for a period of 30 days following written notice from the non-breaching Party or such shorter period of 30 days following written notice from the non-breaching Party or such shorter period as may apply under law (the "Cure Period"). The sublease or assignment of Level 3's right to use the Level 3 Leased Fibers without Hamilton's prior written consent (other than a conditional assignment by Level 3 to a lender or lenders in connection with the creation of a collateral security interest to secure a loan or other extension of credit by such lender to Level 3 in accordance with Section 10.1 of this Agreement) shall constitute a material breach of this Agreement. A Party's exercise of its right to terminate this Agreement as provided herein shall not affect its ability to pursue any and all rights it may have against the breaching Party now or hereafter under the law, subject to the limitations in this Agreement.

9.2 If either Party shall remain in default under any material provision of this Agreement for a period of thirty (30) days after notice by the other Party of such default, the Party so notifying the other Party may, at its option, terminate this Agreement as provided in Article 2. Upon such termination the terminating Party shall have no further obligations or liability to the other Party.

ARTICLE 10
MISCELLANEOUS PROVISIONS

10.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns where permitted by this Agreement. Neither Party shall assign, transfer, delegate or in any other manner dispose of, any of its rights, privileges or obligations under this Agreement without the other Party's written consent, which will not be unreasonably withheld; except a Party may assign this Agreement (the "Assignor") without consent: (i) to an affiliated entity controlling, controlled by or under common control of their respective parents; (ii) in connection with a transaction pursuant to which the Assignor sells all or substantially all of its business, assets or equity interests; and (iii) a transfer, pledge or assignment of its rights to receive performance under a transaction as security for any financing with financial institutions, as long as such assignee has the same technical and financial ability as the Assignor to perform all of Assignor's obligations under the Agreement, such assignee undertakes the legal obligations to perform all of Assignor's obligations under the Agreement and Assignor shall remain jointly and severally liable for all of its obligations under the Agreement, and any attempt to make any such assignment, transfer or disposition without consent shall be null and void.

10.2 Notices.

(a) Form and Address. All notices, invoices and other communications from either Party to the other hereunder shall be in writing and shall be deemed received (1) upon actual receipt when personally delivered, (ii) upon acknowledgment of receipt if sent by facsimile, (iii) upon the expiration of the third business day after being deposited in the United States mails, postage prepaid, certified or registered mail, or (iv) upon the expiration of one business day after being deposited during the regular business hours for next-day delivery and prepaid for overnight delivery with a national overnight courier company, addressed to the other Party as follows:

- (1) As to Hamilton
Director of Public Utilities
City of Hamilton Utilities
345 High Street, Fourth Floor
Hamilton, Ohio 45011

Ordinance No. _____ (cont'd)

FAX: (513) 785-7230

- (2) As to Level 3
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021
Attn: NIS Department

With a copy to:
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021
Attn: Legal Department

Each Party shall provide the other Party in writing with 24-hour, 7 days per week emergency notification numbers. Each Party may change its addresses and emergency numbers by giving the other Party notice thereof in conformity with this Article.

10.3 Waiver. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder and no course of dealing between the Parties shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

10.4 No Joint Venture. This Agreement is not intended to create nor shall it be construed to create any partnership, joint venture, employment or agency relationship between Level 3 and Hamilton.

10.5 Severability. Nothing contained in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision of this Agreement and any law, such law shall prevail; provided, however, that in such event, necessary to permit compliance with the minimum legal requirement, and no other provisions of this Agreement shall be affected thereby and all such other provisions of this Agreement shall be affected thereby and all such other provisions shall continue in full force and effect.

10.6 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute but one and the same instrument.

10.7 Applicable Law. This Agreement shall be construed under and in accordance with the Constitution and laws of the State of Ohio. Venue for any action related to this Agreement shall be in the Federal Courts located in Cincinnati, Ohio.

Ordinance No. _____ (cont'd)

10.8 Entire Agreement. The Exhibits referenced in and attached to this Agreement shall be deemed an integral part hereof to the same extent as if written in whole herein. This Agreement supersedes any prior written or oral agreements by the Parties concerning the Cable. In the event that any inconsistency exists between the provisions of this Agreement and any Exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such Exhibits.

10.9 Amendments. This Agreement may not be amended or modified in any way except by a writing signed by an authorized representative of the Party against whom the amendment, modification or waiver is sought to be enforced.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth above.

City of Hamilton Department of Utilities Level 3 Communications, LLC

By: _____
Title: Director of Utilities

By: _____
Title: Senior Manager

Approved as to form

By: _____
Title: City Law Director

s:\mason\hanrahan\jjr corporate\city of hamilton\hamilton-level 3 dark fiber lease 2-4-16.doc

Ordinance No. _____ (cont'd)

Exhibit A-1

THE PROJECT AND ROUTE

Route: Hamilton will furnish approximately ____ miles of fiber optic cable, described as set forth below and as shown on the attached sketch.

Segment No.	Segment End Point	Segment End Point	Fiber Count

The foregoing segments constitute the "Level 3 Leased Fibers" referenced in this Lease Agreement.

Ordinance No. _____ (cont'd)

Exhibit A-2

MAP OF ROUTE

Fiber Acceptance Testing Procedures and Standards

All splices will be performed with an industry accepted fusion splicing machine. Hamilton will perform two stages of testing during the repair of a fiber cable route. As soon as fiber connectivity has been achieved, Hamilton will verify and record the continuity of all fibers. Hamilton will take and record power loss readings on all fibers in both directions. Hamilton will perform bidirectional OTDR tests on all fibers.

After Hamilton has completed end-to-end connectivity on the fibers, bidirectional span testing will be done. Continuity tests will be done to verify that no fibers have been "frogged" or crossed in any of the splice points. Once the fiber has been connected, loss measurements will be recorded using an industry-accepted laser source and a power meter. OTDR traces will be taken and splice loss measurements will be recorded. Hamilton will store OTDR traces on retrievable electronic medium and on data sheets. Laser Precision format will be used on all traces. Copies of all data sheets and tables, and one set of diskettes with all traces will be available to Level 3.

The power loss measurements shall be made at 1550 nm and 1310 nm, and performed bidirectionally. OTDR traces shall be taken in both directions at 1550 nm and 1310 nm.

The splicing standards are as follows:

- ◆ The loss value of the connector will not exceed 0.75 dB. This value does not include the insertion loss from its connection to the OSX (read comments below). For values greater than this, the connector will be replaced until an acceptable loss value is achieved. If, after three attempts, Hamilton is not able to produce a loss value less than 0.75 dB, the connector will be marked as Out-of-Specification ("OOS") on the data sheet. Each connector attempt shall be documented on the data sheet. (Level 3's splicing specifications include a target for a single mode fiber to a non-zero dispersion-shifted optical fiber splice of 0.15dB and the target loss from the fiber into a connector through the OSX and into the next fiber is 0.3dB. Thus, Level 3 connecting into Hamilton's OSX would see a loss of approximately 0.5 dB from the backbone fiber into its jumper.)
- ◆ During installation, and during any restoration activity caused by fiber cuts or other events, the objective for each splice is a loss of 0.30 dB or less. If, after two additional attempts, a value of less than 0.30 dB is not achievable, then the splice will be marked as OOS on the data sheet. Each splicing attempt shall be documented on the data sheet. (Level 3's target splice loss is 0.08.)

Ordinance No. _____ (cont'd)

- ♦ During end-to-end testing of a span (a span shall be OSX to OSX), the objective for each splice is a bi-directional average loss of 0.15 dB or less.
- ♦ The maximum bi-directional loss for each splice shall be 0.25 dB.
- ♦ The entire fiber optic cable system shall be properly protected from foreign voltage and grounded with an industry-accepted system.

The fibers shall be terminated to the OSX with SC-UPC connectors (max return loss of -0.75dB and a typical of -0.75dB), unless another type of connector is specified. Jumpers shall be manufactured with standard single mode fiber or equivalent.

Testing for Segments for which the Segment End Point is other than a Level 3 point of presence shall be performed in a coordinated fashion, so that Level 3 shall connect and test the fiber owned by it in conjunction with Hamilton's testing of the Level 3 Leased Fibers. In the event that the entire tested portion does not satisfy the testing criteria set forth herein, Level 3 and Hamilton shall work together in good faith to pinpoint the cause of the problem and each party shall be responsible for the timely performance of such repairs on the fibers owned by it (so that Hamilton shall only be responsible for repairs needed to bring the Level 3 Leased Fibers into compliance with this Exhibit). Hamilton may (in the event of a dispute respecting testing and acceptance of the Level 3 Leased Fibers within any such Segment) arrange to have the Level 3 Leased Fibers tested only to the Segment End Point and, if such Level 3 Leased Fibers meet the testing criteria set forth herein, Level 3 shall be obligated to accept and pay for such Level 3 Leased Fibers (notwithstanding the fact that the fibers connected to Level 3's point of presence may not be functioning properly).

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Craig R. Bucheit, Chief of Police

Agenda Item: Report regarding a resolution for adopting FOP/OLC (Fraternal Order of Police / Ohio Labor Council, Inc.) Corrections / Special Police Officers

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> R Realize new investments <input type="checkbox"/> A Add new jobs <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Resolution</i></p>	<p>1st Reading Date: 4-13-16 2nd Reading Date: Public Hearing Date:</p>	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other):</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	<p>Budgeted: 2016</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: See below</p>	
	<p>Source Funds: General Fund (100)</p>	

Policy Issue

Does City Council wish to adopt legislation to approve the tentative agreement for a successor collective bargaining agreement reached with FOP/OLC for Corrections / Special Police Officers?

Policy Alternative(s)

Council may choose not to adopt such legislation to approve the tentative agreement for a successor collective bargaining agreement reached with FOP/OLC for Corrections / Special Police Officers.

Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to approve the tentative agreement for a successor collective bargaining agreement reached with the FOP/OLC, and direct the City Manager to execute the collective bargaining agreement. Council may choose to propose an alternative to the tentative agreement.

Statutory/Policy Authority

- Chapter 4117, Public Employees' Collective Bargaining, of the Ohio Revised Code



Fiscal Impact Summary

Table 1, below, illustrates the annual budgetary impact of approving the proposed contract and includes contributions to the Public Employee Retirement System, Ohio Worker's Compensation Fund and Medicare contributions.

Table 1: Forecasted Budgetary Impact of Contract by Year

Year	Current Annual Wage Cost	Proposed Annual Wage Cost	Total Cumulative Impact
2016	\$ 437,824	\$ 459,767	\$ 21,943
2017	\$ 442,939	\$ 488,668	\$ 45,730
2018	\$ 448,169	\$ 504,590	\$ 56,421
Total Contract Costs	\$ 1,328,932	\$ 1,453,025	\$ 124,094

Background Information

On December 31, 2015, the collective bargaining agreement a between the City of Hamilton and FOP/OLC bargaining unit expired. Leading up to the expiration, the parties have been negotiating toward a successor collective bargaining agreement. As a result of these negotiations, a tentative agreement for a successor collective bargaining agreement between FOP/OLC and the City has been reached and has been approved by the FOP/OLC bargaining unit.

The tentative agreement provides for, among other things:

1. Article 12, Extends probationary period for all new hires from 6 months to 12 months.
2. Article 16, Updates drug screening procedure to align with FOP-38 contract provisions.
3. Article 19 & 22, Allows for the accrual and carryover of up to 80 hours of compensatory time.
4. Article 20, Adopts a new 6 step pay scale replacing a former 11 step pay scale and providing for across the board wage increases including a 4.5% starting pay increase.
5. Former Article 25, Removes incentive bonuses for both Education Achievement and Physical Fitness.
6. Article 28, Specifies what uniform items will be provided to new hires and that the employee is responsible for all future maintenance.
7. Schedule K, provides for a 1% wage increase effective January 1st of both 2017 and 2018.

The agreement is scheduled to expire on August 31, 2018.

Attached Information

N/A

Copies Provided to:

N/A



RESOLUTION NO. _____

A RESOLUTION APPROVING THE TERMS AND CONDITIONS OF A SUCCESSOR COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BETWEEN THE CITY OF HAMILTON, OHIO, AND THE FRATERNAL ORDER OF POLICE / OHIO LABOR COUNCIL, INC. (FOP/OLC), AUTHORIZING AND DIRECTING THE EXECUTION OF SAID COLLECTIVE BARGAINING AGREEMENT.

WHEREAS, the City of Hamilton and the FOP/OLC, recently concluded labor negotiations for a successor collective bargaining agreement (CBA); and

WHEREAS, as a result of these negotiations, a tentative agreement for a successor collective bargaining agreement between the parties has been reached and has been approved by the FOP/OLC, bargaining unit; and bargaining unit will receive a 6 step pay scale replacing a former 11 step pay scale and providing for across the board wage increases, revisions to extended the probationary period of new hires, revisions to drug screening procedure, removal of Education Achievement and Physical Fitness incentives, revisions to clothing maintenance, and a 1% wage increase effective January 1st of both 2017 and 2018; and

WHEREAS, the collective bargaining agreement will remain in place through December 31, 2018; and

WHEREAS, this Council desires that the City Manager be authorized and directed to execute said successor CBA;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hamilton, Ohio:

SECTION I: That City Manager is hereby directed to execute the CBA between the City of Hamilton, Ohio, and the Fraternal Order of Police / Ohio Labor Council, Inc. (FOP/OLC) for the period continuing through December 31, 2018.

SECTION II: This resolution shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

CERTIFICATE

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Resolution No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____.

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

City Council Meeting Staff Report

Report To: The Honorable Mayor Patrick Moeller & Members of the City Council

Report From: Jody Gunderson, Economic Development Director

Agenda Item: Assignment and Transfer of Jackson's Market & Deli Economic Development Agreement to KJ Rooney Enterprises, LLC

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input type="checkbox"/> R Realize new investments <input type="checkbox"/> A Add new jobs <input type="checkbox"/> I Increase property values <input type="checkbox"/> D Decrease vacant structures <input type="checkbox"/> G Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
Ordinance or Resolution <i>Resolution</i>	1 st Reading Date: 4/13/16 2 nd Reading Date: Public Hearing Date:	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other):	
Contract	<input checked="" type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
Fiscal Impact	Budgeted: N/A Expenditure: Source Funds:	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

Policy Issue

Does City Council wish to adopt legislation to consent to the transfer and assignment of an Economic Development Agreement from Jackson's Market & Deli to KJ Rooney Enterprises, LLC?

Policy Alternative(s)

Council may choose not to adopt such legislation to consent to the transfer of an Economic Development Agreement from Jackson's Market & Deli to KJ Rooney Enterprises, LLC. In that event, the Economic Development Agreement would not be transferred to the new owner of the business.

Staff Recommendation

Staff recommends that Council receives this report and adopts legislation to consent to the transfer and assignment of the Economic Development Agreement from Jackson's Market & Deli to KJ Rooney Enterprises, LLC.

Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.



Fiscal Impact Summary

There will be no fiscal impact to the City as a result of the transfer and assignment of the Economic Development Agreement from Jackson's Market and Deli to KJ Rooney Enterprises, LLC.

Background Information

In December 2015, Jackson's Market & Deli entered into an Economic Development Agreement ("Agreement") with the City of Hamilton for a Recoverable Grant in the amount of \$10,000.00 for machinery, equipment and other economic development expenses at the retail storefront located at 160 High Street. Pursuant to the Agreement, Jackson's agreed to employ three full-time employees at the project site.

For each year the job target is met, the recoverable grant will be reduced by \$2,500. If the job target is met for a period of four years, the recoverable grant terms will be met and the grant shall automatically become non-recoverable. Ownership of the business is being transferred from Jackson's to Rooney. The Agreement is transferable and assignable upon the written approval of the City conditioned upon the written assumption of the duties and obligations of the Agreement by the successor. Administration recommends that the City Manager be authorized to consent to the transfer and assignment of the Agreement to Rooney conditioned upon Rooney's written assumption of the duties and obligations under the Agreement.

Attached Information

N/A

Copies Provided to:

N/A



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AN AGREEMENT
CONSENTING TO THE ASSIGNMENT AND TRANSFER OF AN ECONOMIC DEVELOPMENT AGREEMENT
FROM JACKSON’S MARKET & DELI TO KJ ROONEY ENTERPRISES, LLC**

WHEREAS, Jackson’s Market & Deli (hereinafter referred to as “Jackson’s”) entered into an Economic Development Agreement with the City of Hamilton in December 2015 (“Agreement”) which provided Jackson’s with a recoverable grant conditioned upon certain terms; and

WHEREAS, ownership of Jackson’s is being transferred to KJ Rooney Enterprises, LLC (“Rooney”) and the parties desire to transfer and assign the duties and obligations set forth in the Agreement to Rooney and Rooney has agreed to assume those duties and responsibilities; and

WHEREAS, by its terms, any assignment or transfer of the Agreement requires the express, written approval of the City which may be conditioned upon the express, written assumption by the successor to the Jackson’s of all the duties and obligations set forth in the Agreement; and

WHEREAS, the Administration of the City of Hamilton, Ohio has recommended that the City consent to the assignment and transfer of the Agreement from Jackson’s to Rooney; and

WHEREAS, assigning and transferring this Agreement encourages the development of business and industry, all in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes set forth in Article VIII, Section 13 of the Ohio Constitution.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hamilton, Ohio:

SECTION I: That Council ratifies and approves the terms of the Agreement and authorizes and directs the City Manager to execute an agreement in a form acceptable to the Director of Law consenting to the assignment and transfer of the Agreement from Jackson’s to Rooney conditioned upon Rooney agreeing in writing to assume all of the duties and obligations set forth in the Agreement.

SECTION II: That Council finds that assignment and transfer of the Agreement serves an important public purpose as set forth in the preamble.

SECTION III: This resolution shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____
City Clerk

CERTIFICATE

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Resolution No. _____ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: _____

**Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO**