



Tom Alf
Commission Member

Teri Horsley
Commission Member

Dale McAllister
Chairperson

David Belew
Commission Member

Patrick Moeller
Mayor

Michael Samoviski
Commission Member

Joshua Smith
City Manager

Roll Call:

2 Public Hearings

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Swearing in of Those Providing Testimony to the Commission:

Kathy Dudley, Assistant Law Director

Approval of Meeting Minutes- Written summary and audio recording for the following dates:

1. October 3, 2016

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Old Business:

Agenda Item #1- Public Hearing –Item Tabled on October 3, 2016

Request for a Conditional Use to allow the establishment of an Automobile Service and Minor Repair Facility (i.e. self service fuel dispensing) on property zoned B-2 Community Business District located at 302 East Avenue (City Lot No. 32098) (Thomas Dunn/Trenton Veer Inc., Applicant/Owner).

Staff: John Creech

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

New Business:

Agenda Item #2- Public Hearing

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day's Sunoco & Towing LLC.,



Applicant/Owner).

Staff: John Creech

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Reports:

1. Verbal Report on Architectural Design Review Board Meeting of October 4, 2016 – Staff: John Creech
2. Verbal Report on Board of Zoning Appeals Meeting of October 6, 2016 – Staff: John Creech
3. Verbal Report on previous Planning Commission cases in progress – Staff: John Creech
4. Verbal Report on upcoming Zoning Code Text Amendment R-4 Multi-Family Residence District – Staff: John Creech

Adjournment:



**WRITTEN SUMMARY
PLANNING COMMISSION
MEETING MINUTES
Monday, October 3, 2016
1:30 p.m.**

The meeting was called to order at 1:30 by Mr. McAllister.

Roll Call:

Members Present:

Mr. Tom Alf, Ms. Teri Horsley, Mr. Dale McAllister, Mr. Mike Samoviski and Mr. Joshua Smith. Mayor Pat Moeller arrived at 1:33 p.m.

Members Absent:

Mr. Dave Belew

City Staff Present:

Mr. Eugene (Bud) Scharf, Mr. John Creech, Ms. Heather Hodges, Ms. Kim Kirsch, Mr. Ed Wilson, and Ms. Kathy Dudley (Assistant Law Director).

Swearing in of Those Providing Testimony to the Commission:

Ms. Dudley swore in the audience members wishing to speak.

Approval of Meeting Minutes- Written summary and audio recording for the following dates:

1. **September 6, 2016** - Motion to approve by Mr. Alf, 2nd by Mr. McAllister. With all "ayes" to roll call vote, the motion was approved.

Old Business:

None

New Business:

Agenda Item #1 - Public Hearing

Staff: John Creech

Request to approve a Free Standing Monument Sign on property zoned BPD Business Planned Development at 1440 Haldimand Avenue (Tim Hoskins, Applicant).

Introduction

Mr. Tim Hoskins of Triangle Sign Co. has submitted a request, on behalf of Domino's Pizza, for Planning Commission review of an amendment to the approved development plan for the property at 1440 Haldimand Avenue. The plan amendment is for a new

free-standing monument sign to be erected near the southwest corner of the property where Haldimand Avenue and North McKinley Avenue intersect with Main Street.

Mr. Creech then shows the Public Hearing Notification map with the property outlined in blue. He says that it is zoned BPD.

Mr. Creech says that Public Hearing Notices were mailed to the owners of 100 properties within 500 feet of the property in question, and there was no feedback received from those.

Mr. Creech then shows the Site Plan with the proposed monument sign which will be located 5 feet behind the property line. He shows a picture of the proposed free standing sign which will be placed perpendicular to Main Street, and gives specific details about it. He points out that the graphic that he shows to the Board is updated from what was included in the packet that was sent out. The proposal has brick at the base of the sign, and shows the proposed landscaping.

Public Works/Traffic Engineering have reviewed and approved the proposed sign location. Since the proposed sign is "free standing" the Planning Commission must approve the proposed free-standing sign in order for it to be erected on the property.

RECOMMENDATION

If approved by the Planning Commission, the Department of Community Development recommends the following conditions of approval:

1. The Planning Commission approve the request to erect a free standing monument sign at 1440 Haldimand Avenue.
2. At least fifty (50%) of the base area of the proposed free-standing sign to be wrapped in brick/stone masonry type material.
3. The ground area surrounding the base of the proposed sign to be landscaped to match the size of the proposed free standing sign i.e. 35 square feet.
4. Free standing sign to comply with requirements of Section 1138.00 of Hamilton Zoning Ordinance.
5. The construction drawings for the proposed sign to be revised subject to any future requirements of the City's Interdepartmental Review (IDR) Committee upon review.
6. That the proposed sign and landscaping be maintained in good repair and repaired/replaced as necessary to remain in compliance with the Planning Commission approval.

Mr. Creech concluded his presentation.

Mr. Tim Hoskins (Triangle Sign) was present. He says that he has been the sign contractor for Domino's for the past 25 years, and they are in the process of updating the image and logo.

There was a brief question and answer session between Mr. Hoskins and the Board regarding lumens, ambient light, and whether or not the sign could be made to match the monument signs that are on East High Street.

Mr. Brad Brubaker (Operations Manager for Domino's) said that they are okay with what was proposed by Mr. Smith for the sign. He said that the building will also have some brick on the lower half of the building.

Mr. Samoviski made a Motion to close the Public Hearing. With a 2nd by Ms. Horsley and all "ayes", the public hearing was closed.

Mr. Smith made a Motion to approve the free standing monument sign at 1440 Haldimand with the recommendations submitted by the Planning Department (specifically Item #2 of the Recommendations) that the masonry be consistent with the masonry bases that were done on the signage on east High Street.

With a 2nd by Mr. Samoviski and all "ayes" to roll call vote, the Motion passes with a vote of 6-0.

Agenda Item #2 - Public Hearing

Staff: John Creech

Request for a Conditional Use to allow the establishment of an Automobile Service and Minor Repair Facility (i.e. self service fuel dispensing) on property zoned B-2 Community Business District located at 302 East Avenue (City Lot No. 32098) (Thomas Dunn/Trenton Veer Inc., Applicant/Owner).

Mr. Creech stated that this is a request submitted by Thomas Dunn of Dunn & Titus Architects on behalf of Trenton Veer Inc., to approve a Conditional Use to establish a Minor Automobile Service and Repair Facility (i.e. self service fuel dispensing) use on the property located at 302 East Avenue (City Lot No. 32098) situated on the southeast corner of East Avenue and Ludlow Avenue (Exhibit A). The property is zoned B-2 Community Business zoning district (Exhibit B). The property is comprised of a single 25,845 square foot lot (0.5933 Acres).

The applicant submitted plans for a drive-through convenience store in 2015 (which does not require Conditional Use approval). However, the applicant is now requesting to utilize the existing fuel dispensing island (gasoline pumps) for self service fuel dispensing. By zoning definition, this would be classified as an Automobile Service and Minor Repair facility use, and requires Conditional Use review by the Planning Commission and approval by City Council (Section 1155.00).

Mr. Creech showed the zoning map and gave zoning of the surrounding properties. He said that there are two buildings on the property, one which was previously Fackey's BP and a separate retail building on the south end of the property.

The proposed project involves the renovation of a former BP gas station/convenience store located at 302 East Avenue. The existing building is a single story 2,800 square foot masonry block building that will be reconfigured as a convenience store for walk-in pedestrian customers and vehicular drive-through traffic.

Mr. Creech then showed the site plan and gave specific information with regard to the proposal, including refurbishing the five fuel pumps, adding a canopy, narrowing the curb cut, adding landscaping, additional parking spots, and putting up a privacy fence 120' in length to screen the convenience store from the abutting residential property.

Mr. Creech then shows additional proposals with the garage bay doors refurbished with glass doors installed, an elevation view, and current photographs of both buildings and the surrounding properties.

Public Hearing Notices were mailed to the owners of 139 properties within 500 feet of the property in question. At the time of the hearing, there were no objections expressed to the proposed conditional use.

Mr. Creech shows the written application and all other paperwork that was provided by the Applicant.

He goes on to say that Section 1155.10.2 confirms that the Planning Commission has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

Recommendation:

A review of the nine Conditional Use Review Criteria – General Standards founds in Section 1155.30 (Exhibit C) provides the Planning Commission with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria – General Standards and the information provided by the applicant on the site plan and supporting material there is sufficient reason to consider **Approval** of the Conditional Use with Conditions.

If the Planning Commission approves the request for a Conditional Use, the Department of Community Development requests that the Planning Commission recommends that City Council approve the request for a Conditional Use subject to the following conditions of approval:

1. Construction drawings/documents for the proposed improvements and work shall be revised subject to any future review requirements of the City of Hamilton Inter-Departmental Review.

2. Proposed building will be single story masonry material veneer as shown on plans and supporting material submitted by the applicant.
3. Minimum of six (6') feet of proposed fuel canopy island supports be covered/wrapped in masonry material to closely match final building color.
4. Proposed dumpster/refuse area enclosure be covered/wrapped in masonry material to closely match final building color.
5. Proposed privacy fencing along west property line, approximately 120' in length, to be wood or vinyl construction, not chain link.
6. No exterior storage/sales of merchandise or material other an ice and/or propane sales to be indicated on final construction plans.
7. Landscaping shall be provided as follows: All proposed landscaping item sizes to conform to the minimum size requirements found in Section 1111.10 of the Hamilton Zoning Ordinance. (Deciduous trees minimum of 2 ½ inches caliper, evergreen trees minimum of six (6') feet in height, shrubs/bushes minimum of 12 inches). Final landscaping selection to be coordinated with Municipal Arborist.
8. All future signage (permanent or temporary) will comply with Section 1138.00 Hamilton Sign Ordinance.
9. Mechanical equipment in support of the building to be screened from the public right of way by landscaping/privacy fencing.
10. Add a pedestrian connection from front of building to the East Avenue or Ludlow Avenue sidewalk.
11. No automobile repair, sales or storage is permitted on the property, only dispensing of fuel and fluids for operable motor vehicles.
12. Hours of operation will be 6AM to 1AM seven days a week.
13. All improvements and work indicated on construction drawings/documents approved as part of the Conditional Use be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Conditional Use - (includes building and exterior finishes, canopies, dumpster enclosure, landscaping, pavement surfaces, fencing, and striping).

Mr. Creech concluded his presentation, and stated that the Applicant was in the audience if the Board had any questions.

Mr. McAllister called for any audience members wishing to speak in favor of the proposal.

Mr. Tom Dunn (Dunn & Titus) was on hand. There were a few questions from the Board for Mr. Dunn including lighting, hours of operation, who the actual owner of the property was, whether or not color elevations are available, location of the proposed privacy fence, and he answered those.

Ms. Dudley swore Ms. Walker in (not present at time of original swearing in), and she spoke to the Board. She lives at 1013 Ludlow Street, and she spoke her displeasure with some of the proposed changes, specifically hours of operation, privacy fence, and landscaping plan that will block her view of the corner. She is also concerned about her safety with regard to the proposal. Lastly, she's concerned that people will be working on their cars on the lot, and she was assured that the application is just for a convenience store and gas pumps, not a vehicle repair facility.

Mr. Smith and Mr. Creech had a discussion regarding the difference in the how a retail/convenience store can be approved without Board approval, and the current item needing Board approval. Mr. Creech explained that due to the addition of the fuel dispensing on the property, this project needs a "Conditional Use". The City of Hamilton zoning definition for Automobile Service and Minor Repair includes vehicle fuel dispensing. With regard to the convenience store, the hours of operation are not limited by code. The "hours of operation" are a requirement of a "Conditional Use", but are not a requirement for the retail/convenience store.

Mr. Smith and Ms. Walker then spoke a little bit more about what she would like to see, as opposed to what is being proposed. At the end of the discussion with Ms. Walker, Mr. Smith suggested that the item be tabled until the staff can sit down with the ownership group and try to work out the specific issues, and Mayor Moeller agreed.

There was then a short conversation between Mr. Alf and Ms. Walker about her concerns with the fence and her safety if her property is blocked off from the view of the street by a tall privacy fence. Mr. Alf asked Mr. Creech if the "Conditional Use" for the gas pumps is denied, will the hours of operation that have been approved still stand, and Mr. Creech said that they would.

Mr. Samoviski verified that even if the Applicant withdraws their application for the gas pumps, the current approval still stands, and Mr. Creech said yes. Mr. Alf said that he understands that the reason that the neighbors weren't notified was because it didn't need Board approval.

Mr. Smith questioned the "hours of operation" policy again, and Mr. Scharf explained that by right, a retail store doesn't have to set hours for approval. The only reason this item is before the Board today is because of the addition of the gas pumps, making it a conditional use.

Mr. Scharf also asked that the Architect stress to the owner that they are needed at the meetings.

Mr. Samoviski verified with Mr. Scharf what the Planning Commission's limitations are with regard to a "Conditional use" versus something that is not a "Conditional Use".

Ms. Walker asked if she would be notified of the next meeting. Mr. McAllister advised her that it will be a public meeting, and someone will get in touch with her and let her know when it's been set for.

Ms. Walker then asked about a large hole on the back of the property across from her garage, and Mr. Dunn answered that it's where the existing underground tanks are, and they are being dug up to check them. Mr. Samoviski said that they will have to be inspected to make sure they are usable.

It was suggested that the meeting with the neighbors be set sometime after 5:30pm so that more people could attend, and Mr. Scharf agreed with that suggestion. Mr. McAllister said that Mr. Smith would also like other elevations be made available for viewing at the next meeting.

With all "ayes" to a roll call vote, the Motion was tabled.

Reports:

Staff: John Creech

1. Verbal Report on Architectural Design Review Board Meeting of September 20, 2016:
 - a) 113 Village Street – Painting – Approved
 - b) 345-349 N. Third Street – Painting – Approved
 - c) 117 S. B Street – Painting & Porch Work – Approved
 - d) 228 Linden – Painting – Tabled
2. Verbal Report on Board of Zoning Appeals Meeting of October 6, 2016:
 - a) 140 Wasserman – Driveway Width/Side Yard Setback
3. Verbal Report on previous Planning Commission cases in progress:
 - a) 735 S. Erie Blvd – Conditional Use – Denied effective 10/14/16
 - b) 140 Ross Ave – Conditional Use – Approved with Conditions effective 10/14/16
 - c) Main Street Alley Vacation – Approved effective 10/28/16
 - d) 759 Park Ave – Rezoning – Recommended Approval – First Reading 10/12/16
4. Verbal Report on upcoming comprehensive plan update. Mr. Creech gave an update on where the Planning Department is with regard to this. Mr. Smith gave a bit

more information, and spoke about a steering committee and his suggestion for what they could do.

Mr. Alf then and Mr. McAllister then had a brief conversation about the current situation and Mr. Alf spoke to Mr. Creech about how it compares to when Mr. Fackey had the gas station opened.

Adjournment:

Mr. Samoviski made a Motion to adjourn. With a 2nd by Mayor Moeller and all "ayes", the meeting was adjourned.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant

Mr. Eugene Scharf
Secretary

Mr. Dale McAllister
Chairman



For the Planning Commission Meeting of October 17, 2016

To: Planning Commission

From: John Creech

Subject: AGENDA ITEM #1

Request for a Conditional Use to allow the establishment of an Automobile Service and Minor Repair Facility (i.e. self service fuel dispensing) on property zoned B-2 Community Business District located at 302 East Avenue (City Lot No. 32098)(Thomas Dunn/Trenton Veer Inc., Applicant/Owner).

Date: October 12, 2016

This item was tabled at the October 3, 2016 Planning Commission Meeting.

BASIC INFORMATION		
Applicant/Property Owner	Thomas Dunn, Applicant/Trenton Veer Inc., Owner	
Architect/Engineer/Consultant	Dunn & Titus Architects	
Size of Property	.5933 (25,845 square feet)	
Current Zoning	B-2 Community Business District	
Proposed Use: Conditional Use	Self Service Fuel Dispensing (Gasoline Pumps)	
Comp. Plan Land Use Designation	Commercial	
Special Purpose/CRA	N/A	
ADJACENT LAND USE/ZONING INFORMATION		
<i>Direction</i>	<i>Land Use</i>	<i>Zoning</i>
North	Vacant	B-2
South	Residential	B-2
East	Residential	R-3
West	Commercial	B-2
ZONING/DIMENSIONAL INFORMATION		
	<i>Minimum Required</i>	<i>Existing/Proposed</i>
Minimum Lot Area	20,000	25,845
Minimum Lot Width	100 LF	195 LF
Minimum Front Yard Setback	Building: 25 ft Parking: 10 ft	Building: 40-45 ft Parking: 10 ft
Minimum Side Yard Setback	5 ft	35 ft
Minimum Rear Yard Setback	25 ft	88 ft
Maximum Bldg. Height	35 ft	18 ft – 20 ft
Other Requirements	1155.00	N/A

Introduction:

This is a request submitted by Thomas Dunn of Dunn & Titus Architects on behalf of Trenton Veer Inc., to approve a Conditional Use to establish an Automobile Service



and Minor Repair Facility (i.e. self service fuel dispensing) use on the property located at 302 East Avenue (City Lot No. 32098) situated on the southeast corner of East Avenue and Ludlow Street (Exhibit A). The property is zoned B-2 Community Business zoning district (Exhibit B). The property is comprised of a single 25,845 square foot lot (0.5933 Acres). The applicant submitted plans for a drive-through convenience store in 2015 – which does not require Conditional Use approval. However, the applicant is now requesting to utilize the existing fuel dispensing island (gasoline pumps) for self service fuel dispensing which by zoning definition is classified as an Automobile Service and Minor Repair facility use and requires Conditional Use review by the Planning Commission and approval by City Council (Section 1155.00).

Surrounding Zoning/Land Use:

The properties to the north are vacant and currently zoned B-2 Community Business. The property to the west is vacant commercial property zoned B-2. The property to the south is a residential use currently zoned B-2 Community Business , and to the east is residential use currently zoned R-3 One to Four Family Residential.

There is a separate, existing 1,450 square foot building on the south end of the property that will remain.

Proposed Project:

The proposed project involves the renovation of a former BP gas station/convenience store located at 302 East Avenue. The existing building is a single story 2,800 square foot masonry block building that will be reconfigured as a convenience store for walk-in pedestrian customers and vehicular drive-through traffic.

The business will also sell prepared food for take-out. Initially the hours of operation were proposed from 6AM to 1AM daily. The proposed hours of operation have been changed to reflect Neighborhood input at the October 10, 2016 on-site meeting and are as follows:

<u>Monday – Thursday</u>	<u>6AM to 11PM</u>
<u>Friday</u>	<u>6AM to 12AM (midnight)</u>
<u>Saturday</u>	<u>7AM to 12AM (midnight)</u>
<u>Sunday</u>	<u>8AM to 10PM</u>

During on-site meeting with neighbors on October 10, 2015, the applicant confirmed that there will be between 3-4 employees on site during operating hours, depending upon business activity level and that there will be video surveillance cameras installed to monitor activity inside and outside the building and “no loitering” will be enforced.

The north (Ludlow Street frontage) and west (East Avenue frontage) of the building will be refurbished to create pedestrian storefront with larger windows and new



storefront doorway entry. A separate vehicular access window will be added to the south side of the building for vehicular drive-up window service.

In addition, there is an existing fuel dispensing island with five (5) fuel pumps that are proposed to be refurbished – the addition of the fuel dispensing on the property makes this project a “Conditional Use” because the City of Hamilton zoning definition for Automobile Service and Minor Repair includes vehicle fuel dispensing.

The proposed project will provide nine (9) designated parking spaces on the property, not including fuel pump parking, and five (5) spaces for the existing building on the south end of the property, for a total of fourteen (14) defined parking spaces.

The site plan indicates the location of proposed lighting fixtures on the property and lighting underneath the proposed canopy over the fuel dispensing area. The proposed lighting fixtures are “cutoff” type to only illuminate the immediate underlying area.

A ten (10') foot wide landscaping area is proposed around the entire perimeter of the property which will contain six (6) trees, 18 bushes and 36 perennial flower plantings. Neighborhood input at the October 10, 2016 on-site meeting has requested that the landscaping area along the east property line include low growing plantings consisting of shrubs and bushes not trees.

A four (4') foot tall chain link fence is recommended to be installed along the east property line (approximately 120 feet in length) to separate the convenience store from the alley and abutting residential property. Neighborhood input at the October 10, 2016 on-site meeting has requested that the fence be chain link and limited in height to four (4') feet.

CONDITIONAL USE REVIEW

1155.10 – Conditional Uses:

1. The Planning Commission (PC) shall review and make a recommendation to City Council, in accordance with the provisions of this Ordinance for applications for Conditional Uses. The PC shall review the particular facts and circumstances of each proposed Conditional Use, and if recommending approval shall find adequate evidence that the proposed conditional use complies with the General Standards applicable to all Conditional Uses found in 1155.30. (REVISED OR2015-9-80)
2. The PC has no obligation to recommend approval of a Conditional Use, and City Council has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the PC that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (REVISED OR2015-9-80)



3. In considering an application for a Conditional Use, the PC and City Council shall give due regard to the nature and condition of all adjacent uses and structures and in recommending approval of a conditional use may impose such requirements and conditions, in addition to any expressly stipulated in this Ordinance, as the PC may deem necessary for the protection of adjacent properties and the public interest. (REVISED OR2015-9-80)

Section 1155.00 which regulates Conditional Uses states the following:

1155.30 – Application and Review

The applicant shall submit an application to the Department of Community Development for a Conditional Use along with applicable fee. The applicant shall submit at least the following supporting information to be considered for a Conditional Use.

- A. A written description of the proposed Conditional Use including nature of the business and hours of operation. The written description of the proposed Conditional Use should further address the nine (9) Conditional Use Review Criteria below in Section 1155.30.C.
- B. Plans of the proposed site for the Conditional Use indicating the location of all existing and proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks, and such other information as the PC may require to determine of the effect of the proposed Conditional Use on the surrounding neighborhood. (REVISED OR2015-9-80)

C. Conditional Use Review Criteria – General Standards

In reviewing an application for a Conditional Use, the PC shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the nine (9) General Standards below.

1. The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance. An Automobile Service and Minor Repair Facility (i.e. self service fuel dispensing) use is a conditional use in the B-2 Community Business Zoning District. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. The applicant stated that *"The proposed Conditional Use is in a B2 Community Business District, subject to the*



requirements of this section and the Zoning Ordinance." This information is attached to this report (attached as Exhibit C).

2. The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare. The applicant stated that *"The existing structure is neglected and is being transformed into a cohesive site that will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare."* This information is attached to this report (attached as Exhibit C).
3. The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area. The applicant stated that *"The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and will not change the essential character of the same area."* This information is attached to this report (attached as Exhibit C).
4. The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use. The applicant stated that *"The proposed Conditional Use will be adequately served by essential public facilities and services and all existing services will be utilized including existing electrical service which will be upgraded to meet the new demands."* This information is attached to this report (attached as Exhibit C).
5. The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets. The applicant stated that *"The proposed Conditional Use will have vehicle approaches to the property which are designed as not to create an interference with traffic on surrounding streets. The vehicle access to the site has been simplified and corner access from East Avenue has been eliminated."* This information is attached to this report (attached as Exhibit C). The site plan indicates that the driveways located nearest the intersection will be removed.
6. The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use. The applicant stated that *"The proposed Conditional Use will comply with all applicable developments, except as specifically altered in the approved Conditional Use."* This information is attached to this report (attached as Exhibit C).



7. The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses. The applicant stated that *"The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses."* This information is attached to this report (attached as Exhibit C).
8. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district. The applicant stated that *"The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not compatible to the uses permitted in the base zoning district. Dispensing of fuels only will be permitted on the site. No vehicular storage or repair will be done on site as well as storage of tires and other automotive parts."* This information is attached to this report (attached as Exhibit C).
9. The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The applicant stated that *"The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district."* This information is attached to this report (attached as Exhibit C).

Summary Review of Conditional Use Standards:

Section 1155.10.2 confirms that the Planning Commission has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

Notification

Public Hearing Notices were mailed to the owners of 139 properties within 500 feet of the property in question before the October 3, 2016 Planning Commission meeting.

A separate on-site meeting was held at 5:30pm on October 10, 2016 between City of Hamilton staff, Planning Commission members, applicant and property owner, and twelve (12) neighbors. The on-site meeting sign-in sheet attached as Exhibit D.



Recommendation:

A review of the nine Conditional Use Review Criteria – General Standards found in Section 1155.30 (Exhibit C) provides the Planning Commission with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria – General Standards and the information provided by the applicant on the site plan and supporting material there is sufficient reason to consider **Approval** of the Conditional Use with Conditions.

If the Planning Commission approves the request for a Conditional Use, the Department of Community Development requests that the Planning Commission recommends that City Council approve the request for a Conditional Use subject to the following conditions of approval:

1. **Construction drawings/documents for the proposed improvements and work shall be revised subject to any future review requirements of the City of Hamilton Inter-Departmental Review.**
2. **Proposed building will be single story masonry material veneer as shown on plans and supporting material submitted by the applicant.**
3. **Minimum of six (6') feet of proposed fuel canopy island supports be covered/wrapped in masonry material to closely match final building color.**
4. **Proposed dumpster/refuse area enclosure be covered/wrapped in masonry material to closely match final building color.**
5. ~~**Proposed privacy fencing along east property line, approximately 120 feet in length, to be wood or vinyl construction, not chain link.**~~
Proposed fencing along east property line, approximately 120 feet in length, to be four (4') high chain link.
6. **No exterior storage/sales of merchandise or material other an ice and/or propane sales to be indicated on final construction plans.**
7. **Landscaping shall be provided as follows: All proposed landscaping item sizes to conform to the minimum size requirements found in Section 1111.10 of the Hamilton Zoning Ordinance. (Deciduous trees minimum of 2 ½ inches caliper, evergreen trees minimum of six (6') feet in height, shrubs/bushes minimum of 12 inches). Final landscaping selection to be coordinated with Municipal Arborist. Landscaping located along east property line will be kept low by planting bushes and shrubs instead of trees.**
8. **All future signage (permanent or temporary) will comply with Section 1138.00 Hamilton Sign Ordinance.**



9. Mechanical equipment in support of the building to be screened from the public right of way by landscaping/privacy fencing.
10. Add a pedestrian connection from front of building to the East Avenue or Ludlow Street sidewalk.
11. No automobile repair, sales or storage is permitted on the property, only dispensing of fuel and fluids for operable motor vehicles.
- ~~12. Hours of operation will be 6AM to 1AM seven days a week.~~

Hours of will be as follows:

<u>Monday – Thursday</u>	<u>6am to 11pm</u>
<u>Friday</u>	<u>6am to 12am (midnight)</u>
<u>Saturday</u>	<u>7am to 12am (midnight)</u>
<u>Sunday</u>	<u>8am to 10pm</u>

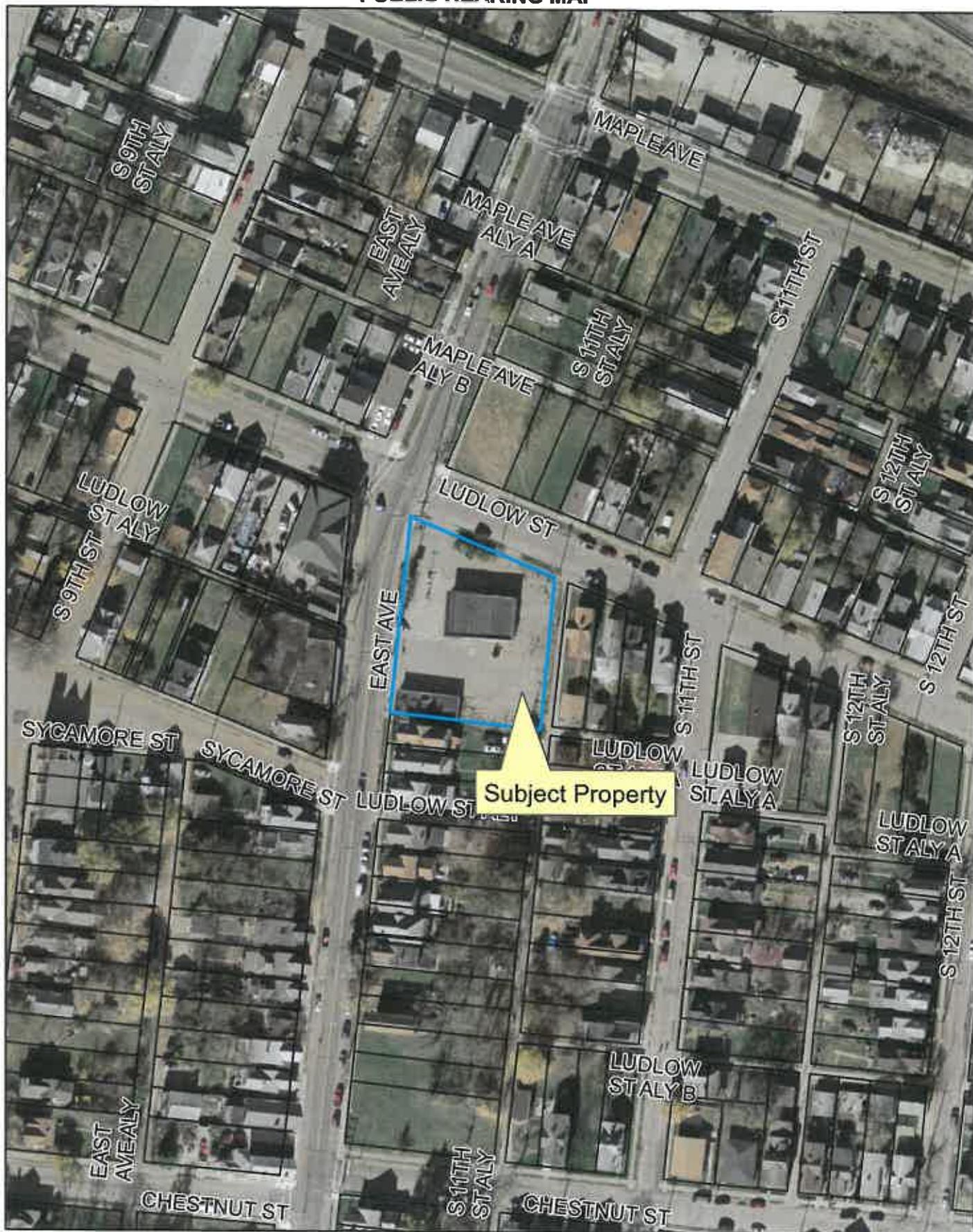
13. All improvements and work indicated on construction drawings/documents approved as part of the Conditional Use be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Conditional Use - (includes building and exterior finishes, canopies, dumpster enclosure, landscaping, pavement surfaces, fencing, and striping).

Attachments:

- 1) Exhibit A - Public Hearing Location Map
- 2) Exhibit B – Zoning Map
- 3) Exhibit C – Conditional Use Application & Supporting Material
- 4) Exhibit D – Sign in Sheet for on-site meeting of October 10, 2016



302 East Avenue
PUBLIC HEARING MAP

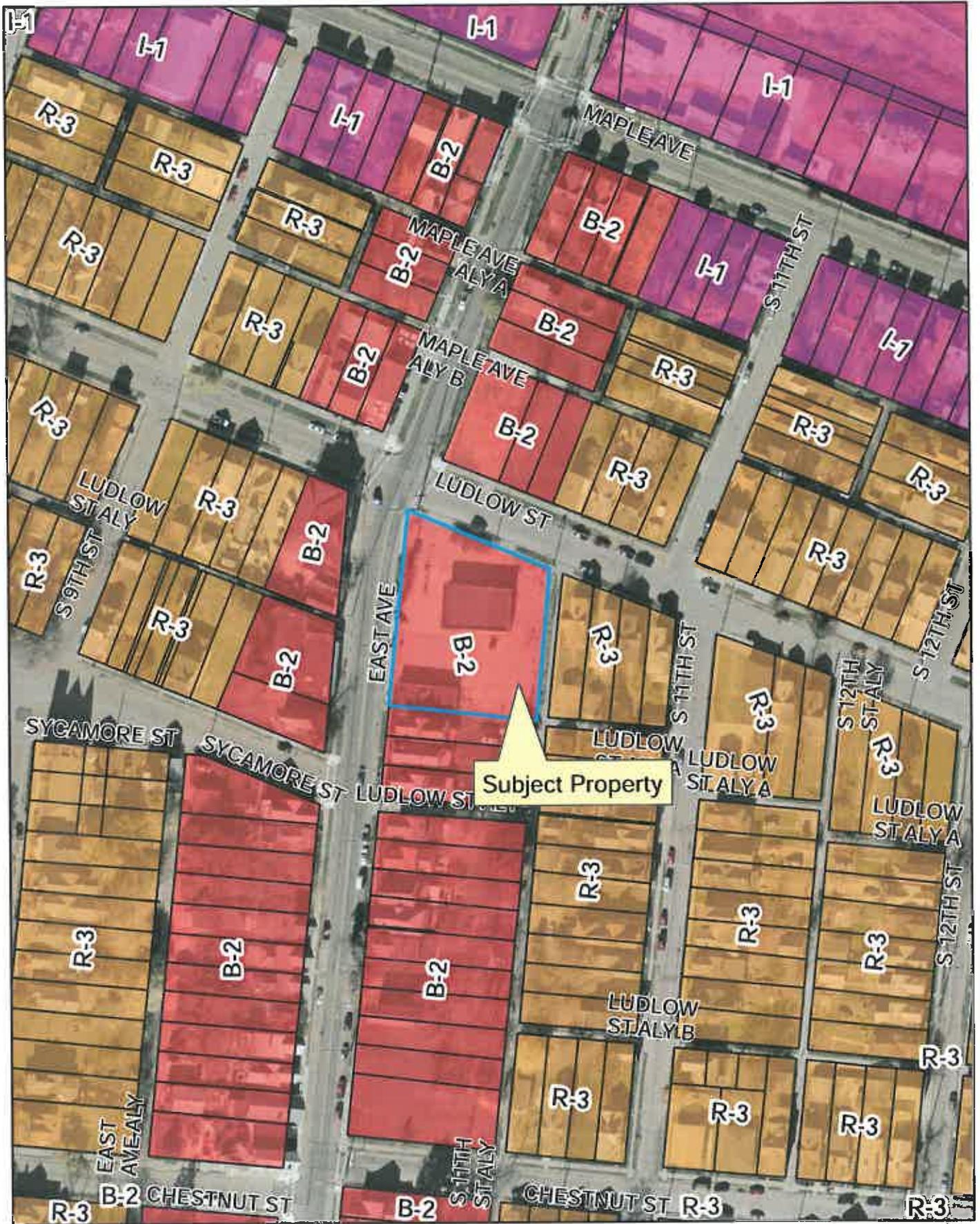


 302 East Avenue

0 50 100 200 Feet



302 East Avenue
PUBLIC HEARING MAP



 302 East Avenue

0 50 100 200 Feet





A163204
A163205

APPLICATION FOR CONDITIONAL USE

Please Note: The Planning Commission has no obligation to approve a Conditional Use.

The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (HZO Section 1155.10)

Property Address: 302 EAST AVE
Lot No(s): 4197 THRU 4200 AS CONSOLIDATED PL44103500613
Property Owner: TRENTON VEER INC / RAVINDER GILL
Owner's Mailing Address: 9408 TAHOE DR. DAYTON, OHIO 45458
Applicant's Name (If different than owner): THOMAS R. DUNA
Applicant's Mailing Address: 800 COMPTON, UNIT 26, CINCINNATI OH, 45231
Applicant's Email Address: dunnandtitus@usa.net
Applicant's Phone Number: 513 582-7378
Previous Legal Use of Property: SERVICE STATION
Date Previous Use Discontinued: 2012 (ESTIMATED)
Proposed New Use of Property: CONVENIENT STORE & FUEL DISPENSING

Requesting a Conditional Use Approval from the following Sections of the Hamilton Zoning Code:

<u>1155.10</u>	<u>HZO SECTION 1155.10</u>
<u>1120.34</u>	<u>SELF SERVICE FUEL SALES</u>
<u>1111.00</u>	<u>ARCH, LANDSCAPING, DESIGN, BUILDING</u>
	<u>& SITE DEVELOPMENT</u>

Description of the proposed Conditional Use including nature of the business, hours of operation:

Applicants must include adequate information to satisfy 1155.30 - Application and Review C. Conditional Use Review Criteria - General Standards (attached to application). Please add additional sheets if more space is needed. This will assist the Planning Commission in making an informed decision on the requested Conditional Use

THE PROPERTY IS ZONED B-2. A CONVENIENCE STORE HAS PREVIOUSLY BEEN APPROVED AND IS NOW BEING REMODELED.

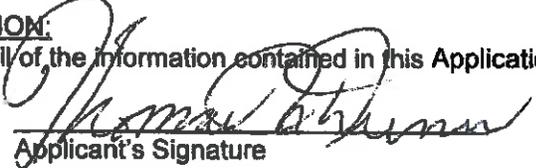
ALL UTILITIES AND PUBLIC FACILITIES ARE IN PLACE, THIS CONDITIONAL USE WILL ENHANCE THE NEIGHBORHOOD BY PROVIDING REQUIRED LANDSCAPING AND THE REMODELING OF THE ABANDONED EXISTING SERVICE STATION.

SOME EXISTING CURB CUTS WILL BE ELIMINATED OR MODIFIED TO CREATE BETTER TRAFFIC FLOW THE CONDITIONAL USE WILL NOT BE DETRIMENTAL BUT INCREASE THE VISUAL APPEARANCE.

Applicants must also submit all pertinent plans of the proposed site for the Conditional Use indicating the location of all existing and proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks, and such other information as the Planning Commission may require to determine of the effect of the proposed Conditional Use on the surrounding neighborhood.

CERTIFICATION:

I certify that all of the information contained in this Application is complete, true and accurate.


Applicant's Signature

9/8/16
Date

THOMAS R. DUNN
Applicant's Printed Name


Property Owner's Signature

9/8/16
Date

Property Owner's Printed Name

Office Use Only

CU Application Number: _____ Zoning District: _____
Fee Paid: _____
Meeting Date: _____ APPROVED DISAPPROVED

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

Re: Fuel dispensing system addition to 302 East Avenue.

The following items are presented in support of a Conditional Use change to the former gasoline service station to a convenient store including a self service fuel dispensing system with canopy:

A. The proposed conditional use is:

1. A self service retail fuel dispensing system with canopy.
2. Convenient store with drive through window at side as currently being remodeled under separate permit.
3. The proposed hours of operation have been changed to reflect Neighborhood input at the October 10, 2016 on-site meeting and are as follows:

Monday – Thursday	6am to 11pm
Friday	6am to 12am (midnight)
Saturday	7am to 12am (midnight)
Sunday	8am to 10pm

B. A site plan including landscaping is included showing the scope of the project.

C. Review Criteria 1155.30 - Application and Review

1. The proposed Conditional Use is in a B2 Community Business District, subject to the requirements of this section and the Zoning Ordinance.
2. The existing structure is neglected and is being transformed into a cohesive site cohesive site that will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
3. The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and will not change the essential character of the same area.

4. The proposed Conditional Use will be adequately served by essential public facilities and services and all existing services will be utilized including existing electrical service which will be upgraded to meet the new demands.
5. The proposed Conditional Use will have vehicle approaches to the property which are designed as not to create an interference with traffic on surrounding streets. The vehicle access to the site has been simplified and corner access from East Avenue has been eliminated.
6. The proposed Conditional Use will comply with all applicable developments, except as specifically altered in the approved Conditional Use.
7. The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
8. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not compatible to the uses permitted in the base zoning district. Dispensing of fuels only will be permitted on the site. No vehicular storage or repair will be done on site as well as storage of tires and other automotive parts.
9. The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

In summary, we feel this Conditional Use change will provide a much needed upgrade of this existing facility and in turn provide a welcome, attractive addition to the neighborhood while providing both services and employment opportunities.

Sincerely,

Thomas Dunn, RA



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

302 East Ave. Revisions (attachment included)

DUNN & TITUS P.S.C. <dunnandtitus@usa.net>
To: john.creech@hamilton-oh.gov

Wed, Oct 12, 2016 at 4:36 PM

Hi John,

Thanks again for your help Monday at the site visit. Attached are the revisions as discussed.

1. The landscaping has been revised to reflect the neighbor's concerns with lower planting along the East side and a 4 ft. open chain link fence.
2. The access and curb cuts have been modified to more closely reflect the existing conditions.
3. The lighting has been added to the site plan addressing the neighbors concerns about light spillage onto their properties.

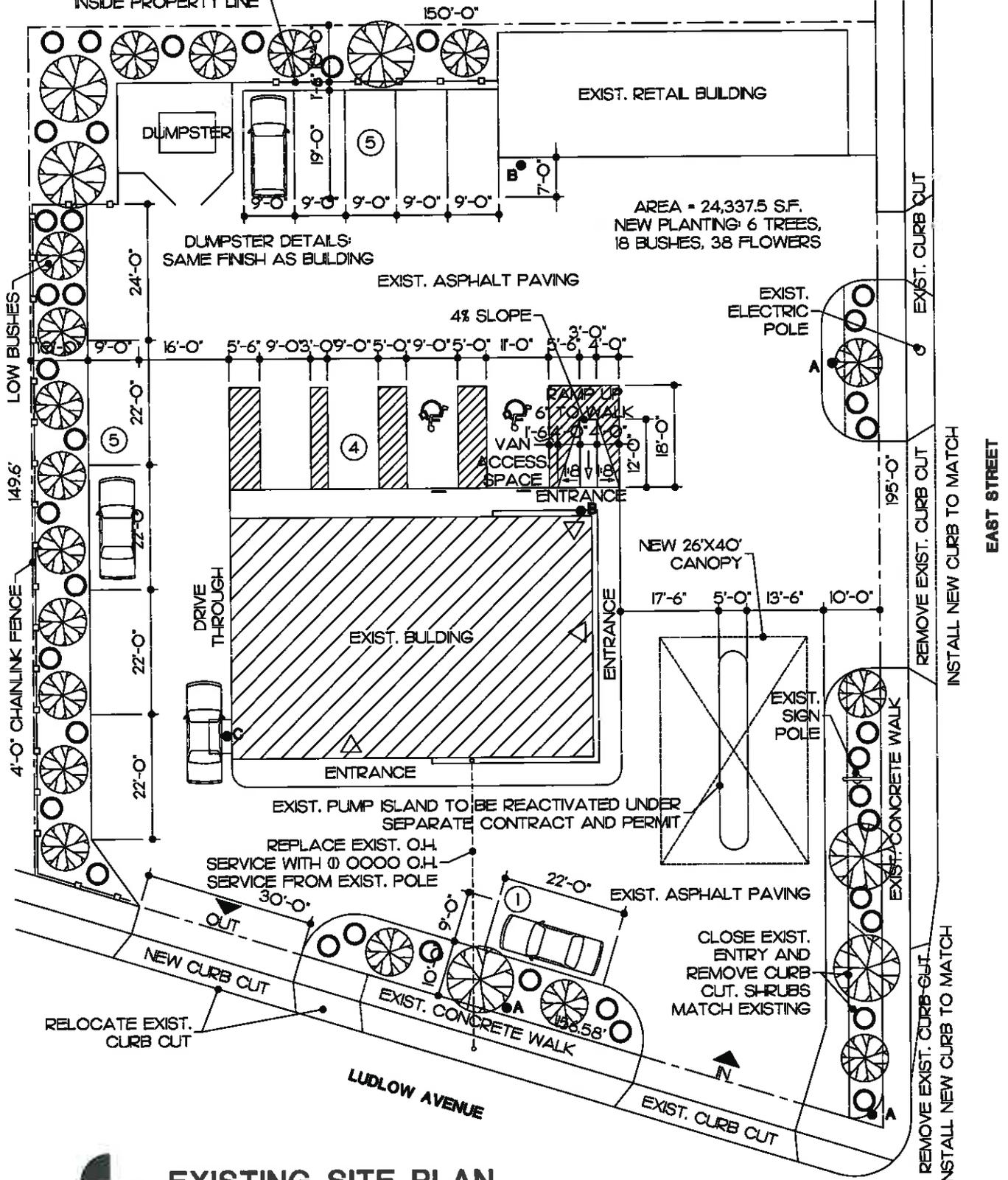
All lighting as specified will be of the cutoff type limiting the light to the immediate area. The fuel dispensing area will be illuminated with Sloan Progressive Downlight 3 with 6 - 125 Watt /13,750 lumens LED lamps.

Tom

DUNN & TITUS P.S.C.
Tel. [513.522.8755](tel:513.522.8755)
Fax. [513.522.7844](tel:513.522.7844)
800 Compton Rd. #25
Cincinnati, OH 45231

2 attachments **SITE 01.pdf**
253K **SITE 02.pdf**
61K

6'-0" HIGH CHAIN LINK FENCE, 12" INSIDE PROPERTY LINE



EXISTING SITE PLAN

SCALE: 1" = 20'-0"

LIGHT TYPE NOTES

A - REPLACE EXIST. LIGHT POLE WITH COOPER LEMARIC IMPACT WITH FULL CUT OFF MOUNT ON 25' POLES

B - COOPER WALLPAK SURFACE MOUNTED FIXTURE AT 12' HEIGHT

C - COOPER CANOPY DOWNLIGHT

LANDSCAPE LEGEND

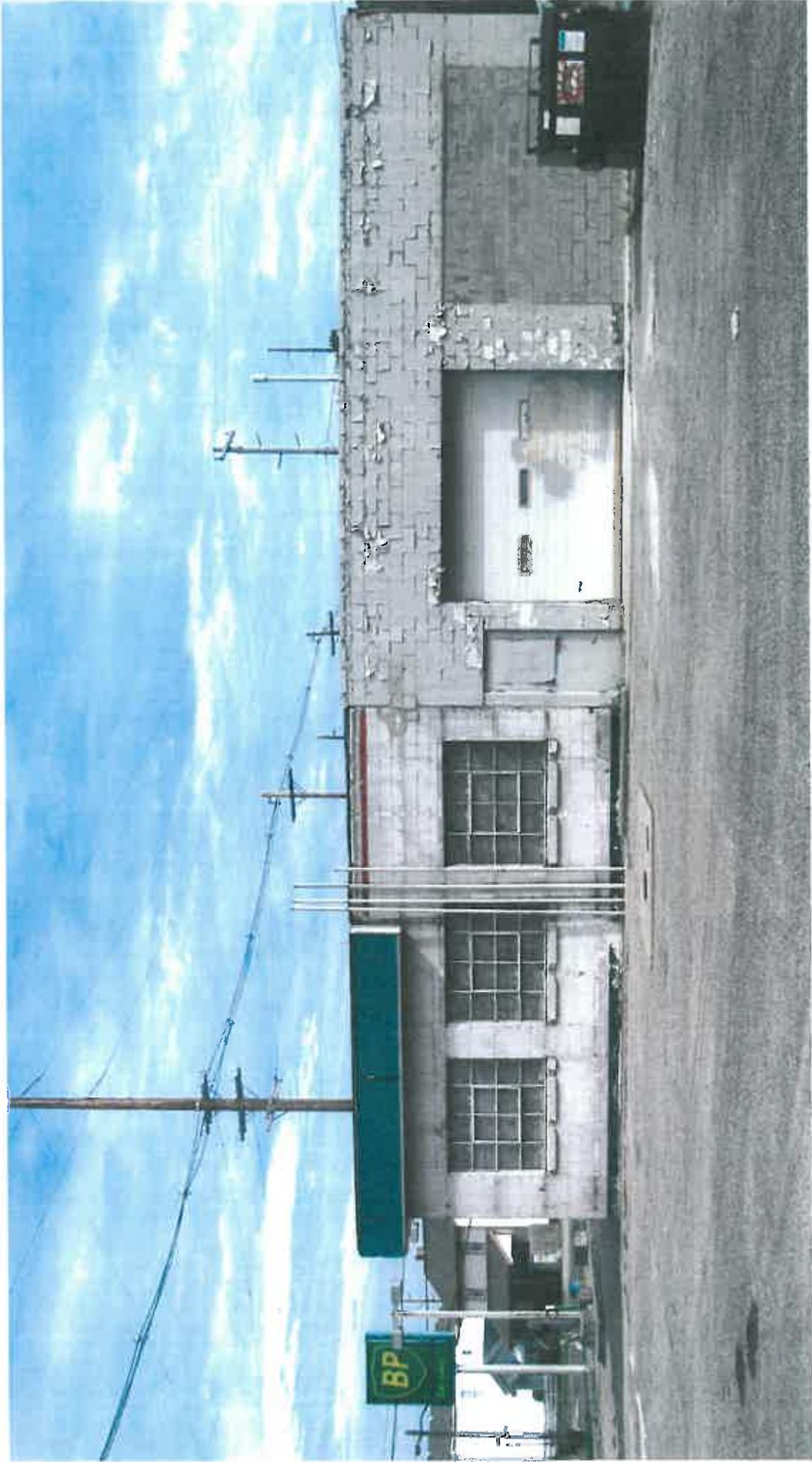
- | | | |
|----|---|---------------------------------------|
| #1 |  | 12' HIGH HYDRANGEA (18 PCS) |
| #2 |  | 2-1/2' CALIPER PIN OAK
(6 PCS) |
| #3 |  | SEASONAL FLOWER (38 PCS)
PLANTINGS |



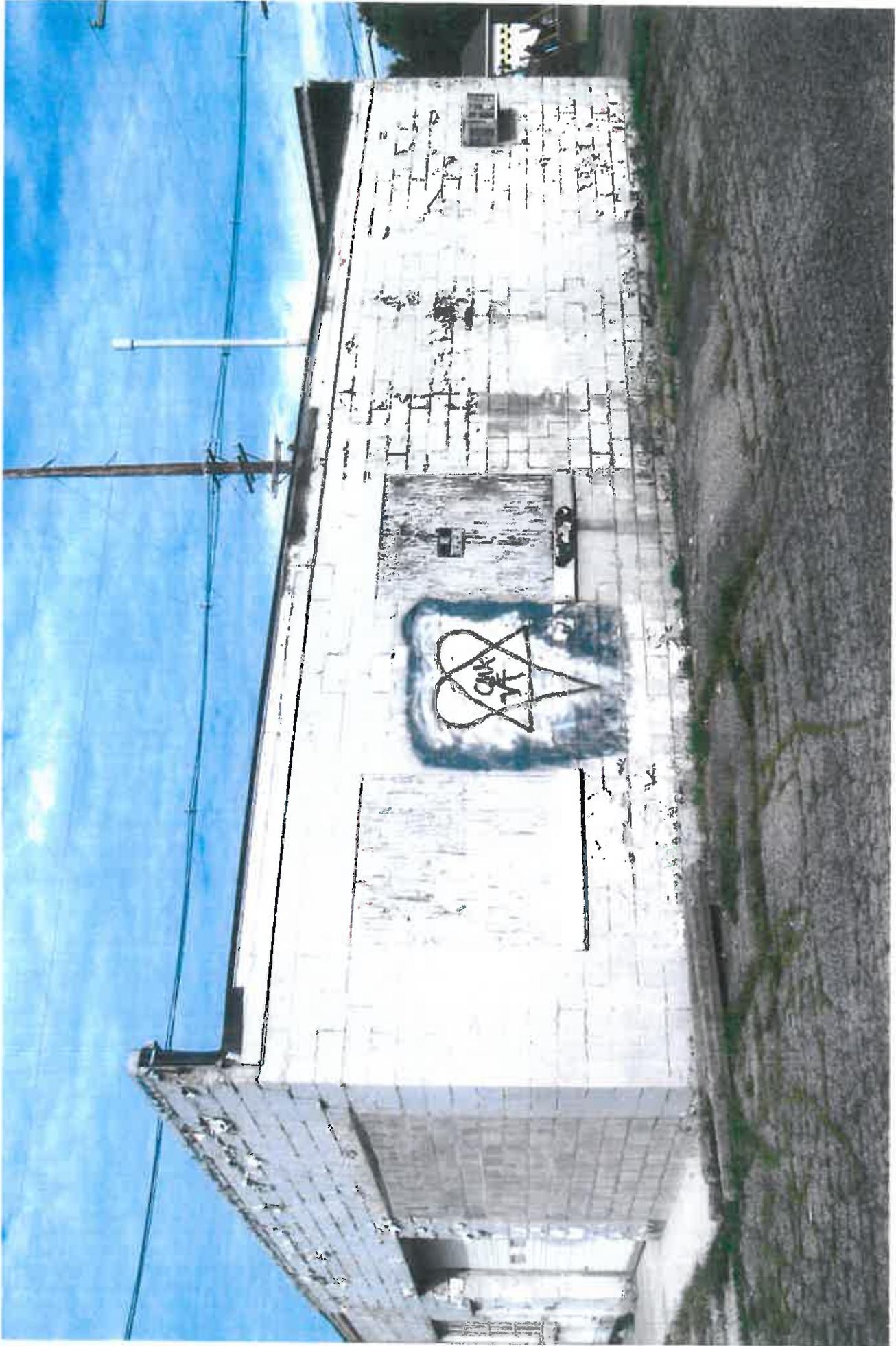
EXISTING WEST ELEVATION



EXISTING NORTH ELEVATION



EXISTING SOUTH ELEVATION



EXISTING EAST ELEVATION



LOOKING SOUTHWEST ACROSS EAST AVENUE



NEIGHBOR TO WEST ACROSS EAST AVENUE



NEIGHBOR TO SOUTH



NEIGHBOR TO EAST

10/10/16 Special Meeting - 302 East Ave

Ravinder Gill	302 E AVE Hamilton Ohio 45011
CRUPREET GILL	302 E AVE HAMILTON OHIO 45011
Jay Jam	302 E AVE Hamilton Ohio 45011
PEM DUNN	800 Crapton 45231
John Creech	395 High St. 45011
Juni Busby	4 Mitchell 45013
Wayne Jant	860 Central Ave 45011
Carmen Dilligan	450 S. 18TH ST 45011
Darrell Jameson	1106 Ludlow St 45011
Pat Mills	1102 Ludlow St 45011
Bob Shepherd	1014 Ludlow St 45011
Frances Jameson	1106 Ludlow St Ham 45011
May Walker	1013 Ludlow St HAM 45011
Camarhea Walker	" " " "
Benny White	1108 Ludlow St
Ernie White	1102 Ludlow St.
Anita Knight	1102 Ludlow St
Jannisha Walker	1013 Ludlow St 45011
Tamiko Walker	1013 Ludlow St 45011
Nathy Dullis	city
Bob Bell	City/Play Ground
Sherita Walker	326 Hancock
W.A. Ross	PS Beckett Dr
Tina Davis	330 East Ave
Linda Walker	334 East Ave
Tina Harris	902 Ludlow St
Kim Kirpel	City of Hamilton



For the Planning Commission Meeting of October 17, 2016

To: Planning Commission

From: John Creech

Subject: AGENDA ITEM #2

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day's Sunoco & Towing LLC., Applicant/Owner).

Date: October 12, 2016

BASIC INFORMATION		
Applicant/Property Owner	Robert M. Day/Day's Sunoco & Towing LLC	
Architect/Engineer/Consultant	N/A	
Size of Property	0.807 Acres (35,153 square feet)	
Current Zoning	I-1 Limited Industrial District	
Proposed Use: Conditional Use	Vehicle Impound Lot	
Comp. Plan Land Use Designation	Commercial	
Special Purpose/CRA	N/A	
ADJACENT LAND USE/ZONING INFORMATION		
<i>Direction</i>	<i>Land Use</i>	<i>Zoning</i>
North	Commercial	I-1
South	Residential	R-2
East	Residential	R-3
West	Residential	R-2
ZONING/DIMENSIONAL INFORMATION		
	<i>Minimum Required</i>	<i>Existing/Proposed</i>
Minimum Lot Area	N/A	(0.807 Acres) 35,153 Sq Ft
Minimum Lot Width	N/A	60 LF
Minimum Front Yard Setback	N/A	N/A
Minimum Side Yard Setback	N/A	N/A
Minimum Rear Yard Setback	N/A	N/A
Maximum Bldg. Height	N/A	N/A
Other Requirements	1155.00	N/A

Introduction:

This is a request submitted by Robert M. Day of Day's Sunoco & Towing LLC., to approve a Conditional Use to expand an existing Vehicle Impound Lot located at 859 Franklin Street onto the adjacent property at 259 South Edgewood Avenue (City Lot No. 5993) as shown on Exhibit A. The property is zoned I-1 Limited Industrial District (Exhibit B) and is comprised of a single 35,153 square foot lot (0.807 Acres).



Vehicular access to City Lot No. 5993 is provided by the same driveway for 859 Franklin Street.

Day's Sunoco & Towing LLC was issued a notice of zoning violation on November 4, 2015, after the City received a complaint about vehicles being stored at 259 South Edgewood Avenue. These vehicles were visible from South Edgewood and Millville Avenue. On November 24, 2015, Mr. Day visited the City of Hamilton Community Development Department Office to discuss the zoning violation. Mr. Day was informed that the City had no record of a Conditional Use approval on the subject property for a Vehicle Impound Lot (Exhibit D) and that the options were to cease using the property as a Vehicle Impound Lot or apply for a Conditional Use. Because Mr. Day did not cease using the property as a Vehicle Impound Lot or submit an application for a conditional use before the extended deadline of December 28, 2015, the city now has pending legal action against Day's Sunoco & Towing LLC, which prompted the application for a Conditional Use.

Aerial images of the property from 2006 and 2015 are attached as Exhibit E. The 2006 image shows the existing vehicle impound lot located at 859 Franklin Street and the vacant property at 259 South Edgewood. The 2015 image shows the expansion of the vehicle impound lot from 859 Franklin Street onto 259 South Edgewood Avenue (Exhibit E).

The subject property is zoned I-1 Limited Industrial District. Vehicle Impound Lots are Conditional Uses in the I-1 zoning district. Vehicle Impound Lots require Conditional Use review by the Planning Commission and approval by City Council (Section 1155.00).

Surrounding Zoning/Land Use:

The property to the north is zoned I-1 Limited Industrial District and is occupied by the US Postal Service. The property to the east is zoned I-1 and is the existing Vehicle Impound Lot, the address being 859 Franklin Street. The property to the south is zoned I-1 and is a multi-tenant building and car wash (253 South Edgewood Ave). The properties to the west are residential uses zoned R-2 Single Family Residential. Between the residential properties and the subject property is the abandoned Hamilton Beltline railroad right-of-way. The Hamilton Beltline ROW is being considered by the City of Hamilton for a multi-use recreational trail project. The City is aggressively pursuing grant opportunities to implement the beltline recreational project.

Proposed Project:

The proposed project involves using the surface area of City Lot No. 5993 for the surface parking/storage of vehicles. Vehicular access to the expanded property will be from the existing driveway on Franklin Street as indicated by Mr. Day below.

Mr. Day states that *"There will be minimal traffic, being a tow to the facility, with the probability that the vehicle will be driven from the premises during normal work hours."*



It will be a quiet atmosphere with minimal activity. Owners take possession of vehicles with a legal release, if a vehicle would be abandoned, upon confirmation, it would be removed to a salvage yard.” In addition, Mr. Day states that “The ingress and egress to Part Lot 5993 (the subject property) will be from Franklin Street.”

A review of the Conditional Use application indicates that Mr. Day proposes no changes to the existing layout or use of the property. According to Mr. Day’s application the property (City Lot No. 5993) *“is bordered by a row of buildings (to the south), the west side which is bordered by metal fencing and the east side which is bordered by metal fencing. Again the general public will not be able to see any of the impounded vehicles on Part Lot 5993.”*

CONDITIONAL USE REVIEW

The process for Conditional Use Review is outlined below:

1155.10 – Conditional Uses:

1. The Planning Commission (PC) shall review and make a recommendation to City Council, in accordance with the provisions of this Ordinance for applications for Conditional Uses. The PC shall review the particular facts and circumstances of each proposed Conditional Use, and if recommending approval shall find adequate evidence that the proposed conditional use complies with the General Standards applicable to all Conditional Uses found in 1155.30. (REVISED OR2015-9-80)
2. The PC has no obligation to recommend approval of a Conditional Use, and City Council has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the PC that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (REVISED OR2015-9-80)
3. In considering an application for a Conditional Use, the PC and City Council shall give due regard to the nature and condition of all adjacent uses and structures and in recommending approval of a conditional use may impose such requirements and conditions, in addition to any expressly stipulated in this Ordinance, as the PC may deem necessary for the protection of adjacent properties and the public interest. (REVISED OR2015-9-80)

Section 1155.00 which regulates Conditional Uses states the following:

1155.30 – Application and Review

The applicant shall submit an application to the Department of Community Development for a Conditional Use along with applicable fee. The applicant shall



submit at least the following supporting information to be considered for a Conditional Use.

- A. A written description of the proposed Conditional Use including nature of the business and hours of operation. The written description of the proposed Conditional Use should further address the nine (9) Conditional Use Review Criteria below in Section 1155.30.C.
- B. Plans of the proposed site for the Conditional Use indicating the location of all existing and proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks, and such other information as the PC may require to determine of the effect of the proposed Conditional Use on the surrounding neighborhood. (REVISED OR2015-9-80)

The applicant did not submit a site plan for the proposed conditional use that identifies items listed in 1155.30 B. above. Mr. Day submitted a Plat of Survey that show lot lines, buildings, and property dimensions and abutting public roadways only (labeled Exhibit 1). In addition, Mr. Day submitted eleven photographs of the site from various perspectives (labeled Exhibits 2-12). Since no site plan was submitted indicating the location of all existing/proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks as required in 1155.30B above, it is assumed that Mr. Day proposes no changes to the property.

C. Conditional Use Review Criteria – General Standards

In reviewing an application for a Conditional Use, the PC shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the nine (9) General Standards below.

- 1. The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
- 2. The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- 3. The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- 4. The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.



5. The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets.
6. The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.
7. The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
8. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
9. The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Mr. Day submitted a Conditional Use application along with a written document entitled "*Criteria in Support of Application*". The last sentence of the document indicates that the proposed conditional use meets the nine (9) conditional use standards above as follows: "*Lastly, Applicant suggest that the Application for Conditional Use as a vehicle impoundment lot meets the general standard for conditional use review criteria under 1155.30.C. (1) through and include (9).*"

Summary Review of Conditional Use Standards:

Section 1155.10.2 confirms that the Planning Commission has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

Notification

Public Hearing Notices were mailed to the owners of 172 properties within 500 feet of the property in question. At the time this report was written, one (1) objection was expressed to the proposed conditional use for 259 South Edgewood Avenue.

Review and Findings:

A review of the nine Conditional Use Review Criteria found in Section 1155.30 (Exhibit C) provides the Planning Commission with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria and the information provided by the applicant there is sufficient reason in the findings below to consider **denial** of the Conditional Use.

- 1) The proposed use will substantially or permanently injure the appropriate use of neighboring property and will not serve the public



convenience and welfare. The area is surrounded by residential land uses with the exception of the US Postal Service office. In addition the former beltline RR, which served industrial sites on the west side of Hamilton is now closed which has changed the character of the immediate area.

- 2) The proposed use will not be harmonious with the existing or intended character of the general vicinity, and that such use will change the essential character of the same area. The existing and intended character of the general vicinity is residential. This property and the property occupied by the US Postal Service are zoned I-1 and appear, in part, to be legacy properties occupied by former industrial uses.
- 3) The proposed use will not have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets. While the property is zoned I-1 Limited Industrial, vehicular access to the property is through Franklin Street. Franklin Street is a residential street with the exception of the US Postal Service office.
- 4) The proposed use will be hazardous to or have a negative impact on existing or future neighboring uses. The existing Impound Vehicle Lot is nonconforming and appears to have been established prior to Vehicle Impound Lots becoming Conditional Uses – sometime between 1987 and 1989 by a previous property owner. However the proposed expansion will increase the size of the vehicle storage area which would increase the number of vehicles (customers & tow vehicles) using Franklin Street, which is a residential street.
- 5) The proposed use will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The number of vehicles entering and exiting the property, noise generated by towing/on and off loading vehicles and the condition of the surrounding privacy fencing could impede the development or improvement of surrounding residential properties, including the proposed Hamilton Beltline recreational trail.

Recommendation:

If the Planning Commission denies the proposed Conditional Use the Department of Community Development recommends that the Planning Commission utilize the following motion:

The Planning Commission recommends that City Council deny the proposed conditional use after consideration of the site plan, written description provided by the



applicant, findings, and review of the Conditional Use Review Criteria – General Standards #2, #3, #5, #7, and #9) for the following reasons below:

- 1) The proposed use will substantially or permanently injure the appropriate use of neighboring property and will not serve the public convenience and welfare. The area is surrounded by residential land uses with the exception of the US Postal Service office. In addition the former beltline RR, which served industrial sites on the west side of Hamilton is now closed which has changed the character of the immediate area.
- 2) The proposed use will not be harmonious with the existing or intended character of the general vicinity, and that such use will change the essential character of the same area. The existing and intended character of the general vicinity is residential. This property and the property occupied by the US Postal Service are zoned I-1 and appear, in part, to be legacy properties occupied by former industrial uses.
- 3) The proposed use will not have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets. While the property is zoned I-1 Limited Industrial, vehicular access to the property is through Franklin Street. Franklin Street is a residential street with the exception of the US Postal Service office.
- 4) The proposed use will be hazardous to or have a negative impact on existing or future neighboring uses. The existing Impound Vehicle Lot is nonconforming and appears to have been established prior to Vehicle Impound Lots becoming Conditional Uses – sometime between 1987 and 1989 by a previous property owner. However the proposed expansion will increase the size of the vehicle storage area which would increase the number of vehicles (customers & tow vehicles) using Franklin Street, which is a residential street.
- 6) The proposed use will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The number of vehicles entering and exiting the property, noise generated by towing/on and off loading vehicles and the condition of the surrounding privacy fencing could impede the development or improvement of surrounding residential properties, including the proposed Hamilton Beltline recreational trail.

Attachments:

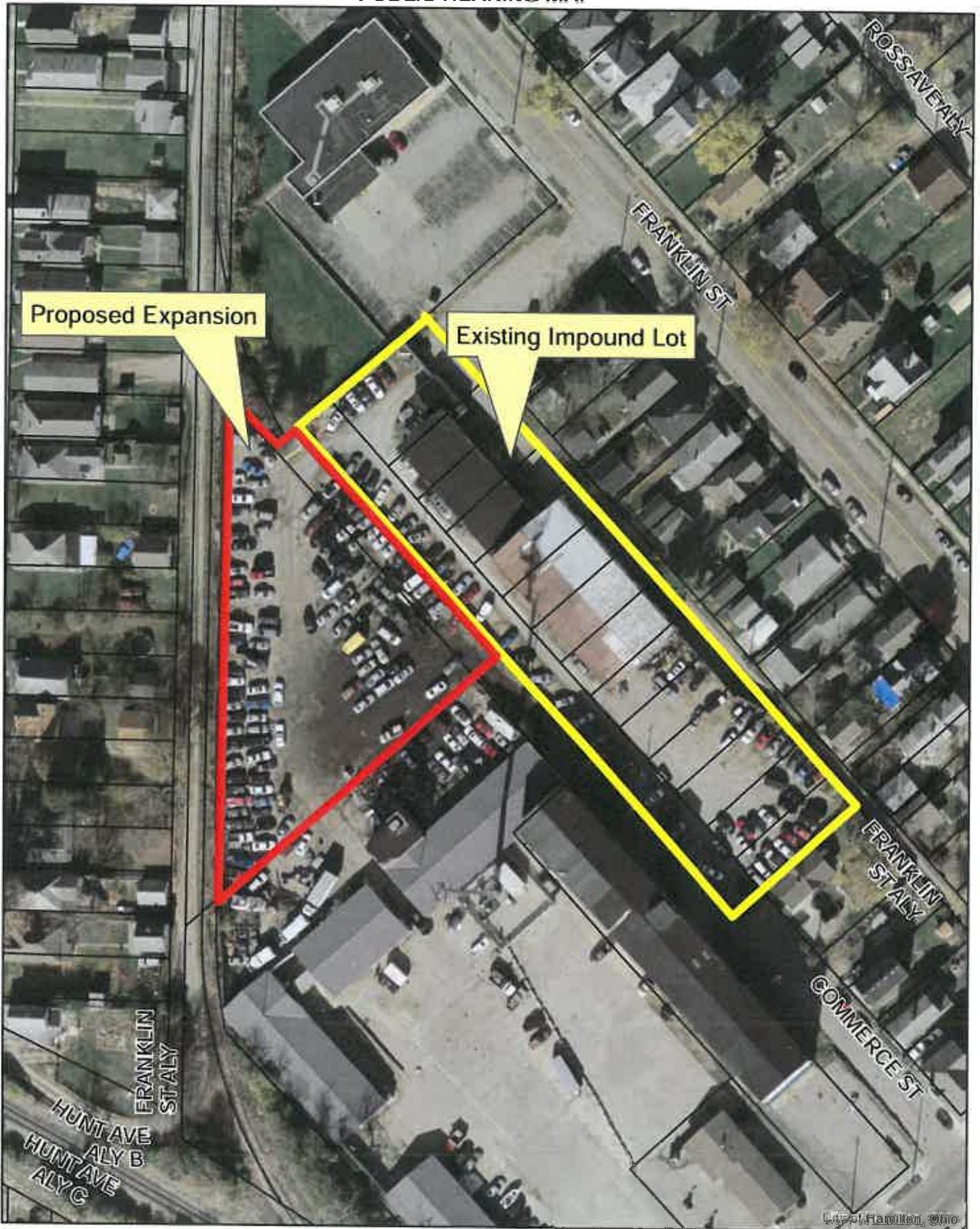
- 1) **Exhibit A - Public Hearing Location Map**



- 2) **Exhibit B – Zoning Map**
- 3) **Exhibit C – Conditional Use Application & Supporting Material**
 - a. **Application**
 - b. **Criteria in Support of Application**
 - c. **Exhibits 1-12**
- 4) **Exhibit D – Zoning Violation Correspondence**
- 5) **Exhibit E – Aerial photographs of the subject property.**



259 S Edgewood Avenue
PUBLIC HEARING MAP

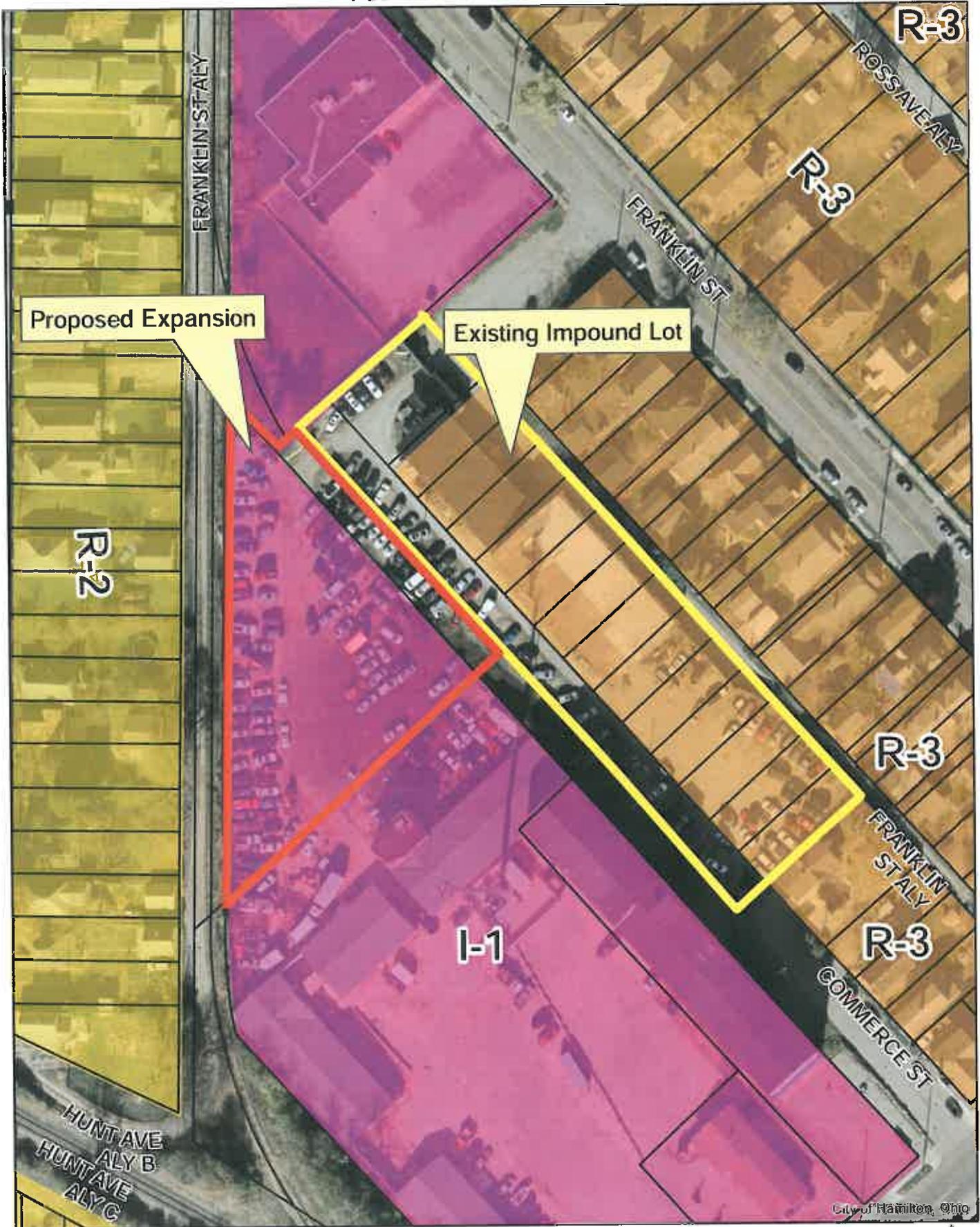


 259 S Edgewood

0 35 70 140 Feet



259 S Edgewood Avenue
PUBLIC HEARING MAP



 259 S Edgewood

0 35 70 140 Feet





A163337
A163341

LAWRENCE P. FISHER
300 HIGH ST. ATTORNEY
FIRST FINANCIAL BANK
SUITE 550
HAMILTON, OH 45011

Community Development
340 High Street, Suite 550
Hamilton, Ohio 45011

APPLICATION FOR CONDITIONAL USE

Please Note: The Planning Commission has no obligation to approve a Conditional Use.

The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (HZO Section 1155.10)

Property Address: 259 S. Edgewood Ave.

Lot No(s): 5993

Property Owner: Day's Sunoco & Towing, LLC

Owner's Mailing Address: 1275 S. Main St. Hamilton, Ohio 45013

Applicant's Name (if different than owner): Robert M. Day, Member

Applicant's Mailing Address: same

Applicant's Email Address: unknown

Applicant's Phone Number: unknown

Previous Legal Use of Property: Vehicle Impoundment Lot

Date Previous Use Discontinued: _____

Proposed New Use of Property: _____

Requesting a Conditional Use Approval from the following Sections of the Hamilton Zoning Code:

1123.00 "I-1" Limited Industrial District, 1123.10,

1123.30 & 1123.31

Criteria in Support of Application

Applicant, Day's Sunoco and Towing LLC, acknowledges the purpose of the "I-1" District is to create industrial areas that will be acceptable within the city and will not adversely affect adjacent business or residential neighborhoods by permitting industrial establishments which are clean, quiet and free of hazardous or objectionable elements, and whose objectionable features will be obviated by design and/or appropriate devices. Under 1123.30 and 1123.31, the vehicle impoundment lot is a conditional use if specifically authorized by the Board of Zoning Appeals. Applicant respectfully requests the authorization to operate a vehicle impoundment lot.

In support thereof, Applicant has attached a copy of the Plat of Survey depicting Part Lots 5992 and 5993. Part Lot 5992 is not the subject matter of this application but rather, only Part Lot 5993 adjacent to and bordering Part Lot 5992 to the north. Further, and not the subject matter of this application, Applicant is the deeded owner of lots 5972 through and including 5984 to the east of Part Lot 5993.

Based upon an on site meeting with then City Manager Mark Brandenburger, Applicant mistakenly believed Part Lot 5993 was approved as a vehicle impoundment lot. Based upon that good faith belief, Applicant installed a 10 foot metal fence along the west lot line which then bordered a railroad track which has since been conveyed or vacated to the City of Hamilton, Ohio. At the present time, there are vehicles on Part Lot 5993, but the vehicles cannot be seen by the general public. It is the intent of the Applicant to continue ownership of Part Lot 5992 for permitted uses. The ingress and egress to Part Lot 5993 will be from Franklin Street. Applicant has attached numerous photographs depicting the south side Part 5993 which is bordered by a row of buildings, the west side which is bordered by metal fencing and the east side which is bordered by metal fencing. Again, the general public will not be able to see any of the impounded vehicles on Part Lot 5993.

There will be minimal traffic, being a tow to the facility, with the probability that the vehicle will be driven from the premises during normal work hours. It will be a quiet atmosphere with minimal activity. Owners take possession of vehicles with a legal release, If a vehicle would be abandoned, upon confirmation, it would be removed to a salvage yard.

Lastly, Applicant suggests that the Application for Conditional Use as a vehicle impoundment lot meets the general standard for conditional use review criteria under 1155.30 C. (1) through and including (9).

Respectfully Submitted,

NOTES

- 1) Surface documents are as shown hereon.
- 2) Occupation in general fits Survey except as shown.
- 3) Monumentation found in good condition.
- 4) 0-0 indicates 5/8" iron rod with I. D. cap [set] unless otherwise noted.

Plat of Survey

Part Lot's 5992 and 5993
 of the plat of Daniel Brosey et al.
 1st May, S.S. City of Hamilton
 Butler County, Ohio

For: Robert M. Dwyer
 Date: Sept 14, 2010
 Scale: 1" = 80'



By: **Daniel R. Brosey P.S.**
 — Land Surveyor —
 phone: 513-480217

I certify that the herein platted property was measured to acceptable Survey Standards only.

Daniel R. Brosey
 Registered Surveyor, 64822 in Ohio

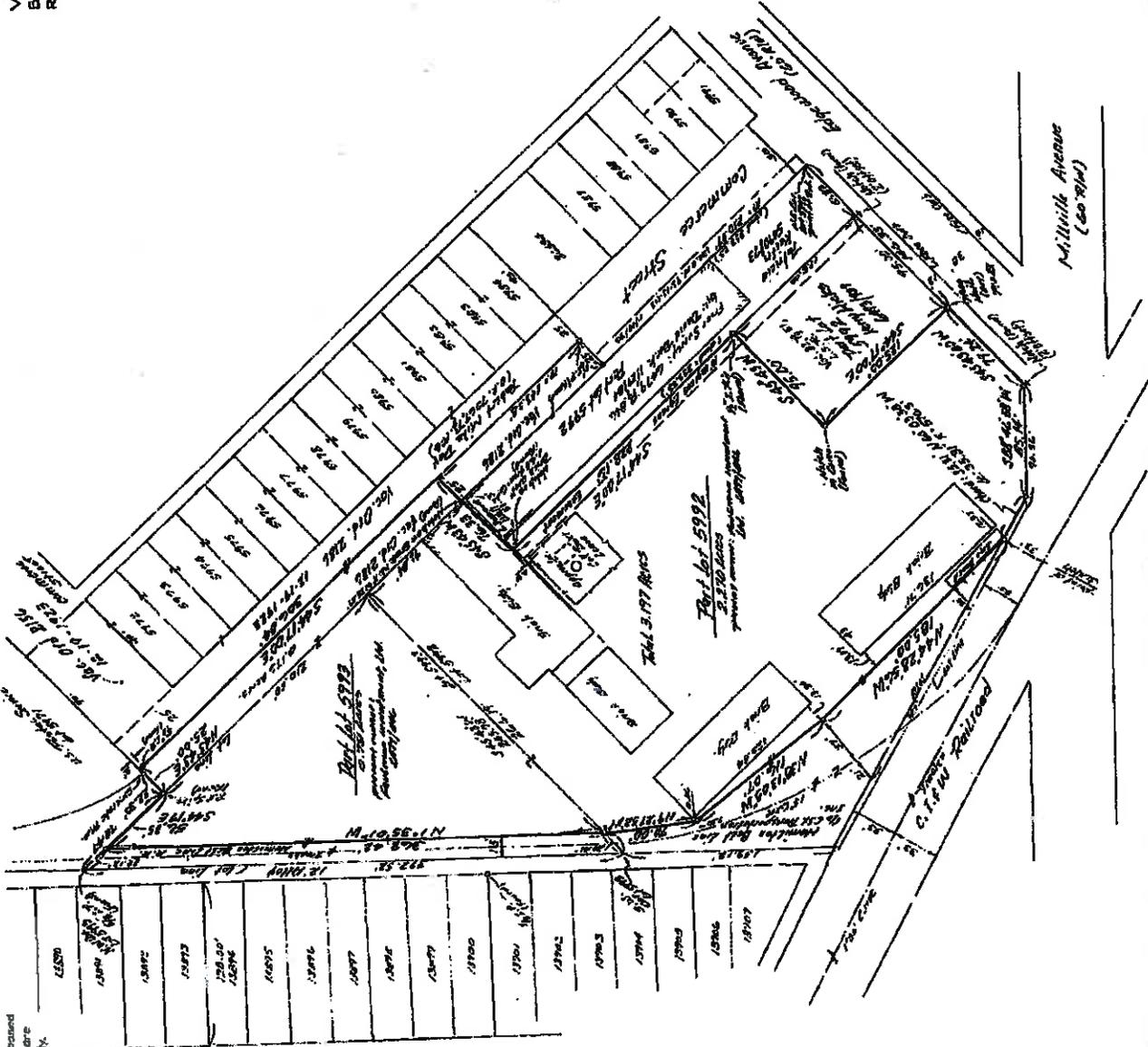


PG 12-007-000-072-147-3143
 P.S. No. 007-000-072-147-3143

Boundaries shown hereon are based on an assumed meridian and are used to determine angles only.



McKinley Avenue



EXHIBIT



EXHIBIT
2



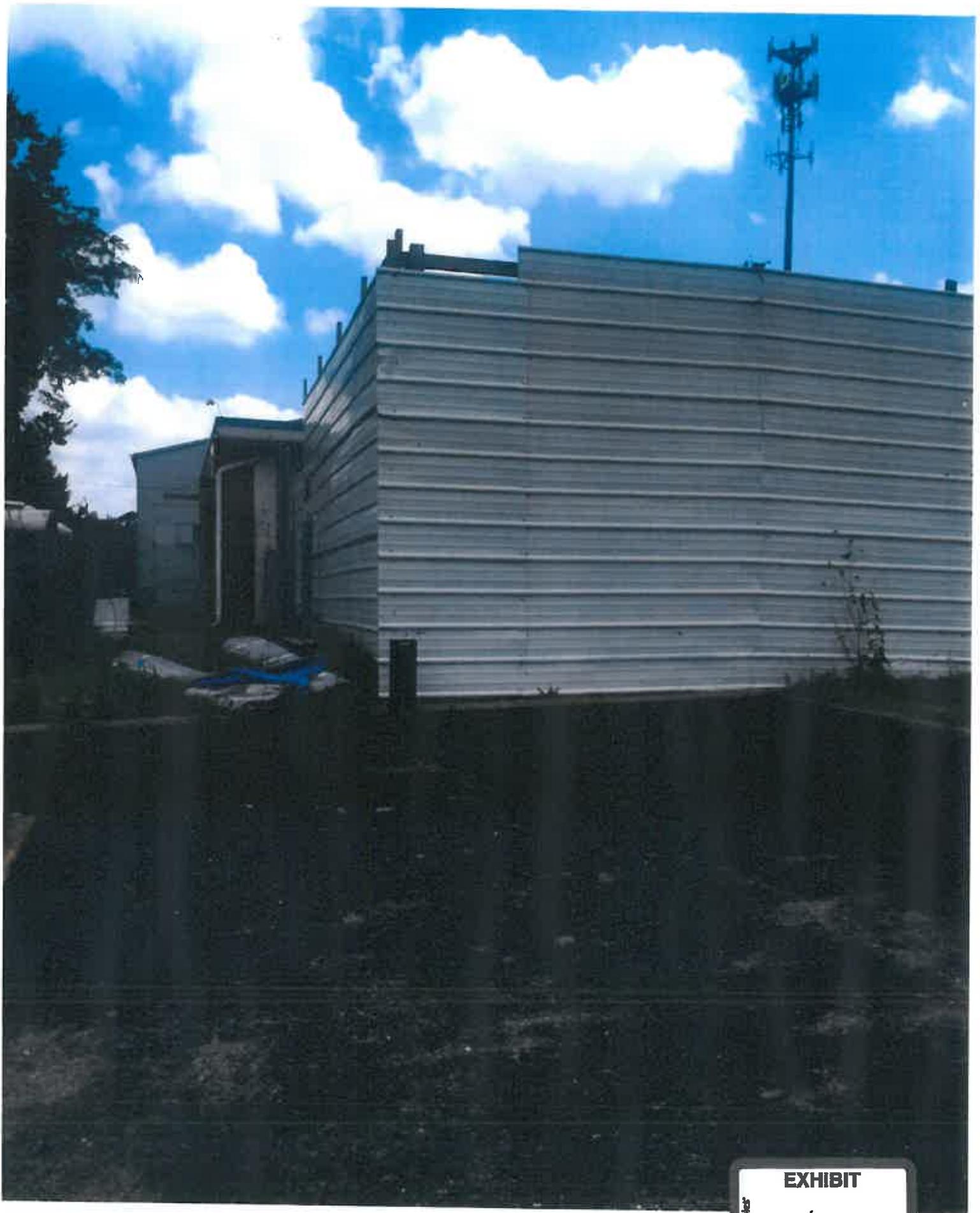
EXHIBIT
3
tabbles



EXHIBIT
4



EXHIBIT
5



EXHIBIT

6

tabbles



EXHIBIT
7



EXHIBIT
8

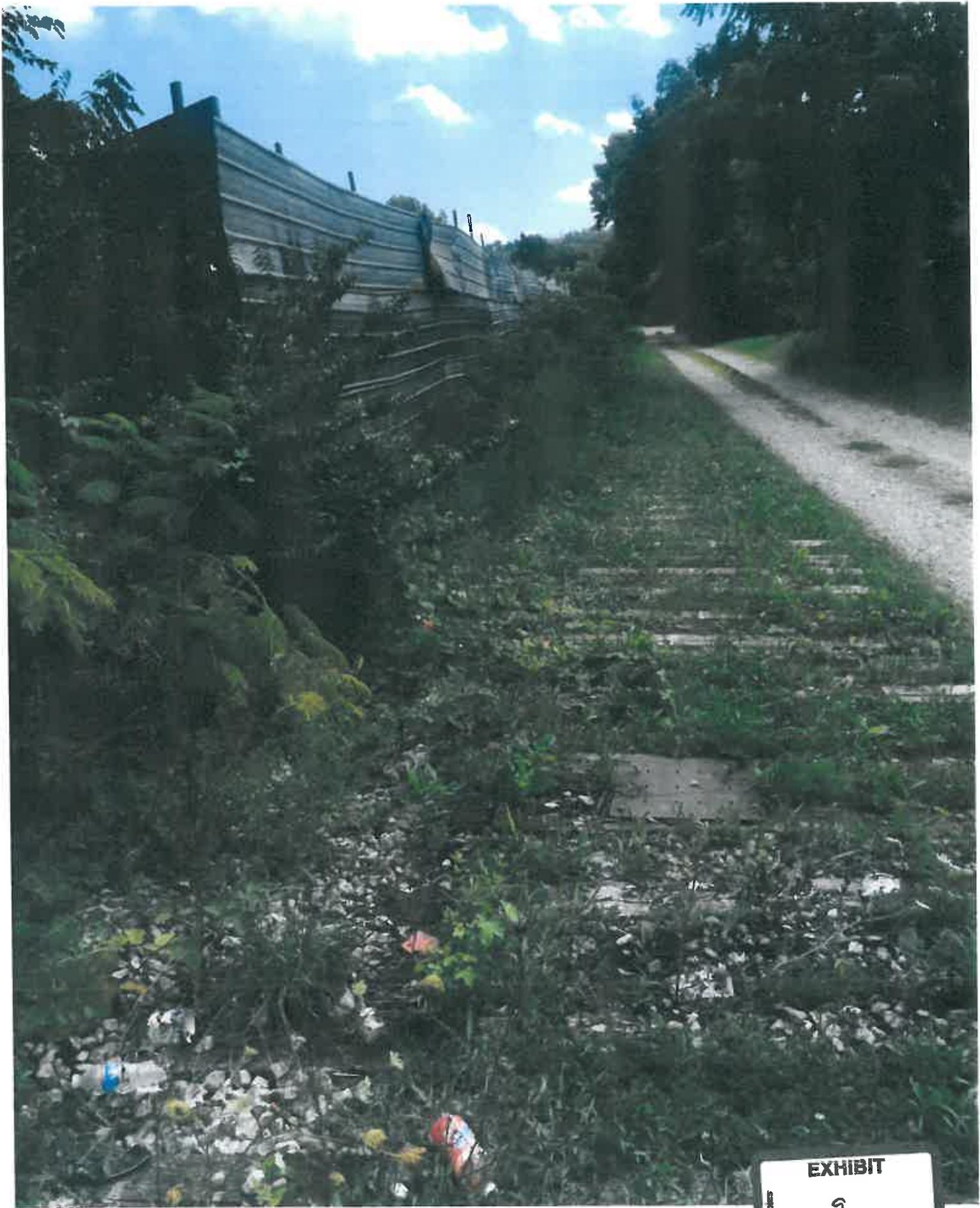


EXHIBIT
9



EXHIBIT
10



EXHIBIT
11



EXHIBIT
1a



11/04/2015

Days Sunoco And Towing Llc
Attn: Robert M Day
1275 Main St
Hamilton, OH 45013

Dear Days Sunoco And Towing Llc:

Location of property 253-259 EDGEWOOD AVE
Complaint ID # 201508118
LOT # 5992 PARCEL P6412007000070

The property referenced above is located in a I-1 Limited Industrial Zoning District and is regulated by Section 1123.00 of the Hamilton Zoning Ordinance (HZO).

An inspection of referenced property indicates a violation of the following City Ordinance(s).

Section 1123.30 HZO Conditional Uses: The following uses shall be permitted only if specifically authorized by the Board of Zoning Appeals in accordance with the provisions in Section 1170.00.

<1124.31 Impound Lots require a conditional use approval from the Board of Zoning Appeals (BZA).>

< This office has no record of a conditional use approval for an auto impound/storage business at this location. Remove all vehicles parts and other debris from the property by November 20, 2015. If you wish to pursue a conditional use approval contact Sr. Planner John Creech at 785-7355. >

1150.40 Certificates Of Zoning Compliance: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefore by the Commissioner stating that the proposed use of the building or land conforms to the requirements of this Ordinance. This may be issued in conjunction with a building permit.

1186.00 Violation And Penalty:

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of the Zoning Ordinance No. 7503, and all amendments thereto, shall be guilty of an unclassified misdemeanor and shall be fined not less than \$250.00 or more than five hundred (\$500.00) dollars for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

If you have any questions or concerns please call the Community Development Department at 513-785-7350.

City of Hamilton
BUTLER COUNTY OHIO



Public Health

345 High Street, Suite 330
Hamilton, Ohio 45011

Served: Regular Mail Certified Mail Posted on property

Larry Bagford

Planning and Zoning Specialist
Phone: 513-785-7367



December 1, 2015

Mr. Mike Day
Days Sunoco & Towing
1275 Main Street
Hamilton, Ohio 45013

RE: 259 South Edgewood Avenue, Hamilton, Ohio 45013

Dear Mr. Day:

Thank you for taking the time to come in last Tuesday, November 24th, to discuss the above referenced property. We have researched our records of approved Conditional Uses and we can find no record of a conditional use application for a Vehicle Impound Lot ever being submitted or approved for 259 S. Edgewood Avenue.

The property at 259 S. Edgewood Avenue is currently zoned I-1 Limited Industrial District and Vehicle Impound Lots are Conditional Uses in the I-1 zone. Conditional Uses require review and approval by the City Planning Commission and City Council.

As I indicated last Tuesday, there are two (2) options available regarding the property. Option #1 is to vacate the property and not use it as a Vehicle Impound Lot to comply with the City of Hamilton Zoning Violation letter dated November 4, 2015 (attached). Your extended deadline for vacating the property and complying with the zoning violation letter is December 28, 2015. Option #2 is to submit an application for a Conditional Use for a Vehicle Impound Lot. The deadline for submitting an application for a Conditional Use is December 28, 2015 for the January 19, 2016 Planning Commission meeting. I have attached another copy of the Conditional Use application.

In the meantime, you may also submit any information that indicates that the City of Hamilton or City of Hamilton officials previously approved 259 S. Edgewood Avenue for a Vehicle Impound Lot, please submit the information as soon as possible and I will forward to the appropriate authority for review.

If you have any questions, please call 513-785-7350 or email me directly at creechj@ci.hamilton.oh.us.

Respectfully,


John Creech
Senior Planner

c: Larry Bagford, Public Health Dept.

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City of Hamilton
Community Development
345 High Street, Ste. 370
Hamilton, OH 45011

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to

Mr. Mike Day
c/o Day's Sunoco & Towing
1275 Main Street
Hamilton, OH 45013

2. Article Number
(Transfer from service label) **7009 0820 0001 4217 7864**

PS Form 3811, July 2013 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agrees Addressed
X

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
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 Registered Return Receipt for Merchandise
 Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

7009 0820 0001 4217 7864

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Send to: Mike Day
Street, Apt. No. or PO Box No. 1275 Main St
City, State, ZIP+4® Hamilton OH 45013

Exhibit E – Aerial photographs of the subject property.

