



**SERVICE COMMITTEE - MEL CLEMENS
MONDAY JUNE 6, 2016**

**COMMITTEE MEETING: IMMEDIATELY FOLLOWING COM DEV COMMITTEE
MEETING**

**PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068**

President: DOUG JOSEPH

Ward Members: Ward I – Stephen M. Cicak
Ward II – Brett Luzader
Ward III – Marshall Spalding
Ward IV - Mel Clemens

At Large Members: Barth R. Cotner
Chris Long
Dan Skinner, Esq.

COMMITTEES:

Community Development: Chmn Skinner, Spalding, Cicak, Luzader
Safety: Chmn Long, Cicak, Luzader, Spalding
Service: Chmn Clemens, Luzader, Spalding, Cicak
Finance: Chmn Cotner, Long, Clemens, Skinner

* * * * *

Agenda is subject to amendment by Committee/Council at the time of the meeting.

All meetings of the Council shall be held in accordance with the general laws of Ohio pertaining to requirements for open meetings of public bodies.

If you wish to speak before City Council concerning a specific topic on the agenda, or about a specific topic not on the agenda, please complete a “Speaker Form” and give to the Clerk of Council. Forms are located in the wooden box on one of the bench seats in the atrium. Copies of the Rules of Discussion are available next to the wooden box.

*April Beggerow
Clerk of Council*

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes
 - a. Service Committee – Committee Meeting – May 16, 2016
4. Discussion
 - a. 6366 E. Main St.; Sixth Month Review of Application #170493; Applicant Jason P. Goss; Business Auto Direct Columbus; Permit #102-SE; Ord. #81-15.
 - b. Ordinance Authorizing the Mayor to Enter into a Lease Agreement Regarding Construction of a Telecommunications Tower at Truro Avenue, and Declaring it an Emergency.
 - c. Ordinance to Partially Vacate Easement Over Property Located at the Intersection of the Centerlines of East Broad Street and Waggoner Road and Declaring an Emergency.



**SERVICE COMMITTEE - MEL CLEMENS
MONDAY MAY 16, 2016**

**COMMITTEE MEETING: IMMEDIATELY FOLLOWING THE PREVIOUS
MEETING**

**PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068**

1. Call to Order

PRESENT: Clemens, Cicak, Luzader, Spalding, Joseph
ABSENT:

2. Approval of Agenda

Agenda stands approved.

3. Approval of Minutes

a. Service Committee – Committee Meeting – May 2, 2016

Minutes stand approved.

4. Discussion

a. ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (7088 E. Main Street; Proposed Use – Commercial Recreation Facility); Applicant, Victor Prozapas.

Chairman Clemens: Mr. Snowden.

Mr. Snowden: Thank you Chairman Clemens. This was an application to the Board of Zoning and Building Appeals, and was approved at the last meeting for a Special Exception Use Permit for what the Code terms a Commercial Entertainment Facility. This applicant is the owner of the Ace Hardware franchise. He proposes to close that franchise and open up a new trampoline park, mainly targeted at the youth, but it is for all ages. He will not have food service on site, but he will have some party rooms. The gentleman has another successful similar use located in the Hilliard area, and he is proposing to bring that here. With that, I would be happy to answer any questions.

Chairman Clemens: Are there any questions from the committee pertaining to this item? Is there any reason to bring this item back, other than for the first reading?

Minutes Acceptance: Minutes of May 16, 2016 7:30 PM (Approval of Minutes)

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 5/23/2016 7:30 PM
MOVER:	Mel Clemens, Ward IV	
SECONDER:	Marshall Spalding, Ward III	
AYES:	Clemens, Cicak, Luzader, Spalding	

- b. ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6549 E. Livingston Avenue; Proposed Use – Childcare Center); Applicant, Mark Jones, Sr.. (Second Reading 5/09/2016).

Chairman Clemens: We have the owner here.

Mr. Bishoff: My name is David Bishoff and I really just want to make myself available for any last minute questions that anyone might have.

Chairman Clemens: I have looked at it. It seems to be moving along like you said it would. I think you had an item you wanted discussed and wanted added to it. Am I mistaken?

Mr. Luzader: You have a copy of the additional items that we proposed would be included. They are, you would get a permit from the Building Department for repairing, replacing, or removing blacktop, the type of materials and the fence, they repaired the old fence a little bit and once they straightened it out, there was a whole in the gate, and you did give us a paper here for removing all the dumpsters and you have notified all of your tenants. The only question I did have, and this is probably more for Mr. Snowden more than you, so when they come in with the materials list for the fence, the new fence for the additional play area will have to be in place before the zoning certificate?

Mr. Snowden: Mr. Luzader, let me clarify in the drafting language of he members that had concerns and was presented to the applicant. It has definitely been a collaborative effort. In that case, the fence permit would want to be in place. I think what I stated on there, since several of those items require a zoning approval, the change to the modification of the rear service area, removal of blacktop to be replaced with landscape area, etc..., what I stated on there was that the applicant would do a minor site plan. The minor site plan could include all of those items in one application. They would want to get that, get that approved, implement that, and based on what I wrote and what was circulating, then the cert for the use would be issued. My understanding is that that could change and is totally up to you gentlemen. But, the point of that was to address the concerns that were raised here which were, we want this done before the use is in operation. That seemed to be the consensus we were getting. So, based on what I wrote, those things would need to be on a minor site plan, and then implemented prior to me issuing a zoning certificate that approves the use based off of the Special Exception Use Permit that you are considering now.

Mr. Luzader: That is what I wanted, a little clarification on that to make sure everything would be completed before the zoning certificate would be issued.

Mr. Snowden: Mr. Luzader, we would also do our normal six month review, following the approval of the Special Exception by Council. And lastly, my recommendation is that at the

next meeting of Council, since this will be an amendment to the ordinance, this condition, what you are doing is called a conditional approval, those conditions will need to be added because you are going to be doing an amendment to include those items as condition. I can work with whoever is going to be making the motion to make sure that that is done properly. You will need to amend at the final reading since it is a full Council meeting, to make those a condition of approval.

Mr. Luzader: Thank you.

Chairman Clemens: Since you are representing that, I will put you in charge of having it ready, if we move it on.

Mr. Luzader: that is fine.

Chairman Clemens: Are there any other questions pertaining to this.

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 5/23/2016 7:30 PM
MOVER:	Mel Clemens, Ward IV	
SECONDER:	Brett Luzader, Ward II	
AYES:	Clemens, Cicak, Luzader, Spalding	

c. ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Amending Chapter 1145 Special Exceptions.

Chairman Clemens: We have our changes that Mr. Snowden has been working on, and what I would like to do is go to each item, and if there is no discussion, we will move it on for its first reading. That will give us about two months or so to work it over in our minds and so forth. We can stop in and see Eric and get our problems worked out before it is passed. Is that good Eric?

Mr. Snowden: Mr. Chairman, if it would be ok with you and the Members of your Committee, let me just state what each one of these items is, so folks at least know.

Chairman Clemens: I am going to go through them.

Mr. Snowden: Very well, Sir.

Chairman Clemens: We will have to move them on individually.

Mr. Snowden: Correct, Sir. Mr. Chairman, I, our City Attorney, and Members of our Administration, have looked at the process for approving Special Exceptions. We are just looking to streamline the process, that is a lengthy process. We are doing in 120 days, what many communities are doing in 60. We think that could move along quicker with the same amount of review and input from our Board and Council. In addition to that, there are a few items that I have cleaned up in there. One of them also allows an administrative transfer. Today, we do not have an administrative transfer procedure, which means that every time a lease changes, or a tenant changes for the same use, technically a new Special Exception is

required. That is something that many places can be approved administratively if there are no changes in the conditions of operations. I know this is going to be the one where there are the most amount of concerns and discussion, and I would be happy to answer specific questions about why I am proposing what I am proposing in this case.

Chairman Clemens: Are there any questions tonight? I have many questions, but I will not take up the time tonight. I will meet with Eric.

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AYES:	Clemens, Cicak, Luzader, Spalding	

d. ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Amending Section 1196.09 Lighting of Chapter 1196 Community Commercial Overlay; and Enacting Chapter 1182 Exterior Lighting.

Mr. Snowden: Mr. Chairman, Members of the Committee, other Members of Council, we currently have no City wide exterior lighting development standards. We do have those in the Community Commercial Overlay. What I am proposing is to enact a new chapter with some city wide standards for exterior lighting in terms of intensity, and that sort of thing. It is something that those who have been doing the Site Plan reviews, BZBA, Planning Commission, DRB, have requested that something be in the Code to give them more guidance as they approve.

Chairman Clemens: Any questions?

Council President Joseph: You say this is to cover the entire city, right?

Mr. Snowden: Yes, currently there are no City wide lighting standards. There are only lighting standards in the Community Commercial Overlay, and the Historic Commercial Overlay.

Council President Joseph: Would this only apply to commercial and retail, or residential too?

Mr. Snowden: It applies only to commercial and industrial. In that section, it does state that it will not apply to single and two family homes. It could apply to multi-family complexes. Again gentlemen, understand this is all for new construction. Anything that is existing, but the point was just to provide a little bit more guidance to our boards so that they know what to look for when they are doing these reviews.

Council President Joseph: Ok, thank you.

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SECONDER:	Marshall Spalding, Ward III	
AYES:	Clemens, Cicak, Luzader, Spalding	

- e. ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Amending Chapter 1131 Definitions; Section 1193.12 GRAPHICS of Chapter 1193 "HD" Historic Overlay District; Section 1196.11 GRAPHICS of Chapter 1196 Community Commercial Overlay; Repealing Chapter 1181 Signs; and Enacting Chapter 1181 Signs and Graphics.

Mr. Snowden: Thank you. I have called this the Temporary and Service Structures Ordinance. The rationale behind this is to provide a more clarified definition of what is a service structure, and define when it is screened. We have requirements for screening of service structures, these are utility boxes, and vaults that are raised above, and so on. Currently the way the Code reads, it could be interpreted that these are required to be screened in single and two family homes. I have clarified that. I have also clarified what the definition of a generator is, and termed it an accessory structure and that they are properly located and not hazardous.

Chairman Clemens: Thank you. Are there any questions?

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 5/23/2016 7:30 PM
MOVER:	Mel Clemens, Ward IV	
SECONDER:	Stephen Cicak, Ward I	
AYES:	Clemens, Cicak, Luzader, Spalding	

- f. ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Amending Chapter 1103 Design Review Board; Chapter 1135 Title, Purpose, Interpretation; Chapter 1143 Zoning Certificate, Site Plan, Plot-Grade-Utility Plan; Chapter 1151 Amendments; and Enacting Chapter 1177 Limited Overlay

Mr. Snowden: I have called this the District Amendment and Limited Overlay Ordinance. Really, what I am doing, is Chapter 1151 Amendments, flushes out the Charter requirements for our rezoning, or District Amendment, as our Code calls them. When zoning districts are changed by applicant, or upon recommendation by the Planning Commission. What I did was, I cleaned up that section, made sure that it jived with the provisions of the Charter which is supreme. I am proposing to enact Chapter 1147 for Limited Overlay. What a Limited Overlay is, it is requirements that the applicant can put on themselves at the time of rezoning, to address any specific unique characteristics of their development for which there are no other zoning, or land use regulations. We have used this in the past as part of the rezoning process, but we didn't have a chapter that clarified the purpose, the intent, all of the legal requirements for doing these, how they should be done, given our process. So, I am proposing to enact that chapter, in order to make them more useful to us going forward.

Chairman Clemens: Are there any questions pertaining to this item?

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 5/23/2016 7:30 PM
MOVER:	Mel Clemens, Ward IV	
SECONDER:	Brett Luzader, Ward II	
AYES:	Clemens, Cicak, Luzader, Spalding	

- g. ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Amending Chapter 1161 Zoning Districts; Enacting Chapter 1184 Planned Commercial Development District; Amending Chapter 1196 Community Commercial Overlay

Mr. Snowden: This item, which I have called in the Staff Report, Planned Commercial Development, is a new addition to our code. What I am proposing is to enact a chapter to give us a new tool, a new zoning district, called Planned Commercial Development District. What a planned development is, is instead of having lists of regulations and setbacks, and all of these, which sometimes seem minor, zoning regulations, we would replace that, in this case this would be an optional zoning district that an applicant could zone themselves to, and what you would do in this case, you would present a development plan to the Council and Planning Commission. All of the setbacks and minor requirements are immaterial in this case, the process is what is the concern. You would be getting a development plan approved, so you would not have to meet any of the zoning regulations. The idea would be, design a structure or development, that meets the characteristics of the site, that can satisfy the Staff, Administration, Council, and the Planning Commission. It is not an open door to do whatever you want on your property. It is just a flexible zoning district that can handle different types of development that may not fit into our traditional zoning districts, and it is project based. Thank you.

Chairman Clemens: Are there any questions now pertaining to this?

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 5/23/2016 7:30 PM
MOVER:	Mel Clemens, Ward IV	
SECONDER:	Stephen Cicak, Ward I	
AYES:	Clemens, Cicak, Luzader, Spalding	

- h. ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Amending Chapter 1123 Required Improvements; Chapter 1131 Definitions; 1161 Zoning Districts; Chapter 1183 Planned Development District; and Chapter 1187 Special Provisions for Residential Uses

Mr. Snowden: We currently have a Planned District. The Planned District that we have, deals mostly with large scale residential development. If we are going to have a Planned Commercial District, we need to modify our ordinance Planned District and create a Planned Neighborhood District. So this is housekeeping, changing our current development to Planned Neighborhood Development. It is not changing any of the development standards that are required of that, and it cleans up the process. It clarifies when a Major Site Plan is required for a Planned Neighborhood Development. Mainly housekeeping, given the proposed change in the previous ordinance.

Chairman Clemens: Thank you. Are there any questions pertaining to this?

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i. **ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Amending Chapter 1131 Definitions; and Chapter 1181 Signs**

Mr. Snowden: What I am proposing in this case is basically a repeal of our entire zoning sign chapter, and enacting new regulations in its place. I worked with the Columbus Sign Organization, which is an industry organization of professional sign designers and installers, and our City Attorney's office, to design a process that the industry could support, and that would work well given some Supreme Court decisions that have been made even in the last couple of years, relating to signage and the First Amendment. In this section, I am proposing to expand the role of Staff and approval, in order to be more business friendly, so that our applicants doing sign refaces, and signs under 32 SF, can be approved by Staff, and they will not have to wait the 30 days to apply, and await the DRB approval. If Staff was unwilling to approve the sign based on the design regulations of the City, it could be referred to the Design Review Board for additional review. With that, I would be happy to answer any additional questions, or please contact me as you are reading these proposed changes, and I would be happy to meet with you at any time.

Chairman Clemens: Any questions pertaining to this, this evening?

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 5/23/2016 7:30 PM
MOVER:	Mel Clemens, Ward IV	
SECONDER:	Brett Luzader, Ward II	
AYES:	Clemens, Cicak, Luzader, Spalding	

Board of Zoning and Building Appeals**Eric Snowden****7232 E. Main Street****Reynoldsburg OHIO 43068****phone****Memo**

DATE: June 6, 2016**TO: Eric Snowden, Planning Administrator Board of Zoning and Building Appeals****CC:****RE: 6366 E. Main St.; Sixth Month Review of Application #170493;
Applicant Jason P. Goss; Business Auto Direct Columbus; Permit #102-SE; Ord. #81-15**

**6366 E. Main St.; Sixth Month Review of Application #170493; Applicant Jason P. Goss;
Business Auto Direct Columbus; Permit #102-SE; Ord. #81-15**



Planning and Zoning Office
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio

Section 1139
BOARD OF ZONING & BUILDING APPEALS
APPLICATION

Application #: 170493
Permit #:
Date Submitted: 7/8/15
Fee Amount: \$350.00
☒ Paid: 3931

I. PROPERTY INFORMATION

Property Address:

6366 E. Main St

II. PROPERTY OWNER OF RECORD

Property Owner Name(s):

Auto Direct Reynoldsburg LLC

Contact Email:

Auto Direct 73@yahoo.com

Contact Phone Number:

614 565 7763

III. BUSINESS INFORMATION (IF APPLICABLE)

Business Name:

Auto Direct Columbus OH Inc

Contact Phone Number:

614 565 7763

Description of Use:

Auto Sales

Contact Name:

Jason Goss

Contact Email:

Auto Direct 73@yahoo.com

IV. APPLICANT INFORMATION

Applicant Name:

JASON P. GOSS

Applicant Phone Number:

614 565 7763

Applicant Address

6675 CLARK STATE RD
BLACKICK OH 43004

Applicant Email:

Auto Direct 73@yahoo.com

☒ Property Owner

☒ Business Owner

☐ Contractor

☐ Architect

PROJECT INFORMATION

CHECK AND DESCRIBE IF APPLY:

Variance (☐ Non-Residential (\$450) / ☐ Residential (\$100)):

☐ Major/Minor Site Plan Review (\$500/\$250):

☒ Special Exception Use (\$350): Auto Sales

☐ Other:

Applicant shall submit **nine (9) copies** of application and materials to the Planning Administrator. Please review the attached sections of the Zoning Code and note the items you are responsible for submitting with this application.

Applicant Signature:

Date: 7-1-15

Additional Notes:

****OFFICE USE ONLY****

Zoning Information

Zoning District: CC

☐ Historic District

☐ CC Overlay

Other Board Approval

☐ DRB

City Council Meeting

Date:

☐ No Action Taken

☐ Approved (w/ Conditions)

☐ Introduced As Ordinance

☐ Denied

BZBA Meeting

Date: 8/28/15

☐ Approved as Submitted

☐ Approved w/ Conditions

☐ Tabled

☐ Denied

Clerk of Council

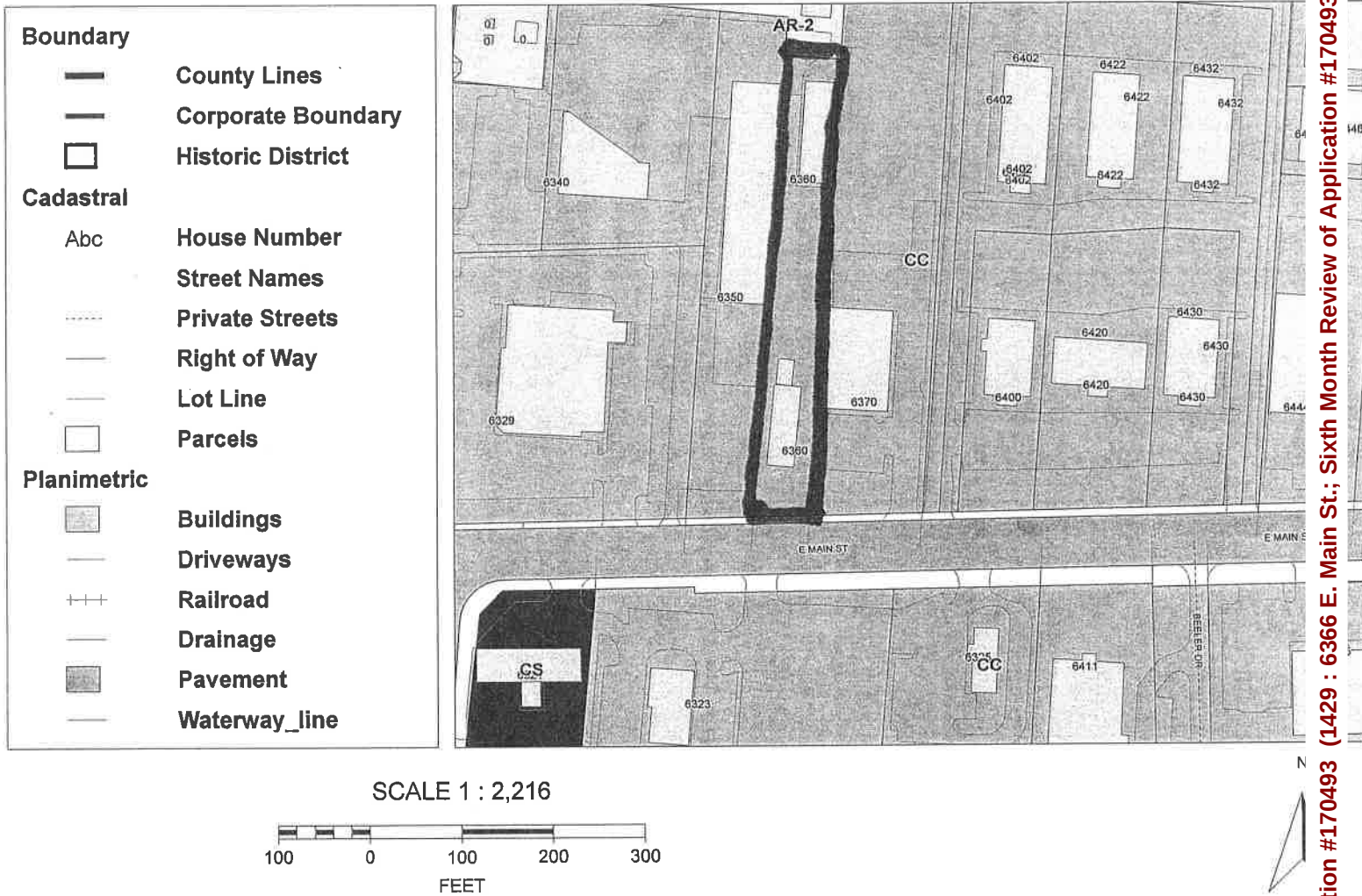
Initials:

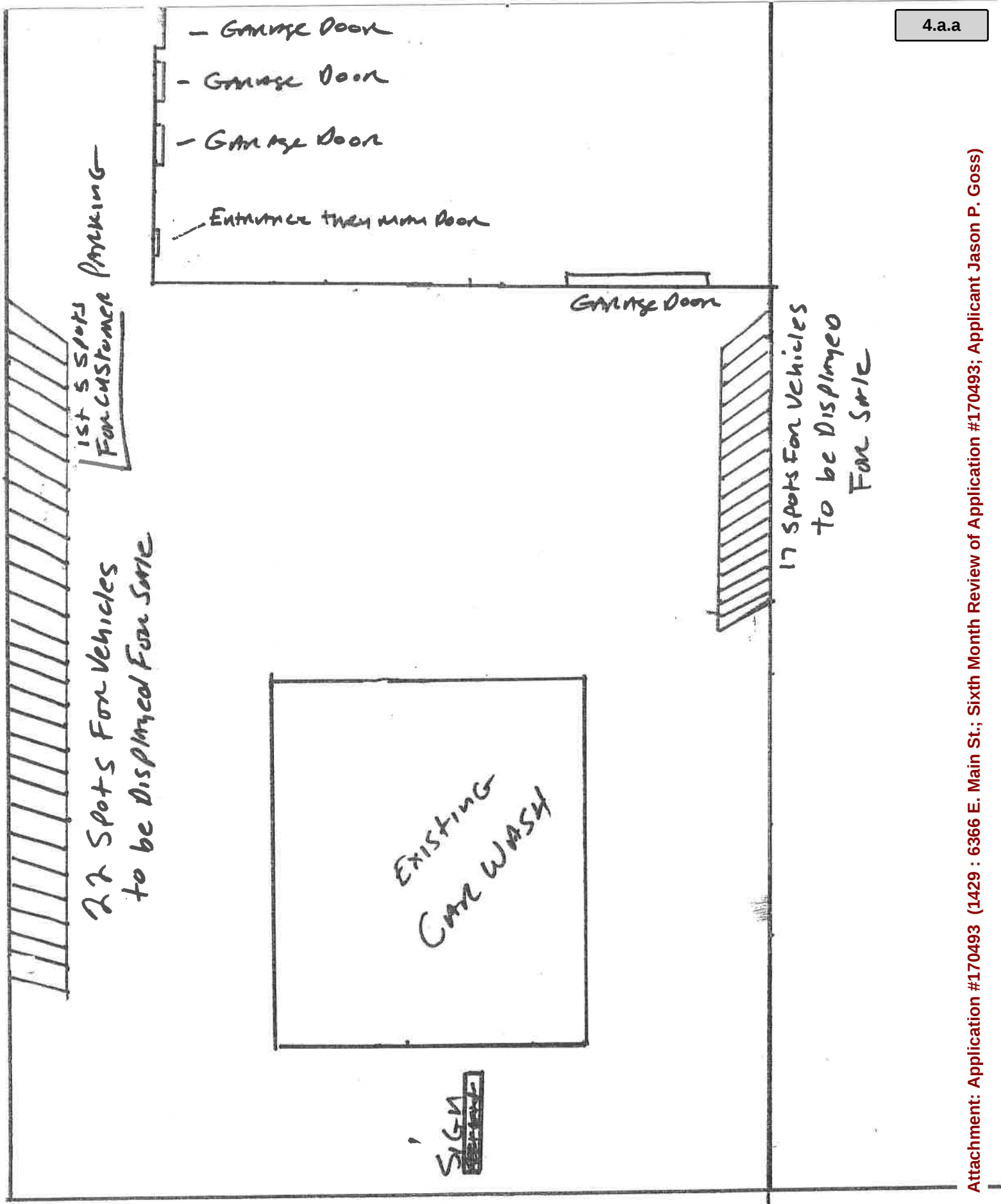
Date:

Planner Initials:

Date:

Map1





Description of proposed activity's at 6366 E Main St Reynoldsburg Oh 43068

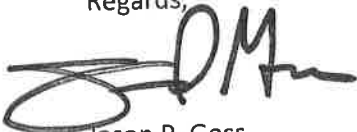
- 1) Used Auto Sales
- 2) Auto Detailing
- 3) Minor auto repair on Auto Directs vehicles only.
- 4) Approximate employees will be 5
- 5) Approximate sales 40 autos per month
- 6) Hours of operation 10-7 MON-FRI 10-4 SAT CLOSED SUN

Proposed Site improvements

- 1) Seal and repair black top
- 2) There is no grass or landscaping to maintain on property
- 3) Long term goal is to demolish front building 6360 E Main St. It will not be operating as a business.
- 4) A 4 yard dumpster will be in fenced area once front building is demolished. It will be at the rear of the front building until demo.
- 5) Used car sales will not have any negative effects on adjoining lots than the existing business that's here. It will have a positive effect on adjoin lots by eliminating the traffic jams that occur daily when the car wash is busy due to the car wash being closed.

If there are any question's that you have please feel free to call me anytime at 614-565-7763

Regards,



Jason P. Goss

MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, AUGUST 20, 2015 6:30 PM

**PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDBURG, OH 43068**

A. CALL TO ORDER

PRESENT: Linder, Donovan, Enfinger, Wallace
ABSENT: Rettke

2. APPROVAL OF MINUTES

Minutes of May 21, 2015 and July 16, 2015 Stand Approved

3. APPROVAL OF AGENDA

Agenda Stands Approved

4. SWEARING IN OF SPEAKERS

Chairman Enfinger: Please stand and raise your right hand if you will be speaking this evening. Do you swear and affirm that the information you give tonight before the Reynoldsburg Board of Zoning and Building Appeals is true and honest to the best of your knowledge? (All affirmed.) Please sign in and list your address, as well. And, when you come to the microphone, state your name and address so we have that on the record as well. Thank you.

B. PUBLIC COMMENT

Chairman Enfinger: Is there any public comment this evening? Since none is apparent, we will move on.

C. UNFINISHED BUSINESS

Chairman Enfinger: There is no unfinished business.

D. NEW BUSINESS

1. **ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6366 E. Main Street; Proposed Use – Auto Sales); Applicant, Jason P. Goss**

Mr. Enfinger: Staff, may we have the presentation please?

Mr. Snowden: Application #170493, for a Special Exception use Permit; 6360/6366 E. Main St.. The applicant is Auto Direct Inc. For the property located on the north side of East Main St. Between Brice Rd. And Rosehill Rd. Existing zoning is CC- Community Commerce District, and the property is in the CCL- Community Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for auto sales use in the CC district; current use is Auto Services, and the applicants representative is Mr. Jason P. Goss.

The location was an existing car wash and auto detailing shop. Adjacent uses include commercial businesses, also in the CC District. To the west the property is adjacent to an auto repair business. It is marked on the map as Dodd's Bodyworks. To the north, the property is abutting some single and multi family dwellings in the AR-2 district of the city of Reynoldsburg, and of the city of Columbus. To the immediate east is an auto parts retailer. There are several auto uses clustered in this area. Staff's Review: Background information - the applicant has changed the use of the parcel without a Zoning Certificate, or a Certificate of Occupancy from the Building Division. This issue was referred to the Planning and Zoning staff from the Code Compliance Division. Use Classification - the property as it exists is Auto Services. The change to an Auto Sales Use requires a new Special Exception Permit. The applicant stated in their narrative that minor repairs to vehicles will take place on the site. Staff's view on this is, as long as the service is not a service that is being provided to the general public, it could still be classified as an accessory use and the entire parcel could still be classified as Auto Sales, rather than Auto Repair. Staff is comfortable with the assessment of Auto Sales. Addressing - when Mr. Goss came in to turn in his application, Staff found that the property was addressed by the County Auditor's Geographic Information System as 6360 East Main St. Staff consulted the City Engineer and found that no address had formally been assigned to the rear building. Staff's suggestion is that, although this permit is going to be for the entire parcel to be used in this auto sales business, Staff would suggest that the applicant contact our Service Department and request a certified address for the rear building. There is no fee for that, and the Service Department can have our consulting Engineer assign one. Demolition of the front structure - the applicant has proposed to demolish the front car wash structure at some future date. This does require zoning approval and a demolition permit from the Building Division. The applicant has made some comments about the dumpsters, which are currently stored in a screened area, directly behind this front building. Any new dumpster which is installed here, or any relocation of dumpsters, is going to need to comply with the screening requirements of the Zoning Code. There are certain actions, in this case, that may require Design Review Board approval. Staff would like the applicant, in their presentation to clarify exactly what they are thinking and proposing, so Staff can assist with that process. The current condition of the awning on the front structure is not in compliance with the City's Property Maintenance Code. The Code states that any signage, or any detailing such as this, needs to be maintained. You can see from the photo, that the awning material is separating from the structure. Parking - you can see from the series of photographs that this is an extremely narrow site. The property is only about 60 feet wide. Staff measured it using our Geographic information System. The applicant, in their provided plan, provided for forty-four parking spots. Staff has some concerns about the narrowness of the lot. Generally, with car dealership uses or auto sales uses, property owners and operators like to have as much public street frontage as practical. In addition to that, you should be able to see that when this was a car wash, the lane pictured on the left was the entering/manuevering lane, and the exit lane on the right, which is now being used for car storage. That was not indicated on the plan, so the staff would like some more clarification. You can see cars displayed in front of the building which is different from what is indicated. Staff has some concerns regarding the entry/exit. The Board may want to suggest some enrty/exit signage so that people know how to enter and exit the property. Rear yard - the applicant did not mention the rear yard in their plan. The rear of the property has a fenced in/storage yard of some type. I stated generically

that some of the brush is several feet in height. Staff would like clarification about what is back there. I was unable to determine what material is on the ground... gravel, pavement, yard. Staff would like to know what the applicant proposes to do in that area. Signage - any reface signage in our Community Commercial Overlay, will require Design Review Board approval. Staff gave three recommendations in the event that the Board is comfortable with the application and is willing to approve it. Staff would suggest that the applicant be required to apply for a Certificate of Appropriateness for the ground side, remove the damaged awnings on both buildings, and remove the high grass in the rear yard and maintain that as it was originally installed. The authority items are the sections of the Special Exception Use Permit Chapter of the Code which have to do with the maintenance of the property. I am happy to answer any questions.

Mr. Enfinger: Very thorough. I appreciate that Mr. Snowden. Would the applicant please step to the mic?

Mr. Goss: 6366 E. Main St., Reynoldsburg, Ohio 43068. In regards to the back, I am planning on getting a bulldozer back there. I want to level and gravel that area. Most likely, when the front building comes down, and everything is approved, I will pave the entire lot. I own the building. I am going to be improving the building. I am going to be improving the property. It is a narrow lot. My plan was to have parking on one side of the property, at the rear, which would give room to turn around. We will be keeping about forty to fifty vehicles.

Mr. Donovan: The sign says ninety.

Mr. Goss: It says, "Seventy vehicles available." I always have twenty to thirty cars in the pipeline. We have cars at auto auctions. It does not necessarily mean they are sitting on the property. It means they are available to us.

Mr. Snowden: Mr. Chairman, may I ask Mr. Goss a question please? Mr. Goss, what is the material that is in the rear yard? Is it suppose to be a yard.

Mr. Goss: No, it's gravel and weeds.

Mr. Snowden: So it was originally gravel and has become overrun?

Mr. Goss: It had gravel but is not level, so I am not real sure what it was because it has been like that since I have had it. It has had gravel down but the grade is not at all level.

Mr. Enfinger: So, you have owned the facility for some time now?

Mr. Goss: I bought it in either April or May of last year.

Mr. Snowden: Mr. Chairman, gravel may be added if there is existing gravel there. Any paved surfaces in the City have to be permanent paved surfaces. But, if there is gravel there now, you can maintain gravel.

Mr. Goss: There is definitely gravel.

Mr. Enfinger: So my first question was going to be, "When did you take ownership without going through the proper channels?"

Mr. Goss: We have been out there about sixty days. When I first got out there, we ran a repair facility for our own vehicles out there. I have owned Auto Direct for eight years, we have sold seven thousand cars. I had twenty employees. I am downsizing. I own this property, I was leasing the other building. When I opened my other car lot, I did not do any of that. I had no idea. I did not know that I had to get zoning or anything like that. When Reynoldsburg came, it was a complete surprise to me and I came directly down here and spoke with Josh.

Mr. Enfinger: As far as the number of vehicles on the property, how many do you currently have?

Mr. Goss: I'm going to guess fifty. The number of vehicles I control. I had a car lot that had two hundred cars on it. I can get two hundred cars now but we obviously don't have the space. Whatever number you are comfortable with, that works for me, will be the number. The old Target building on Scarborough, there is a Capitol City Auto Auction there, I could put fifty cars inside there tomorrow, and store them. That is not an issue. When we get everything set up, if it's approved, it will be a very nice looking building. We will take care of it. We are going to pave, paint, change the awnings or tear them down. Whatever we have to do.

Mr. Enfinger: So the condition you have kept the buildings in up to this point, will not be indicative of how you are going to treat them?

Mr. Goss: There have been a lot of improvements in the building already. They have just been interior improvements.

Mr. Enfinger: You have had the property for a while and the back has grown up with weeds. So you can understand our concern, we just want to make sure that it is perfectly clear that everything needs to be kept to code. What is the plan and time frame for the demolition of the front structure?

Mr. Goss: Obviously I have to get an approval from you before I tear the building down, since it is an existing car wash and it is going to be an auto sales place. Once that is done, I have quotes, I have to apply for demo permits, I will get it done. The front building is not only a hindrance to me, it is a hindrance to Reynoldsburg. It is an eyesore. It is also a hindrance to traffic. The traffic backs up on Main St., and the place has lost money as a car wash for the last eight years, I have their financial statements. It's not a business that can make it in today's world. I ran it as a car wash for a year. It lost money month in and month out. Whatever that property becomes, it can not be a profitable car wash. I bought the property from a friend of mine who owns a title company. He is very successful. He ran it himself for a year to try to get it to make money. It can't make money. The building is an

eyesore. I lived in Reynoldsburg twenty-five years ago. I am shocked at how nice Reynoldsburg is today. That building is not doing any good for Reynoldsburg. I opened up eight years ago, I've sold seven thousand cars. I have an "A+" rating with the Better Business Bureau. We have always gotten compliments on our buildings. In the event that you approve this, I can guarantee that whatever we do will benefit Reynoldsburg.

Mr. Enfinger: Once that is gone, what is the configuration of the parking? What do you envision going forward?

Mr. Goss: No matter what, the vehicles are going to have to line up on both sides of the property. They are going to have to be on the east and west sides of the property. I don't envision having cars across the front of the property. I heard somebody say something about car lots liking to have frontage. In today's market, frontage means nothing. People run car lots out of warehouses. It's the internet. So, is the drive by traffic customer good? Yeah, it's a plus, but that's not where the customers are coming from anymore. They are price shopping on the internet.

Mr. Enfinger: How many cars would you be able to stack on one side and not have to have them on both? When I went in there, it was next to impossible to turn around.

Mr. Goss: My thoughts were to have the cars on both sides, but towards the rear, and have the cars stop. That way there is an opening so someone could pull in and park and have plenty of room to back out. It's going to be tight no matter what. It is tight with no cars. It was tight as a car wash. The only thing I can think of is, one side has cars all the way, the other side has cars halfway, and that opens up a lot to be able to pull in and back up. And, on Dodd's Body Shop, what I would do is put signs that say "Customer Parking" on that brick wall. That way they know to pull in over there and they could back right out.

Mr. Enfinger: Will they park parallel to the wall there?

Mr. Goss: They could pull right into the wall. Or it could be on either side. If they are parking there, that gives them room to back up. It would have to be three or four spots towards Main St. We are not going to have fifty customers there at a time. If we have three customers there at one time, that is going to be the most.

Mr. Enfinger: Mr. Snowden, is there anything stated in the Code regarding number of vehicles per square foot of property. It is a very narrow piece of property so you are going to have to make it work, but in doing so, that may mean limiting the number of vehicles you have there.

Mr. Snowden: Mr. Chairman, and other members of the Board, I don't think the Code is going to provide us with any guidance on this particular detail. Staff's position would be that this is going to be a narrow property for anyone. There are not going to be a whole lot of other uses that are not going to have the same issues, except maybe in and out retail at a particular spot, and they would be upset with how far back the building is located. There are not a lot of other uses that are going to work.

Mr. Enfinger: It has the potential to work, with what you are wanting to do.

Mr. Snowden: Assuming that Mr. Goss's application was approved this evening, and he carried through the process, and went through to remove the structure at the front, Staff at that point would want to see a minor site plan, to show how the whole thing is going to look. It is a Zoning/Administrative approval, which means, I would approve it before the demolition approval could be issued through building. Mr. Goss could show Staff at that time. It is going to be something that someone with the experience of laying this out would have to do. That would be a good time for him to show Staff a more defined parking area. The impression that I am getting is that Mr. Goss had to move his business in, and that he is on the right path. We just need a system in place to make sure all of these details are taken care of. He stated in his application that he wants to repair the asphalt and repave. I would like more detail to see how it will all come together.

Mr. Enfinger: In that minor site plan, there would be a clear understanding of how many vehicles would be allowed on the property?

Mr. Snowden: Parking would have to be delineated based on the number of spaces per the Code. Right now this is open tar. This was travel lanes. The spaces are not detailed out. It's not as if I could look at a site plan of a shopping center and say they have a certain number of spaces. We can't really do that here. If he did that, Staff could review it based on the Code, how many parking spaces would need to be left for customers, and so forth. It is really murky now because the lot is not laid out in a normal manner for parking fields. And there is additional land there. It would seem to me that it would be unfortunate to deny the permit based on a lack of parking when Mr. Goss said he is willing to remove the building as soon as the Board approves the use.

Mr. Enfinger: My only concern is the amount of vehicles that will be on the property. It is a small property so it could really feel cramped, it's going to feel jammed up and we are going to be trading one eyesore for another. That is a concern I have. Again, with the minor site plan, I think it is reasonable to expect that we could know the number of vehicles. And, at that point it is laid out, you could make a decision as to what would be an appropriate number of vehicles to have on the property at any one time.

Mr. Snowden: Mr. Chairman, give me just one moment.

Mr. Enfinger: Any other questions from other Board members?

Mr. Donovan: I would like to know if you will be doing warranty or repair work on this property?

Mr. Goss: The only work we will be doing is minor repair work to our own vehicles. We will not be doing any work for the public. We have a four car shop behind there and we are going to use it. But, we will not be doing any major repairs. We will be doing brakes, oil changes, and things like that.

Mr. Donovan: This is for the vehicles you have on your lot?

Mr. Goss: For our own vehicles. We will not be trying to make a profit off of servicing cars. It will be strictly to service the vehicles that we are selling.

Mr. Snowden: Mr. Goss, do you know the approximate square footage of the back building?

Mr. Goss: 50 feet by 120, seems like that is about right.

Mr. Snowden: There is no specific requirement in the code for parking for this specific type of use. One for every two hundred square feet is the standard for retail and one for every one hundred square feet is the standard for in and out restaurant use. Even if we held them to a very high standard for parking, it is still going to be essentially ten spaces.

Mr. Enfinger: That would be for the customers and not for display of the merchandise.

Mr. Snowden: Correct. My point is, if that is a finite number, I will calculate the amount. And, if Mr. Goss does a minor site plan to remove the front building, he will only be allowed to have as many cars as what remains after that number. Even if I calculate off the retail, which is the lower number.

Mr. Enfinger: I follow.

Mr. Snowden: That is going to leave him with a finite number. Hypothetically, let's say he has fifty spaces, he will need ten for customers and will have forty spaces in which to display vehicles. However you want to space this out. And the spaces must be a certain size per the code, and I get that to whoever is going to do your site drawing.

Mr. Enfinger: That is the kind of clarity, kind or specificity, I think is necessary. At this point, when you drive through there, it is a hodgepodge. I understand you have the building to get down, so it is in the process. So to approve this, we want to make sure we know exactly what we are approving and not just a hypothetical situation where we leave it to you. That is the point of the concern.

Ms. Wallace: In this picture, even if you had cars down both sides and double deep on the one side, you could still have room if he only went back half way. Plus, when coming down Main Street, you are not going to be seeing this big line of cars because there is no frontage. It is all going front to back, so I don't have a problem with seeing the cars lined up, especially if the lot looks better than it looks now. I do not thin the front to back will be any kind of eyesore at all. You will see one or two cars and the rest will be hidden behind those.

Mr. Enfinger: My comment on trading an eyesore for an eyesore, was not meant to indicate that I feel running down both sides would be an eyesore. I think that is perfectly reasonable and would look very nice. My point is, if you take the cars all the way back, there is no way

to turn around and there is too much going on. But, if you have it stop at a point, you could turn around.

Ms. Wallace: It seems like, with the building gone, and with cars in rows, and with the paving and lines, it will be much more appealing when driving down the road.

Mr. Snowden: Mr. Chairman and Members of the Board, it seems the Board is comfortable with the use, but wants to make sure these details are addressed. One of two things may need to happen. Either Mr. Goss will need to get a minor site plan where he can address that specific portion of it, in addition to the other items I listed as suggestions for requirements. The other thing that could happen, depending on how much Mr. Goss wants to change the building, as far as color changes, material changes, etc...DRB could review and assist with these changes. In addition to the comments that I made in my report, as part of the review at three months, Mr. Goss will have either submitted a site plan, or submitted a package to Design Review, for Design Review Board's approval. Essentially it will amount to the same thing. I don't know if that is something the Board is open to, but that is the only other guidance I can give the Board.

Mr. Donovan: I thought there was a set-back requirement for selling vehicles from the street.

Mr. Snowden: I have had that told to me by several individuals since I have been here. I have searched the code for literally hours, attempting to find that. Including electronic searches. I can not find anything stating that. The only thing I could find related to that was regarding setbacks for the parking lots for new construction. I have not seen anything else. If anyone knows the code and wants to help me out, I would welcome that. But, I have looked at the code ad nauseam and I have not found any detail about that.

Ms. Wallace: I am comfortable with Mr. Snowden's suggestion of going with the recommendations and letting the Board decide if there needs to be a site plan and letting that go before the Design Review Board.

Mr. Enfinger: I think so as well. So, I make a recommendation that we move to approve Application #170493 with the following conditions: The applicant seeks the appropriate permits for the sign from DRB. The applicant brings the existing structures to code regarding the awnings. And, that the area in the back section be addressed. Seeing that those are agreed to, and pending approval of this Special Exception Use and a Minor Site Plan, that can be reviewed by staff.

Ms. Wallace: I will second.

Mr. Snowden: This application will be forwarded to City Council. The Clerk of Council will contact you if Council elects to hold any additional hearings, or take any additional action. You have already submitted for your zoning certificate. Once staff receives a notice of approval from the Clerk of Council, Staff will contact you when the certificate is ready for pick up. Once that certificate is secured and ready for pick up, you will need to contact the Building Division and submit plans for building occupancy. Those plans will be interior

drawings of the rear building that you want to occupy for your business. After that, have all required inspections. Board members, to clarify a procedure that has not been consistently followed, per Section 1145 of the Zoning Code, Staff will review this permit approval in six months. And to confirm compliance with the conditions and report those findings to the Board. If the applicant has not complied with all conditions of their approval, and completed all the required steps to open the business or use, the Special Exception Use can be revoked by the Board. With that, I will turn it back over to the Chairman.

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 9/14/2015 7:30 PM
MOVER:	Aaron Enfinger	
SECONDER:	Libby Wallace	
AYES:	Linder, Donovan, Enfinger, Wallace	

2. 7524 E. Main St.; Application #170630; Unnamed Eatery Serving Ice Cream, Sandwiches, and Festival Foods; John and Heather Fry

Mr. Enfinger: Application #170630 for 7524 E. Main St. May we please have the presentation?

Mr. Snowden: For Special Exception Use Permit, for an eating and drinking establishment, with a drive thru service, for the property located on the north side of E. Main St., between Jackson St. And Waggoner Rd. It is in the CC - Community Commerce District, as well as the HCO - Historic Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for drive thru service in a multi-tenant building, in the CC - Community Commerce District of the City. Current Use: the structure is vacant. It has previously been retail sales and an eating and drinking establishment. The applicants representatives are John and Heather Fry. Adjacent uses include commercial businesses in the CC - Community Commerce District. All adjacent properties are within the Historic Commercial Overlay. To the north, the property is abutting multifamily dwellings in the AR-2C District of the City. In front of you is a site plan of the lot as well as an indication of the specific tenant space. Use clarification: the property is in the CC District, as stated. In this district, eating and drinking establishments are normally a Special Exception Use and the Board reviews permits for those. However, Section 1194 of the Zoning Code provides a modified use table for commercially zoned properties that are within the Historic Commercial Overlay District, and assigns eating and drinking establishments as a permitted use. It did not modify the drive thru service use requirements, so Special Exception Use is still required. What the Board is considering is whether the drive thru use, and location of the window and its details, are acceptable. There is a separate use table for the Commercial Overlay that removes that from being a Special Exception. The applicant is proposing to repurpose an existing drive thru window for their service window, which was originally constructed for a bank and contains two bays. Under 1194 of the Code, regarding drive thru services, and mostly referencing new construction, it states that the architectural detailing and materials need to be carried throughout. Looking at the canopy, although it would be nice if there were brick elements on the pylons, to tie that in consistently, if it were a new building. The idea is that the drive thru should not look like an afterthought and should be integrated into the structure. Staff is comfortable that has been met. The only concern, that staff had specifically, is the entry into that drive thru. If you look on this site plan, you can see it

better indicated, this is an entry point and this is an exit, to access this window, you will be crossing the opposite window and then have to turn around. It is going to be a problem for the Fry's, it was probably a problem for the bank. Although, the bank may have had folks coming a different direction. Obviously the ice cream and sandwiches can not go through a pneumatic tube to get to the customers. That is really what the issue is there. The opposite argument is that there really is not any traffic back there right now, although there are some other tenant spaces. I would encourage the Board to listen to how the Fry's are presenting, and how much business they anticipate and so forth. There may need to be some additional signage or striping for the drive thru in order to get to that window.

Mr. Enfinger: Would the applicant step up to the podium please.

Mr. Fry: We do have a name now. I noticed that it was listed as "Unnamed." It is Carnival Ice Cream. We want to do a lot of hard dipped ice cream, subs, carnival foods, corn dogs, cotton candy, popcorn, etc... Items you can only get at a fair and not all year long. We have teamed up with Johnson's Ice Cream. We have met with them, and we have Matt and team and they are going to be our supplier. Technically, we are bringing Johnson's Ice Cream back to Reynoldsburg. As far as the drive thru, our thought was, there are a couple of ways to exit. You can do a reverse u-turn out, or you can take the other exit that takes you into the other shopping center, or back out to Waggoner Rd.

Mr. Donovan: Have you spoken to the property owners regarding being able to do that?

Mr. Fry: Yes. We have talked to them about being able to operate as a drive thru, and they know exactly what kind of business we are doing. We are in the process of putting the lease together. We are finalizing a couple of things. We have agreed to what each party is responsible for, especially from a cosmetic standpoint, because it has been vacant for twelve years. So, we have a lot of work to do. It is the largest retail space in that complex. We would like to get it going and bring more retail back into that area. There are a lot of vacant spots in there.

Mr. Donovan: Are you going to have sit down service at all?

Mr. Fry: Yes. One of the things we were concerned about was the stacking, so if you look behind there, there is parking. There is a back door, so the staff can run it out to them, and they can then leave. So, it keeps the process and the flow going.

Mr. Snowden: Mr. Chairman, and Members of the Board, I was wondering if it would be possible for the Board to require specific signage, or if the Board feels it is necessary. In staff's view, that could be helpful. A lot of fast food restaurants are utilizing the waiting areas and because of the unique configuration, maybe it is something the Board should require instead of just recommending.

Ms. Wallace: I know most drive thrus have the pull over and wait for your food thing. And I'm sure it wouldn't be an issue to paint an arrow and have a corner sign that directs you to pull around the building to the left and into a numbered space. This is common in drive thrus

that have a longer cook time. I have lived here fifty years and that complex does not have a ton of constant traffic thru it. In a shopping center, my personal thought is that you don't have continuous constant traffic flow like you would have on Main St. So I don't think it would be an issue to come in up against the building.

Mr. Fry: Right now, there are no businesses behind there. It is all vacant.

Mr. Snowden: Mr. Fry, let me interject, there is one catering business at the very back of the property. But the tenant spaces that face that are actually currently empty.

Mr. Enfinger: So, around the corner where we are talking staging the stacking of the drive thru, there are actual parking spaces?

Mr. Fry: And that is on an as needed basis.

Mr. Snowden: You should be able to see that on your site plan.

Mr. Enfinger: Is there a way that you could have an agreement with the landlord and be able to designate that these two to three spaces are yours? I don't know how far away it would be before another tenant would desire to have that area.

Mr. Snowden: Mr. Enfinger, if you look on this site plan, there are two tenant spaces here, this is an access pathway between the two buildings approximately six feet wide, so there is a little bit of room there. I don't think we are going to be overwhelming the rear tenants and taking away their parking. In addition, the catering use utilizes this area for vehicle storage and parking.

Mr. Enfinger: Are you going to have a board you drive up to before moving forward? Or will you place the order face to face?

Mr. Fry: There will be a prior menu.

Pastor Linder: Where will that be. Will that be toward the entry?

Mr. Fry: If you can see the very far part of the building, there is going to be a menu there. At the very beginning.

Pastor Linder: The only thing I'm curious about is, if they are going to drive into this holding space, and then back out, will there be any anticipation that if someone just got their order and is backing out...

Mr. Fry: No need to back out. When they pull in, they are in a lane.

Pastor Linder: Almost off and into a space?

Mr. Fry: So if someone wanted to go past them, you have that other lane that we are not going to use. I have no use for that second lane.

Mr. Enfinger: That does bring up the concern of where the menu board is, so if you have two or three people staged in line, where are they going to be? Maybe the best thing is to have the board next to the window. These are things you are going to have to work through with striping...

Mr. Snowden: Mr. Chairman, and Members of the Board, unfortunately the Code offers us absolutely no guidance on stacking space requirements. Some cities require up to eight, and that is usually the communities that have the lane wrapping around the building. In my experience, I have only seen a handful of locations that utilize that.

Mr. Enfinger: So the concern is, it is going to be a wildly successful business, and on any kind of warm evening you can drive by the Dairy Queen and see that the traffic is very problematic. So you can see our concern in wanting to make sure that these kinds of things are thought thru.

Mr. Fry: We put a lot of thought into the drive thru. It is one of the first things we talked about and addressed. The first question I had was, where is the stacking?

Mr. Snowden: What about stacking in front of the building and then turning left into the lane?

Mr. Enfinger: That goes against the flow of traffic.

Mr. Snowden: You are right.

Mr. Enfinger: Theoretically, how many vehicles could you put if you had one at the window? Are you talking three at most once you get past the corner of the building?

Mr. Fry: Actually, we can get four before we get into the intersection where people are going to come in and turn left to go in front of...

Mr. Enfinger: If we have six vehicles?

Mr. Fry: You pull two around to the holding spots.

Mr. Enfinger: maybe you have two in the holding spots, and there are six vehicles with four stacked up, and two more trying to get in. There obviously will be a lot of issues with people trying to leave and everyone trying to stack in. That is where clear definition on striping would be, like a little stop sign or some pavement markings like "Stop Here to Wait for Clearance." Otherwise, they will just back up and stack up, into that exit lane. Who has the purview for deciding and requiring that? Is that us?

Mr. Snowden: The Board has that power. If the Board thinks that it can work, the Board can approve. If the Board thinks it will not work, the Board can deny it. If the Board would like to see more information, the Board could table it and give Staff parameters to view such a plan. It is really up to you. You have pretty much unlimited discretion.

Mr. Enfinger: So what time are you looking at to try to open?

Mr. Fry: What we have worked out with the landlord, because of the cosmetic work which needs to be done inside, we have a four month build out, which means going inside with new flooring, painting, dry wall, bringing in of equipment. So we have a four month window before we actually open, once everything is done through the City.

Mr. Enfinger: So, the restaurant can open irrespectively. Our concern here is strictly the drive thru.

Mr. Snowden: Given the persnickety Use Table of the Code, Staff was not totally clear with Mr. Fry that that was the case. So, now that he knows that, he can move forward with securing a zoning certificate for the main part of the business and start going through that process while the details are worked out with this drive thru.

Mr. Enfinger: I certainly think it is doable, I just think we need some specifics and exactly what it is that we want to do. And maybe the officer might be able to help out there.

Mr. Fry: I know there was a coffee shop prior. Is there any documentation for this business as to what they had and what they did?

Mr. Snowden: That is a great question. Do we know what year they were approved?

Mr. Fry: It was empty in 2003.

Mr. Snowden: Staff probably does not have those records accessible. They are beyond the retention schedule. Did they utilize the window?

Mr. Donovan: In the frontage of that building there was a pastry place.

Mr. Enfinger: It use to be Five Cups or Three Cups, something along those lines.

Ms. Wallace: I don't have an issue with the drive thru if we would give Staff the authority to have guidelines for arrows on the pavement, if allowed by code to have hash marks so drivers don't block the side that goes down to Tyler's. Just something for a visual to tell people to wait here. I don't think it is going to be an issue.

Mr. Enfinger: If you have ever sat at Moo Moo's waiting, there is a place where you cross a couple of times. I think people could get use to it. And even if they are stacking up in the traffic lane, not right in front of the building, but farther away, if everyone learns that this is where they stack before they come in, we are all smart.

Mr. Fry: Like above the drive thru have "Drive Thru Entry"?

Ms. Wallace: Or arrows on the pavement that show the traffic pattern. Most people are courteous drivers. You do have people that are not. Most people would allow someone to turn that was waiting for the drive thru.

Mr. Donovan: I will give you an example, go out on the street corner out here and watch all the people run through the red light. People do not care. My thing is, he has already covered the property thing about being able to use the other property's driveways to get in and out. That will alleviate a lot of their problems.

Ms. Wallace: I don't think it is going to be an issue going in and out.

Mr. Snowden: As I stated before, all of our Special Exceptions are suppose to be reviewed at six months. The Board could put on some sort of condition that would address this. Staff could also attempt to pull accident data to see if there have been any issues. I do not know what else the Board could require. It's one of those things where it looks like it could work. Staff is not overly panicked about it. But, obviously the Board wants to make sure that it is done properly.

Mr. Enfinger: I think specificity on the issue again, like before. I think it is completely doable. Let's just have a plan. I make a motion that we move to adopt and approve Application #170630 with the following condition, that the applicant works with Staff in coming up with a traffic flow plan that is suitable to safety concerns for the community as well as other tenants in the building.

Mr. Donovan: I will second it.

Mr. Snowden: Mr. Fry, that stands approved. I always provide a written notice, mailed out, stating the information I am about to read to you, but I want to read it into the record. The application will be forwarded to City Council, and the Clerk of Council, if Council wants to have any additional hearings or take any other action. I will check my files. I think I have a Zoning Certificate application for you already. Once I receive notice from the Clerk of Council, I will contact you that it is ready to pick up. At that point I would really like to see a more detailed plan for the drive thru configuration. Once the Zoning Certificate is obtained, you need to contact the Building Division to submit your plans for building occupancy, as we have discussed. Per Section 1145 of the Code, Staff will review this in six months and report the status back to the Board. Have a great night.

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]
MOVER:	Aaron Enfinger
SECONDER:	Richard Donovan
AYES:	Linder, Donovan, Enfinger, Wallace

3. 1914 Brice Rd.; Application #170778; Childcare Center; LaTarsha Pritchard

Mr. Enfinger: Application #170778 at 1914 Brice Rd., a childcare center. Mr. Snowden, may we have the presentation please?

Mr. Snowden: Thank you Mr. Chairman. It's Application #170778, Special Exception Use Permit for a Childcare Center for the property located on the east side of Brice Rd., just south of Livingston Ave. It is located in the CC - Community Commerce District of the City, as well as the CCO - Community Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for a child care center in the CC District of the City. Current use: vacant space. The most recent user was a charitable Bingo game. Applicant is LaTarsha Pritchard and the applicant's representative that is here with us this evening is Mr. David Hodge. Adjacent uses include commercial businesses in the CC district. The property abuts out lots which front Brice Rd. These contain a gasoline station and fast food type business in the CC and CS Districts. To the south, the property is adjacent to another commercial building in the CC District, one of which contains a childcare center. Along the east side, the property abuts the Truro Township Fire Station #162 and the City's Community Garden. And I believe, to the southeast, on a related parcel is the COTA park and ride. The applicant was previously denied for the same use at the same location at the March 2014 meeting of this Board. Staff reviewed the materials and minutes from that application extensively, and encouraged the applicant and their representative to address the concerns that were raised by the Board at that meeting. Since that time, the Big Lots retailer that was in this location on the map in front of you, has left the center and that space is now vacant. The entire center is now vacant except for a carry-out grocery store in the southern most tenant space, which I am indicating. Parking: we do not have a specific parking requirement. You can see some parking ratios taken from other zoning codes. In this case, Staff has calculated that there are over 330 parking spaces on site and the most this applicant could be required would be 20 spaces, and there are 210 spaces required if all of the property was filled with retail. Staff has met several times with the applicant and their representative to discuss the issues that were raised by the Board. Staff would like the Board to determine if there is a parking/loading/drop-off configuration that they would find more acceptable. Obviously, there is the potential to have additional tenants here. There is basically a conflict here between families and loading into the center, and other traffic. Even if you have a stand alone child care center, there is still some conflict between children, family, and other folks, because those centers have a parking facility as well. The applicant stated as part of their proposal that they are planning to load from the front, but staff questions if there is any merit to those details and whether the Board would like to see one or the other. The applicant is proposing to utilize the existing fenced in play area at the rear of the building. Obviously there is a potential conflict between loading and unloading and vehicles idling near the play area. If the Board were comfortable with the use in general, Staff's recommendation would be that the Board prohibit loading and unloading, and require the property owner to establish a specific no loading or unloading, or idling time for vehicles near this particular spot. Staff also suggests that the fence, which the applicant has proposed to detail, would have some sort of high visibility, so it is not just a service structure, but that it is blocking a specific thing. Character: the biggest thing that Staff took from review of the previous material is that the Board felt that moving a child care center into this type of location fundamentally changed the character of the center away from retail to institutional or educational type of use. Staff's main concern with these types of childcare centers is that when the play area is specifically

placed in the front, which you do see in commercial buildings from time to time, that is a very dramatic change from a retail in and out type of use, to an institutional type of use. In this location, they are proposing a place in the back. Staff is a bit more open to that location of the play area, and does not feel as strongly that this is a character change. Again, this is Staff's opinion. All that say, in a complicated way, is that Staff is open to it, and with that I will turn it back to the Board and Mr. Hodge.

Mr. Enfinger: If you could just state your name and address for the record please.

Mr. Hodge: My name is David Hodge and I am a Zoning and Land Use Attorney with the Law Firm, Smith and Hale, 37 W. Broad St., Suite 460, Columbus 43215. I am here this evening on behalf of the owner of the property. It is an LLC, called WK Brice, that consists essentially of two individuals, Jim Wiggins and Dimo Kuzmanovski. I think preliminarily, because this is relevant, all of us are able to speak on issues about which we have personal experience. I have an eight year old, a six year old, both of whom are now in elementary school. And, a three year old who is in preschool. I took the eight year old everyday to the same preschool, as well as the six year old, and as of yesterday, the three year old. So, I have some considerable experience with pick up and drop off at preschools or day cares. The preschool that my kids have gone to, and currently go to, is at the Bexley United Methodist Church, on Broad Street in Bexley, and the parking lot for that church is next to it. It has very narrow aisle widths. It has angled parking. None of which are the required width, which is about nine feet. And, it has no snow removal in the winter. It is tricky and not always easy. I can say without reservation, I have been to tonight's subject site many times. And, with reference to my experience and what is being proposed here, the parking situation, the pick up and drop off situation, is vastly better than my own personal experience. And truly, in my humble opinion, not an issue. There are sixteen spaces along the front. Within the "U" shape of the building, we would like to designate those spaces to exclusive use for the daycare. The way this daycare operates, is there is no hard and fast drop off time. A preschool starts at nine. This is a daycare so there are drop offs throughout the day. They are open from 5:30 a.m. and close at 7:30 p.m. And the potential operator says there are no more than five dropping off or picking up at the same time. Now there certainly could be multiple children in the same car. There have been in mine. But, in reference to the sixteen spaces across the front, we don't think there is going to be any conflict. Employees would park in the parking field to the west, so that employees are not in that front location. For the off chance, that folks/parents/grandparents may be dropping off in that parking field, we would propose painting a cross hatched cross walk, from that parking field, over to the front of the facility. As you are surely aware, and as Eric indicated, this shopping center is vacant. There is a Mexican grocery store at the far south space. Those same operators are in the process of finishing a restaurant, I'm not sure they have picked up their occupancy permit.

Mr. Snowden: They have not and their plan reviews may have expired.

Mr. Hodge: It really is a beautiful Mexican restaurant. They have done a fantastic job with the improvement of the interior. The remainder of the center is vacant. There was a Big Lots/Odd Lots at the northern most big box space, but they have since moved across Livingston Ave. From my clients perspective, they have no income. They have a lot of

obligation, they have a lot of maintenance, they have a lot of tax, and they have no income. And so, I am aware that historically, maybe today, there are folks in the city that take exception to having day cares in retail centers. I understand that perspective, but this center is drying on the vine and it needs some vibrancy, it needs some activity. And the hope is that when and if the restaurant opens, and when and if the day care opens, that there is some activity. And, any retailer will tell you that one of the first things they look at is the MORPC map that shows the number of cars up and down the street everyday to tell you whether or not it is a good retail location. Our clients, Mr. Wiggins and Mr. Kuzmanovski, they need some income, they need some life breathed into the center. With reference to the measures that are in that statement, that is part of the packet, I have mentioned the parking, which I think is adequate, and the commitment to painting the crosswalk on the pavement. We also would put some signage along the sidewalk in front, just to let folks know that the sixteen spaces, or some number of them, are reserved and designated for parent pick up and drop off, so there is no conflict. People pull in, see the sign, and they go back out into the parking field. With reference to the playground at the back, you know it's tired. The fence is in bad condition. It's not flush to the ground. So, we would propose moving the fence and installing a new board on board fence that's on the ground. There's also a mechanical in that area. That mechanical would be enclosed with the same fence, mulch would go down, play equipment would go out. There is already a door leaving the building and I think the idea to put some neon yellow bollards around the perimeter of the fence, to make certain that there are not issues with delivery trucks or other cars back there, is a fantastic idea and is something that we are willing to do. I think it is interesting that, as Mr. Snowden mentioned in one or both of the previous cases, that there is a check and balance in place in the code, which if an applicant or property owner doesn't comply with conditions, that the Special Exception can be revoked. That is a great checks and balance, and it holds folks' feet to the fire and really obligates them if they want to continue to keep their work. Even though I have a license to practice law, and even though I am here tonight on behalf of people, I'm not really a lawyer. This is what we do. We go to BZA's, and we go to Planning Commissions, and City Council, and I'm personally on the Bexley Planning Commission. So, I sit on that side of the table, sometimes. It has been good for what I do on this side, but I'm over there sometimes. I don't really like to talk about the law when I do this because it turns people off. It doesn't do what one thinks that it does. But briefly, a Special Exception, or a Conditional Use, or a Special Use, they're all legally synonymous terms, and what those are, are uses that are permitted in the zoning classification that may have a greater impact than just the family of permitted uses. And so, it obligates an applicant, or a property owner to appear before a Board, and there are criteria in the Code that we review to make sure, to make absolutely certain that the use is not going to have a negative impact on surrounding owners, traffic impacts, things like that. We have addressed those standards in our statement. We stand by what we wrote in the statement. And, to the extent that anybody would want me to speak about any of those five or six criteria in particular, I'm happy to do that. But, I am comfortable that we meet them, and exceed them, and certainly child care is a listed Exceptional Use in our zoning classification.

Mr. Donovan: Did you just say you are going to feed them there?

Mr. Hodge: Did I say that? I did not say that.

Mr. Donovan: I was looking for a kitchen and I do not see one. My question is, hopefully you are going to have a hundred and ten kids in there, so how much staff are you planning to have?

Mr. Hodge: Thank you for the question. It is a good one and it is something that I left out of my remarks. Any operator of a daycare/childcare is required to have a license issued by the State of Ohio, the Ohio Department of Jobs and Family Services Childcare Division, which this user has. She currently has another daycare center, one underway at the south end of Columbus, and potentially this one. She has that licensure. And there is a certain ratio, depending on the age of the children, that you have to meet. It's up to twenty employees. They would not all be there at the same time, but it is up to twenty employees/teachers.

Mr. Donovan: My next question is, how are you going to handle that with just two restrooms? And, with little kids who are being potty trained?

Mr. Hodge: Sure, that's a great question, and not one I anticipated. She believes it is an adequate number of restrooms. If additional restrooms are required by the licensing entity, the State of Ohio, or by any requirement in the City of Reynoldsburg, then additional restrooms would go in.

Ms. Wallace: I think with my history with daycare and preschool, that is a pretty average number. In regards to the restroom thing, that seems adequate to me.

Mr. Donovan: They are hoping for 130 people?

Ms. Wallace: Thirty or fifty are in diapers. Where my kids went, there was one bathroom for that same number of kids.

Mr. Hodge: My daughter has a bathroom in her classroom, she is not going to use it, but it is there.

Ms. Wallace: I really know she has a good successful business. I would like for her to bring her business to Reynoldsburg, being a successful business woman. The parking thing out front, and the traffic thing, most people would not send a two year old by themselves. I come down to, and not with just this application, but with every application for childcare, especially ones within strip malls, it is the back where the play area is, and the fact that is a drive through. Hopefully, eventually we will have all the strip malls in Reynoldsburg full again. But, knowing there are going to be semis and delivery trucks out back where the kids are playing, has always been pretty much my only concern. Knowing that is a drive through and cut through, and there is a traffic light there, it's just a traffic area out back with a play area out back is my concern every time someone wants to put a day care in a strip area. With parking out front, you are not going to get dropped off at the door anywhere. You are going to have to get out and walk. So I don't have an issue with the parking and walking across the street to take your kid in, but it's the back thing and I don't know how that can be remedied in this situation.

Mr. Snowden: May I bring you up to speed on the practical details here. I think Mr. Hodge has done an excellent job addressing the individual issues with the use, but there are some issues with the site that we are having, which is one reason I have asked Officer Kessler to be here this evening. He is our Community Liaison to the Brice/Livingston area. And although they are not specific to this application, there are some issues that are effecting the entire property that may need to be worked through. Let me just touch on them briefly. On the screen is the proposed area for the play area. We have found there are transients that may be trying to live on this property. It is something officer Kessler has been investigating. You can see behind the mechanical, one of the items I suggested in my longer Staff Report. Under Staff Recommendation, was suggested that the Board perhaps require some of these additional mechanical devices to be screened for this very reason here. If this was going to be built today, that mechanical structure would had to have been screened or integrated into the structure. It wasn't when the structure was originally built but it would have to be today. Obviously there is a safety issue with having folks attempting to live in the immediate area of where the children will be. That being said, I think Mr. Hodge's point is well taken in that having more activity at the site in general, may discourage that type of negative behavior. If you look to the north, this is another area where folks have been staying, and this is all at the rear of the property. One additional item, I understand that Mr. Kuzmanovski and the property owner have been attempting to prohibit semi tractor trailers from idling and being at the back of the property. The last thing I will state which is slightly separate, there is some issue with the signage. The Code says that anytime a business is closed for more than ninety days, the sign face needs to be replaced with a blank. The Livingston Ave. Entry sign has an open electrical hazard. Staff did an extensive review and was unable to find the permit required to erect the temporary development sign there that appears to have been erected in 2013, based on street view. Although these are things that don't necessarily apply to the specific use, these are some additional issues that are happening at the property, that Staff would like to see resolved as well. If the Board will allow me for one second, I want to see if Tim has anything else he would like to add as far as operations at the facility.

Officer Kessler: I would like to reiterate what Mr. Snowden is saying. We have had a lot of activity to the back of that, and Mr. Kuzmanovski has made contact with us about the semi traffic. He has tried to enlist our help in getting those out of there. But, on any given day, there are three or four semis parked at the back of that property. They use it for transient parking. Semis come and go constantly. As a matter of fact, the one that Mr. Snowden showed has moved on, but I had another one towed out today. They are back there constantly. The other problem we have is the transient population is starting to move into the Brice Road area. We are working with Truro Township to try to alleviate some of the problem. But there is evidence of people living to the rear of the property and the tree line behind the property. These all lead to safety concerns for the children. Obviously, it is a daycare. Back to the semis, I have found that some of the drivers live in adjacent apartment complexes, so they bring their trucks and they will let them set there for two to three hours at a time while they go home and eat dinner, or go do whatever. And the semis are idling and producing harmful side effects for the children. What can they do to alleviate this? Obviously, I have no idea, but it could be a major problem for the safety of the children that are going to be placed in this facility if it is approved.

Mr. Snowden: Mr. Hodge and Mr. Kuzmanovski did the right thing by getting in contact with Officer Kessler and starting to make him aware of the problems so he could assist in his role as Community Liaison. I don't generally like to drag every possible thing into a zoning review with the Board, but when we deal with child care, we deal with the rear of the property as well. So, these are things that our Board should consider addressing with our applicant.

Pastor Linder: I have not been out behind the property, and this may be a very naive suggestion, but is there any possibility of some sort of gated access on either side of those two openings. It would be a little bit of an expense for the owner, but would that create security for him moving forward? When I see the lane behind, it looks like it is fairly narrow?

Mr. Hodge: It is essentially wide open.

Pastor Linder: So, it is very wide. If the owner makes provisions, you are still concerned about a major security dynamic because it is so open. Would that be accurate?

Officer Kessler: That is an accurate statement. Mr. Kuzmanovski has taken steps to try to reduce the amount of traffic flow back there, but, unless you have a marked cruiser sitting out there twenty-four hours a day... One of the semi drivers was kind enough to leave his number on a post-it note on his window so he could be contacted if there were any issues. So, I contacted him over the phone that parking is not allowed. There are signs clearly posted across the back of the building, all the way down through there. And, he assured me that he would have the vehicle moved. I went back the very next day and it was still sitting there so it had to be sited. After he was issued a citation, he finally moved. The problem is, even with my presence there issuing warnings and citations, and ultimately towing vehicles out of there, it has been used for this purpose for so long that a lot of the semi drivers are not aware of it, or just don't care. Like I said, the signs are clearly posted all the way across the back of the building and they still park there. To alleviate that problem immediately, the only way I could see, would be to completely gate off that whole thing and I know that is a massive expense that I am sure they don't even want to consider. The only other option is to continue doing what we are doing, and that is going to take some time. So you are still going to have issues with semi trucks for the foreseeable future.

Pastor Linder: Just one more question. In your experience, does private security end up becoming more of a challenge all the way around, or can they be successful in providing their own type of security, if it is qualified?

Officer Kessler: Private security may help as far as the transient population, and as far as somebody climbing the fence and utilizing the playground for a sleeping area or something like that. Private security, as far as the semis and traffic, would have the same issues that I have; unless they are standing out there 24/7 directing cars and semis as they pull onto the lot, it is not really feasible.

Pastor Linder: Mr. Hodge, I come into this situation, new to the Board. I reviewed the minutes from the last time the applicant came, and I have a predisposition to be a little bit suspect of having a day care in this environment. But, I am very sympathetic to this owner because, what they made in terms of a case, seems to be a constant issue if we do not find a correction. So, just so you know, there is an empathy here, for an owner that says I can not find a way to get ahead here if we don't find some flexibility. I wish I could find a solution for you right now, as far as how to create safety there.

Mr. Hodge: Pastor Linder, I appreciate the comment and I truly think you hit the nail on the head. When we met with Mr. Snowden and Mr. Havener on the property and walked it and went onto the proposed play area, there were some discussion as to this being a chicken and egg scenario. The center has problems. Problems I was made aware of for the first time tonight.

Mr. Snowden: This is a new thing in this immediate area. Officer Kessler, that is correct?

Officer Kessler: That is correct.

Mr. Snowden: Even within the last couple of weeks. If the information came...

Mr. Hodge: No. No. It's not a criticism in the least.

Mr. Snowden: I had never seen that before. Having driven behind it many times when I visited the site earlier this week to take those photographs for the presentation, that was the first time I noticed it, and that was the reason I invited Officer Kessler. And again, the idea is not to abuse our applicants, but to have everyone involved so that we can come to a solution that hopefully addresses these ongoing issues.

Mr. Hodge: I've got very thick skin. I don't feel attacked in the least. I truly don't. I think it's incumbent upon me to do the best that I can to help my client to solve a problem. It's a problem for my client. It's a problem for the City. Hopefully there will come a day when there is somebody other than a day care that is willing to rent space from him, and pay him more rent, but there's not, there's just not. And, I am not here making the claim. The proof is in the pudding. Big Lots is gone. This space is vacant. It has been vacant. It's going to be vacant. And vagrants and the other issues that come along with it, that's not going to go anywhere with inactivity at the site. We have heard of the broken windows theory. I was a Sociology major in college, so I had no choice but to go to Law School. And the broken windows theory is, if you are in a place where there are a lot of broken windows, there are going to be a bunch of broken windows. So, I know it's a hard case. I talked to Miss Pritchard many times on the telephone. I spoke with her at length today. She seems like an earnest lady. She seems like a lady who knows what she is doing. She is an entrepreneur. She has got the appropriate licensure from Jobs and Family Services. I think the parking issue with reference to the pick up and drop off is a non issue. I understand that the play space in back is not a park, but we are trying to soften the space and put in new fencing. If we can put in fencing that can exceed six feet in height, we are certainly willing to do that. There is going to be play equipment back there. There is going to be mulch on the ground. It

is going to be screened from the parking field. So, with reference to the standards of the code, again it is a permitted use subject to the review of certain standards, A-H, I think we meet them all, I think arguably we meet them all, starting from the bottom, "H". It is a special exception use in the code. The use complies with the provisions/development standards of the code. We have had a lot of discussion here about the use being in accord with general and specific objectives. And the purpose and intent of the Zoning Code and Land Use Plan, which incidentally I understand is from 1992, the year I graduated from High School and the year Mr. Snowden was in Kindergarten, and other plans and ordinances of the City. Now, I am a zoning attorney so I have this stuff pounded into me. There is a case law that says zoning is a derogation of the common law and restricts otherwise permitted uses of property. So we have to tread lightly on restricting people's private property rights. And the purpose of any zoning code is to allow people to make a fair and reasonable use of their property. In this instance, we have a viable tenant. They have been sticking in there for the long term. And we really are doing our very best to mitigate the issues that have arisen in the past, and to mitigate issues that are here tonight. So, I think we certainly meet the objectives of Land Use Regulation, purpose and intent of Zoning Code, and the outdated Land Use Plan. Traffic impact, there is no traffic impact here. The proposed use is served adequately by public facilities, police, fire, storm water, water, sanitary sewer, schools. I think that anybody would say there is a significant impact there. The proposed use shall not adversely effect the health, safety, morals, or welfare of persons residing or working in the neighborhood. I don't think it will effect the neighborhood one iota. I think it is going to be just fine. The proposed use shall not adversely effect the use of adjacent property. If anything, this is going to improve the adjacent property because we are sitting here with a vacant center, and vagrants sleeping in the back, and trucks idling on private property where they should not. I am going to suggest to my client that he engage with a private tower, because those private towers are probably paying if they tow cars off there. That's one way to generate some income. He is not interested in having people idle there. When I was there today, I think I did see a truck in the back. I also saw some Rumpke trucks in the front of the lot. Maybe they were at the grocery store, I don't know.

Ms. Wallace: I appreciate your argument, and I agree with a lot of it. And, I want more than anything for that strip mall to have tenants in it, and for your client to be able to open another business and be able to expand her business. But, for me, the whole setting is just not going to change. If you did everything you said, it still does not change the fact that the back of the building is still on a thoroughfare to get from one main street to another main street. I appreciate and agree with your points about trying to make everything work out. Physically, it just can't be changed. The giant parking lot, if you could fence in the whole area and prevent any traffic at all, that would be a different idea, but that is not feasible. That would me millions of dollars to make it so you are not having traffic go through there. The ability of semis to go two doors down to make a delivery. That part for me is not changeable or fixable, even though everything else seems to be.

Mr. Hodge: Ms. Wallace, I don't know precisely what the ODJFS requirements are as to whether a operator has an obligation to have an outdoor play area. If the play area could be incorporated into the building...

Ms. Wallace: I am pretty sure there has to be an outside play area.

Pastor Linder: When the church had a day care years ago, we did have interior because of foul weather, so I do not remember now if you have to have both. We did have an outside and inside. I don't know if that is something worth looking into.

Mr. Hodge: Ours does too.

Pastor Linder: That had been a suggestion that I would have made, that if we could find more space for them to have an interior play area, that may have given the owner more room.

Mr. Snowden: Our zoning code is not going to require them. As far as what ODJFS requires, I don't know. I can't answer that question.

Mr. Hodge: I would on that issue, if it is important enough to one or more Board members, I would propose that this application be tabled until a later meeting so that we can get that answered. If you feel it is that important and makes a difference to your position.

Pastor Linder: Was the owner open to restricted hours in terms of delivery? Is that even practical for him and other tenants that would come in?

Mr. Hodge: At this point it is practical because there is nobody else there.

Pastor Linder: But could he work that with future lease agreements? Would he be comfortable trying it?

Mr. Hodge: At this point the answer is yes. One of the things he is looking at and has eluded to in my statement and I think it is a fantastic idea, again I drove it today, this building has a pretty significant face on Livingston Ave., and it's the site of old Big Lots, that could be broken into smaller spaces and have more of a presence on Livingston Ave. I think that is a direction he should go to breathe more life into the center and to draw traffic in off of Livingston. Currently it just looks like a long vacant front.

Mr. Snowden: So, to clarify what he means is taking the former Big Lots space and subdividing it into small tenant spaces that would face Livingston, that could be rented easier. For example, instead of renting the several thousand foot space, you could divide it and rent one to a barber shop, and one to a nail salon and so forth. So, it would be smaller and easier to rent.

Mr. Hodge: So, it is box truck delivery at that point?

Mr. Snowden: Correct, instead of the semi truck level delivery that Big Lots had.

Mr. Hodge: So, Pastor Linder, the answer to the question is yes.

Mr. Enfinger: Do we have any other questions, commentary, from members of the Board? My concerns still remain from the initial time. The proposed use is not going to be in character with the area, and I feel in my opinion that in the long term the proposed use will have an adverse effect on the use of adjacent properties, even though those might be empty right now. One of the questions that I think is obvious is, does it create the environment for other positive permitted businesses to move into the area. Once you start changing the actual character of that specific facility, all of the issues and things we discussed to this point seem to echo the fact that this place is not the proper place for a day care. It is my opinion, and we have voted consistently since I have been on the board, that day cares are long term, and as a zoning board, that's our perspective. Our perspective has to look beyond what Mr. Wiggins and Mr. Kuzmanovskis' short term objectives are, and we have to look at the long term thing. I have a couple of questions. Has WK Brice as an organization confronted the City administration and asked what is being done to turn this area around? What is the plan? Where is the vision? Have they put adequate pressure on the City to say, "This is not our fault. We are doing everything we can, but the neglect of the city, the neglect of a plan, of a vision, for that whole entire area..." And this center is not the only one that is struggling, and in my opinion, I think this is a larger issue. The one thing we have to be careful of here, in zoning, is to make sure we are preserving and protecting the long term financial interests of the district, of the city, and of the citizens. Maybe I am taking too broad of a view of it but I think that this is where the rubber meets the road. These are the types of decisions that have impact on those things subsequent years from now. Because, in all reality, if she is able to move in there, and she is successful through the years, it may be 10,15, or even 20 years she is there. Is that the right long term answer for us. It may be in their best interest to fill it, but long term I'm just not sure that it is. It all circles back around to the fact that it is beginning to change the essence and the character of this district, and this facility. When you begin to allow that type of a business, it fundamentally changes it. It has implications that reverberate through time. We have to be careful of that. And that is the position that the Board has taken since I have been on the Board for a little over a year now. And we have consistently upheld that as the position in the Community Commerce District. The day care centers do not fit the character, and it will have, as in Item "B", a negative impact on the neighboring and other businesses in that area. As a result, that is where I stand.

Mr. Hodge: I appreciate the comments Chairman Enfinger, and I think it is fair to say that reasonable people can reach alternative conclusions and I differ with your opinion. I am not just here as a mouthpiece for folks that have a goal, but I am here, and I believe what I say. I understand the position. I disagree with it. And, I think that in answer to your question, has this applicant reached out to the City? Yes, repeatedly, over and over. Mr. Havener is very active with this owner and his representatives, and very active with the City. And, the City to it's credit, has sent out many people to the site. They don't rent it. It's a challenged site. It is set back away from Brice Rd. The Brice Road frontage is all carved up into out lots. You cannot see it. The Livingston Ave. redo of the frontage is a great idea, but it hasn't happened yet. People will not rent it. And so, it is a chicken or egg and the client is here spending money on me and other things, and willing to engage with the City to improve the site and to make all effort to do what is necessary to improve the site. But, until they get some income, until they get some activity on the site, my opinion is it is going to continue to languish.

Mr. Snowden: I would have to characterize them as very engaged at the moment, not just with this application, but looking at any potential changes to the site.

Mr. Hodge: I guess I would reiterate if there are folks to whom it would make a difference, regarding the play area, I would ask your thoughts and propose tabling to allow me to check with ODJFS.

Pastor Linder: I started reading the minutes thinking along the lines of Mr. Chairman, but I would be open to hearing if that answer would make a difference. I don't know if we should make a motion to table it, but I do yield to the veteran members here because I do not know if that just gets us back to spinning our wheels. That would be a motion I would make to table it at this time because that would give the applicant the opportunity to answer another way for this day care to fit that we might find to be safer, with respect to the Chairman's objection to the idea.

Ms. Wallace: I think a big point that has been made by some of the Board members is that it being a day care in not just this strip mall, but any, is just something they are not comfortable with because it does not fit the character of the building. And, if somebody would want to put a sales business in there, it would not fit the character of what the strip mall was originally deemed for.

Mr. Enfinger: I concur, the issue of the play area, while it is germane, is not my only concern. So, was there a motion?

Pastor Linder: There was.

Mr. Enfinger: Do we have a second for that motion. No second, so the motion is declined. I make a motion that we move to approve Application #170778.

Ms. Wallace: I second.

Mr. Enfinger: As a result, the applicant has failed, in my opinion, to reach the standards and requirements for all Special Exceptions, delineated in Item 1145.09 of the Code, specifically Line A and Line B.

Mr. Snowden: Very well Mr. Chairman and members of the Board, it stands as denied. At this time, if I could interject, Mr. Hodge, you can appeal that to City Council within thirty days and I will discuss with you as soon as the meeting is adjourned what you need to do in order to do that.

Mr. Hodge: Well thank you all for the opportunity, and for listening to me ramble on. And, Mr. Enfinger, I made a pretty strident point, but it is all in the nature of doing my best to make my clients case.

Mr. Enfinger: I absolutely understand. Thank you for coming out this evening.

RESULT:	FAILED [0 TO 4]
MOVER:	Aaron Enfinger
SECONDER:	Libby Wallace
NAYS:	Linder, Donovan, Enfinger, Wallace

E. OTHER BUSINESS

Mr. Enfinger: Mr. Snowden, is there any other business on the Agenda.

Mr. Snowden: No other business or announcements at this time.

Pastor Linder: I would like to talk to you about the lights on the Dollar General store. They still have the lights on the top of the store.

Mr. Snowden: With regards to that, staff has been to the site several times since we last talked. The property went to pull electrical permits but were unable to because they did not heed my advice, which was that they needed to submit electrical plans to the building division, for review, before they could pull their permits. So, the property owner had to go back and have those plans drawn, and I believe they have yet to be submitted again.

Mr. Enfinger: Is there a specific time horizon in which there can be punitive action taken by the City, to encourage them to comply in a more timely manner?

Mr. Snowden: There is. When we made the initial statement, when the Board said thirty days to present a plan to Staff, they did present a plan to staff, although they are not in compliance at this time. So, they did meet that initial statement, but they have not met any subsequent timelines. The Board does not need to take any formal action. If it is the will of the Board that Staff and the Code Compliance Division move forward, there is nothing to prevent Staff from enforcing the Code.

Mr. Enfinger: I think we were, to say the very least, very generous in allowing them to move in there. Now they are dragging their feet and hoping that the whole thing goes away. I am just not comfortable with that. I don't think other members of the Board are as well. They have thumbed their nose at our requests. I think we need to move forward in those proceedings.

Mr. Snowden: Let Staff confer with Dan. One of the issues is that our Code Compliance Division is actually under Building so I am going to need to discuss with our Building Official exactly how he would want to operationally handle that. Let me try to get the Board a follow up from that either tomorrow or Monday. I will let you know whether they have submitted the plans, or whether citations are forthcoming.

Mr. Enfinger: Sounds good. Any other business? I would like for the record to reflect a point of clarity. Whenever I was speaking to Mr. Hodge about his client interacting with the City, and putting adequate pressure on the City, I wasn't speaking specifically of Mr. Havener. I know he is doing everything he can. I am speaking more broadly in terms of City Council, the Mayor's Office, and other entities in the City that seem to not be putting enough effort into making things happen, and not backing it with resources, and not doing what needs to be done, and just

standing by with hands folded. As a point of clarity for that, I did not want it to come across as though I was throwing Staff, or the Development Director under the bus, specifically. I'm talking about the City leadership in general. That is where my comments are directed. Any other comments.

F. ADJOURNMENT

Chairman



Planning Administrator

MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, MAY 19, 2016 6:30 PM

PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068

A. CALL TO ORDER

PRESENT: Rettke, Linder, Donovan, Enfinger
ABSENT:

2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – April 21, 2016

Minutes stand approved.

3. APPROVAL OF AGENDA

Agenda stands approved.

4. SWEARING IN OF SPEAKERS

Chairman Rettke: Since there is no one in the audience, there will be no swearing in of speakers.

B. PUBLIC COMMENT

C. UNFINISHED BUSINESS

1. **6366 E. Main St.; Sixth Month Review of Application #170493; Applicant Jason P. Goss; Business Auto Direct Columbus; Permit #102-SE; Ord. #81-15**

Chairman Rettke: May we please have the presentation.

Mr. Snowden: thank you Mr. Chairman, and other members of the Board. This is a six month review of a Special Exception Use Permit, 102-Special Exception which was reviewed by the Board and approved by City Council as Ordinance #81-15. The application was made to the Planning and Zoning Division on July 8, 2015. This was referred to the Planning and Zoning Division by our Code Compliance Division, that the auto sales business was operating without a Special Exception Use permit, and the Board heard this last year at the August meeting of the Board. It was forwarded to City Council on August 20, and the Ordinance was passed by City Council on October 12, 2015, and took effect on November 13, 2015. Here we are six months later and I will be making a few comments on what the status is and that the role of the Board tonight is to determine if the applicant is in compliance with their conditions that were placed by the Board, and/or City Council, at the time it was approved. I will make a recommendation to City Council as to whether the Board thinks the permit should be revoked, which would stop the use, or whether the Board thinks the

condition of the Code have been satisfied. Our goal in this type of case is always voluntary compliance. If you turn to the minutes from City Council, page 3, you will see that the conditions that were put on by City Council was that the building would be removed, black-topping of the parking lot, this was because the applicant originally proposed gravel, or some other material to take up where the car wash was being removed, and that they would stripe the parking lot for safety, I am assuming this means arrowing in and out. One of the concerns that was raised by the Board and City Council was the entry/exit into this narrow lot of this use. In addition to that, the applicant refaced the sign without a Certificate of Appropriateness. Following approval of the Ordinance, the applicant was contacted, and had to be contacted multiple times to pick up their zoning certificate. The applicant, upon notification of the possibility of this meeting and additional notices issued by our Code Compliance Division, finally secured their Minor Site Plan Review yesterday, which was the 18th of May, and their demolition permit to begin work. Staff was notified that the applicant actually begun demoing the building sometime last week. I believe Thursday of last week, the applicant finally made their application to the Design Review Board, which will place them at the July 7th meeting of the DRB for their signage approval. Upon last contact with the Building Division, the applicant still did not have their Certificate of Occupancy to the main structure that they are utilizing for the auto sales business at the rear, and several safety inspections were cancelled, as of earlier today, notified by our Building Division. So, with that, I would like to get feedback from the Board. I would be happy to answer any questions. I would like the Board to make recommendation to City Council. This is a difficult situation to be in because both the Board and City Council were flexible in giving this applicant six months to do a number of things that probably should have been done prior to opening the business. The applicant made a lot of verbal promises, you can see in the minutes from the Service Committee meeting on September 21st, saying that the building was going to be down in thirty days, and I am in a hurry, etc... With that, the goal of our process is to get people into compliance. The applicant is not in compliance now. They are much closer to being in compliance today than they were when this was approved back in October, but it also had to sort of take the threat of this meeting to get them motivated to take care of the things they were told and received in writing. The applicant was notified of tonight's meeting, and they were informed this could be referred to City Council from here, and the applicant chose not to attend this evening. I would be happy to answer questions. We need the Board to make some sort of recommendation, if any, to City Council, and I will pass that information along. The last I was informed, the contractor doing the demolition was not registered, but they may have received a waiver from the Service Department. I do not know exactly what the details were there. I think Mr. McBride, when he was our Building Official, told the property owner that the contractor did not need to be registered, so they may have received some conflicting information from the City on that. With that, I will turn it back over to our Chairman.

Mr. Donovan: Is there a way you can hold their permit to do business in advance, until they do complete all of these requirements that they said they would do quickly? If we can't, what is the sense of even talking about this?

Mr. Snowden: Mr. Donovan, ultimately City Council has to make the decision because they approved the Ordinance, and that is what the Code section 145.08 says. If this Special

Exception Use Permit is revoked, recommended from here to City Council for revocation, and then revoked by City Council, that would not allow that use to be operated at that location, and I would work with the City Attorney to get an injunction to stop the business from operating, for a violation of the Zoning Code. We would probably have to do that in either Mayor's Court, or the Environmental Court of Franklin County. We would have to discuss that with the City Attorney. The Code does not appear to allow us to revoke and then reinstate the permit. If we revoke the permit, we are basically saying the use can not operate there for at least six months because that is how long the time is before reapplication is possible for the same use at the same location. It is a pretty powerful tool we have, but it is not overly flexible. The nice thing might be to say, "You are not allowed to operate until you complete these things that you said you were going to complete." Based on my reading of the Code, I do not see that we are able to do that. It just states that the Board can revoke. I could check to see if there is anything about re-issuance, but I am not aware of anything.

Mr. Enfinger: Has the Minor Site Plan been approved?

Mr. Snowden: The Minor Site Plan was approved by myself in conjunction with feedback from the City, including our Waste Water City Engineer. The Demolition Permit that is issued by our Building Division, does come with a \$1000 bond that has to be submitted to the City. And that bond is not released until the applicant has completed all of the requirements, including cutting off/abandoning water, waste water, and sanitary sewer pipes, to the satisfaction of our Water/Wastewater Division. Our Building Division does still have that tool in play in terms of making sure that the end result of the demolition is not going to continue being a problem. Water/Wastewater does not want material seeping back into the water system, that could cause problems.

Mr. Enfinger: Did the Minor Site Plan look appropriate as far as the concerns we had regarding the parking, turn arounds, and all those things?

Mr. Snowden: I have a copy in my office. It had an adequate aisle with, based on the Code. It had an adequate number of spaces. Given our minimum requirements for parking spaces, he was able to display approximately thirty-two cars on one side, and approximately thirty cars on the other side, while still allowing eight spaces for customer parking, which was discussed in the initial meeting. There is not a specific parking requirement for auto sales, but the Board and City Council felt that eight spaces was appropriate. He has cleaned up the very back of the property. There were some concerns raised about the existing gravel parking area at the rear.

Mr. Enfinger: So, are there any stipulations?

Mr. Snowden: Let me clarify. The Board could also refine the conditions and give a recommendation to City Council of additional conditions to correct any problems that the Board feels has arisen.

Mr. Enfinger: The next question was going to be, he has shown he is willing to just shoehorn as many vehicles on there as he possibly can. I know we can put a condition of approval in

that he has a certain limit and that every vehicle has to be parked in a specific parking spot. And, if he is limited by thirty-two on one side, and however many on the other, that is the total number of vehicles he can have on display. Maybe it will not be as big of a deal once the actual structure is down, it might look a little more organized, but up to this point it has been a hodge podge and a big mess.

Mr. Snowden: Mr. Chairman, and other Members of the Board, just looking at section 1145.08, where it talks about revocation, the Code talks about revocation in terms that are very definitive and that the permit is revoked. It does not talk in any way about re-issuance of the permit based on condition compliance. It talks about revocation and reapplication. It simply says that at least one year shall lapse before another application for the same Special Exception on the same site can be considered by the Board. I do not see that we are able to say that he is not allowed to operate until you do "this". I think we can say that you can continue to operate with some additional conditions, or you can not operate.

Mr. Donovan: What is your feeling about the sincerity of the applicant wanting to complete these instead of giving us the run around like they did before?

Mr. Snowden: I do not know if I have a good feeling for that, to be completely honest with you.

Mr. Donovan: He seemed sincere before when he talked to City Council.

Mr. Snowden: It seems that the individual perhaps does not understand the seriousness of what is going on. Maybe that comes from the approvals with the six month review while we are trying to be flexible for a business owner on a site that does not have many other uses other than auto related uses. So, maybe the gentleman is just not understanding that Use Permits, if evoked, prevent him from operating. He may not understand how serious it could be for him, if the Board and Council were to evocate the permit. That is why I feel we need to tread carefully.

Pastor Linder: Would a one or two month extension, in your opinion, give them the ability to demonstrate exceptional good faith in finalizing the work that has just begun? Is there a precedent for that, or would we just be building more work for us, and they are not really going to be motivated by that?

Mr. Snowden: pastor, it is hard to know. The revocation section, 1145.08(b), allows the Board to revoke a permit anytime, for non-compliance with the conditions. So, we are doing a review now. If we were to go ten years with this same use, and the same operation, and then someone violated a condition, it could be referred back to the Board for revocation. The thing that is good now, is that all the permit applications are in. Now, basically, we are waiting to get approval from DRB. The goal is not to punish people. The goal is to get them into compliance. The Code is here for a reason, to protect the public. I almost think of this somewhat like a test in school. Maybe this gentleman has not done well here at the six month review, but we have motivated him, and we have gotten some improvement. It is unfortunate that it took having to have the six month review in order to motivate him to do

some of the things that he needed to do, but it has helped, so if that means the Board feels comfortable giving another two months. Design Review Board will be completed July 7, so he should theoretically have all remaining permits at that time, from the zoning side. If the Board wanted to do a review in July and say that he is either good or not, I do not see where that would be unreasonable. There is not specific precedence, because we just have not had this type of issue since I have been here.

Mr. Enfinger: So once the application makes its way through Design Review, he still has the official paperwork, but do we know at that point in time he still has work to do. So two months is not really going to get us to that point yet, because he will still have work to do, for whatever he is doing that he is getting approval through DRB.

Mr. Snowden: he is getting approval from DRB from the sign, which he refaced before he opened. I already have the zoning sign permit, I have all the fees in, so once DRB approves it, if they approve it, assuming that they approve it, I could issue the zoning sign permit immediately and then he would be in compliance in terms of the Zoning Code. It is frustrating on one hand, but on the other hand, we have motivated him, we have got him a heck of a lot closer than when he started in August of last year with this being referred to me from our Code Compliance. We are closer. We still are not there yet, but we are closer.

Mr. Enfinger: Is he doing anything to the existing structure in the back?

Mr. Snowden: He is not doing any other modifications. Last time I was at the site, he had already repaired the awning at the back of the property, which was a condition that BZBA put on his original approval.

Mr. Enfinger: How long is the process for the inspections on the blacktop and all of that? When will he have the final inspection for the demo process to make sure he has restored the property to what he said he was going to do?

Mr. Snowden: For building, it is when he is done with removing the building. He has as long as six months from when he got the building demolition permit, which was yesterday, to do it. So, I do not see a reason that he would be able to leave the site like that without restoring the pavement. I believe he is actually going to use concrete on that area, rather than blacktop, which does not make a difference from the standpoint of the Code, as long as it is not gravel, which was originally proposed in a demolition plan that was submitted to building. I had to step in to say that we could not have gravel. My gut feeling is that it is going to move along quicker than that, and that two months is not unreasonable.

Mr. Havener: I think maybe a way to approach this, rather than giving him an extension, would be to approach him and ask him for a definitive timeline for a completion date, that was within reason for them to meet. If they don't meet that date, we could let them know at that point that they have to have it done by a date of we could take action.

Mr. Snowden: So, what you are saying is, assuming that the Board and City Council approved, we contact the applicant, have the applicant supply their end date? Either way, we are granting some sort of extension, regardless.

Mr. Enfinger: It is not an extension. At this point it is good to go until we bring it up, and we are able to bring it up at anytime. As soon as the drop dead date is that we are giving him the opportunity to tell us, if it is October, that is fine. November comes around, we are shutting you down. We are going to revoke the permit. Is that where you were heading with it, Dan.

Mr. Havener: Yes, more or less.

Mr. Donovan: Be very assertive about the fact that it will be revoked and he will have to go through the whole process again.

Mr. Snowden: he will not be able to operate at the site for a year. This is the type of situation where the applicant not attending the meeting tonight hurts us because we do not have the ability to get the information from the applicant. They were notified. It is frustrating to Staff because this is information that the Board needs to make an informed decision, and make sure that we are doing our due diligence. So, it is frustrating. It is a difficult situation. I agree with what you are saying. I just wish we had an applicant here to say how much more time he needs, so we could say that we are being reasonable, that we gave him an extension, that he still didn't do it, so now we are done.

Mr. Havener: His deadline was in May, correct?

Mr. Snowden: It was the 13th. If you look in one of the meetings, he said, "I'll have it done in thirty days." Which I think is a good lesson to not over promise on things you can't deliver on.

Mr. Havener: That was a bad way to approach it, going into the winter months.

Mr. Donovan: I have never seen cold weather stop a demolition.

Mr. Havener: yes, but to get the parking lot back into the condition it needed to be to operate.

Mr. Snowden: The only other thing the Board could do if it is not comfortable making a decision given we do not have the applicant here, we could recommend to City Council that the permit be revoked, unless the applicant can present a definitive timeline for what they need to complete the project, and let City Council handle it. There are so many what if's here, and that is unfortunate. The Board could recommend revocation, say they are sticking to what they said, and say to clean this up within the six month review, or else. But, if the applicant can present additional material to City Council that is reasonable, that City Council can modify that. Ultimately, City Council can do anything. All we are doing is providing a

recommendation. But, my goal is for City Council to take the things that BZBA recommends to them, very seriously, as the subject matter experts.

Chairman Rettke: When would this go before Council?

Mr. Snowden: I believe that Councilman Clemens, as Chairman of the Committee, would be the first Committee Meeting June the 6th. There are three weeks before now and that meeting.

Chairman Rettke: I say refer it to Council for revocation. He can grovel with them.

Mr. Snowden: He still has three weeks to get into compliance with the remaining items, with the understanding that DRB will not be resolved until July. That is just the nature of the beast. The sign reface is not going to hurt anybody.

Chairman Rettke: My point is, you have him in here numerous times, six months not a problem, six months not a problem, I can guarantee thirty days, I am not a procrastinator. He knew he had to have a permit. I read where he said, "Obviously I have to have a permit."

Mr. Snowden: I said Minor Site Plan in one of those.

Chairman Rettke: You gave him a good course of direction.

Mr. Snowden: And all of that was received in writing, just for the record.

Chairman Rettke: I don't want to consider it a penalty, but you can't drag this on. You can't say six months, well then nine months...

Mr. Snowden: If the applicant was here to provide mitigating circumstances, and to give us a completion date, then maybe. I think the fact that they have chosen not to be here...

Mr. Donovan: I think we should vote revocation of the permit unless City Council determines that the applicant is sincere about getting it fixed in a timely manner, and leave it up to them as to whether they enforce it or not.

Mr. Snowden: Gentlemen, if you choose to make that motion, let me check the Code, to help with the language, I would make the motion that you move to recommend revocation of the permit, read the permit number, 102-Special Exception, to City Council, based on non-compliance with the conditions placed on the original approval. That is the language that we want to use. We do not need to site any of the specific items because it talks about revocation of the permit extensively. So, as long as we are basing on our decision on that power that is granted to the Board, I think we are in the clear. They still would have three weeks to take care of everything else, except for the sign. If Council felt comfortable that he had taken care of things, then they can make that decision. I will pass that information along to Council stating that you are recommending the revocation, but the understanding is he still has some additional time, and he did not attend the meeting.

Mr. Enfinger: Council will get these minutes, so they will be able to read this whole conversation, and understand our intent? So it will not just be we are revoking it, but they will understand the conversation.

Mr. Snowden: You are correct, Mr. Enfinger. That is a great point.

Chairman Rettke: Any more questions or comments? I will move for recommending revocation of Permit #102-SE to City Council for their consideration, based on the non-compliance of the conditions set forth.

(Vote)

Mr. Snowden: Very well, this will go to City Council for their consideration, and I will discuss the Board's decision with the Chairman so that he is totally clear as to why the Board did what they did.

RESULT:	REFERRED TO COMMITTEE [UNANIMOUS]	Next: 6/6/2016 7:30 PM
MOVER:	Anthony Rettke, Chairman	
SECONDER:	Aaron Enfinger	
AYES:	Rettke, Linder, Donovan, Enfinger	

D. NEW BUSINESS

E. OTHER BUSINESS

Mr. Snowden: No other business other than you may have noticed there were some trees cut down contrary to one of the Site Plan approvals for the Shoppes at East Broad, and we are working with the applicant and property owner to mitigate some of that, and we will present the final landscape plan. It was a situation where the property owner did not properly monitor what their engineer was actually submitting to get approval, so we will discuss what the final mitigation of that is going to be.

Mr. Donovan: I wondered why they took all the trees out. I thought they were just going to clean it up.

Chairman Rettke: We even talked about that with the new phase two...

Mr. Snowden: Dan and I just met with the property owner and applicant there. I believe it was their intent to clear out the area that was not covered by the EPA, or conservation easement. They just didn't communicate on that Site Plan properly. They said tree preservation on a portion of that site plan. They said some things verbally to us that in hind site I can see what they were thinking, but they also submitted a Site Plan that said something different. Obviously, we can not re-grow the trees, but we are going to be requiring them to do some very landscaping things, do some re-plantings, and we will share that with this body and DRB. I did not want anybody to think that we were not aware of it.

Chairman Rettke: I asked that question and a week later you see the grubbing guy there.

Mr. Snowden: There is no other buildable pad there. The area is too small. The ingress/egress is too close to the intersection of Wagram Road and East Broad. There is absolutely no other building plan there.

Mr. Donovan: I was over there last Tuesday, drove up the access road, and there was somebody heading the other way, even with all the signs.

Mr. Snowden: I have almost done it a couple of times because it just feels so natural. Creeks are difficult to develop around. Back in the day, you just put a culvert around it and drive right over it. But the way things are now, you have to leave that as conservation area. It is challenging. Anyway, just be aware that we are working with them and will share the results with the Board.

Mr. Enfinger: What is the story on Jackson Street, just north of Livingston? Or is that Lancaster there? The big development, are they doing more clearing now?

Mr. Snowden: Were you at the final approval for that where they replaced the tree area with a ponds because of the EPA? That might have been the one where you were out of town. I will just give everyone an update on that. Everyone who was at that meeting remembers, they had to remove some of the soil because EPA ordered the arsenic to be removed. Most of the trees were Ash anyways, so they were dead, and I have the documentation from the applicant's civil engineer, and environmental engineer. They have replaced that with a pond area. They did some additional tree plantings, which I think the Board had some concerns about. I have the final landscape plan for that in my office. They got a little carried away with some of the abatement of the site. They should have waited until they had the final engineering approval from the City. Dan, myself, and Mr. Sampson our Service Director, met with that property owner last week to basically say they need to wait until they get their final engineering approval. I would expect that we will be doing a pre-construction meeting with them in the next couple of weeks, and their building plans just came back. It is moving along. They got a little ahead of themselves. They are not working as of now, is my understanding.

Mr. Havener: Their understanding originally was that they had the clearance to do the remediation prior to the start of construction.

Mr. Snowden: And really they should have waited until they had the pre-construction meeting and all of the permits before they started disturbing the ground and so forth. It just makes the whole process work a lot better.

Mr. Rettke: Did Ace go out of business?

Mr. Snowden: Yes, a traampoline park is moving forward to City Council for approval next week.

Mr. Rettke: Did he move the U-Haul.

Mr. Snowden: He will not be utilizing that use. If he doesn't use that use for six months, the permit expires. The tenant is changing to the different use. It is the same operator. He is not going to be combining the U-Haul use with that use. It just does not work. We have a good relationship with the regional manager for U-Haul, and he understands what the regulations are within the City, and we have also tried to identify some locations that could be appropriate for him, and we have actually been looking at re-purposing some of our vacant retail as storage, or having some additional storage new build, depending on what is possible. I think it would be great to take some of our unused retail off the market, even though storage is not the world's greatest use, but it is better than vacant retail in some cases.

Mr. Donovan: Has anybody noticed how the housing market has been heating up around here? In my neighborhood, they go on the market and in two weeks they have sale pending/in contract.

Mr. Havener: That is the way it is everywhere.

Mr. Snowden: It is starting to pick up, definitely. We are getting some new construction for condos and different things.

Mr. Rettke:

F. ADJOURNMENT

Chairman

Planning Administrator

City Council
Rochelle Menningen
614-322-6235 Phone

ORDINANCE REQUEST

DATE: June 6, 2016

TO: Mel Clemens, Ward IV Service Committee

RE: Ordinance Authorizing the Mayor to Enter into a Lease Agreement Regarding Construction of a Telecommunications Tower located at Truro Avenue, City of Reynoldsburg, County of Franklin, State of Ohio, and being described as a 31' by 50' parcel containing one thousand five hundred fifty square feet, and Declaring it an Emergency

Emergency/Suspension: Emergency

Reason For Emergency: Immediate preservation of the public peace, health, or safety

That the Mayor be and is hereby authorized and directed to enter into a lease with NEW PAR, a Delaware partnership, d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920

COPY

LAND LEASE AGREEMENT

This Agreement, made this ____ day of _____, 201__, between CITY OF REYNOLDSBURG fka VILLAGE OF REYNOLDSBURG, an Ohio municipal corporation, with a mailing address located at 7232 East Main Street, Reynoldsburg, Ohio 43068, hereinafter designated LESSOR, and NEW PAR, a Delaware partnership, d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the “Parties” or individually as the “Party”.

1. PREMISES. LESSOR hereby leases to LESSEE a portion of that certain parcel of property (the entirety of LESSOR’s property is referred to hereinafter as the Property), located at Truro Avenue, City of Reynoldsburg, County of Franklin, State of Ohio, and being described as a 31' by 50' parcel containing one thousand five hundred fifty square feet (the “Land Space”), together with the non-exclusive right (the “Rights of Way”) for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a right of way of appropriate width as reflected in the survey to be attached as Exhibit “B” extending from the nearest public right-of-way, Truro Avenue, to the Land Space, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, and a non-exclusive right (the “Utility Rights of Way”) for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along said Utility Rights of Way, said Land Space, Rights of Way, and Utility Rights of Way (hereinafter collectively referred to as the “Premises”) being substantially as described herein in Exhibit "A" attached hereto and made a part hereof. The Property is further described in Deed recorded in Instrument No. 200205150122468, Instrument No. 200205150122469, and Deed Book 1054, Page 475, Franklin County, Ohio Records.

In the event any public utility is unable to use the Rights of Way or the Utility Rights of Way, the LESSOR hereby agrees to grant an additional right-of-way either to the LESSEE or to the public utility at no cost to the LESSEE.

2. SURVEY. LESSOR also hereby grants to LESSEE the right to survey the Property and the Premises, and said survey shall then become Exhibit "B" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the LESSEE.

3. TERM; RENTAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of Eighteen Thousand Dollars (\$18,000.00) to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR at 7232 East Main

Street, Reynoldsburg, Ohio 43068 or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence based upon the date LESSEE commences construction on the Premises, or on the first day of the month following the date which is eighteen (18) months after this Agreement is fully signed by both parties, whichever occurs first. In the event the date of commencing construction is determinative and such date falls between the 1st and 15th of the month, the Agreement shall commence on the 1st of that month and if such date falls between the 16th and 31st of the month, then the Agreement shall commence on the 1st day of the following month (either of the foregoing or the first (1st) day of the month following the date which is eighteen (18) months after this Agreement is fully signed by both parties, if applicable, being the "Commencement Date"). LESSOR and LESSEE agree that they shall acknowledge in writing the Commencement Date in the event the Commencement Date is based upon the date LESSEE commences construction on the Premises. In the event the Commencement Date is the first (1st) day of the month following the date which is eighteen (18) months after this Agreement is fully signed by both parties, there shall be no written acknowledgement required. LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after the Commencement Date or after a written acknowledgement confirming the Commencement Date, if such an acknowledgement is required. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and no written acknowledgement confirming the Commencement Date is required, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 1, and if the Commencement Date is January 1 and a required written acknowledgement confirming the Commencement Date is dated January 14, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 13.

Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

b. LESSOR hereby agrees to provide to LESSEE certain documentation (the "Rental Documentation") evidencing LESSOR's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to LESSEE in LESSEE's reasonable discretion, evidencing LESSOR's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to LESSEE, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by LESSEE in LESSEE's reasonable discretion. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. The Rental Documentation shall be provided to LESSEE in accordance with the provisions of and at the address given in Paragraph 23. Delivery of Rental Documentation to LESSEE shall be a prerequisite for the payment of any rent by LESSEE and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments until Rental Documentation has been supplied to LESSEE as provided herein.

Within fifteen (15) days of obtaining an interest in the Property or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall provide to LESSEE Rental Documentation in the manner set forth in the preceding paragraph. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, any assignee(s) or transferee(s) of LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. Delivery of Rental Documentation to LESSEE by any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall be a prerequisite for the payment of any rent by LESSEE to such party and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of LESSOR until Rental Documentation has been supplied to LESSEE as provided herein.

4. EXTENSIONS. This Agreement shall automatically be extended for five (5) additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

5. EXTENSION RENTALS. During each extension term under Paragraph 4 above, the rental payment due under this Agreement shall be increased ten percent (10%) effective on the first day of each extension term.

6. ADDITIONAL EXTENSIONS. If at the end of the fifth (5th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term. Annual rental for each such additional five (5) year term shall be equal to the annual rental payable with respect to the immediately preceding five (5) year term. The initial term and all extensions shall be collectively referred to herein as the "Term".

7. TAXES. LESSEE shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which LESSOR demonstrates is the result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of the LESSEE's improvements, and any sales tax imposed on the rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LESSOR demonstrates arises from the LESSEE's improvements and/or LESSEE's use of the Premises. LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property. Notwithstanding the foregoing, LESSEE shall not have the obligation to pay any tax, assessment, or charge that LESSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LESSOR shall have the

responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

8. USE; GOVERNMENTAL APPROVALS. LESSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto. A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LESSEE (not including the access easement). All improvements, equipment, antennas and conduits shall be at LESSEE's expense and their installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner; (iv) LESSEE determines that any soil boring tests are unsatisfactory; (v) LESSEE determines that the Premises is no longer technically compatible for its use, or (vi) LESSEE, in its sole discretion, determines that the use the Premises is obsolete or unnecessary, LESSEE shall have the right to terminate this Agreement. Notice of LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LESSEE shall have no further obligations for the payment of rent to LESSOR.

9. INDEMNIFICATION. Subject to Paragraph 10 below and to the extent permitted by law and public policy, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents. If the obligations imposed on either Party by this Paragraph are limited by law or public policy, then the other Party's obligations under this Paragraph shall also be limited to the same extent.

10. INSURANCE.

a. Notwithstanding the indemnity in section 9, the Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, or either of them. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

b. LESSEE will maintain at its own cost;

- i. Commercial General Liability insurance with limits not less than \$2,000,000 for bodily injury (including death) and for damage or destruction to property in any one occurrence
- ii. Commercial Auto Liability insurance on all owned, non-owned and hired automobiles with a minimum combined limit of not less than one million dollars (\$1,000,000) per occurrence
- iii. Workers Compensation insurance providing the statutory benefits and not less than one million dollars (\$1,000,000) of Employers Liability coverage.

LESSEE will include the LESSOR as an additional insured on the Commercial General Liability and Auto Liability policies.

c. LESSOR will maintain at its own cost commercial general liability insurance with limits not less than \$2,000,000 for bodily injury (including death) and for damage or destruction to property in any one occurrence. LESSOR will include the LESSEE as an additional insured.

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraph 9, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of

service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

12. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to LESSOR.

13. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

14. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws (as defined in Paragraph 33 below). If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

15. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 14 herein, unless the Parties are negotiating a new lease or lease extension in good faith. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, LESSEE holds over in violation of Paragraph 14 and this Paragraph 15, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 14 shall equal

to the rent applicable during the month immediately preceding such expiration or earlier termination.

16. RIGHT OF FIRST REFUSAL. If LESSOR elects, during the Term (i) to sell or otherwise transfer all or any portion of the Property, whether separately or as part of a larger parcel of which the Property is a part, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of this Agreement to such third party, LESSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer. If LESSEE fails to meet such bona fide offer within thirty (30) days after written notice thereof from LESSOR, LESSOR may sell or grant the easement or interest in the Property or portion thereof to such third person in accordance with the terms and conditions of such third party offer. For purposes of this Paragraph, any transfer, bequest or devise of LESSOR's interest in the Property as a result of the death of LESSOR, whether by will or intestate succession, or any conveyance to LESSOR's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale of the Property for which LESSEE has any right of first refusal.

17. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

18. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

19. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

20. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE

in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties or in a written acknowledgment in the case provided in Paragraph 3. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

21. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

22. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LESSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of LESSEE shall constitute an assignment hereunder. LESSEE may sublet the Premises within its sole discretion, upon notice to LESSOR. Any sublease that is entered into by LESSEE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective Parties hereto. Any sublessee of LESSEE, not affiliated with or related to LESSEE, shall enter into lease directly with LESSOR for any land which said sublessee needs to exclusively occupy.

23. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio 43068

LESSEE: New Par, d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

24. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

25. SUBORDINATION AND NON-DISTURBANCE. LESSOR shall obtain not later than fifteen (15) days following the execution of this Agreement, a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground lessors and master lessors, if any, of the Property. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LESSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LESSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

26. RECORDING. LESSOR agrees to execute a Memorandum of this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

27. DEFAULT.

a. In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which

to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph.

b. In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days in which to cure any such breach, provided LESSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSEE may not maintain any action or effect any remedies for default against LESSOR unless and until LESSOR has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property; provided, however, that if the nature of LESSOR's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LESSOR shall use reasonable efforts to mitigate its damages in connection with a default by LESSEE. If LESSEE so performs any of LESSOR's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by LESSEE shall immediately be owing by LESSOR to LESSEE, and LESSOR shall pay to LESSEE upon demand the full undisputed amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if LESSOR does not pay LESSEE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from LESSOR, LESSEE may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to LESSOR until the full undisputed amount, including all accrued interest, is fully reimbursed to LESSEE.

29. ENVIRONMENTAL. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises.

30. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

31. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, LESSEE, in LESSEE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.

32. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

33. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises.

34. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

35. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

Signed and acknowledged
in the presence of:

LESSOR:

CITY OF REYNOLDSBURG, an Ohio municipal corporation

Witness
Print Name_____

By: _____
Its: _____
Date: _____

Witness
Print Name_____

Witness
Print Name_____

By: _____
Its: _____
Date: _____

Witness
Print Name_____

LESSEE:

NEW PAR d/b/a Verizon Wireless
By: Verizon Wireless (VAW) LLC, Its General Partner

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____,
COUNTY OF _____, SS:

BEFORE ME, a Notary Public in and for said county and state, personally appeared _____, the _____, and _____, the _____, of CITY OF REYNOLDSBURG, an Ohio municipal corporation, the municipal corporation which executed the foregoing instrument, who acknowledged that they did sign the foregoing instrument for and on behalf of said municipal corporation, being thereunto duly authorized, and that the same is their free act and deed individually and as such public officials and the free act and deed of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, _____, this _____ day of _____, 201__.

NOTARY PUBLIC

(Seal) My commission expires _____

ACKNOWLEDGMENT

STATE OF ILLINOIS,
COUNTY OF COOK, SS:

The foregoing instrument was acknowledged before me this ____ day of _____,
201____ by _____, the _____ of Verizon
Wireless (VAW) LLC, the General Partner of New Par, a Delaware partnership, d/b/a Verizon
Wireless, on behalf of the limited liability company and partnership.

Signature _____
My commission expires: _____

(Sketch of Premises within Property)

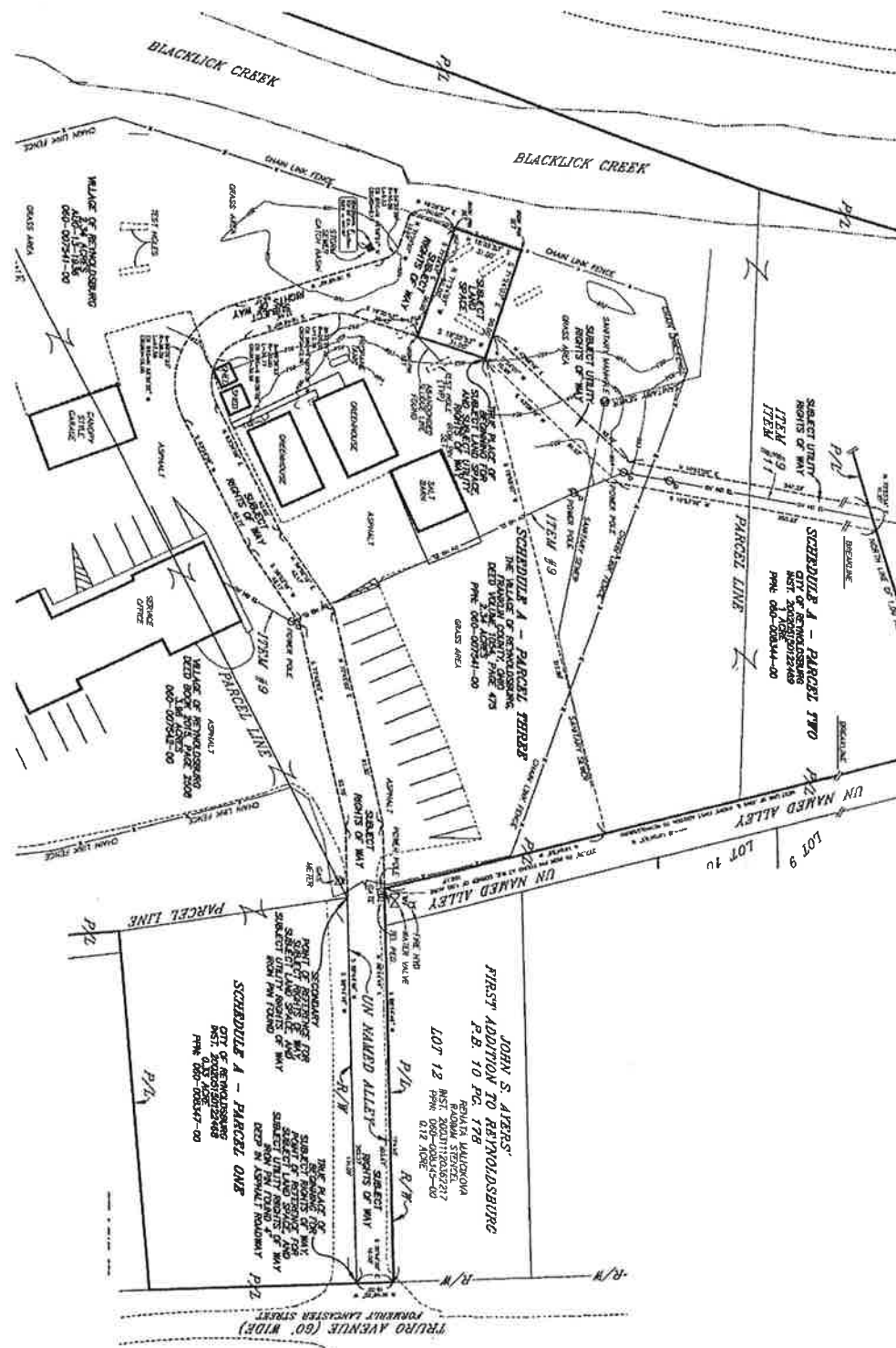
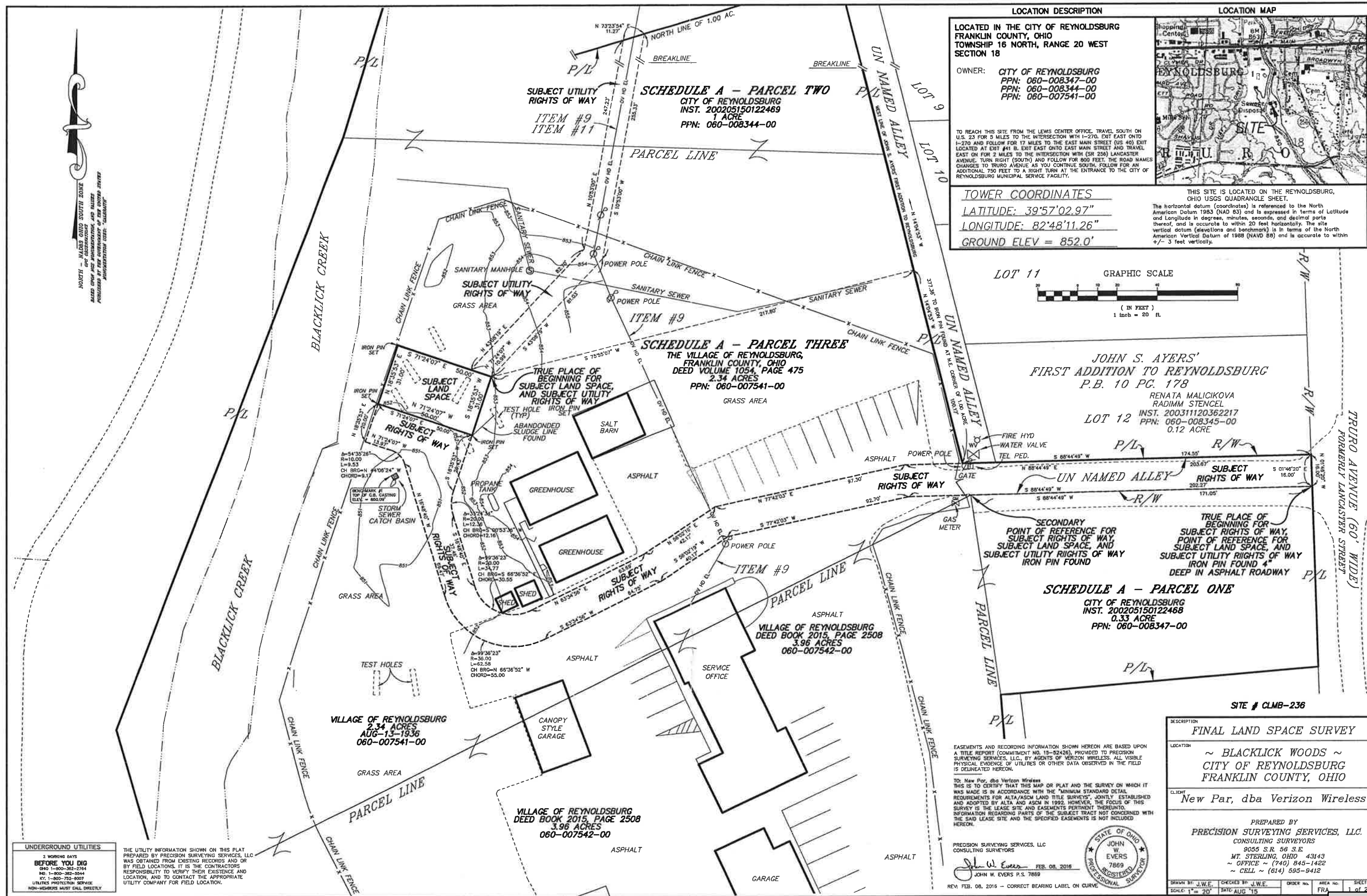


Exhibit “B”
(Survey)



Development Department**Dan Havener****7232 E. Main Street****Reynoldsburg OHIO 43068****614-322-6831 Phone****ORDINANCE REQUEST**

DATE: June 6, 2016**TO: Dan Havener, Director Development Department****RE:** Ordinance to Partially Vacate Easement Over Property Located at the Intersection of the Centerlines of East Broad Street and Waggoner Road and Declaring an Emergency

Emergency/Suspension: Emergency

Reason For Emergency: Financial needs of the City's government

ORDINANCE TO PARTIALLY VACATE 0.097 ACRE SANITARY SEWER EASEMENT OVER PROPERTY LOCATED AT THE INTERSECTION OF THE CENTERLINES OF EAST BROAD STREET AND WAGGONER ROAD, STATE OF OHIO, COUNTY OF FRANKLIN, CITY OF REYNOLDSBURG, AND BEING IN QUARTER TOWNSHIP 4, TOWNSHIP 1, RANGE 16, UNITED STATES MILITARY LANDS, AND BEING PART OF LOT NO. 4 OF JOHN PUGH'S LANDS AS PLATTED IN DEED BOOK 41, PAGE 258, AND BEING PART OF A 24.90 ACRE TRACT AS CONVEYED TO DN-REYNOLDSBURG, LLC AS RECORDED IN INSTRUMENT NO. 201303280051687, FRANKLIN COUNTY RECORDER'S OFFICE, AND DECLARING AN EMERGENCY.

J & J Surveying Services, Inc.

7905 E. Main St.
Unit 104
Reynoldsburg, Oh. 43068

Phone 614-866-9158
Fax 614-866-9132

February 25, 2016

0.097 acre Sanitary Sewer Easement Vacation Description

Situated in the State of Ohio, County of Franklin, City of Reynoldsburg, and being in Quarter Township 4, Township 1, Range 16, United States Military Lands, and being a part of Lot No. 4 of John Pugh’s Lands as platted in Deed Book 41, Pg. 258, and being a part of a 24.90 acre tract as conveyed to DN-Reynoldsburg, LLC as recorded in Instrument No. 201303280051687, Franklin County Recorder’s Office, being a 0.097 acre Sanitary Sewer Vacation Description and being further described as follows:

Beginning for reference at the intersection of the centerlines of East Broad St. (S.R. 16, width varies) and Waggoner Rd. (C.R. 106, width varies), said intersection being monumented by Franklin County Engineer’s Monument No. 5011, said monument being the northwest corner of a 0.622 acre tract as conveyed to Franklin County Commissioners as recorded in O.R. 17771, Pg. G07;

Thence S 09°47’58” W, 551.35’ along the centerline of said Waggoner Rd., being the west line of said 0.622 acre tract, to a point, said point being in the south line of said 0.622 acre tract and being the northwest corner of a 16.79 acre tract as conveyed to Hele L. Trotter as recorded in OL.R. 10571, Pg. B18;

Thence S 86°22’24” E 833.83’ (passing a found ¾” iron pipe with cap stamped “EMHT, INC” at 40.04’), along the north line of said 16.79 acre tract, being the south line of said 24.90 acre tract, being a north line of Jefferson Township and the south line of the City of Reynoldsburg, to point;

Thence N 03°37’36” E, 144.94’, crossing said 24.90 acre tract, to a point, said point being the southwest corner of the existing 30’ wide Sanitary Sewer Easement as recorded in Instrument No. 200708130141904, said point being the True Place of Beginning for the herein described 0.097 acre Sanitary Sewer Easement Vacation;

Thence N 03°38'22"E, 141.00’, along the west line of said 30’ wide Sanitary Sewer Easement, crossing said 24.90 acre tract, to a point;

Thence S 86°21’38” E, 30.00’, crossing said 30’ wide Sanitary Sewer Easement, along a new division line, and crossing said 24.90 acre tract, to a point;

Thence S 03°38'22” W, 141.00’, along the east line of said 30’ wide Sanitary Sewer Easement, crossing said 24.90 acre tract, to a point;

0.097 acre Sanitary Sewer Easement Vacation Description continued

Thence N 86°21'38" W, 30.00', along the south line of said 30' wide Sanitary Sewer Easement, to the True Place of Beginning, containing 41230 square feet, or 0.097 acres, more or less.

Bearings are based on the south line of said 24.940 acre tract as being N 86°22'24" W based on GPS observations using the State of Ohio Department of Transportation VRS System, the State Plane Coordinate System, Ohio South Zone, North American Datum, of 1983, also known as NAD83 (2011 Adjustment). All iron pins set are 5/8" rebar, 30" long with yellow plastic cap stamped "J & J Surveying". All references to documents are recorded in the Franklin County Recorder's Office. This description is based on an actual field survey performed by J & J Surveying under the direction of John W. Wetherill, P.S. 7811, in January 2015.



02/25/2016

John W. Wetherill P.S. 7811 Date



7509 E. MAIN ST.
SUITE 104
REYNOLDSBURG, OHIO 43068

J&J SURVEYING SERVICES, INC.

614-866-9158
JOHN.WETHERILL
@JJSURVEYINGOHIO.COM

QUARTER TWP. 4
TWP. 1, RANGE 16
U.S.M.L.

SANITARY SEWER
EASEMENT
VACATION EXHIBIT

CITY OF REYNOLDSBURG
FRANKLIN CO., OHIO

