

**ORDINANCE NO. O-23-17**

**MAKING SUPPLEMENTAL APPROPRIATIONS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON,  
STATE OF OHIO:

Section 1. That in addition to the sums heretofore appropriated, certain sums be and the same hereby are, appropriated as follows:

- a) From the anticipated funds of the CLI Wilmington Crossings FY 23 Grant Fund to 267.110.5910 “Project Expense” the sum of \$402,360.00.
- b) From the anticipated funds of the Rombach/Elizabeth Ln Traffic Syg Project Grant to 268.110.5910 “Project Expense” the sum of \$45,000.00
- c) From the anticipated funds of the PFAS Plan Study – AIMS #9698 Wilmington Fund to 608.350.5910 “Project Expense” the sum of \$1,063,972.00
- d) From the available excess funds in the General Fund to 110.134.5218 “Human Resources Prof Services” the amount of \$10,500
- e) From the anticipated funds of the Airborne Roadwork Dev Grant Fund to 266.110.5910 the sum of \$110,898.20
- f) From the available excess funds in the General Fund to 110.120.5926 Airborne Roadwork Fund Transfer the sum of \$49,033.04

Section 2. That this ordinance is hereby declared to be an emergency measure necessary to the immediate preservation of the public health, safety and welfare, and accordingly, shall be in full force and effect immediately upon approval of the amended certificate by the Clinton County Budget Commission.

Passed this 5<sup>th</sup> day of April 2023.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
Clerk of Council

Approved by me this 5<sup>th</sup> day of April 2023.

\_\_\_\_\_  
Mayor

**ORDINANCE NO. O-23-14**

**APPROVING THE PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN FOR DDC MANAGEMENT, LLC; AND AMENDING THE ZONING MAP BY CHANGING THE ZONING OF REAL PROPERTY TO INCLUDE A PUD (PLANNED UNIT DEVELOPMENT) OVERLAY ON TN (TRADITIONAL NEIGHBORHOOD) PARCELS LOCATED ON LINCOLN STREET IN THE CITY OF WILMINGTON, OHIO, AS AMENDED**

WHEREAS, a certain petition has been filed by DDC Management, LLC (Agent) on behalf of Chakeres Theatres, Inc. (Owner) for a Planned Unit Development (PUD) overlay zoning district to be added to the base TN (Traditional Neighborhood) zoning of 28.60 acres (more or less) more commonly known as 1057 N Lincoln Street and being Parcel ID Numbers 290161601000000, 290161602000000, 290161603000000, 290161605000000, and 290161606000000; and

WHEREAS, said Planned Unit Development will be known as the Creekview Planned Unit Development (PUD) and provides 113 lots for single-family homes, with 41-foot minimum frontage and 4,000-square-foot minimum lot area; and

WHEREAS, after public hearing and discussion on January 3, 2023, the Wilmington City Planning Commission voted to recommend approval by City Council of the Creekview PUD with the following conditions:

- a. Developer will work with the City of Wilmington to include sidewalk connectivity on Lincoln Street.
- b. Pedestrian connectivity to the old portion of Kentucky Avenue will be maintained on the south side of the street, with a right-of-way dedicated for future road connection; and

WHEREAS, following approval of the Preliminary Creekview PUD by City Council, the applicant will submit an application for a final PUD plan review in accordance with Section 1135.02 (Common review requirements) and Section 1135.10(i) (PUD application requirements of the Wilmington Codified Ordinances). The Planning Commission shall approve or deny the final PUD Plan; and

WHEREAS, Section 1135.10(l) provides that failure to begin construction of the development within one year of final PUD plan approval shall deem the final PUD plan expired. The applicant may request City Council to grant a one year extension to this time period. Should the PUD plan expire or be revoked for other reasons, City council may initiate a zoning map amendment and remove the PUD overlay district; and

WHEREAS, City Council held a public hearing on said Petition on March 2, 2023, at 7:30 p.m. after due publication of legal notice regarding the same, and upon hearing, it appears that approval of the Creekview Preliminary PUD Plan and zoning map amendment should be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

Section 1. That Wilmington City Council accepts the recommendation of the Wilmington Planning Commission and approves the Creekview Preliminary PUD Plan, attached hereto as “**Exhibit A,**” with the following stipulations

- a. Statement of Homeowner’s Association on title page.
- b. Plan to remediate existing drainage issues at southwest corner of subdivision, between existing homes (963 N South Street) and Lot 92.
- c. Submission of sidewalk plan on Lincoln Street to provide connectivity.
- d. Compliance with City specifications in engineering plans

Section 2. That the real property described and set forth in the map and legal description, attached hereto as “**Exhibit B,**” is currently zoned TN (Traditional Neighborhood), and that the same hereby is changed and rezoned from its current designation

to include the PUD (Planned Unit Development) overlay.

Section 3. That the zoning map of the City of Wilmington is hereby amended accordingly.

Section 4. That the Clerk of Council is hereby directed to forward a signed copy of this Ordinance to the Wilmington Planning Commission for their consideration in the approval or denial of the Final Creekview PUD.

Section 4. That it is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. That this Ordinance shall be in full force and effect at the earliest period allowed by law.

Passed this 5<sup>th</sup> day of April 2023.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
Clerk of Council

Approved by me this 5<sup>th</sup> day of April 2023.

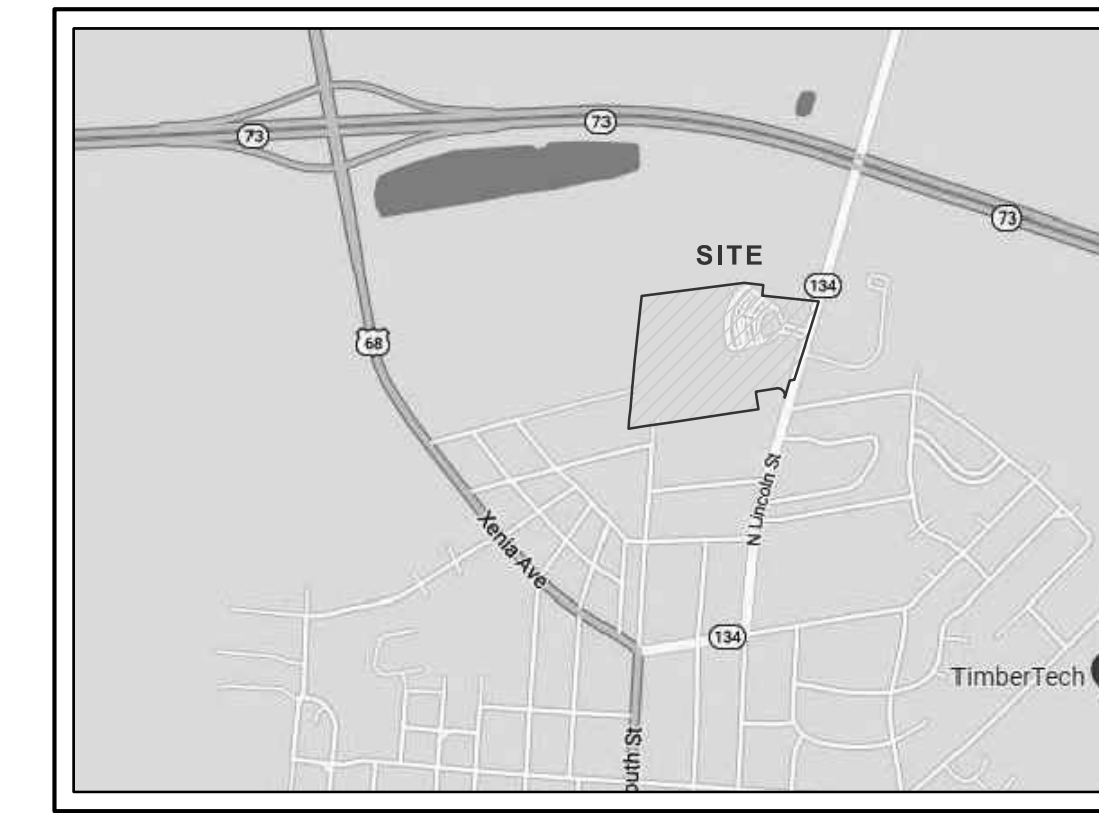
\_\_\_\_\_  
Mayor

# PUD PLAN AND IMPROVEMENT PLANS FOR CREEKVIEW

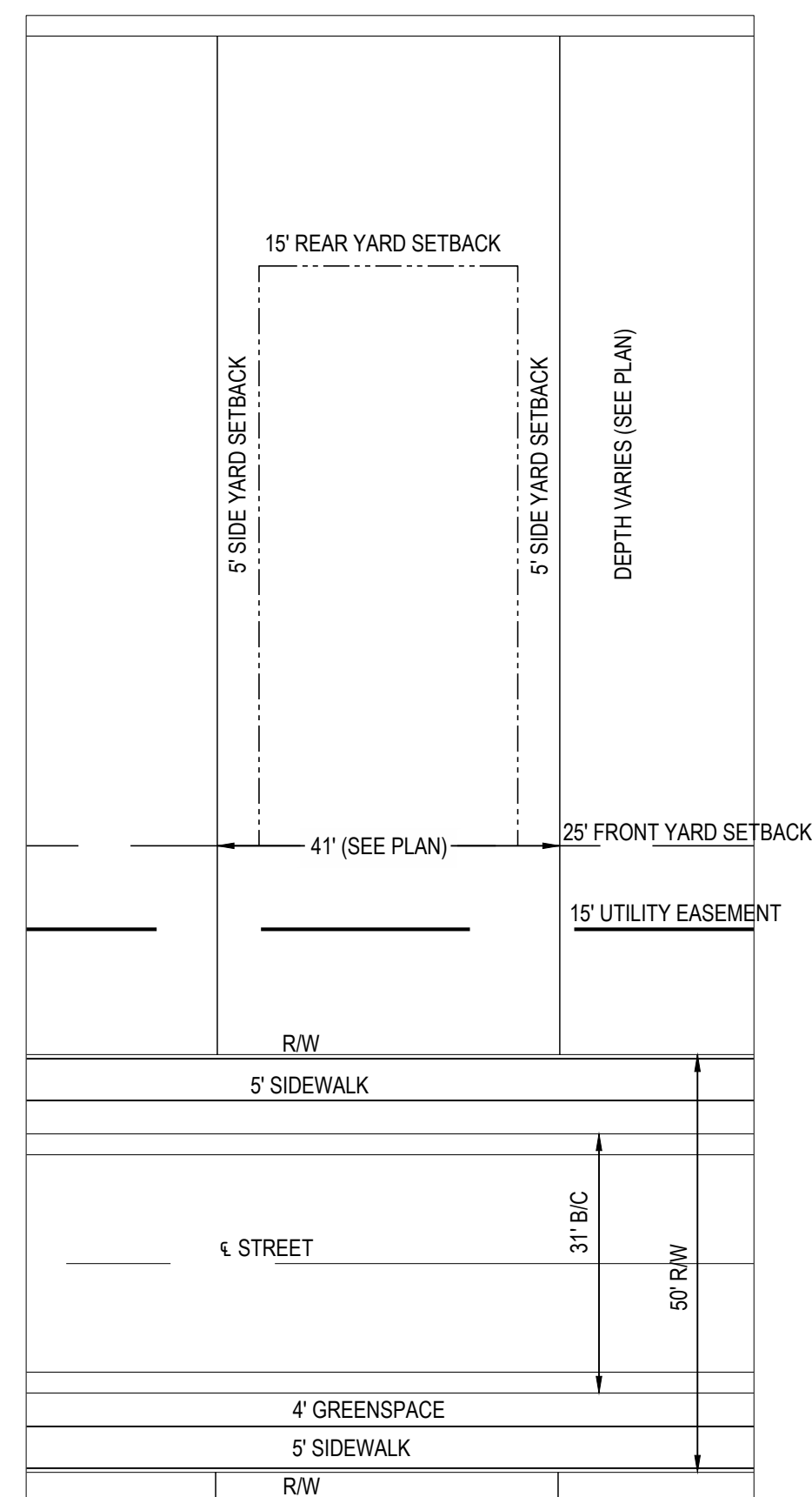
N LINCOLN ST AND BROWNBERRY DR  
CITY OF WILMINGTON, CLINTON COUNTY, OHIO

M.S. NO. 1057  
MARCH 15, 2023

EXHIBIT A  
ORDINANCE O-23-14

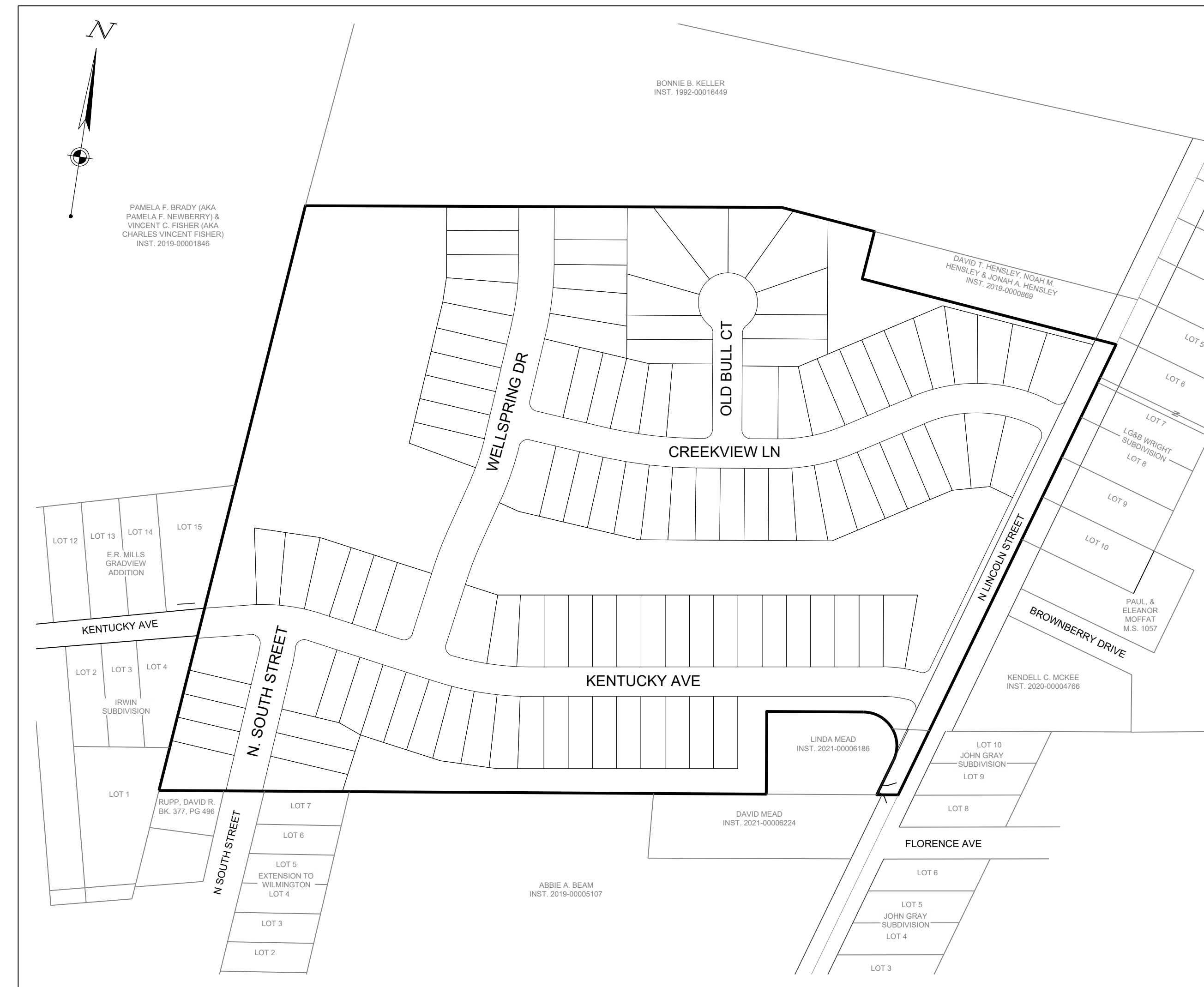


VICINITY MAP  
NTS



TYPICAL LOT DATA

SCALE 1" = 20'  
LOT DATA  
MIN. LOT WIDTH 41'  
MIN. LOT FRONTAGE 41' (MEASURED AT SETBACK)  
MIN. FRONT YARD SETBACK 25'  
MIN. REAR YARD SETBACK 15'  
MIN. SIDE YARD SETBACK 5', 10' TOTAL  
MIN. LOT SIZE 4,000 SF



OVERALL MAP  
1" = 150'

DRAWING INDEX	
SHEET TITLE	NUMBER
TITLE SHEET	1
ROADWAY NOTES & DETAILS	2
UTILITY NOTES & DETAILS	3
UTILITY NOTES & DETAILS	4
UTILITY NOTES & DETAILS	5
UTILITY NOTES & DETAILS	6
UTILITY NOTES & DETAILS	7
DEMOLITION PLAN	8
LAYOUT PLAN	9
OVERALL PLAN	10
PLAN AND PROFILE N SOUTH ST	11
PLAN AND PROFILE KENTUCKY AVE	12
PLAN AND PROFILE KENTUCKY AVE	13
PLAN AND PROFILE WELLSRING DR	14
PLAN AND PROFILE CREEKVIEW LN	15
PLAN AND PROFILE OLD BULL CT	16
FORCEMAIN PLAN AND PROFILE	17
OFFSTREET PROFILES	18
OFFSTREET PROFILES	19
INTERSECTION DETAILS	20
INTERSECTION DETAILS	21
GRADING & EROSION CONTROL PLAN - PH I	22
GRADING & EROSION CONTROL PLAN - PH II	23
FINAL GRADING PLAN	24
BASIN DETAILS	25
SWALE DETAILS	25A
SWPPP NOTES	26
SWPPP DETAILS	27
SWPPP DETAILS	28
PUMP STATION DETAIL	29
WET WELL & PUMP STATION DETAIL	30

SITE DATA TABLE	
OVERALL ACREAGE	28.60 ACRES
LOT COUNT	113
DENSITY	3.95 UNITS/ACRE
OPEN SPACE	8.37 AC (29.3%)

DEVELOPER

DDC MANAGEMENT  
3601 RIGBY ROAD, SUITE 300  
MIAMISBURG, OH 45342  
PH: (937) 610-1500

ENGINEER

CESO, INC.  
3601 RIGBY ROAD  
MIAMISBURG, OH 45342  
PH: (937) 435-8584  
JUSTIN ELAM, P.E.

OWNER

CHAKERES THEATRES INC  
222 N. MURRAY ST.  
SPRINGFIELD OH 45501

GENERAL NOTES:

- ALL PLAN CHANGES OR MODIFICATIONS MUST BE APPROVED BY CITY OF WILMINGTON.
- ALL ITEM NUMBERS REFER TO 2019 ODOT CONSTRUCTION AND MATERIAL SPECIFICATIONS.
- ALL CATCH BASINS TO BE ODOT STANDARD.
- ALL STREET CATCH BASINS SHALL HAVE BICYCLE SAFE GRATES.
- ALL CONCRETE SHALL BE PRODUCED BY AN ODOT APPROVED PLANT. CONCRETE TO HAVE AN APPROVED JOB MIX FORMULA.
- ALL ASPHALT SHALL HAVE ODOT JOB MIX FORMULA.
- ALL MATERIALS SHALL BE SUBMITTED AND APPROVED BEFORE INCORPORATED INTO WORK.
- THE FOLLOWING COORDINATION MEETINGS WITH THE CITY OF WILMINGTON WILL BE REQUIRED:
  - PRE-CONSTRUCTION
  - PRE-WATER MAIN
  - PRE-SANITARY SEWER
- ALL TRENCHES WITHIN THE RIGHT-OF-WAY SHALL BE BACKFILLED AND COMPACTED WITH ITEM 304 AND COMPACTED IN 6-INCH LIFTS.
- STORM SEWER PIPE SHALL MEET THE REQUIREMENTS FOR PVC PIPE AS PER ODOT SUPPLEMENTAL SPECIFICATION 707.42 FOR ALL DIAMETERS.
- SUMP LINE CONDUITS ARE TO BE SDR35, ARMO 2000.
- A CREEKVIEW HOMEOWNERS ASSOCIATION SHALL BE ESTABLISHED. THE ENTIRE PROPERTY SHOWN HEREIN AND ALL IMPROVEMENTS THEREON SHALL BE SUBJECT TO THE RULES, REGULATIONS, COVENANTS AND RESTRICTIONS OF THE CREEKVIEW HOMEOWNERS ASSOCIATION AND SUBJECT TO ALL RECORDED AMENDMENTS AND SUPPLEMENTS TO THE CREEKVIEW HOMEOWNERS ASSOCIATION DOCUMENTS WHICH MAY BE RECORDED FROM TIME TO TIME. THE HOMEOWNERS ASSOCIATION IS ULTIMATELY RESPONSIBLE FOR MAINTAINING ANY OPEN SPACE LOTS AND PRIVATE UTILITIES.

VERTICAL DATUM:

ELEVATIONS AND DATUM AS SHOWN HEREON ARE BASED UPON NAVD88 ESTABLISHED USING GPS OBSERVATIONS ALONG WITH THE OHIO DEPARTMENT OF TRANSPORTATION RTN NETWORK AND OPUS SOLUTIONS. MADE IN CONJUNCTION WITH A SURVEY CONDUCTED BY CESO INC. IN APRIL OF 2022.

BASIS OF BEARING:

HORIZONTAL DATUM - U.S. STATE PLANE, NAD83 OHIO SOUTH (3402) ESTABLISHED FROM UTILIZING THE OHIO REAL TIME NETWORK PROVIDED BY THE OHIO DEPARTMENT OF TRANSPORTATION. COORDINATES TAKEN TO GROUND AT LATITUDE N39°27'39.31789", LONGITUDE W83°49'29.01001", PROJECT HEIGHT 932.337" GROUND SCALE FACTOR 1.00010779347468.

BENCHMARK DESCRIPTIONS:

BM # 1- BENCHTIE SET ON WEST SIDE OF TEL/POWER POLE #249490 EAST SIDE OF N. SOUTH STREET AT DEAD END OF ROADWAY.  
ELEV = 1040.04'

BM # 4- BENCHTIE SET WEST OF POWER/TELEPHONE POLE ON EAST SIDE OF N. LINCOLN ST. IN FRONT OF BOWMAN TECH GROUP.  
ELEV = 1043.10'

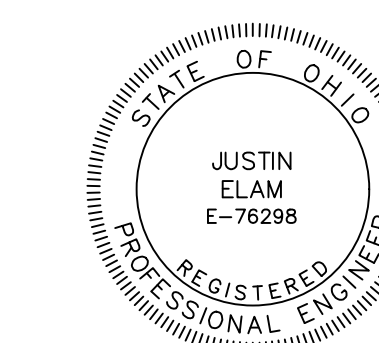
BM # 2- BENCHTIE SET IN NORTH SIDE OF LIGHT POLE #34695 NORTHWEST CORNER OF MICHIGAN AVE AND N. SOUTH STREET INTERSECTION.  
ELEV = 1040.30'

BM # 5- BENCHTIE SET NORTH SIDE OF POWER/TELEPHONE POLE #127373 EAST SIDE OF N. LINCOLN ST. SOUTH SIDE OF ASPHALT DRIVEWAY ADDRESS 1066 N. LINCOLN ST.  
ELEV = 1040.66'

BM # 3- BENCHTIE SET ON EAST SIDE OF TELEPHONE POLE #530030 NORTH SIDE OF KENTUCKY AVE. EAST SIDE OF DRIVEWAY TO ADDRESS 29 KENTUCKY AVE.  
ELEV = 1041.36'

UTILITY OWNERS

<b>SANITARY SEWER</b> CITY OF WILMINGTON 397 SOUTH NELSON AVE WILMINGTON, OHIO 45177 (937) 382-6474	<b>STORMWATER</b> CITY OF WILMINGTON 475 SOUTH NELSON AVE WILMINGTON, OHIO 45177 (937) 382-2413	<b>STREET</b> CITY OF WILMINGTON 494 SOUTH NELSON AVE WILMINGTON, OHIO 45177 (937) 382-6339	<b>WATER</b> CITY OF WILMINGTON 1142 PRAIRIE AVE WILMINGTON, OHIO 45177 (937) 382-3614
<b>GAS</b> CENTERPOINT ENERGY 4285 NORTH JAMES MCGEE BLVD DAYTON, OH 45427 (937) 440-1957	<b>TELEPHONE</b> AT&T 3233 WOODMAN DRIVE, SUITE 100 DAYTON, OH 45420 (937) 296-3726	<b>ELECTRIC</b> AES OHIO 1900 DRYDEN ROAD DAYTON, OHIO 45459 (937) 331-4682	<b>CABLE</b> SPECTRUM CABLE 275 LEO ST. DAYTON, OH 45459 (937) 425-8883



JUSTIN ELAM, P.E.  
OHIO REGISTERED ENGINEER No. E-76298

APPROVED  
CITY OF WILMINGTON

03/30/23  
DATE

DATE

DDC MANAGEMENT, LLC.

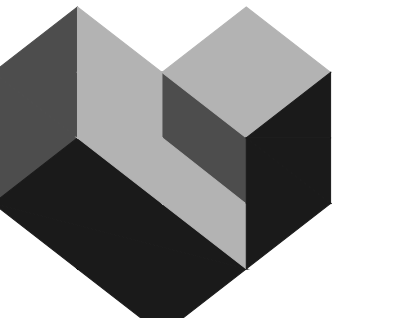
CREEKVIEW  
N LINCOLN ST AND BROWNBERRY DR  
CITY OF WILMINGTON, OHIO 45177

Revisions / Submissions		
ID	Description	Date
1	REV PER CITY P&Z, PUBLIC WORKS AND PC COMMENTS	02/01/2023

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Project Number: 760651  
Scale: 1:150  
Drawn By: DAS  
Checked By: JEE  
Date: 3/15/23  
Issue: PUD PLAN

Drawing Title:  
TITLE SHEET





**CESO**  
WWW.CESOINC.COM

3601 Rgby Rd., Suite 300  
Mansfield, OH 43342  
Phone: 937.435.8584 Fax: 888.208.4826

**LEGEND:**

- (R) RECORD DATA
  - ⊕ BENCHMARK
  - 1 EXISTING SIGN
  - ⊞ EXISTING MAILBOX
  - ⊞ EXISTING CATCH BASIN / CURB INLET / YARD DRAIN
  - ⊞ EXISTING STORM SEWER MANHOLE
  - ⊞ EXISTING CLEANOUT
  - ⊞ EXISTING SANITARY SEWER MANHOLE
  - ⊞ EXISTING FIRE HYDRANT
  - ⊞ EXISTING WATER METER / WATER VALVE
  - ⊞ EXISTING GAS METER / GAS MARKER
  - ⊞ EXISTING AIR CONDITIONER
  - ⊞ EXISTING ANCHOR POLE
  - ⊞ EXISTING LIGHT POLE
  - ⊞ EXISTING UTILITY POLE
  - ⊞ EXISTING GUY WIRE
  - ⊞ EXISTING TELEPHONE BOX / ELECTRIC BOX
- MONUMENT LEGEND:**
- ⊞ MONUMENT FOUND AS NOTED
  - ⊞ FOUND MAG NAIL
  - ⊞ SET MAG NAIL
  - ⊞ RAILROAD SPIKE FOUND
  - ⊞ STONE FOUND
  - ⊞ IRON PIPE FOUND
  - ⊞ IRON PIN FOUND
- PROPERTY BOUNDARY  
ADJOINER PROPERTY LINE  
RIGHT-OF-WAY LINE  
EXISTING FENCE LINE  
EXISTING MAJOR CONTOUR  
EXISTING MINOR CONTOUR  
EXISTING TREE LINE  
EXISTING STORM SEWER  
EXISTING SANITARY SEWER  
EXISTING GAS LINE  
EXISTING UNDERGROUND TELEPHONE  
EXISTING OVERHEAD UTILITY WIRES  
EXISTING WATER LINE  
EASEMENT LINE  
EXISTING CORPORATION LINE

**MONUMENT LEGEND:**

- ⊞ MONUMENT FOUND AS NOTED
- ⊞ FOUND MAG NAIL
- ⊞ SET MAG NAIL
- ⊞ RAILROAD SPIKE FOUND
- ⊞ STONE FOUND
- ⊞ IRON PIPE FOUND
- ⊞ IRON PIN FOUND

- ⊞ PROPERTY BOUNDARY
- ⊞ ADJOINER PROPERTY LINE
- ⊞ RIGHT-OF-WAY LINE
- ⊞ EXISTING FENCE LINE
- ⊞ EXISTING MAJOR CONTOUR
- ⊞ EXISTING MINOR CONTOUR
- ⊞ EXISTING TREE LINE
- ⊞ EXISTING STORM SEWER
- ⊞ EXISTING SANITARY SEWER
- ⊞ EXISTING GAS LINE
- ⊞ EXISTING UNDERGROUND TELEPHONE
- ⊞ EXISTING OVERHEAD UTILITY WIRES
- ⊞ EXISTING WATER LINE
- ⊞ EASEMENT LINE
- ⊞ EXISTING CORPORATION LINE

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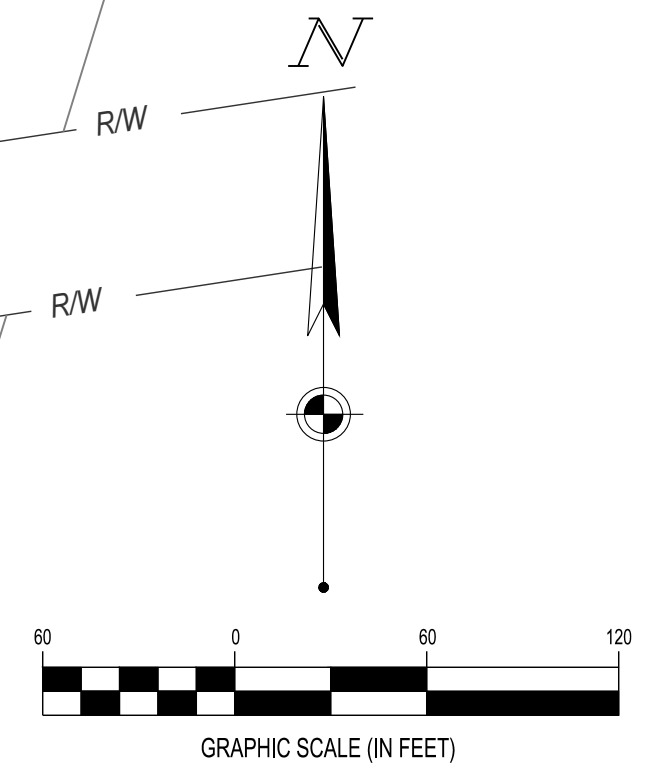
**DDC MANAGEMENT, LLC.**

**CREEKVIEW**  
N LINCOLN ST AND BROWNBERY DR  
CITY OF WILMINGTON, OHIO 45177

Revisions / Submissions		
ID	Description	Date

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Project Number: 760651  
Scale: 1:60  
Drawn By: SJS  
Checked By: JEE  
Date: 11/28/22  
Issue: PUD PLAN

Drawing Title:  
**DEMOLITION PLAN**



**EXHIBIT "A" LEGAL DESCRIPTION**

FROM TITLE COMMITMENT PROVIDED BY CHICAGO TITLE INSURANCE COMPANY, FILE NUMBER 2021090084, WITH AN EFFECTIVE DATE OF SEPTEMBER 27, 2021, AT 12:00 A.M.  
THE LAND IS DESCRIBED AS FOLLOWS:

**Parcel 1:**  
SITUATE IN THE STATE OF OHIO, IN THE COUNTY OF CLINTON, AND TOWNSHIP OF UNION AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:  
BEGINNING AT A POINT IN THE CENTER OF THE WILMINGTON-PORT WILLIAM PIKE, CORNER TO FRANK MILLER'S LAND, THENCE WITH THE CENTER OF SAID PIKE S. 17° 5' W. 8 CHAINS TO ALVA HOLLADAY'S NORTH LINE, THENCE WITH SAID HOLLADAY'S LINE S. 81° 40' W. 20.17 CHAINS TO AN IRON PIN IN RALPH HAWORTH'S EAST LINE, THENCE WITH SAID HAWORTH'S LINE N. 0° 15' E. 7.50 CHAINS TO AN IRON PIN IN FRANK MILLER'S SOUTH LINE, THENCE WITH MILLER'S LINE N. 81° 40' E. 12.05 CHAINS TO AN IRON PIN COMER TO SAID MILLER, THENCE N. 8° E. 2.51 CHAINS TO AN IRON PIN, ANOTHER COMER TO MILLER, THENCE S. 85° E. 9.44 CHAINS TO THE PLACE OF BEGINNING, CONTAINING 16.18 ACRES OF LAND, MORE OR LESS, BUT SUBJECT TO ALL LEGAL HIGHWAYS, AND BEING THE SAME PREMISES CONVEYED BY LAURENCE H. AUSTIN AND VIRGINIA R. AUSTIN, HUSBAND AND WIFE, TO KROGER BABB BY DEED DATED SEPTEMBER 4, 1947 AND FOUND OF RECORD IN DEED BOOK 134 AT PAGE 125 OF THE RECORDER'S OFFICE OF CLINTON COUNTY, OHIO, SAVE AND EXCEPT THEREFROM 0.858 OF AN ACRE OF LAND CONVEYED BY THE SAID KROGER BABB TO LOREN E. BROCK AND NORMA W. BROCK BY DEED DATED JULY 31, 1948 AND FOUND OF RECORD IN DEED BOOK 138 AT PAGE 255 OF SAID RECORDER'S OFFICE, TO WHICH RECORD REFERENCE IS HEREBY MADE FOR A METES AND BOUNDS DESCRIPTION OF SAID 0.858 OF AN ACRE.

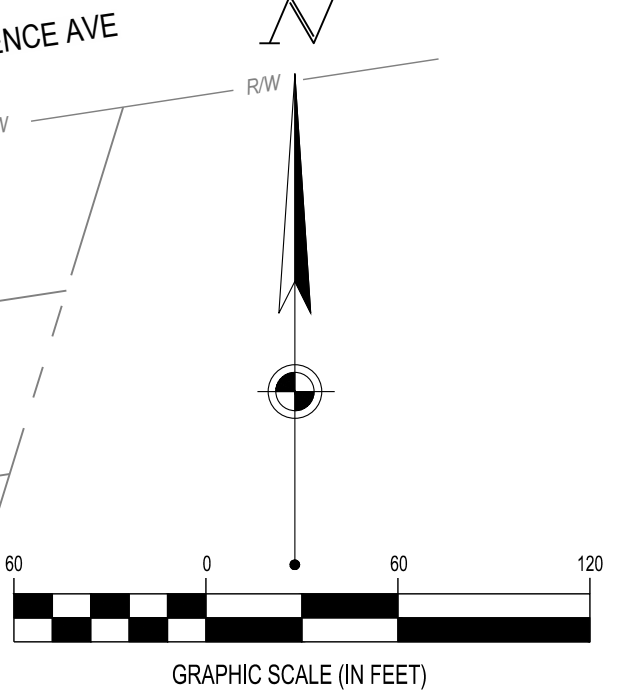
**PARCEL 2:**  
SITUATE IN THE STATE OF OHIO, COUNTY OF CLINTON AND TOWNSHIP OF UNION, BEING A PART OF THOMAS POSEY'S SURVEY NO. 1057 AND BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTER OF THE PORT WILLIAM AND WILMINGTON ROAD, CORNER TO EDWIN HODSON'S LAND, THENCE WITH HODSON'S LINE S. 81° 40' W. 19.75 CHAINS TO AN IRON PIN IN C. C. NICHOLS' EAST LINE, THENCE WITH NICHOLS' LINE N. 5° 15' E. 2.48 CHAINS TO AN IRON PIN CORNER TO J.A. STINGLEY, THENCE WITH STINGLEY'S SOUTH LINE N. 81° 40' E. 20.16 CHAINS TO THE CENTER OF THE PORT WILLIAM AND WILMINGTON ROAD, THENCE WITH THE CENTER OF SAID ROAD S. 17° 5' W. 2.75 CHAINS TO THE BEGINNING, CONTAINING FIVE (5) ACRES OF LAND, MORE OR LESS, BUT SUBJECT TO ALL LEGAL HIGHWAYS, AND BEING THE SAME PREMISES CONVEYED BY MARY F. HOWARD TO KROGER BABB BY DEED DATED

SEPTEMBER 8, 1947 AND FOUND OF RECORD IN DEED BOOK 134 AT PAGE 134 OF SAID RECORDER'S OFFICE.

**PARCEL 3:**  
SITUATE IN THE STATE OF OHIO, COUNTY OF CLINTON, TOWNSHIP OF UNION AND CITY OF WILMINGTON, BEING A PART OF THOMAS POSEY'S SURVEY NO. 1057 AND BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTER OF THE PORT WILLIAM AND WILMINGTON ROAD AND COMER TO SCHOFIELD'S HEIRS' LAND, THENCE WITH THEIR LINE S. 81° 20' W. 18.95 CHAINS TO A STONE COMER TO SCHOFIELD'S HEIRS AND C.C. NICHOLS, THENCE WITH NICHOLS' LINE N. 5° 15' E. 3.04 CHAINS TO AN IRON PIN COMER TO ALVA HOLLADAY'S LAND, THENCE WITH HOLLADAY'S LINE N. 81° 40' E. 19.75 CHAINS TO THE CENTER OF THE PORT WILLIAM AND WILMINGTON ROAD, THENCE WITH THE CENTER OF SAID ROAD S. 17° 5' W. 3.31 CHAINS TO THE BEGINNING, CONTAINING 5.94 ACRES OF LAND, BE THE SAME MORE OR LESS, BUT SUBJECT TO ALL LEGAL HIGHWAYS, AND BEING THE SAME LAND CONVEYED BY ISAAC KERSEY AND WYNNEMA KERSEY, HUSBAND AND WIFE, TO KROGER BABB BY DEED DATED SEPTEMBER 13, 1947 AND FOUND OF RECORD IN DEED BOOK 134 AT PAGE 160 OF SAID RECORDER'S OFFICE, SAVE AND EXCEPT THEREFROM 0.683 OF AN ACRE OF LAND CONVEYED BY THE SAID KROGER BABB TO ROBERT F. MCKAY AND EVELYN L. MCKAY BY DEED DATED AUGUST 19, 1948 AND FOUND OF RECORD IN DEED BOOK 135 AT PAGE 291 OF SAID RECORDER'S OFFICE, TO WHICH RECORD REFERENCE IS HEREBY MADE FOR A METES AND BOUNDS DESCRIPTION OF SAID 0.683 ACRE.

**PARCEL 4:**  
SITUATE IN THE STATE OF OHIO, COUNTY OF CLINTON, TOWNSHIP OF UNION, A PART OF POSEY'S SURVEY NO. 1057 AND BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON PIN CORNER TO SARAH W. MILLER AND KROGER BABB, SAID PIN BEING 620 FEET MEASURED WESTERLY ALONG MILLER'S LINE FROM THE CENTER OF THE WILMINGTON-PORT WILLIAM PIKE OR STATE ROUTE NO. 134, THENCE WITH SAID KROGER BABB'S LINE S. 7° E. 165.66 FEET TO A POINT IN AN OLD FENCE LINE, THENCE WITH SAID FENCE LINE AND THE LINE OF KROGER BABB S. 71° 52' W. 797.5 FEET TO A POINT, THENCE LEAVING SAID KROGER BABB'S LINE N. 4° 26' W. 160.1 FEET TO AN IRON PIN, THENCE N. 71° 30' E. 604.5 FEET TO THE BEGINNING, CONTAINING THREE (3) ACRES OF LAND, MORE OR LESS, AND BEING THE SAME LAND CONVEYED BY SARAH W. MILLER TO THE SAID KROGER BABB BY DEED DATED APRIL 6, 1948 AND FOUND OF RECORD IN DEED BOOK 135 AT PAGE 4 OF SAID RECORDER'S OFFICE.

BONNIE B. KELLER  
INSTR. 1992-00016449

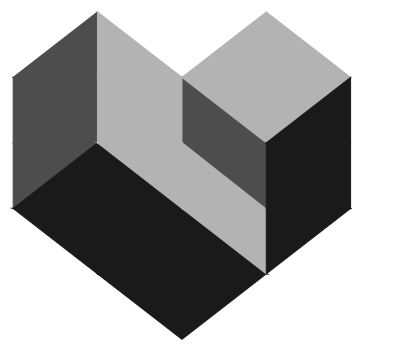


**DDC MANAGEMENT, LLC.**  
**CREEKVIEW**  
N LINCOLN ST AND BROWNBERY DR  
CITY OF WILMINGTON, OHIO 45177

Revisions / Submissions		
ID	Description	Date

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Project Number: 760651  
Scale: 1:60  
Drawn By: SJS  
Checked By: JEE  
Date: 11/28/22  
Issue: PUD PLAN  
Drawing Title: LAYOUT PLAN  
**9**

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**CESO**  
WWW.CESOINC.COM

3801 Rgby Rd., Suite 300  
Mansfield, OH 43102  
Phone: 937.435.8584 Fax: 888.208.4826

DDC MANAGEMENT, LLC.

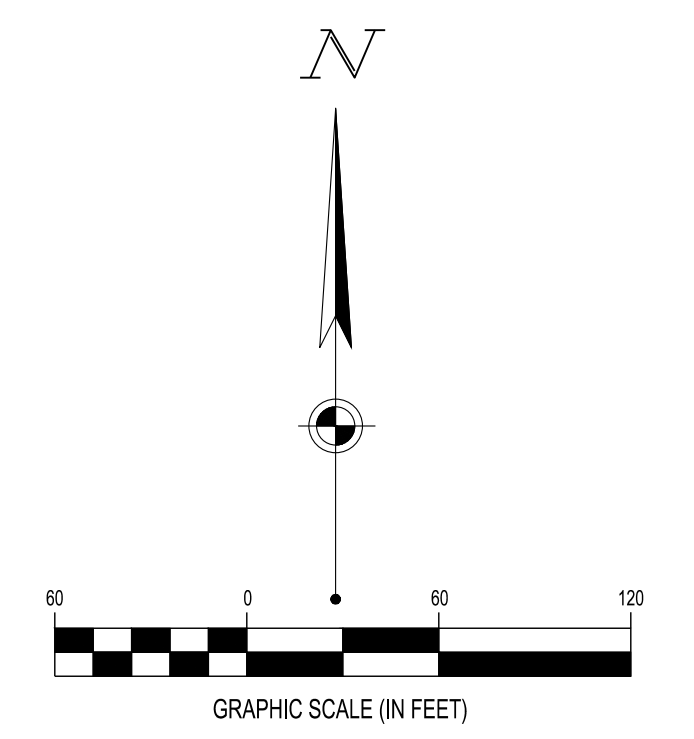
**CREEKVIEW**  
N LINCOLN ST AND BROWN BERRY DR  
CITY OF WILMINGTON, OHIO 45177

Revisions / Submissions

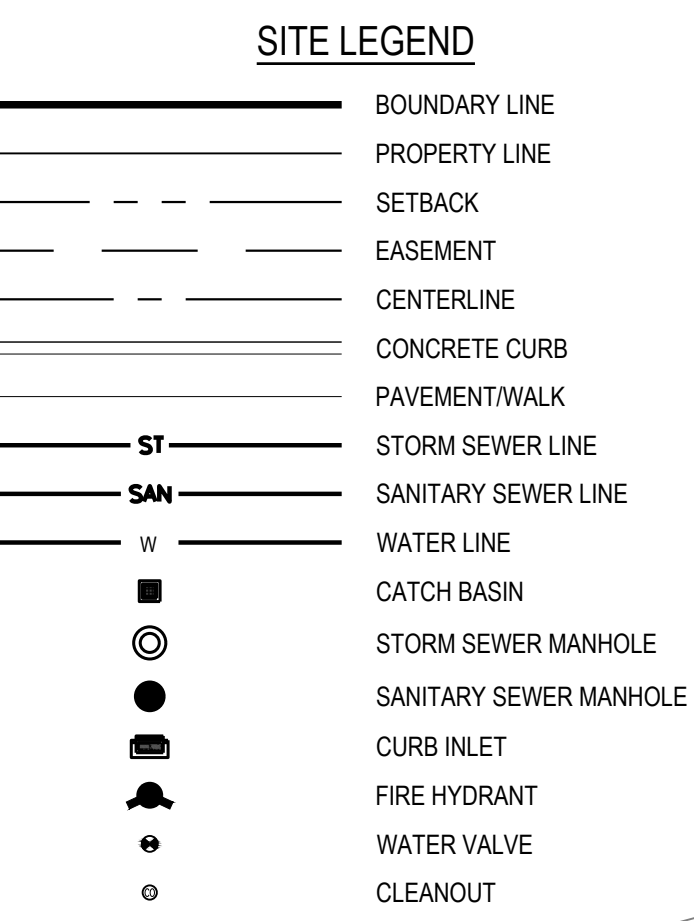
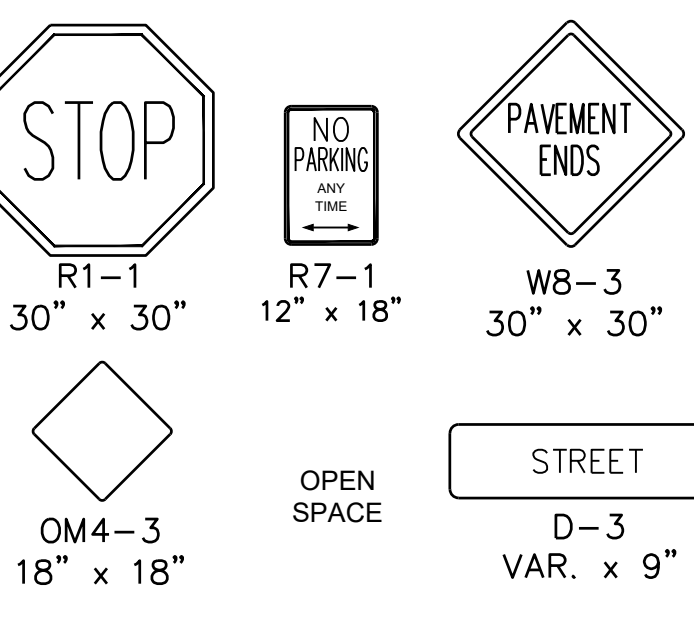
ID	Description	Date

Project Number: 760651  
Scale: 1:60  
Drawn By: DAS  
Checked By: JEE  
Date: 11/28/22  
Issue: PUD PLAN

Drawing Title:  
**OVERALL PLAN**

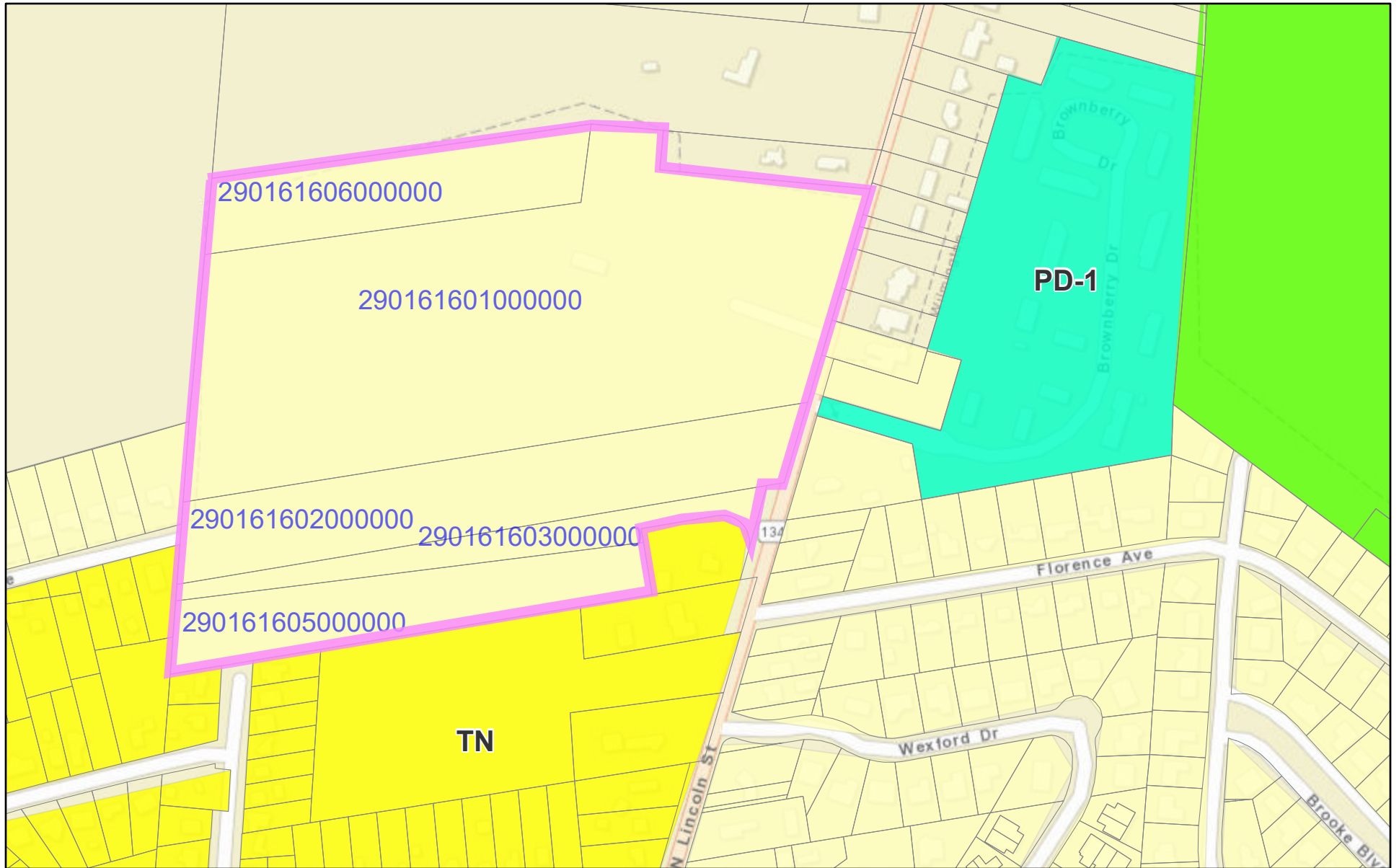


**SIGN LEGEND**

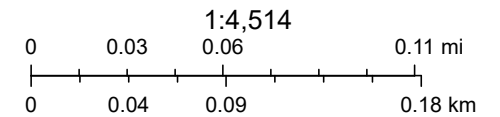


W:\PROJECTS\DDCM\760651 - Wilmington Site\03-CIVIL\FINAL\PLAN\760651\_01.dwg - 11/28/2022 - D.J. Spencer

# Drive-In Properties Rezoning Request



April 4, 2022




Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),



TRANSFERRED

This Conveyance has been examined and the Grantor has complied with Section 319.202 of the Revised Code. FEE \_\_\_\_\_ EXEMPT G Terence G. Habermehl, Clinton Co. Auditor Transfer Fee: 2.50 Date: 9-27-16  
cag

  
Doc ID: 002817570006 Type: OFF  
Kind: AFFIDAVIT  
Recorded: 09/27/2016 at 12:07:00 PM  
Fee Amt: \$60.00 Page 1 of 6  
Clinton County, Ohio  
Brenda J. Huff Recorder  
File# 2016-00004052  
BK 956 PG 263-268

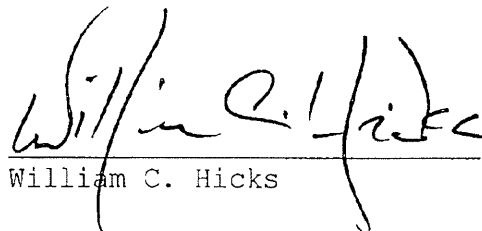
AFFIDAVIT OF TRANSFER  
SECTION 5301.252 OHIO REVISED CODE

STATE OF OHIO :  
:  
COUNTY OF CLARK:

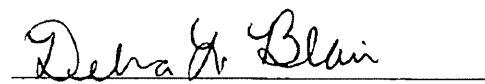
William C. Hicks, having been duly cautioned and sworn, states that he is the attorney for Chakeres Theatres, Inc., the surviving corporation in respect to the real property set out herein and that the statements made are from his own personal knowledge of the facts pertaining to the merger of certain corporations into Chakeres Theatres, Inc.

The following properties have been transferred by merger from Wilmington Theatres, Inc., an Ohio corporation into the name of Chakeres Theatres, Inc., an Ohio corporation in accordance with the merger of August 26, 1977, as set out in the attached Certificate of the Secretary of State of the State of Ohio dated September 6, 1977. Exhibit A is also attached hereto and incorporated herein by reference describing each of

the four parcels of real estate which are transferred in accordance with this Affidavit of Transfer.

  
\_\_\_\_\_  
William C. Hicks

Before me, a notary public, in and for said county, personally appeared the above named William C. Hicks, this 21st day of September, 2016.

  
\_\_\_\_\_  
Notary Public

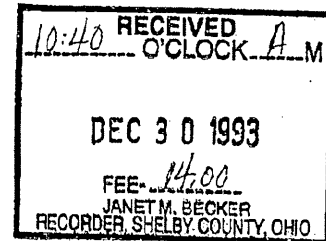
This Instrument Prepared By:

COLE ACTON HARMON DUNN  
A Legal Professional Association  
333 N. Limestone Street  
P.O. Box 1687  
Springfield, OH 45501  
(937) 322-0891



DEBRA L. BLAIR  
Notary Public, State of Ohio  
My Commission Expires 02-25-17

UNITED STATES OF AMERICA,  
 STATE OF OHIO,  
 OFFICE OF THE SECRETARY OF STATE.



I, TED W. BROWN,

do hereby certify that I am the duly elected, qualified and present acting Secretary of State for the State of Ohio, and as such have custody of the records of Ohio and Foreign corporations; that said records show A CERTIFICATE OF AGREEMENT OF MERGER of CHAKERES MANAGMENT CORPORATION, #186602; and, SOUTHLAND 75 DRIVE IN THEATRE CO., #334791; and, CHAKERES-DAYTON, INC., #366127; and, PIQUA THEATRES, INC., #381839; and, MECHANICSBURG THEATRES, INC., #292807; and, OSBORN-FAIRFIELD THEATRES, INC., #190749; and, WILMINGTON THEATRES, INC., #186601; and, URBANA THEATRES, INC., #186598; and, ST. MARYS THEATRES, INC., #186600; and, CHAKERES-COLUMBUS, INC., #400305; and, THE SPRINGFIELD THEATRE COMPANY, #127736; and, CRUISE-IN, INC., #266620; and, XENIA THEATRES, INC., #186599; and, THE XENIA AMUSEMENT COMPANY, #177754; and, NORTHLAND 49 DRIVE-IN THEATRE CO., #348178; all above are OHIO corporations; all merging into: CHAKERES THEATRES, INC., #140230, Ohio corporation, the survivor, was filed in this office on August 26, 1977, recorded on Roll E 312, Frame 116 of the records of incorporation.

WITNESS my hand and official

seal at Columbus, Ohio, this

6th day of September,

A. D. 19 77.



*Ted W. Brown*

TED W. BROWN

Secretary of State

✓Parcel 1. Situate in the State of Ohio, in the County of Clinton, and Township of Union and further bounded and described as follows:

Beginning at a point in the center of the Wilmington-Port William Pike, corner to Frank Miller's land; thence with the center of said pike S. 17° 5' W. 8 chains to Alva Holladay's north line; thence with said Holladay's line S. 81° 40' W. 20.17 chains to an iron pin in Ralph Haworth's east line; thence with said Haworth's line N. 5° 15' E. 7.50 chains to an iron pin in Frank Miller's south line; thence with Miller's line N. 81° 40' E. 12.05 chains to an iron pin corner to said Miller; thence N. 8° E. 2.51 chains to an iron pin, another corner to Miller; thence S. 85° E. 9.44 chains to the place of beginning, containing 16.18 acres of land, more or less, but subject to all legal highways, and being the same premises conveyed by Laurence H. Austin and Virginia R. Austin, husband and wife, to Kroger Babb by deed dated September 4, 1947 and found of record in Deed Book 134 at page 125 of the Recorder's Office of Clinton County, Ohio, SAVE AND EXCEPT therefrom 0.858 of an acre of land conveyed by the said Kroger Babb to Loren E. Brock and Norma W. Brock by deed dated July 31, 1948 and found of record in Deed Book 135 at Page 255 of said Recorder's Office, to which record reference is hereby made for a metes and bounds description of said 0.858 of an acre.

Parcel No. 29C161601000000

✓Parcel 2. Situate in the State of Ohio, County of Clinton and Township of Union, being a part of Thomas Posey's Survey No. 1057 and bounded and described as follows:

Beginning at a point in the center of the Port William and Wilmington Road, corner to Edwin Hodson's land; thence with Hodson's line S. 81° 40' W. 19.75 chains to an iron pin in C.C. Nichols' east line; thence with Nichols' line N. 5° 15' E. 2.48 chains to an iron pin corner to J.A. Stingley; thence with Stingley's south line N. 81° 40' E. 20.16 chains to the center of the Port-William and Wilmington road; thence with the center of said road S. 17° 5' W. 2.75 chains to the beginning, containing five (5) acres of land, more or less, but subject to all legal highways, and being the same premises conveyed by Mary F. Howard to Kroger Babb by deed dated

September 8, 1947 and found of record in Deed Book 134 at page 134 of said Recorder's Office.

Parcel No. 290161602000000

✓ Parcel 3. Situate in the State of Ohio, County of Clinton, Township of Union and City of Wilmington, being a part of Thomas Posey's Survey No. 1057 and bounded and described as follows:

Beginning at a point in the center of the Port William and Wilmington Road and corner to Schofield's heirs' land; thence with their line S. 81° 20' W. 18.95 chains to a stone corner to Schofield's heirs and C.C. Nichols; thence with Nichols's line N. 5° 15' E. 3.04 chains to an iron pin corner to Alva Holladay's land; thence with Holladay's line N. 81° 40' E. 19.75 chains to the center of the Port William and Wilmington road; thence with the center of said road S. 17° 5' W. 3.31 chains to the beginning, containing 5.94 acres of land, be the same more or less, but subject to all legal highways, and being the same land conveyed by Isaac Kersey and Wynema Kersey, husband and wife, to Kroger Babb by deed dated September 13, 1947 and found of record in Deed Book 134 at page 160 of said Recorder's Office. SAVE AND EXCEPT therefrom 0.663 of an acre of land conveyed by the said Kroger Babb to Robert F. McKay and Evelyn L. McKay by deed dated August 19, 1948 and found of record in Deed Book 135 at page 291 of said Recorder's Office, to which record reference is hereby made for a metes and bounds description of said 0.663 acre.

Parcel No. 290161605000000 and 290161603000000

✓ Parcel 4. Situate in the State of Ohio, County of Clinton, Township of Union, a part of Posey's Survey No. 1057 and bounded and described as follows:

Beginning at an iron pin corner to Sarah W. Miller and Kroger Babb, said pin being 620 feet measured westerly along Miller's line from the center of the Wilmington-Port William Pike or State Route No. 134; thence with said Kroger Babb's line S. 2° E. 165.66 feet to a point in an old fence line; thence with said fence line and the line of Kroger Babb S. 71° 52' W. 797.5 feet to a point; thence leaving said Kroger Babb's line N. 4° 26' W. 160.1 feet to an iron pin; thence N. 71° 30' E.

**CONDITIONALLY APPROVED**

For Transfer-Clinton County  
Engineers Map Department

Per: W. Hall

Date: 9-26-16

This Description MUST Be Corrected  
Unless Excepted Under Local Rule

804.5 feet to the beginning, containing three (3) acres of land, more or less, and being the same land conveyed by Sarah W. Miller to the said Kroger Babb by deed dated April 6, 1948 and found of record in Deed Book 135 at page 4 of said Recorder's Office.

Parcel No. 290161606000000

The aforesaid four parcels of real property are the same premises conveyed by Kroger Babb and Luella L. Babb, his wife, to the North-side Drive-In Company by deed dated April 22, 1949 and found of record in Deed Book 138 at page 142 of the Recorder's Office of Clinton County, Ohio.

No. 4770 \$1.50 Po 50c

KNOW ALL MEN BY THESE PRESENTS, That The Northside Drive-In Company, a corporation organized and existing under the laws of Ohio, with its principal office in Wilmington, Ohio, the grantor one seller and other good and valuable consideration

of the following described real estate, situate in the State of Ohio, and within and further bounded and described as follows: Beginning at a point in the center of the Wilmington-Fort William Pike, corner to Frank Miller's land; thence with the center of said pike S 17° 31' E 30.17 chains to an iron pin in Ralph Haworth's east line; thence with Holladay's line S 81° 15' W 23.17 chains to an iron pin in Frank Miller's north line; thence with said Haworth's line N 5° 15' E 7.50 chains to an iron pin in Miller's north line; thence with Miller's line N 81° 40' E 12.05 chains to an iron pin corner to said place of beginning, containing 10.18 acres of land, more or less, but subject to all legal highways, and being the same premises conveyed by Laurence H Austin and Virginia R Austin, husband and wife, to Kroger Babb by deed dated September 4, 1927 and found of record in Deed Book 134 at page 125 of the Recorder's Office of Clinton County, Ohio, SAVE AND EXCEPT therefrom 0.868 of an acre of land conveyed by the said Kroger Babb to Mrs E Brock and Norma W Brock by deed dated July 31, 1928 and found of record in Deed Book 135 at page 255 of said Recorder's Office, to which record reference is hereby made for a meter and bounds description of said 0.868 of an acre. Parcel 2. Situate in the State of Ohio, County of Clinton and Township of Union, being the Port William and Wilmington Road, and bounded and described as follows: Beginning at a point in the center of the Port William and Wilmington Road, corner to Edwin Hodson's land; thence with Hodson's line S 81° 40' W 19.75 chains to an iron pin in C G Nichols' east line; thence with Nichols' line N 9° 15' E 2.48 chains to an iron pin corner to J A Stingley; thence with Stingley's south line N 81° 40' E 20.10 chains to the center of the Port William and Wilmington Road; thence with the center of said road S 17° 31' W 2.75 chains to the beginning, containing five (5) acres of land, more or less, but subject to all legal highways, and being the same premises conveyed by Mary F Howard to Kroger Babb by deed dated September 8, 1927 and found of record in Deed Book 134 at page 134 of said Recorder's Office. Parcel 3. Situate in the State of Ohio, County of Clinton, Township of Union and City of Wilmington, being a part of Thomas Fosey's Survey No 1037 and bounded and described as follows: Beginning at a point in the center of the Port William and Wilmington Road and corner to Schofield's heirs' land; thence with their line S 81° 30' W 18.05 chains to a stone corner to Schofield's heirs and C G Nichols; thence with Nichols' line N 9° 15' E 3.04 chains to an iron pin corner to Alva Reheider's land; thence with Holladay's line N 81° 40' E 19.75 chains to the center of the Port William and Wilmington Road; thence with the center of said road S 17° 31' W 3.31 chains to the beginning, containing 5.28 acres of land, the same more or less, but subject to all legal highways, and being the same land conveyed by Isaac Kersey and Wynema Kersey, husband and wife to Kroger Babb by deed dated September 13, 1927 and found of record in Deed Book 134 at page 100 of said Recorder's Office. SAVE AND EXCEPT therefrom 0.603 of an acre of land conveyed by the said Kroger Babb to Robert P McKay and Evelyn L McKay by deed dated August 19, 1928 and found of record in Deed Book 135 at page 291 of said Recorder's Office. Parcel 4. Situate in the State of Ohio, County of Clinton, Township of Union, a part of Fosey's Survey No 1037 and bounded and described as follows: Beginning at an iron pin corner to Sarah W Miller and Kroger Babb, said pin being 620 feet measured westerly along Miller's line from the center of the Wilmington-Fort William Pike or State Route No 134; thence with said Kroger Babb's line S 2° 2' E 169.66 feet to a point in an old fence line; thence with said fence line and the line of Kroger Babb's line S 71° 52' W 797.5 feet to a point; thence leaving said Kroger Babb's line N 4° 26' W 160.1 feet to an iron pin; thence S 71° 30' E 304.5 feet to the beginning, containing three (3) acres of land, more or less, and being the same land conveyed by Sarah W Miller to the said Kroger Babb by deed dated April 6, 1928 and found of record in Deed Book 135 at page 142 of said Recorder's Office.

to have and to hold the same to the only proper use of the said grantee, its successors and assigns forever. And the said grantee, its successors and assigns do hereby covenant with the said grantor, its successors and assigns that it is the duty and legal duty of the said grantee, and that it will, full power to execute the same since the title so conveyed to Clerk, Free and three hundred and further warrants the installments of which are due and payable December 31, 1929 and thereafter, which said taxes and assessments are assumed by the grantee in accepting this deed and are to be paid by it as a part of the consideration for the conveyance hereby made.

In Witness Whereof, the said The Northside Drive-In Company, by its president and secretary, duly authorized in the presence of its board of directors, do hereby covenant with the said grantor, its successors and assigns that it is the duty and legal duty of the said grantee, and that it will, full power to execute the same since the title so conveyed to Clerk, Free and three hundred and further warrants the installments of which are due and payable December 31, 1929 and thereafter, which said taxes and assessments are assumed by the grantee in accepting this deed and are to be paid by it as a part of the consideration for the conveyance hereby made.

Signed and Acknowledged to the presence of us  
Lorna Stautzer  
By Kroger Babb President  
And Charles R Kirk Secretary

Notary Public  
I, Lorna Stautzer, do hereby certify that the foregoing deed and acknowledgment were made and acknowledged by the grantors in the foregoing deed and acknowledgment as such president and secretary and individually and the free and corporate act and deed of said The Northside Drive-In Company.

Lorna Stautzer  
Clinton County,  
Notary Public, Renewed Oct.  
\$37.40 Rev. Stamps Cancelled.  
By Certificate expires Sept. 13, 1931  
Notary Public  
Sept. 5, 1929  
Recorded Sept. 6, 1929  
Emily Girvin, Recorder Clinton County  
By ELLSWORTH LEWIS, Deputy

No. 4108 \$1.25 40 50c

KNOW ALL MEN BY THESE PRESENTS,

That Kroger Babb and Lucille L. Babb, his wife,

one Seller and one Buyer and witness to the conveyance... in consideration of... the following described real estate, to-wit:

Parcel 1. Situate in the State of Ohio, County of Clinton and Township of Union and bounded and described as follows: Beginning at a point in the center of the Wilmington-Port Pike, corner to Frank Miller's land; thence with the center of said pike, S 17° E 1/2 W 20.17 chains to an iron pin in Ralph Sawyer's east line; thence with said Sawyer's line S 81° 30' W 20.17 chains to an iron pin in Frank Miller's south line; thence with Miller's line S 81° 40' E 12.05 chains to an iron pin corner to said Miller; thence S 82° E 2.31 chains to an iron pin, another corner to Miller; thence S 85° E 2.44 chains to the place of beginning, containing 15.12 acres of land, more or less, but subject to all legal highways, and being the same premises conveyed by Lawrence H. Austin and Virginia R. Austin, husband and wife, to the said Kroger Babb by deed dated September 4, 1947 and found of record in Deed Book 134 at page 125 of the Recorder's Office of Clinton County, Ohio, SAKE AND EXCEPT therefrom 0.255 of an acre of land conveyed by the said Kroger Babb to Loren E. Deane and Norma V. Frank by deed dated July 31, 1948 and found of record in Deed Book 138 at page 252 of said Recorder's Office, to which record reference is hereby made for a more and better description of said 0.255 of an acre. Parcel 2. Situate in the State of Ohio, County of Clinton and Township of Union, being a part of Thomas Peasey's Survey No. 1057 and bounded and described as follows: Beginning at a point in the center of the Port William and Wilmington Road, corner to Edwin Hudson's land; thence with Hudson's line S 81° 40' W 19.75 chains to an iron pin in C. C. Niemie's east line; thence with Niemie's line S 81° 40' W 20.12 chains to an iron pin corner to J. A. Stingley; thence with Stingley's south line S 17° 2' W 2.78 chains to the beginning, containing five (5) acres of land, more or less, but subject to all legal highways, and being the same premises conveyed by Mary F. Howard to the said Kroger Babb by deed dated September 4, 1947 and found of record in Deed Book 134 at page 125 of said Recorder's Office. Parcel 3. Situate in the State of Ohio, County of Clinton, Township of Union and City of Wilmington, being a part of Thomas Peasey's Survey No. 1057 and bounded and described as follows: Beginning at a point in the center of the Port William and Wilmington Road and corner to Schefel's heirs' land; thence with Schefel's line S 81° 20' W 19.25 chains to a stone corner to Schefel's heirs' and C. C. Niemie's land; thence with Niemie's line S 81° 15' E 3.04 chains to an iron pin corner to Alva Holladay's land; thence with Holladay's line S 81° 20' W 19.75 chains to the center of the Port William and Wilmington Road; thence with the center of said road S 17° 2' W 2.78 chains to the beginning, containing 2.04 acres of land, more or less, but subject to all legal highways, and being the same premises conveyed by Isaac Kersay and Wynona Kersay, husband and wife, to the said Kroger Babb by deed dated September 18, 1947 and found of record in Deed Book 134 at page 150 of said Recorder's Office, SAKE AND EXCEPT therefrom 0.252 of an acre of land conveyed by the said Kroger Babb to Robert F. McKay and Weston L. Moxey by deed dated August 19, 1948 and found of record in Deed Book 138 at page 231 of said Recorder's Office to which record reference is hereby made for a more and better description of said 0.252 acre. Parcel 4. Situate in the State of Ohio, County of Clinton, Township of Union, a part of Peasey's Survey No. 1057 and bounded and described as follows: Beginning at an iron pin corner to Sarah W. Miller and Kroger Babb, said pin being 800 feet measured westerly along Miller's line from the center of the Wilmington-Port William Pike or State Route No. 134; thence with said Miller's line S 2° E 165.55 feet to a point in an old fence line; thence with said fence line and the line of said the Estate, Title and Interest of the said Kroger Babb, his wife, to a point, thence north 23° 12' E 165.55 feet to the said point, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon.

To have and to hold the same to the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...

Witness my hand and the hand of the said Buyer, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereon, unto the said Buyer, his heirs and assigns forever. And the said Buyer do hereby covenant with the said Seller...



**RESOLUTION NO. R-23-15**

**AUTHORIZING A REDUCTION OR WAIVER OF ACTIVE OPEN SPACE IN  
TIMBER GLEN PHASE VI SUBDIVISION**

WHEREAS, Wilmington Codified Ordinances (WCO) §1125.09(b) requires developers to reserve a minimum of five percent of the total area of the land included in a proposed plat as permanent open space; and

WHEREAS, WCO §1169.05(b) requires that a minimum of 25 percent of the required open space shall be active open space; and

WHEREAS, as provided for in WCO §1169.05(c), upon application by the developer and after consideration of certain criteria, City council has the authority to reduce or waive the active open space requirement; and

WHEREAS, application has been made to the City of Wilmington by JA Development and Hunter Properties LLC (said application attached hereto as “**Exhibit A**”) to reduce the amount of required active open space in the Timber Glen Phase VI Subdivision from 0.924 acres to 0.038 acres;

WHEREAS, the criteria for consideration of the request are as follows:

- (1) There are no substantial physical barriers or impediments to future residents of the proposed development accessing neighborhood parks, community parks, and other public recreational facilities.
- (2) The proposed development's topography or soils are not well suited for the development of an active park space.
- (3) Locating an active park space would generate adverse impacts to surrounding sites.
- (4) The reduction or elimination of active park space would contribute to the rural theme or nature of the development and/or surrounding environment and neighborhood.
- (5) Based on past usage patterns for area parks, there is no need for an additional active park space at the proposed location.

WHEREAS, JA Development and Hunter Properties LLC have provided evidence that all five criteria for consideration have been met; and

WHEREAS, City Council has reviewed the application and narrative addressing the criteria and has found that a reduction of required active open space is warranted.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

Section 1. That the request from JA Development and Hunter Properties LLC for a reduction in the active open space requirement from 0.924 acres to 0.038 acres in Timber Glen Phase VI Subdivision (“**Exhibit A**”) has been considered by the Wilmington City Council, and the reduction is hereby granted.

Section 2. That it is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. That this ordinance shall be effective from the earliest period allowed by law.

Passed this 16<sup>th</sup> day of March 2023.

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President of Council

ATTEST:

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Clerk of Council

Approved by me this 16<sup>th</sup> day of March 2023.

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Mayor



# REQUEST FOR REDUCTION OF ACTIVE OPEN SPACE

Wilmington City Council  
clerk@wilmingtonoh.org

TO: THE CITY COUNCIL OF WILMINGTON, OHIO

A request for reduction of active open space is hereby made by the undersigned for the following:

1. PROPERTY OWNER INFORMATION									
Owner Name		JA DEVELOPMENT				HUNTER PROPERTIES LLC			
Street Address		7594 TYLERS PLACE BLVD. ,WEST CHESTER				739 TODDS RIDGE RD., WILMINGTON			
City						State	OH	Zip	45069 45177
Phone		513-755-0570	Cell		Email	JCRISTO@CRISTOHOMES.COM			
2. AGENT/APPLICANT INFORMATION									
Agent/Applicant Name		JA DEVELOPMENT/JOSEPH CRISTO							
Street Address		7594 TYLERS PLACE BLVD.							
City		WEST CHESTER				State	OH	Zip	45069
Phone		513-755-0570	Cell		Email	JCRISTO@CRISTOHOMES.COM			
3. PARCEL/PROPERTY INFORMATION									
Parcel ID(s)		290-23-08-01-0004-00 & -0000-00		Subdivision	TIMBER GLEN, SECTION 6				
4. EXISTING BASE ZONING DESIGNATION (Check One)									
<input type="radio"/>	LI – Light Industrial	<input type="radio"/>	MF – Multi-Family						
<input type="radio"/>	GI – General Industrial	<input type="radio"/>	MH – Mobile Home Park						
<input type="radio"/>	SC – Suburban Commercial	<input type="radio"/>	RR – Rural Residential						
<input type="radio"/>	DC – Downtown Core	<input checked="" type="radio"/>	SN – Suburban Neighborhood						
<input type="radio"/>	DT – Downtown Transition	<input type="radio"/>	TN – Traditional Neighborhood						
5. EXISTING OVERLAY DISTRICT DESIGNATION (Check all that apply)									
<input type="checkbox"/>	AZD-1 – Airport Zoning District One	<input type="checkbox"/>	AZD-4 – Airport Zoning District Four						
<input type="checkbox"/>	AZD-2 – Airport Zoning District Two	<input type="checkbox"/>	H-1 – Commercial Historic District						
<input type="checkbox"/>	AZD-3 – Airport Zoning District Three	<input type="checkbox"/>	SR – Stream and Riparian District						
6. CALCULATION OF REQUIRED ACTIVE OPEN SPACE									
Total Area of Land on Proposed Record Plat (in acres)					73.92 acres				
5% Open Space Requirement (Total Area * 0.05)					3.696 acres				
25% Active Open Space Requirement (Open Space * 0.25)					0.924 acres				
7. THIS REQUEST IS FOR (CHOOSE ONE)									
<input type="radio"/> Full waiver of active open space requirement					<input checked="" type="radio"/> Partial reduction in active open space				
If requesting a reduction, please provide area of proposed active open space					0.038 acres				

**8. CRITERIA FOR CONSIDERATION OF REQUEST FOR REDUCTION (WCO 1169.05(C))**

Please attach a narrative addressing the following five criteria.

Narrative Attached

Please include explanation of full waiver vs reduction in active open space in the narrative.

1. There are no substantial physical barriers or impediments to future residents of the proposed development accessing neighborhood parks.
2. The proposed development's topography or soils are not well suited for the development of an active park space.
3. Locating an active park space would generate adverse impacts to surrounding sites.
4. The reduction or elimination of active park space would contribute to the rural theme or nature of the development and/or surrounding environment and neighborhood.
5. Based on past usage patterns for area parks, there is no need for an additional active park space at the proposed location.

**9. PLAT OR SURVEY MAP OF SAID REAL PROPERTY**

Plat or Survey Map Attached

Please attach a map or survey of the property showing dimensions of all open space and active open space areas

**10. PROPOSED USE OF SITE/DESCRIPTION OF SUBDIVISION**

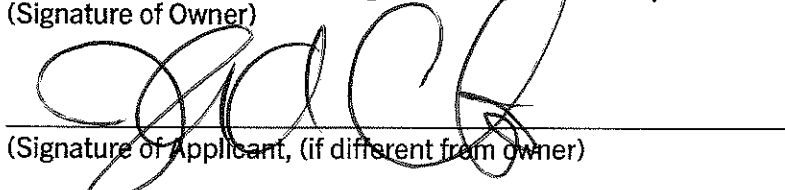
Single family residential subdivision consisting of 229 single family lots with 12.52 acres (16.9%) open space.

  
B. H. H. Properties LLC

(Signature of Owner)

2-13-2023

(Date)



(Signature of Applicant, (if different from owner))

2/14/2023

(Date)

**Please submit your application to:**

City of Wilmington  
Clerk of Council  
69 N. South Street  
Wilmington, Ohio 45177  
[clerk@wilmingtonoh.org](mailto:clerk@wilmingtonoh.org)

**NOTE: Request due 10 business days prior to council meeting. Council meetings are held on the first and third Thursdays of each month at 7:30 p.m. in council chambers of the municipal building.**  
**APPLICATIONS THAT ARE NOT COMPLETE WILL NOT BE PROCESSED UNTIL ALL INFORMATION IS RECEIVED.**

Plot time: Feb 16, 2023 - 12:38pm  
Drawing name: J:\2020\20-0206\CVDW\20-0206 OSW.dwg - Layout Tab. 1



### NOTES

- Total Acreage = 73.92 Acres
- Proposed Open Space = 12.517 Acres (16.9%)
- Required Open Space = 3.696 Acres (5%)
- Proposed Active Open Space = 0.038 Acres
- Required Active Open Space = 0.924 Acres

### LEGEND

- Open Space

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Item	Revision Description	Date	Drawn:	Chk:

**TIMBER GLEN  
PHASE SIX**  
MILITARY SURVEY #2471  
CITY OF WILMINGTON  
CLINTON COUNTY, OHIO

**ACTIVE OPEN SPACE WAIVER REQUEST**

**bayer  
becker**

www.bayerbecker.com  
6800 Tyersville Road, Suite A  
Mason, OH 45040 - 513.336.6600

Drawing:	20-0206 OSW
Drawn by:	TAC
Checked By:	EMR
Issue Date:	3-25-21
Sheet:	

February 16, 2023

President Mark McKay  
Wilmington City Council  
c/o Ms. Andrea Tacoronte, Clerk of Council  
City of Wilmington  
69 North South Street  
Wilmington, OH 45177

Re: Request for Active Open Space Reduction  
Timber Glen Phase 6

Dear President McKay,

On behalf of JA Development LLC and Hunters Properties LLC, we hereby request a reduction in the amount of active open space required for the Timber Glen Phase 6 development. More specifically, we request that the amount of required active open space be reduced from 0.924 acres to 0.038 acres.

A Preliminary Plat for Timber Glen Phase 6 was approved on April 6, 2021 by the Wilmington Planning Commission. The property is zoned SN – Suburban Neighborhood and upon full build out will contain 229 single family residential lots with 12.517 acres (16.9%) of open space. Per Wilmington Codified Ordinances, a minimum of 5% (3.696 acres) open space is required with 25% (0.924 acres) of the open space being defined as active open space.

JA Development LLC proposes to construct 0.038 acres of active open space on Lot 3, at the entrance to Phase 6 of the development on Timber Glen Drive. Said active open space will consist of a playground, benches and landscaping. See enclosed open space exhibit.

Per Section 1169.05(c) of the Wilmington Codified Ordinances, the following criteria shall be considered by City Council when approving a request for the reduction of active open space:

*1. There are no substantial physical barriers or impediments to future residents of the proposed development accessing neighborhood parks, community parks and other public recreational facilities.*

Roy E. Holmes Elementary School is located within a quarter mile of the development and is easily accessible to the residents of Timber Glen. The Elementary School contains a playground, walking trails basketball courts and ballfields for the residents to enjoy. Additionally, the Luther Warren Peace Path is located within 0.75 miles of the site and is accessible to the residents.

*2. The proposed development's topography or soils are not well suited for the development of an active park space.*

Of the 4 open space parcels which are proposed for the development, only Lot 3, platted with Block A, has topography which is suitable to create active open space. The other 3 parcels are heavily wooded and contain drainageways with steep side slopes. Creation of active open space amenities will require significant regrading and clearing of these areas.

*3. Locating an active park space would generate adverse impacts to surrounding sites.*

The open space, as proposed, provides a natural wooded buffer between the existing and proposed homes. If these areas must be graded and cleared to meet the active open space requirement, the natural buffer will be reduced and possibility eliminated in some areas; thus changing the surrounding environment and neighborhood.

4. *The reduction or elimination of active park space would contribute to the rural theme or nature of the development and/or surrounding environment and neighborhood.*

As mentioned in 3 above, if the open space areas must be graded and cleared to meet the active open space requirement, the natural buffer will be reduced and possibility eliminated in some areas; thus changing the surrounding environment and neighborhood

5. *Based on past usage patterns for area parks, there is no need for an additional active park space at the proposed location.*

Given the existing facilities at Roy E. Holmes Elementary School and the proposed playground and benches to be provided with the Timber Glen development, coupled with the adverse impact which would occur with the creation of additional active open space, it is our opinion, that additional park space is not necessary.

It should be noted that the Wilmington Codified Ordinances requires that a minimum of 5% (3.696 acres) of open space be provided, the proposed development will be providing 16.9% (12.52 acres), over 3 times more open space than is required.

Enclosed please find the following items in support of JA Development and Hunters Properties request for a reduction in the amount of active open space required for Timber Glen Phase 6:

1. Application for Request for Reduction of Active Open Space.
2. Open Space Exhibit.

Please place this item on the March 2<sup>nd</sup> City Council agenda.

Should have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads 'Etta Reed'.

Etta M. Reed, PE  
Principal

enclosure

cc: JA Development LLC.  
Hunters Properties LLC