

Pat Moeller
Mayor

Eric Pohlman
Vice Mayor

Carla Fiehrer
Council Member

Susan Vaughn
Council Member

Michael Ryan
Council Member

Timothy Naab
Council Member

Robert Brown
Council Member

Call to Order

Offering of Prayer – Council Member Robert Brown

Pledge of Allegiance

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

1. Coronavirus/Covid-19 Presentation Update by Health Commissioner Kay Farrar

Audience of Citizens

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

For the time being only those who wish to speak regarding a specific agenda item will be permitted to give their comments in person. If Citizens wish to have an issue addressed by City Council or City Administration they should email those questions or comments to the City Clerk at: nick.garuckas@hamilton-oh.gov. The City Clerk may read your comments into the record during the appropriate Council Meeting. If comments are submitted far enough in advance of an upcoming meeting, an official City response may also be read into the record. You must still provide your name and address for the record. Please be concise with potential comments.

Consent Agenda

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

- Approval of Minutes
- All Staff Reports
- Receive and File Council Information
- Caucus Reports

Committee of the Whole

The Committee of the Whole is intended to allow the City Council to consider all reports on the Consent or Caucus Agendas under suspended rules that would normally apply to the City Council. City Council may ask questions, provide direction, or comment on reports.

Unless City Council states otherwise this section of the agenda will not be held at this time.



Caucus Agenda April 8, 2020

- [1. Recommendation Relative to the Fiber Services Agreement with Southwest Ohio Education Association \(SWOCA\).](#)

These icons illustrate which strategic goals Council Actions align to


Work	Live	Play
<p>I Generate \$125 mm in new private investment</p>	<p>P Exceed total county growth rate median home sale prices</p>	<p>R Generate \$40mm in investment for recreational amenities</p>
<p>J Increase gross wages paid by Hamilton employers by \$100mm</p>	<p>O General Operations & Government Business</p>	<p>E Engage 500,000 participants in special events, arts, & recreation activities</p>

Council Actions Pertaining to Legislative Items:


Pending Legislation:

- [2. An ordinance amending certain sections of Zoning Ordinance No. 7503, Sections 1131.200 TN-1 \(Traditional Neighborhood-One\) District, 1131.300 TN-2 \(Traditional Neighborhood-Two\) District, 1131.400 TN-3 \(Traditional Neighborhood-Three\) District and 1131.500 TN-4 \(Traditional Neighborhood-Four\). \(City of Hamilton, Applicant\). \(Second Reading\).](#) **I P O**
- [3. An ordinance approving a request for a conditional use certificate to operate a dealer-to-dealer automobile auction/sales business at 8340 North Gilmore Road; and a variance to the paving requirement allowing the rear portion of the property to remain a graveled lot, property zoned “I-2” \(Industrial\) Zoning District, situated in the Sixth Ward, City of Hamilton, Ohio. \(Second Reading\).](#) **I P R O**
- [4. An ordinance amending subparagraph 947.12\(b\) of Chapter 947 – Gas Service, of the Codified Ordinances of the City of Hamilton, Ohio, relative to the Gas Cost Recovery Rate, as it pertains to the definition of Base Gas Cost Only, and repealing said portion of Subparagraph 947.12\(b\) as it currently exists. \(Second Reading\).](#) **O**
- [5. An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(531 Central Avenue\). \(Second Reading\).](#) **P**



6. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(1141 Lane Street\). \(Second Reading\).](#) 

New Legislation:

7. [A resolution authorizing and directing City Administration to place any Community Development Block Grant Funds under the Coronavirus Aid, Relief and Economic Stability Act in Reserve and directing the general use of said funds.](#) 

Audience of the City Manager

Audience of City Council

Executive Session

Adjournment



City Council Meeting Caucus Report

TO: The Honorable Mayor and Members of the City Council

RE: Fiber Services Agreement with Southwest Ohio Education Association (SWOCA)

<input checked="" type="checkbox"/>	1 st Reading Date: 4-22-20
<input checked="" type="checkbox"/>	2 nd Reading Date: 4-22-20
<input type="checkbox"/>	Resolution Date:
<input type="checkbox"/>	Public Hearing Date:

Dear Mayor and Members of Council:

The Department of Infrastructure asks City Council to consider legislation to authorize the execution of an agreement with Southwest Ohio Education Association (SWOCA) to continue to provide fiber services.

The City’s Department of Infrastructure currently provides service to nine (9) school facilities through two (2) prior agreements with SWOCA. This agreement will supersede and extend service for an additional three (3) years with two (2) additional yearly renewal periods if agreeable to both parties.

Administration recommends approving execution of this agreement and extending service for an additional three (3) year period.

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

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith
 City Manager

Nate Perry
 Director of Business Services

Choose Strategic Goal(s)	
<input type="checkbox"/>	I Generate 125mm in new private investment
<input type="checkbox"/>	J Increase gross wages paid by Hamilton Employers by \$100mm
<input type="checkbox"/>	P Exceed total county growth rate median home sale prices
<input type="checkbox"/>	R Generate \$40mm in investment for recreational amenities
<input type="checkbox"/>	E Engage 50,000 participants annually in special events, arts and recreation activities
<input checked="" type="checkbox"/>	O General Operations/ Government Business

Attachment:

1. Draft Agreement for the Lease of Fiber Optic Facilities



**AGREEMENT FOR THE LEASE
OF FIBER OPTIC FACILITIES**

BETWEEN

THE CITY OF HAMILTON, DEPARTMENT OF UTILITIES

AND

SOUTHWEST OHIO COMPUTER ASSOCIATION

This Agreement for the Lease of Fiber Optic Facilities (“Agreement”) is entered into on this 30th day of March, 2020 (“Effective Date”), made between the City of Hamilton, Ohio, (“City”) acting through its Department of Utilities, a municipal utility organized and existing under the provisions of Article XVIII of the Ohio Constitution, and the applicable provisions of the Ohio Revised Code and the Charter of the City of Hamilton, as amended from time to time, having its principle place of business at 345 High Street, Hamilton, Ohio 45011, and Southwest Ohio Computer Association (“SWOCA”), an Ohio Council of Governments , as established under Ohio Revised Code Chapter 167 Regional Councils of Government , having a place of business at 3611 Hamilton Middletown Road, Hamilton, OH 45011.

RECITALS

WHEREAS, the City, a municipal corporation, owns and operates, for its own economic development needs and to enhance the services it offers to its businesses, schools, government organizations, healthcare organizations and community anchors, an extensive fiber optic cable network through its Department of Utilities;

WHEREAS, the City currently leases to SWOCA certain fiber optic filaments to provide lit fiber optic service to Badin High School, St. Joseph School, St. Peter in Chains School, and Butler County Educational Center;

WHEREAS, SWOCA and the City desire to change the existing leased lit fiber service in which the City provides the fiber connection and internet switch to the above named locations to a leased dark fiber service in which the City will continue to provide the fiber connection for a fee and SWOCA will provide all other equipment and service; and

WHEREAS, the City will provide maintenance on all fiber infrastructure and will provide the needed rack space for the SWOCA internet switch and SWOCA will maintain and manage the SWOCA provided internet switch;

WHEREAS, the City and SWOCA have agreed to lease for a fee additional dark fiber services to Miami School, Hamilton City Bus Facility, and the Fairfield Township Fire Department;

WHEREAS, the City and SWOCA have agreed to remove the current lit fiber connection to St. Ann's School and return all related equipment.

AGREEMENT

NOW THEREFORE, in light of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

SECTION 1. Adoption of Recitals. The Recitals set forth above are hereby adopted and incorporated herein by reference as if set forth in full.

SECTION 2. Scope and Purpose of Agreement. This Agreement sets forth the terms and conditions under which Hamilton will own and operate the SWOCA Leased Fibers for use by SWOCA. For purposes of this agreement, the term "SWOCA Leased Fibers" shall mean fiber optic filaments, contained in any suitable jacketing or sheath ("Cable"), which have been accepted or which are deemed to have been accepted by SWOCA as meeting the Fiber Acceptance Testing Procedures and Standards attached to this Agreement as Exhibit A. For aerial installations, the City Cable includes any internal and external strength member, whether entirely dielectric or not. The SWOCA Leased Fibers shall consist of those described in the table shown in 6 (a) (1) and further detailed in Exhibit B.

SECTION 3. Term and Termination.

- (a) Term. The term of this Agreement is an amendment to the original Agreement dated August 1, 2017, commencing on April 1, 2020 and shall extend through June 30, 2023. ("Initial Term"), and any Two (2) year extension period mutually agreed to in writing by the Parties ("Renewal Term").
- (b) Renewals and Termination. This Agreement will automatically renew at the end of the Initial Term and each subsequent Renewal Term(s). provided it is not terminated per the conditions outlined in this section 3(b). This Agreement may be terminated at the end of the Initial Term, or at the end of any Renewal Term as agreed to in writing by both Parties or by either Party providing written notice to the other Party of its intent to terminate this Agreement. Such notice shall be given at least one hundred eighty (180) days or prior to the stated expiration date.
- (c) Early Termination of Agreement. This Agreement may be terminated prior to the end of the Term upon any one of the following events:
 - a. By either Party following an Event of Default, by the other Party, as set forth in Section 10 below;

- b. By either Party if the other Party consents to the appointment of, or taking possession by, a receiver, trustee, custodian or liquidator of a substantial part of its assets, files a bankruptcy petition in any bankruptcy court proceeding or answers, consents or seeks relief under any bankruptcy or similar law or fails to obtain a dismissal of involuntary petition within sixty (60) days of filing;
- c. By either Party if the other Party makes any material representation or warranty in this Agreement, which is incorrect and has a material and adverse effect on the other Party (as reasonably determined by such non-breaching Party), and such incorrect representation or warranty shall continue uncured for a period of thirty (30) days after written notice of such incorrect representation or warranty (except only where this Agreement specifically provides additional time and/or other options or remedies for any such failure; or, with respect to obligation that is susceptible of cure within a reasonable time period so long as such Party is using its best efforts to promptly cure).

SECTION 4. Ownership and Right to Use.

- (a) Ownership. At all times, the ownership and possession rights to the Cable, and the ownership and rights to SWOCA Leased Fibers, shall remain in the City and SWOCA shall have no ownership interest therein.
- (b) Grant of Right to Use. The City grants to SWOCA for the Term of this Agreement the exclusive right to use the SWOCA Leased Fibers along the routes as set forth in Exhibit B ("Route"), which may occupy portions of the City's electric distribution or transmission system, subject to the terms and conditions of this Agreement. SWOCA's right to use the Cable along the Route at all times shall be subordinate to the City's obligation to provide a safe and reliable supply of electricity and other utility services to its customers. Nothing in this Agreement shall give SWOCA any right to sublease or assign in any way the SWOCA Leased Fibers or any portion thereof except with the express written permission from the City. Nothing in this Agreement shall give SWOCA any right to use any Structure or other facility of the City's except for the SWOCA Leased Fibers along the Route as covered by the terms and conditions of this Agreement. The grant in this Article 4(b) does not give SWOCA the right to splice the SWOCA Leased Fibers; provided, however, that upon reasonable request the City agrees to splice SWOCA Leased Fibers at SWOCA's request at cost-based time and materials rate.

SECTION 5. Installation, Operation, and Maintenance. The City shall install, construct, operate, and maintain the Cable, as defined in Section 2 and Exhibit B along the Route, in accordance to the terms and conditions set forth in this Agreement and further outlined in this Section 5. Any rerouting of the fiber at the request of SWOCA will result in revision to the per mile monthly charge and any associated costs involved.

- (a) Casualty. If any portion of the Cable or the SWOCA Leased Fibers is damaged or destroyed by casualty at any time during the Term of this Agreement, the repairs and/or replacements will be performed in accordance with this Section 5.
- (b) The City's Right to Maintain Service. Service will meet industry standards. The City shall have the right to take all action necessary to maintain and repair the City's property and maintain the City's provisions of utility services to its customers, provided that the City shall take reasonable precautions to protect the Cable against damage. In the event of any service outage affecting the Cable, the City shall have the right to repair its electric facilities first. If conditions permit, the City may repair its utility facilities concurrently with the Cable or the SWOCA Leased Fibers. SWOCA acknowledges that a portion of the Cable containing SWOCA Leased Fibers will be placed on Structures that are part of the City's electric distribution or transmission system and that at all times the safe and continuous operation of such system and the provision of electric service is the City's foremost priority. The City further reserves the right to suspend Service for scheduled maintenance or planned enhancements or upgrades upon twenty-four (24) hours' notice to SWOCA or to suspend Service for emergency repairs to the City's network without notice to SWOCA.
- (c) The City's Right to Maintain Equipment. The City's equipment shall remain the sole and exclusive property of the City. SWOCA shall not tamper with, remove or conceal any of the City's identifying plates, tags or labels. SWOCA will provide equipment compatible with the City's network and facilities. SWOCA shall bear the cost of any additional apparatus reasonably required to be installed due to the use of the City's network and/or facilities. The City reserves the right to substitute, change or rearrange any equipment, including SWOCA owned equipment, used in delivering Service that does not affect the quality, cost or type of Service.
- (d) Relocations. In the event that, during the term of this Agreement, the City is required by public authorities or by lawful order or decree of a regulatory agency or court to relocate or modify any or all Structures upon which the SWOCA Leased Fibers or any part thereof are located, the City shall provide notice to SWOCA with forty-five (45) days after the City is notified and prior to the beginning of such relocation. In any such event, the costs of relocating, modifying or replacing the Cable and any SWOCA Leased Fibers thereby affected shall be paid by the City. The Parties shall cooperate in performing such relocation and modifications of the Structures so as to minimize any interference with the use of SWOCA Leased Fibers by SWOCA.
- a. In any event of an emergency affecting the City's Structures, the City's provision of utility service to its customers, any of the City's facilities or public safety, the City shall be permitted to replace, remove, and relocate the Cable or any portion thereof without prior notice to SWOCA, when such notice is not possible. Notice will be provided at the earliest possible time and the City shall incur no liability to

SWOCA or its customers for service interruptions in connection with any such removal or relocation.

- (e) Rights of Way. Subject to the provisions of Section 5(d), above, the City’s obligation to install and maintain the Cable and the SWOCA Leased Fibers along the Route(s) is limited by the rights of way, easement, locations, licenses, or other land rights currently held by the City or made available to the City by SWOCA. SWOCA shall not be responsible to obtain any additional rights of way, easements, permits, licenses or other permissions for the installation of the Cable along the Routes or any modifications or extensions thereof. The City shall be responsible to acquire any additional rights of way, easements or other land rights necessary to install the Cable along the Route(s) or for any modification or extension thereof, and any costs incurred by the City in doing so shall be for SWOCA’s account.
- (f) Rights to Locate Structures. The City represents that, to the best of its knowledge, the City has sufficient legal rights (whether contractual, pursuant to applicable law, arising from the City’s relationship with the underlying property owner or otherwise) authorizing it to locate its Structures and the Cable on the Route and that it is not aware of any prohibitions or restrictions in any of the rights that may have to its leasing the SWOCA Leased Fibers to SWOCA. In the event that the City should intend in the future to abandon any Structure bearing the Cable, the City shall notify SWOCA of its intent to abandon the Structure(s) and the Cable located on the Route as soon as is reasonably possible following the City’s decision to abandon the Structure(s) and the Cable but in no event less than ninety (90) days prior to the effective date of such abandonment.

SECTION 6. Costs, Charges, and Payment.

- (a) Lease Payment. SWOCA shall pay the City, monthly as invoiced, per fiber optic pair for the first fiber optic mile a monthly lease rate of forty-four and 96/100 dollars (\$44.96) per location and a monthly lease of twenty-nine and 98/100 dollars (\$29.98) per location for each additional fiber optic mile, rounded to the nearest .01 miles, as outlined in the “Monthly – COS Rate Dark Fiber” table below in Section 6(a)(1).

1.

Description	Monthly – COS Rate Dark Fiber			Total Monthly Cost
	Miles	First Mile	Additional Miles	
Hamilton High School	4.2	44.96	\$95.94	\$140.90

Badin High School	4.26	\$44.96	\$97.73	\$142.69
St. Joseph School	6.27	\$44.96	\$157.99	\$202.95
St Peter in Chains School	2.78	\$44.96	\$53.36	\$98.32
Butler County ESC	1.78	\$44.96	\$23.38	\$68.34
Miami School	1.35	\$44.96	\$10.49	\$55.45
Hamilton City Schools Bus Garage	2.55	\$44.96	\$46.47	\$91.43
Fairfield Twp. Fire Department	6.18	\$44.96	\$155.30	\$200.26
Headgates Road	7.5	44.96	194.86	\$239.82

(b) Performance Conditioned on Payment. Payment in full of all costs due hereunder shall be a condition precedent to the City's obligations under this Agreement. Payments not received within thirty (30) days are subject to a one and one-half percent (1.5%) per month late fee.

(c) Extensions. In the event that any additional extensions of the City's facilities are required under by written amendment to this Agreement, the terms, conditions, and costs governing the installation and implementation of such extension shall be separately negotiated by the Parties.

1. Under the terms of this agreement, in the event a new Location and/or Extension is added to this Agreement by written mutual agreement of the parties, SWOCA shall be charged the same monthly lease rate of forty-four and 96/100 dollars (\$44.96) per mile for the initial mile and twenty-nine and 98/100 dollars (\$ 29.98) for each additional mile beyond the initial mile, rounded to the nearest .01 mile.

(d) Dark Fiber Credit. Notwithstanding any provision of the Original Agreement for dark fiber service, credit for the difference between the lit fiber rate and dark fiber rate as outlined above shall be prorated to the first month following the date in which the Original Agreement for the lit fiber expired.

(e) Build Cost. The remaining balance of the build cost from the Original Agreement shall be deducted from any credits due as outlined in Section 6(d) Dark Fiber Credit. The remaining balance of the build cost by point is:

1. Hamilton High School \$1,600.08
2. Hamilton City School Bus Garage \$7,544.00

(f) Service Interruption Credits. Credits are subject to the limitation of liability set forth in Sections 8 and 9 of this Agreement.

(e). **SECTION 7. Representations and Warranties.**

- (a) SWOCA Warranties. SWOCA represents and warrants that it is an entity, duly organized, validly existing and in good standing under the laws of its origin, with all requisite power to enter into and perform its obligations under this Agreement in accordance with its terms. SWOCA represents and warrants that neither its equipment nor facilities will pose a hazard to the City's equipment of facilities or create a hazard to the City's personnel or customers or the public in general. SWOCA represents and warrants that its use of the Services will comply and conform with all applicable federal, state, and local laws, administrative and regulatory requirements and any other authority having jurisdiction over the subject matter of this Agreement and it will be responsible for applying for, obtaining, and maintaining all registrations and certificates which may be required by such authorities. SWOCA represents and warrants that it will not resell all or a portion of the Services provided by the City under this Agreement. To the extent allowed by law, SWOCA will indemnify and hold the City harmless from any and all loss, liability, claim, demand, and expense (including reasonable attorney fees) related to SWOCA's violation of this Section 7(a).
- (b) Work Clearances and Related Delays. SWOCA acknowledges that, with respect to contingency line operating conditions and all other issues affecting clearance to work on the Cable by the City, such work shall subordinate to the City's obligation to provide a safe and reliable supply of electricity and other utility services to its customers.
- (c) Interruption of Service. The City makes no representations or warranties for continuous service. The Parties acknowledge that service interruptions may occur from time to time in which case the City will use reasonable efforts in accordance with Good Utility Operating Practice to restore service in a prompt manner. The City's obligation to restore service, however, is subordinate to its obligation to provide utility services to its customers. For purposes of this Agreement, "Good Utility Operating Practice" means the practices, methods and acts engaged in or approved by a significant portion of the electric power industry during the relevant time period, or the practices, methods and acts which the exercise of reasonable judgement in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, safety, expedition, the requirements of governmental agencies having jurisdiction; such term is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to constitute a spectrum of acceptable practices, methods or acts.

SECTION 8. Force Majeure. Neither Party shall be liable for any costs, losses or damages incurred by the other Party for any failure to perform its obligations hereunder where such failures arise from or are in consequence of any event of Force Majeure, including but not limited to an act of God, natural disaster, war, civil disturbance, fire, explosion, failure of electrical distribution equipment, any federal, state or law or any rule, regulation or order of court or other governmental agency, labor disputes, inability to secure materials, or any other cause or causes, whether similar or dissimilar to the causes enumerated above, beyond the

reasonable control and without the fault or negligence of the party asserting Force Majeure. In no event shall a claim of Force Majeure excuse the timely payment of amounts due and owing under this Agreement. The Party asserting Force Majeure must give notice in writing to the other Party as soon as practicable after the occurrence of the cause relied on and such cause shall be remedied with all reasonable dispatch.

SECTION 9. Limitation of Liability.

- (a) Limitation of the City's Liability. Except for gross negligence, willful misconduct, or as otherwise provided for herein, the City shall not be liable to SWOCA with respect to any action, claim, damages or expenses brought on or incurred by SWOCA in connection with the occupancy of the space or installation, provision, preemption, termination, maintenance, repair or restoration of services hereunder. The City disclaims any and all loss or liability resulting for access delays or interruptions in service. IN NO EVENT SHALL THE CITY BE LIABLE TO SWOCA OR ITS CUSTOMERS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING STRICT LIABILITY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR ANY LOST BUSINESS DAMAGES IN THE NATURE OF THE LOST REVENUES OF PROFITS. IN NO EVENT SHALL THE CITY'S LIABILITY IN TORT EXCEED THAT PROVIDED BY THE OHIO POLITICAL SUBDIVISION TORT CLAIMS ACT, OHIO REVISED CODE CHAPTER 2744.
- (b) Limitation of SWOCA's Liability. TO THE EXTENT ALLOWED BY LAW, IN NO EVENT SHALL SWOCA BE LIABLE TO THE CITY OR ITS CUSTOMERS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING STRICT LIABILITY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR ANY LOST BUSINESS DAMAGES IN THE NATURE OF THE LOST REVENUES OR PROFITS.
- (c) Waiver of Jury Trial. EACH PARTY WAIVES ITS RESPECTIVE RIGHTS TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

SECTION 10. Default.

- (a) Events of Default. Unless excused by an Event of Force Majeure as defined in Section 8, a Party shall be considered in default of this Agreement should one or more of the following events occur:
 - a. Admission in writing of the Party's inability to pay its debts when due; making a general assignment for the benefit of creditors; the institution of any proceeding, whether voluntary or involuntary, seeking to adjudicate that Party bankrupt or insolvent; seeking reorganization, arrangement, adjustment or reorganization or relief of debtors, seeking appointment of a receiver, trustee, or other similar

official for it or any substantial part of its property; or taking any action to authorize any of the actions set forth above;

- b. Failure of that Party to perform, in material respect, any other obligation under this Agreement in accordance with the terms hereof. For purposes of this Agreement, a material breach shall mean a failure to perform (whether any such failure shall arise as the result of the voluntary or involuntary action or inaction of such Party), in any material respect, any of its obligations set forth in this Agreement, including without limitation failure to make payments when due, and any violation of law (which is material and which adversely affects either Party's obligations under the Agreement) and such failure shall continue uncured for a period of thirty (30) days following written notice from the non-breaching Party or such shorter period of thirty (30) days following written notice from the non-breaching Party or such shorter period as may apply under law (the "Cure period"). The sublease or assignment of SWOCA's right to use the SWOCA Leased Fibers without the City's prior written consent (other than a conditional assignment by SWOCA to a lender or lenders in connection with the creation of a collateral security interest to secure a loan or other extension of credit by such lender to SWOCA in accordance with Section 11(a) of this Agreement) shall constitute a material breach of this Agreement. A Party's exercise of its right to terminate this Agreement as provided herein shall not affect its ability to pursue any and all rights it may have against the breaching Party now or hereafter under the law, subject to the limitations of this Agreement.
- (b) If either Party shall remain in default under any material provision of this Agreement for a period of thirty (30) days after notice by the other Party of such default, the Party so notifying the other Party may, at its option, terminate this Agreement as provided in Section 4. Upon the termination, the terminating Party shall have no further obligations or liability to the other Party.

SECTION 11. Miscellaneous Provisions.

- (a) Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns where permitted by this Agreement. Neither Party shall assign, transfer, delegate or in any other manner dispose of, any of its rights, privileges or obligations under this Agreement without the other Party's written consent, which will not be reasonably withheld; except a Party may assign the Agreement (the "Assignor") with consent:
 - a. To an affiliated entity controlling, controlled by or under common control of their respective parents;
 - b. In connection with a transaction pursuant to which the Assignor sells all or substantially all of its business, assets or equity interests; and

- c. A transfer, pledge or assignment of its rights to receive performance under a transaction as security for any financing with financial institutions, as long as such assignee has the same technical and financial ability as the Assignor to perform all of the Assignor's obligations under the Agreement and Assignor shall remain jointly and severally liable for all of its obligations under the Agreement, and any attempt to make such assignment, transfer or disposition without consent shall be null and void.
- d. Notices. All notices, invoices, and other communications from either Party to the hereunder shall be in writing and shall be deemed received upon actual receipt when (a) personally delivered, (b) upon acknowledgment of receipt if sent by facsimile, (c) Upon the expiration of the third (3rd) business day after being deposited in the United States Mail, postage prepaid, certified or registered mail or (d) upon the expiration of one (1) business after being deposited for overnight delivery with a national overnight courier company when addressed to the other Party as follows:

As to the City:

Director of Public Utilities
City of Hamilton – Department of Utilities
345 High Street
Hamilton, OH 45011

As to SWOCA:

Southwest Ohio Computer Association
3611 Hamilton Middletown Road
Hamilton, OH 45011

With a copy to:

Southwest Ohio Computer Association
3611 Hamilton Road
Hamilton, OH 45011

Each Party shall provide the other Party in writing with twenty-four (24) hour, seven (7) days per week emergency notification numbers. Each Party may change its address and emergency numbers by giving the other Party notice thereof in conformity with this Section 11(b).

- (b) Waiver. No failure or delay on part of either Party hereto in exercising any right, power or privilege hereunder and no course of dealing between the Parties shall operate as a

waiver thereof; nor shall any single or partial exercise of any right power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

- (c) No Joint Venture. This Agreement is not intended to create nor shall it be construed to create any partnership, joint venture, employment or agency relationship between SWOCA and the City.
- (d) Severability. Nothing contained in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is conflict between any provision of this Agreement and any law, such law will prevail; provided, however, that in such event, necessary to permit compliance with the minimum legal requirement, no other provisions of this Agreement shall be affected thereby and all such other provisions of this Agreement shall continue in full force and effect.
- (e) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed and original, an all such counterparts together shall constitute but one and the same instrument.
- (f) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without reference to its conflicts of law provisions. Any dispute regarding this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Butler County, in the State of Ohio, and the Parties hereby irrevocably agree to submit to the personal and exclusive jurisdiction and venue of such courts.
- (g) Confidential Information. The Parties may have access to certain information, the ownership and confidential status of which is highly important to the other party and is treated or designated by one of the parties as confidential (“Confidential Information”). Neither Party will disclose the other Party’s Confidential Information, directly or indirectly, under any circumstances, to any third party without the express written consent of the other Party and neither Party will copy, transmit, reproduce, summarize, quote or make commercial or other use whatsoever of the other Party’s Confidential Information, except as may be necessary to perform its duties herein. Either Party may disclose “Confidential Information” as required by law, in which case, the Party required to make the disclosure shall give the other Party prior notice of such disclosure immediately upon learning of the obligation to disclose. Furthermore, both Parties recognize the City is subject to Ohio Public Records law and any disclosure pursuant to such law shall not be a breach of this Section 11(g). Each Party will exercise the highest degree of care in safeguarding the other Party’s Confidential Information against loss, theft or other inadvertent disclosure and take all steps necessary to maintain such confidentiality.
- (h) Entire Agreement. The Exhibits referenced in and attached to this Agreement shall be deemed an integral part hereof to the same extent as if written in whole herein. This Agreement supersedes any prior written or oral agreements by the Parties concerning the

Cable. In the event that any inconsistency exists between the provisions of this Agreement and any Exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such Exhibits.

- (i) Amendments. This Agreement may not be amended or modified in any way except by a writing signed by an authorized representative of the Party against whom the amendment, modification or waiver is sought to be enforced.

(SIGNATURE PAGE TO FOLLOW)

SIGNATURE PAGE

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

City of Hamilton Department of Infrastructure

Southwest Ohio Computer Association

By: _____

By: Donna Davis-Norris

Name: Jim Logan

Name: Donna Davis-Norris

Title: Executive Director of Infrastructure

Title: Executive Director

By: _____

Name: Joshua Smith

Title: City Manager

CITY OF HAMILTON, OHIO

Approved as to Form

By: _____

Name: Letitia S. Block, Esq.

Title: Director of Law

CITY OF HAMILTON, OHIO

Exhibit A

Fiber Acceptance Testing Procedures and Standards

All splices will be performed with an industry accepted fusion splicing machine. Hamilton will perform two stages of testing during the repair of a fiber cable route. As soon as fiber connectivity has been achieved, Hamilton will verify and record the continuity of all fibers. Hamilton will take and record power loss readings on all fibers in both directions. Hamilton will perform bidirectional OTDR tests on all fibers.

After Hamilton has completed end-to-end connectivity on the fibers, bidirectional span testing will be done. Continuity tests will be done to verify that no fibers have been "frogged" or crossed in any of the splice points. Once the fiber has been connected, loss measurements will be recorded using an industry accepted laser source and a power meter. OTDR traces will be taken and splice loss measurements will be recorded. Hamilton will store OTDR traces on retrievable electronic medium and on data sheets. Laser Precision format will be used on all traces. Copies of all data sheets and tables, and one set of diskettes with all traces will be available to SWOCA

The power loss measurements shall be made at 1550 nm and 1310 nm, and performed bidirectionally. OTDR traces shall be taken in both directions at 1550 nm and 1310 nm.

The splicing standards are as follows:

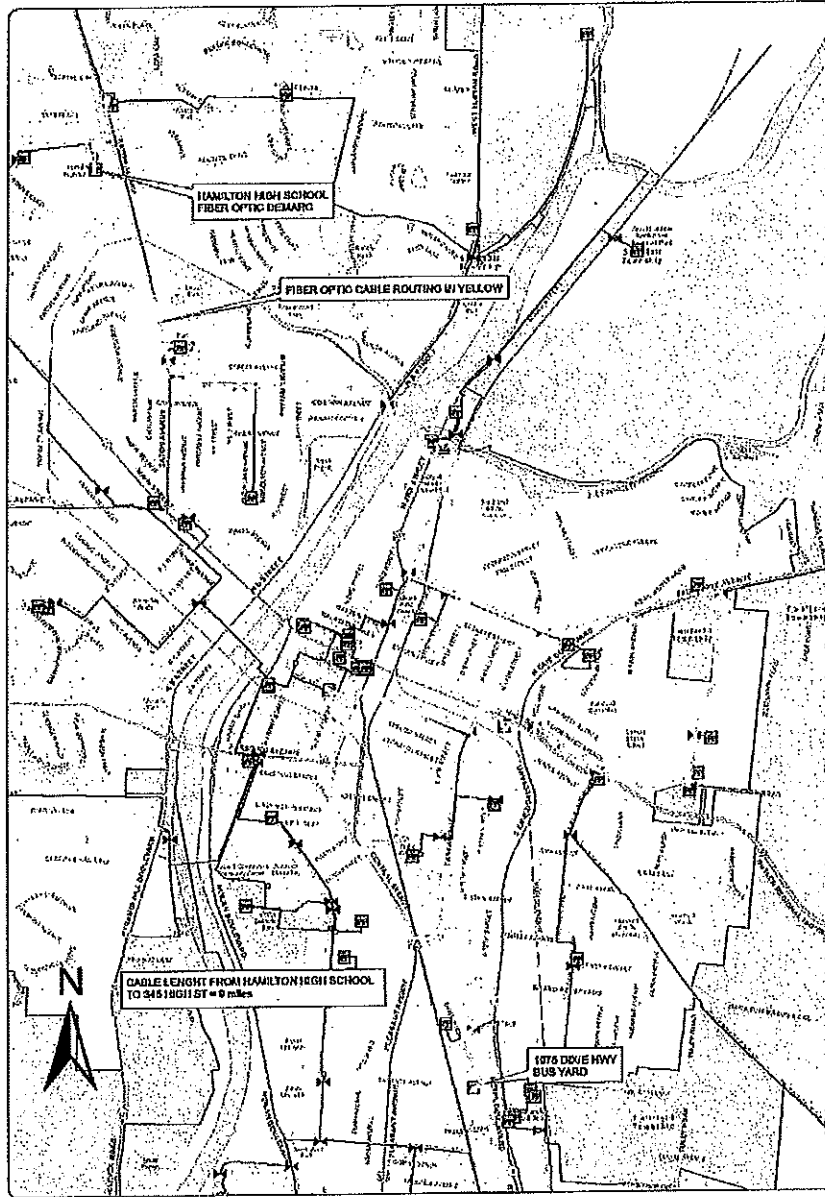
- The loss value of the connector will not exceed 0.75 dB. This value does not include the insertion loss from its connection to the OSX (read comments below). For values greater than this, the connector will be replaced until an acceptable loss value is achieved. If, after three attempts, Hamilton is not able to produce a loss value less than 0.75 dB, the connector will be marked as Out-of-Specification ("OOS") on the data sheet. Each connector attempt shall be documented on the data sheet.
- During installation, and during any restoration activity caused by fiber cuts or other events, the objective for each splice is a loss of 0.30 dB or less. If, after two additional attempts, a value of less than 0.30 dB is not achievable, then the splice will be marked as OOS on the data sheet. Each splicing attempt shall be documented on the data sheet.
- During end-to-end testing of a span (a span shall be OSX to OSX), the objective for each splice is a bi-directional average loss of 0.15 dB or less.
- The maximum bi-directional loss for each splice shall be 0.25 dB.
- The entire fiber optic cable system shall be properly protected from foreign voltage and grounded with an industry-accepted system.

The fibers shall be terminated to the OSX with SC-UPC connectors (max return loss of - 0.75dB and a typical of -0.75dB), unless another type of connector is specified. Jumpers shall be manufactured with standard single mode fiber or equivalent.

Testing for Segments for which the Segment End Point is other than a SWOCA point of presence shall be performed in a coordinated fashion, so that SWOCA shall connect and test the fiber owned by it in conjunction with Hamilton's testing of the SWOCA Leased Fibers. In the event that the entire tested portion does not satisfy the testing criteria set forth herein, SWOCA and Hamilton shall work together in good faith to pinpoint the cause of the problem and each party shall be responsible for the timely performance of such repairs on the fibers owned by it (so that Hamilton shall only be responsible for repairs needed to bring the Leased Fibers into compliance with this Exhibit). Hamilton may (in the event of a dispute respecting testing and acceptance of the Leased Fibers within any such Segment) arrange to have the Leased Fibers tested only to the Segment End Point and, if such Leased Fibers meet the testing criteria set forth herein SWOCA shall be obligated to accept and pay for such Leased Fibers (notwithstanding the fact that the fibers connected to point of presence may not be functioning properly).

Exhibit B

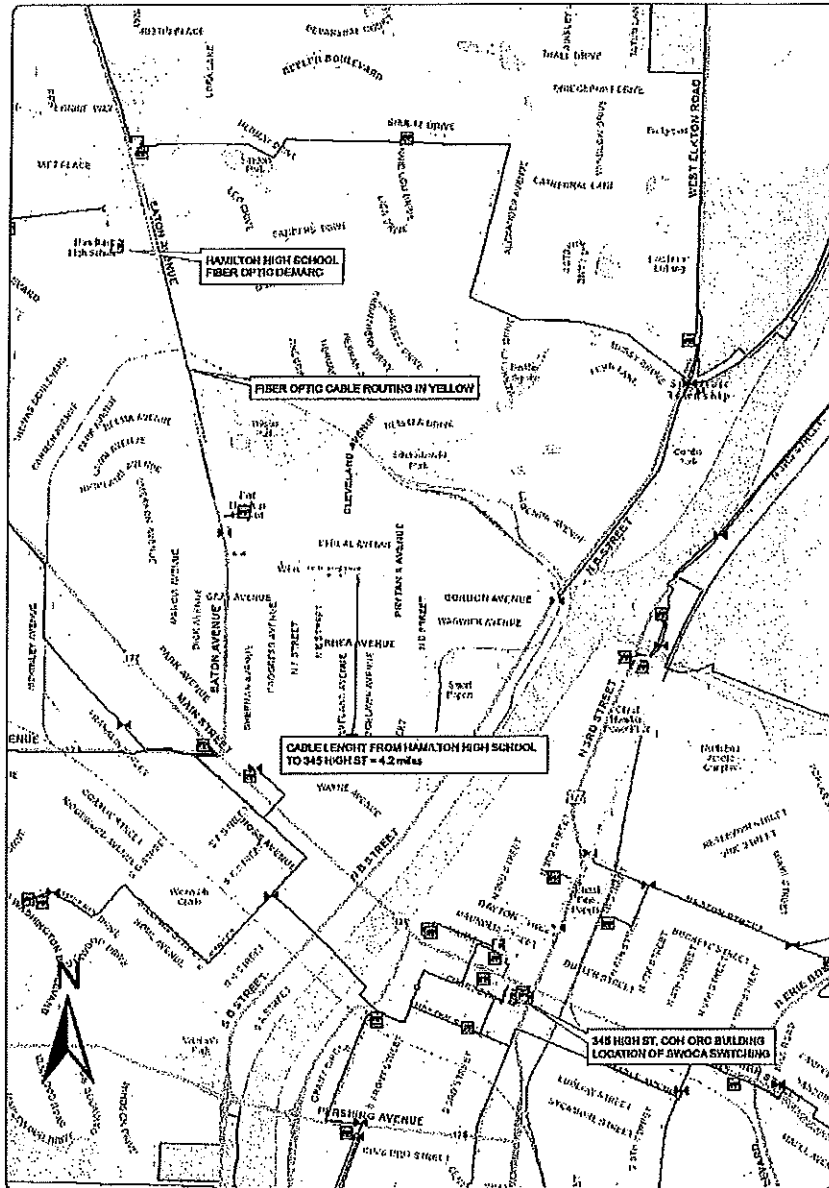
Map of Route



1 inch = 1,500 feet
 0 750 1,500 3,000 4,500 6,000 Feet

**COH FIBER OPTICS
 HHS TO 1975 DIXIE HWY
 SWOCA CONNECTION
 2016-04-28**

M



1 inch = 1,000 feet
 0 625 1,250 2,500 3,750 5,000 Feet

**COH FIBER OPTICS
 HHS TO 345 HIGH ST
 SWOCA CONNECTION
 2016-04-28**

M

City Council Meeting Staff Report

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

Report From: Ed Wilson, AICP, Associate Planner II

Agenda Item: An ordinance amending certain sections of City of Hamilton Zoning Ordinance No. 7503, Sections 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four). (City of Hamilton, Applicant).

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input checked="" type="checkbox"/> I Realize new investments <input type="checkbox"/> J Increase gross wages <input checked="" type="checkbox"/> P Increase property values <input type="checkbox"/> R Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
Ordinance or Resolution <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 st Reading Date: 3-25-2020 <input checked="" type="checkbox"/> 2 nd Reading Date: 4-8-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 3-25-2020	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other): 3-11-2020 Caucus Report City Council Meeting Planning Commission Meeting: 3-5-2020	
Contract	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
Fiscal Impact	Budgeted: \$200.00	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>
	Expenditure: \$200.00	
	Source Funds:	

Policy Issue

Does City Council wish to amend the Zoning Ordinance of the City of Hamilton, Ohio Chapters 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District?

Policy Alternative(s)

Council may choose not to adopt such legislation to amend the Zoning Ordinance or may request changes to the text proposed to be added to the City of Hamilton Zoning Ordinance.

Staff Recommendation

Staff recommends that Council receives this report, concurs in the recommendation of the Planning Commission and adopts the necessary legislation to amend the Zoning Ordinance of the City of Hamilton, Ohio for Chapters 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District.



Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 1180.00, Amendments, City of Hamilton Zoning Ordinance
- Plan Hamilton, the City's Comprehensive Plan.

Fiscal Impact Summary

The City's current fiscal impact includes any staff time allotted to the proposed text amendments of the Traditional Neighborhoods Zoning Districts, estimated at approximately \$200.00.

Background Information

The purpose of the Traditional Neighborhood zoning districts is the establishment of zoning regulations developed specifically for the established design of Hamilton's traditional and urban core neighborhoods. Plan Hamilton, the City's Comprehensive Plan recommended the implementation of Traditional Neighborhood Zoning Districts, zoning regulations designed for the unique built environments and character of the city's older and urban neighborhoods.

In late 2019, the City implemented the TN Zoning Districts for a portion of the Rossville Neighborhood and a part of the Prospect Hill neighborhood. With the implementation, the Planning Department has received feedback pertaining to the district regulations. Planning proposes zoning text revisions based on feedback and periodic reviews of the TN (Traditional Neighborhood) Zoning District chapters.

Petition Overview:

The proposed text amendments include moderate revisions to the new Traditional Neighborhoods (TN) zoning districts based on preliminary feedback compiled by staff as these districts are applied to more neighborhoods in the city. In addition, the proposed changes would correct minor textual items to clarify the lot size regulations for the TN Zoning Districts.

There are three (3) specific changes proposed as part of the zoning text amendment:

1. Proposed revision adding Bed and Breakfast as a Conditional Use in the Traditional Neighborhood-One (TN-1) district with nine (9) conditions that would apply for when a bed and breakfast may be appropriate. Staff is also recommending eliminating the regulation that a Bed and Breakfast has to be in a designated Historic Preservation District in TN-2, TN-3, and TN-4. This change is in response to interest from property owners in utilizing single-family homes that are most appropriately zoned TN-1 as bed and breakfasts.
2. Proposed change the Infill Development Standards regarding vinyl siding. The proposed change now includes a reference to the Residential Design Standards in Section 1110.00 of the Hamilton Zoning Ordinance, which contains guidelines such as vinyl thickness. Additionally, the proposal changes the regulations on vinyl siding allowing it on the front façade if the character of the surrounding houses and surrounding area also contains vinyl siding on the front façade.
 - Because there are areas of Lindenwald and Prospect Hill where vinyl is common, Staff believes that it could be appropriate to include vinyl siding on infill development. It remains identified as an accessory material only. These regulations are found in TN-1 but apply to TN-2, TN-3, and TN-4 as well.
3. Proposed changes, resolving an issue in the text regarding Minimum Lot area regulations where there was conflicting information. Staff deleted the 7,500 square feet lot area minimum and kept the 4,000 square feet minimum. This change occurs in TN-1 and TN-2.

For the full list of changes to the four (4) Traditional Neighborhood Zoning Districts, please see the exhibit attachment to this report (See Exhibit A).



Legal Review

The proposed changes have been reviewed and approved by Frost Brown Todd, outside legal counsel for the City.

Notification

The Planning Department posted a notice of public hearing for the March 5, 2020 Planning Commission and a notice of public hearing for the March 25, 2020 City Council on the City Website, Planning Commission page, per the recently revised statutes of Section 1180.00 of the Hamilton Zoning Ordinance (HZO).

- Planning Commission Public Hearing Notice: Posted February 19, 2020 (Exhibit B)
- City Council Public Hearing Notice: Posted February 20, 2020 (Exhibit C)

Planning received no inquiries pertaining to the proposed text amendments.

Findings for Approval

Staff recommends the amendment to the TN Districts for the following reasons:

1. Removing the language about requiring Bed and Breakfasts to be located only in designated historic districts and adding Bed and Breakfast as a Conditional Use in TN-1 is responsive to feedback we have received from property owners in Hamilton's traditional and urban core neighborhoods who are interested in utilizing their properties for bed and breakfast purposes. Where appropriate conditions exist, including large lot sizes and off-street parking availability, bed and breakfasts can integrate into Hamilton's urban core and traditional neighborhoods.
2. Changing the infill guidelines regulations about vinyl siding allows for infill development that is appropriate to sections of Hamilton's traditional neighborhoods where vinyl siding is common. Regulating the thickness of the vinyl as well as only allowing it as an accessory material on the façade maintains the goal of high-quality development in Hamilton's neighborhoods.
3. Eliminating the conflicting language included in the minimum lot area regulations eliminates confusion on how to interpret the Hamilton Zoning Ordinance for Staff, developers, and citizens.
4. While the changes allow for greater flexibility in use and material, the TN Districts provide the proper oversight ensuring that all developments properly integrate with the character and form of the surrounding areas and, as such, they will not adversely affect the public health, safety, or welfare of the public.

Planning Commission Recommendation

After conducting a public hearing on March 5, 2020, the Planning Commission recommended Council approve the amendment to the Zoning Ordinance of the City of Hamilton, Ohio for Chapters 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District.

It is the recommendation of the Planning Department that Council receives this report, concurs in the recommendation of the Planning Staff and the Planning Commission, conducts a public hearing, and passes the necessary legislation.

Attached Information

- 1) Exhibit A – Proposed Hamilton Zoning Text Amendments: Sections: 1131.200 (TN-1), 1131.300 (TN-2), 1131.400 (TN-3), and 1131.500 (TN-4)
- 2) Exhibit B – Notice of Public Hearing, Planning Commission March 5, 2020
- 3) Exhibit C – Notice of Public Hearing, City Council March 25, 2020
- 4) Exhibit D – Planning Commission Staff Report: March 5, 2020

Copies Provided to:

N/A



**TN (Traditional Neighborhood) Zoning Text Amendments
Exhibit A - Proposed Zoning Ordinance Amendments**

General Attachment Notice:

For ease of viewing, only those portions of the Zoning Ordinance pertaining to the requests within the submitted application have been included within these attachments.

The complete zoning code can be viewed online at:
<https://www.hamilton-city.org/262/Planning-Department>

EXHIBIT A

Proposed Text Amendments to City of Hamilton Zoning Ordinance
Words to be **deleted** are [~~lined through~~] - Words to be **added** are **highlighted**

**TN (Traditional Neighborhood) Zoning Districts
[TN-1, TN-2, TN-3, & TN-4]**

Proposed Changes to Traditional Neighborhood-1 (TN-1) District

1131.260 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.260.5 Bed and Breakfast: A maximum of three (3) bedrooms in the principal residential structure on a lot may be used as Rentable Units, subject to the following conditions:

1131.260.5.1 Minimum Lot Size for Operation: 6,000 square feet.

1131.260.5.2 Minimum Lot Size per Rentable Unit: 1,500 square feet.

1131.260.5.3 The submitted plan mitigates adverse impacts on the surrounding areas associated with the increase in density and intensity. Considerations include, but are not limited to, overcrowding, noise, trash, off-street parking, and screening or buffering.

1131.260.5.4 The use shall not generate pedestrian or vehicular traffic beyond that which is reasonable or normal to the area in which the site is located.

1131.260.5.5 One (1) off-street parking space shall be provided per bedroom available for rent. Off-street parking shall be provided as indicated in the approved plan. Applicants shall demonstrate the ability to provide parking for employees and customers on-site and / or through the use of public facilities or some other off-site location, either of which shall be located within 500 feet of the site. A minimum of seventy percent (70%) of the required off-street parking shall be provided on-site in areas featuring a high concentration of residential land uses.

1131.260.5.6 Operations shall be compliant with all applicable state and local regulations, including any and all applicable licensing requirements.

1131.260.5.7 No outdoor storage of any material (usable or waste) shall be permitted on site, unless such outdoor storage is approved in the plan through the Conditional Use Process set forth in this Zoning Ordinance.

1131.260.5.8 No lighting shall be permitted in association with a Bed and Breakfast which would produce a glare on any street or into any adjacent property beyond that which is reasonable or normal to the Zoning District and within surrounding areas.

1131.260.5.9 No use shall create hazardous, offensive or objectionable odor, dust, cinders, fumes, noise, vibration, radiation, or refuse matter.

1131.270 Minimum Lot Area: The Minimum Lot Area of newly created lots shall be within five percent (5%) of the average lot size of all lots located on the same block face and in the same zoning district. ~~In no instance shall the lot area of a new lot used for residential purposes have an area that is less than 7,500 square feet.~~ In no instance shall the lot area of a new lot used for residential purposes have an area that is less than 4,000 square feet.

1131.280 Infill Development Standards: Infill Development standards of this Section apply to the construction of all new structures located within a TN District.

1131.280.3 Building Materials: All exterior building materials shall be quality materials that produce aesthetics that are consistent or compatible with typical construction materials used in traditional and urban neighborhoods. Examples include brick, wood “clapboard” type siding, wood composite “clapboard” type siding or cement board “clapboard” type siding, stone, concrete, and other materials which are formed to have a stone, wood, shake, or brick appearance. Vinyl may be used as an accessory material in the following instances:

1131.280.3.1 The style of the vinyl material appropriately mimics typical construction materials used in traditional and urban neighborhoods and meets the Residential Design Standards in Section 1110.00.

1131.280.3.2 The portion of the exterior where vinyl is utilized is not directly viewable from the public right of way on the front facade if vinyl is not a material used on the principal structures on the two (2) adjoining lots located on the same block face.

Proposed Changes to Traditional Neighborhood-2 (TN-2) District

1131.360 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.362 Bed and Breakfast: A maximum of three (3) bedrooms in the principal residential structure on a lot ~~located within a designated Historic Preservation District~~ may be used as Rentable Units, subject to the following conditions:

1131.370 Area and Height Requirements: Unless otherwise stated within this Section of the Zoning Ordinance, the following area and height requirements shall be observed within the TN-2 Zone:

1131.371 Maximum Height: Three (3) stories or thirty (30) feet in height.

1131.372 Minimum Lot Area: The Minimum Lot Area of newly created lots shall be within ten percent (10%) of the average lot size of all lots located on the same block face and in the same zoning district. ~~In no instance shall the lot area of a new lot used for residential purposes have an area that is less than 7,500 square feet.~~ In no instance shall the lot area of a new lot used for residential purposes have an area that is less than 4,000 square feet.

Proposed Changes to Traditional Neighborhood-3 (TN-3) District

1131.460 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.461.3 Bed and Breakfast: A maximum of five (5) bedrooms in the principal residential structure on a lot ~~located within a designated Historic Preservation District~~ may be used as Rentable Units, subject to the following conditions:

Proposed Changes to Traditional Neighborhood-4 (TN-4) District

1131.560 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.563 Bed and Breakfast: A maximum of seven (7) bedrooms in the principal residential structure on a lot ~~located within a designated Historic Preservation District~~ may be used as Rentable Units, subject to the following conditions:



LEGAL NOTICE TO CITY WEBSITE

City Contact: Ed Wilson, AICP
Date Sent: February 20, 2020
Run Time: February 20, 2020 through March 5, 2020

**LEGAL NOTICE OF PUBLIC HEARING ON
AMENDMENTS TO ZONING ORDINANCE**

A public hearing will be held before The City of Hamilton Planning Commission, meeting as a Committee of the Whole, on **Thursday, March 5, 2020, at 1:30 P.M.**, in the Council Chambers located at 345 High Street, First Floor, One Renaissance Center, Municipal Building on amending the Hamilton Zoning Ordinance No. 7503:

- APPLICANT:** City of Hamilton
REQUEST: Proposed changes to the Zoning Ordinance of the City of Hamilton for the following sections:
- Section 1131.200 (TN-1, Traditional Neighborhood District 1);
 - Section 1131.300 (TN-2, Traditional Neighborhood District 2);
 - Section 1131.400 (TN-3, Traditional Neighborhood District 3); and
 - Section 1131.500 (TN-4, Traditional Neighborhood District 4)

Hamilton Zoning Ordinance found here: (<https://www.hamilton-city.org/262/Planning>)

An application for this project is on file and available for your review at the Planning Department located at 345 High Street, Suite 350. These materials, in addition to future updates and reports completed by staff during the review process, can found online at: <https://www.hamilton-city.org/266/Planning-Commission>.

If you have any comments concerning this matter, you may appear at the public hearing or you may forward your comments to the Planning Department in writing for presentation at the meeting.

If you or anyone planning to attend this hearing have a disability for which we need to provide accommodations, please notify staff of your requirements at least three (3) days prior to the public hearing. The phone number for the Planning Department is 513.785.7350.

Ed Wilson, AICP
Associate Planner II
City of Hamilton, Ohio

Home > Government > Boards & Commissions > Planning Commission

Application for Appointment

- Architectural Design Review Board >
- Board of Revisions of Assessments >
- Board of Zoning Appeals >
- Civil Service Commission >
- Diversity and Inclusion Commission >
- Hamilton Community Authority >
- Nuisance Appeal Board >
- Ordinance Review Commission >
- Planning Commission >
- Records Commission >
- Tree Board >
- Utilities Commission >
- Hamilton Youth Commission >

Planning Commission

Board Calendar

Click Here to access the Calendar of events for the City of Hamilton Planning Commission. *(The 2020 Meeting Calendar has been published as of December 10, 2019).*

Notice of Public Hearing

All Planning Commission Meetings are open to the public. This posting serves as notice of public meeting Planning Commission Meetings in 2020. Posting of all meeting agendas on this webpage also serves as notice of public meeting for all Planning Commission meetings.

Current Applications

March 5, 2020 - 1:30 P.M. [Agenda TBD]

345 High Street, Council Chambers

Agenda items:

8340 North Gilmore Road:

[Conditional Use for Auto Sales \(Auto Auction\) - \(Public Hearing\)](#)
Conditional Use request for Auto Sales / Auto Auction use.

Zoning Text Amendments:

[TN \(Traditional Neighborhood Districts 1, 2, 3 & 4\) - \(Public Hearing\)](#)
Request to amend the City of Hamilton Zoning Ordinance (HZO) pertaining to Sections: 1131.200, 300, 400 and 500 (Traditional Neighborhoods)

Public Hearing Notice (posted 2/20/2020): [Here](#)
Hamilton Zoning Ordinance: [Here](#)

March 19, 2020 - 6:00 P.M. [Agenda TBD]

345 High Street, Council Chambers

Agenda items:

Lindenwald & Prospect Hill:

[Proposed Rezoning of Specific Properties](#)

Contact Us

345 High Street, 3rd Floor
Hamilton, OH 45011
Phone: 513-785-7350
Fax: 513-785-7359

Calendar

Thu Feb. 20

[Cancelled: Planning Commission Meeting](#)

Tue Mar. 3

[ADRB - Architectural Design Review Board Meeting](#)

Thu Mar. 5

[Board of Zoning Appeals Meeting](#)

[View All](#)



Planning Department
345 High Street, 3rd floor
Hamilton, Ohio 45011

LEGAL NOTICE TO CITY WEBSITE

City Contact: Ed Wilson, AICP
Date Sent: February 20, 2020
Run One (1) Time: February 20, 2020

LEGAL NOTICE OF PUBLIC HEARING ON AMENDMENTS TO ZONING ORDINANCE

The Hamilton City Council will hold a public hearing on Wednesday evening, March 25, 2020 at 6:00 P.M. in the Council Chambers of the City Building located at 345 High Street, First Floor, One Renaissance Center, Municipal Building on amending the Hamilton Zoning Ordinance No. 7503:

APPLICANT: City of Hamilton
REQUEST: Proposed changes to the Zoning Ordinance of the City of Hamilton for the following sections:

- Section 1131.200 (TN-1, Traditional Neighborhood District 1);
- Section 1131.300 (TN-2, Traditional Neighborhood District 2);
- Section 1131.400 (TN-3, Traditional Neighborhood District 3); and
- Section 1131.500 (TN-4, Traditional Neighborhood District 4)

An application for this project is on file and available for your review at the Planning Department located at 345 High Street, Suite 350. These materials, in addition to future updates and reports completed by staff during the review process, can found online at:
<https://www.hamilton-city.org/266/Planning-Commission>.

If you have any comments concerning this matter, you may appear at the public hearing or you may forward your comments to the Planning Department in writing for presentation at the meeting.

If you or anyone planning to attend this hearing have a disability for which we need to provide accommodations, please notify staff of your requirements at least three (3) days prior to the public hearing. The phone number for the Planning Department is 513.785.7356.

Nick Garuckas
City Clerk
City of Hamilton, Ohio

City Council Items:

March 25, 2020 - 6:00 P.M.

345 High Street - City Council Chambers

Tentative - TN (Traditional Neighborhood Districts 1, 2, 3 & 4) - (Public Hearing)

Tentative - 8340 North Gilmore Road, Auto Auction Conditional Use

April 8, 2020 - 6:00 P.M.

345 High Street - City Council Chambers

Lindenwald & Prospect Hill:

Proposed Rezoning of Specific Properties (Public Hearing)

Lindenwald:

Map [\[here\]](#) -- List of Properties [\[here\]](#)

Prospect Hill:

Map [\[here\]](#) -- List of Properties [\[here\]](#)

Meeting Information

Planning Commission meetings are regularly held on the 1st and 3rd Thursday of every month. The first meeting of the month is a day meeting which begins at 1:30 pm. The second meeting of the month is an evening meeting which begins at 6:00 pm. Special meeting times and dates will be scheduled as necessary.

All meetings are held in the Hamilton City Council Chambers located at 345 High Street in Hamilton Ohio 45011.

Agendas & Minutes

[Click Here](#) to view the current and previous meeting agendas.



For the Planning Commission Meeting of March 5, 2020

To: Planning Commission

From: Liz Hayden
 Larry Bagford
 Ed Wilson, AICP

Date: February 19, 2020

Subject: AGENDA ITEM #1 – New Business
 Zoning Text Amendments – TN (Traditional Neighborhood) Districts

Applicant: City of Hamilton

Request: To Amend the Zoning Ordinance of the City of Hamilton, Ohio by amending Chapter 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District (City of Hamilton, Applicant)

BASIC INFORMATION	
Applicant/Property Owner	City of Hamilton – Planning Department
Architect/Engineer/Consultant	N/A
Size of Property	N/A
Current Zoning	N/A
Proposed Zoning	N/A
Comp. Plan Land Use Designation	N/A
Special Purpose/CRA	N/A
ADJACENT LAND USE/ZONING INFORMATION	
N/A	
ZONING/DIMENSIONAL INFORMATION	
N/A	

Section A: Introduction & Background

The purpose of the Traditional Neighborhood zoning districts is to establish zoning regulations developed specifically for the established design of Hamilton’s traditional and urban core neighborhoods. The submitted application would amend the new Traditional Neighborhoods zoning districts based on preliminary feedback that staff is compiling as these districts are being applied to more neighborhoods. The proposed changes include:

(Report continues on Next Page)



Synopsis of Changes:

1. To add Bed and Breakfast as a Conditional Use in the Traditional Neighborhood-One (TN-1) district with nine conditions that would apply for when a bed and breakfast may be appropriate. Staff is also recommending eliminating the regulation that a Bed and Breakfast has to be in a designated Historic Preservation District in TN-2, TN-3, and TN-4. This change is in response to interest from property owners in utilizing single-family homes that are most appropriately zoned TN-1 as bed and breakfasts.
2. Change the Infill Development Standards regarding vinyl siding. The proposed change now includes a reference to the Residential Design Standards in Section 1110.00 of the Hamilton Zoning Ordinance, which contains guidelines such as vinyl thickness. It also changes the regulations on vinyl siding from not allowing it on the front façade to allowing it on the front façade if the character of the surrounding area contains vinyl siding on the front façade.
 - Because there are areas of Lindenwald and Prospect Hill where vinyl is common, Staff believes that it could be appropriate to include vinyl siding on infill development. It remains identified as an accessory material only. These regulations are found in TN-1 but apply to TN-2, TN-3, and TN-4 as well.
3. Fix an error in the text regarding Minimum Lot area regulations where there was conflicting information. Staff deleted the 7,500 square feet lot are minimum and kept the 4,000 square feet minimum. This change occurs in TN-1 and TN-2.

Section B: Petition Review

The proposal consists of a text amendment to the Hamilton Zoning Ordinance, amending Chapters 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District.

The proposed changes to the four (4) TN (Traditional Neighborhood) zoning districts are summarized below. The full version of the TN District zoning with the changes identified are included as attachments to the staff report (See Exhibit A).

No other changes are proposed for the TN zoning districts.

(Report continues on Next Page)



Proposed Changes to Traditional Neighborhood-1 (TN-1) District

1. Add New Section to Conditional Uses: Bed and Breakfast
 - a. Maximum of three (3) bedrooms in the principal residential structure may be used as rentable units.
 - b. Add Conditions pertaining to a Bed and Breakfast in a TN-1 District
 - i. Minimum Lot Size: 6,000 square feet.
 - ii. Minimum Lot Size per rentable unit: 1,500 square feet.
 - iii. The Bed & Breakfast plan must mitigate impacts on surrounding areas (noise, overcrowding, trash, screening, parking, etc.).
 - iv. No outdoor storage of materials or waste.
 - v. No lighting shall produce glare on any street or adjacent property.
 - vi. Bed & Breakfast must be compliant with local regulations (Zoning, Health, Public Safety) and any relevant licensing requirements.
2. Minimum Lot Area – (For any lot in the TN-1 District)
 - a. 4,000 square feet minimum lot size.
 - b. Eliminated conflicting language: 7,500 square feet.
3. Infill Development Standards – (new construction of structures)
 - a. Add language that new structures and facades must meet Residential Design Standards, Section 1110.00.
 - b. Revise language pertaining to vinyl siding: Vinyl may be used on the front facade if vinyl is not a material used on the principal structures on the two (2) adjoining [adjacent, neighboring] lots located on the same block face.

Proposed Changes to Traditional Neighborhood-2 (TN-2) District

1. Revise Bed and Breakfast language to allow in all TN-2 as a Conditional Use:
 - a. Eliminate “located within a Historic District” language.
 - b. Maximum number of bedrooms will remain as three (3) bedrooms.
2. Minimum Lot Area – (For any lot in the TN-2 District)
 - a. 4,000 square feet minimum lot size.
 - b. Eliminated conflicting language: 7,500 square feet.



Proposed Changes to Traditional Neighborhood-3 (TN-3) District

1. Revise Bed and Breakfast language to allow in all TN-3 as a Conditional Use:
 - a. Eliminate “located within a Historic District” language.
 - b. Maximum number of bedrooms will remain as five (5) bedrooms.

Proposed Changes to Traditional Neighborhood-4 (TN-4) District

1. Revise Bed and Breakfast language to allow in all TN-4 as a Conditional Use:
 - a. Eliminate “located within a Historic District” language.
 - b. Maximum number of bedrooms will remain as seven (7) bedrooms.

Section C: Notification

The City of Hamilton posted notification of the zoning text amendments on the Planning Department’s website, per Section 1180.00 of the Hamilton Zoning Ordinance. They were posted on February 19, 2020, located on the Planning Commission’s website.

At the time of writing this report, Planning staff has received no phone calls about these text amendments.

Section D: Statutes

Section 1180.00 of the Hamilton Zoning Ordinance provides the basis and process for amending zoning districts.

Plan Hamilton is the updated Comprehensive Plan for the city; a living document meant to guide land use and zoning decisions for the present and future of the city. Plan Hamilton recommends the implementation of the Traditional Neighborhood zoning.

Section E: Recommendation

If approved by the Planning Commission, the Planning Department recommends the following motion:

1. The Planning Commission recommends that City Council approve the request to amend the Zoning Ordinance of the City of Hamilton, Ohio, by amending Chapters 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District.



Section F: Staff Comments / Basis for Recommendation

Staff recommends the amendment TN Districts for the following reasons:

1. Removing the language about requiring Bed and Breakfasts to be located only in designated historic districts and adding Bed and Breakfast as a Conditional Use in TN-1 is responsive to feedback we have received from property owners in Hamilton's traditional and urban core neighborhoods who are interested in utilizing their properties for bed and breakfast purposes. Where appropriate conditions exist, including large lot sizes and off-street parking availability, bed and breakfasts can integrate into Hamilton's urban core and traditional neighborhoods.
2. Changing the infill guidelines regulations about vinyl siding allows for infill development that is appropriate to sections of Hamilton's traditional neighborhoods where vinyl siding is common. Regulating the thickness of the vinyl as well as only allowing it as an accessory material on the façade maintains the goal of high-quality development in Hamilton's neighborhoods.
3. Eliminating the conflicting language included in the minimum lot area regulations eliminates confusion on how to interpret the Hamilton Zoning Ordinance for Staff, developers, and citizens.
4. While the changes allow for greater flexibility in use and material, the TN Districts provide the proper oversight to ensure that all developments properly integrate with the character and form of the surrounding areas and, as such, will not adversely impact the public health, safety, or welfare of the public.

Section G: Attachments:

Exhibit A – Proposed Hamilton Zoning Ordinance Sections:

1131.200 (TN-1), 1131.300 (TN-2), 1131.400 (TN-3), and 1131.500 (TN-4)



ORDINANCE NO. _____

AN ORDINANCE AMENDING CERTAIN SECTIONS OF ZONING ORDINANCE NO. 7503, SECTIONS 1131.200 TN-1 (TRADITIONAL NEIGHBORHOOD-ONE) DISTRICT, 1131.300 TN-2 (TRADITIONAL NEIGHBORHOOD-TWO) DISTRICT, 1131.400 TN-3 (TRADITIONAL NEIGHBORHOOD-THREE) DISTRICT AND 1131.500 TN-4 (TRADITIONAL NEIGHBORHOOD-FOUR). (City of Hamilton, Applicant).

WHEREAS, the City of Hamilton established new zoning districts that are developed specifically for the established design of Hamilton's traditional and urban core neighborhoods; and

WHEREAS, Plan Hamilton, the City's Comprehensive Plan, recommends the implementation of the TN Districts (Traditional Neighborhood District) within urban and traditional neighborhoods; and

WHEREAS, Planning Staff reviewed the City of Hamilton Zoning Ordinance and proposed text amendments to the TN Zoning Districts based on feedback and periodic review; and

WHEREAS, the proposed changes to the City of Hamilton Zoning Ordinance include specific revisions of Sections 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District; and

WHEREAS, the Planning Commission on March 5, 2020 conducted a public hearing regarding the proposed changes, to receive public input and for review of the proposed text amendments; and

WHEREAS, public notice included legal advertisement published on the Hamilton City Website, pursuant revised to local ordinance (Section 1180.00 "Amendments", Hamilton Zoning Ordinance); and

WHEREAS, Planning Commission approved said zoning text amendments and recommended City Council approval; and

WHEREAS, this Council desires to adopt such zoning text amendments to the City's Zoning Ordinance No. 7503 as proposed.

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

SECTION I: That the Hamilton Zoning Ordinance No. 7503, is hereby amended by revising Sections 1131.200 TN-1 (Traditional Neighborhood-One) District, 1131.300 TN-2 (Traditional Neighborhood-Two) District, 1131.400 TN-3 (Traditional Neighborhood-Three) District and 1131.500 TN-4 (Traditional Neighborhood-Four) District, as set forth in Exhibit No.1 attached hereto, incorporated herein by reference and made a part.

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

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

Ordinance No. _____ (Cont'd)

CERTIFICATE

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

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

EXHIBIT NO. 1

**TN (Traditional Neighborhood) Zoning Districts
[TN-1, TN-2, TN-3, & TN-4]**

Changes to Traditional Neighborhood-1 (TN-1) District

1131.260 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.260.5 Bed and Breakfast: A maximum of three (3) bedrooms in the principal residential structure on a lot may be used as Rentable Units, subject to the following conditions:

1131.260.5.1 Minimum Lot Size for Operation: 6,000 square feet.

1131.260.5.2 Minimum Lot Size per Rentable Unit: 1,500 square feet.

1131.260.5.3 The submitted plan mitigates adverse impacts on the surrounding areas associated with the increase in density and intensity. Considerations include, but are not limited to, overcrowding, noise, trash, off-street parking, and screening or buffering.

1131.260.5.4 The use shall not generate pedestrian or vehicular traffic beyond that which is reasonable or normal to the area in which the site is located.

1131.260.5.5 One (1) off-street parking space shall be provided per bedroom available for rent. Off-street parking shall be provided as indicated in the approved plan. Applicants shall demonstrate the ability to provide parking for employees and customers on-site and / or through the use of public facilities or some other off-site location, either of which shall be located within 500 feet of the site. A minimum of seventy percent (70%) of the required off-street parking shall be provided on-site in areas featuring a high concentration of residential land uses.

Ordinance No. _____ (Cont'd)

1131.260.5.6 Operations shall be compliant with all applicable state and local regulations, including any and all applicable licensing requirements.

1131.260.5.7 No outdoor storage of any material (usable or waste) shall be permitted on site, unless such outdoor storage is approved in the plan through the Conditional Use Process set forth in this Zoning Ordinance.

1131.260.5.8 No lighting shall be permitted in association with a Bed and Breakfast which would produce a glare on any street or into any adjacent property beyond that which is reasonable or normal to the Zoning District and within surrounding areas.

1131.260.5.9 No use shall create hazardous, offensive or objectionable odor, dust, cinders, fumes, noise, vibration, radiation, or refuse matter.

1131.270 Minimum Lot Area: The Minimum Lot Area of newly created lots shall be within five percent (5%) of the average lot size of all lots located on the same block face and in the same zoning district. In no instance shall the lot area of a new lot used for residential purposes have an area that is less than 4,000 square feet.

1131.280 Infill Development Standards: Infill Development standards of this Section apply to the construction of all new structures located within a TN District.

1131.280.3 Building Materials: All exterior building materials shall be quality materials that produce aesthetics that are consistent or compatible with typical construction materials used in traditional and urban neighborhoods. Examples include brick, wood “clapboard” type siding, wood composite “clapboard” type siding or cement board “clapboard” type siding, stone, concrete, and other materials which are formed to have a stone, wood, shake, or brick appearance. Vinyl may be used as an accessory material in the following instances:

1131.280.3.1 The style of the vinyl material appropriately mimics typical construction materials used in traditional and urban neighborhoods and meets the Residential Design Standards in Section 1110.00.

1131.280.3.2 The portion of the exterior where vinyl is utilized on the front facade if vinyl is not a material used on the principal structures on the two (2) adjoining lots located on the same block face.

Ordinance No. _____ (Cont'd)

Changes to Traditional Neighborhood-2 (TN-2) District

1131.360 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.362 Bed and Breakfast: A maximum of three (3) bedrooms in the principal residential structure on a lot may be used as Rentable Units, subject to the following conditions:

1131.370 Area and Height Requirements: Unless otherwise stated within this Section of the Zoning Ordinance, the following area and height requirements shall be observed within the TN-2 Zone:

1131.371 Maximum Height: Three (3) stories or thirty (30) feet in height.

1131.372 Minimum Lot Area: The Minimum Lot Area of newly created lots shall be within ten percent (10%) of the average lot size of all lots located on the same block face and in the same zoning district. In no instance shall the lot area of a new lot used for residential purposes have an area that is less than 4,000 square feet.

Changes to Traditional Neighborhood-3 (TN-3) District

1131.460 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.461.3 Bed and Breakfast: A maximum of five (5) bedrooms in the principal residential structure on a lot may be used as Rentable Units, subject to the following conditions:

Changes to Traditional Neighborhood-4 (TN-4) District

1131.560 Conditional Uses: The following uses shall be permitted only if specifically authorized by the City Council in accordance with the provisions of Section 1155.00. (REVISED OR2015-9-80). Where applicable, buildings and structures shall be compliant with the Infill Development Standards established in Section 1131.280.

1131.563 Bed and Breakfast: A maximum of seven (7) bedrooms in the principal residential structure on a lot may be used as Rentable Units, subject to the following conditions:

City Council Meeting Staff Report

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

Report From: Larry Bagford, Planning & Zoning Specialist

Agenda Item: An ordinance approving a request for a conditional use certificate to operate a dealer-to-dealer automobile auction/sales business at 8340 North Gilmore Road: and a variance to the paving requirement allowing the rear portion of the property to remain a graveled lot, property zoned "I-2" (Industrial) Zoning District, situated in the Sixth Ward, City of Hamilton, Ohio.

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input checked="" type="checkbox"/> I Realize new investments <input type="checkbox"/> J Increase gross wages <input checked="" type="checkbox"/> P Increase property values <input type="checkbox"/> R Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
Ordinance or Resolution <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 st Reading Date: 3-25-2020 <input checked="" type="checkbox"/> 2 nd Reading Date: 4-8-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other): 3-11-2020 Caucus Report City Council Meeting Planning Commission Meeting: 3-5-2020	
Contract	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
Fiscal Impact	Budgeted: \$200.00 Expenditure: \$200.00 Source Funds:	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

Policy Issue

Does City Council wish to approve a Conditional Use Certificate, allowing Freeman Auto Auction LLC, to operate a dealer-to-dealer Automobile Auction/Sales Business at 8340 N. Gilmore Road and a variance to the paving requirement allowing the rear portion of the property to remain a graveled lot?

Policy Alternative(s)

Council may choose not to adopt such legislation to approve a Conditional Use Certificate, allowing Freeman Auto Auction LLC, to operate a dealer-to-dealer Automobile Auction/Sales Business at 8340 N. Gilmore Road and a variance to the paving requirement allowing the rear portion of the property to remain a graveled lot.



Staff Recommendation

Planning Staff recommends that Council receives this report, concurs in the recommendation of the Planning Commission and adopts the necessary legislation to approve a Conditional Use Certificate allowing Freeman Auto Auction LLC, to operate a dealer-to-dealer Automobile Auction /Sales Business at 8340 N. Gilmore Road and a variance to the paving requirement allowing the rear portion of the property to remain a graveled lot based on the Planning Commission's recommendation to approve from its March 5, 2020 meeting.

Fiscal Impact Summary

The City's current fiscal impact includes any staff time allotted to the preparation of the documentation for the request for a Conditional Use Certificate with a variance, allowing Freeman Auto Auction LLC, to operate a dealer-to-dealer Automobile Auction/Sales Business at 8340 N. Gilmore Road, is estimated at approximately \$200.00.

Background Information

Freeman Auto Auction requests a conditional use certificate with a variance to allow an Automobile Auction business at 8340 N. Gilmore Road. The property in question is zoned I-2 (Industrial) zoning district, and the applicant's petition requires a conditional use review and approval.

Freeman Auto Auction will be a weekly dealer only auction held during regular business hours on a weekday. The preliminary time and day is 2:00 pm every Wednesday. Each auction will last two to four (2-4) hours.

This dealer-to-dealer auction allows only licensed auto dealers to sell their inventory through the auction to other licensed dealers who intend to resell them at their own dealership.

Freeman Auto Auction does not own the inventory, which it is selling, instead the cars are all consigned from dealers. The vehicles will primarily be from new car dealers intending to sell their unwanted trade-in vehicles. The buyers will be used car dealers looking to purchase inventory for their own businesses.

Vehicles will not to be stored at the auction. All vehicles that are on the premises are there in preparation for the next auction or have already been sold and are awaiting pickup by the purchasing dealer. Some vehicles may be kept on site for the next week's auction because they did not sell at the previous week's sale.

Submitted Requests

Request #1

Freeman Auto Auction LLC is requesting a variance to the paving requirement. They propose paving 90,845 sq.ft of the lot for customer parking. The remainder of the property will remain gravel surfaced and will be used for parking of auction vehicles with the northeast section of the property to be used by the trucking business.

Request #2

Freeman Auto Auction LLC is requesting conditional use approval in order to operate an automobile auction/sales business at 8340 N. Gilmore Rd.

Submission Details

- To accommodate the proposed business, the office portion of the building will be renovated and ADA compliant restrooms will be included.
- The plans propose 5-7 full time employees. In addition, there will be six to eight (6-8) temporary workers for a four (4) hour period on the auction day only. Total workers on the auction day may be up to twenty (20).



- The first three bays of the concrete block portion of the building will be used for the auto auction and the easterly three bays will be separated for the existing trucking business.
- The building will be repainted in a color matching as closely as possible to the existing color
- The applicant proposes to install a 10 -ft. landscape bed along the Gilmore Road right of way. The landscape will contain 20 trees of three different evergreen species:
 - 1) Approximately 5’ height, Quantity 7 “Emerald Green Arborvitae”, 8’ mature height,
 - 2) Approximately 5’ height Quantity 7 “Centennial Girl Holly Tree”, 8-9’ mature height,
 - 3) Approximately 5’ height Quantity 6 “Hetzi Juniper”, 8-9’ mature height
- These varieties are all on the City Arborist’s approved list of trees for planting under utility lines.
- The corresponding three shrubs per tree (60 shrubs), will be a mix of Boxwood, Yews, Taxus, and Euonymus Shrubs.
- The plans are to pave 90845-sq.ft. (the western portion of the property) with asphalt and provide 128 striped parking spaces for employees and auction attendees in the paved area.
- Customer parking will be separated from auction vehicles by a 6-ft high chain-link fencing with barbwire on top for a total height of approximately 7 feet, matching the existing fence.
- The majority of the area for auction car parking will remain as existing gravel.

Statutes

Per Section 1124.39.4 of the Hamilton Zoning Ordinance (HZO), Automobile and Other Vehicle Sales requires a Conditional Use Approval in the I-2 (Industrial) Zoning District.

Per Section 1155.00, Conditional Uses

1. Conditional Use Review Criteria – nine (9) criteria for considering a Conditional Use
2. Use Specific Standards and Variances – four (4) criteria for considering a Variance request

Interdepartmental Review:

The plans were circulated for Interdepartmental Review and there were no objections to the proposal.

Planning Commission Recommendation

On March 5, 2020, the Planning Commission recommended Council approve a conditional use allowing Freeman Auto Auction LLC, to operate a dealer-to-dealer Automobile Auction /Sales Business at 8340 N. Gilmore Road; and a variance to the paving requirement allowing the rear portion of the property to remain a graveled lot.

They denied a second variance request to waive the ten foot (10-ft) landscaping requirement along the north, east, and south property lines and requested the applicant and the Butler County Metro Parks meet on site and develop a buffer along those property lines. A plan agreed upon by both parties was submitted and is included in the attachments (also see Condition #2, below).

The Planning Commission took action and recommends that City Council approve the Conditional Use and the requested variance to allow for the operation of a major automotive repair business on the site in question, with the following conditions of approval:



Conditions of Approval:

1. That a variance to waive the ten foot (10-ft) landscaped setback requirement on the north, east and south sides of the property is not approved.
2. In reference to Condition of Approval #1: the applicant, property owner, City Staff and MetroParks shall work to identify the specifics of the buffer to address stormwater, aesthetics, and cost. Grass shall be along the south side (southern property line) and along the northwest property line that is not adjacent to MetroParks property, with a condition that the width shall be subject to stormwater and drainage requirements.
3. A revised landscape plan shall be submitted indicating compliance with the ten foot (10-ft) landscape setback along the north, east, and south property lines.
4. That a variance to the paving requirement for the rear portion of the existing gravel lot as shown on the plans is approved.
5. The existing exterior fence is straightened and repaired where damaged.
6. The storm water management shall be subject to City of Hamilton, Interdepartmental Review and shall not increase or concentrate flow onto adjacent properties. Measures to prevent the discharge of gasoline, oil, antifreeze, or other chemicals shall be identified on the storm water management plan.
7. All required permits and inspections shall be obtained prior to the business commencing operation.
8. All site improvements as proposed and all conditions shall be in compliance prior to the business commencing operation.
9. All signs shall conform to the requirements of Section 1138.00 – Signs of the Hamilton Zoning Ordinance.
10. The portion of the new chain-link fence enclosing the auction vehicles will have vinyl slats installed to screen the graveled parking area and the vehicles parked there.
11. No auction vehicles shall remain on the property for more than thirty (30) days.
12. There shall be no automobile repair on the site as part of the auto auction business.
13. No auto parts or tires shall be stored on the property.
14. All conditions shall be maintained while the business is located at his location. If at any time the property does not comply with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.

It is the recommendation of the Planning Commission that Council receives this report, concurs in the recommendation and directs the passage of the necessary legislation.

Attached Information

- 1) Exhibit A – Plans and Application
- 2) Exhibit B – Revised Landscape Plan
- 3) Exhibit C – Recommended Conditions of Approval
- 4) Exhibit D - Location Map
- 5) Exhibit E – Zoning Map
- 6) Exhibit F – Notice of Public Hearing Letter
- 7) Exhibit G – Planning Commission Staff Report

Copies Provided to:

N/A







Planning Department
345 High Street, 3rd floor
Hamilton, Ohio 45011

Planning | 2020

CONDITIONAL USE APPLICATION

Note: Staff correspondence pertaining to updates on your application, including reports and notifications, is conducted via email. Please be sure to include an email address for each of the contacts below. Staff is also able to notify additional individuals by providing their name and email address on a separate page titled "Additional Contacts" which should be included within your application.

PROPERTY ADDRESS: 8340 N Gilmore Rd Hamilton OH 45015

Property Owner: 8340 Gilmore Road Investments, LLC

Owner's Mailing Address: 11129 Kenwood Road Blue Ash, OH 45242

Email Address: jared@mw1corp.com **Phone Number:** (513)794-9700

Applicant's Name (if different from owner): Freeman Auto Auction, LLC C/O Evan Connor

Applicant's Mailing Address: 8216 Princeton Glendale Rd West Chester, OH 45069

Email Address: FreemanAutoAuction@Gmail.com **Phone Number:** 502-418-2457

Architect / Engineer: Kiessling Architecture Inc, Bernard Kiessling

Mailing Address: 9435 Waterstone Blvd, Suite 140, Cincinnati, OH 45249

Email Address: bk@kiesslingarchitecture.com **Phone Number:** (513) 703-9677

Previous Legal Use of Property: Several trucking companies and wholesale auto dealer

Date Previous Use Discontinued: up to and including present

Proposed New Use of Property: Auto Auction, licensed auto dealer only

PLEASE NOTE:
Incomplete applications or applications missing the required materials necessary to conduct a review will not be reviewed by staff nor will they be placed on the agenda to be heard by the Planning Commission until all required information has been submitted.
CERTIFICATION:
I certify that all of the information contained in this Application is complete, true, and accurate.

Applicant's Signature: Evan Patrick Connor **Date:** 02/12/2020

Property Owner's Signature: [Signature] **Date:** 2/12/20

For questions or more information, please contact Planning at 513 785-7350 | www.hamilton-city.org

City of Hamilton

Planning Department 345 High Street, 3rd floor Hamilton, Ohio 45011

BUTLER COUNTY OHIO

CONDITIONAL USE APPLICATION

Note: Staff correspondence pertaining to updates on your application, including reports and notifications, is conducted via email. Please be sure to include an email address for each of the contacts below. Staff is also able to notify additional individuals by providing their name and email address on a separate page titled "Additional Contacts" which should be included within your application.

PROPERTY ADDRESS:

Property Owner:

Owner's Mailing Address: _

Email Address:

__Phone Number:

Applicant's Name (If different from owner): _

Applicant's Mailing Address: _

Email Address:

_Phone Number:

Architect / Engineer:

Mailing Address:

Email Address:

_Phone Number:

Previous Legal Use of Property:

Date Previous Use Discontinued:

Proposed New Use of Property: _

PLEASE NOTE: Incomplete applications or applications missing the required materials necessary to conduct a review will not be reviewed by staff nor will they be placed on the agenda to be heard by the Planning Commission until all required information has been submitted.

CERTIFICATION: I certify that all of the information contained in this Application

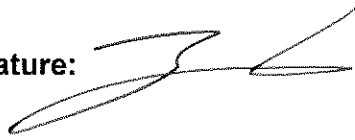
is complete, true, and accurate.

Applicant's Signature:

Date:

Property Owner's Signature:

Date: 2/12/20



For questions or more information, please contact Planning at 513 785-7350 | www.hamilton-city.org

Continued on the Next Page

Page 8 of 10

Freeman Auto Auction, LLC % Evan Connor
8340 N Gilmore Hamilton, OH 45015 P 502-418-2457
F 513-522-5600 FreemanAutoAuction@Gmail.com

Application for Conditional Use Permit

Application Requirements:

General Requirements:

- Pre Application Meeting: Completed 02/04/2020, with Larry Bagford
- Completed Conditional Use Application Form, enclosed
- Required Application Fee, \$200 fee paid via telephone
- Required Application Material enclosed

Project Overview:

Description of Request(s):

- Conditional Use, for wholesale dealer only Auto Auction to be held once a week
- Variance sought: Ten foot Landscape buffer/border installation on only 1 of 4 sides
- Variance sought: To allow existing gravel to remain on eastern most approximately 3 acres to allow parking for auction cars only, no customer parking on gravel. Customer parking area to be entirely paved.

Project Description:

- Introduction/Background of Proposal, see attached “Summary of Business, Conditional Use Permit Application”
- Scope of business operations, see attached “Summary of Business, Conditional Use Permit Application”
- Description of how project addresses review criteria:

A. Conditional Use Criteria, (Section 1155.30)

1. Freeman Auto Auction is located in a district wherein such use may be permitted, and is subject to the requirement of this section and zoning standards.

2. Freeman Auto Auction will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
3. Freeman Auto Auction will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
4. Freeman Auto Auction is adequately served by essential public facilities and services such as, but not limited to: Roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools.
5. Freeman Auto Auction will have vehicular approaches to the property which shall be so designed so as to not create an interference with traffic on surrounding streets.
6. Freeman Auto Auction will comply with all applicable development standards, except as specifically altered in the approved conditional use.
7. Freeman Auto Auction will not be hazardous to or have a negative impact on existing or future neighboring uses.
8. Freeman Auto Auction will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristics not comparable to the uses permitted in the base zoning district.
9. Freeman Auto Auction will not impede the normal and orderly development of the surrounding property for the used permitted in the district.
10. How the proposal relates to the existing land use of the vicinity: Freeman Auto Auction is a wholesale, dealer only establishment which only provides services to licensed auto dealers. The area in which the auction is situated is surrounded almost entirely by other wholesale or business to business types of operations/companies. Freeman Auto Auction will complement the existing nature of the surrounding businesses because we too are wholesale and a business to business operation. Because they, and we, are nearly all wholesale, business to business establishments, our hours of operation will be nearly the same. Our hours will be approximately 9am-5pm, closed on the weekends. Freeman Auto Auction will only be held one day per week, (preliminarily on Wednesday at 2pm), therefore very little customer traffic will be present on the other days which we are open but not hosting an auction. Monday, Tuesday, Thursday, and Friday will be auction preparation days or post auction business days.

B) Variances, (Section 1155.30), see "Supplement to Application for Conditional Use Permit"

Site Plans:

Basic Drawing and Location Information:

- **North Orientation Arrow, *please see attached architectural plans***
- **Drawing Scale Information, *please see attached architectural plans***
- **Property Lot Lines, *please see attached architectural plans***
- **Street Locations and names, *please see attached architectural plans***

Proposed, Location, Dimensions, Height, Areas, and setbacks to property Lines:

- **Buildings, *please see attached architectural plans***
- **Signage, possible code complying street sign, or building sign, possibly both, *please see attached architectural plans***
- **Fencing, *please see attached architectural plans***
- **Parking, *please see attached architectural plans***
- **Dumpster enclosures, *please see attached architectural plans***
- **Accessory structures, *please see attached architectural plans***

Access, and circulation on the site:

- **Vehicles, *please see attached architectural plans***
- **Pedestrians, interior gathering area is inside first three bay doors, attendees will also be present in and around auction car parking inside of the fenced in area as they inspect the vehicles they may purchase**

Location of off street parking:

- **Off Street parking areas, *please see attached architectural plans***
- **Driveways, *please see attached architectural plans***
- **Parking locations, 123 total parking spaces, *please see attached architectural plans for both customer parking and auction car parking areas***
- **Parking space dimensions, 123 total parking spaces, per standards of 18' x 9'**
- **Surface materials, customer parking areas are entirely fresh asphalt, some auction vehicle parking is existing gravel and some is new asphalt. *Please see attached architectural plans for exact areas to be paved***

Signage:

- **Location, Setbacks, Area, and Height:** We may elect to do a sign on the building and/or a street sign. Should there be a street sign, it will be set back a minimum 5 feet from the road, and not to exceed 150 square feet and 8 feet tall, with all being code compliant. There will also be a smaller sign on the north end of the property directing the existing trucking company to their designated parking area which is completely separated from the auction operations by fencing.

Location of landscaped areas:

- *Please see attached architectural plans*

Fencing Height and materials:

- Standard 6 feet tall chain link fencing plus approximately 1 foot of barbed wire for a total height of approximately 7 feet. *Please see attached architectural plans for exact fencing layout and measurements. It will tie into existing fencing running north/south in the approximately middle point of the property.*

Building Plans:

Color of exterior building and elevation drawings:

- Buildings to be repainted to a color very similar to existing color, *please see attached architectural plans*
- Building Heights, *please see attached architectural plans*
- Building Materials, (existing buildings to remain), *please see attached architectural plans*
- Architectural details, *please see attached architectural plans*
- Features, *please see attached architectural plans*

Interior floor plan showing:

- Room/area uses, *please see attached architectural plans*
- Interior room dimensions, *please see attached architectural plans*

Location of areas/facilities relevant to the conditional use:

- *Please see attached architectural plans*

Landscaping Plan:

Plans showing number, type, and location of:

- Trees, see below for type and please see *attached architectural plans for placement*
 - Three types of trees (all evergreen): 1) Approximately 5' height, Quantity 7 "Emerald Green Arborvitae", 8' mature height, 2) Approximately 5' height Quantity 7 "Centennial Girl Holly Tree", 8-9' mature height, 3) Approximately 5' height Quantity 6 "Hetzi Juniper", 8-9' mature height
 - Shrubs, an appropriate corresponding number of a mix of Boxwood Shrubs, Yew/Taxus, and Euonymus

Lighting Plan: Not applicable, using existing lighting, and there are no night operations

Freeman Auto Auction, LLC % Evan Connor
8340 N Gilmore Hamilton, OH 45015 P 502-418-2457 F 513-522-5600
FreemanAutoAuction@Gmail.com

Summary of Business, Conditional Use Permit Application

Summary, Scope and Description of Auto Auction

Intro

Freeman Auto Auction will be a weekly dealer only auction held during regular business hours on a weekday. The preliminary time and day is 2pm every Wednesday and will take 2-4 hours. As a state licensed auto auction, Freeman Auto Auction is regulated by the Ohio BMV and must remain in good standing with the Ohio Bureau of Motor Vehicles/Dealer Licensing Division. Ohio BMV mandates all prospective auction owners and current auction owners to meet and maintain certain financial worthiness requirements. There are plans to have 5-7 full time employees, and 6-8 temporary workers for a four hour period on auction day only. Total workers on auction day may be 20. There will be minor office renovations and the addition of ADA compliant restrooms.

Customers

The customers will all be licensed auto dealers, (new and used), from any state as long as they have and maintain a valid dealer license. Their guests are also permitted, although their guests are not permitted to buy or sell, only the dealer or dealer representative is. Having this auction dealer only greatly reduces the potential crowd size. The only attendees will be dealers intending to purchase or sell vehicles. Public auto auctions generally attract lots of spectators, people who are not there to purchase vehicles.

Purpose

The purpose of this auction is to allow dealers to sell their inventory through the auction to dealers who intend to purchase. The target selling customer will be a new car dealer intending to sell their unwanted traded in vehicles. This allows new car dealers to quickly liquidate their unwanted traded in vehicles. The buyers will almost entirely be used car dealers looking to purchase inventory for their car lots.

Financial

Freeman Auto Auction's profit comes from fees charged from the sale of vehicles, it charges a separate fee to the seller and to the buyer. Freeman Auction does not own the inventory which it is selling, the cars are all consigned from dealers, this is how all vehicles are sold at auto auctions. For safety, transactions are rarely done with cash.

Transportation

Vehicles generally arrive at the auction by our drivers who work directly for the auction. There are times when vehicles arrive by truck or trailer, but generally vehicles are driven to the auction. Purchasing dealers may also use us to transport their vehicles purchased to their premises.

Security

All vehicles are kept behind a 7 foot tall barbed wire fence which encompasses the entire area where the vehicles are kept in preparation for the auction. There is one twenty foot cantilever gate, (slide gate), and two separate people gates on either side of the building. Total of one vehicle gate and two separate people gates. A local law enforcement official may be present on auction day for security.

Storage

Vehicles are not considered to be stored at the auction. All vehicles which are on the premises are there in preparation for the next auction or have already been sold and are awaiting pickup by the purchasing dealer. Some vehicles may be kept on site for next week's auction because they did not sell at the previous week's sale. They are simply sent through the auction again until either sold or taken back to the owning dealership.

Food and Drink

We do intend to invite local food trucks to offer food and beverages at the auction. Their food service vehicles will only be on site during the auction day. All food and beverage providers are licensed and must provide proof to us that they adhere to all applicable regulations.

Other Services

Minor Services will be offered such as basic cleaning etc. There will not be any major mechanical repair done to vehicles. If a vehicle becomes mechanically disabled at the auction, major work may not be done at the auction. Some vehicles are brought to the auction in non-running condition and thus will be sold as “Non-Running” vehicles which a salvage or parts dealer may purchase.

Other Tenants

We do intend to keep the tenant “Royal Trucking” in the northeast quadrant, and possibly the tenant occupying the adjacent three east bay doors. Their respective operations will not encroach on our operations because our areas of operation will be completely separated by fencing or a building wall.

Signage and parking

Our main sign will be at least code distance from the road and will comply with Hamilton size codes. It will be no taller than 8 feet and no larger than 150 square feet. We would also like to place a small sign on the north side of the property directing the trucking company tenant to their respective parking area. There will be a total of 123 parking spaces with the applicable amount of ADA compliant spaces.

Drawing 2.1

Shows a summary of proposed changes to the site. The only item lacking will be a potential 20 ft shipping container used for business equipment storage. These are commonly used on construction sites. It will be located adjacent to the dumpsters and out of view from the street.

Drawing 2.2

Shows all major aerial measurements of property and buildings. It also shows acreage breakdowns.

Drawing 2.3

Shows proposed fence location and dimensions

Drawing 2.4

Shows area to be paved.

Drawing 2.5

Renders interior layout of our three bays used for the auction, including proposed bleachers. The adjacent 3 bays which are not occupied by the auction are mislabeled as "Vehicle Repair Garage", this is actually occupied by a small trucking company.

Drawing 2.6

Renders exterior building, which will be painted an appropriate color. Building dimensions are also shown.

Freeman Auto Auction, LLC % Evan Connor
8340 N Gilmore Hamilton, OH 45015 P 502-418-2457
F 513-522-5600 FreemanAutoAuction@Gmail.com

Supplement to Application for Conditional Use Permit

Specific Requested Variances in code

13th February 2020

1170.60.1

Reading:

Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district:

Request

Freeman Auto Auction is requesting a variance from the required landscaping buffer/border on all sides of the property. We are requesting to only do the landscape buffer/border on the west side of the property, which borders North Gilmore Road. Freeman Auto Auction is also requesting a variance to keep the existing gravel on approximately 3 acres for parking of auction cars only, no customer parking on gravel. We are asking for the following reason(s):

- A. The property is bordered on the north side by another industrial property with a natural buffer of semi dense forest type natural growth already in place. This already serves as a foliage buffer. This presents *exceptional circumstances* for the property because this already serves as a natural border. The property is bordered on the east side by natural wetlands which make a landscaping border/buffer irrelevant. This presents *exceptional circumstances* for the property because it would be without general purpose to place a landscape buffer along an area adjacent to natural wetlands.
- B. The property is bordered on the south side by another industrial property, (military depot/storage/recruiting), which is separated by a typical 6' tall chain link fence with barbed wire on top. Placing a landscape buffer along a bordering industrial property of

similar appearance would be highly redundant as their respective property uses do not conflict, rather they compliment each other.

- C. We feel that using the existing gravel to park auction cars on is sufficient. The gravel area would not be used for customer parking. Additionally we feel that It would not serve the property's best interest or ideal use to pave the entire property with asphalt.
- D. It would be impractical from a logistical standpoint to require the entire property to be paved, given the other tenants
- E. Finally, it would be cost prohibitive to pave the entire property.

1170.60.2

Reading:

Preservation of Property Rights: That such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and the same vicinity.

Freeman Auto Auction is requesting a variance from the required landscaping buffer/border along the three remaining sides of the property. Freeman Auto Auction is also requesting a variance to keep the existing gravel on approximately 3 acres for parking of auction cars only, no customer parking on gravel. We are asking for the following reason(s):

- A. Neighboring properties enjoy the same or similar variation from code whether directly granted or grandfathered in. To the best of our knowledge, there are no other properties in the same area with similar surroundings as we have that have been required to place substantial landscape buffers in places like where we are requesting a variance from.
- B. Neighboring properties of similar look, appearance, and use enjoy the same property layout as we are requesting.
- C. Neighboring properties enjoy a largely gravel area in which to conduct their wholesale operations while the only paved areas is their designated customer parking area(s).

1170.60.3

Reading:

Absence of Detriment: That the authorizing of such a variance will not be of substantial detriment to the adjacent property, and will not materially impair the purposes of the ordinance of the public interest.

Freeman Auto Auction is requesting a variance from the required landscaping buffer/border along the three remaining sides of the property. Freeman Auto Auction is also requesting a variance to keep the existing gravel on approximately 3 acres for parking of auction cars only, no customer parking on gravel. We are asking for the following reason(s):

- A. The requested variance to leave out a landscaping buffer on three sides of the property will not in any way, shape or form, harm our or any neighboring property.
- B. The occupancy of Freeman Auto Auction will actually notably improve our property from an aesthetic standpoint because of our paving, painting, and landscaping. So, rather than absence of detriment, we are greatly improving the appearance of our property
- C. Freeman Auto Auction feels it does no harm to this or neighboring properties to leave the subject areas with their existing gravel to only be used for auction vehicle parking, no gravel areas are to be used for customer parking.

1170.60.4

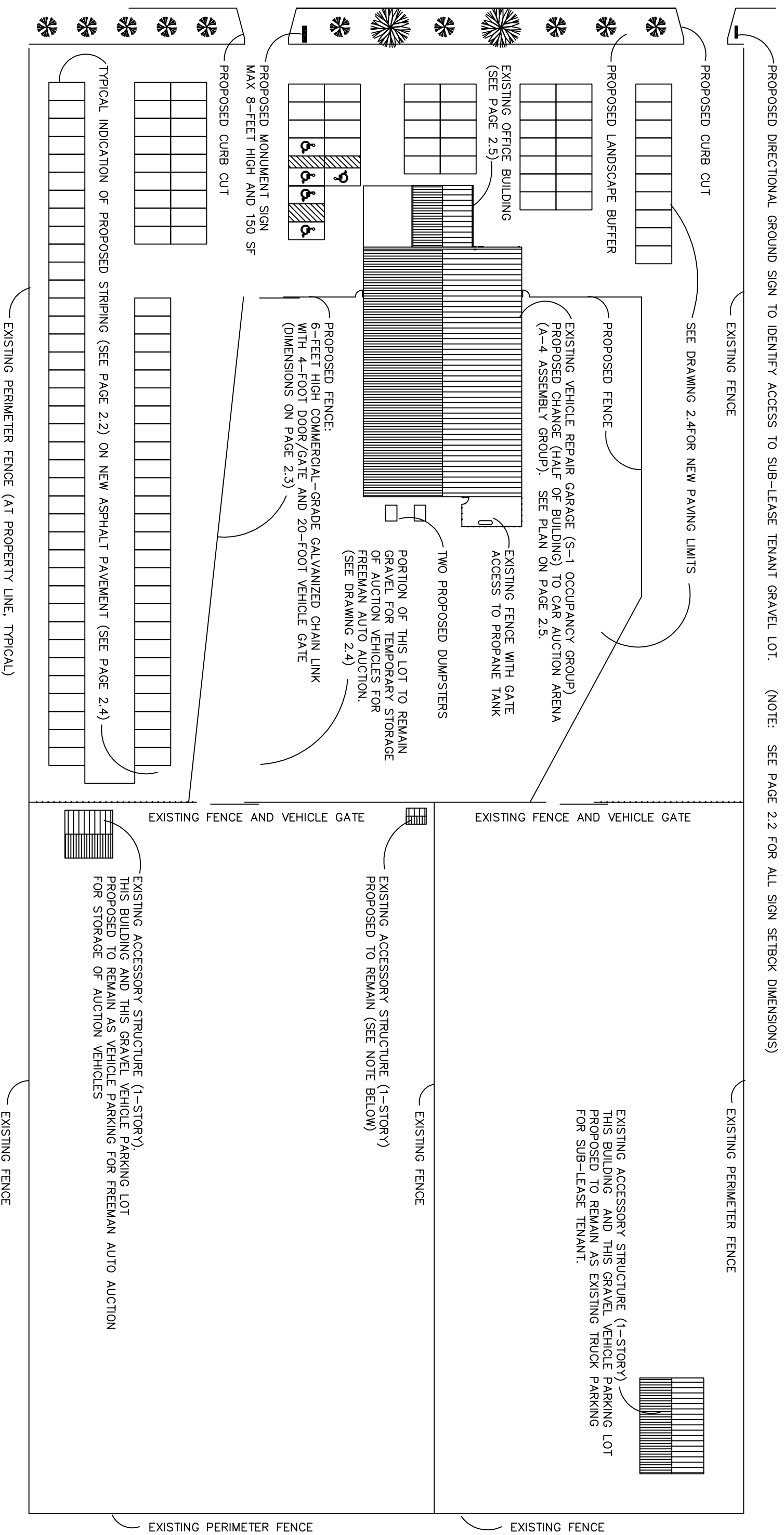
Reading:

Not of General Nature: No Grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which variance is sought is not so general of recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

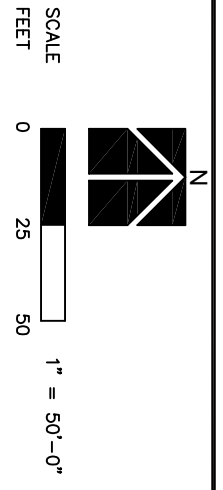
Freeman Auto Auction is requesting a variance from the required landscaping buffer/border along the three remaining sides of the property. Freeman Auto Auction is also requesting a variance to keep the existing gravel on approximately 3 acres for parking of auction cars only, no customer parking on gravel. We are asking for the following reason(s):

- A. The requested variance by Freeman Auto Auction is not of a general nature therefore it does not necessitate the need for new regulations.
- B. The special characteristics of the property are such that these variances are sensible in nature but are not common enough to necessitate a change in regulation.
- C. The variance sought to allow the subject areas with their existing gravel does not necessitate a change to and existing regulations.

GILMORE ROAD



Preliminary Plot Plan for
 Freeman Auto Auction
 8340 N. Gilmore Rd. Hamilton, Ohio
 Drawing No. 2.1
 Issue Date 01-31-20
 Project No. 1187-001



**Kiessling
 Architecture**
 9435 Waterstone Blvd., Suite 140, Cincinnati, Ohio 45249
 kai@kiesslingarchitecture.com (513) 444-2027

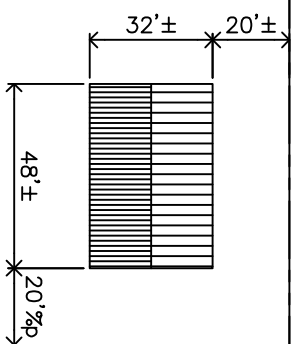
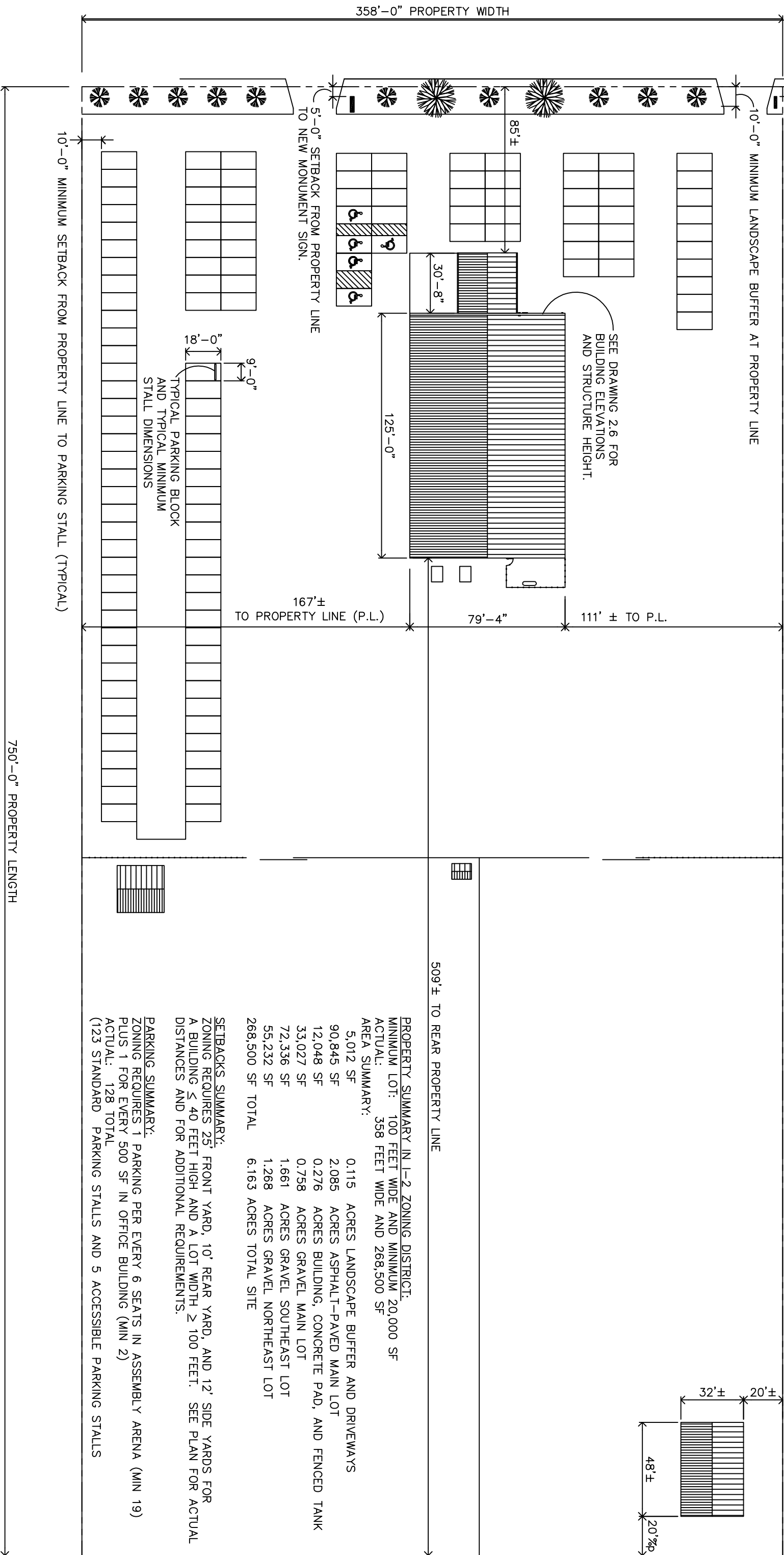
5'-0" SETBACK TO SIGN FROM PROPERTY LINE

10'-0" MINIMUM LANDSCAPE BUFFER AT PROPERTY LINE

SEE DRAWING 2.6 FOR BUILDING ELEVATIONS AND STRUCTURE HEIGHT.

358'-0" PROPERTY WIDTH

NOTE: NEW FENCING NOT SHOWN FOR DRAWING CLARITY. SEE DRAWING 2.4 FOR FENCE LOCATIONS



509'± TO REAR PROPERTY LINE

PROPERTY SUMMARY IN I-2 ZONING DISTRICT:

MINIMUM LOT: 100 FEET WIDE AND MINIMUM 20,000 SF
ACTUAL: 358 FEET WIDE AND 268,500 SF

AREA SUMMARY:

5,012 SF	0.115 ACRES LANDSCAPE BUFFER AND DRIVEWAYS
90,845 SF	2.085 ACRES ASPHALT-PAVED MAIN LOT
12,048 SF	0.276 ACRES BUILDING, CONCRETE PAD, AND FENCED TANK
33,027 SF	0.758 ACRES GRAVEL MAIN LOT
72,336 SF	1.661 ACRES GRAVEL SOUTHEAST LOT
55,232 SF	1.268 ACRES GRAVEL NORTHEAST LOT
268,500 SF TOTAL	6.163 ACRES TOTAL SITE

SETBACKS SUMMARY:

ZONING REQUIRES 25' FRONT YARD, 10' REAR YARD, AND 12' SIDE YARDS FOR A BUILDING ≤ 40 FEET HIGH AND A LOT WIDTH ≥ 100 FEET. SEE PLAN FOR ACTUAL DISTANCES AND FOR ADDITIONAL REQUIREMENTS.

PARKING SUMMARY:

ZONING REQUIRES 1 PARKING PER EVERY 6 SEATS IN ASSEMBLY ARENA (MIN 19) PLUS 1 FOR EVERY 500 SF IN OFFICE BUILDING (MIN 2)
ACTUAL: 128 TOTAL
(123 STANDARD PARKING STALLS AND 5 ACCESSIBLE PARKING STALLS)

750'-0" PROPERTY LENGTH

10'-0" MINIMUM SETBACK FROM PROPERTY LINE TO PARKING STALL (TYPICAL)

5'-0" SETBACK FROM PROPERTY LINE TO NEW MONUMENT SIGN.

167'± TO PROPERTY LINE (P.L.)

79'-4"

111' ± TO P.L.

TYPICAL PARKING BLOCK AND TYPICAL MINIMUM STALL DIMENSIONS

9'-0"

5'-0"

3'-0"

Preliminary Dimensioned Plot Plan for
Freeman Auto Auction
8340 N. Gilmore Rd. Hamilton, Ohio

Drawing No. 2.2

Issue Date 01-31-20

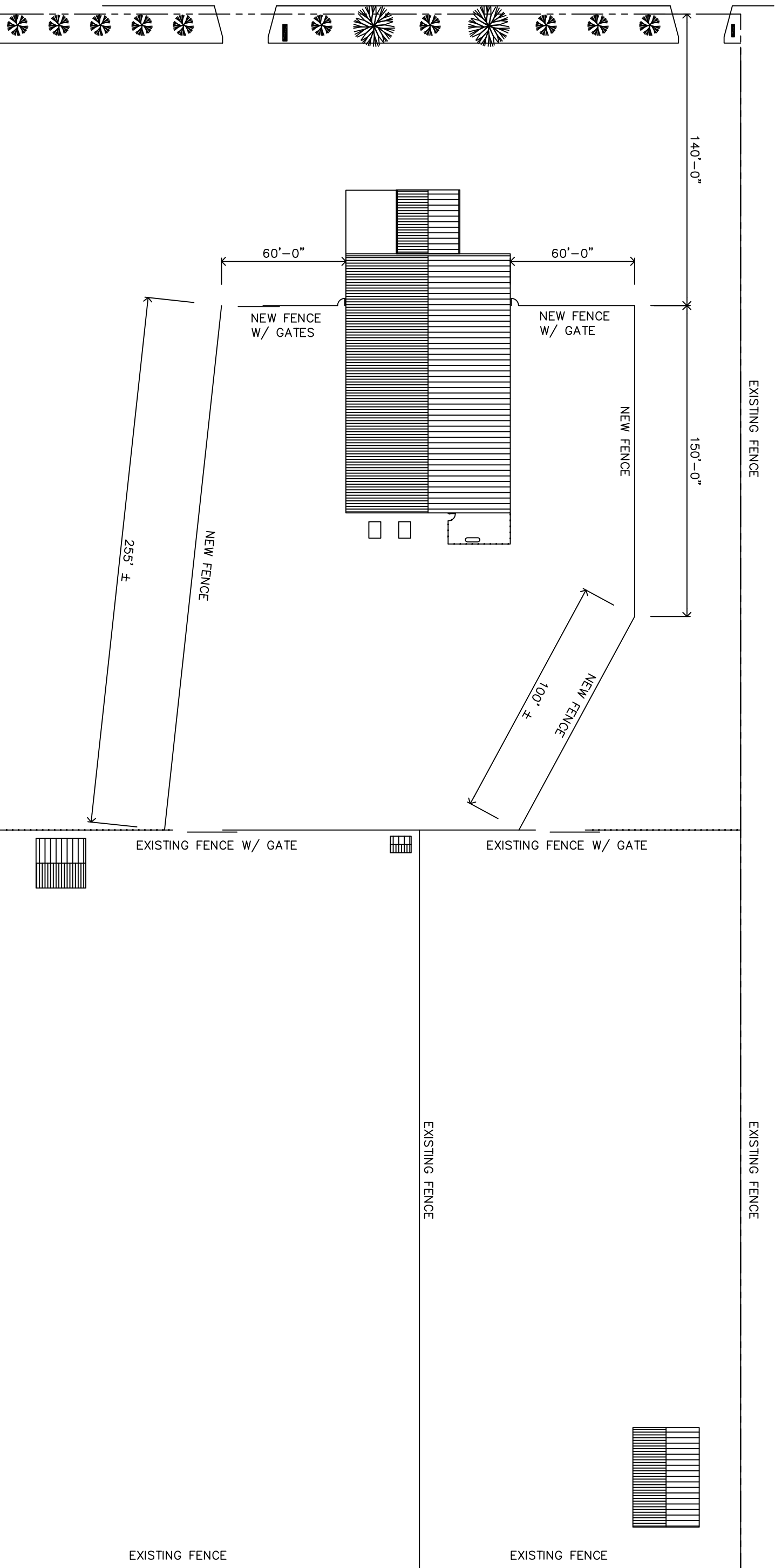
Project No. 1187-001

SCALE
FEET
0 25 50
1" = 50'-0"

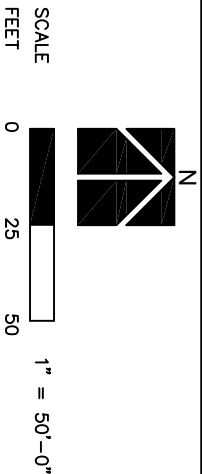


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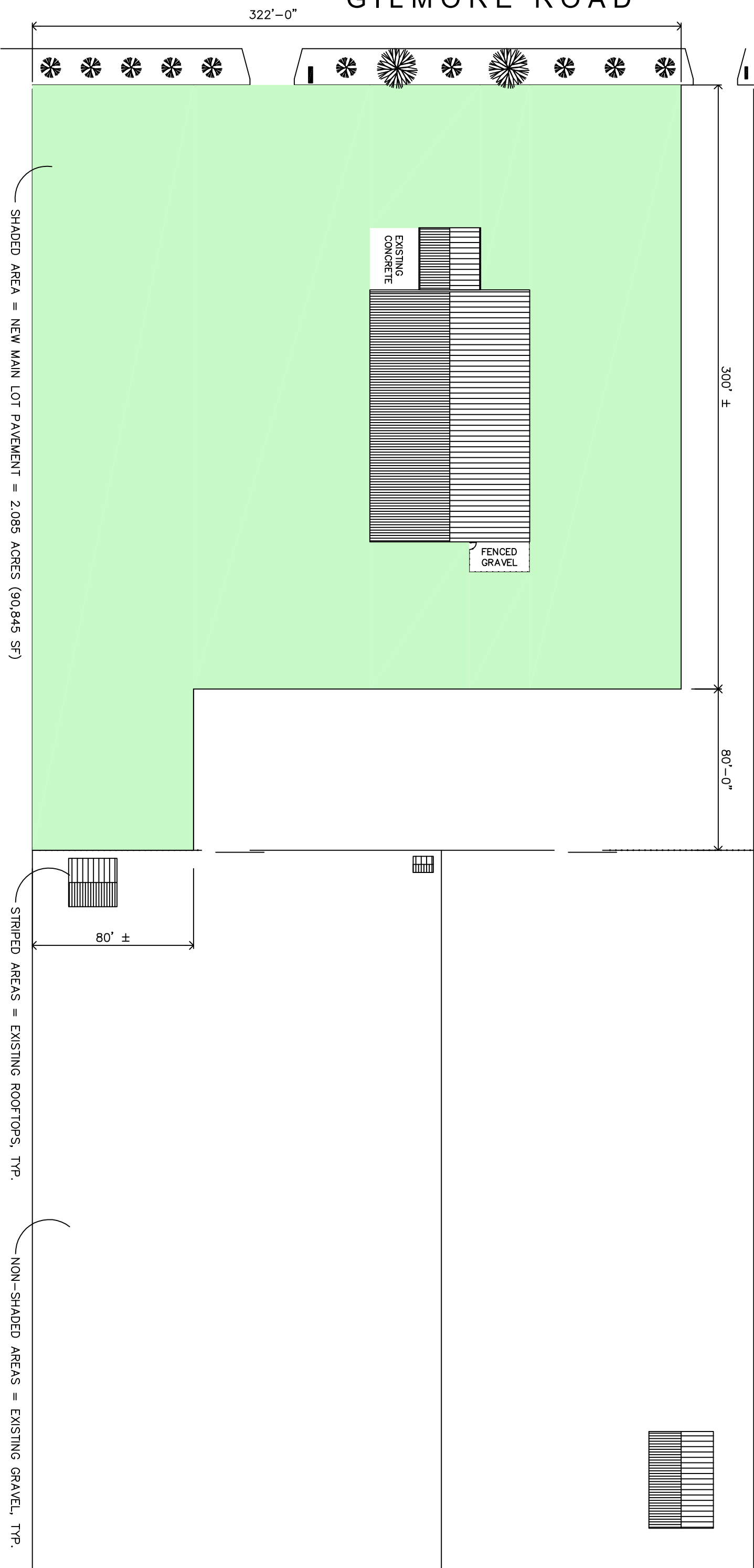


Preliminary Dimensioned Fence Plan for
 Freeman Auto Auction
 8340 N. Gilmore Rd. Hamilton, Ohio
 Drawing No. 2.3
 Issue Date 01-31-20
 Project No. 1187-001



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GILMORE ROAD

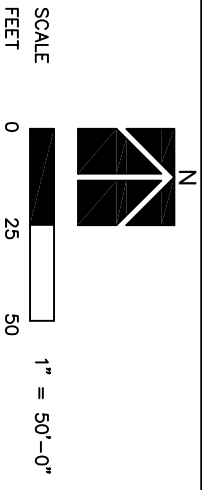


EXISTING FENCE (AT PROPERTY LINE, TYPICAL)

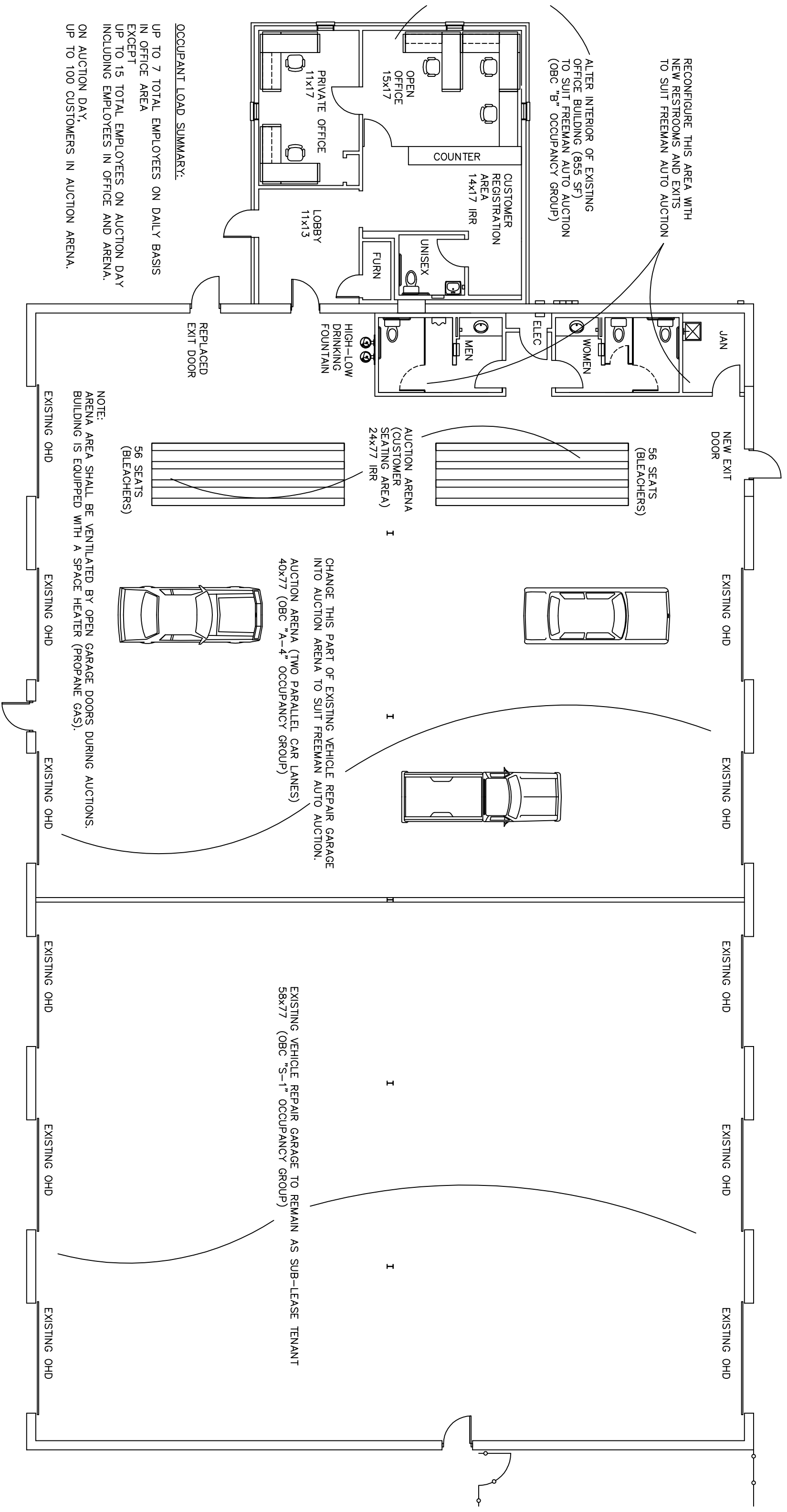
NOTE: NEW FENCING NOT SHOWN FOR DRAWING CLARITY. SEE DRAWING 2.3 FOR FENCE LOCATIONS

EXISTING FENCE (AT PROPERTY LINE, TYPICAL)

Preliminary Dimensioned Paving Plan for
Freeman Auto Auction
8340 N. Gilmore Rd. Hamilton, Ohio
Drawing No. 2.4
Issue Date 01-31-20
Project No. 1187-001



**Kiessling
Architecture**
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kai@kiesslingarchitecture.com (513) 444-2027



ALTER INTERIOR OF EXISTING OFFICE BUILDING (855 SF) TO SUIT FREEMAN AUTO AUCTION (OBC "B" OCCUPANCY GROUP)

RECONFIGURE THIS AREA WITH NEW RESTROOMS AND EXITS TO SUIT FREEMAN AUTO AUCTION

OCCUPANT LOAD SUMMARY:

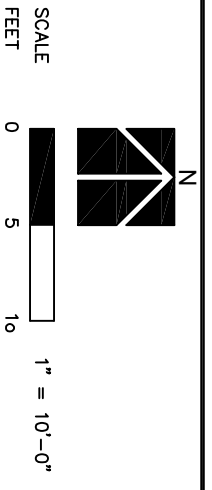
UP TO 7 TOTAL EMPLOYEES ON DAILY BASIS IN OFFICE AREA EXCEPT UP TO 15 TOTAL EMPLOYEES ON AUCTION DAY INCLUDING EMPLOYEES IN OFFICE AND ARENA. ON AUCTION DAY, UP TO 100 CUSTOMERS IN AUCTION ARENA.

NOTE: ARENA AREA SHALL BE VENTILATED BY OPEN GARAGE DOORS DURING AUCTIONS. BUILDING IS EQUIPPED WITH A SPACE HEATER (PROPANE GAS).

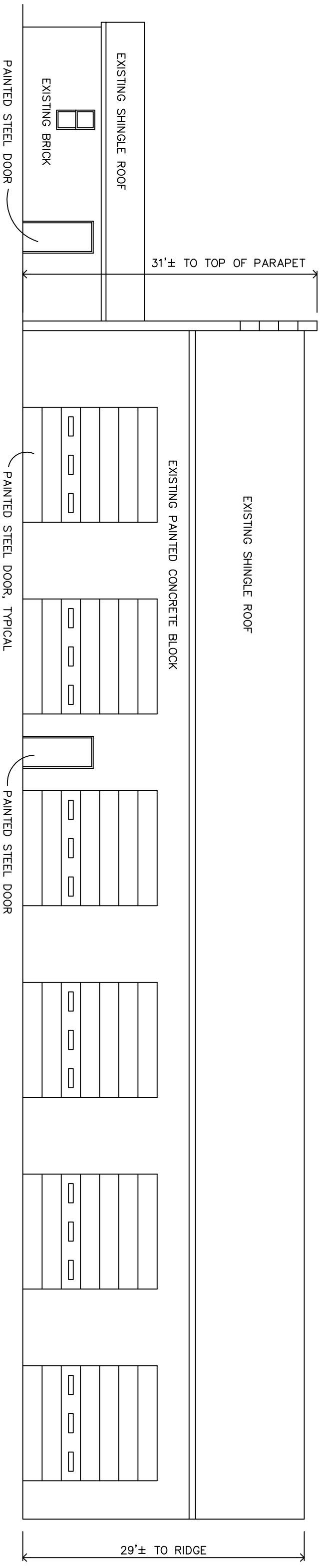
CHANGE THIS PART OF EXISTING VEHICLE REPAIR GARAGE INTO AUCTION ARENA TO SUIT FREEMAN AUTO AUCTION.

EXISTING VEHICLE REPAIR GARAGE TO REMAIN AS SUB-LEASE TENANT 58x77 (OBC "S-1" OCCUPANCY GROUP)

Preliminary Floor Plan for
 Freeman Auto Auction
 8340 N. Gilmore Rd. Hamilton, Ohio
 Drawing No. 2.5
 Issue Date 01-31-20
 Project No. 1187-001

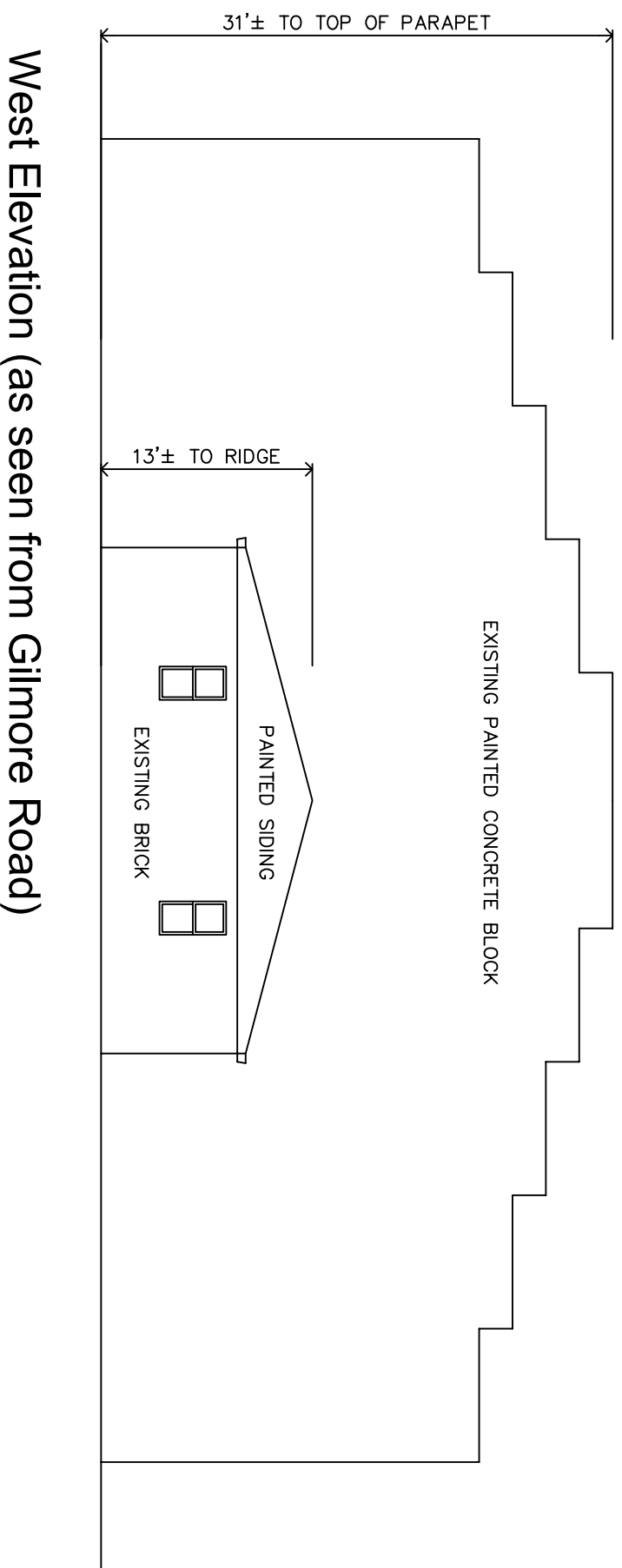


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South Elevation

NOTE:
 CONCRETE BLOCK, PAINTED SIDING, AND
 STEEL DOORS TO BE REPAINTED.
 COLOR(S) TO BE DETERMINED.



West Elevation (as seen from Gilmore Road)

Existing Building Elevations for
 Freeman Auto Auction
 8340 N. Gilmore Rd. Hamilton, Ohio
 Drawing No. 2.6
 Issue Date 01-31-20
 Project No. 1187-001

SCALE
 FEET 0 5 10 1" = 10'-0"



Exhibit B - Revised Landscape Plan

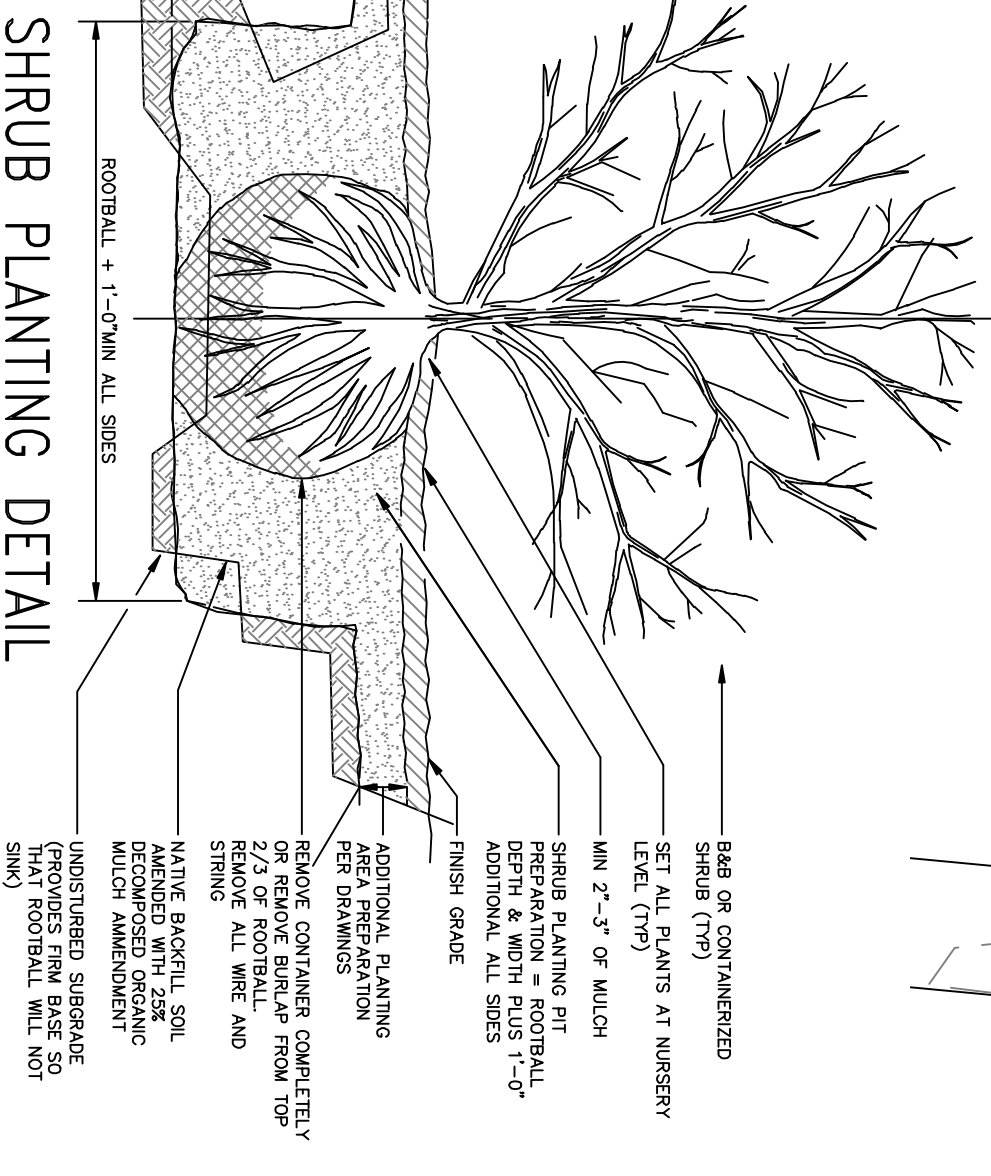
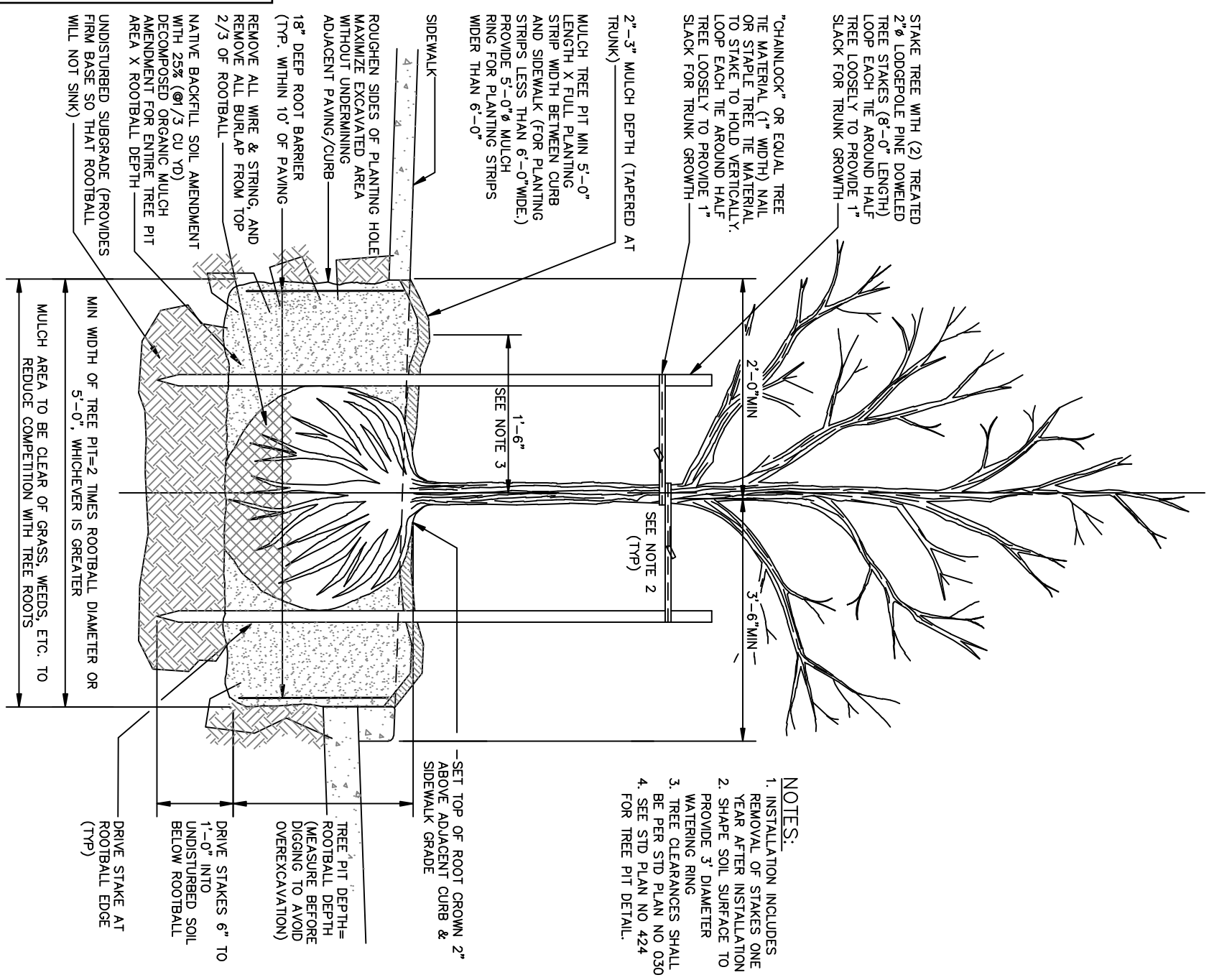
NEW LANDSCAPING-8340 N. GILMORE AVENUE

SEED MIX	SEEDING RATE	NOTES
GENERAL USE	LB./AC.	LB./1000 sq.ft.
GENERAL USE		
CREeping RED FESCUE	20-40	1/2-1
DOMESTIC PERGRASS	10-20	1/4-1/2
KENTUCKY BLUEGRASS	10-20	1/4-1/2
TALL FESCUE	40	1
DWARF FESCUE	40	1
STEEP BANKS OR CUT SLOPES		
TALL FESCUE	20-40	1
CREeping RED FESCUE	10-20	1/4-1/2
FLAT PEA TALL FESCUE	20	1/2
ROAD DITCHES AND SWALES		
TALL FESCUE	40	1
DWARF FESCUE	30	2 1/2
KENTUCKY BLUEGRASS	5	
LAWNS		
KENTUCKY BLUEGRASS	60	1 1/2
PERENNIAL RYEGRASS	60	1 1/2
KENTUCKY BLUEGRASS	60	1 1/2
CREeping RED FESCUE	60	1 1/2

NOTE: OTHER APPROVED SEED SPECIES MAY BE SUBSTITUTED

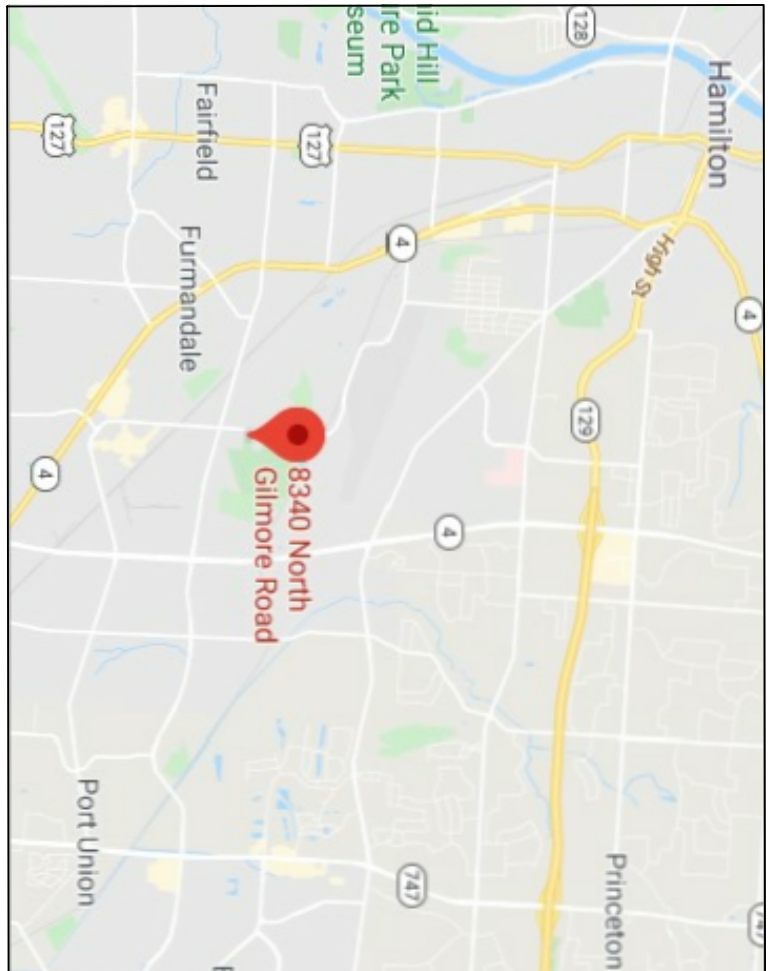
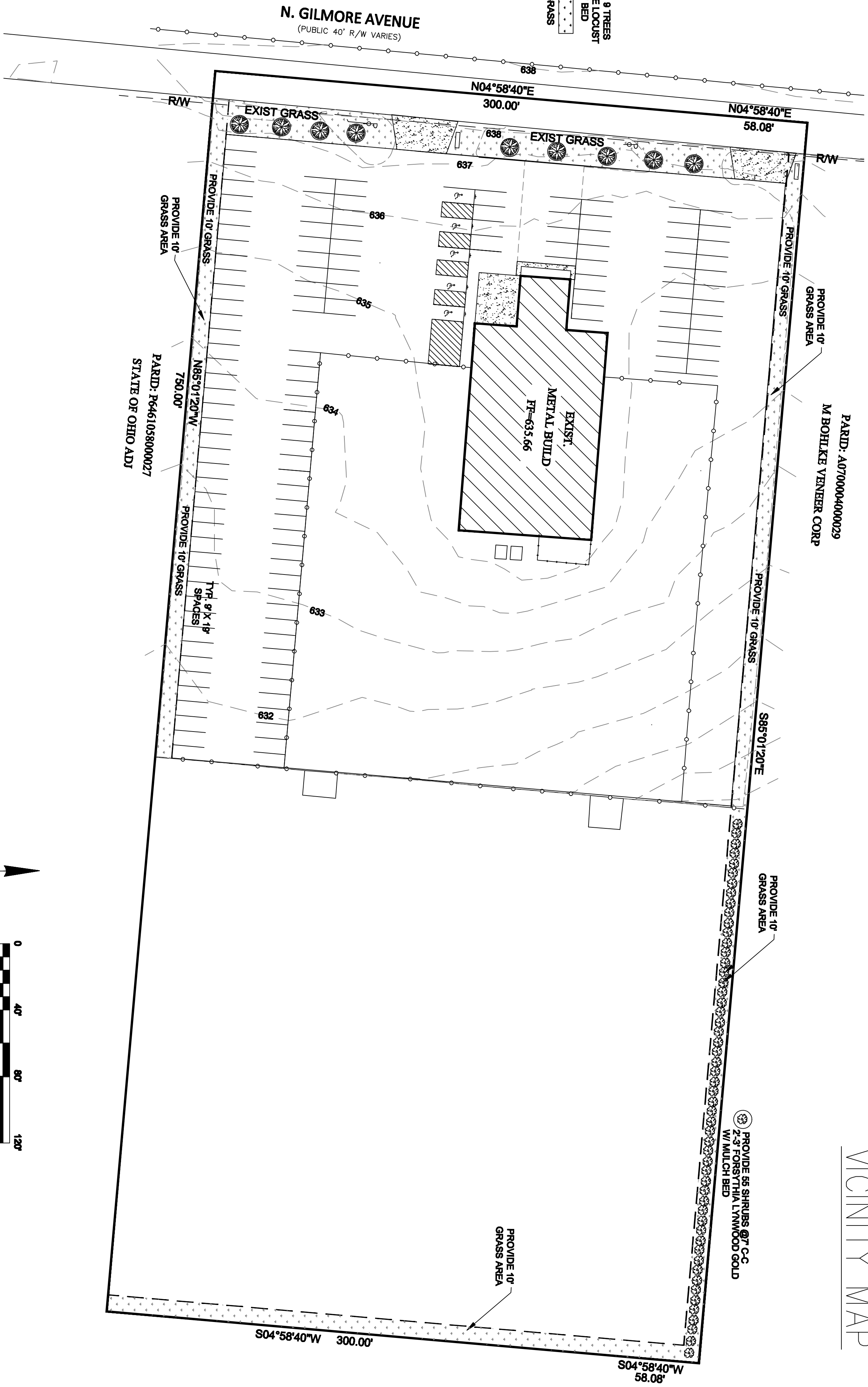
GENERAL NOTES

- ALL GRASS SURFACE AREAS THAT HAVE BEEN GRIPPED OR LEFT BARE ARE TO REMAIN AS CONSTRUCTION AND ARE TO BE REMOVED AND ARE TO REMAIN AS SHALLOWS WITH VEGETATIVE STABILIZATION.



DECIDUOUS TREE PLANTING DETAIL

SHRUB PLANTING DETAIL



VICINITY MAP

GENERAL PLANTING NOTES

- *TOPSOIL SHALL BE ASTM D 5268, PH RANGE OF 5.5 TO 7, A MINIMUM OF 4 PERCENT ORGANIC MATERIAL CONTENT, FREE OF STONES 1 INCH OR LARGER IN ANY DIMENSION AND OTHER EXTRANEOUS MATERIALS HARMFUL TO PLANT GROWTH.
- *FERTILIZER TO BE SLOW-RELEASE, GRANULAR OR PELLETED CONSISTING OF 50 PERCENT WATER-INSOLUBLE NITROGEN, PHOSPHORUS, AND POTASSIUM IN AMOUNTS RECOMMENDED FOR TYPE OF PLANT BEING GROWN.
- *MULCH TO BE FREE FROM DELETERIOUS MATERIALS AND SUITABLE AS A TOP DRESSING OF TREES AND SHRUBS, AND WILL BE SHREDDED RECYCLED RUBBER, ON WEED CLOTH.

LANDSCAPING PLAN

CALL 2 WORKING DAYS BEFORE YOU DIG UTILITIES PROTECTION SERVICE

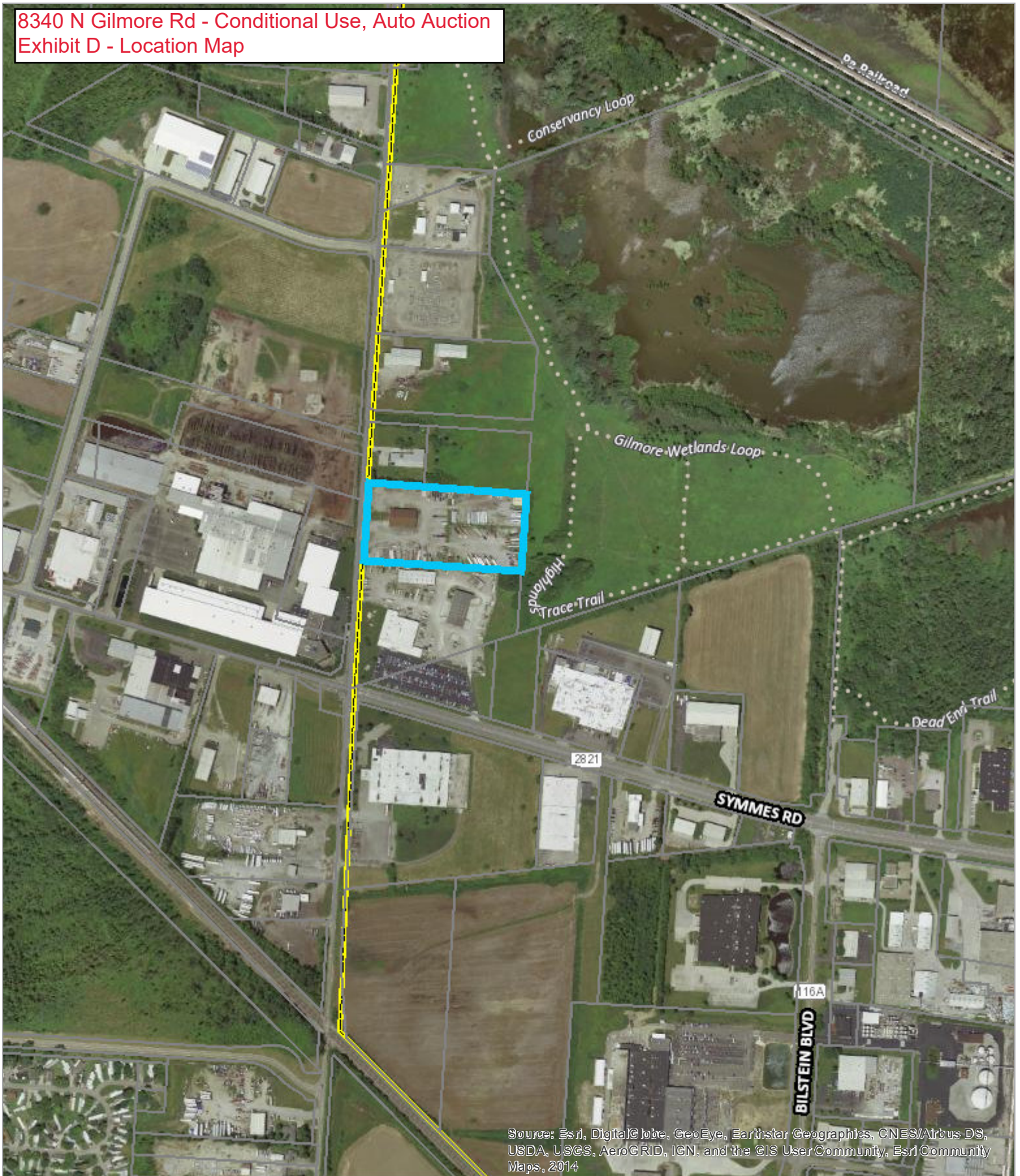
	8340 N. GILMORE AVENUE FAIRFIELD, OHIO LEESMAN ENGINEERING & ASSOC. ENGINEERING, SURVEYING, PLANNING 2720 TOPIC HILLS, CINCINNATI, OHIO 45248 513/417-0420	PROJECT NO. DATE GILMORE 3/9/20 DRAWN CHECKED S.L.L. S.L.L.	DRAWING TITLE LANDSCAPE PLAN	NO. DESCRIPTION 1 REVISIONS AND/OR ISSUES	BY DATE
	C2				

**8340 N Gilmore Rd - Conditional Use, Auto Auction
Exhibit C - Recommended Conditions of Approval**

Revised Conditions of Approval for 8340 N. Gilmore Road

1. That a variance to waive the 10-ft landscaped setback requirement on the north, east and south sides of the property is not approved.
2. In reference to Condition of Approval #1: the applicant, property owner, City Staff and MetroParks shall work to identify the specifics of the buffer to address stormwater, aesthetics, and cost. Grass shall be along the south side (southern property line) and along the northwest property line that is not adjacent to MetroParks property, with a condition that the width shall be subject to stormwater and drainage requirements.
3. A revised landscape plan shall be submitted indicating compliance with the 10-ft landscape setback along the north, east, and south property lines.
4. That a variance to the paving requirement for the rear portion of the existing gravel lot as shown on the plans is approved.
5. The existing exterior fence is straightened and repaired where damaged.
6. The storm water management shall be subject to City of Hamilton, Interdepartmental Review and shall not increase or concentrate flow onto adjacent properties. Measures to prevent the discharge of gasoline, oil, antifreeze, or other chemicals shall be identified on the storm water management plan.
7. All required permits and inspections shall be obtained prior to the business commencing operation.
8. All site improvements as proposed and all conditions shall be in compliance prior to the business commencing operation.
9. All signs shall conform to the requirements of Section 1138.00 – Signs of the Hamilton Zoning Ordinance.
10. The portion of the new chain-link fence enclosing the auction vehicles will have vinyl slats installed to screen the graveled parking area and the vehicles parked there.
11. No auction vehicles shall remain on the property for more than 30 days.
12. There shall be no automobile repair on the site as part of the auto auction business.
13. No auto parts or tires shall be stored on the property.
14. All conditions shall be maintained while the business is located at his location. If at any time the property does not comply with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.

8340 N Gilmore Rd - Conditional Use, Auto Auction
Exhibit D - Location Map



Areas

Override 1

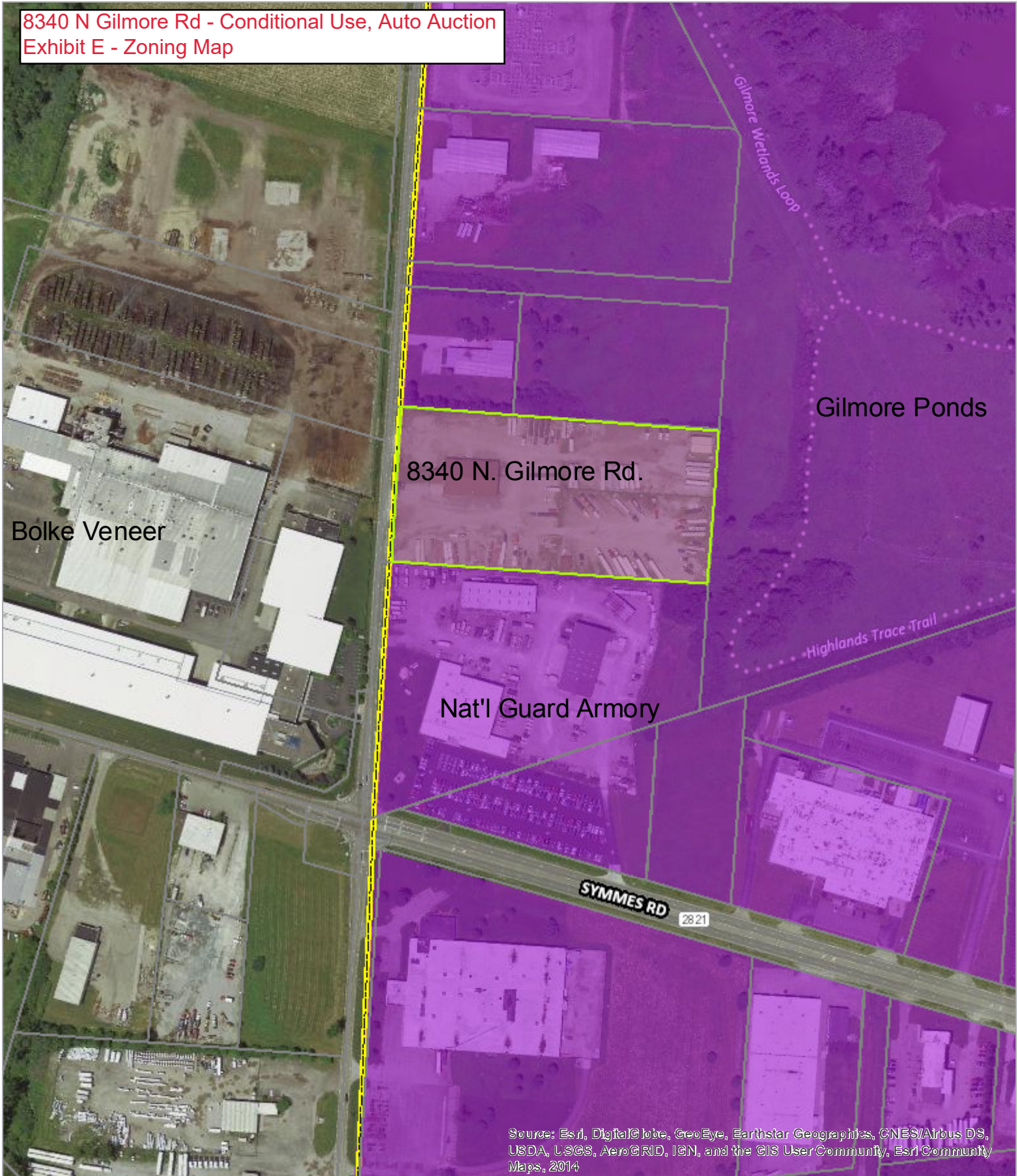


Owner Parcels

8340 N. Gilmore Rd.





8340 N Gilmore Rd - Conditional Use, Auto Auction
Exhibit E - Zoning Map



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri Community Maps, 2014



Areas

-  Override 1
-  Owner Parcels

8340 N. Gilmore Rd.





Planning Department
345 High Street, 3rd floor
Hamilton, Ohio 45011

February 19, 2020

NOTICE OF PUBLIC HEARING

LOCATION: 8340 N. Gilmore Road
APPLICANT: Freeman Auto Auction LLC - Evan Connor
REQUEST: The applicant is requesting a Conditional Use Approval to operate a dealer-to-dealer Automobile Action /Sales Business at 8340 N. Gilmore Road. The site is located within an I-2, Industrial Zoning District.

Attention Property Owner:

The City of Hamilton Planning Commission will hold a public hearing on **Thursday, March 5, 2020 at 1:30 P.M.** in the Council Chambers of the City Building located at 345 High Street.

You are a property owner within 500 feet of the subject property and as such are required by statute to be notified of this public hearing.

An application for this project as well as the Commission Bylaws are on file in our office and available for your review. These materials, in addition to future updates and reports completed by staff during the review process, can be found online at:

<https://www.hamilton-city.org/266/Planning-Commission>.

If you have any comments concerning this matter, you may appear at the public hearing or you may forward your comments to the Planning Department in writing for presentation at the meeting.

If you or anyone planning to attend this hearing have a disability for which we need to provide accommodations, please notify staff of your requirements at least three (3) days prior to the public hearing.

If you have any questions, please visit the Planning Department located at 345 High Street, Hamilton, Ohio, or contact **Larry Bagford**, of the City of Hamilton Planning Department at **785-7350**.

Sincerely,

Larry Bagford, CFM
Planning & Zoning Specialist



Planning Department
345 High Street, 3rd floor
Hamilton, Ohio 45011

For the Planning Commission Meeting of March 5, 2020

To: Planning Commission
From: Larry Bagford, Planning & Zoning Specialist

Date: March 5, 2020

Subject: AGENDA ITEM # 1–New Business

APPLICANT: Freeman Auto Auction LLC - Evan Connor S.A.

LOCATION: 8340 N. Gilmore Rd, Hamilton, Ohio –
Parcel # P6461058000028

REQUEST: Request for a Conditional Use to Operate an Automotive Auction/Sales Business; and variances to the ten (10) foot rear and side yard setback requirements along with a variance to the required paving of the area where the auction vehicles will be stored.

BASIC INFORMATION		
Applicant/Property Owner	Freeman Auto Auction LLC - Evan Connor S.A.- Applicant 8340 Gilmore Investments LLC- Property Owners	
Architect/Engineer/Consultant	Keissling Architecture Inc.	
Size of Property	4.81 Acres	
Current Zoning	I-2 Industrial District	
Requests	Request for a Conditional Use to Operate an Automotive Auction/Sales Business	
Size of Revision	N/A - Exiting Building	
ADJACENT LAND USE/ZONING INFORMATION		
<i>Direction</i>	<i>Land Use</i>	<i>Zoning</i>
North	Industrial and Park Land	I-2 Industrial Zoning District
South	National Guard Armory	I-2 Industrial Zoning District
East	Gilmore Ponds Park	I-2 Industrial Zoning District
West	Bolke Veneer/Industrial Use	Not In City of Hamilton

Report continued on the next page





Section A: Introduction and Background

Section A.1: Project Overview

Freeman Auto Auction LLC, represented by Mr. Evan Connor, is requesting a Conditional Use Approval to operate a dealer-to-dealer Automobile Auction /Sales Business at 8340 N. Gilmore Road. This property is located in an I-2 (Industrial) Zoning District. Per Section 1124.39.4 of the Hamilton Zoning Ordinance (HZO), Automobile Sales require a Conditional Use Approval in the I-2, (Industrial) Zoning District.

Overview of Auto Auction:

- Freeman Auto Auction will be a weekly dealer only auction held during regular business hours on a weekday. The preliminary time and day is 2pm every Wednesday. Each auction will last 2-4 hours.
- Plans propose five to seven (5-7) full time employees. In addition, there will be 6-8 temporary workers for a four-hour period on auction day only. Total workers on auction day may be up to twenty (20).
- This dealer-to-dealer auction allows only licensed auto dealers to sell their inventory through the auction to other licensed dealers who intend to resell them at their dealership.
- Freeman Auto Auction does not own the inventory, which it is selling; the cars are all consigned from dealers. The vehicles will primarily be from new car dealers intending to sell their unwanted trade-in vehicles. The buyers will be used car dealers looking to purchase inventory for their businesses.
- Transactions are rarely done with cash to in order to reduce security concerns.
- Vehicles will not to be stored at the auction. All vehicles that are on the premises are there in preparation for the next auction or have already been sold and are awaiting pickup by the purchasing dealer. Some vehicles may be kept on site for the next week's auction because they did not sell at the previous week's sale.
- Vehicles generally arrive at the auction driven by employees of Freeman Auto Auction There may be times when vehicles arrive by truck or trailer, but generally vehicles are driven individually to the auction. Purchasing dealers may also use Freeman Auction employees to transport the purchased vehicles to their business.

Report continued on the next page





Section A.2: Existing Site Conditions

The property is a 6.16 acre lot, of which Freeman Auto Auction will utilize approximately 4.88 acres, 79% of the overall property. The site features three (3) curb cuts for vehicular access

The property has an existing 10,772-sq.ft. building with an 855-sq.ft. brick office area on the west /front of the building and with a 9,916-sq.ft. concrete block portion of the building attached to the west /rear of the office area. The block portion of the building has six (6) large overhead doors on both the north and south sides of the building.

There are three (3) other buildings on the property. The largest is a 1,280-sq.ft metal building located at the northwest corner of the property; a second building is near the southern property line approximately 390 feet behind the Gilmore Road right of way line and there is a small shed located approximately 140-ft north of the second building.

The rest of the property is a gravel lot. An existing six-foot high (6') chain-link fence with three strands of barbwire on top encloses the lot on the north, east, and south sides of the property.

Section A.3: History

Three (3) different trucking companies are currently using the property for parking of semi-tractors and trailers. Staff has worked with the applicant regarding the conditional use application requirements, site operations, and general site design proposals. This included a pre-application meeting and subsequent reviews and refinement of the applicant's proposal. Staff also worked with the applicant concerning the paving of the site as part of the conditional use proposal.

The plans indicate that one trucking operation will continue to use approximately 1.28 acres located at the northeast corner of the property. A second trucking company will use the eastern portion of the main building (4,466-sq ft.), including three (3) of the overhead doors on each side of the building, to maintain and service their vehicles.

Report continued on the next page





Section B: Petition Review

Section B.1: Development Plan Overview (Exhibit B)

The submitted development plan proposes exterior, interior, and site alterations to accommodate a proposed auto auction use on the property.

The development plan proposes:

1. To accommodate the proposed business, the office portion of the building will be renovated and ADA compliant restrooms will be included. The first three bays of the concrete block portion of the building will be used for the auto auction and the easterly three bays will be separated for the existing trucking business. The building will be repainted in a color matching as closely as possible to the existing color.

The proposed landscaping:

1. The applicant proposes to install a 10feet landscape bed along the Gilmore Road right of way.
2. The landscape will contain 20 trees of three different evergreen species.
3. The corresponding three shrubs per tree (60 shrubs), will be a mix of Boxwood, Yews, Taxus, and Euonymus Shrubs.

The proposed paving of site:

1. Partial paving of the site with asphalt and
2. Provide 128 striped parking spaces for employees and auction attendees in the paved area.
3. Customer parking will be separated from auction vehicles by a 6-ft high chain-link fencing with barbwire on top
4. Most of the auction car parking area will be left as existing gravel.

Report continued on the next page





Section B.1.1: Conditional Use with Variances Requests (Exhibit B)

The submitted application for the Planning Commission's consideration is for the following:

- 1) Freeman Auto Auction LLC is requesting two variances to the conditional use requirements listed in Section 1124.39.4 HZO and a conditional use.

Request #1

Freeman Auto Auction LLC is requesting a variance to the required ten (10) feet setback and landscaping requirement along the north, east and south sides of the property.

Request #2

Freeman Auto Auction LLC is requesting a variance to the paving requirement. They propose paving 90,845 sq.ft of the lot for customer parking. The remainder of the property; used for parking of auction vehicles and the northeast section of the property used by the trucking business will remain gravel surfaced.

Request #3

Freeman Auto Auction LLC is requesting conditional use approval in order to operate an automobile auction/sales business at 8340 N. Gilmore Road.

Section B.2: Review of Applicant Submittal Materials

To accommodate the proposed business, the office portion of the building will be renovated and ADA compliant restrooms will be included. The first three bays of the concrete block portion of the building will be used for the auto auction and the easterly three bays will be separated for the existing trucking business. The building will be repainted in a color matching as closely as possible to the existing color.

Report continued on the next page





Section B.2.1 Proposal Overview

The submitted Development Plans indicate the following:

1. Auto auction to occupy approximately 4.88 acres of the property.
2. Auto auctions will be Wednesday at 2pm
 - a. Approximately five to seven (5 to 7) employees on a daily basis in the office area
 - b. Up to 20 employees on auction day
 - c. Up to 100 customers in the auction arena on auction day.
3. Renovation of the office portion of the building for auto auction operation.
4. Renovation of the existing vehicle garage area into an auction arena open area.
 - a. The first three (3) bays of the concrete block portion of the building will be used for the auto auction.
 - b. Easterly three (3) bays will be used by the existing trucking business.
5. Building façade to be repainted to match existing.
6. Paving of the front portion of the lot as asphalt (90,845 square feet).
 - a. 128 parking spaces proposed
 - b. Remainder of the site will remain unpaved gravel.
7. Proposed chain-link fence with barbwire to enclose the rear of the building, and for storing auction vehicles.
8. Landscaping proposed along the frontage of the site, along North Gilmore Road.

Report continued on the next page





Section B.2.2 Exterior Façade and Site Improvements

The submitted Site Plans indicate the following:

1. Existing Office Renovation
 - a. Alter the interior of the existing 855 square feet of office space to suit the auto auction tenant.
 - b. Includes two (2) offices, lobby, restroom, and customer registration.

2. Existing vehicle garage area into an auction arena open area.
 - a. 4,937 square foot proposed auto auction area
 - i. (This is half of the existing 9,875 square foot garage).
 - b. The western half (front half) will be used for the auto auction arena. Accessed by the first three (3) bays.
 - c. The eastern half (rear half) will remain as a sub-lease tenant. Accessed by the eastern three (3) bays.
 - d. Two (2) bleachers will be provided for auto auction customer seating. Each bleacher seats approximately 56. (112 seats total).
 - e. New exit door will be provided at the auto auction, northern façade, replacing the existing overhead door (northwestern corner).
 - f. Reconfiguration of a portion of the auto auction area with two (2) new restrooms

3. Painting of the structure:
 - a. Concrete Block, Painted Siding, and Steel Doors to be repainted.
 - b. Repaint in a color matching to match the existing color scheme.
 - i. The concrete building is currently a tan/beige color.
 - ii. The brick building is dark red brick with dark red siding at the gable.

Report continued on the next page





Section B.2.3 Landscaping

The submitted Landscaping Plans indicate the following:

1. Landscape Bed: The applicant proposes to install a 10 feet landscape bed along the Gilmore Road right of way, the frontage of the site.
2. Trees: The landscape will contain Twenty (20) trees of three (3) different evergreen species:
 - a. Seven (7) “Emerald Green Arborvitae”,
Approximately 5’ height, 8’ mature height,
 - b. Seven (7) “Centennial Girl Holly Tree”,
Approximately 5’ height, 8-9’ mature height,
 - c. Six (6) “Hetzi Juniper”,
Approximately 5’ height, 8-9’ mature height
 - d. These varieties are all on the City Arborist’s approved list of trees for planting under utility lines.
3. Shrubs: The corresponding three shrubs per tree (60 shrubs):
 - a. This will be a mix of Boxwood, Yews, Taxus, and Euonymus Shrubs.

Per the Hamilton Zoning Ordinance (HZO), one (1) tree is required per 5,000 square feet of development. The site is 4.81 acres (212,572 square feet).

- A total of 40 trees or proportional number of tree equivalents (three (3) shrubs or six (6) perennials per required tree) are required for the site.
- The application proposes 20 trees and 60 shrubs = (equal to 40 trees)
- The application meets the landscaping requirements for zoning.

Report continued on the next page





Section B.2.4 Off-Street Parking & Access Controls

The submitted plans indicate the following:

1. Pave 90,845 square feet of the site. with asphalt (the western portion of the property, front of the property)
2. Provide 128 striped parking spaces
 - a. Spaces for employees and auction attendees in the paved area.
 - b. Includes five (5) ADA/Handicap Parking Spaces
3. Customer parking will be separated from auction vehicles by a 6 feet high chain-link fencing with barbwire on top for a total height of approximately 7 feet, matching the existing fence.
 - a. Access to this area will be provided by a four feet (4') door/gate and a twenty feet wide (20') vehicle gate
4. The majority of the area for auction car parking area will remain as existing gravel.
5. Proposed directional sign to identify access for existing trucking tenant.
 - a. Located at the northwest corner of the lot.

Per the Hamilton Zoning Ordinance (HZO),

- 1) Auto Auction: one (1) parking space is required per six (6) seats
- 2) Office/Industrial: one (1) parking space for every three (3) employees on the maximum shift

The application proposes 128 striped parking spaces. This exceeds the minimal requirements of both proposed uses.

Section B.2.5 Signage

The submitted plans indicate the following:

1. One (1) proposed Monument Sign
 - a. Maximum of eight (8') feet high
 - b. Maximum of 150 square feet in size.

Report continued on the next page





Section B.2.6 Refuse Storage

The submitted plans indicate the following:

1. Two proposed dumpsters located at the rear of the building, behind proposed fence area.
2. No other designated refuse storage area or screening proposed for the dumpsters.

Section B.2.7 Lighting

The submitted plans indicate the following:

1. The auto auction will only use existing lighting on the site.
2. All existing lighting is located on the façade of the existing concrete structure and brick structure, typically as one (1) over each overhead door.
 - a. Concrete Block structure: at least nine (9) overhead lights on the façade
 - i. Three (3) on the north façade
 - ii. Four (4) on the south façade
 - iii. Two (2) on the front façade
 - b. Brick structure: six (6) façade lights
 - i. Three (3) overhead lamps
 - ii. Three (3) lights at the south façade entrance.

Section C: Interdepartmental Review

The plans were circulated for Interdepartmental Review and there were no objections to the proposal.

Because Gilmore Road is in the City of Fairfield, the plans were shared with them for approval of the entrance/exit aprons onto Gilmore Road.

Fairfield requires that a permit is obtained for the two aprons, that the paving used for the aprons is a minimum of 9-inches thick and the aprons/entrances are no wider than 26-feet each.

Report continued on the next page





Section D: Submitted Request

In order to accomplish the project as proposed in Section B, the applicant, Freeman Auto Auction LLC, is requesting two variances to the conditional use requirements listed in Section 1124.39.4 HZO and a request for a conditional use approval.

Request #1

Request for a variance to the required ten (10) feet setback and landscaping requirement along the north, east and south sides of the property.

Request #2

Request for a variance to the paving requirement. The applicant proposes paving 90,845 sq.ft of the lot for customer parking. The remainder of the property; used for parking of auction vehicles and the northeast section of the property used by the trucking business will remain gravel surfaced (118,701 square feet).

Request #3

Request conditional use approval in order to operate an automobile auction/sales business at 8340 N. Gilmore Road, property zoned I-2 (Industrial).

Section E: Statutes

Section E.1: Conditional Use

Per Section 1124.39.4 HZO; automotive sales requires a Conditional Use Approval from the Planning Commission and City Council. Section 1155.30 (Conditional Uses – Application and Review, General Standards) contains specific findings outlined within the zoning ordinance for review and approval of a Conditional Use by the Planning Commission.

Report continued on the next page





Conditional Uses:

In reviewing an application for a Conditional Use, the Planning Commission shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the following nine (9) criteria, general standards for a conditional use:

- (1) The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
- (2) The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- (3) The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- (4) The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.
- (5) The proposed Conditional Use will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding streets.
- (6) The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.
- (7) The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
- (8) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- (9) The proposed Conditional Use will not impede the normal and orderly development.

Report continued on the next page





Section E.2: Variances

Section 1155.30 item D - Conditional Use Review Criteria – Use Specific Standards and Variances states:

In reviewing an application for a Conditional Use, the PC may also consider any variance applicable or corresponding to a conditional use request, and determine whether there is adequate evidence that the proposed Conditional Use is consistent with the applicable use-specific standards. Any waiver, variance, or deviation from zoning regulations and standards will become part of the PC recommendation. (REVISED OR2019-6-44)

1. Variance-Findings of the Commission and Council: No variance to which this Ordinance is applicable shall be recommended for approval by the Planning Commission, or authorized by the City Council, unless the Commission and Council find, by a preponderance of the evidence, that all of the following facts and conditions exist.
 - A. *Exceptional Circumstances***: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.
 - B. *Preservation of Property Rights***: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.
 - C. *Absence of Detriment***: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance or the public interest.
 - D. *Not of General Nature***: No grant of a variance shall be authorized unless the Planning Commission or City Council finds that the condition or situation of the specific piece of property for which the variance is sought is not of so general or regulation for such conditions or situation.

Section E.3: Plan Hamilton

Plan Hamilton is the updated Comprehensive Plan for the city; a living document meant to guide zoning and land use decisions for the present and the future. Conditional Uses should be compared with the recommendations of Plan Hamilton.

Plan Hamilton's land use map shows the N. Gilmore Road area as Commerce Mixed Use. The proposed auto auction and the two existing trucking businesses on this site comply with this land use.

Report continued on the next page





Section F: Notification

Notices were sent to ten (10) property owners within 500 feet of the subject property. As of the printing of this report, Staff received no responses.

Section G: Recommendations

Staff recommendations to the Planning Commission are listed below in the document. Additionally, Staff Recommended Conditions are also listed in the Exhibit Attachments for this staff report (Please see Exhibit E):

Request #1 - Variance to waive the 10-ft landscaped setback along the north, east, and west sides of the property.

Staff concurs with the applicant and recommends that Planning Commission approve the requested variances to waive the rear and side yard setback landscaping requirements for the following reasons:

- A. *Exceptional Circumstances:*** The property is bordered on the north side by another industrial property with a natural buffer of semi dense forest type natural growth already in place. The property is bordered on the east side by natural wetlands, which make a landscaping border/buffer. The property is bordered on the south side by another industrial property, (military depot/storage/recruiting), which is separated by a typical 6' tall chain link fence with barbed wire on top. Placing a landscape buffer along a bordering industrial property of similar appearance would be highly redundant as their respective property uses do not conflict.
- B. *Preservation of Property Rights:*** Neighboring properties enjoy the same or similar variation from code whether directly granted or grandfathered. There are no other properties in the same area with similar surroundings as we have that have been required to place substantial landscape buffers where we are requesting a variance from.
- C. *Absence of Detriment:*** The requested variance to leave out a landscaping buffer on three sides of the property will not in any way, any neighboring property. The occupancy of Freeman Auto Auction will actually improve the property and immediate area from an aesthetic standpoint because of the paving, painting, and landscaping.
- D. *Not of General Nature:*** The special characteristics of the property are such that these variances are sensible in nature but are not common enough to necessitate a change in regulation.

Report continued on the next page





Recommendation #2 - A variance to the paving requirement for the rear portion of the existing gravel lot.

Staff concurs with the applicant and recommends that Planning Commission approve the requested variance to allow the applicant to pave 90,845 sq.ft of the lot for customer parking and keep the remainder of the lot used for storage of auction vehicles and the northeast section of the property used by the trucking business gravel surfaced

- A. *Exceptional Circumstances:*** Using the existing gravel to park auction cars on is will not adversely affect the property. The gravel area will not be used for customer parking. It would be impractical from a logistical standpoint to require the entire property to be paved, given the trucking businesses that are going to remain at this location.
- B. *Preservation of Property Rights:*** Neighboring properties have a similar appearance with large gravel covered areas on which they park and store equipment including tanks, while the only paved areas are their designated customer parking areas.
- C. *Absence of Detriment:*** There is no harm to neighboring properties by leaving the rear area of this property with the existing gravel surface, which will used for auction vehicle parking. The plans will pave approximately half of lot has been used as a graveled for years.
- D. *Not of General Nature:*** The variance sought to allow the subject areas with their existing gravel does not necessitate a change to and existing regulations.

Recommendation #3 - A conditional use approval to operate an auto auction/sales business at 8340 N. Gilmore Road

Staff recommends that Planning Commission provide a recommendation to City Council to approve the Conditional Use and the requested two (2) variances to allow for the operation of an auto auction/sales business on the site in question, subject to the following conditions:

Report continued on the next page





Conditions of Approval:

1. That a variance to waive the 10-ft landscaped setback requirement on the north, east and south sides of the property is approved.
2. That a variance to the paving requirement for the rear portion of the existing gravel lot as shown on the plans is approved.
3. All storm water drainage shall be directed to the east in a manner that will prevent standing water and will not be directed toward any foundations or cause a problem for adjacent properties.
4. All required permits and inspections shall be obtained prior to the business commencing operation.
5. All site improvements as proposed and all conditions shall be in compliance prior to the business commencing operation.
6. All signs shall conform to the requirements of Section 1138.00 –Signs of the Hamilton Zoning Ordinance.
7. The portion of the new chain-link fence enclosing the auction vehicles shall have vinyl slats installed to screen the graveled parking area and the vehicles parked there.
8. No auction vehicles shall remain on the property for more than 30 days.
9. There shall be no automobile repair on the site as part of the auto auction business.
10. No auto parts or tires shall be stored on the property.
11. All conditions shall be maintained while the business is located at his location. If at any time the property is not in compliance with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.

Report continued on the next page





Section F: Staff Basis / Comments

1. The proposed Conditional Use will be harmonious with the existing character of the general vicinity, and such use will not change the essential character of the same area.
2. The aesthetic and safety improvements proposed and recommended in the conditions are consistent with our auto use regulations. Furthermore, the conditions are also comparable to the conditions recommended for other recent auto use projects.
3. The proposed use is adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools.
4. The proposed use is not hazardous to nor will it have a negative impact on existing or future neighboring uses.
5. The proposed use does not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
6. The proposed site improvements, including aesthetic building enhancements, added landscaping, and reduced curb cuts, are an important improvement according to Plan Hamilton because this area is predominantly residential.

Section G: Attachments

The following attachments are listed in chronological order as they appear in the report.

- 1) Exhibit A – Proposal Plans
- 2) Exhibit B - Location Map
- 3) Exhibit C – Zoning Map
- 4) Exhibit D – Notice of Public Hearing Letter
- 5) Exhibit E – Recommended Conditions of Approval

Report continued on the next page



ORDINANCE NO. _____

AN ORDINANCE APPROVING A REQUEST FOR A CONDITIONAL USE CERTIFICATE TO OPERATE A DEALER-TO-DEALER AUTOMOBILE AUCTION /SALES BUSINESS AT 8340 NORTH GILMORE ROAD: AND A VARIANCE TO THE PAVING REQUIREMENT ALLOWING THE REAR PORTION OF THE PROPERTY TO REMAIN A GRAVELED LOT, PROPERTY ZONED "I-2" (INDUSTRIAL) ZONING DISTRICT, SITUATED IN THE SIXTH WARD, CITY OF HAMILTON, OHIO.

WHEREAS, the Administration of the City of Hamilton, Ohio received an application for a Conditional Use request on behalf of Freeman Auto Auction LLC to operate a dealer-to-dealer Automobile Auction /Sales Business at 8340 North Gilmore Road, parcel# P6461058000028, as referenced in Exhibit No. 1; and

WHEREAS, Section 1124.39.4 of the Hamilton Zoning Ordinance (HZO), classifies an Automobile Sales Business as a Conditional Use Approval in the "I-2", (Industrial) Zoning District; and

WHEREAS, Section 1155.00 of the Hamilton Zoning Ordinance requires that Conditional Uses to be reviewed by the Planning Commission and a recommendation forwarded to City Council; and

WHEREAS, the Planning Department notified all of the owners of property located within five hundred (500) feet of the area in question of a public hearing request for a conditional use for an automobile sales business at 8340 N. Gilmore Road (Parcel ID: P6461058000028), property situated in the "I-2" (Industrial) zoning district, held at the Hamilton Planning Commission meeting of March 5, 2020; and

WHEREAS, the City Planning Commission held a public meeting, considered the conditional use request, site plan, written information provided by the applicant, findings, and the Conditional Use Review Criteria – General Standards, the Planning Commission; and

WHEREAS, Planning Commission recommended that City Council approve the request to allow Freeman Auto Auction LLC, to operate a dealer-to-dealer Automobile Auction /Sales Business at 8340 North Gilmore Road zoned "I-2" (Industrial) District as referenced in Exhibit No. 1 as proposed and with the conditions as listed in Exhibit No.2, situated in The City of Hamilton, Butler County, Ohio, Sixth Ward, North Side.

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

SECTION I: That this Council accepts the recommendation of the Planning Commission and hereby approves the request to establish a Conditional Use to operate a dealer-to-dealer Automobile Auction /Sales Business, at 8340 N. Gilmore Road. (Parcel ID: P6461058000028), property zoned "I-2", (Industrial) zoning district, situated in the Sixth Ward, City of Hamilton, Butler County, Ohio as indicated in Exhibit No.1, subject to the conditions of approval outlined in Exhibit No. 2, for the following rationale:

1. The proposed Conditional Use will be harmonious with the existing character of the general vicinity, and such use will not change the essential character of the same area.
2. The aesthetic and safety improvements proposed and recommended in the conditions are consistent with our auto use regulations. Furthermore, the conditions are also comparable to the conditions recommended for other recent auto use projects.
3. The proposed use is adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools.
4. The proposed use is not hazardous to nor will it have a negative impact on existing or future neighboring uses.
5. The proposed use does not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Ordinance No. _____ (Cont'd)

- 6. The proposed site improvements, including aesthetic building enhancements, added landscaping, and reduced curb cuts, are an important improvement according to Plan Hamilton because this area is predominantly residential.

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

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

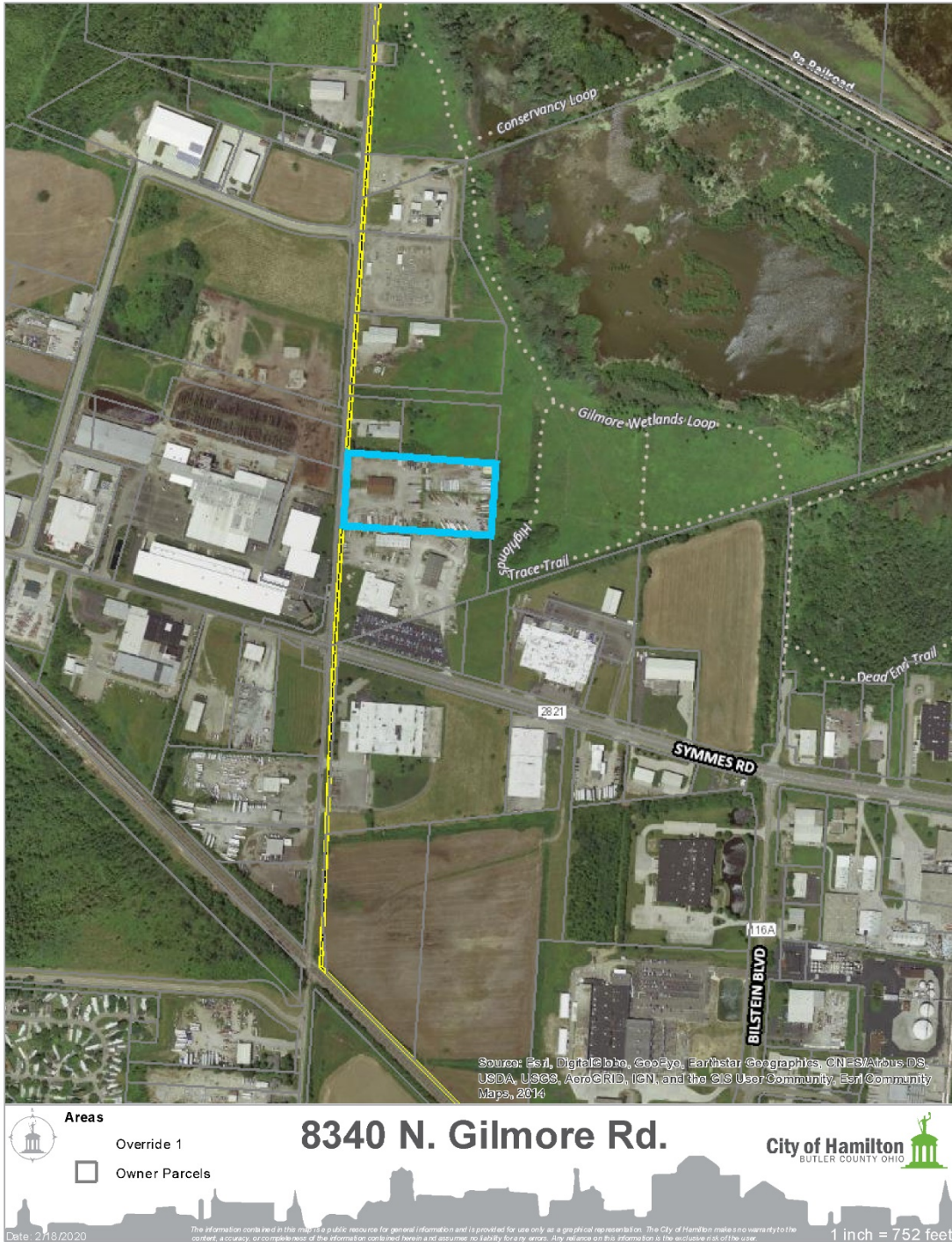
City Clerk

CERTIFICATE

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

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

EXHIBIT NO.1



Ordinance No. _____ (Cont'd)

EXHIBIT NO.2

1. That a variance to waive the 10-ft landscaped setback requirement on the north, east and south sides of the property is not approved.
2. In reference to Condition of Approval #1: the applicant, property owner, City Staff and MetroParks shall work to identify the specifics of the buffer to address stormwater, aesthetics, and cost. Grass shall be along the south side (southern property line) and along the northwest property line that is not adjacent to MetroParks property, with a condition that the width shall be subject to stormwater and drainage requirements.
3. A revised landscape plan shall be submitted indicating compliance with the 10-ft landscape setback along the north, east, and south property lines.
4. That a variance to the paving requirement for the rear portion of the existing gravel lot as shown on the plans is approved.
5. The existing exterior fence is straightened and repaired where damaged.
6. The storm water management shall be subject to City of Hamilton, Interdepartmental Review and shall not increase or concentrate flow onto adjacent properties. Measures to prevent the discharge of gasoline, oil, antifreeze, or other chemicals shall be identified on the storm water management plan.
7. All required permits and inspections shall be obtained prior to the business commencing operation.
8. All site improvements as proposed and all conditions shall be in compliance prior to the business commencing operation.
9. All signs shall conform to the requirements of Section 1138.00 – Signs of the Hamilton Zoning Ordinance.
10. The portion of the new chain-link fence enclosing the auction vehicles will have vinyl slats installed to screen the graveled parking area and the vehicles parked there.
11. No auction vehicles shall remain on the property for more than thirty (30) days.
12. There shall be no automobile repair on the site as part of the auto auction business.
13. No auto parts or tires shall be stored on the property.
14. All conditions shall be maintained while the business is located at his location. If at any time the property does not comply with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.

City Council Meeting Staff Report

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

Report From: Jim Logan, Executive Director of Infrastructure
Nate Perry, Director of Business Services

Agenda Item: An ordinance amending subparagraph 947.12(b) of Chapter 947 – Gas Service, of the Codified Ordinances of the City of Hamilton, Ohio, relative to the Gas Cost Recovery Rate, as it pertains to the definition of Base Gas Cost only, and repealing said portion of subparagraph 947.12(b)

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input type="checkbox"/> I Realize new investments <input type="checkbox"/> J Increase gross wages <input type="checkbox"/> P Increase property values <input type="checkbox"/> R Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
Ordinance or Resolution <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 st Reading Date: 3-25-2020 <input checked="" type="checkbox"/> 2 nd Reading Date: 4-8-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other): Caucus Report 3-11-20 City Council Meeting	
Contract	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
Fiscal Impact	Budgeted: \$	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>
	Expenditure: \$	
	Source Funds: Natural Gas Fund	

Policy Issue

Does City Council wish to adopt legislation to amend only the definition of Base Gas Cost in Subparagraph 947.12(b), the Gas Cost Recovery Rate, and repeal the existing version?

Policy Alternative(s)

Council may choose not to adopt such legislation amending only the definition of Base Gas Cost in Subparagraph 947.12(b) and repealing the existing version. If Council chooses this option, the current Gas Cost Recovery Rate will remain in effect.



Staff Recommendation

Staff recommends that Council receive this report and adopt legislation to amend the definition of Base Gas Cost only of Subparagraph 947.12(b) and repeal the existing version. By adopting the proposed legislation, the natural gas Base Gas Cost (BGC) included in rates would decrease from \$0.3500/Ccf-sold to \$0.3383/Ccf-sold. Staff further recommends making the proposed change in the Gas Cost Recovery Rate retroactive to March 1, 2020.

Statutory/Policy Authority

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

Fiscal Impact Summary

The proposed change in the Base Gas Cost (BGC) included in rates is projected to prevent over-recovery of approximately \$730,000.00 in natural gas supply costs.

Background Information

On March 11, 2020, City Council adopted legislation that extended the current natural gas supply contract (3) years and reduced the fixed price rate for natural gas charged to the City. This amended contract is projected to save the City approximately \$730,000.00 and will further reduce the impact of future gas market price increases on Hamilton's natural gas rates.

The City Administration is proposing to use this savings to fund the recent Park/Main natural gas outage (approximately \$500,000.00). Additional savings are proposed to support ongoing capital needs by replacing aging infrastructure to increase service reliability. Administration recommends reducing the base gas cost (BGC) included in rates, allowing the savings to be used as proposed. The proposed change will not impact (i.e., not increase) customer bills.

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE AMENDING SUBPARAGRAPH 947.12(b) OF CHAPTER 947 – GAS SERVICE, OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, RELATIVE TO THE GAS COST RECOVERY RATE, AS IT PERTAINS TO THE DEFINITION OF BASE GAS COST ONLY, AND REPEALING SAID PORTION OF SUBPARAGRAPH 947.12(b) AS IT CURRENTLY EXISTS.

WHEREAS, on March 26, 2003, Hamilton City Council adopted Ordinance No.2003-3-23, establishing the Base Gas Cost (BGC) included in natural gas rates, as set forth in Subparagraph 947.12(b) Gas Cost Recovery Rate, of the Codified Ordinances of the City of Hamilton, Ohio; and

WHEREAS, on March 11, 2020, City Council adopted legislation that extended the current natural gas supply contract three (3) years and reduced the fixed price rate for natural gas saving approximately \$730,000.00 over the life of the contract; and

WHEREAS, the proposed modifications to the Base Power Cost are designed to allow the contract savings of \$730,000.00 to be used to fund the recent Park/Main natural gas outage (approximately \$500,000.00) and support ongoing capital needs by replacing aging infrastructure to increase service reliability; and

WHEREAS, the proposed changed will not impact or increase customer bills; and

WHEREAS, in order to achieve the foregoing, it is necessary to amend, effective retroactively to March 1, 2020, Subparagraph 947.12(b) of the Codified Ordinances of the City of Hamilton, Ohio, relative to the Gas Cost Recovery Rate, as it pertains to the definition of Base Gas Cost (BGC) only and to repeal said portion Subparagraph 947.12(b) as it currently exists;

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

SECTION I: That, effective retroactively to March 1, 2020, Subparagraph 947.12(b) of Chapter 947 – Gas Service, of the Codified Ordinances of the City of Hamilton, Ohio, relative to Gas Cost Recovery Rate, as it pertains to the definition of BGC only is hereby amended to be and read as follows:

947.12 GAS COST RECOVERY RATE.

(b) Gas Cost Component:

(2)

BGC = Amount of gas costs included in volumetric charges of \$0.3383 per Ccf effective March 1, 2020 and thereafter.

SECTION II: That the existing portion Subparagraph 947.12(b)(2) of the Codified Ordinances of the City of Hamilton, Ohio, pertaining to the definition of BGC only as it existed prior to the enactment of this Ordinance is **hereby repealed, effective retroactively to March 1, 2020**, all other portions of Subparagraph 947.12(b) remain in effect.

PASSED: _____

Effective Date: _____

Mayor

ATTEST: _____
City Clerk

CERTIFICATE

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

Ordinance No. _____

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

City Council Meeting Staff Report

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

Report From: Lauren Nelson, Business Development Specialist

Agenda Item: An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a side lot. (531 Central Avenue).

Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	Related Strategic Goal(s) <input type="checkbox"/> I Realize new investments <input type="checkbox"/> J Increase gross wages <input checked="" type="checkbox"/> P Increase property values <input type="checkbox"/> R Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input type="checkbox"/> O General operations
Ordinance or Resolution <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 st Reading Date: 3-25-20 <input checked="" type="checkbox"/> 2 nd Reading Date: 4-8-20 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i>	City Council (or other): Caucus Report 3-11-20 City Council Meeting	
Contract	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
Fiscal Impact	Budgeted: \$	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>
	Expenditure: \$	
	Source Funds:	

Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot at 531 Central Avenue to Mary Wright who owns property contiguous to this lot?

Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot at 531 Central Avenue to Mary Wright keep the property and maintain the lot.

Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 531 Central Avenue to Mary Wright because it would help lessen density in the urban core, encourage home ownership, and increase property values. Said transfer would be consistent with previously adopted Policies and Procedures for the Land Bank Programming and HMO Section 175.10 for disposition of property in an Urban Renewal Area.



Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton
- Section 175.10, Disposition of Property, Hamilton Codified Ordinances and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

Fiscal Impact Summary

The City will reduce future financial responsibilities for maintenance of this property.

Background Information

The property at 531 Central Avenue was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in January 2013. The property is eligible for the side lot program and is in an urban renewal area. Mary Wright is the homeowner occupant of the property at 535 Central Avenue and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City’s Side Lot Program.

Address	Parcel Identification
531 Central Avenue, Hamilton, OH	P6421007000069

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT. (531 Central Avenue).

WHEREAS, the City of Hamilton, Ohio has received a request from Mary Wright to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Mary Wright; and

WHEREAS, no other contiguous property owner qualified to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies") has requested said property; and

WHEREAS, pursuant to Section 175.10 of the Codified Ordinances, City owned property in an Urban Renewal Area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Mary Wright and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

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

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, also as seen as Exhibit No. 1, to the applicant for One Hundred 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies.

Purchaser	Address	Parcel Identification
Mary Wright	531 Central Avenue	P6421007000069

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

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

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

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

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

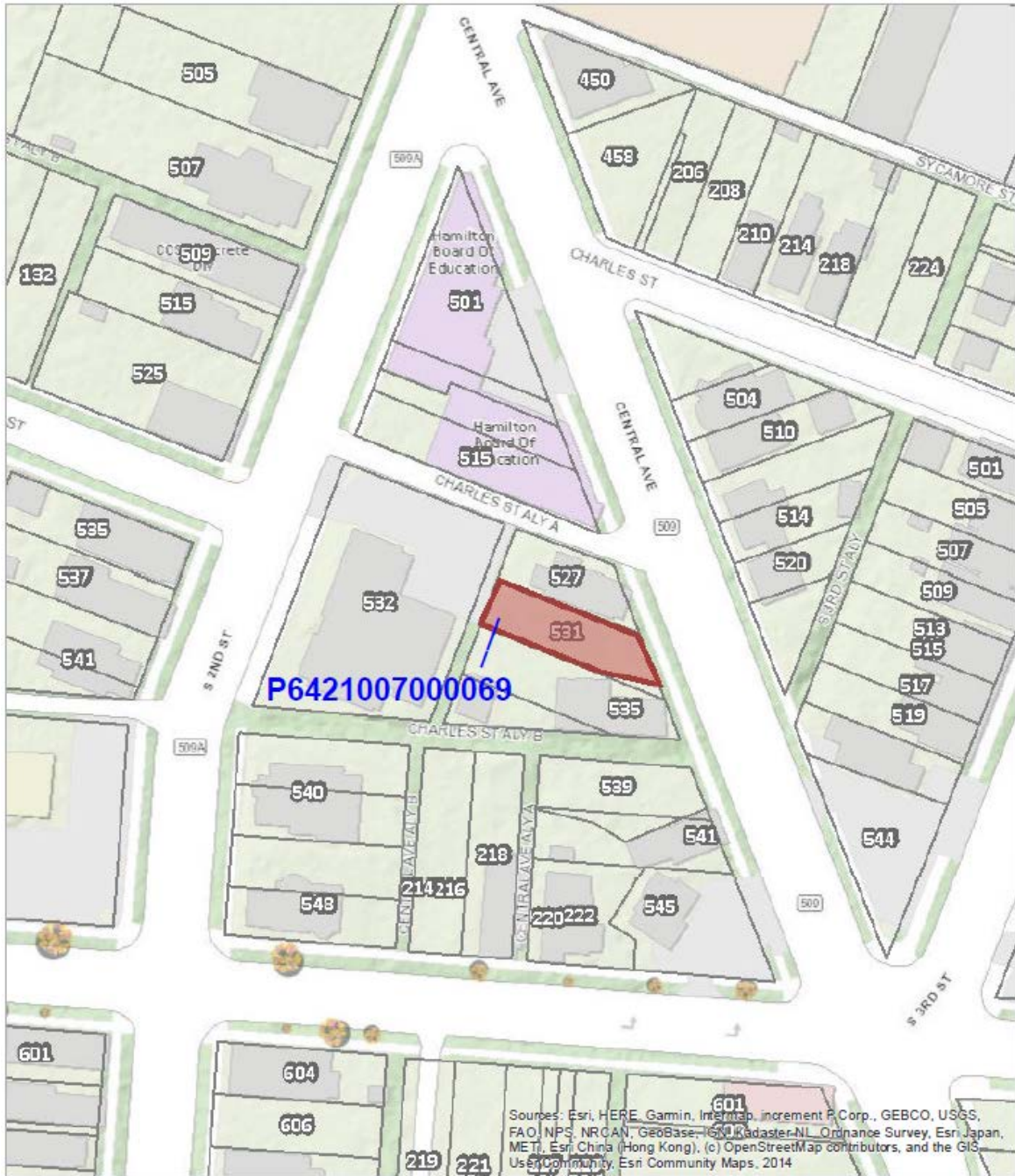
City Clerk

CERTIFICATE

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

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

EXHIBIT NO. 1



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GEBCO, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Esri Community Maps, 2014

Areas
 531 Central Avenue

ArcGIS Web Map



Ordinance No. _____ (cont'd)

City Council Meeting Staff Report

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

Report From: Lauren Nelson, Business Development Specialist

Agenda Item: An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (1141 Lane Street).

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> I Realize new investments <input type="checkbox"/> J Increase gross wages <input checked="" type="checkbox"/> P Increase property values <input type="checkbox"/> R Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 st Reading Date: 3-25-20 <input checked="" type="checkbox"/> 2 nd Reading Date: 4-8-20 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other): Caucus Report 3-11-20 City Council Meeting</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	<p>Budgeted: \$</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot at 1141 Lane Street to Tara Day who owns property contiguous to this lot?

Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot at 1141 Lane Street to Tara Day, keep the property and maintain the lot.

Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 1141 Lane Street to Tara Day because it would help lessen density in the urban core, encourage home ownership, and increase property values. Said transfer would be consistent with previously adopted Policies and Procedures for the Land Bank Programming and HMO Section 175.10 for disposition of property in an Urban Renewal Area.



Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

Fiscal Impact Summary

The City will reduce future financial responsibilities for maintenance of this property.

Background Information

The property at 1141 Lane Street was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in June 2018. The property is eligible for the side lot program and is in an urban renewal area. Tara Day is the homeowner occupant of the property at 1145 Lane Street and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City's Side Lot Program.

Address	Parcel Identification
1141 Lane Street, Hamilton, OH	P6421021000071

Attached Information

N/A

Copies Provided to:

N/A



ORDINANCE NO. _____

AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT. (1141 Lane Street).

WHEREAS, the City of Hamilton, Ohio has received a request from Tara Day to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Tara Day; and

WHEREAS, no other contiguous property owner qualified to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies") has requested said property; and

WHEREAS, pursuant to Section 175.10 of the Codified Ordinances, City owned property in an Urban Renewal Area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Tara Day and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

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

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, also seen as Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies.

Purchaser	Address	Parcel Identification
Tara Day	1141 Lane Street	P6421021000071

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

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

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

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

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____
City Clerk

CERTIFICATE

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

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

Ordinance No. _____ (cont'd)

EXHIBIT NO. 1



City Council Meeting Staff Report

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

Report From: Joshua A. Smith, City Manager

Agenda Item: A resolution authorizing and directing City administration to place any Community Development Block Grant funds under the Coronavirus Aid, Relief and Economic Stability Act in reserve and directing the general use of said funds.

<p>Approvals/Reviews <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p>Related Strategic Goal(s)</p> <input type="checkbox"/> I Realize new investments <input type="checkbox"/> J Increase gross wages <input type="checkbox"/> P Increase property values <input type="checkbox"/> R Generate recreational investments <input type="checkbox"/> E Engage citizens in activities <input checked="" type="checkbox"/> O General operations
<p>Ordinance or Resolution <i>Resolution</i></p>	<input type="checkbox"/> 1 st Reading Date: <input type="checkbox"/> 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution Date: 4-8-2020 <input type="checkbox"/> Public Hearing Date:	
<p>Prior Action/Review <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p>City Council (or other):</p>	
<p>Contract</p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p>Fiscal Impact</p>	Budgeted: \$ Expenditure: \$ Source Funds:	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

Policy Issue

Does City Council wish to adopt legislation to authorize and direct City administration to place any Community Development Block Grant (CDBG) funds under the Coronavirus Aid, Relief and Economic Stability (CARES) Act in reserve and direct City administration related to the general use of said funds?

Policy Alternative(s)

Council may choose not to adopt such legislation directing City administration to place any CDBG funds under the CARES Act in reserve and directing administration related to the general use of said funds. Alternatively, Council may choose to wait to provide direction related to these funds at a later date.

Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to authorize and direct City administration to place any CDBG funds in reserve and direct that the funds be primarily used towards Public Safety & Health overtime, protective gear, expert level cleaning services due to COVID-19 exposure, and other expenses associated with COVID-19.



Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Housing and Community Development Act of 1974, 42 U.S.C. § 5301, *et al.*

Fiscal Impact Summary

The Coronavirus Aid, Relief and Economic Stability (CARES) Act designates approximately \$855,817 in funding to the City's Community Development Block Grant (CDBG) funds from U.S. Department of Housing and Urban Development (HUD). The City must use these additional funds to prevent, prepare for, and respond to the coronavirus. Provisions to the additional CDBG allocation also include a suspension of the 15% cap on public services.

Background Information

On Friday, March 27, 2020, the Coronavirus Aid, Relief and Economic Stability (CARES) Act was signed into law. The CARES Act designates, among other amounts, \$5,000,000,000 for the Community Development Fund to prevent, prepare for, and respond to the coronavirus.

Staff recommends that Council place any CDBG funds the City receives pursuant to the CARES Act in reserve and direct that the funds be primarily used towards Public Safety & Health overtime, necessary protective gear, expert level cleaning services due to COVID-19 exposure (fire houses, police cruisers, etc.), and other expenses associated with COVID-19 (purchasing thermometers, etc.).

Attached Information

N/A

Copies Provided to:

N/A



RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AND DIRECTING CITY ADMINISTRATION TO PLACE ANY COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS UNDER THE CORONAVIRUS AID, RELIEF AND ECONOMIC STABILITY ACT IN RESERVE AND DIRECTING THE GENERAL USE OF SAID FUNDS.

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans, and can easily spread from person to person; and

WHEREAS, on March 27, 2020, the Coronavirus Aid, Relief and Economic Stability (CARES) Act was signed into federal law; and

WHEREAS, the CARES Act designates, among other amounts, \$5,000,000,000 for the Community Development Fund to prevent, prepare for, and respond to the coronavirus; and

WHEREAS, the City of Hamilton, Ohio is estimated to receive appropriately \$855,000 in Community Development Block Grant (CDBG) funds pursuant to the CARES Act; and

WHEREAS, as a condition of receiving the aforesaid federal grant funds, the CARES Act and the Housing and Community Development Act of 1974, as amended, requires, among other things, statements of activities, projected use of funds, and a related public hearing; and

WHEREAS, this Council now desires to declare its intent to direct 100% of the CARES Act funding to be used exclusively towards payroll, operational and capital expenses for public safety and public health related to the COVID-19 pandemic response;

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

SECTION I: That the City Manager is hereby authorized and directed to place any Community Development Block Grant funds received under the Coronavirus Aid, Relief and Economic Stability Act in reserve and to primarily use said funds for Public Safety & Health overtime, protective gear, expert level cleaning services due to COVID-19 exposure, and other personnel, operational and capital expenses associated with COVID-19.

SECTION II: That the City Manager is hereby authorized and directed to hold a public hearing and complete the necessary tasks to comply with the CARES Act, the Housing and Community Development Act and any other Federal laws governing the use of federal grant funds.

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

PASSED: _____

Mayor

Effective Date: _____

ATTEST: _____

City Clerk

CERTIFICATE

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

Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO