



**CITY OF HUBER HEIGHTS  
STATE OF OHIO**

**City Council Work Session**

**July 5, 2022  
6:00 P.M.**

**City Hall – Council Chambers – 6131 Taylorsville Road**

1. **Call Meeting To Order/Roll Call**

2. **Approval of Minutes**

A. June 21, 2022

3. **Work Session Topics Of Discussion**

A. City Manager Report/Water Infrastructure Update

B. Disposal of Surplus Property - Amendment

C. East Water Main Extension Project - Award Contract

D. Water Distribution Vouchers

E. Case RZ 22-17 - Michael Skilwies - Rezoning/Replat - 9416 Taylorsville Road

F. Falls Creek Park - Name Change

G. Carriage Trails – Special Assessments – Sections 2-5/7-5

- \* Resolution Of Necessity

- \* Ordinance To Proceed

H. Retire/Rehire - Anthony Rodgers

I. Culture and Diversity Needs Assessment

J. Citizens Review Board

K. Rules Of Council - Amendment - Council Absences

4. **Adjournment**

**AI-8493**

**Topics of Discussion**    **B.**

**Council Work Session**

**Meeting Date:** 07/05/2022

Disposal of Surplus Property - Amendment

**Submitted By:** Maria Beisel

**Department:** Police

**Division:** Police

**Council Committee Review?:** Council Work Session

**Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Disposal of Surplus Property - Amendment

**Purpose and Background**

Due to mechanical issues of several Police front line vehicles, it is necessary to retain 3 vehicles previously approved for disposal. One additional Police vehicle needing extensive repairs is added for disposal along with one vehicle from the Division of Taxation.

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**Fiscal Impact**

**Source of Funds:** NA

**Cost:** NA

**Recurring Cost? (Yes/No):** NA

**Funds Available in Current Budget? (Yes/No):** NA

**Financial Implications:**

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**Attachments**

Resolution

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2022-R-

AMENDING RESOLUTION NO. 2022-R-7130 REGARDING CERTAIN SURPLUS PROPERTY.

WHEREAS, on May 23, 2022, City Council passed Resolution No. 2022-R-7130 declaring certain vehicles as surplus property and authorizing the disposal of same; and

WHEREAS, since May 23, 2022, two additional vehicles not listed in Resolution No. 2022-R-7130 have since been deemed to be no longer required for municipal purposes; and

WHEREAS, since May 23, 2022, due to mechanical issues with other vehicles, three of the vehicles listed as surplus in Resolution No. 2022-R-7130 have been found to be needed for municipal purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. Consistent with the provisions of the Ohio Revised Code Section 721.15 and applicable City Codified Ordinances and purchasing procedures, the following additional vehicles are declared surplus, no longer required for municipal purposes:

<u>VIN Number</u>	<u>Make</u>	<u>Model</u>	<u>Year</u>	<u>Inventory Tag Number</u>
1FM5K8AR1GGC50517	Ford	Interceptor	2016	PO1752
1G1ND52J53M677967	Chevrolet	Malibu	2003	FN00140

Section 2. Authorization is hereby provided to the City Manager to dispose of the above listed item on an online auction site or in such other manner as authorized by law.

Section 3. The following three vehicles that were previously listed as surplus property in Resolution No. 2022-R-7031 are hereby removed from such list and shall remain as assets of the City.

<u>VIN Number</u>	<u>Make</u>	<u>Model</u>	<u>Year</u>	<u>Inventory Tag Number</u>
1FM5K8AR1GGA02073	Ford	Interceptor	2016	PO1643
1FM5K8AR5GGC50519	Ford	Interceptor	2016	PO1748
1FM5K8AR3GGC50518	Ford	Interceptor	2016	PO1750

Section 4. All other items listed in Resolution No. 2022-R-7031 as surplus property and authorized to be disposed of on an online auction site or in such other manner as authorized by law remain the same and are unaffected by this amendment.

Section 5. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 6. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_ day of \_\_\_\_\_ 2022;  
\_\_\_\_ Yeas; \_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-8504**

**Topics of Discussion** C.

**Council Work Session**

**Meeting Date:** 07/05/2022

East Water Main Extension Project - Award Contract

**Submitted By:** Hanane Eisentraut

**Department:** Engineering

**Division:** Engineering

**Council Committee Review?:** Council Work Session

**Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

East Water Main Extension Project - Award Contract

**Purpose and Background**

This legislation will authorize the City Manager to enter into a contract with C. G. Construction & Utilities Inc. as the lowest and best bidder for the East Water Main Extension Project. Federal grant dollars as part of the American Rescue Plan Act (ARPA) will be utilized to construct this project at a cost not to exceed \$3,000,000 that will be appropriated in the Water Utility Reserve Fund. The proposed improvement of the East Water Main Extension Project includes the installation of approximately 7890 linear feet of 16" water main, complete with appurtenances, along Bellefontaine Road from 7060 Bellefontaine Road to a connection point at the intersection of Bellefontaine Road and Center Point 70 Boulevard.

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**Fiscal Impact**

**Source of Funds:** See Financial Implications

**Cost:** \$3,000,000

**Recurring Cost? (Yes/No):** No

**Funds Available in Current Budget? (Yes/No):** Yes

**Financial Implications:**

The ARPA Fund will reimburse the Water Utility Reserve Fund for this project.

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**Attachments**

Bid Results

Resolution

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**CITY OF HUBER HEIGHTS  
EAST WATER MAIN EXTENSION  
BID RESULT  
BID DATE: JUNE 24, 2022**

CONTRACTOR'S NAME	BID AMOUNT	
Brackney, Inc	\$3,902,976.00	365 Calendar Days
	Bid Bond - Yes	
C.G.Construction	\$ 2,936,765.00	500 Calendar Days
	Bid Bond - Yes	
Outdoor	\$ 3,118,605.50	677 Calendar Days
	Bid Bond - Yes	
Kinnison Excavating	\$4,134,390.00	300 Calendar Days
	Bid Bond - Yes	

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2022-R-

INCREASING THE NOT TO EXCEED AMOUNT AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE EAST WATER MAIN EXTENSION PROJECT.

WHEREAS, City Council under Resolution No. 2022-R-7129, dated May 23, 2022, has previously authorized the securing of bids for the East Water Main Extension Project; and

WHEREAS, construction bids were received on June 24, 2022; and

WHEREAS, there are adequate funds available to cover the cost of this work.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to enter into a contract for the East Water Main Extension Project with C.G. Construction & Utilities, Inc. as the lowest and best bidder at a cost not to exceed \$3,000,000.00 on the terms and conditions as substantially set forth in the specifications of the contract.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of Ohio Revised Code.

Section 3. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2022;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-8509**

**Topics of Discussion** D.

**Council Work Session**

**Meeting Date:** 07/05/2022

Water Distribution Vouchers

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Water Distribution Vouchers

**Purpose and Background**

Councilmember Anita Kitchen requested this agenda item for discussion on the implementation of a water distribution voucher program for residents affected by water main breaks.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

*No file(s) attached.*

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**AI-8474**

**Topics of Discussion** E.

**Council Work Session**

**Meeting Date:** 07/05/2022

Case RZ 22-17 - Michael Skilwies - Rezoning/Replat - 9416 Taylorsville Road

**Submitted By:** Geri Hoskins

**Department:** Planning

**Division:** Planning

**Council Committee Review?:** Council Work Session

**Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** SmartBoard

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Case RZ 22-17 - Michael Skilwies - Rezoning/Replat - 9416 Taylorsville Road

**Purpose and Background**

The applicant, Michael Skilwies, is requesting a replat and rezoning of 3.55 acres from Agriculture (A) to Planned Industrial (PI).

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Drawings

Staff Report

Decision Record

Minutes

Ordinance

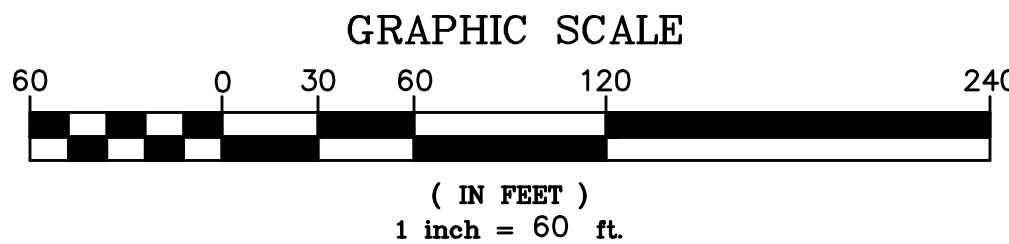
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RECORD PLAN  
SKILWIES PLAT NO. 1

AND BEING A PLAT OF A PARCEL  
LOCATED IN SECTION 5, TOWN 2, RANGE 8 M.Rs.

CITY OF HUBER HEIGHTS  
MONTGOMERY COUNTY, OHIO  
CONTAINING 4.9995 ACRES

MAY 4, 2022



BASIS OF BEARINGS:

- CENTERLINE OF TAYLORSVILLE ROAD -  
S87°34'44"E - SUR. VOL. 2014, PAGE 0393

SURVEY REFERENCES:

- ALL DEEDS, PLATS AND SURVEY RECORDS  
SHOWN ON THE FACE OF THIS SURVEY.

GENERAL NOTES:

- OCCUPATION, IN GENERAL, FITS THE SURVEY.
- ALL MONUMENTS WERE FOUND OR SET IN GOOD CONDITION.

SUPERIMPOSED NOTE:

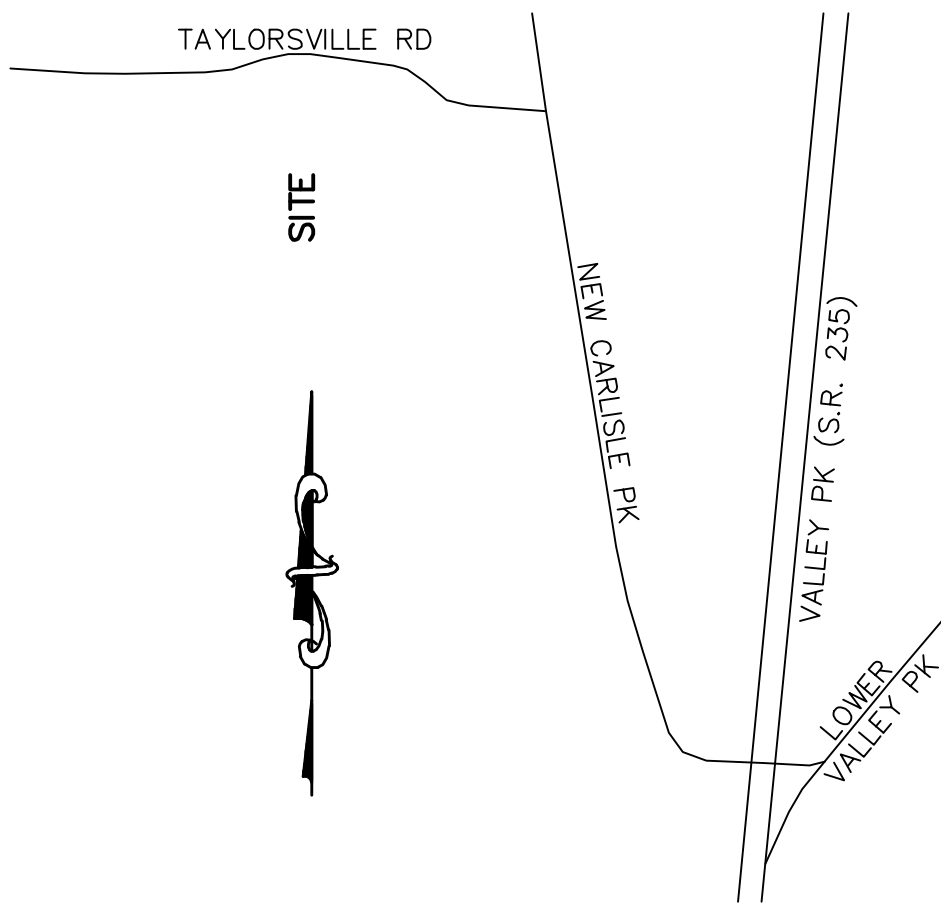
- ALL OF THE LANDS OF THE DEDICATORS, OF WHICH THIS PLAT  
IS DRAWN, ARE SHOWN HEREON.

DESCRIPTION:

SITUATE IN SECTION 5, TOWN 2, RANGE 8 M.Rs, CITY OF HUBER HEIGHTS,  
COUNTY OF MONTGOMERY, STATE OF OHIO AND BEING ALL OF A 5.000  
ACRE TRACT CONVEYED TO MICHAEL A. AND KELLY SKILWIES IN DEED  
12-070719.

CONTAINING 4.9995 TOTAL ACRES WITH 4.8390 ACRES IN LOTS AND  
0.1605 ACRES IN NEWLY DEDICATED RIGHT-OF-WAY.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N75°38'59"E	64.82'
L2	S87°34'44"E	135.13'
L3	N75°38'59"E	41.43'
L4	N75°38'59"E	27.68'
L5	S87°34'44"E	130.38'



VICINITY MAP  
(NO SCALE)

DEDICATION:

We the undersigned, being all the owners and lien holders of the lands  
herein subdivided, do hereby acknowledge the making and signing of this  
instrument to be our voluntary act and deed and do hereby dedicate the  
street and reserve the easements as shown within the plat to the public  
use forever. New easements shown on the within plat are reserved for the  
construction, operation, maintenance, repair and replacement of water,  
sewer, gas, electric, telephone or other utility lines or services and for the  
express privileges of removing any and all trees or other obstructions to  
the free use of said utilities, and for providing ingress and egress from  
the premises for said purposes, and are to be maintained as such forever.

OWNERS:

WITNESSES:

Print Name: \_\_\_\_\_

MICHAEL A. SKILWIES

Print Name: \_\_\_\_\_

KELLY SKILWIES

Michael A. Skilwies, Owner, being duly sworn, says that all persons  
and corporations, to the best of his knowledge, interested in  
this dedication, either as owners or lien holders, have united  
in its execution.

MICHAEL A. SKILWIES

LOT ACREAGE BREAKDOWN  
4.8390 ACRES IN LOTS  
0.1605 ACRES IN DEDICATED R/W  
4.9995 ACRES TOTAL

SYMBOL LEGEND

⊠	FOUND RAILROAD SPIKE
⊞	FOUND PK/MAG NAIL
⊙	FOUND 5/8" IRON PIN
⊕	FOUND 5/8" IRON PIN W/"HALEY-DUSA" CAP
⊗	SET MAG NAIL
●	SET 5/8" IRONP IN W/"HALEY-DUSA" CAP

APPROVED FOR DESCRIPTION

ENGINEER OF MONTGOMERY COUNTY

2022-0178RE

JOB NO.

CHECKED BY

DATE

PLANNING COMMISSION:

Approved by the City of Huber Heights Planning Commission on  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me  
the undersigned, a notary public in and for said State of Ohio, personally  
came Michael A. and Kelly Skilwies, Owners, and acknowledged the signing  
and execution of the within plat to be their voluntary act and deed.

In testimony whereof, I hereunto set my hand and notary seal on  
the day and date above written.

NOTARY PUBLIC

MY COMMISSION EXPIRES

In testimony whereof, I hereunto set my hand and notary seal on  
the day and date above written.

NOTARY PUBLIC

MY COMMISSION EXPIRES

CERTIFICATION:

I hereby certify that this plat was prepared in accordance with Ohio  
Administrative Code Chapter 4733.37 Standards for Surveys and also  
conforms to the Ohio Revised Code Chapter 711 for Record Plans and  
was conducted under my supervision based on field work in March of  
2022. All measurements are correct and monuments are to be set on  
all lot corners as shown.

Thomas E. Dusa, P.S.  
OHIO LICENSE NO. S-7143

PREPARED BY:



Haley-Dusa  
Engineering & Surveying Group, LLC  
270 Regency Ridge Drive, Suite 203  
Dayton, Ohio 45459  
Phone: (937) 439-4300 Fax: (937) 439-2005  
Email: haleydusa@haleydusa.com  
Website: www.haleydusa.com

Scale: 1"=60'

Drawn: SBM

Checked: TED

Date: 05-04-2022

Job No. S4916

5.00 ACRES  
CYNTHIA A. ROSENGARTEN & TODD R. WALTHER  
IR DEED 21-044143

5.00 ACRES  
RACHEL M. & ROSS S. GOODSPEED  
IR DEED 20-041639

LOT  
3.5363 ACRES TOTAL

MICHAEL A. AND KELLY SKILWIES  
IR DEED 12-070719

23.878 ACRES  
ALBERT J. MURN  
DEED MF 78-521A09  
SUR. REC. 3-M-791

# Memorandum

Staff Report for Meeting of May 24, 2022

To: Huber Heights City Planning Commission

From: Aaron K. Sorrell, Interim City Planner  
Community Planning Insights

Date: May 18, 2022

Subject: RZ 22-17 Request to Replat and Rezone 3.55 Acres from Agriculture to  
Planned Industrial

Application dated March 28, 2022

Department of Planning and Zoning

City of Huber Heights

**APPLICANT/OWNER:** Michael Skilwies – Applicant / Owner

**DEVELOPMENT NAME:** N/A

**ADDRESS/LOCATION:** 9416 Taylorsville Rd.

**ZONING/ACREAGE:** A – Agricultural (5 acres)

**EXISTING LAND USE:** Residential

**ZONING  
ADJACENT LAND:** Agricultural

**REQUEST:** The applicant requests approval of a replat and rezoning of 3.55 acres from Agriculture to Planned Industrial to allow the continued operation of their truck, diesel and heavy equipment repair business.

**ORIGINAL APPROVAL:** N/A

**APPLICABLE HHCC:** Chapter 1109, 1171, 1177

**CORRESPONDENCE:** In Favor –  
In Opposition –

## **STAFF ANALYSIS AND RECOMMENDATION:**

### **Overview:**

The applicant has been operating a truck and heavy equipment repair business at this location for many years. Based on complaints received in August 2021, Zoning staff-initiated enforcement action on the applicant's business based on the fact that non-farm related truck and heavy equipment repair is not permitted in the Agricultural District. In August 2021 the applicant requested a use variance for the diesel truck and equipment repair operations. The BZA unanimously denied the application at their October 6, 2021 meeting.

The applicant was provided with the lot split and rezoning application shortly after the BZA decision as an alternative path to allow the continued operation of the repair facility. On or about March 28, 2022 Zoning staff filed minor misdemeanor charges for the continued operation of repair facility and the applicant subsequently filed the application for a lot split and rezoning.

### **Applicable Subdivision and Zoning Regulations**

The applicable subdivision regulations include: 1109 Subdivision Design Standards

The applicable zoning chapters include: 1171 General Provisions, 1177 Planned Industrial District. The relevant sections are cited and discussed below:

### ***Chapter 1109 Subdivision Design Standards***

#### **1109.01 General statement.**

The regulations in Sections 1109.02 to 1109.22, inclusive, shall control the manner in which streets, lots and other elements of a subdivision are arranged on the land. These design controls shall help ensure convenient and safe streets, creation of usable lots, provision of space for public utilities and reservation of land for recreational uses. The planning of attractive and functional neighborhoods shall be promoted, minimizing the undesirable features of unplanned, haphazard growth.

The City Planning Commission has the responsibility for reviewing the design of each future subdivision early in its design development. The Commission shall ensure that all of the requirements of Sections 1109.02 to 1109.22, inclusive, are met.

#### **1109.02 Conformity to development plans and zoning.**

The arrangement, character, width and location of all thoroughfares or extensions thereof shall conform with the City's Official Thoroughfare Plan. Thoroughfares not contained in the aforementioned plan shall conform to the recommendation of the City Planning Commission based upon the design standards set forth in Sections 1109.03 to 1109.14, inclusive. In addition, no final plat of land within the area in which an existing Zoning Ordinance is in effect shall be approved unless it conforms with such Ordinance.

### **1109.03 Suitability of land.**

If the City Planning Commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate water supply, schools, transportation facilities and other such conditions which may endanger health, life or property; and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public the land should not be developed for the purpose proposed, the Commission shall not approve the land for subdivision unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.

### **1109.17 Lots.**

The following regulations shall govern the design and layout of lots:

- (a) The lot arrangement and design shall be such that all lots shall provide satisfactory building sites, properly related to topography and the character of surrounding development.
- (b) All lots shall conform to or exceed the requirements of these subdivision regulations and the zoning district requirements for the district in which they are located and the use for which they are intended.
- (c) Where no public utilities exist, the lots shall meet the requirements of the Montgomery County Board of Health.
- (d) All side lots shall be at right angles to street lines and radial to curved street lines, except where the City Planning Commission determines that a variation to this rule would provide a better layout.
- (e) Lots with double frontage shall be avoided except where the Commission determines that it is essential to provide separation of residential development from arterial streets.
- (f) No corner lot shall have a width at the building line of less than 75 feet, except as authorized by the Zoning Ordinance.
- (g) Except as provided in Section 1109.17(i) the maximum depth of a lot shall not be greater than three times the width of the lot, except lots which contain an area of five acres or more. Lots containing over five acres shall not be less than 200 feet in width at any location; they should be of such shape and dimensions as to render the possible resubdivision of any such parcels at some later date into lots and streets which meet the requirements of these regulations, except as authorized in Chapter 1143.
- (h) Additional lot depth may be required where a residential lot in a subdivision backs up to a railroad right-of-way, a high-pressure gasoline or gas line, open drainage ditch, an arterial street, an industrial area or other existing land use which may have a detrimental effect on the residential use of the property, and where no street is provided at the rear of such lot. Where a residential lot has its side lot line adjacent to any of the aforementioned an appropriate additional width may also be required.
- (i) The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Where soil conditions are of such nature that proper operation of wells and septic systems may be impaired, the City Planning Commission may increase the size of any or all lots in the subdivision.

Where soils are classified as prime agricultural soils as defined in these regulations, or are adjacent to prime agricultural soils, the Commission may permit the alteration of these requirements where the subdivider demonstrates that such alteration is necessary and desirable in order to preserve the prime agricultural soils, provided that the subdivision is not contrary to applicable zoning regulations

## **Chapter 1171 General Provisions**

### **1171.01 Purpose.**

*Planned Unit Developments Districts may be permitted as amendments to the zoning map, after application and approval of specific and detailed plans, where tracts suitable in location and character for the uses and structures proposed are to be planned and developed as units. The provisions of this chapter are adopted to unify planning and development in such districts. Applications for rezoning of land into a Planned Unit Development District shall be granted only when the basic development plan for the project is such that the public health, safety and morals shall not be jeopardized by a departure from the restrictions on corresponding uses in the standard zoning district. PUD rezonings may be approved only when a basic development plan for the area has been approved by Council. A detailed development plan shall then be approved for zoning permit to be approved for development in the District. Normally the detailed development plan shall be approved by the Planning Commission after the rezoning and basic development plan have been approved by Council. Owners shall have the option however, of submitting a combined basic and detailed development plan ("combined development plan") if they should so desire for some or all of the site.*

*(Ord. 93-O-602, Passed 3-22-93)*

### **1171.05 Contents of basic development plan.**

- (a) The basic development plan shall consist of at least the following information together with such other data and materials as may be required by the City:*
  - (1) Site plan showing the actual shape and dimensions of the lot to be built upon or to be changed in its use together with the location of the existing and proposed structures with approximate square footages, number of stories including heights of structures;*
  - (2) Typical elevation views of the front and side of each type of building;*
  - (3) Planning location and dimensions of all proposed drives, service access road, sidewalks and curb openings;*
  - (4) Parking lot areas (show dimensions of a typical parking space), unloading areas, fire lanes and handicapped parking;*
  - (5) Landscaping plan, walls and fences;*
  - (6) Storm water detention and surface drainage;*
  - (7) Exterior lighting plan;*
  - (8) Vehicular circulation pattern;*
  - (9) Location and square footage of signs;*
  - (10) Topographic survey; and*
  - (11) Listing of proposed uses taken from the list of permitted and special uses of the PUD zoning district to which rezoning is being sought.*
- (b) The Planning Commission shall schedule both the proposed rezoning and the issue of approval of the basic development plan for a combined public hearing, following which it shall make its recommendation indicating approval, approval with modification or disapproval.*

*(Ord. 2006-O-1655, Passed 9-25-05)*

**1171.06 General standards for approval.**

The Planning Commission shall review the application, prepared development plan and the facts presented at the hearing. The applicant shall have the burden of proof. No approval shall be given unless the Commission shall find by a preponderance of the evidence that such PUD on the proposed locations:

- (a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;
- (b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;
- (c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;
- (d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;
- (e) Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;
- (f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;
- (g) Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;
- (h) Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;
- (i) Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;
- (j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;
- (k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and
- (l) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

### **1171.091 Planning commission/council review.**

*It is the purpose of the Planning Development regulations to encourage property owners to develop their land in efficient and effective ways. It is the intent of these regulations to encourage land uses which may not always meet traditional zoning rules. Inherent in these Planned Development regulations is an opportunity for property owners to develop their sites without requiring strict compliance with all zoning regulations where the overall plan is deemed to be in the best interest of the City. During review of a Basic or Detailed Development Plan by the Planning Commission or City Council, all requirements within Part 11, Title 7 of the Code are to be used as guidelines and may be varied as part of the Basic or Detailed Development Plan if it is determined that such deviation will not materially adversely affect neighboring properties or the community as a whole, any such variation of these requirements does not change the overall plan and character of the proposed development, and the variance does not have the effect of nullifying the intent and purpose of these regulations or the Zoning Ordinance. In granting variances or modifications, the Commission or Council may require such conditions as shall, in its judgement, secure substantially the objective of the standards or requirements so varied or modified.*

## **Chapter 1179 Planned Industrial District**

### **1177.01 Principal permitted uses.**

Any principal permitted use in the Industrial Districts, I-1 and I-2, and PO Planned Office District shall be permitted. Manufacturing, processing, warehousing, industrial service activities, office and associated activities may be developed, operated and maintained within a single, organized development in accordance with an approved Planned Industrial Development District.

### **1177.02 Accessory uses.**

Only the following accessory uses shall be permitted in this District:

- (a) Uses customarily incidental to all principal permitted uses; and
- (b) Temporary buildings and uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

### **1177.03 Development standards.**

Except when specifically modified herein, the provisions of Chapter 1181, "General Provisions" shall govern. In addition, the following developmental standards shall apply:

- (a) *Minimum Land Area Requirements.*
  - (1) No minimum land area shall be required.
- (b) *Site Planning, General Design Standards and Improvement Requirements.*
  - (1) Total land occupancy by all buildings for a Planned Industrial Development District shall not exceed 75 percent of the area of the tract to be developed.
  - (2) Planned Industrial Development Districts shall have access to at least one major thoroughfare as established on the Official Thoroughfare Plan.
  - (3) Landscaping and use of yards shall be as follows:
    - A. Required side and rear yards shall be maintained in landscaping and shall not be used for off-street parking along all property lines which abut residential or PM districts. The



landscaping shall include, at a minimum, a six-foot high wooden or vinyl fence structure, earth mound, or wall with an opaqueness of 100 percent.

- B. Any front, side or rear yard that fronts a public street is required to be landscaped including street trees as outlined in Chapter 1181 and additional landscaping as determined appropriate by the Planning Commission.
  - C. The project area, where it abuts another business, office, or industrial district, shall be maintained in landscaping and not used for parking, to the extent of a minimum of 15-foot depth along property lines.
- (4) Off-street parking and loading spaces shall be required as set forth in Chapter 1185. In addition:
- A. Off-street parking and loading facilities shall be provided, with area, location and design appropriate to the needs and specific uses of the industrial project. Space designated for off-street parking shall not be used for off-street loading.
  - B. Off-street parking and loading facilities shall not be located in the front yard of any property.
  - C. Off-street parking and loading shall be of sufficient size to accommodate normal peak loads.
  - D. Loading docks shall not be placed between the building and the front lot line.
- (5) There shall be a side and rear yard setback of 25 feet or equal to the heights of the principal building, whichever is greater. If adjacent to a residential district or PM District, a minimum of 75 feet.
- (6) All streets within the Planned Industrial Development District shall have a width of not less than 40 feet and shall comply with the City's construction standards.
- (7) The distribution systems for utilities are required to be underground.
- (8) Building materials. The front facade of a principal building facing any public street on any property in the PI District shall be required to be constructed of at least 30 percent masonry materials that will extend along the entire length of the facade of the principal building. For the purposes of this section, the front facade of a principal building shall include any wall of the principal building that is parallel to the public street and is located within 100 feet of the established building line. The Planning Commission shall determine the appropriateness of the proposed masonry material design. In the case of a property which has frontage on more than one public street, the facade facing the public street from which access to the property is provided shall be considered the front facade of the building. In addition to the front facade, the side or rear facades of the principal building that face Interstate 70 or a State Route shall be constructed of at least 30 percent masonry materials that shall be clearly visible to Interstate 70 or the State Route unless a sufficient landscaping buffer is provided and is determined appropriate by Planning Commission. Recommended masonry materials include brick, split face block, tilt-up concrete, dryvit or any similar material determined appropriate by the Planning Commission.
- (9) Street tree requirement. Please refer to Chapter 1181 for street tree requirements.
- (10) Trash container enclosures. Please refer to Chapter 1181 for trash container enclosure requirements.

#### **1177.04 Conditions.**

All uses shall be conducted wholly within a completely enclosed building except for parking, loading and unloading facilities, which shall all be off-street. No use shall be permitted to be established or maintained which

by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water-carried waste.

### **1177.05 Special uses.**

The following special uses and no other shall be permitted in the "P1" District.

- (a) Sexually oriented businesses in accordance with Chapter 1135. Provided no sexually oriented business shall be located within a 500-foot radius of any other sexually oriented business. No sexually oriented business shall be located within a 500-foot radius from any residential use or residential zoning district, any public park, church or church grounds, public or private school, kindergarten or nursery school. No sexually oriented business shall be located within 1,000 feet of the right-of-way of, or be on a lot with frontage upon any divided, limited access highway including but not limited to applicable portions of Interstate 70, Ohio Route 4 and Ohio Route 235. Measurement of distances shall be as provided in Section 735.04 of the City Code of Huber Heights.

### **Subdivision Standards Analysis:**

The following is the analysis of the subdivision and zoning regulations as applied to the applicant's proposal to subdivide a five-acre parcel into two lots: Lot 1: A 1.30-acre lot zoned Agricultural; Lot 2: A 3.55-acre lot requesting to be zoned Planned Industrial.

### **Proposed Lot 1 Analysis:**

Use: Conforming (residential uses are permitted in the Agricultural District)

Lot Size: 1.3 acres – Conforms to zoning regulations (min. 1 acre required)

Lot Frontage: 158.06 feet – Does not conform to zoning code regulations  
(Zoning code requires 200 feet. (Section 1142.05)

Yards:

Front: Conforming (min 60 feet)

Side: Conforming (min 30 feet)

Rear: Conforming (min 50 feet)

Other Issues:

There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

### **Proposed Lot 2 Analysis:**

Use: Proposed use of truck / heavy equipment repair is permitted in the Planned Industrial District

Lot Size: 3.56 acres – Conforms to zoning regulations (No min. area required)

Lot Frontage: 41.43 feet – Conforms to zoning regulations (35 feet is min. required)

Yards:

Front: Conforming (min 50 feet)

Side: Conforming (min 25 feet)

Rear: Conforming (min 25 feet)

Other Issues:

There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

**Staff Analysis**

The subdivision of the 5-acre parcel into two new lots will create one minor nonconformity, which is Lot 1, will have less frontage than required by the zoning code. The subdivision regulations do not prohibit flag lots and there are examples of rural non-conforming lots of similar type. That being said, it is poor planning practice to encourage the creation of non-conforming lots.

Staff recommends the record plan only be approved if Planning Commission recommends approval of the rezoning.

**Zoning Standards Analysis:**

This analysis is based on the rezoning application submitted on March 28, 2022. The zoning code assumes that rezonings to planned unit development are part of a redevelopment or new construction project. The applicant has not indicated they are proposing any improvements to the site, and has not submitted a formal basic development plan. Therefore, staff is assuming no improvements are planned for the property, and the record plan survey dated May 4, 2022 will serve as the basic development plan.

**1177.01 Principal permitted uses.**

Any principal permitted use in the Industrial Districts, I-1 and I-2, and PO Planned Office District shall be permitted. Manufacturing, processing, warehousing, industrial service activities, office and associated activities may be developed, operated and maintained within a single, organized development in accordance with an approved Planned Industrial Development District.

The proposed truck and heavy equipment repair is principally permitted within the Planned Industrial District.

**1177.03 Development standards.**

Except when specifically modified herein, the provisions of Chapter 1181, "General Provisions" shall govern. In addition, the following developmental standards shall apply:

- (a) *Minimum Land Area Requirements.*

- (1) No minimum land area shall be required.

The proposed replat and rezoning results in a Planned Industrial site of approximately 3.55 acres.

(b) *Site Planning, General Design Standards and Improvement Requirements.*

- (1) Total land occupancy by all buildings for a Planned Industrial Development District shall not exceed 75 percent of the area of the tract to be developed.

As indicated by the record plan, the occupancy for the PI district is significantly less than 75 percent of the area. Additionally, the applicant has not indicated any additional improvements are intended for the site.

- (2) Planned Industrial Development Districts shall have access to at least one major thoroughfare as established on the Official Thoroughfare Plan.

Taylorsville Road is a major thoroughfare as established on the Official Thoroughfare Plan.

- (3) Landscaping and use of yards shall be as follows:

- A. Required side and rear yards shall be maintained in landscaping and shall not be used for off-street parking along all property lines which abut residential or PM districts. The landscaping shall include, at a minimum, a six-foot high wooden or vinyl fence structure, earth mound, or wall with an opacity of 100 percent.
- B. Any front, side or rear yard that fronts a public street is required to be landscaped including street trees as outlined in Chapter 1181 and additional landscaping as determined appropriate by the Planning Commission.
- C. The project area, where it abuts another business, office, or industrial district, shall be maintained in landscaping and not used for parking, to the extent of a minimum of 15-foot depth along property lines.

No additional landscaping or buffering is indicated on any plans submitted to date. However, with exception to the street tree requirement, no screening along the side yards is required.

- (4) Off-street parking and loading spaces shall be required as set forth in Chapter 1185. In addition:

- A. Off-street parking and loading facilities shall be provided, with area, location and design appropriate to the needs and specific uses of the industrial project. Space designated for off-street parking shall not be used for off-street loading.
- B. Off-street parking and loading facilities shall not be located in the front yard of any property.
- C. Off-street parking and loading shall be of sufficient size to accommodate normal peak loads.
- D. Loading docks shall not be placed between the building and the front lot line.

The applicant has not proposed any off-street parking or loading area improvements. A large gravel parking area exists in front of the existing building where repairs are currently taking place. Staff does not feel additional parking is warranted and will distract from the rural nature of the neighborhood.

- (5) There shall be a side and rear yard setback of 25 feet or equal to the heights of the principal building, whichever is greater. If adjacent to a residential district or PM District, a minimum of 75 feet.

There is approximately 25 feet between the existing barn and the east property line. The applicant has not provided building heights, therefore if the building is greater than 25 feet, the structure will be a legally non-conforming structure if the rezoning is approved.

- (6) All streets within the Planned Industrial Development District shall have a width of not less than 40 feet and shall comply with the City's construction standards.

No new streets are proposed.

- (7) The distribution systems for utilities are required to be underground.

No new utilities are proposed.

- (8) Building materials. The front facade of a principal building facing any public street on any property in the PI District shall be required to be constructed of at least 30 percent masonry materials that will extend along the entire length of the facade of the principal building. For the purposes of this section, the front facade of a principal building shall include any wall of the principal building that is parallel to the public street and is located within 100 feet of the established building line. The Planning Commission shall determine the appropriateness of the proposed masonry material design. In the case of a property which has frontage on more than one public street, the facade facing the public street from which access to the property is provided shall be considered the front facade of the building. In addition to the front facade, the side or rear facades of the principal building that face Interstate 70 or a State Route shall be constructed of at least 30 percent masonry materials that shall be clearly visible to Interstate 70 or the State Route unless a sufficient landscaping buffer is provided and is determined appropriate by Planning Commission. Recommended masonry materials include brick, split face block, tilt-up concrete, dryvit or any similar material determined appropriate by the Planning Commission.

No new buildings are proposed. If the rezoning is approved, any new buildings proposed on this lot shall be subject to this provision.

- (9) Street tree requirement. Please refer to Chapter 1181 for street tree requirements.

No landscaping plans were submitted with the application.

- (10) Trash container enclosures. Please refer to Chapter 1181 for trash container enclosure requirements.

No new trash containers are proposed.

#### **1177.04 Conditions.**

All uses shall be conducted wholly within a completely enclosed building except for parking, loading and unloading facilities, which shall all be off-street. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water-carried waste.

If the rezoning is approved, the applicant will be required to move his repair operations wholly indoors. This requirement was brought to the attention of the applicant, and he indicated he understood the requirements and wished to proceed with the rezoning request.

While the applicant has agreed to these conditions, it is important to note that the site under discussion is not readily visible from the right-of-way, in fact it is nearly 400 feet from Taylorsville Road. Therefore, any violations of this condition will be almost impossible for code enforcement staff to easily recognize and thus enforcement of this condition will likely only be triggered by complaints made by adjacent property owners or residents.

### **Staff Analysis of Standards for approval**

*The Planning Commission shall review the application, prepared development plan and the facts presented at the hearing. The applicant shall have the burden of proof. No approval shall be given unless the Commission shall find by a preponderance of the evidence that such PUD on the proposed locations:*

- (a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;*

The applicant is seeking relief for the illegal use by requesting a rezoning to Planned Industrial after the BZA denied the use variance. The comprehensive plan indicates this area should be agricultural/low density residential. The proposed rezoning is not consistent with the comprehensive plan.

In his application, the applicant references the industrially zoned land within a ¼ to ½ mile of this site. It should be noted that the majority of that land is consistent with the comprehensive plan and has access to public water and sewer. Neither are applicable to the applicant's site.

- (b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;*

N/A. The applicant is not proposing any improvements to the property.

- (c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;*

Taylorsville Road is classified as a major thoroughfare in the City Thoroughfare Plan. The proposed record plan illustrates a dedication of 35 feet of Right of Way, consistent with the Thoroughfare Plan.

- (d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;*

This use has not historically imposed an undue burden on public services.

- (e) *Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;*

N/A

- (f) *Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;*

No improvements to the property have been proposed by the applicant. However, the applicant has stated he is willing to provide buffering for the adjacent neighboring properties.

- (g) *Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;*

N/A

- (h) *Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;*

N/A

- (i) *Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;*

No improvements to the property have been proposed by the applicant.

- (j) *Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;*

No additional public facilities are anticipated due to this rezoning request.

- (k) *Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and*

This rezoning request ultimately arose due to complaints from neighboring property owners or residents regarding the operation of a truck / heavy equipment repair facility in their neighborhood. According to the minutes of the BZA hearing, complaints, centered on the noise of the diesel engines and traffic congestion due to vehicles moving on and off site. Additional concerns were raised about the potential contamination of drinking water wells due to fluid leaks or spills.

Noise, smoke and fumes are likely an occasional byproduct of heavy engine repair. If the planning commission is inclined to approve the rezoning, limiting the hours of operation to a traditional M-F, 8am – 6pm may reduce the impacts of this facility on the neighboring residents, especially in the evenings and weekends.

- (1) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

As indicated above, neighbors have expressed concerns about noise from the diesel engines and ground water pollution from this operation during the BZA hearing. All residents along this segment of Taylorsville Road get their drinking water from private wells, and this concern should not be overlooked.

### **STAFF RECOMMENDATION**

It is the staff's opinion the rezoning to Planned Industrial does not meet the standards outlined in Section 1171.06. As outlined through the staff analysis above, the application does not meet the standards of Section 1171.06(a), (k), and (L). Therefore, staff recommends denial of the replat and rezoning from Agricultural to Planned Industrial.

If the Planning Commission determines the rezoning request is consistent with the standards outlined in Section 1171.06, staff recommends the following conditions:

- 1) The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;
- 2) All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;
- 3) No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;
- 4) Repaired vehicles shall be stored on site no longer than five consecutive days;
- 5) The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
- 6) Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;

### **Planning Commission Action**

Planning Commission may take the following actions with a motion:

- 1) Recommend approval of the rezoning and Basic Development Plan;
- 2) Recommend denial of the rezoning and Basic Development Plan (the Commission should state the specific reasons for denial); or
- 3) Table the application for additional information.





## **Planning Commission Decision Record**

WHEREAS, on March 28, 2022, the applicant, Michael Skilwies, requested approval of a Replat and Rezone of 3.55 acres from Agriculture to Planned Industrial at 9416 Taylorsville Road (Case RZ 22-17), and;

WHEREAS, on May 24, 2022, the Planning Commission did meet and fully discuss the details of the request.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approved the request.

Ms. Thomas moved to approve the application by the applicant, Michael Skilwies, for approval of a Replat and Rezone of 3.55 acres from Agriculture to Planned Industrial at 9416 Taylorsville Road Parcel Number P70 03902 0018 of the Montgomery County Auditors Map (Case RZ 22-17) in accordance with the recommendation of Staff's Memorandum dated May 24, 2022, with the following conditions:

1. The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;
2. All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;
3. No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;
4. Repaired vehicles shall be stored on site no longer than five consecutive days;

5. The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
6. Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;
7. The applicant shall pave and widen the driveway to minimum width of 35';
8. The applicant shall install screening along west property line, subject to detailed development plan approval.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Ms. Vargo. NAYS: Ms. Opp, Mr. Jeffries, Ms. Thomas, and Mr. Walton. Motion to approve denied 4-1 .

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Terry Walton, Chair  
Planning Commission

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Date

**Planning Commission  
May 24, 2022, Meeting  
City of Huber Heights**

- I. Chair Terry Walton called the meeting to order at approximately 6:00 p.m.
- II. Present at the meeting: Mr. Jeffries, Ms. Opp, Ms. Thomas, Ms. Vargo and Mr. Walton.

Members absent: None.

Staff Present: Aaron K. Sorrell, Interim City Planner, and Geri Hoskins, Planning & Zoning Administrative Secretary.

**III. Opening Remarks by the Chairman and Commissioners**

**IV. Citizens Comments**

None.

**V. Swearing of Witnesses**

Mr. Walton explained the proceedings of tonight's meeting and administered the sworn oath to all persons wishing to speak or give testimony regarding items on the agenda. All persons present responded in the affirmative.

**VI. Pending Business**

- 1. None

**VII. New Business**

- 1. **REZONING AND LOT SPLIT** - The applicant, **MICHAEL SKILWIES**, is requesting approval of a Replat and Rezoning from A (Agricultural) to PI (Planned Industrial). Property located at 9416 Taylorsville Road (Case RZ 22-17).

Mr. Sorrell stated that the applicant has been operating a truck and heavy equipment repair business at this location for many years. Based on complaints received in August 2021, Zoning staff-initiated enforcement action on the applicant's business based on the fact that non-farm related truck and heavy equipment repair is not permitted in the Agricultural District. In August 2021 the applicant requested a use variance for the diesel truck and equipment repair operations. The BZA unanimously denied the application at their October 6, 2021 meeting.

The applicant was provided with the lot split and rezoning application shortly after the BZA decision as an alternative path to allow the continued operation of the repair facility. On or about March 28, 2022 Zoning staff filed minor misdemeanor charges for the continued operation of repair facility and the applicant subsequently filed the application for a lot split and rezoning.

**Applicable Subdivision and Zoning Regulations**

The applicable subdivision regulations include: 1109 Subdivision Design Standards

The applicable zoning chapters include: 1171 General Provisions, 1177 Planned Industrial District.

**Subdivision Standards Analysis:**

The following is the analysis of the subdivision and zoning regulations as applied to the applicant's proposal to subdivide a five-acre parcel into two lots: Lot 1: A 1.30-acre lot zoned Agricultural; Lot 2: A 3.55-acre lot requesting to be zoned Planned Industrial.

**Proposed Lot 1 Analysis:**

Use: Conforming (residential uses are permitted in the Agricultural District)

Lot Size: 1.3 acres – Conforms to zoning regulations (min. 1 acre required)

Lot Frontage: 158.06 feet – Does not conform to zoning code regulations  
(Zoning code requires 200 feet. (Section 1142.05))

Yards:

Front: Conforming (min 60 feet)

Side: Conforming (min 30 feet)

Rear: Conforming (min 50 feet)

Other Issues:

There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

**Proposed Lot 2 Analysis:**

Use: Proposed use of truck / heavy equipment repair is permitted in the Planned Industrial District

Lot Size: 3.56 acres – Conforms to zoning regulations (No min. area required)

Lot Frontage: 41.43 feet – Conforms to zoning regulations (35 feet is min. required)

Yards:

Front: Conforming (min 50 feet)

Side: Conforming (min 25 feet)

Rear: Conforming (min 25 feet)

Other Issues:

There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

**Staff Analysis**

The subdivision of the 5-acre parcel into two new lots will create one minor nonconformity, which is Lot 1, will have less frontage than required by the zoning code. The subdivision regulations do not prohibit flag lots and there are examples of rural non-conforming lots of similar type. That being said, it is poor planning practice to encourage the creation of non-conforming lots.

Staff recommends the record plan only be approved if Planning Commission recommends approval of the rezoning.

**Zoning Standards Analysis:**

This analysis is based on the rezoning application submitted on March 28, 2022. The zoning code assumes that rezonings to planned unit development are part of a redevelopment or new construction project. The applicant has not indicated they are proposing any improvements to the site, and has not submitted a formal basic development plan. Therefore, staff is assuming no improvements are planned for the property, and the record plan survey dated May 4, 2022 will serve as the basic development plan.

The proposed truck and heavy equipment repair is principally permitted within the Planned Industrial District.

As indicated by the record plan, the occupancy for the PI district is significantly less than 75 percent of the area. Additionally, the applicant has not indicated any additional improvements are intended for the site. Taylorsville Road is a major thoroughfare as established on the Official Thoroughfare Plan.

No additional landscaping or buffering is indicated on any plans submitted to date. However, with exception to the street tree requirement, no screening along the side yards is required.

The applicant has not proposed any off-street parking or loading area improvements. A large gravel parking area exists in front of the existing building where repairs are currently taking place. Staff does not feel additional parking is warranted and will distract from the rural nature of the neighborhood.

No new buildings are proposed. If the rezoning is approved, any new buildings proposed on this lot shall be subject to this provision.

If the rezoning is approved, the applicant will be required to move his repair operations wholly indoors. This requirement was brought to the attention of the applicant, and he indicated he understood the requirements and wished to proceed with the rezoning request.

While the applicant has agreed to these conditions, it is important to note that the site under discussion is not readily visible from the right-of-way, in fact it is nearly 400 feet from Taylorsville Road. Therefore, any violations of this condition will be almost impossible for code enforcement staff to easily recognize and thus enforcement of this condition will likely only be triggered by complaints made by adjacent property owners or residents

The applicant is seeking relief for the illegal use by requesting a rezoning to Planned Industrial after the BZA denied the use variance. The comprehensive plan indicates this area should be agricultural/low density residential. The proposed rezoning is not consistent with the comprehensive plan.

In his application, the applicant references the industrially zoned land within a ¼ to ½ mile of this site. It should be noted that the majority of that land is consistent with the comprehensive plan and has access to public water and sewer. Neither are applicable to the applicant's site.

This rezoning request ultimately arose due to complaints from neighboring property owners or residents regarding the operation of a truck / heavy equipment repair facility in their neighborhood. According to the minutes of the BZA hearing, complaints, centered on the noise of the diesel engines and traffic congestion due to vehicles moving on and off site. Additional concerns were raised about the potential contamination of drinking water wells due to fluid leaks or spills.

Noise, smoke and fumes are likely an occasional byproduct of heavy engine repair. If the planning commission is inclined to approve the rezoning, limiting the hours of operation to a traditional M-F, 8am – 6pm may reduce the impacts of this facility on the neighboring residents, especially in the evenings and weekends.

- (a) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

As indicated above, neighbors have expressed concerns about noise from the diesel engines and ground water pollution from this operation during the BZA hearing. All residents along this segment of Taylorsville Road get their drinking water from private wells, and this concern should not be overlooked.

#### **STAFF RECOMMENDATION**

It is the staff's opinion the rezoning to Planned Industrial does not meet the standards outlined in Section 1171.06. As outlined through the staff analysis above, the application does not meet the standards of Section 1171.06(a), (k), and (L). Therefore, staff recommends denial of the replat and rezoning from Agricultural to Planned Industrial.

If the Planning Commission determines the rezoning request is consistent with the standards outlined in Section 1171.06, staff recommends the following conditions:

- 1) The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;
- 2) All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;
- 3) No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;
- 4) Repaired vehicles shall be stored on site no longer than five consecutive days;

Planning Commission Meeting

May 24, 2022

- 5) The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
- 6) Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;

Michael Skilwies and Attorney Greg Page spoke. A few neighbors spoke in opposition.

Discussion on inside storage, widen apron and driveway, current hours, Night lights, no complaints, visual truck traffic, EPA, concern about how long they've been in business, property value, safety, health, no other industrial plots, enforcement, and splitting lot what if sold.

**Action**

Ms. Thomas moved to approve the request by the applicant Michael Skilwies, for approval of a Rezoning from A (Agricultural) to PI (Planned Industrial) and a Lot Split. Property located at 9416 Taylorsville Road further identified as Parcel Number P70 03902 0018 of the Montgomery County Auditor's Map (Case RZ 22-17) in accordance with the recommendation of Staff's Memorandum dated May 24, 2022 and the Planning Commission Decision Record attached thereto.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Ms. Vargo. NAYS: Mr. Jeffries, Ms. Opp, Ms. Thomas, and Mr. Walton. Motion to approve denied 4-1.

2. **MAJOR CHANGE TO THE DETAILED DEVELOPMENT PLAN - The applicant, SKILKEN GOLD REAL ESTATE DEVELOPMENT, LLC, is requesting approval of a Major Change to the Detailed Development Plan for a proposed Convenient Store/Gas Station and Car Wash. Property located at Old Troy Pike and Taylorsville Road (Case MJC 22-21).**

Mr. Sorrell stated applicant wasn't ready but due to already being advertised, this was added to the agenda.

**Action**

Mr. Jeffries moved to table the request by the applicant Skilken Gold Real Estate Development, LLC, for approval of a Major Change to the Detailed Development Plan (Case MJC 22-21) until the next Planning Commission meeting of 6/14/2022.

Seconded by Ms. Thomas. Roll call showed: YEAS: Ms. Opp, Ms. Vargo, Ms. Thomas, Mr. Jeffries, and Mr. Walton. NAYS: None. Motion to table carried 5-0.

**VIII. Additional Business**

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2022-O-

TO APPROVE A REZONING FROM AGRICULTURAL (A) TO PLANNED INDUSTRIAL (PI) AND A LOT SPLIT FOR THE PROPERTY LOCATED AT 9416 TAYLORSVILLE ROAD AND FURTHER IDENTIFIED AS PARCEL NUMBER P70-03902 0018 ON THE MONTGOMERY COUNTY AUDITOR'S MAP AND TO NOT ACCEPT THE RECOMMENDATION OF THE PLANNING COMMISSION (CASE RZ 22-17).

WHEREAS, the citizens of Huber Heights require the efficient and orderly planning of land uses within the City; and

WHEREAS, the City Planning Commission has reviewed Case RZ 22-17 and on May 24, 2022, opposed approval by a vote of 4-1 of the Rezoning from Agricultural (A) to Planned Industrial (PI) and a Lot Split; and

WHEREAS, the City Council has considered the issue.

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

Section 1. The application requesting approval of a Rezoning from Agricultural (A) to Planned Industrial (PI) and a Lot Split (Case RZ 21-17) is hereby approved in opposition to the Planning Commission's recommendation of denial by a vote of 4-1 and following conditions:

1. The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights.
2. All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District.
3. No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted.
4. Repaired vehicles shall be stored on site no longer than five consecutive days.
5. The applicant shall comply with the Huber Heights Fire Division regarding the onsite storage of hazardous and/or industrial materials.
6. Hours of operation shall be limited to 8:00 a.m. – 6:00 p.m., Monday through Friday.
7. The applicant shall pave and widen the driveway to minimum width of 35'.
8. The applicant shall install screening along west property line, subject to detailed development plan approval.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2022;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



AI-8513

Topics of Discussion F.

**Council Work Session**

**Meeting Date:** 07/05/2022

Falls Creek Park - Name Change

**Submitted By:** Josh King

**Department:** Planning

**Council Committee Review?:** Council Work Session

**Division:** Parks and Recreation

**Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Falls Creek Park - Name Change

**Purpose and Background**

In October, 2021, the Parks and Recreation Board voted to rename Falls Creek Park in honor of Dennis Philipps. Five board members were present and voted 5-0 in favor of the renaming. In May, 2022,, the board discussed the process again and discussed just putting up a plaque on the large boulder in the park in honor of Dennis Philipps.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Minutes - October 21, 2021

Minutes - May 19, 2022

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**Parks and Recreation Board  
Work Session Minutes  
City of Huber Heights  
October 21, 2021**

- I. Chair Vincent King called the meeting to order at approximately 6:31 p.m.
- II. Present at the meeting: Vincent King, Chair, Chris Hall, Glenn Pottenger, Blake Herstine, Matt Teague and Ron Eifert

Members Absent: Bryan Detty, Vice Chair, Alex Black, Sydney Smith Denis Snider,

Staff Present: Josh King, Parks Manager, City of Huber Heights & Chris Lindeman, Executive Director, YMCA at the Heights

**III. Opening Remarks**

1. Mr. King had none at this time.

**IV. Citizen's Comments**

1. None

**V. Old Business**

1. Long Term Leasing Agreement

- a. Going to council on Monday, October 25<sup>th</sup> for approval for a five-year agreement with HHGSA for baseball and softball fields at Cloud Park and Monita Fields.
- b. Trying to locate someone else to recondition the fields at Monita before the start of the spring season.

2. YMCA Update

- a. The YMCA has 568 shelter rentals in 2021 for the parks system in Huber Heights. June and July were the biggest months with 109 and 106 rentals.
- b. 5K run on 10/30 has been canceled due to low registration. Another 5K race is scheduled for 11/13.
- c. On Monday, October 25<sup>th</sup>, council will hear the first reading on improvements at the Kroger Aquatic Center, which includes cleaning and painting of the slides and slide tower.

3. Parks Manager Update

- a. Monita Fields has ongoing construction on the pump track and BMX park. The skate ramps have been delayed by an extra week. Perimeter will be finished in the springtime.
- b. Movie and Music season has finished up for 2021. It went very well and Josh will be looking at the season and making an changes for 2022.
- c. Eichelberger Playground has not much movement on it. Josh is waiting on the final design and council will need to approve it for final passage and construction.

4. Dog Gone Pawrade

- a. Board talked about the final details for the pet parade being held on Saturday, October 30<sup>th</sup>. People can register the day of the event or check the Park & Recreation Facebook page for the all the details.
5. Falls Creek
  - a. The board voted to move forward with a renaming process at Falls Creek Park in honor of Denny Philips. Motioned by Christopher Hall, 2<sup>nd</sup> by Glenn Pottenger, Vote 5-0
  - b. The motion will go to council for the final approval.
6. Programming & Events
  - a. Mr. Vince King asked the board to begin thinking about programs and events for the spring and summer in the parks system.
  - b. July is National Park & Recreation Month
  - c. Mr. King is working with local businesses to get them involved.
  - d. More Health & Wellness Programming in the parks system is also a focus for 2022.
  - e. Geocaching is also a focus with 35 sites within the city limits of Huber Heights. Mr. Teague is working to get more people involved in geocaching with over 6.5 million people participating around the world. Looking at possibly creating some type of passport that people can use.
7. Parks Cleanup
  - a. The last parks cleanup was held at the Community Center.

**VI. New Business**

1. None

**VII. Additional Business and Announcements**

1. Naming of Skate/BMX park at Monita Fields
  - a. Looking at corporate sponsorship for the naming rights for the Monita Fields work. It would be like the naming agreement of the aquatic center.

**VIII. Approval of Minutes**

1. Meeting Minutes from September 16, 2021, were approved as written.


**IX. Upcoming Meetings**

1. November 18, 2021, at 6:30 p.m.

**X. Adjournment**

1. Meeting was adjourned at 7:30 pm.

  
\_\_\_\_\_  
Vincent King, Parks & Recreation Chair

  
\_\_\_\_\_  
Chris Lindeman, YMCA at the Heights, Executive Dir.

18 Nov 21  
\_\_\_\_\_  
Date  
11/18/21  
\_\_\_\_\_  
Date

**Parks and Recreation Board  
Work Session Minutes  
City of Huber Heights  
May 19, 2022**

**I.** Chair Vincent King called the meeting to order at approximately 6:33 p.m.

**II.** Present at the meeting: Vincent King, Chair, Alex Black, Vice Chair Bryan Detty, Christopher Hall, Dennis Snider, and Ron Eifert

Members Absent: Matt Teague, Glenn Pottenger, Blake Herstine, Sydney Smith

Staff Present: Josh King, Parks Manager, City of Huber Heights

**III. Opening Remarks**

1. None

**IV. Citizen's Comments**

1. A citizen had a concern about a walking path connector being behind her house and cutting away brush in the new Dial Park. The issue was resolved.
2. Citizen asked for name plates for members.

**V. Old Business**

1. YMCA at the Heights Update

- a. Reserved 225 shelters in the parks system. June is filled up with rentals.
- b. Instructors are in place for community group exercise classes on Saturday mornings at the Eichelberger Amphitheater. Classes start at 9:00 am.
- c. Kroger Aquatic Center passed its health inspection and will open on Saturday, May 28<sup>th</sup>.

2. Parks Manager Update

- a. Eichelberger Amphitheater playground should be finished this week.
- b. Community Park playground as well next week. Its only half of the playground as we are awaiting word on the grant from the Christopher Reeves Foundation on the handicap swing.
- c. 2022 Music Series kicks off in two weeks. 12 shows this season with three shows each month.

**3. Programming**

- a. Earth Day Results: 60 to 70 people throughout the day. Community gardens were cleaned up and Mr. Herstine did a survey of participants to find out what they wanted to see at the Community Center. Mr. Vince King will send out the results to the board members.
- b. Star Spangled Celebration Volunteers: Board members were asked to volunteer at the Star-Spangled Celebration.
- c. October Event: The boards of the city are working together to try and offer a family fall event

**VI. New Business**

**1. Falls Creek Park Renaming**

- a. The board discussed the ability of naming parks and how the city would be going about in the future in the renaming of parks within the system. They also discussed the memorial program in parks and how city residents could be memorialized.

**2. Memorial Tree Program**

- a. Mr. Josh King reached out to the city of Vandalia to see what their memorial tree program looks like for their parks. Mr. King has a wholesale list of trees that can be purchased by the families and planted by the city. Also, memorial benches are also being looked at for memorials in the parks.
- b. A final draft of the procedure will be presented to the board at the June meeting.

**VII. Additional Business and Announcements**

- 1. Farmer's Market is going well with good attendance.
- 2. June 25<sup>th</sup>: Multicultural Festival, July 2<sup>nd</sup>: Star-Spangled Banner, September 10<sup>th</sup>: Marigold Festival
- 3. June 11<sup>th</sup>: Grand Opening at Monita Field Bike Park

**VIII. Approval of Minutes**

- 1. Meeting Minutes from April 21, 2022 were approved as written.

**IX. Upcoming Meetings**

- 1. June 16, 2022, at 6:30 p.m.

**X. Adjournment**

1. Meeting was adjourned at 7:26 pm.

\_\_\_\_\_  
**Vincent King, Parks & Recreation Chair**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Chris Lindeman, YMCA at the Heights, Executive Dir.**

\_\_\_\_\_  
**Date**

AI-8514

Topics of Discussion G.

**Council Work Session**

**Meeting Date:** 07/05/2022

Carriage Trails - Special Assessments - Sections 2-5/7-5 - Resolution Of Necessity

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

**Council Committee Review?:** Council Work Session

**Date(s) of Committee Review:** 06/21/2022

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Carriage Trails – Special Assessments – Sections 2-5/7-5

\* Resolution Of Necessity

**Purpose and Background**

DEC Land Company has proposed advance funding a portion of the costs of constructing the public streets within Sections 2-5 and 7-5 of the Carriage Trails development through the use of special assessments. DEC has proposed that they will provide all funding, in advance, in the amount of \$1,016,000, which is \$8,000 per lot for the 127 lots proposed for construction. DEC has asked the City to assess each of the 127 newly created lots \$650 per lot per year for 25 years, plus interest at the current bond rate at the time of assessment, and a 3% administrative fee charged by the City. Upon collection of the assessments, the City will reimburse DEC annually for the amount collected less the City and County administrative fees. In order to accomplish this, the City will need to pass a Resolution Of Necessity and an Ordinance To Proceed with the improvement - both of which are included in the meeting packet for Council's consideration. This item is the Resolution Of Necessity.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Resolution

Exhibit A

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2022-R-

DECLARING IT NECESSARY TO IMPROVE PUBLIC STREETS AND EASEMENTS IN SECTION 2 - PHASE 5 AND SECTION 7 - PHASE 5 BY CONSTRUCTING AND INSTALLING CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, INCLUDING STREET IMPROVEMENTS, SUBBASE, CONCRETE CURB/GUTTER WITH DRAINAGE, ASPHALT, STREET LIGHTS AND SIGNS, SIDEWALK, SURVEY WORK AND ENGINEERING, AND IN EACH CASE, ALL OTHER COSTS AND IMPROVEMENTS NECESSARY AND APPURTENANT THERETO.

WHEREAS, the owner of 100 percent of the lots and lands to be assessed for the Improvement (described in Section 2) has petitioned this Council (that Petition for Special Assessments and Affidavit is attached hereto as Exhibit A and incorporated herein by reference and is referred to herein as the "Petition") for the construction of the Improvement (as defined in Section 2), and further, that there be assessed against the real property described in the Petition certain costs of the Improvement; and

WHEREAS, this Council has heretofore directed that the plans, specifications, profiles and estimate of cost be prepared for the Improvement; and

WHEREAS, this Council has determined to adopt this Resolution to accept the Petition and approve the plans, specifications, profiles and estimate of cost of the Improvement, as prepared by the Developer in conjunction with IBI Group Inc. (f/k/a ME Companies Inc.), and to further provide for such other terms and provisions relating to the Improvement as are set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio, that:

Section 1. This Council hereby finds that the Petition has been signed by the owners of 100 percent of the lots and lands to be assessed for the Improvement.

Section 2. It is declared necessary to improve public streets and easements by constructing and installing on the Property (as described in the Petition) excavating, grading, paving, constructing and installing street improvements, including subbase, concrete curb/gutter with drainage, asphalt, street lights and signs, sidewalk, survey work and engineering, and in each case, all other costs and improvements necessary and appurtenant thereto (collectively, the "Improvement").

Section 3. The plans, specifications, profiles and estimate of cost of the Improvement, which have been prepared by the Developer and IBI Group Inc., and which are now on file in the Office of the Clerk of Council, are approved. The Improvement shall be made by the developer, at developer's cost, in accordance with, and the grade of the Improvement and of any street shall be the grade as shown on, the plans, specifications and profiles for the Improvement.

Section 4. This Council finds and determines that (a) the Improvement is conducive to the public health, convenience and welfare of this City and the inhabitants thereof and (b) the lots and lands to be assessed as described in Section 9 hereof and in the Petition are specially benefited by the Improvement.

Section 5. This Council hereby accepts the Petition. Subject to the provisions of and limitations set forth in the Petition, \$1,016,000.00 of the costs of the Improvement (plus interest on the costs of the Improvement to be computed in accordance with Sections 1 and 2 of the Petition) shall be assessed against the real property described in and pursuant to the Petition. Any additional costs of the Improvement shall be paid by the landowner.

Section 6. The cost of the Improvement shall include the cost of preliminary and other surveys, plans, specifications, profiles and estimates and of printing, serving and publishing notices, resolutions and ordinances, the amount or any damages resulting from the Improvement and the interest thereon, the costs incurred in connection with the preparation, levy and collection of the special assessments, the cost of purchasing, appropriating, and otherwise acquiring any real estate or interest therein required for the Improvement, expenses of legal services including obtaining legal



opinions, cost of labor and material and interest on securities issued in anticipation of the levy and collection of the special assessments, together with all necessary expenditures.

Section 7. The City Engineer is authorized and directed to prepare and file, or cause to be prepared and filed, in the Office of the Clerk of Council the estimated special assessments of the cost of the Improvement described in this Resolution. Those estimated special assessments shall be based upon the estimate of cost of the Improvement now on file in the Office of the Clerk of Council and shall be prepared pursuant to the provisions of this Resolution and the Petition.

Section 8. The special assessments to be levied shall be paid in twenty-five (25) annual installments of \$650.00 (plus any administrative or similar collection or processing fee) for Sections 2-5 and 7-5 (each annual installment to be payable semi-annually at the time real estate taxes in Miami County, Ohio are payable), together with interest on the unpaid principal amount of each special assessment as provided for by law and in accordance with the Petition and the ordinance levying the final special assessments.

Section 9. This City has reviewed the plans and specifications and the associated cost estimates for the proposed Improvements as detailed in the Petition and this Council finds and determines that the average useful life of the Improvements is at least 28 years.

Section 10. The City shall directly reimburse the Developer as and when the special assessments are collected, excluding therefrom any City and County administrative or similar collection or processing fees for the Developer's costs and interest thereon. The City shall pay the Developer for a portion of the Improvement as set forth in the Petition, but only as and when the City receives these funds from the assessments described in the Petition. Other than the reimbursement by collected special assessments, no City funds shall be used towards the improvements being assessed. The remainder of the entire cost of the Improvement, after application of the special assessments, shall be paid by the landowner. The City assumes no obligation beyond the transfer of the assessments to the Developer following completion of the Improvements.

Section 11. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 12. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_ day of \_\_\_\_\_, 2022.  
\_\_\_\_ Yeas; \_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

### CERTIFICATE

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution No. 2022-R-\_\_\_\_\_ adopted by the Council of the City of Huber Heights, on \_\_\_\_\_, 2022.

Clerk of Council

# EXHIBIT A

## PETITION FOR SPECIAL ASSESSMENTS AND AFFIDAVIT

May 11, 2022

To the City Council of the City of Huber Heights, Ohio:

WHEREAS, DEC Land Co. I LLC (the "*Property Owner*" and the "*Developer*"), represents that it owns certain real property (which real property represents 100% of the real property described and depicted in ATTACHMENTS A-1 and A-2 attached hereto and by reference made a part hereof and referred to herein as the "*Property*"), all of which Property is located within the City of Huber Heights, Ohio (the "*City*"); and

WHEREAS, the Property Owner acknowledges that, in connection with the development of the Property, the Property will benefit from the construction and installation on the Property of certain public infrastructure improvements, including but not limited to, street improvements, including subbase, concrete curb/gutter with drainage, asphalt, street lights and signs, sidewalk, survey work and engineering, and in each case, all other costs and improvements necessary and appurtenant thereto, to the special benefit of the Property and collectively referred to herein as the "*Improvement*"; and

WHEREAS, the Property Owner hereby petitions the City for the construction of the Improvement and further that a portion of the costs of the Improvement be assessed against the Property in accordance with this Petition; and

WHEREAS, the Property Owner acknowledges and agrees that the Property includes all of the real property to be assessed pursuant to this Petition, all of which Property will receive special benefits from the construction of the Improvement; and

WHEREAS, the Property Owner further deposes and states that this Petition and actions provided for herein impose burdens and obligations upon the Property and provide for special assessments to be levied upon the Property in accordance with this Petition, and that this Petition is available for inspection at the office of the Clerk of City Council; and

WHEREAS, the Property Owner requests that 100% of the special assessments be deferred as provided for herein;

NOW, THEREFORE, the Property Owner hereby petitions the City Council of the City of Huber Heights, Ohio as follows:

1. *Special Assessments.* The Property Owner states that it owns 100% of the Property. Acting pursuant to Chapter 727, Ohio Revised Code, the Property Owner petitions City Council for the construction of the Improvement, and agrees that the

Property will receive special benefits from the construction of the Improvement, and respectfully requests that \$8,000 per lot completed plus interest thereon as set forth below for Sections 2, Phase 5 ("Section 2-5") and Section 7, Phase 5 ("Section 7-5"), which represents the costs of the Improvement, including without limitation the compensation, damages and expenses of the Improvement, be assessed upon the Property. The Property Owner anticipates that the Property will be divided into one hundred twenty-seven (127) lots, consisting of sixty-two (62) lots for Section 2-5 and sixty-five (65) lots for Section 7-5, and that the actual costs of the Improvement will be apportioned equally among all of the lots included within the Property (with an apportionment of \$8,000 plus interest per lot for Section 2-5 and Section 7-5). Unless otherwise agreed to by the Property Owner and the City, to the extent the Property Owner, or its grantees or other successors with respect to the Property, does not pay the special assessments as levied in the time period provided for by Ohio law, the Property Owner acknowledges and agrees that the City may exercise any and all rights for the collection of unpaid special assessments in accordance with Ohio law and that the City may increase the unpaid assessments by an amount equal to the actual costs charged by Miami County to administer and collect the special assessments and if applicable, any related interest and other expenses.

2. *Construction and Payment of Costs of the Improvement.* (a) The Developer shall construct the Improvement in a manner consistent with the plans and specifications for such Improvement which shall have been approved by the City, (b) the Developer shall obtain performance and payment bonds meeting the requirements of Sections 153.54 and 153.57 of the Ohio Revised Code guaranteeing the completion of the construction of the Improvement and the payment of subcontractors, material providers and laborers from all of Developer's subcontractors and material suppliers, (c) the Developer shall pay prevailing wage to laborers as determined by the Ohio Department of Commerce under Chapter 4115 of the Ohio Revised Code in connection with the construction of the Improvement, (d) the Developer shall be responsible for paying the actual costs of such Improvement prior to the time such Improvement is dedicated to and accepted by the City, (e) the Developer shall provide warranties and guarantees with respect to the workmanship of the Improvement and the correction of deficiencies, (f) the City shall, promptly following completion of construction of the Improvement and dedication to and acceptance by the City of the Improvement, for Section 2-5 and Section 7-5, reimburse the Developer from the special assessments described in paragraph 1 above as those payments are collected (twice annually) at an annual interest rate of 6.5% (the "Interest") on any unpaid balance of the Improvement costs to provide the Developer reimbursement for the Improvement in an amount equal to the lesser of (i) \$8,000 per platted lot plus Interest or (ii) 100% of the actual cost of construction of the Improvement plus Interest thereon; *provided* that the amount of such payment shall be specially assessed pursuant to this Petition.

3. *Duration of Special Assessments.* The Property Owner hereby confirms that the special assessments and the interest thereon be payable in twenty-five (25) annual installments of \$650 (plus any administrative or similar collection or processing fee) for Section 2-5 and Section 7-5 (each annual installment to be payable semi-annually at the

time real property taxes in Miami County, Ohio are payable). The Property Owner hereby requests that the special assessments and interest thereon be certified to the County Auditor in order that the first installment of special assessments shall be due not later than the earliest of (a) the first date on which taxes and special assessments are due and payable in the first calendar year next following the first September 1 next following conveyance of the Property by the Property Owner to another entity or (b) the first date for 2026 on which taxes and special assessments are due and payable. Following the deferment, the special assessments will be collected in twenty-five (25) annual installments as described in this paragraph 3.

4. *Payment of Special Assessments.* In consideration of the Public Improvement, the Property Owner, for itself and its grantees or other successors with respect to the Property, agrees to pay promptly all special assessments levied against the lots and lands which collectively constitute the Property as they become due, and agrees that the determination by the Council of the special assessments in accordance with the terms hereof will be final, conclusive and binding upon the Property Owner and the Property. In further consideration of the Improvement, the Property Owner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be specially assessed for the actual costs of the Improvement, in the deed to the transferee the existence of any outstanding special assessment for the Improvement and to require that transferee covenant to disclose that information in any subsequent deed to any transferee so long as such special assessments remain unpaid. As a condition to each subsequent transfer while such special assessments remain unpaid, the Property Owner further covenants and agrees to provide expressly in the deed to any transferee (a) for the acquisition by such transferee of the Property subject to any outstanding special assessment and such transferee's assumption of responsibility for payment thereof and for the waiver by the transferee of any rights that the Property Owner has waived pursuant to this Petition and (b) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee the conditions described in clause (a) so long as such special assessments remain unpaid.

5. *Action by City Council.* The Property Owner, for its successors and assigns, further consents and requests that all legislation required to be enacted to permit the Improvement to commence immediately be enacted at one City Council meeting.

6. *Waivers.* The Property Owner consents and requests that these special assessments be levied and collected without limitation as to the value of the Property, and waives all the following relating to the Improvement and the special assessments:

(a) any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code or by any other provision restricting these special assessments to 33-1/3% of the actual improved value of the lots and lands as enhanced by the Improvement to be made;

(b) any and all rights, benefits and privileges specified by Section 727.04 of the Revised Code or by any other provision Limiting special assessments for re-improvement when a special assessment has been levied and paid previously;

(c) any and all damages or claims for damages of whatsoever kind, character or description resulting from the Improvement or the making of the Improvement, including but not limited to all rights, benefits and privileges specified by Sections 727.18 through 727.22 and Section 727.43 of the Revised Code;

(d) any and all resolutions, ordinances and notices required for the making of the Improvement, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special assessments, any increase in the cost of labor and materials over the estimated cost, the passage of the assessing ordinance, and the right to apply for deferment of the special assessments pursuant to Section 727.251 of the Revised Code, and including, but not limited to, notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code;

(e) any limitation on the addition of interest to the special assessments specified by Section 727.301 of the Revised Code;

(f) any limitation or restriction on the levy and collection of special assessments against the Property for the Improvement as specified in Section 929.03 of the Revised Code; and

(g) any and all irregularities and defects in the proceedings.

7. *Notice.* Notice may be provided to the Property Owner at:

DEC Land Co. I, LLC  
5131 Post Road, Suite 101  
Dublin, Ohio 43017  
Attention: William W. Keethler II  
President of the Managing Member

***[signature page follows]***

IN WITNESS WHEREOF, the Property Owner has caused this Petition to be duly executed in its name, all as of the date hereinbefore written.

SIGNED AND ACKNOWLEDGED  
IN THE PRESENCE OF:

DEC LAND CO. I LLC

By: Carriage Trails at The Heights LLC

Its: Managing Member

By: [Signature]

Printed: William W. Keethler II

Title: President

[Signature]  
Witness  
[Signature]  
Witness

STATE OF OHIO

SS.

COUNTY OF FRANKLIN

The foregoing instrument was sworn to and subscribed before me this 11<sup>th</sup> day of May, 2022 by William W. Keethler, President of Carriage Trails at The Heights LLC, an Ohio limited liability company and Managing Member of DEC Land Co. I, LLC, the authorized representative of DEC Land Co. I LLC. This is a jurat certificate; an oath or affirmation was administered to the signer with regard to this notarial act.



CASSANDRA L. RIEHLE  
Notary Public, State of Ohio  
My Commission Expires 08-16-2025

[Signature]  
Notary Public

## ATTACHMENT A-1

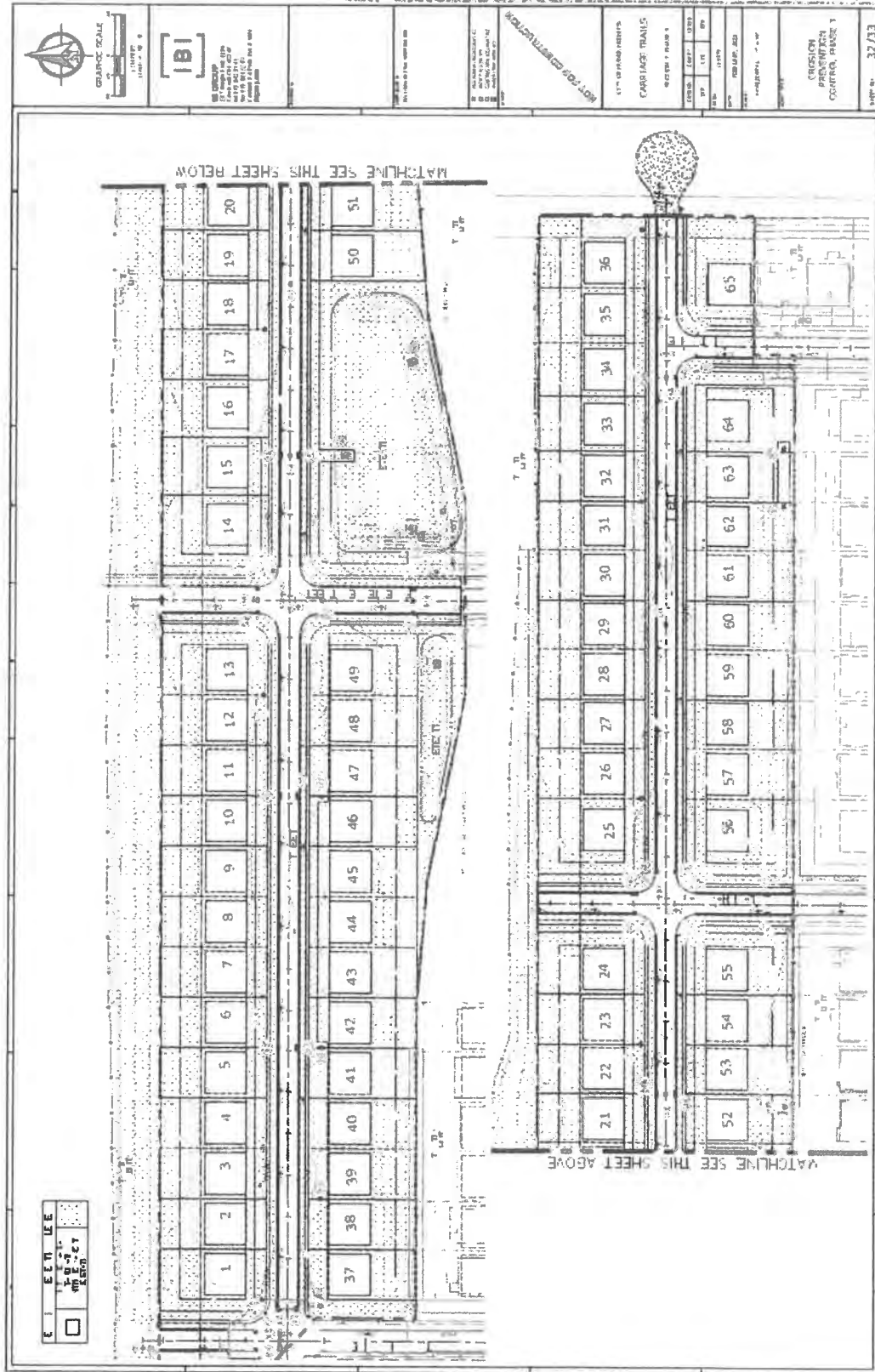
### Description of the Property

Approximately 16.325 acres in Section 2-5 being lots 1 through 62; and approximately 17.34 acres in Section 7-5 being lots 1-65 of Carriage Trails, in the City of Huber Heights, Miami County, Ohio, as shown on Attachment A-2 attached hereto.



# **ATTACHMENT A-2** **Depiction of the Property**





**AI-8515**

**Topics of Discussion**

**Council Work Session**

**Meeting Date:** 07/05/2022

Carriage Trails Sections 2-5/7-5 - Special Assessment Request - Ordinance To Proceed

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

**Council Committee Review?:** Council Work Session

**Date(s) of Committee Review:** 06/21/2022

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

---

**Agenda Item Description or Legislation Title**

\* Ordinance To Proceed

**Purpose and Background**

DEC Land Company has proposed advance funding a portion of the costs of constructing the public streets within Sections 2-5 and 7-5 of the Carriage Trails development through the use of special assessments. DEC has proposed that they will provide all funding, in advance, in the amount of \$1,016,000, which is \$8,000 per lot for the 127 lots proposed for construction. DEC has asked the City to assess each of the 127 newly created lots \$650 per lot per year for 25 years, plus interest at the current bond rate at the time of assessment, and a 3% administrative fee charged by the City. Upon collection of the assessments, the City will reimburse DEC annually for the amount collected less the City and County administrative fees. In order to accomplish this, the City will need to pass a Resolution Of Necessity and an Ordinance To Proceed with the improvement - both of which are included in the meeting packet for Council's consideration. This item is the Ordinance To Proceed.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Ordinance - Amended

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2022-O-

DETERMINING TO PROCEED WITH THE IMPROVEMENT OF PUBLIC STREETS AND EASEMENTS IN SECTION 2 - PHASE 5 AND SECTION 7 - PHASE 5 BY CONSTRUCTING AND INSTALLING CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, INCLUDING STREET IMPROVEMENTS, SUBBASE, CONCRETE CURB/GUTTER WITH DRAINAGE, ASPHALT, STREET LIGHTS AND SIGNS, SIDEWALK, SURVEY WORK AND ENGINEERING, AND IN EACH CASE, ALL OTHER COSTS AND IMPROVEMENTS NECESSARY AND APPURTENANT THERETO.

WHEREAS, this Council has adopted Resolution No. 2022-R-\_\_\_\_ on \_\_\_\_\_, 2022 (the “*Resolution of Necessity*”), declaring the necessity of making the Improvement described in Section 1.

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

Section 1. It is determined to proceed with the improvement of public streets and easements by constructing and installing on the Property (as described in the Petition) certain public infrastructure improvements, including street improvements, subbase, concrete curb/gutter with drainage, asphalt, street lights and signs, sidewalk, survey work and engineering, and in each case, all other costs and improvements necessary and appurtenant thereto (collectively, the “*Improvement*”) more fully described in the plans and specifications on file in the Office of the Clerk of Council.

Section 2. The Improvement shall be made in accordance with the provisions of the Resolution of Necessity (including the Petition referenced therein and attached thereto) and with the plans, specifications, profiles and estimate of cost previously approved and now on file in the Office of the Clerk of Council. Other than the reimbursement by collected special assessments, no City funds shall be used towards the improvements being assessed.

Section 3. The portion of the cost of the Improvement to be assessed in accordance with the Resolution of Necessity and the related Petition shall be assessed in the manner and pursuant to the payment schedule set forth, and on the lots and lands described, in that Resolution and the related Petition.

Section 4. The City shall pay the Developer for a portion of the Improvement as set forth in the Petition, but only as and when the City receives these funds from the assessments described in the Petition. Any such payment shall exclude City and County administrative or similar collection or processing fees. All costs shall be paid by the Developer or the landowner, and the City assumes no obligation beyond the transfer of the assessments it receives to the Developer following completion of the Improvements.

Section 5. All claims for damages resulting from the Improvement that have been or are legally filed shall be inquired into after completion of the Improvement, and the City Attorney is authorized and directed to institute legal proceedings in a court of competent jurisdiction to inquire into those claims.

Section 6. The estimated special assessments previously prepared and filed in the Office of the Clerk of Council and in accordance with the Resolution of Necessity and the related Petition are adopted.

Section 7. The Clerk of Council shall deliver a certificate copy of this Ordinance to the County Auditor of Miami County, Ohio, within 15 days after its passage.

Section 8. Subject to the provisions of Section 727.24 of the Revised Code, the City Manager is authorized and directed to work with the Developer to proceed with contracting for the Improvement, and the Improvement shall be paid for by the Developer, which shall be reimbursed by the special assessments, all as provided in the Resolution of Necessity.

Section 9. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 10. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2022;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**CERTIFICATE**

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2022-O-\_\_\_\_\_ passed by the City Council of Huber Heights, on \_\_\_\_\_, 2022.

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

**AI-8512**

**Topics of Discussion** H.

**Council Work Session**

**Meeting Date:** 07/05/2022

Retire/Rehire - Anthony Rodgers

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None **Emergency Legislation?:**

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Retire/Rehire - Anthony Rodgers

**Purpose and Background**

This agenda item is to discuss the retirement and rehiring of Clerk of Council Anthony Rodgers.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Resolution

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2022-R-

TO ACCEPT THE RESIGNATION OF ANTHONY C. RODGERS AS CLERK OF COUNCIL  
AND TO APPOINT ANTHONY C. RODGERS AS CLERK OF COUNCIL.

WHEREAS, Section 4.08 of the Charter of the City of Huber Heights, Ohio requires that the  
City Council appoint a Clerk of Council; and

WHEREAS, Anthony C. Rodgers desires to retire from the position of Clerk of Council effective  
July 31, 2022; and

WHEREAS, the City Council desires to appoint Anthony C. Rodgers to the position of Clerk of  
Council effective August 1, 2022; and

WHEREAS, the City Council desires to appoint Anthony C. Rodgers at a salary within the limits  
described in Resolution No. 2022-R-7134; and with certain benefits, as agreed upon between the  
City Council and Anthony C. Rodgers within the limits of benefits offered to all employees of  
the City of Huber Heights.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio, that:

Section 1. After due deliberation and consistent with the provisions and requirements of  
Section 145.381 – Re-employing Retirant of the Ohio Revised Code, the City Council accepts  
the resignation of Anthony C. Rodgers as Clerk of Council effective July 31, 2022 and appoints  
Anthony C. Rodgers as Clerk of Council effective August 1, 2022.

Section 2. The City Council is hereby authorized to offer to Anthony C. Rodgers, a salary  
and benefits consistent with Resolution No. 2022-R-7134 and within the limits of benefits and  
pay offered to all City employees.

Section 3. It is hereby found and determined that all formal actions of this Council  
concerning and relating to the passage of this Resolution were adopted in an open meeting of  
this Council and that all deliberations of this Council and of any of its Committees that resulted  
in such formal action were taken in meetings open to the public and in conformance with all  
legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall go into effect upon its passage as provided by law and the  
Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2022;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-8510**

**Topics of Discussion** I.

**Council Work Session**

**Meeting Date:** 07/05/2022

Culture and Diversity Needs Assessment

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Culture and Diversity Needs Assessment

**Purpose and Background**

This agenda item is to discuss the culture and diversity needs assessment undertaken by the Culture and Diversity Citizen Action Commission.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

*No file(s) attached.*

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**AI-8511**

**Topics of Discussion** J.

**Council Work Session**

**Meeting Date:** 07/05/2022

Citizens Review Board

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Citizens Review Board

**Purpose and Background**

This agenda item was requested by Councilmembers Ed Lyons, Glenn Otto, and Richard Shaw to discuss a Citizens Review Board as proposed by the Culture and Diversity Citizen Action Commission.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

*No file(s) attached.*

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**AI-8516**

**Topics of Discussion** K.

**Council Work Session**

**Meeting Date:** 07/05/2022

Rules Of Council - Amendment - Council Absences

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 07/05/2022

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Rules Of Council - Amendment - Council Absences

**Purpose and Background**

This agenda item was requested by Councilmembers Don Webb, Nancy Byrge, Mark Campbell, and Kathleen Baker to discuss proposed amendments to the Rules Of Council regarding Council absences.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

*No file(s) attached.*

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