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AGENDA

Regular Council Meeting

7:00 PM May 9, 2022

Council Members:

Andy Teater

Omar Tarazi

Les Carrier

Tina Cottone

Peggy Hale

Pete Marsh

Cynthia Vermillion

President

Vice President

Michelle Crandall, City Manager

Diane (Dee) Werbrich, Clerk of Council

City Hall, Council Chambers • 3800 Municipal Way, Hilliard, OH 43026



Hilliard City Council established the following five broad Strategic Focus Areas to guide the vision of the City. Under each of these Focus Areas is one significant goal to be prioritized during 2021-2022.

Strategic Focus Area #1 – Excellent, Innovative City Services

- Goal Statement – The City will ensure continued delivery of excellent and innovative services in the years ahead by developing a long-term financial plan focusing on fiscal resilience and sustainability.

Strategic Focus Area #2 – Family-friendly, Engaged Community

- Goal Statement – The City will focus on transparency, public trust and resident involvement by developing and implementing a community engagement and communications plan.

Strategic Focus Area #3 – Distinct, Well-Planned Community

- Goal Statement – The City is committed to implementing a strategy that includes public infrastructure maintenance and delivery of City services that support residents as they maintain properties in our older neighborhoods.

Strategic Focus Area #4 – Quality Commercial Development

- Goal Statement – The City will create and implement an economic development plan focused on the attraction, retention, growth and creation of businesses and jobs that provide a strong tax base and quality development.

Strategic Focus Area #5 – Valued Cultural and Recreational Amenities & Programs

- Goal Statement – The City will meet the community's needs for indoor recreational, health and wellness amenities and programming by engaging strategic partners to plan and build a new community center.



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City Council

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Regular Meeting Agenda
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I. **Invocation and Pledge of Allegiance**

Invocation – Pastor Dan Burmeister, Life Community Church

The Pledge of Allegiance to the Flag of the United States of America – Mr. Carrier

II. **Roll Call**

III. **Approval of Minutes**

- A. April 21, 2022, Special Meeting
- B. April 25, 2022, Special Executive Session
- C. April 25, 2022, Regular Meeting

IV. **Commission and Board Reports**

Board of Zoning Appeals	Peggy Hale
Destination Hilliard	Cynthia Vermillion
Environmental Sustainability Commission	Pete Marsh
MORPC	City Manager Crandall
Planning & Zoning Commission	Peggy Hale
Public Arts Commission	Omar Tarazi
Recreation and Parks Advisory Commission	Les Carrier/Andy Teater
Shade Tree Commission	Andy Teater
Other Boards/Commissions	President and Vice President

V. **Recognition and Special Guests** - None

VI. **Changes to the Agenda**

VII. **Consent Agenda**

22-R-38 APPROVING AN APPOINTMENT TO THE ENVIRONMENTAL SUSTAINABILITY COMMISSION.

VIII. **Public Comments (Items not on the Agenda)**

Public Notice: Any member of the public addressing Council on items not on this agenda are asked to sign the speaker's sign-in form. Each speaker will contain their comments to **3 minutes** and shall conduct themselves in a professional manner.

IX. **Business of the Council**

A. Ordinances

Second Readings/Public Hearings

Public Notice: Any member of the public addressing Council on the Public Hearing below are asked to sign the speaker's sign-in form. Each speaker will contain their comments to **3 minutes** and shall conduct themselves in a professional manner.

22-16 APPROPRIATING FUNDS FOR IMPROVEMENTS TO MERCHANT PARK, THE LABYRINTH PROJECT.

First Readings

22-17 AMENDING CHAPTER 755 OF THE HILLIARD CODIFIED ORDINANCES REGULATING MASSAGE AND BATH ESTABLISHMENTS.



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B. Resolutions

- 22-R-39 AUTHORIZING THE CONDITIONAL USE FOR VEHICLE SALES AND MAJOR VEHICLE REPAIR AT 4896 SCIOTO DARBY ROAD WITHIN THE B-2, COMMUNITY BUSINESS ZONING DISTRICT.
- 22-R-40 ACCEPTING THE DEDICATION OF EASEMENTS FOR PUBLIC AND PRIVATE UTILITIES, CABLE TELEVISION, SERVICE CONNECTIONS AND STORM WATER DRAINAGE FOR SECTION 6 OF THE COURTYARDS AT CARR FARMS.
- 22-R-41 AUTHORIZING A CONTRACT WITH THE RUSCILLI CONSTRUCTION CO. INC. AS CONSTRUCTION MANAGER AT RISK FOR THE HILLIARD RECREATION AND WELLNESS CAMPUS.
- 22-R-42 APPROVING APPOINTMENTS TO THE RECREATION AND PARKS ADVISORY COMMITTEE.
- 22-R-43 APPOINTING INITIAL MEMBERS TO THE CITY'S AGING-IN-PLACE ADVISORY COMMITTEE.

X. President's Communication

XI. Staff Reports

XII. City Manager Updates

XIII. Items for Council Discussion

Adjournment



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CITY COUNCIL

April 21, 2022 Special Meeting Minutes

CALLED TO ORDER

President Teater called the meeting to order at 9:02 AM

ROLL CALL OF MEMBERS

Attendee Name:	Title:	Status:
Andy Teater	President	Present
Omar Tarazi	Vice President	Present
Les Carrier	Councilman	Present
Tina Cottone	Councilwoman	Present
Peggy Hale	Councilwoman	Present
Pete Marsh	Councilman	Present
Cynthia Vermillion	Councilwoman	Present

Staff Members Present: City Manager Michelle Crandall, Law Director Phil Hartmann, Assistant City Manager Dan Ralley, Economic Development Director David Meadows and Clerk of Council Diane Werbrich

Other Staff Members Present for Portions of the Retreat: Finance Director Dave Delande, IT Director Duane Powell, Transportation and Mobility Director Letty Schamp, Recreation and Parks Director Ed Merritt, Deputy Director of Recreation and Parks Erin Duffee, Planning Director John Talentino, Community Relations Director David Ball and Planning Manager Carson Combs

Facilitator: Raftelis: Julia Novack, Executive Vice President, Julie Gieseke and Athena Hall

Due to the inability for an audio/video recording, Ms. Hale, seconded by Ms. Cottone, moved to suspend Council Rule 5.02 to not require an audio recording of this retreat by Voice Vote.

MOVER:	Peggy Hale
SECONDER:	Tina Cottone
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

BUSINESS

Council Discussed the following:

Brand, Current Council Goals, Community Center, Defining Success, Comprehensive Plan update (PlanningNext: Jamie Greene and Michael Curtis) and the Norwich Township letter.

Mr. Carrier, seconded by Ms. Vermillion, moved to adjourn the meeting by Voice Vote.

Minutes Acceptance: Minutes of Apr 21, 2022 9:00 AM (Approval of Minutes)

MOVER:	Les Carrier
SECONDER:	Cynthia Vermillion
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

ADJOURNMENT – 2:10 PM

Andy Teater, President
City Council

Diane Werbrich, MMC
Clerk of Council

Approved: _____



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CITY COUNCIL

April 25, 2022 **Special Executive Session Minutes**

CALL TO ORDER

The meeting was called to order by President Teater at 6:01 PM.

ROLL CALL OF MEMBERS

Attendee Name:	Title:	Status:
Andy Teater	President	Present
Omar Tarazi	Vice President	Present
Les Carrier	Councilman	Present
Tina Cottone	Councilwoman	Present
Peggy Hale	Councilwoman	Present
Pete Marsh	Councilman	Present
Cynthia Vermillion	Councilwoman	Present

Staff Members Present: City Manager Michelle Crandall, Law Director Phil Hartmann, Assistant City Manager Dan Ralley, Economic Development Director David Meadows, Deputy Police Chief Michael Woods and Clerk of Council Diane Werbrich

Vice President Tarazi, seconded by Mr. Marsh, moved to recess to Executive Session for matters pertaining to the appointment of public personnel, the sale, lease or purchase of real estate and economic strategies (Charter Section 2.10 (1)(a)(b)&(g) by Voice Vote.

MOVER:	Omar Tarazi
SECONDER:	Pete Marsh
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

EXECUTIVE SESSION

Council recessed to Executive Session at 6:03 PM

Mr. Carrier, seconded by Ms. Hale, moved to end the Executive Session at 6:44 PM.

MOVER:	Les Carrier
SECONDER:	Peggy Hale
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

President Teater reconvened the Special/Executive Session meeting at 6:44 PM.

Items for Council Discussion - None

Mr. Carrier, seconded by Mr. Marsh, moved to adjourn the meeting by Voice Vote.

Minutes Acceptance: Minutes of Apr 25, 2022 6:00 PM (Approval of Minutes)

MOVER:	Les Carrier
SECONDER:	Pete Marsh
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

ADJOURNMENT – 6:44 PM

Andy Teater, President
City Council

Diane Werbrich, MMC
Clerk of Council

Approved: _____



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CITY COUNCIL

April 25, 2022 **Regular Meeting Minutes**

INVOCATION AND PLEDGE OF ALLEGIANCE

Invocation – President Teater

Girl Troop 142 led the Pledge of Allegiance to the Flag of the United States of America.

RECOGNITION AND SPECIAL GUESTS

President Teater read and presented a Proclamation for Mariam Tarazi, the City's first female Eagle Scout.

ROLL CALL

Attendee Name:	Title:	Status:
Andy Teater	President	Present
Omar Tarazi	Vice President	Present
Les Carrier	Councilman	Present
Tina Cottone	Councilwoman	Present
Peggy Hale	Councilwoman	Present
Pete Marsh	Councilman	Present
Cynthia Vermillion	Councilwoman	Present

Staff Members Present: City Manager Michelle Crandall, Law Director Phil Hartmann, Assistant City Manager Dan Ralley, Finance Director Dave Delande, Deputy Finance Director Greg Tantari, Recreation and Parks Director Ed Merritt, Community Relations Director David Ball, Planning Director John Talentino and Clerk of Council Diane Werbrich

APPROVAL OF MINUTES

President Teater asked if there were any changes or corrections to the April 11, 2022, Regular or the April 13, 2022, Special meeting minutes. Hearing none, the minutes were approved as submitted.

STATUS:	Accepted
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

COMMISSION AND BOARD REPORTS

Board of Zoning Appeals - Ms. Hale reported two resident requests were granted.

Destination Hilliard – Ms. Vermillion reported DH will be meeting this week to review the applications for the \$50,000 in Hilliard Development funding.

Environmental Sustainability Commission - Mr. Marsh reported the Earth Day collection held on April 23, 2022, was a huge success and he will provide the numbers at the next meeting. Mr. Carrier stated he heard there were traffic issues. Mr. Marsh replied the traffic was backed up and there was a good turnout.

Mid-Ohio Regional Planning Commission (MORPC) - Ms. Crandall stated on Tuesday, April 19, 2022, they had their annual member visit. She noted Mr. William Murdock, Executive Director, and Ms. Eileen Leuby joined her, President Teater and Ms. Cottone where they shared information on MORPC and highlighted things going on in the City focusing on the projects around mobility including trails, the extension of the Heritage Trail, the possible Amtrak location and COTA improvements related to a sales

tax increase that will be on the ballot.

Planning and Zoning - Ms. Hale reported the L&A Autogroup will have a proposal for Council consideration soon. She added Sunoco on Main Street and Sherman Williams will be getting new signs, there is a Planned Unit Development (PUD) on tonight's agenda for Council consideration and signs were approved for Alton Place.

Public Arts - Mr. Tarazi stated the traffic box art is going in throughout the City and asked residents to look for these traffic box wraps.

Recreation and Parks Advisory Commission - Mr. Carrier stated Ms. Jane Rice resigned from the Commission. President Teater added Council recently reviewed applications for this commission and will have to appoint someone to fill this vacancy.

Shade Tree Commission - No report.

Other Boards/Commissions - No report.

CHANGES TO THE AGENDA - None

CONSENT AGENDA - None

PUBLIC COMMENTS (ITEMS NOT ON THE AGENDA) - None

BUSINESS OF THE COUNCIL

A. Ordinances

SECOND READINGS/PUBLIC HEARINGS - None

FIRST READINGS

22-16 APPROPRIATING FUNDS FOR IMPROVEMENTS TO MERCHANT PARK, THE LABYRINTH PROJECT.

Mr. Merritt explained this legislation would appropriate an additional \$20,000.00 to the Recreation and Parks CIP Fund (RP-2) for the 2022 Capital Improvements Budget to help fund improvements to Merchant Park. He explained the City and the Rotary Club wanted to focus on an amenity that would help residents with mental health issues that are occurring on an increasingly frequent basis. This project will provide a place of peace and tranquility where residents can go to center themselves or meditate. Mr. Merritt reported currently there is \$40,000.00 budgeted in the 2022 CIP (RP-2) and the Rotary Club has agreed to reimburse the City the \$20,000.00 being requested. The total for this project will cost approximately \$60,000.00, which will go out for bids and start tentatively in July 2022. President Teater thanked the Rotary Club for their participation in this project and for their sizeable contribution.

STATUS:	First Reading
SPONSOR:	Cynthia Vermillion
SECONDER:	Peggy Hale
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

President Teater announced the second reading/public hearing on 22-16 will be May 9, 2022.

B. Resolutions

22-R-35 APPROVING THE APPLICATION TO ADD PROPERTY TO THE HILLIARD COMMUNITY AUTHORITY AND DETERMINING THAT ADDING THE PROPERTY IS CONDUCTIVE TO THE PUBLIC SAFETY, CONVENIENCE, AND WELFARE.

No one in attendance spoke for or against 22-R-35 during the Public Hearing.

STATUS: Adopted (7-0)
MOVER: Les Carrier
SECONDER: Omar Tarazi
AYES: Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion
 President Teater announced 22-R-35 passed and will take effect at the earliest time allowable by law.

22-R-36 APPROVING CHANGES TO THE ANSMIL PLANNED UNIT DEVELOPMENT (“PUD”) PLAN AND TEXT TO SPECIFY THE MINIMUM BUILDING AND PAVEMENT SETBACKS AND MODIFY THE EXTERIOR BUILDING MATERIAL AND LIGHTING STANDARDS FOR SUBAREA E1.

Mr. Talentino stated this proposal is to modify the Ansmil Planned Unit Development (PUD) (**See attached**). He stated the Planning Commission forwarded a positive recommendation.

Mr. Carrier asked how many total units are there. Mr. Talentino replied that he believes the maximum number of units is 44 and will provide a different product for senior independent living.

Ms. Vermillion stated the PUD states that permitted uses is a long list of accessory uses and asked Mr. Talentino to elaborate on some of those uses and if some of those uses are expected. Mr. Talentino replied that there are no changes proposed to those and the reason they are listed separately is because when Hickory Chase came in it was one development that had all of those uses in it internally. When Hickory Chase did not happen, and different uses were going to come in, this list is just what could be there. He does not believe some will be there and some could be included in a community building like a bank. It is not anticipated that they will be on the campus in a separate building and would not be visible from the street. Ms. Vermillion stated it is not very walkable to any type of services as is. Mr. Talentino agreed and said it is walkable to the library and noted that across Britton Parkway there is land that is zoned for retail, services and restaurants, which has not been developed yet. Ms. Vermillion then asked if there are recommendations given to the builder on color schemes, maybe bright pops of colors. Mr. Talentino replied that he encourages them to use colors to set them apart but believes the color selection has to do with who they anticipate living in this space. If someone wanted to put a different color on a gable or door, the City would support that. Ms. Vermillion stated none of the homes show porches on the drawings. Mr. Talentino replied that the rear on many of the units faces the public street and noted that they can have patios and decks but not the porch that Ms. Vermillion is referencing. Although a porch is not a requirement, someone could have a covered porch, but they would have to meet the setbacks. He stated this is the building and other attachments are an option.

STATUS: Adopted (7-0)
MOVER: Pete Marsh
SECONDER: Peggy Hale
AYES: Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion
 President Teater announced 22-R-36 passed and will take effect at the earliest time allowable by law.

22-R-37 AUTHORIZING THE DIRECTOR OF FINANCE TO TRANSFER FUNDS FROM THE GENERAL FUND TO THE CAPITAL IMPROVEMENT FUND AND TO THE RECREATION AND PARKS FUND.

Mr. Delande explained this resolution is to transfer half of the \$7 million that is planned for the CIP that comes from the General Fund mainly due to net profits, which was transferred into the Capital. Also included is the balance of the Grener property, which when it was sold 75% was earmarked for Recreation and Parks. The balance of \$7,161,000.00 will be transferred into the new fund that was set up because of the passage of Issue 22.

Ms. Vermillion asked if the \$7 million from the sale of the Grener property would have been transferred regardless because 75% was earmarked. Mr. Delande replied if the fund would not have been set up, it

would have been used for Recreation and Parks even if there was not a separate fund, which was set up due to the passage of Issue 22.

STATUS: Adopted (7-0)
MOVER: Cynthia Vermillion
SECONDER: Pete Marsh
AYES: Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion
 President Teater announced 22-R-37 passed and will take effect at the earliest time allowable by law.

PRESIDENT'S COMMUNICATION

President Teater reported a formal vote was asked to be taken on the pool issue that was discussed at the Council Retreat and whether a 50-meter pool would be viable and have enough Council support.

Vice President Tarazi stated that the sense of a majority of Council and the Administration is that a 50-meter pool is not viable without a public/private partnership. He noted Ms. Hale had some promising meetings today regarding a potential public/private partnership, which has been shared with Ms. Crandall. Vice President Tarazi asked if a public/private partnership were to happen, it would have to be within the next month or two. Ms. Crandall replied that after the programming step the City would move into schematic design and then detailed designed and that would need to be figured out before the schematic design phase so there is a short window of opportunity.

Vice President Tarazi, seconded by Ms. Hale, moved to direct Administration to explore public/private partnerships for a 50-meter pool within the next month and bring that back to Council if any exist. If not, the City would proceed without a 50-meter pool.

STATUS: Withdrawn by Vice President Tarazi
MOVER: Omar Tarazi
SECONDED: Peggy Hale

Ms. Vermillion commented that Council is not leaving that research for Administration to do. There is one lead, and she does not think the motion should be to direct staff to spend the next 30 days searching additional leads.

Vice President Tarazi stated it is leaving it up to Administration to determine what is reasonable. Ms. Crandall stated the motion should be that Council is not in favor of a 50-meter pool unless a viable partnership that would make up the funding gap between a 25-meter and 50-meter pool becomes available. She added if that happens, that would be brought back to Council for discussion.

Ms. Cottone asked if a 50-meter pool is included, does it take away physical space that could be used for something else or is a bigger building built in addition to a bigger pool. Ms. Crandall replied the City has the luxury of having space on this site so if there was a partner that could make up the \$15 million funding gap, Council would then have to decide whether they want an Olympic-style pool with a partner. Ms. Cottone then asked if a bigger building would have to be built to house a bigger pool. Ms. Crandall agreed.

Mr. Carrier asked what happens if a private/public partner says they want to build a 50-meter pool next or adjacent to the community center. He reported some swim people think the City can build a facility for less than what the City is building a 25-meter pool for on a standalone basis. He asked if Council wants to hear about that possibility.

Mr. Marsh stated some of what Mr. Carrier mentioned comes down to finishes and details and he thought the consensus of Council is everything should be top shelf. If there is someone who wants to build something that is cost efficient, it is not necessarily something he would want in the community center,

but he would not be opposed if they found land somewhere else in the City to do that. He does not feel the City wants to do anything cut rate inside this community center.

President Teater clarified that Council wants staff to proceed with the design that does not have a 50-meter pool and leaving it open in case someone comes forward in a timely manner with a public/private partnership.

Vice President Tarazi stated there is one possible lead, and there may be others, and he thought staff was going to explore that possibility before the actual design. He added nothing is being finalized now but will take place in a couple months after public input and staff has worked on the various possibilities. Ms. Crandall replied that the public input phase ends towards the end of May and then it goes into the schematic design phase after that. She agrees with Mr. Marsh to proceed knowing that the staff does not have to design to a 50-meter pool and then if something would happen with a potential partner, then that would be brought back to Council.

Ms. Hale asked if there would be a buffer of approximately \$1-2 million that the City could make up that difference and bring that back to Council. Ms. Crandall replied staff would bring it back to Council if there is a viable partnership with a smaller gap.

President Teater stated that without a viable partner with a substantial investment, Council is directing staff to proceed with the design that does not include a 50-meter pool. Vice President Tarazi asked if Council is also asking staff to explore possible partnerships. Mr. Marsh replied there is too much grey area in directing staff to explore possible partners. He noted that Council members know individuals who may be interested in being a partner and can put them in touch with staff versus staff making cold calls. Mr. Marsh added Council needs to trust staff in that if a viable option becomes available that they will bring that back to Council.

Mr. Marsh, seconded by Ms. Vermillion, moved to allow staff to proceed with the design without a 50-meter pool unless a public/private partner becomes viable at which time they will bring it back to Council for further consideration.

Mr. Hartmann asked that for clarification that Mr. Marsh is proposing a 25-meter pool. Mr. Marsh agreed.

STATUS:	Approved (6-1)
MOVER:	Pete Marsh
SECONDER:	Cynthia Vermillion
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion
NAYS:	Les Carrier

STAFF REPORTS

Ms. Crandall reported the January - March Financial Overview is in the packet and pointed out that it includes the Recreation and Parks fund so that Council can follow that throughout the year. She added the Income Tax collection is listed on the last page, which breaks that out as a separate fund as well.

CITY MANAGER UPDATES

Ms. Crandall stated she sent an email to Council on the City's AAA Bond Rating, which was secured through S&P. She thanked Mr. Delande for all his work and noted that this is the City's fourth year achieving this rating. Ms. Crandall noted that AAA is the highest credit rating that can be received and there are only 15 municipalities in the State that retained this rating in 2021. She added this rating speaks to the City's credit worthiness and financial stability. Ms. Crandall reported the S&P posted the City's rating today and the City has a couple days to market this to investors. She announced the pricing call is on Thursday, April 28, 2022, which is when the rates will be locked in.

Ms. Vermillion, seconded by Ms. Hale, moved to adjourn the meeting by Voice Vote.

MOVER:	Cynthia Vermillion
SECONDER:	Peggy Hale
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

ITEMS FOR COUNCIL DISCUSSION - None

ADJOURNMENT – 7:40 PM

Andy Teater, President
City Council

Diane Werbrich, MMC
Clerk of Council

Approved: _____

Council Memo: Legislation (22-R-38)

Subject: Approving Appointment to the ESC
From: Michelle Crandall, City Manager
Initiated by: Diane Werbrich, Clerk of Council
Date: May 9, 2022

Executive Summary

This resolution appoints one member to the City's Environmental Sustainability Commission ("ESC").

Staff Recommendation

Staff recommends Council approval of this legislation.

Background

The ESC was developed to advise City Council and the administration on sustainability goals. By the passage of Ordinance No. 22-14 on April 11, 2022, City Council approved an amendment to the membership numbers for the ESC, increasing from 9 members to 10 members, thereby creating an opening in its membership. Because Ordinance No. 22-14 is effective on May 11, 2022, the new two-year term will begin on that date.

Financial Impacts

By the passage of Resolution No. 17-R-07, ESC members are compensated in an amount equal to 20% of the City Council's pre-health insurance election compensation.

Expected Benefits

Increasing the number of volunteer members on the ESC will ensure even more diverse viewpoints and ideas in order to further assist the City with enhancing its sustainable practices.

Attachments

N/A



Resolution: 22-R-38

Adopted:

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Effective:

APPROVING AN APPOINTMENT TO THE ENVIRONMENTAL SUSTAINABILITY COMMISSION.

WHEREAS, the Council of the City of Hilliard created the Environmental Sustainability Commission ("ESC") by Ordinance No. 11-01 on February 28, 2011; and

WHEREAS, ESC members are appointed to rotating terms of two years; and

WHEREAS, by the passage of Ordinance No. 22-14, City Council approved a change in the membership numbers of the ESC from 9 members to 10 members; and

WHEREAS, City Council desires to appoint Christopher Ward to the open position on the ESC.

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

SECTION 1. City Council hereby appoints Christopher Ward to the Environmental Sustainability Commission for the term provided:

Name	Term
Christopher Ward	May 11, 2022 – May 10, 2024

SECTION 2. This Resolution is effective upon its adoption.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-38						
<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Held Over <input type="checkbox"/> Withdrawn <input type="checkbox"/> Positive Recommendation <input type="checkbox"/> No Recommendation <input type="checkbox"/> Referred Back To Committee			Yes/Aye	No/Nay	Abstain	Absent
	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-38** passed by the Hilliard City Council on the 9th day of May 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 9th day of May 2022.

Diane C. Werbrich, MMC

Council Memo: Legislation (22-16)

Subject: Appropriation of Funds for Merchant Park Labyrinth Project
From: Michelle Crandall, City Manager
Initiated by: Ed Merritt, Director of Recreation & Parks
Date: May 9, 2022

Executive Summary

This legislation would appropriate an additional \$20,000 to Recreation and Parks CIP fund (RP-2) for the 2022 capital improvement budget to help fund Merchant Park, Hilliard Rotary Club labyrinth project (the "Project"). The Hilliard Rotary Club has agreed to reimburse the City as we partner to bring this new amenity to our park system.

Staff Recommendation

Staff recommends that Council approve the appropriation request to ensure that this Project remains on schedule.

Background

The Recreation and Parks Department and the Hilliard Rotary Club have partnered in order to construct the Project at Merchant Park. The City and the Hilliard Rotary Club wanted to focus on an amenity that would help with the mental health issues we are dealing with on a more regular basis. This Project will provide a place of peace and tranquility, where residents can come to center themselves and use for meditation. It is said by walking the path to the center of the labyrinth an immense weight is removed from the participants shoulders.

The Project, as shown in the attachment, will consist of a 54' in diameter labyrinth that will be situated just North of the existing train stop/gazebo, and include additional benches, paths, and plantings. The City plans to bid this project using Bid Express during the month of May with installation taking place in July 2022.

Because of this partnership, the Hilliard Rotary Club agrees to reimburse the City an \$20,000 to help fund the Project (reimbursable in two payments, one in 2022, the other in 2023).

Financial Impacts

By appropriating an additional \$20,000, the full cost of the Project will be available for the City to bid and complete the Project this year. The Hilliard Rotary Club has agreed to donate \$20,000 to the City for this Project, reimbursable over two years.

Expected Benefits

This partnership will be utilized to improve amenities in Merchant Park by constructing a 54' labyrinth, additional paths, benches, and plantings, see exhibit A.

Attachments

- Attachment One – Merchant Park Project



0' 10' 20' 30'

Page 19

SCALE: 1"=10'-0"



Ordinance: 22-16

Passed:

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Effective:

APPROPRIATING FUNDS FOR IMPROVEMENTS TO MERCHANT PARK, THE LABYRINTH PROJECT.

WHEREAS, the City owns the land located at 5467 Center Street, on which Merchant Park is located; and

WHEREAS, the City and the Hilliard Rotary Club desires to improve amenities at the Merchant Park (collectively, the "Park Project") to better serve the community; and

WHEREAS, the Hilliard Rotary Club has pledged \$20,000 to partner with the City for use in Merchant Park; and

WHEREAS, on December 13, 2022, City Council approved Ordinance No. 21-41 (the "2022 Capital Budget"), which approved \$40,000 for the Park Project; and

WHEREAS, the City desire to appropriate an additional \$20,000 for the Park Project in order to complete this year.

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

SECTION 1. An appropriation in the amount of \$20,000 is authorized from Fund 304, Object 55/53 for RP-2 for the purpose of designing and constructing the amenities in Merchant Park.

SECTION 2. This Ordinance shall be in effect from and after the earliest time provided for by law.

ATTEST:**SIGNED:**

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Ordinance 22-16

<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Passed <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Held Over <input type="checkbox"/> Referred <input type="checkbox"/> Withdrawn <input type="checkbox"/> First Reading <input type="checkbox"/> Positive Recommendation <input type="checkbox"/> No Recommendation			Yes/Aye	No/Nay	Abstain	Absent
	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Council Memo: Legislation (22-17)

Subject: Amendments to Chapter 755 Massage and Bath Establishments
From: Michelle Crandall, City Manager
Initiated by: Dawn Steele, Staff Attorney/Prosecutor
Date: May 9, 2022

Executive Summary

Mobile massage is a new development in the area and Staff wants to ensure that those offering these services are properly regulated for the original goals of Ordinance No. 19-19 and to ensure that no loopholes to exist that could create new public health, safety and welfare concerns. Staff has determined it is the initial registration process that is effectively screening out the types of illegitimate businesses Hilliard does not want and is proposing minor changes that will keep the effectiveness of the initial registration process, but further minimize the burden on the legitimate licensed massage therapists in our community.

Staff Recommendation

Staff is recommending Council approve and adopt the proposed changes to Hilliard City Code 755 to address the new existence of mobile massage services in the area and continue the effectiveness of the original legislation, but remove some of the requirements placed upon licensed massage therapists once they have completed the initial registration process.

Background

Council adopted Ordinance No. 19-19 to promote the health, safety and welfare of the community by only allowing State of Ohio licensed massage therapists to perform massage services and operate massage establishments in the City. This was done in conjunction with a coordinated operation to remove unlicensed massage therapy businesses from the City that were performing illegal activity and exhibited potential signs of human trafficking.

After being in effect for two-years, Staff reviewed the Ordinance's effectiveness in achieving the goals of only allowing reputable massage therapists to operate in Hilliard, promoting legitimacy of the profession by only allowing licensed professionals, and eliminating the ability of unlawful activity to occur in the City under the guise of a massage establishment. The City also became aware of a mobile massage service wanting to operate in the Hilliard area and this was a new form of massage service that communities had not seen or contemplated.

Code Enforcement Officers successfully prevented three suspicious massage establishments from opening because of the new Massage Establishment Registration process. Of the licensed massage establishments that completed the registration process, there were no violations found. Staff consulted with local licensed massage therapists for feedback on the new process. The consensus was the less extra paperwork and steps they had to do the better. Staff proposes that, unless there are major changes to the business as defined in the proposed legislation, there is no need to monitor the properly licensed massage therapists beyond the initial registration process.

Financial Impacts

There are no anticipated financial impacts.

Expected Benefits

The proposed changes will ensure no loopholes exist and provide equity, transparency, and clarity to all licensed massage therapists in the City. The legislation will reduce the burden on the valued licensed massage therapists operating legitimate businesses in our community.

Attachments

- Exhibit A – Amendments to Chapter 755

Code Section	Change	Reason for Change
755.01 Definitions	Adding definition of mobile massage and distinguishing between fixed locations and mobile massage services Replacing Buildings Department with Community Development Department	Addresses licensed massage therapists offering services at multiple locations or within a non-massage establishment Aligning the definition with organizational changes within the department
755.02 License and Registration Required	Adds licensing and registering requirements for persons offering Mobile Massage Services	Addresses licensed massage therapists offering services at multiple locations or within a non-massage establishment
755.03 Exemptions	Changing language that persons licensed by the State Medical Board pursuant to R.C. 4731.15 are required to register with the City	Clarifies the exemption of persons licensed through the State Medical Board
755.04 Application for Massage or Bath Establishment; Fee.	Adding language referring to Chapter 190. Providing application requirements for Mobile Massage Services	Staying consistent with other code sections that specify the location of the fee Addresses licensed massage therapists offering services at multiple locations or within a non-massage establishment.
755.05 Issuance of Registration Certificate for Massage or Bath Establishment	Amending language to permit issuance of certificate via the City's electronic permitting software and fixing an incorrect reference.	Allows City staff to utilize its permitting software to complete all tasks related to registration
755.06 Registration Expiration, Renewal, and Duty to Update	Amending registration to be valid from date of issuance unless the licensed person moves locations or it is revoked	Simplifies registration process and further minimizes ongoing requirements for licensed massage therapists in the City
755.07 Revocation or Suspension of Establishment Registration	Amending to add specific reasons that a license may be revoked for persons offering mobile massage services	Ensuring that those persons offering mobile massage services are subject to the same reasons that a license may be revoked or suspended
755.08 Requirements for Massage and Bath Establishments AND Mobile Massage Services	Amending to specifically include requirements for those offering mobile massage services	Addresses licensed massage therapists offering services at multiple locations or within a non-massage establishment
755.09 Prohibitions	Amending to address specifically state prohibited massage therapist actions	Provides clarity to who and what actions violate the statute
755.10 Authority to Conduct Inspections	Amending to permit City staff to inspect persons who provide mobile massage services	Addresses licensed massage therapists offering services at multiple locations or within a non-massage establishment
755.99 Penalty	Amending to include a penalty for those persons offering mobile massage services	Addresses licensed massage therapists offering services at multiple locations or within a non-massage establishment



Ordinance: 22-17

Passed:

Page 1 of

Effective:

**AMENDING CHAPTER 755 OF THE HILLIARD CODIFIED ORDINANCES
REGULATING MASSAGE AND BATH ESTABLISHMENTS.**

WHEREAS, Chapter 755 of the Hilliard Codified Ordinances regulates massage establishments, bath establishments, and those persons offering massage services; and

WHEREAS, after a review, the City desires to modify certain code provisions in Chapter 755 to address the new existence of mobile massage services; and

WHEREAS, the changes outlined in Exhibit "A", attached hereto and incorporated herein, will ease the enforcement of Chapter 755; and

WHEREAS, the City believes that amending the City's Codified Ordinances, as identified in Exhibit "A", attached hereto and incorporated herein, promotes the general health, safety, and welfare of the City and its residents.

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

SECTION 1. Council finds that amending Chapter 755, as identified in Exhibit "A", **attached** hereto and incorporated herein, is in the City's best interest. The changes and additions to Chapter 755, as shown in track changes in the attached Exhibit "A" are approved and shall be incorporated in the City's Codified Ordinances.

SECTION 2. All other provisions of Chapter 755, not modified herein, remain unchanged and are in full force and effect.

SECTION 3. This Ordinance shall be in effect from and after the earliest time provided for by law.

ATTEST:**SIGNED:**

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Ordinance 22-17						
<input type="checkbox"/> Adopted			Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopted as Amended						
<input type="checkbox"/> Passed	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Held Over	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Referred	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> First Reading	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Positive Recommendation						
<input type="checkbox"/> No Recommendation						

CHAPTER 755 MASSAGE AND BATH ESTABLISHMENTS

755.01 DEFINITIONS.

For purposes of enforcing this chapter, the following words are defined and shall have the meaning ascribed to them as hereafter set forth:

- (a) *"Bath Establishment"* means a fixed location where a person offers a type of contact ~~that any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any activity involving any type of physical contact between a patron and an employee or operator, as defined in this section, when that contact is~~ related to providing any form of sauna, shower, steam bath, electric light bath, shower bath, tub bath, hot tub bath, sponge bath, sun bath, mineral bath, Finnish, Swedish or Turkish bath, giving salt glows, or administration of fomentation.
- (b) *"Client"* means a person who receives a Massage Service for a fee or any consideration whatsoever.
- (c) *"City Manager's Designee"* shall mean the City Employee assigned the responsibilities hereunder by the City Manager.
- (d) *"Employee"* means any person who is employed by, or renders any service at, a Massage or Bath Establishment for compensation. "Employee" includes a contract employee, freelance employee, temporary employee, or an independent contractor.
- (e) *"Licensed"* means a person who holds a current license issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15.
- (f) *"Massage"* means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, moving, touching or stimulating the soft tissues of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniment, antiseptics, oils, powders, creams, lotion, ointments or other similar preparations commonly used in this practice as defined in Ohio Revised Code Chapter 4731.15.
- (g) *"Massage Establishment"* means a fixed location in which a licensed massage therapist gives, performs, or administers to another Massage Services, as defined in this section, for any consideration whatsoever and as defined in Ohio Revised Code 503.40. This definition includes a standalone building or tenant space. ~~any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any of the activities of Massage Services, as defined in this section, for any consideration whatsoever and as defined in Ohio Revised Code 503.40.~~
- (h) *"Massage Services"* means any service that is included in the definition of "Massage" in this Chapter, "Massage Therapy" as defined in Ohio Revised Code Chapter 4731.04, and "Massage Treatment" as defined in Ohio Revised Code Chapter 4731.15.
- (i) *"Mobile Massage Services"* means services in which a licensed massage therapist gives, performs, or administers to another person Massage Services, as defined in this section, for compensation or consideration at a location other than a registered Massage or Bath Establishment.
- (j) *"Operator"* means the permit operator of a massage or bath establishment.
- (k) *"Person"* means any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (l) *"Registration"* means to provide information to the Buildings Community Development Department that indicates the location of the establishment, the names of the individuals employed there, and

evidence of current state licensure or student status of anyone providing massages or massage therapy at the establishment as provided in ORC 503.411.

- (~~l~~m) "*Registration Certificate*" means a certification of registration issued by the City of Hilliard to a Massage or Bath Establishment ~~or to a person providing Mobile Massage Services~~.
- (~~m~~n) "*Sexual Activity*" means the same as in Ohio Revised Code Section 2907.01.
- (~~n~~o) "*Sexual or genital area*" means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.
- (~~o~~p) "*Student*" means an enrolled student regularly and actively participating in an accredited educational program to achieve the training necessary to obtain a license issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15.
- (~~p~~q) "*Therapist*" means a person who is Licensed to provide a Massage Treatment.

755.02 LICENSE AND REGISTRATION REQUIRED.

- (a) No person, firm, association or corporation shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises in the City of Hilliard, the operation of a Massage or Bath Establishment as herein defined:
 - (1) Without a Registration Certificate for a Massage ~~and~~ or Bath Establishment;
 - (2) Where Massage or Massage Services are offered or performed by a person who is not Exempt or Licensed;
 - (3) Without a Zoning Certificate and Certificate of Occupancy for the Massage ~~and~~ or Bath Establishment.
- (~~b~~) No person, firm, association or corporation shall conduct or provide Mobile Massage Services, as herein defined, without a Registration Certificate for Mobile Massage Services.
- (~~b~~c) No person shall offer or perform Massage Services:
 - (1) Unless such person is either Exempt or Licensed;
 - (2) In a Massage or Bath Establishment that does not have a Registration Certificate or not registered to provide Mobile Massage Services.

755.03 EXEMPTIONS.

- (a) The provisions of this Chapter shall not apply to the following:
 - (1) Hospitals, nursing homes, and public health centers licensed by the State of Ohio;
 - (2) The offices of a licensed chiropractor or physical therapist while used to perform the licensed profession;
 - (3) Any establishment where all massage services are provided by persons exempted by this section.
- (b) The provisions of this Chapter shall not apply to a person who provides a Massage Service as a portion of and incidental to services in accordance with a license issued by any of the following:
 - (1) The Ohio State Cosmetology and Barber Board or its predecessors pursuant to Ohio Revised Code Chapter 4709 or 4713;
 - (2) The State of Ohio Board of Nursing pursuant to Ohio Revised Code Chapter 4723;
 - (3) The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board pursuant to Ohio Revised Code Chapter 4755;
 - (4) The Ohio State Chiropractic Board pursuant to Ohio Revised Code Chapter 4734;

- (5) The State Medical Board of Ohio pursuant to Ohio Revised Code Chapters 4730 or Chapter 4762;
 - (6) The State Medical Board of Ohio pursuant to Ohio Revised Code Chapters 4731. ~~Notwithstanding the previous statement, those persons licensed pursuant to Ohio Revised Code Section 4731.15 to practice "massage therapy" are not exempt and are required to obtain proper licensing and registration pursuant to this Chapter. except those licensed pursuant to Revised Code Section 4731.15 to practice "massage therapy."~~
 - (7) An enrolled student practicing massage therapy as part of a program of study at a school, college, or institution in good standing as determined by the board in accordance with Ohio Revised Code Chapter 4731.16(A) and is being directly supervised by a person Exempt from this Section.
- (c) An enrolled student regularly and actively participating in an accredited educational program to achieve the training necessary to obtain a license issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15 is permitted to give Massage Services in a Massage or Bath Establishment registered with the City of Hilliard if the Massage or Bath Establishment complies with the following:
- (1) The student's information must be submitted to the City of Hilliard Zoning Enforcement or his/her designee on the form provided.
 - (2) The Registered Massage Establishment must provide documentation that the student is enrolled and regularly and actively participating in the required education program.
 - (3) The student must work under the direction or supervision of a person Licensed pursuant to this Chapter.

755.04 APPLICATION FOR MASSAGE OR BATH ESTABLISHMENT REGISTRATION OR MOBILE MASSAGE; FEE.

- (a) Application for a registration to operate a Massage or Bath Establishment ~~or to provide Mobile Massage Services including a renewal registration~~ as required by Section 755.02(a) of this Chapter shall be made to the Zoning Enforcement Officer or his/her designee ~~on the form provided.~~
- (b) The applicant shall be required to pay a nonrefundable reasonable registration fee in an amount set by the City Manager and determined to be sufficient to pay the cost of administering this Chapter. An additional fee may be charged when a Registered Massage or Bath Establishment files a notification of new employee(s) as required by this Chapter. ~~The fee amount(s) shall be listed in Chapter 190 of the City's Codified Ordinances.~~
- (c) The registration application ~~for a Massage or Bath Establishment shall be a form designated by the City Manager and~~ shall include all of the following:
 - (1) Full legal name and current residential address of the applicant;
 - (2) The address of the proposed Massage or Bath Establishment;
 - (3) A list of services to be offered at the Massage Establishment;
 - (4) The full name of any person who will provide Massage Treatments at the Massage Establishment;
 - (5) ~~Sufficient information to identify the License~~ The current License number issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15 for each Therapist;
 - (6) The information required in this Chapter for each Student.
- (d) The registration application in order to provide Mobile Massage Services shall include all of the following:
 - (1) Full legal name and current residential address of the applicant;
 - (2) A list of services to be offered by the applicant;

- (3) The full name of any person who will provide Massage Services for the Mobile Massage;
- (4) The current License number issued by the State Medical Board of Ohio to practice "massage therapy" pursuant to and in accordance with Ohio Revised Code Chapter 4731.15 for the applicant and each person that will provide Massage Services for the Mobile Massage;
- (5) If applicable, the information required in this Chapter for Students.

755.05 ISSUANCE OF REGISTRATION CERTIFICATE FOR MASSAGE OR BATH ESTABLISHMENT OR MOBILE MESSAGE.

- (a) The Zoning Enforcement Officer or his/her designee, pursuant to the terms of this Chapter, shall issue a Registration Certificate to an applicant requesting to operate a Massage or Bath Establishment ~~or to provide Mobile Massage Services at a specified location~~, unless he/she finds:
 - (1) That the operation, as proposed by the applicant, if permitted, would not be in compliance with applicable laws, including, but not limited to, the building, health, planning, housing, zoning, and fire codes of the City of Hilliard, as well as the provisions of this Chapter;
 - (2) The registration application is incomplete or contains inaccurate or fraudulent information;
 - (3) The License of a Massage Therapist cannot be verified;
 - (4) Within two years before the date the application is submitted, the applicant or any Therapist listed on the registration application, was the applicant for a Registration Certificate that was revoked or denied. Nothing herein prohibits the Zoning Enforcement Officer or his/her designee from issuing a Registration Certificate for a previously denied application that has been substantially modified;
 - (5) ~~If applicable~~, both a Zoning Certificate and Certificate of Occupancy have not been issued for the Massage or Bath Establishment.
- (b) The Zoning Enforcement Officer or his/her designee shall ~~provide the applicant send, by First Class U.S. Mail addressed to the applicant~~, either a Registration Certificate or a written statement that the application was denied and the reason therefore. ~~The Registration Certificate or written statement of denial may be provided electronically.~~
- (c) Any person who has been denied a Registration Certificate may appeal such denial in accordance with Section ~~759.11~~ 755.11.

755.06 REGISTRATION EXPIRATION, ~~RENEWAL~~, AND DUTY TO UPDATE.

- (a) Each Registration Certificate shall be signed by the Zoning Enforcement Officer or his/her designee and shall contain the following information:
 - (1) The name of the applicant to whom the Registration Certificate is issued;
 - (2) The name ~~and address~~ of the Massage or Bath Establishment ~~or Mobile Massage~~;
 - (3) ~~If applicable, the address of the Massage or Bath Establishment~~;
 - (4) The full name of each Therapist identified in the Application;
 - ~~(4)5~~ The effective date of the Registration Certificate.
- (b) Each Registration Certificate ~~shall be valid from the date of issuance until such time as it expires in accordance with section (d) below or is revoked or suspended pursuant to Section 755.07. shall be valid for two (2) years from the date it is issued.~~
- (c) A person who operates a Massage or Bath Establishment ~~or provides Mobile Massage Services~~ shall notify the Zoning Enforcement Officer when a new Therapist or Student begins working at the Massage or Bath

Establishment **or providing Mobile Massage Services on the form provided**. The notice shall be received by the Zoning Enforcement Officer no more than fifteen (15) days after the first day the Therapist or Student provides a Massage Service in the Massage or Bath Establishment.

~~(d) No more than ninety (90) nor less than seven (7) days before the expiration of the Registration Certificate, the applicant shall submit a new registration application and pay the fee in accordance with 755.04.~~

(de) A Registration Certification shall not be transferable. If **address**, ownership or operation of the Massage or Bath Establishment **or Mobile Massage** transfers, the Registration Certificate shall automatically expire.

755.07 REVOCATION OR SUSPENSION OF ESTABLISHMENT REGISTRATION.

- (a) The Zoning Enforcement Officer or designee may revoke or suspend a massage or bath establishment **or mobile massage services** registration where he/she finds:
- (1) A section of this Chapter was violated upon the establishment premises **or at a location that mobile massage services were provided**;
 - (2) A violation of the Ohio Revised Codes or Hilliard City Codes was committed upon the establishment premises **or at the location where mobile massage services were provided**, and was reasonably related to the management or operation of the establishment **or reasonably related to the mobile massage services offered**;
 - (3) A material misrepresentation was made upon the application for an establishment **or mobile massage** registration;
 - (4) An operator, or employee or agent of the operator hindered, obstructed, or prevented any inspection of the establishment **or mobile massage** authorized by this Chapter;
 - (5) A person who is not a Therapist or Student and/or a person whose information has not been provided as required by Sections 755.05 and 755.06 provided a Massage Service at the establishment **or mobile massage**.
 - (6) The suspension or revocation of a massage or bath establishment **or mobile massage** registration shall be made pursuant to the provisions of this Chapter and the appeal of any such order shall be pursuant to Section 755.11 of this Chapter.

755.08 REQUIREMENTS FOR MASSAGE AND BATH ESTABLISHMENTS **AND MOBILE MASSAGE SERVICES**.

- (a) **Massage or Bath Establishment.** A City Zoning Code Enforcement Officer, or his/her designee, shall inspect the Applicant's facility prior to a registration to operate being issued by the Zoning Enforcement Officer to ensure compliance with the requirements below. No registration to operate a massage or bath establishment shall be issued, ~~renewed, or continued~~ unless an inspection discloses that the establishment complies with each of the following minimum requirements:
- (1) All applicable regulations issued by Franklin County Board of Public Health, applicable provisions of Ohio Revised Code Sections 4713.08, 4731.15, and 4734.10, and the Codified Ordinances of Hilliard.
 - (2) Massage Treatments provided in the Massage Establishment are provided only by Therapists or Students;
 - (3) Employees permit and cooperate in any inspections provided for in this Chapter;
 - (4) A readable sign shall be displayed at the main entrance identifying the establishment as a massage establishment, provided also that all such signs shall be in compliance with the City of Hilliard Graphics Code;

- (5) The Registration Certificate shall be displayed in a conspicuous location readily visible to a person entering the Establishment through a public entrance;
 - (6) Adequate equipment for disinfecting and sterilizing any instrument or apparatus used for massage or bath services is provided;
 - (7) Hot and cold running water is provided;
 - (8) Closed cabinets are utilized for the storage of clean linen;
 - (9) Adequate dressing and toilet facilities are provided for patrons' use;
 - (10) All walls, ceilings, floors, steam, or vapor rooms and all other physical facilities for the establishment are kept in good repair and maintained in a clean and sanitary condition;
 - (11) Clean and sanitary towels and linens are provided for patrons receiving massage or bath services;
 - (12) No common use of towels or linens shall be permitted.
- (b) **Mobile Massage Services.** No registration to provide Mobile Massage Services shall be issued unless an inspection discloses that the applicant providing mobile massage services meets the following minimum requirements:
- (1) All applicable regulations issued by Franklin County Board of Public Health, applicable provisions of Ohio Revised Code Sections 4713.08, 4731.15, and 4734.10, and the Codified Ordinances of Hilliard.
 - (2) Proof of license and registration certificate is readily available for inspection by a customer;
 - (3) All equipment and apparatus are maintained in a clean and sanitary condition;
 - (4) Clean and sanitary towels and linens are provided and are not shared among customers.

755.09 PROHIBITIONS.

- (a) No **Message Therapist** ~~owner or operator of a Massage or Bath Establishment~~ shall recklessly do any of the following:
- (1) Employ any person under the age of eighteen (18);
 - (2) Allow Massage Services to be provided by someone other than a Therapist or Student;
 - (3) ~~Failure to post or carry the~~ ~~Fail at the Massage or Bath Establishment the current~~ Registration Certificate issued by the City of Hilliard;
 - (4) Allow any Employee, Therapist, or Student to appear in any state of undress, to wear transparent clothing, or clothing that otherwise reveals a sexual or genital area;
 - (5) Allow any Employee, Therapist, or Student to provide a Massage Service to a Client who is in a State of Nudity, a State of Semi-nudity, or who reveals a sexual or genital area unless necessary for the Massage Service and is consistent with their License Code of Ethics.
- (b) No Therapist shall fail to display his or her state issued license in a conspicuous place where the massage is being administered and where it is visible to the patron.
- (c) No person shall recklessly do any of the following while administering a Massage Service ~~in a Massage Establishment~~:
- (1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the sexual or genital area of themselves or of any other person;
 - (2) Perform, offer, or agree to perform any act which would require the touching of the sexual or genital area of themselves or of any other person;

- (3) Touch, offer, or agree to touch the sexual or genital area of themselves or of any other person with any mechanical or electrical apparatus or appliance;
- (4) Wear unclean clothing, no clothing, transparent clothing, or clothing that otherwise reveals the sexual or genital areas;
- (5) No Therapist or Student shall perform Massage Services ~~at a Massage or Bath Establishment~~ that is not exempt and does not have a currently valid Certificate of Registration issued by the City of Hilliard.
- (d) No person shall place, publish, distribute, or cause to be placed, published, or distributed any advertising material using sexual or provocative words or images.
- (e) No person shall advertise Massage Services with the suggestion or promise of a sexual service or activity.
- (f) Nothing in this Section shall prohibit a Therapist or Student from providing Massage Services to a Client who is in a state of undress or who reveals a sexual or genital area provided that the Therapist or Student shall not engage in Sexual Misconduct as defined in Ohio Administrative Code 4731-26-01(H).

755.10 AUTHORITY TO CONDUCT INSPECTIONS.

- (a) Any person having jurisdiction to enforce the provisions of this Chapter shall be granted entry to a Massage or Bath Establishment without notice at any time the establishment is open for business for the purpose of conducting an inspection and to ensure compliance with this Chapter.
- (b) In accordance with constitutional provisions governing searches, any Code Enforcement Officer shall have the authority to enter all Massage and Bath Establishments within the City of Hilliard during all hours of operation to conduct an inspection, to investigate, or to perform the duties imposed upon the Code Enforcement Officer by this Chapter. The Code Enforcement Officer shall present credentials and request entry. If entry is refused, the Code Enforcement Officer may obtain a search warrant in accordance with Ohio Revised Code Section 2933.21.
- (c) No person shall deny access to or in any way impede any Zoning Enforcement Officer or Law Enforcement Officer authorized to enforce this Chapter while conducting an inspection of a registered massage or bath establishment, or any portion thereof, or fail to cooperate with the inspecting official(s).
- (d) No person shall in any way impede any Zoning Enforcement officer or Law Enforcement Officer authorized to enforce this Chapter while conducting an inspection of a vehicle offering Mobile Massage Services.
- (e) No person impede any Zoning Enforcement officer or Law Enforcement Officer authorized to enforce this Chapter while conducting an inspection of equipment or apparatus utilized by a Therapist providing Mobile Massage Services.
- (~~e~~f) No Therapist shall fail to provide their current state issued license upon request by any officer authorized to enforce this Chapter.
- (~~e~~g) No Student shall fail to provide a current form of State issued identification upon request by any officer authorized to enforce this Chapter.
- (~~f~~h) No Massage or Bath Establishment Operator shall fail to provide a current City of Hilliard Registration Certificate upon request by any officer authorized to enforce this Chapter.

755.11 ADMINISTRATIVE APPEAL.

- (a) Any establishment who has been denied a Registration Certificate or has had a Registration Certificate revoked may appeal that decision within five (5) days of the denial or revocation thereof by filing a written statement with the City Manager. The written statement shall include the applicant's full name and contact information (including mailing address, phone number, and e-mail address), shall state the basis for the appeal, and shall include a summary of all relevant facts and circumstances.

- (b) The City Manager shall review the written statement, shall set a time and place for an administrative hearing, shall provide reasonable notice prior to such hearing, and shall establish the reasonable procedures, therefore. The hearing shall be held within ten (10) days of submitting the written appeal. The City Manager shall issue a decision on whether to grant or deny the Registration Certificate and that decision shall be final.

755.12 SEVERABILITY.

In the event any subsection of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

755.99 PENALTY.

- (a) Whoever violates any provision of Sections 755.02 and 755.06 shall be guilty of a minor misdemeanor.
- (b) Except as otherwise provided in Subsection (a), whoever violates any provision of this Chapter is guilty of a misdemeanor of the first degree.
- (c) In addition to any penalty set forth in Subsection (a) and (b) above, the City Manager's Designee may revoke ~~a Massage or Bath Establishment or Mobile Massage Services Certificate of Registration~~ ~~Registration Certificate of a Massage or Bath Establishment~~ for a violation of any provision of this Chapter.

Council Memo: Legislation (22-R-39)

Subject: L&A Auto Group - 4896 Scioto Darby Road
From: Michelle Crandall, City Manager
Initiated by: John Talentino, City Planner
Date: May 9, 2022

Executive Summary

The proposal is for the approval of a Conditional Use request for 4896 Scioto Darby Road to allow "Vehicle Sales" and "Major Vehicle Repair."

Staff Recommendation

Staff recommends that Council adopt this resolution based on the finding that the proposed conditional use and required site improvements will bring the property further into compliance with the Zoning Code.

Background

Earlier this year, City Council adopted Ordinance No. 22-01, which amended Chapters 1107 and 1123 of the Codified Ordinances regarding the approval process for conditional uses. That ordinance, which took effect on February 24, 2022, amended the zoning process so that the Planning and Zoning Commission makes a recommendation to City Council for a final decision on all conditional use applications.

On April 14, 2022, the Planning and Zoning Commission (the "Commission") considered a conditional request to allow vehicle sales and major vehicle repair at the 0.93-acre property located at 4896 Scioto Darby Road, just north of the intersection with Scioto Farms Drive at the Scioto Farms Subdivision. Public input was provided. The Commission voted to approve the request (5-2) with conditions of approval that focused on limiting hours of operation to lessen noise and visual impacts on the adjacent neighborhood.

Additionally, as part of its review, the Planning and Zoning Commission approved the Level "B" Site Plan for the property. On April 21, 2022, the Board of Zoning Appeals approved variances required to validate proposed site plan. As part of that review the BZA added two additional conditions to require additional privacy fencing and increasing planting size for landscape buffering.

The business has been operating since August 2021 without a zoning certificate and staff is working with the property owner to bring the site into compliance. All required permits must be obtained, site improvements must be constructed, and a zoning certificate and certificate of occupancy must be acquired. Section 2 of the resolution requires the business to obtain all necessary approvals to operate or the conditional uses are invalidated.

The positive recommendation of the Planning and Zoning Commission is being forwarded to City Council for final consideration.

Financial Impacts

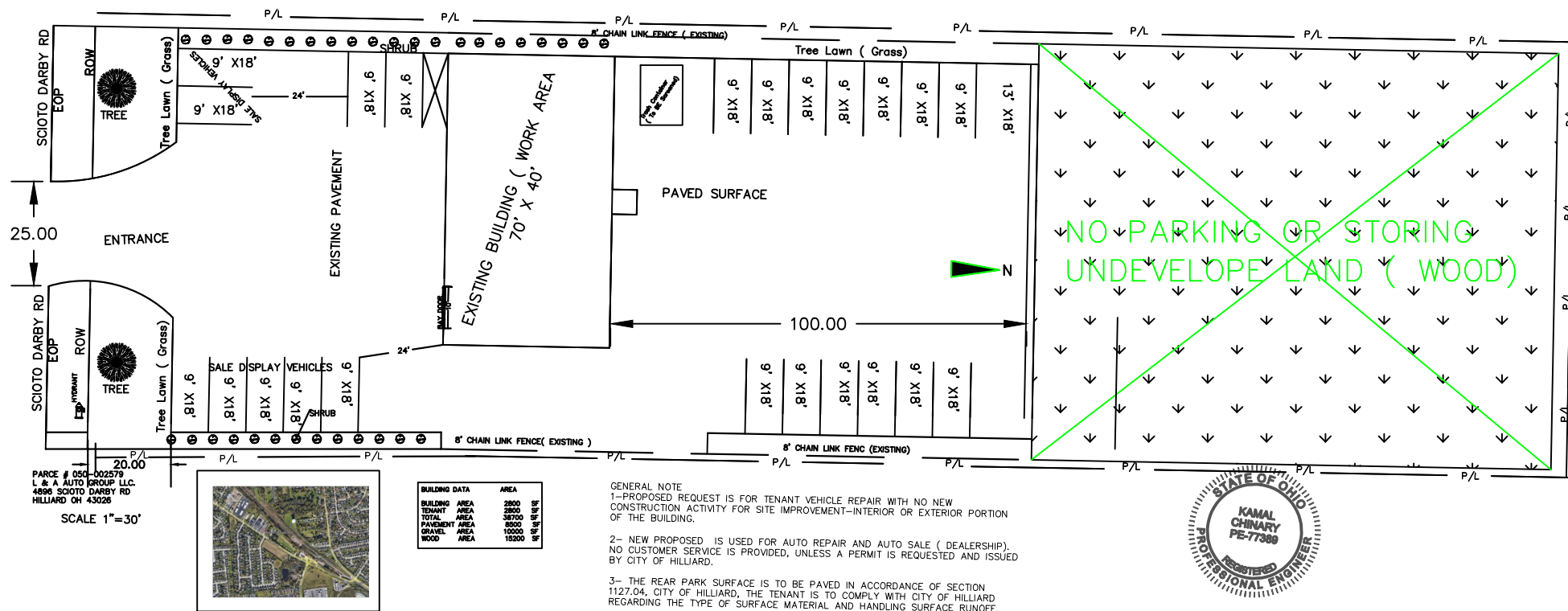
There are no anticipated financial impacts.

Expected Benefits

Approval of the Conditional Use for "Vehicle Sales" and "Major Vehicle Repair" will enable the applicant to move toward compliance in a manner that is compatible with the surrounding area.

Attachments

- Site Plan – 4896 Scioto Darby Road
- P&Z Staff Report – Case #PZ-22-6 – April 14, 2022
- P&Z Record of Action – Case #PZ-22-6 – April 14, 2022
- P&Z Minutes (Draft) – Case #PZ-22-6 – April 14, 2022
- Public Input/Comment received prior to April 14, 2022
- BZA Board Order – Case #BZA-22-4 – April 21, 2022
- BZA Minutes (Draft) – Case #BZA-22-4 – April 21, 2022





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**STAFF REPORT
PLANNING AND ZONING COMMISSION
APRIL 14, 2022**

CASE 1: PZ-22-6 – L & A Auto Group - 4896 Scioto Darby Road

PARCEL NUMBER: 050-002579

APPLICANT: Rashid Salah, 4128 Hoffman Farms Drive, Hilliard, OH 43026; c/o Kamal Chinari, 2719 West Case Road, Columbus, OH 43235.

REQUEST: Review & approval of a Level "B" Site Plan under the provisions of Hilliard Code Chapter 1131 and a conditional use under the provisions of Hilliard Code Section 1123.03, 1123.04, 1123.16(b), and 1123.16(c) to permit vehicles sales and major vehicle repair on 0.93 acre.

BACKGROUND:

The site is 0.93 acre located on the north side of Scioto Darby Road opposite Scioto Farms Drive. It consists of a 2,800-square-foot building used for automotive repair. On April 14, 2016, the Commission approved a variance for additional wall signage. On March 12, 2020, the Commission approved a conditional use to permit a tire and brake shop and repair facility. The applicant is now requesting approval of a conditional use to permit major vehicle repair and vehicle sales.

COMMISSION ROLE:

The Commission is to review the proposed conditional use for conformance to the provisions of Hilliard Code Chapter 1123. Conditional uses differ from permitted uses in that they may have a greater impact on the surrounding area and thus require special review and approval. The Commission is to ensure that the proposal will be compatible in this location. In considering the application, the Commission may impose such requirements and conditions as the Commission may deem necessary for the protection of adjacent properties and the public interest. In addition to all other requirements and conditions that the Commission may deem necessary, the Commission may, as it further deems necessary, deny any application for a conditional use.

STAFF RECOMMENDATION:

Staff finds that the proposed Level "B" Site Plan, as amended per the conditions listed below, will be consistent with the purpose and intent of the Zoning Code. Based on this finding, staff recommends approval with the following 5 conditions:

- 1) That a variance from the Board of Zoning Appeals is obtained concerning vehicular use area interior and perimeter landscaping requirements;
- 2) That the landscape plan be revised to show 30 shrubs per 100 linear feet along the perimeter of the vehicular use areas, subject to staff approval;
- 3) That the plans are revised to demonstrate conformance to the provisions of the Hilliard Storm Water Design Manual, subject to the approval of the City Engineer;
- 4) That any signage shall meet the provisions of Hilliard Code Chapter 1129; and

- 5) That the vehicular use area improvements shown on the approved plan are completed prior to the issuance of a zoning certificate.

Staff finds that the proposed conditional use, as amended per the conditions below, will be consistent with the intent and purposes of the Zoning Code, will be compatible with the character of the general vicinity, and will not impede the normal and orderly development and improvement of the surrounding property. Staff finds that the location and scale of the use, the nature and intensity of the proposed operations, the site and layout as amended per the conditions listed below, and its relation to surrounding streets will not cause undue traffic congestion or hazards adjacent to the site or in the immediate vicinity. Based on these findings, consistent with the provisions of Code Chapter 1123, staff recommends approval of the proposed conditional use with the following 4 conditions:

- 1) That the proposed use conforms to the provisions of Hilliard Code Section 1123.16(b) and 1123.16(c);
- 2) That hours of operation are from 8:00 a.m. to 8:00 p.m. daily;
- 3) That the outdoor storage of vehicle parts on the site is prohibited unless otherwise specifically approved by the Planning and Zoning Commission; and
- 4) That any expansion of the approved conditional use requires prior approval by the Planning and Zoning Commission.

CONSIDERATIONS:

- The site is 0.93 acre located on the northeast side of Scioto Darby Road approximately 1,400 feet northwest of Walcutt Road. It was most recently used for vehicle repair. The site and adjacent properties to the northwest and southeast are zoned B-2, Community Business District. To the southwest, across Scioto Darby Road, are single-family residences zoned R-3, Moderate Density Residential District. To the northwest is a vehicle repair business. To the southeast is a single-family residence. To the northeast is retired railroad corridor property.
- Code Section 1123.03 lists the following general standards for conditional uses:
 - a) The proposed use will be consistent with the intent and purposes of the zoning code and the City of Hilliard Comprehensive Plan.
 - b) The proposed use will comply with all applicable requirements of the zoning code, except as specifically altered in the approved conditional use.
 - c) The proposed use will be compatible with the character of the general vicinity.
 - d) The proposed use and site layout will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Due consideration will be given to the location and height of proposed buildings and structures, location and type of proposed fences or walls, location and screening of parking areas, and the location and type of proposed landscaping.
 - e) The area and proposed use will be adequately served by essential public facilities and services, as applicable, such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewer. The applicant or landowner will be required to install public utilities, streets or other public infrastructure as required by the city, state or other agencies to applicable specifications that are necessitated by the conditional use development. Dedication of said public infrastructure may be required.

- f) The proposed use will not involve uses, activities, processes, materials, equipment or conditions of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the zoning district.
- g) The location and scale of the use, the nature and intensity of the proposed operations, the site layout and the relation of the proposed use to surrounding streets will not cause undue traffic congestion or hazards adjacent to the site or in the immediate vicinity beyond that which would be normally expected based on the existing pattern of uses and the planned character reflected in the city's Comprehensive Plan. Peak hour volumes, turning movements, existing street capacity, driveway spacing, sight distances and pedestrian traffic shall all be considered.
- Code Section 1123.04 states that reasonable conditions may be imposed on the approval of a conditional land use in order to achieve the following:
 - a) Ensure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads necessitated by the proposed use.
 - b) Ensure that the use is compatible with adjacent conforming land uses and activities.
 - c) Protect natural resources; the health, safety, and welfare; and the social and economic well-being of those who will use the land or activity under consideration, the residents, business owners and landowners immediately adjacent to the proposed use or activity, and the community as a whole.
 - d) Relate to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - e) Meet the purpose of the zoning code, be in compliance with the standards established in the code for the land use or activity under consideration, and be in compliance with the zoning district standards.
- Code Section 1123.16(b) lists the following use requirements for the "Sale of New and Used Automobiles" uses:
 - 1) The minimum lot size shall be one acre with a minimum lot width of 200 feet.
 - 2) Signs shall conform to the requirements of Chapter 1129. Flags, pennants, balloons, ribbons, or other attention getting devices are not permitted.
 - 3) Temporary or portable structures are not permitted.
 - 4) Outdoor displays shall conform to the following:
 - A. Vehicles, for sale or lease, shall be parked only on improved surfaces, as defined in this code.
 - B. Vehicle display areas shall meet the setback requirements for parking areas, as required for the respective zoning district.
 - C. Vehicle display or storage shall not be permitted in areas required for visitor, employee or service parking, as required by Chapter 1127 (off-street parking and loading).
 - D. All other merchandise available for sale, including, but not limited to, clothing, accessories, collectibles, etc., shall be sold and displayed within an enclosed building.
 - 5) All service work, including car washing, repair and general maintenance, shall be entirely conducted within an enclosed building.
 - 6) Audible paging systems or outdoor speakers are not permitted.

- 7) The use of spotlights or similar equipment is prohibited.
- Code Section 1123.16(c) lists the following use requirements for “Vehicle Repair, Major” uses:
 - 1) All main and accessory structures shall be set back a minimum of 75 feet from any Residential District or residential use.
 - 2) There shall be a minimum lot frontage of 100 feet on an arterial or collector street; and all access to the property shall be from that street.
 - 3) The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.
 - 4) A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
 - 5) Overhead doors shall not face a public street or Residential District or residential use. The Planning and Zoning Commission may modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be diminished through use of building materials, architectural features and landscaping.
 - 6) Where applicable, vehicle queuing space for at least one vehicle shall be provided in front of each service bay.
 - 7) All maintenance and repair work shall be conducted completely within an enclosed building.
 - 8) There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
 - 9) Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted up to 30 days in a designated area. Such area shall be appropriately screened from public view in accordance with the screening requirements of Section 1125.06.
 - 10) If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the Norwich Township Fire Department and City Engineer.

Proposed Use

- The site currently has approximately 58 feet of asphalt at the Scioto Darby Road right-of-way line as a driveway entrance. The proposed plan shows that 20 feet of existing asphalt will be removed along the Scioto Darby Road frontage resulting in a 25-foot-wide driveway entrance and a minimum 20-foot pavement setback from the right-of-way line. The proposed plan shows an approximately 10,000-square-foot parking lot expansion on the southeast and northeast sides of the building.
- The building has one vehicle bay. Hilliard Code Section 1127.03 states that the required parking for a vehicle repair facility is 2 parking spaces per vehicle bay and 1 per employee. The number of employees has not been specified. The proposed plan shows 7 vehicle display parking spaces and two customer parking spaces in front of the building, and 14 parking spaces behind the building. Staff recommends that the hours of operation

for this building be limited to between 8:00 a.m. and 8:00 p.m. The outdoor storage of vehicle parts is prohibited.

- Storm water management must conform to the provision of the Hilliard Storm Water Design Manual.
- The current site does not meet the landscaping requirements for perimeter landscaping for vehicular use area. The proposed plan shows two trees along the site's Scioto Darby Road frontage and shrubs along the sides of the front parking area. **[Staff recommends that the landscape plan be revised to show 30 shrubs per 100 linear feet along the perimeter of the vehicular use areas, consistent with the provisions of Hilliard Code Section 1125.05.]**
- Signage is not proposed with this application. All signage must conform to the provisions of the Sign Code.

**PLANNING & ZONING COMMISSION
RECORD OF ACTION**

Thursday, April 14, 2022

The Planning and Zoning Commission took the following action at this meeting:

CASE 1: PZ-22-6 – L & A Auto Group - 4896 Scioto Darby Road

PARCEL NUMBER: 050-002579

APPLICANT: Rashid Salah, 4128 Hoffman Farms Drive, Hilliard, OH 43026; c/o Kamal Chinary, 2719 West Case Road, Columbus, OH 43235.

REQUEST: Review & approval of a Level “B” Site Plan under the provisions of Hilliard Code Chapter 1131 and a conditional use under the provisions of Hilliard Code Section 1123.03, 1123.04, 1123.16(b), and 1123.16(c) to permit vehicles sales and major vehicle repair on 0.93 acre.

MOTION 1: Mr. Uttley made a motion to approve the Level “B” Site Plan under the provisions of Hilliard Code Chapter 1131 for vehicle sales and major vehicle repair on 0.93-acre with the following conditions:

- 1) That a variance from the Board of Zoning Appeals is obtained concerning vehicular use area interior and perimeter landscaping requirements;
- 2) That the landscape plan be revised to show 30 shrubs per 100 linear feet along the perimeter of the vehicular use areas, subject to staff approval;
- 3) That the plans are revised to demonstrate conformance to the provisions of the Hilliard Storm Water Design Manual, subject to the approval of the City Engineer;
- 4) That any signage shall meet the provisions of Hilliard Code Chapter 1129;
- 5) That the vehicular use area improvements shown on the approved plan are completed prior to the issuance of a zoning certificate; and
- 6) Requiring mounding of the 20-foot greenspace at the front of the lot to include mounding of up to three feet in height as determined by staff, including the two trees shown on the plans and shrubs as required by Code.

Ms. Nixon seconded the motion.

VOTE:

Chairman Muether	Yes
Vice Chair Schneck	Yes
Mr. Gutknecht	Yes
Mr. Lewie	No
Ms. Nixon	Yes
Mr. Pannett	Yes
Mr. Uttley	Yes

STATUS: The site plan was approved by the Commission (6-1).

MOTION 2: Mr. Uttley made a motion to approve the request for a conditional use under the provisions of Hilliard Code Section 1123.03, 1123.04, 1123.16(b) and 1123.16(c) to permit vehicle sales and major vehicle repair on 0.93-acre with the following four conditions:

- 1) That the proposed use conforms to the provisions of Hilliard Code Section 1123.16(b) and 1123.16(c);
- 2) That hours of operation are from 8:00 a.m. to 7:00 p.m. daily;
- 3) That the outdoor storage of vehicle parts on the site is prohibited unless otherwise specifically approved by the Planning and Zoning Commission; and
- 4) That any expansion of the approved conditional use requires prior approval by the Planning and Zoning Commission.

Mr. Gutknecht seconded the motion.

VOTE:

Chairman Muether	Yes
Vice Chair Schneck	Yes
Mr. Gutknecht	Yes
Mr. Lewie	No
Ms. Nixon	Yes
Mr. Pannett	No
Mr. Uttley	Yes

STATUS: The conditional use request was approved by the Commission (5-2). A positive recommendation will be forwarded to City Council for final disposition.

CERTIFICATION:



Carson Combs, Planning Manager/Acting Clerk
April 15, 2022

New Cases:**CASE 1: PZ-22-6 – L & A Auto Group - 4896 Scioto Darby Road****PARCEL NUMBER:** 050-002579**APPLICANT:** Rashid Salah, 4128 Hoffman Farms Drive, Hilliard, OH 43026; c/o Kamal Chinary, 2719 West Case Road, Columbus, OH 43235.**REQUEST:** Review & approval of a Level “B” Site Plan under the provisions of Hilliard Code Chapter 1131 and a conditional use under the provisions of Hilliard Code Section 1123.03, 1123.04, 1123.16(b), and 1123.16(c) to permit vehicles sales and major vehicle repair on 0.93 acre.

Mr. Talentino gave the staff report.

BACKGROUND:

The site is 0.93 acre located on the north side of Scioto Darby Road opposite Scioto Farms Drive. It consists of a 2,800-square-foot building used for automotive repair. On April 14, 2016, the Commission approved a variance for additional wall signage. On March 12, 2020, the Commission approved a conditional use to permit a tire and brake shop and repair facility. The applicant is now requesting approval of a conditional use to permit major vehicle repair and vehicle sales.

COMMISSION ROLE:

The Commission is to review the proposed conditional use for conformance to the provisions of Hilliard Code Chapter 1123. Conditional uses differ from permitted uses in that they may have a greater impact on the surrounding area and thus require special review and approval. The Commission is to ensure that the proposal will be compatible in this location. In considering the application, the Commission may impose such requirements and conditions as the Commission may deem necessary for the protection of adjacent properties and the public interest. In addition to all other requirements and conditions that the Commission may deem necessary, the Commission may, as it further deems necessary, deny any application for a conditional use.

STAFF RECOMMENDATION:

Staff finds that the proposed Level “B” Site Plan, as amended per the conditions listed below, will be consistent with the purpose and intent of the Zoning Code. Based on this finding, staff recommends approval with the following 5 conditions:

- 1) That a variance from the Board of Zoning Appeals is obtained concerning vehicular use area interior and perimeter landscaping requirements;
- 2) That the landscape plan be revised to show 30 shrubs per 100 linear feet along the perimeter of the vehicular use areas, subject to staff approval;
- 3) That the plans are revised to demonstrate conformance to the provisions of the Hilliard Storm Water Design Manual, subject to the approval of the City Engineer;
- 4) That any signage shall meet the provisions of Hilliard Code Chapter 1129; and
- 5) That the vehicular use area improvements shown on the approved plan are completed prior to the issuance of a zoning certificate.

Staff finds that the proposed conditional use, as amended per the conditions below, will be consistent with the intent and purposes of the Zoning Code, will be compatible with the character of the general vicinity, and will not impede the normal and orderly development and improvement of the surrounding property. Staff finds that the location and scale of the use, the nature and intensity of the proposed operations, the site and layout as amended per the conditions listed below, and its relation to surrounding streets will not cause undue traffic congestion or hazards adjacent to the site or in the immediate vicinity. Based on these findings, consistent with the provisions of Code Chapter 1123, staff recommends approval of the proposed conditional use with the following 4 conditions:

- 1) That the proposed use conforms to the provisions of Hilliard Code Section 1123.16(b) and 1123.16(c);
- 2) That hours of operation are from 8:00 a.m. to 8:00 p.m. daily;
- 3) That the outdoor storage of vehicle parts on the site is prohibited unless otherwise specifically approved by the Planning and Zoning Commission; and
- 4) That any expansion of the approved conditional use requires prior approval by the Planning and Zoning Commission.

CONSIDERATIONS:

- The site is 0.93 acre located on the northeast side of Scioto Darby Road approximately 1,400 feet northwest of Walcutt Road. It was most recently used for vehicle repair. The site and adjacent properties to the northwest and southeast are zoned B-2, Community Business District. To the southwest, across Scioto Darby Road, are single-family residences zoned R-3, Moderate Density Residential District. To the northwest is a vehicle repair business. To the southeast is a single-family residence. To the northeast is retired railroad corridor property.
- Code Section 1123.03 lists the following general standards for conditional uses:
 - a) The proposed use will be consistent with the intent and purposes of the zoning code and the City of Hilliard Comprehensive Plan.
 - b) The proposed use will comply with all applicable requirements of the zoning code, except as specifically altered in the approved conditional use.
 - c) The proposed use will be compatible with the character of the general vicinity.
 - d) The proposed use and site layout will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Due consideration will be given to the location and height of proposed buildings and structures, location and type of proposed fences or walls, location and screening of parking areas, and the location and type of proposed landscaping.
 - e) The area and proposed use will be adequately served by essential public facilities and services, as applicable, such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewer. The applicant or landowner will be required to install public utilities, streets or other public infrastructure as required by the city, state or other agencies to applicable specifications that are necessitated by the conditional use development. Dedication of said public infrastructure may be required.
 - f) The proposed use will not involve uses, activities, processes, materials, equipment or conditions of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the zoning district.
 - g) The location and scale of the use, the nature and intensity of the proposed operations, the site layout and the relation of the proposed use to surrounding streets will not cause undue traffic congestion or hazards adjacent to the site or in the immediate vicinity beyond that which would be normally expected based on the existing pattern of uses and the planned character reflected in the city's Comprehensive Plan. Peak hour volumes, turning movements, existing street capacity, driveway spacing, sight distances and pedestrian traffic shall all be considered.
- Code Section 1123.04 states that reasonable conditions may be imposed on the approval of a conditional land use in order to achieve the following:
 - a) Ensure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads necessitated by the proposed use.
 - b) Ensure that the use is compatible with adjacent conforming land uses and activities.
 - c) Protect natural resources; the health, safety, and welfare; and the social and economic well-being of those who will use the land or activity under consideration, the residents, business owners and landowners immediately adjacent to the proposed use or activity, and the community as a whole.
 - d) Relate to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - e) Meet the purpose of the zoning code, be in compliance with the standards established in the code for the land use or activity under consideration, and be in compliance with the zoning district standards.
- Code Section 1123.16(b) lists the following use requirements for the "Sale of New and Used Automobiles" uses:
 - 1) The minimum lot size shall be one acre with a minimum lot width of 200 feet.
 - 2) Signs shall conform to the requirements of Chapter 1129. Flags, pennants, balloons, ribbons, or other attention getting devices are not permitted.
 - 3) Temporary or portable structures are not permitted.
 - 4) Outdoor displays shall conform to the following:
 - A. Vehicles, for sale or lease, shall be parked only on improved surfaces, as defined in this code.
 - B. Vehicle display areas shall meet the setback requirements for parking areas, as required for the respective zoning district.
 - C. Vehicle display or storage shall not be permitted in areas required for visitor, employee or service parking, as required by Chapter 1127 (off-street parking and loading).

- D. All other merchandise available for sale, including, but not limited to, clothing, accessories, collectibles, etc., shall be sold and displayed within an enclosed building.
 - 5) All service work, including car washing, repair and general maintenance, shall be entirely conducted within an enclosed building.
 - 6) Audible paging systems or outdoor speakers are not permitted.
 - 7) The use of spotlights or similar equipment is prohibited.
- Code Section 1123.16(c) lists the following use requirements for “Vehicle Repair, Major” uses:
 - 1) All main and accessory structures shall be set back a minimum of 75 feet from any Residential District or residential use.
 - 2) There shall be a minimum lot frontage of 100 feet on an arterial or collector street; and all access to the property shall be from that street.
 - 3) The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.
 - 4) A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
 - 5) Overhead doors shall not face a public street or Residential District or residential use. The Planning and Zoning Commission may modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be diminished through use of building materials, architectural features and landscaping.
 - 6) Where applicable, vehicle queuing space for at least one vehicle shall be provided in front of each service bay.
 - 7) All maintenance and repair work shall be conducted completely within an enclosed building.
 - 8) There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
 - 9) Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted up to 30 days in a designated area. Such area shall be appropriately screened from public view in accordance with the screening requirements of Section 1125.06.
 - 10) If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the Norwich Township Fire Department and City Engineer.

Proposed Use

- The site currently has approximately 58 feet of asphalt at the Scioto Darby Road right-of-way line as a driveway entrance. The proposed plan shows that 20 feet of existing asphalt will be removed along the Scioto Darby Road frontage resulting in a 25-foot-wide driveway entrance and a minimum 20-foot pavement setback from the right-of-way line. The proposed plan shows an approximately 10,000-square-foot parking lot expansion on the southeast and northeast sides of the building.
 - The building has one vehicle bay. Hilliard Code Section 1127.03 states that the required parking for a vehicle repair facility is 2 parking spaces per vehicle bay and 1 per employee. The number of employees has not been specified. The proposed plan shows 7 vehicle display parking spaces and two customer parking spaces in front of the building, and 14 parking spaces behind the building. Staff recommends that the hours of operation for this building be limited to between 8:00 a.m. and 8:00 p.m. The outdoor storage of vehicle parts is prohibited.
 - Storm water management must conform to the provision of the Hilliard Storm Water Design Manual.
 - The current site does not meet the landscaping requirements for perimeter landscaping for vehicular use area. The proposed plan shows two trees along the site’s Scioto Darby Road frontage and shrubs along the sides of the front parking area. **[Staff recommends that the landscape plan be revised to show 30 shrubs per 100 linear feet along the perimeter of the vehicular use areas, consistent with the provisions of Hilliard Code Section 1125.05.]**
 - Signage is not proposed with this application. All signage must conform to the provisions of the Sign Code.
- [end of report]

Mr. Talentino indicated to the Commission that public input has been received from some of the neighbors. (A memo was provided to the Commission with received input). He indicated that residents are requesting limits to the time that the use can be open.

Mr. Lewie asked for confirmation on two motions. He asked if conditions would include a future building that would allow for an accessory building that could be used for parts storage; Mr. Talentino indicated that there would be options for that.

Mr. Uttley asked if there could be mounding; Mr. Talentino indicated that the Code requires the trees plus additional shrubs and that the mounding could be used as part of the screening. [Additional discussion about the slope and purpose of mounding ensued.] Mr. Uttley indicated that there should be a balance between the aesthetics of the site and the visibility for the use.

Chairman Muether voiced concern about the ability to do mounding given the drainage requirement; Mr. Talentino said that any site changes will need to be evaluated for engineering and utility requirements.

Mr. Schneck inquired about safety with the mounding. Mr. Talentino noted that sight visibility is required and that the mounding would be tapered to the entrance.

Ms. Hale asked if a future sidewalk would be possible if the landscaping and mounding is installed.

Mr. Gutknecht wondered if there were any sign proposed, and Mr. Talentino noted that any sign would need to meet Code requirements or come back to the Commission.

Mr. Gutknecht asked about the alignment of the entrance with the subdivision. Mr. Talentino noted that to align the entrance would require the adjacent property which is not part of the application. There is no shared access plan because of the number of narrow properties.

Chairman Muether asked Mr. Daray and Mr. Khomsi if they agreed with the conditions, and the applicant indicated that they had not seen them. [Mr. Talentino clarified for the record that the report was sent to the individual on record as being the contact for the applicant.] Chairman Muether inquired whether the applicant wished to postpone; Mr. Daray and Mr. Khomsi stated that they wished to move forward. They indicated that the change in time was agreeable, as are the other conditions.

Mr. Lewie asked if this was a different applicant that the previous case heard three years ago by the Commission. He also asked if they would work on commercial vehicles.

Alex Daray (5205 Willow Valley Way, Powell) and Lotfi Khomsi (6193 James Way, Hilliard) indicated they were a new business and that would only work on private vehicles (no commercial vehicles or trucks) for a maximum of a week at a time. They indicated they have been working at the site since August.

Ms. Hale noted that the concerns of residents and that a option could be considered to make a difference in time between repair work and sales to limit noise.

Richard Bailey (3391 Scioto Glen Drive, Hilliard) noted that he sent correspondence. He stated that the nearby roundabout had improved traffic and removed a neighborhood eyesore. He indicated that the business is currently operating with an average of 9 cars onsite. He said that vehicles do not have registration. Mr. Bailey had concerns that the definition of “vehicle sales” can include anything up to and including farm equipment and that “major auto repair” can include major body work, engine repair and salvage. He said the building probably does not meet EPA regulations or has any incident protection plan.

Susan Fleming (3381 Scioto Glen Drive, Hilliard) voiced concern about additional traffic in the neighborhood. She noted that trucks are dropping off wrecked vehicles and had concern about how site changes will impact traffic and whether approving the use will open more potential uses in the future.

Fu Jidong (3375 Scioto Farms Drive, Hilliard) said that tow trucks bringing in vehicles are a concern. He said there was a wreck recently in the area and traffic is increasing. He and the neighbors are worried about vehicles backing up to drop off cars.

Chairman Muether indicated that scaling the hours back to 7:00 was requested by one of the neighbors and is desired; The applicant nodded in agreement.

Ms. Nixon did not want any parking on Scioto Darby and wanted more explanation. Mr. Daray and Mr. Khomsi indicated that they would get probably 2 to 3 cars per week into the site per week off a wrecker. Deliveries would be primarily during the morning hours.

Ms. Clodfelder clarified for the Commission that they are making a recommendation to City Council for the conditional use request.

Mr. Uttley, seconded by Ms. Nixon, made a motion to approve the application for a Level B Site Plan under the provisions of Chapter 1131 with the following six conditions:

- 1) That a variance from the Board of Zoning Appeals is obtained concerning vehicular use area interior and perimeter landscaping requirements;
- 2) That the landscape plan be revised to show 30 shrubs per 100 linear feet along the perimeter of the vehicular use areas, subject to staff approval;
- 3) That the plans are revised to demonstrate conformance to the provisions of the Hilliard Storm Water Design Manual, subject to the approval of the City Engineer;
- 4) That any signage shall meet the provisions of Hilliard Code Chapter 1129;
- 5) That the vehicular use area improvements shown on the approved plan are completed prior to the issuance of a zoning certificate; and
- 6) Requiring mounding of the 20-foot greenspace at the front of the lot to include mounding of up to three feet in height as determined by staff, including the two trees shown on the plans and shrubs as required by Code.

STATUS:	Approved with six conditions (6-1).
MOVER:	Bill Uttley
SECONDER:	Tracey Nixon
AYES:	Chairman Jay Muether, Vice Chair Bevan Schneck, Eric Gutknecht, Tracey Nixon, Tom Pannett, Bill Uttley
NAYS:	Chris Lewie

Mr. Uttley, seconded by Mr. Gutknecht, made a motion to approve the request for a conditional use under the provisions of Hilliard Code Section 1123.03, 1123.04, 1123.16(b), and 1123.16(c) to permit vehicles sales and major vehicle repair on 0.93-acre with the following four conditions:

- 1) That the proposed use conforms to the provisions of Hilliard Code Section 1123.16(b) and 1123.16(c);
- 2) That hours of operation are from 8:00 a.m. to 7:00 p.m. daily;
- 3) That the outdoor storage of vehicle parts on the site is prohibited unless otherwise specifically approved by the Planning and Zoning Commission; and
- 4) That any expansion of the approved conditional use requires prior approval by the Planning and Zoning Commission.

STATUS:	Approved with four conditions (5-2).
MOVER:	Bill Uttley
SECONDER:	Eric Gutknecht
AYES:	Chairman Jay Muether, Vice Chair Bevan Schneck, Eric Gutknecht, Tracey Nixon, Bill Uttley
NAYS:	Chris Lewie, Tom Pannett

Carson Combs

From: John Talentino
Sent: Monday, April 11, 2022 5:56 PM
To: Carson Combs
Subject: FW: PZ-22-6

-----Original Message-----

From: Paul Cacchio <ppcejc@yahoo.com>
Sent: Monday, April 11, 2022 4:25 PM
To: John Talentino <jtalentino@hilliardohio.gov>
Subject: PZ-22-6

Hello John! We would like to express our concern regarding the case above before the Board of Zoning Appeals .
 For years the East entrance to Hilliard on Scioto Darby Road was not very attractive or well cared for. In the last year with the new roundabout and the beautiful landscaping things are really looking lots better.
 Why would we want to allow a Used Car Lot to be on this street which we feel is not appropriate for the more residential area that we are in. It would be right across from the main entrance of our very clean, well kept and well built Scioto Farms development. There could be increased traffic issues and signage and commotion that would not fit in with the area.

Please do not approve the used car lot zoning or the gravel lot on this parcel.

We appreciate you listening to our concerns.

James and Christina McCann 3378 Scioto Glen Dr.

John and Peter P Cacchio 3398 Scioto Glen Dr.

Sent from my iPad

Attachment: L&A public comment (22-R-39 : L&A Auto Group - 4896 Scioto Darby Road)

Carson Combs

From: John Talentino
Sent: Thursday, April 14, 2022 9:25 AM
To: Carson Combs
Subject: FW: Public hearing on 4/21/22

From: David Waugh <dwaugh500@gmail.com>
Sent: Wednesday, April 13, 2022 7:42 PM
To: John Talentino <jtalentino@hilliardohio.gov>
Subject: Public hearing on 4/21/22

To Board Members,
 My name is Dave Waugh. I live at 4870 Scioto Darby Rd. Hilliard, Ohio next door to 4896 Scioto Darby Rd. .
 I'm writing you in regards to the application to sell cars at the 4896 Scioto Darby Rd. location, of which I am an adjacent neighbor.
 Since I have been given a chance to speak my opinion on this matter I will give it.
 I would not be in favor of the selling of vehicles from this location . It is next to our front yard where we frequently play croquet , cornhole , wiffle ball along with other family activities. We often sit on the front porch swing in the evenings when the weather cooperates and relax. I really don't want to have the car buying public to have a front row seat to our recreation and relaxing activities.
 We have lived at this property for 36 years and hope to live here for at least another 21. Eighty eight is probably a long enough life and after that someone else can debate the pros and cons of car sales on our street.
 In regards to the other item of landscape beds. There is a bed but no landscaping in it . That is of little concern to me only that it would look nicer if it was planted and maintained.

Sincerely
 Dave Waugh

Attachment: L&A public comment (22-R-39 : L&A Auto Group - 4896 Scioto Darby Road)

Richard and Pamela Bailey
 3391 Scioto Glen Dr.
 Hilliard, Ohio 43026
 (H) 614.876.0693
Rbaile16@gmail.com

April 14, 2022

Hilliard Planning and Zoning Commission
 c/o jtalention@hilliardohio.gov

RE: Case 1: PZ-22-6 – L&A Auto Group – 4896 Scioto Darby Road

My wife and I are against granting L&A Auto Group conditional use under the provisions of Hilliard Code Section 1123.03, 1123.04, 1123.16(b) and 1123.16(c) and not approving the Level "B" Site Plan submitted under the provisions of Hilliard Code Chapter 1131 for the following reasons.

Section 1123.03 and 1123.04 - The proposed use would be detrimental to Scioto Farms home values and cause undue traffic congestion by the entrance to Scioto Farms. If approved, it has the potential for Scioto Farms subdivision streets to be used to evaluate (test drive) vehicles for sale or being repaired by L&A Auto Group. The proposed use also diminishes the improvements made to the general vicinity from installation of the Walcutt/Scioto Darby Road roundabout to Reed Point Drive.

Section 1123.16 (b) – Parcel 050-002579 is less than 1 acre, and the lot width is less than 200 feet. The existing building appears insufficient to have all service work performed as defined in 1123.16 (b) (4) performed inside. This section allows, new and used automobiles, trucks, recreational vehicles construction equipment, farm implements and similar vehicles and equipment for sale, collectively this is not suitable for this parcel and diminishes appearance of the general vicinity of Scioto Darby Road and Scioto Farms Subdivision.

Section 1123.16 (c) – It is our understanding that Vehicle Repair Major includes rebuilding or reconditioning motor vehicles, trailer, or parts thereof, including general repair, collision service, bodywork, welding, parting, steam cleaning, rebuilding, or reconditioning. The building these activities will take place in a "Below Average Quality" as graded by the Franklin County Auditor. The visual appearance of this building gives us the impression that the size and height of the non office area is insufficient for Major Vehicle repairs and probably does not have sufficient equipment to meet applicable EPA standards and satisfy the requirements of a Pollution Incidence Protection Plan.

The Level "B" Site Plan is insufficient to allow these activities to take place. Combined with the business activities that take place at 4910 and 4900 Scioto Darby Road, they will visually impair the area and lower the value of the surrounding area.

We request you vote no on PZ-22-6.

Sincerely,

Richard & Pamela Bailey

Attachment: L&A public comment (22-R-39 : L&A Auto Group - 4896 Scioto Darby Road)

Carson Combs

From: John Talentino
Sent: Thursday, April 14, 2022 1:02 PM
To: Jd Fu
Cc: Carson Combs
Subject: RE: Concerns about the business expansion of L&A Auto Group

Jidong,

My responses to your questions are listed in red below. You may contact me if you have questions regarding this matter.
 Sincerely,

John Talentino, AICP
 Planning Director
 City of Hilliard
 3800 Municipal Way
 Hilliard OH 43026
 614-334-2444

From: Jd Fu <fdmaillist@gmail.com>
Sent: Thursday, April 14, 2022 8:01 AM
To: John Talentino <jtalentino@hilliardohio.gov>
Subject: Concerns about the business expansion of L&A Auto Group

Dear John,

I hope this email finds you well.

We recently received two public notices, PZ-22-6 and BZA-22-4, about the business of L & A Auto Group at 4896 Scioto Darby Road. We do have concerns about this auto-repair business right next to the residential area.

1. It is not clear if a level "B" site plan is a renewal of original business or an upgraded business. **The Level "B" Site Plan is required for any addition to an existing building or parking area in any zoning district constituting a 25 percent or greater increase in size.**
2. It sounds like an upgrade, please correct me if it is not correct. Is the location suitable for this new business? Is the lot size (0.93) sufficient for an auto-sale and repair business? **The lot was legally created at a time when the minimum lot size was 30,000 square feet (0.689 acre) and is considered legally nonconforming and can continue to be used even though the current Code requirement is for a 1-acre minimum lot size.**
3. What is the business owner's plan to reduce the traffic and noise that might affect the daily life of the neighbourhood? **All vehicle repair activities are required to be conducted within the building.**
4. What is the plan and where could we report if we notice something in the future that this business disturbs our life a lot? **Zoning violations can be reported to the Hilliard Zoning Enforcement Officer.**
5. Why are these two cases reviewed in two different days? **The Planning and Zoning Commission is authorized to review applications for Level "B" Site Plans and to make recommendations to City Council on Conditional Use applications. The Board of Zoning Appeals is authorized to review variance applications related to things like building height, building and pavement setbacks, required parking, parking lot dimensions, landscaping requirements, fences, etc. The two applications are required by City Code to be reviewed by a separate Board/Commission.** It sounds like the business owners are playing a trick and wish that many neighbours don't have time to participate in both public meetings and

Attachment: L&A public comment (22-R-39 : L&A Auto Group - 4896 Scioto Darby Road)

Carson Combs

From: John Talentino
Sent: Thursday, April 14, 2022 4:00 PM
To: Carson Combs
Subject: FW: Case 1: PZ-22-6 L&A Autogroup

From: Scioto Farms <sciotofarmstrustee@gmail.com>
Sent: Thursday, April 14, 2022 3:37 PM
To: John Talentino <jtalentino@hilliardohio.gov>
Subject: Case 1: PZ-22-6 L&A Autogroup

Hello,

I am writing representing the Scioto Farms Homeowners Association regarding the proposed Level B Site Plan and permitting vehicle sales and major vehicle repair at 4896 Scioto Darby Road.

This business is directly across from the entrance to our subdivision, and our association has concerns about changing this zoning. This is not the type of business that is appropriate to be adjacent to a neighborhood.

- 1) More traffic on Scioto Darby with drivers who may not be familiar with the area. Also, potentially, more traffic within our neighborhood if customers choose to test drive through our neighborhood.
- 2) Concern about the appearance of a used car lot.
- 3) Large trucks coming to deliver cars that are purchased at auction creating a blockage on a relatively narrow roadway. There is not much room for maneuvering large vehicles.
- 4) The major vehicle repair can be very loud, including the sounds from machines, and the revving of engines.
- 5) This zoning may be detrimental to the Scioto Farms home values.
- 6) This change seems incongruent with the nice landscaping work done at the roundabout at Walcutt.
- 7) Questioning if this zoning change is permanent, and what will be permitted to come into this location if this particular business fails.

Thank you for your time in reviewing these concerns.

Sincerely,

Scioto Farms Homeowners Association
 Susan Flemming, Board Member

Attachment: L&A public comment (22-R-39 : L&A Auto Group - 4896 Scioto Darby Road)

John Talentino

From: Peggy Hale
Sent: Thursday, April 14, 2022 6:54 PM
To: John Talentino
Subject: Fwd: Building and Zoning Commission Case Comment

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From: acofield02@gmail.com <acofield02@gmail.com>
Sent: Thursday, April 14, 2022 6:17:10 PM
To: Peggy Hale <PHale@hilliardohio.gov>
Subject: Building and Zoning Commission Case Comment

Ms. Hale,

I am writing in reference to BZA-22-4, L&A Auto Group, 4896 Scioto Darby Road. L&A Auto Group has submitted a request to have their property rezoned to accommodate additional uses (car sales, more intense car repair).

I read the meeting minutes from last month's BZC meeting and appreciate the requirements of city code and city staffs' recommendations regarding the application.

The meeting minutes indicate that the hours of the business could be from 8:00 am to 8:00 pm. As Staff indicate, this business is located right next to a residence and across the street from a housing development (Scioto Farms). One issue that was not considered by City Staff is noise. Under the current zoning (light auto repair), on occasion, noise has been an issue. I live about 5 houses into the neighborhood across the street and I have heard engine revving and mechanical noise from the business. I am not complaining about the noise during the day, but was wondering if the hours could be reduced from ending at 8:00 pm to ending at 7:00 pm? By changing the type of auto repair allowed, this has the potential to increase the noise in the area. Putting a daily end time of 7:00 pm would limit noise into the neighborhood (and the house next door) into the evening. While there are some businesses along Scioto Darby in this area, this is primarily a residential area.

I am not familiar with all of the review that city staff do for rezoning applications, but if they do not consider noise, especially when rezoning occurs next to an existing neighborhood, could that be added as an evaluation factor?

Thank you,

Alex Cofield

3323 Scioto Farms Dr

Attachment: L&A public comment (22-R-39 : L&A Auto Group - 4896 Scioto Darby Road)

BOARD OF ZONING APPEALS BOARD ORDER

Thursday, April 21, 2022

The Board of Zoning Appeals took the following action at this meeting:

CASE 2: BZA-22-4 – L & A Auto Group - 4896 Scioto Darby Road

PARCEL NUMBER: 050-002579

APPLICANT: Rashid Salah, 4128 Hoffman Farms Drive, Hilliard, OH 43026; c/o Kamal Chinary, 2719 West Case Road, Columbus, OH 43235.

REQUEST: Review & approval of a variance from Hilliard Code Section 1125.05(b) to reduce the minimum vehicular use area perimeter landscaping and Section 1125.05(c) to reduce the minimum vehicular use area interior landscaping for a vehicle repair and vehicle sales business on 0.93 acre.

MOTION: President Piper made a motion to approve a variance from Hilliard Code Section 1125.05(b) to reduce the minimum vehicular use area perimeter landscaping, Section 1125.05(c) to reduce the minimum vehicular use area interior landscaping for a vehicle repair and vehicle sales business on 0.93 acre with eight conditions:

- 1) That all conditions of Planning and Zoning Commission approval on April 14, 2002, are met;
- 2) That the width of the vehicular use area perimeter landscaping along the sides as it exists in front of the building be approved as proposed;
- 3) That the plans are revised to show the vehicular use area in front of the building will have two trees along the Scioto Darby Road frontage and 30 shrubs per 100 linear feet along the entire perimeter;
- 4) That the vehicular use area interior landscaping in front of the building be approved as proposed;
- 5) That the vehicular use area behind the building is not less than 10 feet from the side property lines and is landscaped with 2 trees and 30 shrubs per 100 linear feet consistent with the provisions of Hilliard Code Section 1125.05;
- 6) That the plans are revised to show the proposed vehicular use area behind the building will conform to the perimeter and interior landscaping requirements specified in Hilliard Code Section 1125.05;
- 7) That a 6-foot privacy fence on the residential side of the building be provided from the front build line of the building and removing the chain link fence if it is located on the business property; and
- 8) That shrubs be planted at the height of 3 feet at the time of planting.

Mr. Stepp seconded the motion.

VOTE:

President Piper	Yes
Vice President Epling	Absent
Mr. Donato	Yes
Mr. Martin	Yes
Mr. St. Clair	Yes
Mr. Steele	Yes
Mr. Stepp	Yes

CERTIFICATION:



Carson Combs, Acting Clerk/Planning Manager
April 22, 2022

STATUS: The application is approved (6-0).

Oath to Tell the Truth

President Piper administered the Oath to Tell the Truth.

New Cases**CASE 2: BZA-22-4 – L & A Auto Group - 4896 Scioto Darby Road**

PARCEL NUMBER: 050-002579

APPLICANT: Rashid Salah, 4128 Hoffman Farms Drive, Hilliard, OH 43026; c/o Kamal Chinary, 2719 West Case Road, Columbus, OH 43235.

REQUEST: Review & approval of a variance from Hilliard Code Section 1125.05(b) to reduce the minimum vehicular use area perimeter landscaping, Section 1125.05(c) to reduce the minimum vehicular use area interior landscaping for a vehicle repair and vehicle sales business on 0.93 acre.

Mr. Talentino gave the staff report.

BACKGROUND:

The site is 0.93 acre located on the northeast side of Scioto Darby Road opposite Scioto Farms Drive. It consists of a 2,800-square-foot building which was most recently used for automotive repair. On April 14, 2016, the Commission approved a variance for additional wall signage. On March 12, 2020, the Commission approved a conditional use to permit a tire and brake shop and repair facility. On April 14, 2022, the Planning and Zoning Commission reviewed the application for conditional uses and a Level “B” site plan. The conditional use requests will now be forwarded to City Council for final disposition. This is a request to the Board for variances necessary to implement the proposed Level “B” site plan.

CONSIDERATIONS:

- The site and adjacent properties to the northwest and southeast are zoned B-2, Community Business District. To the southwest, across Scioto Darby Road, are single-family residences zoned R-3, Moderate Density Residential District. To the northwest is a vehicle repair business. To the southeast is a single-family residence. To the northeast is retired railroad corridor property.
- Section 1106.04(a)(1) sets forth the following standards for variance requests:
 - A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - B. Whether the variance is substantial;
 - C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
 - D. Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, stormwater collection, or refuse collection;
 - E. Whether the property owner purchased the property with knowledge of the zoning restriction;
 - F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
 - G. Whether the existing conditions from which a variance is being sought were self-created; and
 - H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- The site currently has approximately 58 feet of asphalt at the Scioto Darby Road right-of-way line as a driveway entrance. The proposed plan shows that 20 feet of existing asphalt will be removed along the Scioto Darby Road frontage resulting in a 25-foot-wide driveway entrance and a minimum 20-foot pavement setback from the right-of-way line. The proposed plan shows an approximately 10,000-square-foot parking lot expansion on the southeast and northeast sides of the building to the rear.
- The building has one vehicle bay. Hilliard Code Section 1127.03 states that the required parking for a vehicle repair facility is 2 parking spaces per vehicle bay and 1 per employee. The number of employees has not been specified. The proposed plan shows 7 vehicle display parking spaces and two customer parking spaces in front of the building, and 14 parking spaces behind the building. Staff recommends that

the hours of operation for this building be limited to between 8:00 a.m. and 8:00 p.m. The outdoor storage of vehicle parts is prohibited.

- Storm water management for the site improvements must conform to the provision of the Hilliard Storm Water Design Manual.
- The current site does not meet the landscaping requirements for perimeter landscaping for vehicular use area. The proposed plan shows two trees along the site's Scioto Darby Road frontage and shrubs along the sides of the front parking area. [Staff recommends that the landscape plan be revised to show the following:
 - 1) For the vehicular use area behind the building, a minimum 10-foot pavement setback from the side property lines be specified, plus 2 trees and 30 shrubs per 100 linear feet be provided along the perimeter consistent with the provisions of Hilliard Code Section 1125.05.
 - 2) For the vehicular use area in front of the building, a minimum 20-foot pavement setback from the Scioto Darby Road right-of-way line, plus 2 trees and 30 shrubs per 100 linear feet along the Scioto Darby Road frontage.
 - 3) For the vehicular use area in front of the building, 30 shrubs per 100 linear feet along the side property lines.]
- On November 10, 2021, a notice of violation was sent regarding the following violations, and follow-up meetings were held on November 24 and January 13 to address corrections:
 - A. No zoning certificate on file to operate legally;
 - B. Fencing in an improper location and without permits;
 - C. Inoperable vehicles and vehicles not parked on an improved surface;
 - D. Dumpster area not screened per Code; and
 - E. Signage without a permit.
- On January 31, 2022, a Final Violation Notice was sent ordering that operations be discontinued as of February 28, 2022. On February 23, 2022, fees for necessary site plan approval, conditional use requests and variances were paid to process applications.

STAFF RECOMMENDATION:

Staff finds that the existing conditions make it practically difficult to provide vehicular use area perimeter landscaping along the side property lines and vehicular use area interior landscaping per Code without a variance. Staff finds that the proposed variance is not substantial. Staff finds that the essential character of the neighborhood would not be substantially altered as a result of the proposed variance. Staff finds that the variance would not adversely affect the delivery of governmental services. Staff finds that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Based on these findings, consistent with the provisions of Hilliard Code Section 1106.04, staff recommends approval of the proposed variance with the following 6 conditions:

- 1) That all conditions of Planning and Zoning Commission approval on April 14, 2002, are met;
- 2) That the width of the vehicular use area perimeter landscaping along the sides as it exists in front of the building be approved as proposed;
- 3) That the plans are revised to show the vehicular use area in front of the building will have two trees along the Scioto Darby Road frontage and 30 shrubs per 100 linear feet along the entire perimeter;
- 4) That the vehicular use area interior landscaping in front of the building be approved as proposed;
- 5) That the vehicular use area behind the building is not less than 10 feet from the side property lines and is landscaped with 2 trees and 30 shrubs per 100 linear feet consistent with the provisions of Hilliard Code Section 1125.05; and
- 6) That the plans are revised to show the proposed vehicular use area behind the building will conform to the perimeter and interior landscaping requirements specified in Hilliard Code Section 1125.05.

[end of report]

Mr. Stepp asked about the former use of the site, and Mr. Talentino indicated that the site was a tire shop and did minor vehicle repair. He confirmed that the property abuts the abandoned rail corridor.

Mr. Martin questioned the impact of lighting and vehicular activity on the adjacent residents; Mr. Talentino explained that Code requirements will limit the level of lighting values at the property line to avoid conflict. Mr. Talentino noted that staff expects the applicant to plant trees that are required in the back parking lot.

Mr. St. Clair said that the images of the property necessitate a privacy fence along the border because everything will be visible in the winter; Mr. Talentino noted that they had installed a privacy fence in a location that was not approved. He explained that the applicant wants to do new uses (vehicle sales and major vehicle repair).

Mr. St. Clair had concerns about the screening, and Mr. Talentino explained that the landscaping is what is required for all commercial properties and staff would not support the proposal without the landscape screening. Mr. Talentino noted that the Code is purposeful and allows appropriate signage, but not other novelties that are commonly used for advertising and visibility.

Mr. Stepp asked to see the image from November and the Board asked where the parking would extend in the rear yard. Mr. Talentino noted that the parking would extend half way and that all of the outdoor storage of vehicles or parts in the grass would NOT be allowed. He said that cars are not allowed to be parked on grass or gravel by Code. Mr. Talentino said that there is enough area for stormwater, but the actual methods will dictate what is needed and the parking lot will not be larger than what is shown.

Mr. Piper asked about the limit on privacy fences, and Mr. Talentino confirmed a 6-foot maximum height in business districts. Mr. Talentino confirmed that the fence could extend to the front elevation of the building unless approved by the BZA.

Mr. Steele asked if the chain link would be removed; Mr. Talentino noted it is not clear upon what property the fence is located. He noted that the Board could require a privacy fence and the removal of the chain link as a condition of approval.

Ms. Hale noted the recent Planning and Zoning Commission hearing for this property and that the hours of operation were reduced at the request of the neighborhood. She noted that the Commission also added mounding along the front.

Mr. Stepp asked about the installation size of shrubs, and Mr. Talentino noted that the Board could require larger sizes at planting to expedite screening. He said there need to be limitations on the height for safety and visibility, but larger plant sizes can be required.

The applicant was not present, and there were no testimony from the public.

President Piper, seconded by Mr. Stepp, made a motion to approve a variance from Hilliard Code Section 1125.05(b) to reduce the minimum vehicular use area perimeter landscaping and Section 1125.05(c) to reduce the minimum vehicular use area interior landscaping for a vehicle repair and vehicle sales business on 0.93 acre with the following eight conditions:

- 1) That all conditions of Planning and Zoning Commission approval on April 14, 2002, are met;
- 2) That the width of the vehicular use area perimeter landscaping along the sides as it exists in front of the building be approved as proposed;
- 3) That the plans are revised to show the vehicular use area in front of the building will have two trees along the Scioto Darby Road frontage and 30 shrubs per 100 linear feet along the entire perimeter;
- 4) That the vehicular use area interior landscaping in front of the building be approved as proposed;
- 5) That the vehicular use area behind the building is not less than 10 feet from the side property lines and is landscaped with 2 trees and 30 shrubs per 100 linear feet consistent with the provisions of Hilliard Code Section 1125.05;
- 6) That the plans are revised to show the proposed vehicular use area behind the building will conform to the perimeter and interior landscaping requirements specified in Hilliard Code Section 1125.05;
- 7) That a 6-foot privacy fence on the residential side of the building be provided from the front build line of the building and removing the chain link fence if it is located on the business property; and
- 8) That shrubs be planted at the height of 3 feet at the time of planting.

Status:	Approved with 8 Conditions (6-0).
Mover:	President Matthew Piper
Second:	Mr. Bobby Stepp
Ayes:	President Matthew Piper, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Arthur Steele, Mr. Bobby Stepp

CASE 3: BZA-22-10 – Green Residence – 4200 Dublin Road #6**PARCEL NUMBER:** 050-006662**APPLICANT:** Troy & Emily Green, 4200 Dublin Road, #6, Hilliard, Ohio 43026.**REQUEST:** Review & approval of a variance from Hilliard Code Section 1121.02(b)(7) to increase the maximum size of an accessory structure from 900 square feet to 1120 square feet.

Mr. Combs gave the report.

BACKGROUND:

The site is 1.64 acre located approximately 750 feet east of the intersection of Dublin Road and Shirtzinger Road. The site and surrounding properties to the north, east, and west are zoned R-1, Low Density Residential. To the south are single family homes zoned PUD. According to Franklin County Auditor records, the site consists of a single-family residence with a total area of 2,250-square-feet. The applicant is requesting approval of a variance from Hilliard Code Section 1121.02(b)(7) to permit an accessory building that exceeds the 900-square foot maximum.

CONSIDERATIONS:

- On January 21, 2021, the Board of Zoning Appeals (Case #20-0160AR) granted a variance to Section 1121.02(b)(6) to increase the accessory building height from 14 feet to 18 feet and from Section 1121.02(b)(1) to permit the installation of gravel instead of a paved driveway.
- The accessory building approved by the Board of Zoning Appeals for the north end of the property is proposed to be extended in length by an additional 8 feet. The footprint has been increased from 896-square feet (28'x32') with side porch to 1,120 square feet (28'x40') with side porch. Section 1121.02(b)(7) requires that accessory buildings cannot exceed 50 percent of the principal building floor area or 900 square feet, whichever is less. While the proposed building exceeds the 900-square foot threshold, it does generally conform to the 50 percent requirement. The accessory building would be constructed on a larger R-2 lot that has significant tree cover and screening.
- The garage will be 18-feet in height measured per code; the first story will function as a garage and the second story shall provide storage space as previously approved. Architecture for the garage integrates with the surrounding buildings and features numerous elements to provide variation on each elevation.
- Access to the accessory building is provided via a shared drive with the two residences north of the site. Plans include a gravel connection from the garage to this shared access drive.

STAFF RECOMMENDATION:

Staff finds that there could be a beneficial use of the property without the variance, but that the proposed variance to permit a slightly larger structure will not impact the character of the neighborhood and is not substantial given the nature of the property and the proposed location. The proposed variance will not adversely affect services, and the proposal is consistent with the general spirit and intent of the Code. Based on these findings, consistent with the provisions of Hilliard Code Section 1121.02(b)(7), staff recommends approval of the increased accessory building size with four conditions:

- 1) That the proposed garage is limited to 18 feet in height, as measured by Code;
- 2) That the gravel driveway be permitted as previously approved;
- 3) That the existing accessory structure be removed before or at the time of completion of the new accessory structure; and
- 4) That a zoning certificate and required permits be obtained prior to construction.

[end of report]

Mr. Martin inquired as to why the Board granted the gravel driveway in this case. Mr. Talentino explained that the street in this case is private. In the case of a public street, gravel spilling onto the roadway can cause pavement



Resolution: 22-R-39

Adopted:

Page 1 of

Effective:

AUTHORIZING THE CONDITIONAL USE FOR VEHICLE SALES AND MAJOR VEHICLE REPAIR AT 4896 SCIOTO DARBY ROAD WITHIN THE B-2, COMMUNITY BUSINESS ZONING DISTRICT.

WHEREAS, on January 24, 2022, City Council approved amendments to Chapters 1107 and 1123 of the City's Codified Ordinances to state that the Planning and Zoning Commission provides a recommendation to City Council on each conditional use application and that City Council would have the final approval for each application; and

WHEREAS, on February 23, 2022, a completed application for the review of a conditional use request for "Vehicle Sales" and "Major Vehicle Repair" for the property at 4896 Scioto Darby Road (Parcel #050-002579) were submitted to the Planning Director in accordance with Hilliard Code Section 1123.02; and

WHEREAS, the Planning and Zoning Commission on April 14, 2022, reviewed the request for a conditional use to permit "Vehicle Sales" and "Major Automotive Repair" within the B-2, Community Business District for the property located at 4896 Scioto Darby Road under the provisions of Hilliard Code Section 1123.03, 1123.04, 1123.16(b), and 1123.16(c); and

WHEREAS, the Planning and Zoning Commission in accordance with the Code made a positive recommendation to City Council upon the condition that the use conforms to the provisions of Hilliard Code Section 1123.16(b) and 1123.16(c); that hours of operation are from 8:00 a.m. to 7:00 p.m. daily; that the outdoor storage of vehicle parts on the site is prohibited unless otherwise specifically approved by the Planning and Zoning Commission; and that any expansion of the approved conditional use requires prior approval by the Planning and Zoning Commission; and

WHEREAS, as prescribed by Section 1107.03(d) upon receipt of a recommendation from the Planning and Zoning Commission, the City Council shall decide upon the conditional use application according to the procedures set forth in Chapter 1123.

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

SECTION 1. L & A Automotive located at 4896 Scioto Darby Road (Parcel #050-002579) is granted a conditional use for "Vehicle Sales" and "Major Vehicle Repair" upon the condition that the use conforms to the provisions of Hilliard Code Section 1123.16(b) and 1123.16(c); that hours of operation are from 8:00 a.m. to 7:00 p.m. daily; that the outdoor storage of vehicle parts on the site is prohibited unless otherwise specifically approved by the Planning and Zoning Commission; and that any expansion of the approved conditional use requires prior approval by the Planning and Zoning Commission.

SECTION 2. Failure to obtain any necessary Zoning Certificate or Certificate of Occupancy shall invalidate the Conditional Use approval granted by City Council.

SECTION 3. This Conditional Use approval in accordance with Section 1123.05 of the Hilliard City Code shall expire 12 months after it is granted, unless construction is complete or commencement of the use has begun, or significant progress has been made towards its initiation.

SECTION 4. Any expansion of the approved Conditional Use requires a final determination by City Council in accordance with Hilliard Code Chapter 1123.

SECTION 5. The Planning Director, City Engineer and Director of Building Standards are authorized to approve any necessary administrative changes to the approved site plan necessary to carry out the terms of this conditional use.

SECTION 6. This resolution is effective upon its adoption.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-39					
		Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopted	Andy Teater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Adopted as Amended	Omar Tarazi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated	Les Carrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled	Tina Cottone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Held Over	Peggy Hale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Pete Marsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Positive Recommendation	Cynthia Vermillion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> No Recommendation					
<input type="checkbox"/> Referred Back To Committee					

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-39** passed by the Hilliard City Council on the 9th day of May 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 9th day of May 2022.

Diane C. Werbrich, MMC

Council Memo: Legislation (22-R-40)

Subject: The Courtyards at Carr Farms Section 6
From: Michelle Crandall, City Manager
Initiated by: Carson Combs,
Date: May 9, 2022

Executive Summary

The proposal is for the approval of a Final Plat for the Courtyards at Carr Farms Section 6 consisting of 31 single-family lots and 2 reserves on 8.398 acres.

Staff Recommendation

Staff recommends that Council adopt this resolution based on the finding that the proposed plat is consistent with the approved Carr Farms PUD Concept Plan.

Background

On July 11, 2016, Council adopted Ordinance No. 16-01 approving the Carr Farms PUD Concept Plan consisting of 157 single-family lots on 79.5 acres. The PUD Concept Plan constitutes the preliminary plat.

On April 12, 2018, the Planning and Zoning Commission (the "Commission") approved a 6-month extension of the PUD Concept Plan (through March 11, 2019). On September 13, 2018, the Commission forwarded a positive recommendation to Council concerning a modification of the PUD Concept Plan consisting of 59 traditional single-family homes and 179 empty-nester homes on 79.45 acres. On November 23, 2020, Council adopted Resolution No. 20-R-95 approving a modification of the PUD Concept Plan consisting of 59 traditional single-family homes and 179 empty-nester homes on 79.45 acres.

Following a positive recommendation from the Commission, on October 11, 2021, City Council adopted Resolution No. 21-R-62 approving a modification to the PUD Concept Plan to consist of 227 empty-nester homes and 16 townhomes. On April 14, 2022, the Planning and Zoning Commission approved the Final Plat consisting of 31 single-family lots on 8.398 acres, which includes private streets (Reserve M) and a central pedestrian green (Reserve L) to be owned and maintained by the Homeowners Association.

Financial Impacts

There are no anticipated financial impacts.

Expected Benefits

Approval of this Final Plat will enable the developer to sell the lots providing additional housing options to the public.

Attachments

- Exhibit A - The Courtyards at Carr Farms Section 6 Final Plat
- P&Z Staff Report – Case #PZ-22-17 – April 14, 2022
- P&Z Record of Action – Case #PZ-22-17 – April 14, 2022

CASE 5: PZ-22-17 – The Courtyards at Carr Farms Section 6 – 4852 Leppert Road

PARCEL NUMBERS: 050-008252

APPLICANT: Epcon Carr Farms LLC, 500 Stonehenge Parkway, Dublin, OH 43017; and Sydney Berry, EMH&T, 5500 New Albany Road, Columbus OH 43054.

REQUEST: Review & approval of a Final Plat under the provisions of Hilliard Code Section 1188.05 and the Carr Farms PUD Concept Plan for a development consisting of 31 single-family lots on 8.398 acres.

BACKGROUND:

The site is 8.398 acres located on the east side of Leppert Road approximately 290 feet north of the intersection of Davidson Road and Bixshire Drive. On November 12, 2015, the Planning and Zoning Commission approved a PUD Concept Plan consisting of 157 single-family lots on 79.5 acres and a 6-month extension of the Concept Plan was granted that extended the approval through March 11, 2019. During the extension, the Commission approved a modification to the PUD Concept Plan to allow for 59 traditional single-family homes and 179 empty nester homes (September 13, 2018).

The Planning Commission approved a Final Plat for The Courtyards at Carr Farms Phase 1 on April 8, 2021, to begin construction that included 47 single-family lots on 24.423 acres. *On October 11, 2021, Resolution 21-R-62 was adopted by City Council to modify the PUD Concept Plan for 16 townhouse dwelling units and 50 empty nester homes on the 21.44 acres that comprise Subarea B (Sections 5 and 6).* A Final Plat for Section 5 was approved on February 10, 2022, for 31 total lots and 6 reserves on 13.297 acres. On March 10, 2022, the Commission also approved Final Plats for Sections 2 and 3, located in Subarea A. All three plats have been approved by City Council and are in the process of being recorded. The applicant is now requesting approval of a Final Plat for Section 6 that consists of 31 single-family lots on 8.398 acres and is the balance of Subarea B.

COMMISSION ROLE:

The Commission is to review the proposed final plat for conformance to the provisions of the Courtyards at Carr Farms PUD Concept Plan and Hilliard Code Section 1188.05.

STAFF RECOMMENDATION:

Staff finds that the proposed final plat is consistent with the provisions of the Courtyards at Carr Farms PUD Concept Plan and Code Section 1188.05. Based on these findings, staff recommends approval of the proposed final plat with the following condition:

- 1) That the Final Plat meet the requirements of the City Engineer for format and content prior to being scheduled on a City Council agenda.

CONSIDERATIONS:

- The site consists of the southeastern portion of the Courtyards at Carr Farms PUD Subarea B. A total of 50 courtyard homes and 16 townhomes were approved with the PUD Concept Plan. This plat includes the final 31 courtyard home lots.
- Section 6 includes Reserve M for the creation of private streets (Embassy Drive, Champion Drive, Aristocrat Drive and the Bixshire Drive extension to connect to the south with the Brixston Subdivision).

- Reserve L (0.466-acre) will be located within the center of Section 6 and will be central greenspace owned and maintained by the Homeowners Association. The reserve will be landscaped in accordance with the approved PUD Concept Plan and includes a central sidewalk system that will provide pedestrian connectivity with the Leppert Road frontage.
- Private Roads will include sidewalk on the inside of the loop in front of Lots 241-250 and will also provide a sidewalk connection on the west side of Brixshire Drive.
- Development standards for single-family courtyard homes include 52-foot minimum lot width, 120-foot minimum lot depth, minimum 20-foot front yard, minimum 15-foot minimum setback to sidewalk for corner lots, minimum 5-foot side yard, minimum 12.5-foot rear yard from internal property lines, minimum 65-foot building setback from the eastern and southern overall property boundaries, and minimum 1,400-square-foot floor area. The proposed lots conform to the adopted text standards.

**PLANNING & ZONING COMMISSION
RECORD OF ACTION**

Thursday, April 14, 2022

The Planning and Zoning Commission took the following action at this meeting:

**CASE 5: PZ-22-17 – The Courtyards at Carr Farms Section 6 – 4852 Leppert Road
PARCEL NUMBERS: 050-008252**

APPLICANT: Epcon Carr Farms LLC, 500 Stonehenge Parkway, Dublin, OH 43017; and Sydney Berry, EMH&T, 5500 New Albany Road, Columbus OH 43054.

REQUEST: Review & approval of a Final Plat under the provisions of Hilliard Code Section 1188.05 and the Carr Farms PUD Concept Plan for a development consisting of 31 single-family lots on 8.398 acres.

MOTION: Mr. Pannett made a motion to approve the final plat as consistent with the provisions of the Courtyards at Carr Farms PUD Concept Plan and Code Section 1188.05 with the following condition:

- 1) That the Final Plat meet the requirements of the City Engineer for format and content prior to being scheduled on a City Council agenda.

Mr. Lewie seconded the motion.

VOTE:

Chairman Muether	Yes
Vice Chair Schneck	Yes
Mr. Gutknecht	Yes
Mr. Lewie	Yes
Ms. Nixon	Yes
Mr. Pannett	Yes
Mr. Uttley	Yes

STATUS: The final plat has been approved by the Commission (7-0).

CERTIFICATION:



Carson Combs, Planning Manager/Acting Clerk
April 15, 2022



Resolution: 22-R-40

Adopted:

Page 1 of

Effective:

ACCEPTING THE DEDICATION OF EASEMENTS FOR PUBLIC AND PRIVATE UTILITIES, CABLE TELEVISION, SERVICE CONNECTIONS AND STORM WATER DRAINAGE FOR SECTION 6 OF THE COURTYARDS AT CARR FARMS.

WHEREAS, on October 11, 2021, Council adopted Resolution No. 21-R-62 approving a modification of the Carr Farms PUD Concept Plan consisting of 227 empty-nester homes and 16 townhomes on 79.45 acres; and

WHEREAS, upon application by Epcon Carr Farms, LLC, and EMH&T (collectively, the "Owner"), on April 14, 2022, at its regularly scheduled public meeting, the City's Planning and Zoning Commission approved the final plat ("Final Plat") for Section 6 of The Courtyards at Carr Farms for the development of 31 single-family lots on 8.398± acres of land (the "Property"); and

WHEREAS, the Owner has offered to dedicate to the City of Hilliard easements for the construction, operation, and maintenance of all public and private utilities, including cable television, above and beneath the surface of the ground, for the construction, operation, and where necessary, easements for the construction operation, and maintenance of service connections, and for storm water drainage in, to, and over certain real property described in the Final Plat, attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, this offer of dedication has been made by the Owner in support of the development of the Property depicted on Exhibit "A"; and

WHEREAS, it is to the interest and benefit of the City of Hilliard, its residents and the public at large that the dedications proposed on Exhibit "A" be accepted by the City of Hilliard.

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

SECTION 1. The City of Hilliard accepts the dedication of easements for public and private utilities, cable television, service connections and storm water drainage, within The Courtyards at Carr Farms Section 6, as shown on Exhibit "A", **attached** hereto and incorporated by reference herein.

SECTION 2. The City Engineer is authorized to approve any necessary administrative changes to affect the proper recording of the Final Plat identified on Exhibit "A" and is authorized to provide the Clerk of Council with a final recorded copy of said plat.

SECTION 3. The Clerk of Council, Chairman of the Planning and Zoning Commission and City Engineer are authorized to do all acts and to execute all instruments appropriate or necessary to carrying out the terms of the dedication and recording of the Final Plat.

SECTION 4. This Resolution is effective upon its adoption.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-40						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopted	Andy Teater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Adopted as Amended	Omar Tarazi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Defeated	Les Carrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Tabled	Tina Cottone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Held Over	Peggy Hale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Pete Marsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Positive Recommendation	Cynthia Vermillion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> No Recommendation						
<input type="checkbox"/> Referred Back To Committee						

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-40** passed by the Hilliard City Council on the 9th day of May 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 9th day of May 2022.

Diane C. Werbrich, MMC

THE COURTYARDS AT CARR FARMS SECTION 6

Situated in the State of Ohio, County of Franklin, City of Hilliard, and in Virginia Military Survey Number 3453, containing 8.398 acres of land, more or less, said 8.398 acres being part of that tract of land conveyed to **EPCON CARR FARMS, LLC** by deed of record in Instrument Number 202110130185048, Recorder's Office, Franklin County, Ohio.

The undersigned, **EPCON CARR FARMS, LLC**, an Ohio limited liability company, by **JOEL D. RHOADES**, Regional President, owner of the lands platted herein, duly authorized in the premises, does hereby certify that this plat correctly represents its "**THE COURTYARDS AT CARR FARMS SECTION 6**", a subdivision containing Lots numbered 208 to 228, and 241 to 250, all inclusive, and areas designated as Reserve "L" and Reserve "M", does hereby accept this plat of same.

Grantor hereby grants to the City of Hilliard, Ohio, its successors and assigns, easements in, over and under areas designated on this plat as "Easement" (Esmt), "Sanitary Easement" (S.E.), Reserve "M" or "Storm Water Management Easement" (SWME). Each of the aforementioned designated Easements permits the construction, operation and maintenance of all public and quasi public utilities above, beneath and on the surface of ground and, where necessary, for the construction, operation and maintenance of service connections to all adjacent lots and lands, and for storm water drainage. Within said Reserve "M", a non-exclusive easement is hereby granted to the City of Hilliard and other Governmental Employees for use in the course of providing Police, Fire, Medical or other Governmental services to Lots and Lands adjacent to said Reserve "M".

Grantor hereby grants to the City of Hilliard, Ohio, its successors and assigns, an additional easement in, over and through the areas designated on this plat as "Storm Water Management Easement"(SWME), for the purpose of constructing, operating and maintaining major storm water drainage swales and/or other storm water drainage facilities. No altering of grades and no above grade structures, dams, or other obstructions to the flow of storm water runoff are permitted within the Storm Water Management Easement areas as delineated on this plat unless approved by the Hilliard City Engineer.

Epcon Carr Farms, LLC, in recording this plat of The Courtyards at Carr Farms Section 6, has designated a certain area of land as reserve, which may contain but not be limited to, parking, walking, green areas, private streets, sidewalks and common parking areas, all of which are intended for use by the owners of the fee simple titles to the lots and reserve areas in The Courtyards at Carr Farms development. Reserve "M", is not hereby dedicated for use by the general public but is hereby dedicated to the common use and enjoyment of the owners of the fee simple titles to the lots and reserve areas in the The Courtyards at Carr Farms development as more fully provided in the declaration of covenants, conditions and restrictions applicable to The Courtyards at Carr Farms Section 6 ("Declaration"), which will be recorded subsequent to the recordation of this plat. The Declaration will be incorporated and made a part of this plat upon the recording of the Declaration.

The owners of the fee simple titles to lots 208 to 228 and 241 to 250, all inclusive, and areas designated as Reserve "L", and to lots and reserve areas in existing and future sections of the The Courtyards at Carr Farms development shall have and are hereby granted a non-exclusive right-of-way and easement for access to and from public streets, in and over said Reserve "M" to be shared with the owners of the fee simple titles to each other of said lots 208 to 228 and 241 to 250, all inclusive, and areas designated as Reserve "L" and Reserve "M", and with the owners of the fee simple titles to the lots and reserve areas in existing and future sections of the The Courtyards at Carr Farms development. Said owners of the fee simple titles to said lots 208 to 228 and 241 to 250, all inclusive, and areas designated as Reserve "L" and Reserve "M", shall have a non-exclusive right-of-way and easement in and over similar such access ways to public streets that future sections of the The Courtyards at Carr Farms development may provide.

In Witness Whereof, **JOEL D. RHOADES**, Regional President of **EPCON CARR FARMS, LLC**, has hereunto set his hand this _____ day of _____, 20__.

Signed and Acknowledged
In the presence of: **EPCON CARR FARMS, LLC**

By
JOEL D. RHOADES,
Regional President

STATE OF OHIO
COUNTY OF FRANKLIN ss:

Before me, a Notary Public in and for said State, personally appeared **JOEL D. RHOADES**, Regional President of **EPCON CARR FARMS, LLC** who acknowledged the signing of the foregoing instrument to be his voluntary act and deed and the voluntary act and deed of said **EPCON CARR FARMS, LLC** for the uses and purposes expressed herein.

In Witness Thereof, I have hereunto set my hand and affixed my official seal this _____ day of _____, 20__.

My commission expires _____
Notary Public, _____ State of Ohio

CITY OF HILLIARD

Approved this _____ day of _____,
20 __, by the Planning and Zoning
Commission _____
Chairman, Planning and Zoning Commission,
Hilliard, Ohio

Approved this _____ day of _____,
20 __. _____
City Engineer, Hilliard, Ohio

Approved and accepted this _____ day of _____, 20 __, by Resolution No. _____ wherein all Brixshire Drive and all of the easements shown dedicated hereon are accepted, as such, by the Council for the City of Hilliard, Ohio.

Clerk of Council, Hilliard, Ohio

Transferred this _____ day of _____,
20 __. _____
Auditor, Franklin County, Ohio

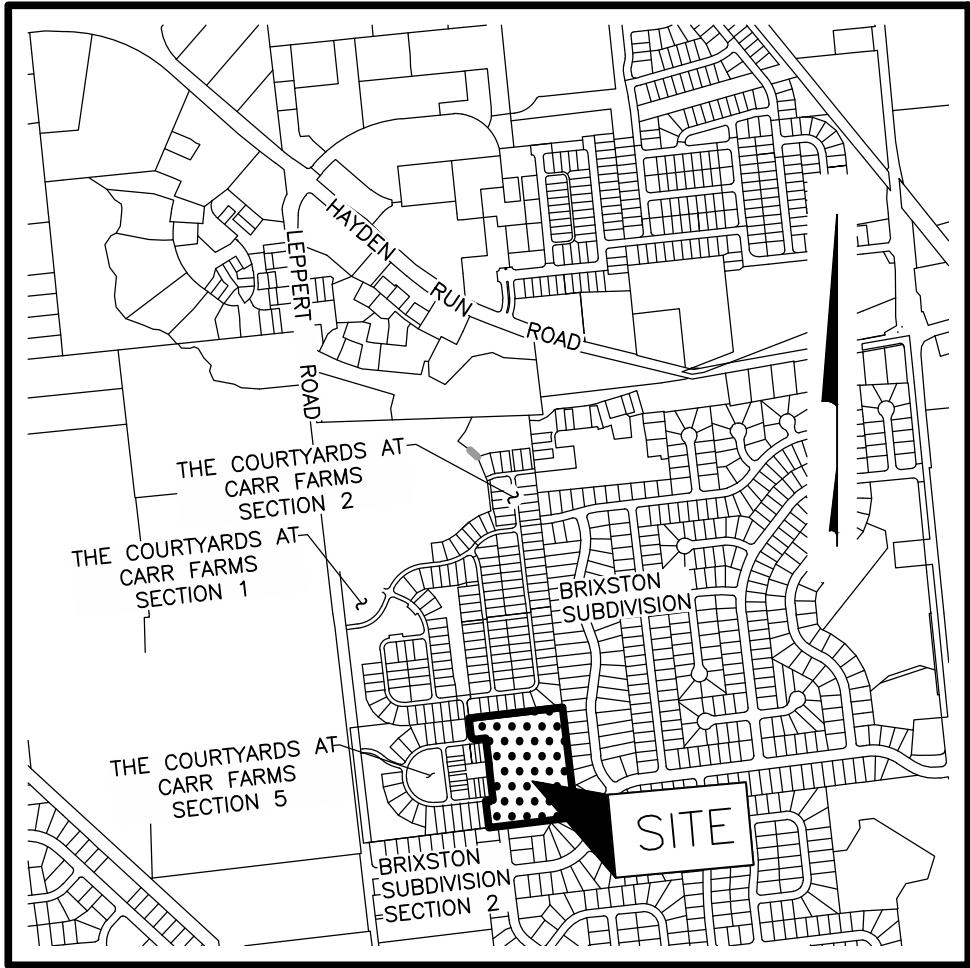
Deputy Auditor, Franklin County, Ohio

Filed for record this _____ day of _____,
20 __ at _____ M. Fee \$ _____
Recorder, Franklin County, Ohio

File No. _____

Recorded this _____ day of _____,
20 __. _____
Deputy Recorder, Franklin County, Ohio

Plat Book _____, Pages _____



LOCATION MAP AND BACKGROUND DRAWING

NOT TO SCALE

SURVEY DATA:

BASIS OF BEARINGS: The bearings shown hereon are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2007). Control for bearings was from coordinates of monuments FCGS 5068 and FCGS 5069, having a bearing of North 06° 41' 27" East between said monuments, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

SOURCE OF DATA: The sources of recorded survey data referenced in the plan and text of this plat are the records of the Recorder's Office, Franklin County, Ohio.

IRON PINS: Iron pins, where indicated hereon, unless otherwise noted, are to be set and are iron pipes thirteen sixteenths inch inside diameter, thirty inches long with a plastic plug placed in the top end bearing the initials EMHT INC.

PERMANENT MARKERS: Permanent markers, where indicated hereon, are to be one-inch diameter, thirty-inch long, solid iron pins. Pins are to be set to monument the points indicated, and set with the top end flush with the surface of the ground and then capped with an aluminum cap stamped EMHT INC. Once installed, the top of the cap shall be marked (punched) to record the actual location of the point.

SURVEYED & PLATTED
BY



We do hereby certify that we have surveyed the above premises, prepared the attached plat, and that said plat is correct. All dimensions are in feet and decimal parts thereof.

- = Iron Pin (See Survey Data)
- = MAG Nail to be set
- ⊙ = Permanent Marker (See Survey Data)

By _____ Date _____
Professional Surveyor No. 7865

THE COURTYARDS AT CARR FARMS SECTION 6

NOTE "A" - ACREAGE BREAKDOWN:
Total acreage: 8.398 Ac.
Acreage in Reserve "M" (private streets) 0.682 Ac.
Acreage in Reserve: 0.466 Ac.
Acreage in remaining lots: 7.250 Ac.

NOTE "B" : At the time of platting, all of the land hereby being platted as The Courtyards at Carr Farms Section 6 is in Zone X (Areas determined to be outside of the 0.2% annual chance flood plain) as designated and delineated on the FEMA Flood Insurance Map for Franklin County, Ohio, and Incorporated Areas, map number 39049C0141K with effective date of June 17, 2008.

NOTE "C" - ACREAGE BREAKDOWN: The Courtyards at Carr Farms Section 6 is out of the following Franklin County Parcel Numbers:

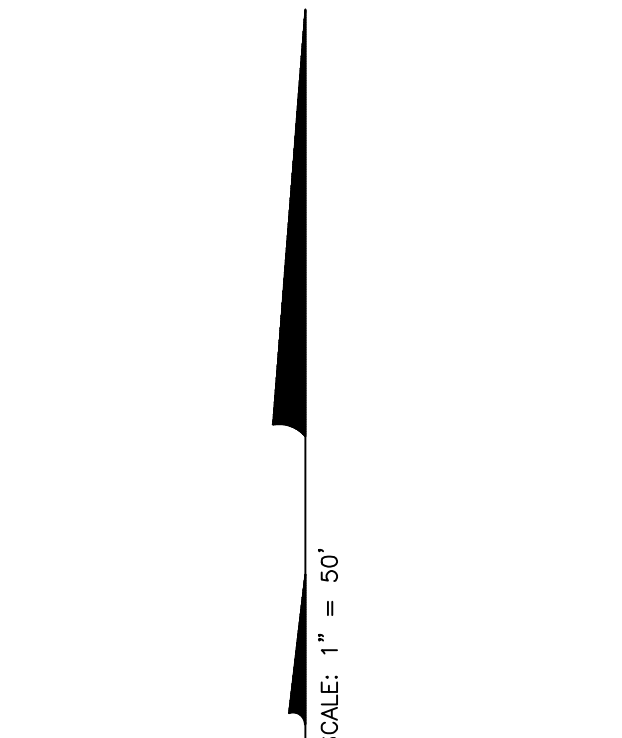
050-008252 8.398 Ac.

NOTE "D" - RESERVE "L": A homeowner's association ("Association") shall be created which will be responsible for the maintenance of designated reserves that are not conveyed or dedicated to the City of Hilliard or a community authority. The articles of incorporation creating the Association will be filed with the Ohio Secretary of State prior to occupancy of any building on the property. The Declaration shall contain a provision that states, after the City of Hilliard provides written notice to the Association and a right-to-cure period, the City of Hilliard shall have the right to enter upon the designated reserves and perform any necessary maintenance work to said designated reserves if the Association fails to timely fulfill its maintenance obligations in accordance with the Declaration. In such an event, the City of Hilliard shall be entitled to recover from the Association its costs associated with performing said necessary maintenance work. Notwithstanding the foregoing, the City of Hilliard may neither (i) enter the clubhouse building or any other amenity facilities constructed within or upon the designated reserves nor (ii) have any obligation to maintain such amenity facilities, if any. Prior to filing the Declaration, Epcon Carr Farms, LLC shall deliver a draft of the Declaration to the law director for the City of Hilliard to confirm the Declaration contains the above-mentioned language.

Reserve "L", as designated and delineated hereon, shall be owned and maintained by the Association.

Refer to the recorded operation and maintenance agreement for the post-construction stormwater best management practices and for additional restrictions in Reserve "L".

NOTE "E" - RESERVE "M": Reserve "M", as designated and delineated hereon, shall be owned and maintained by the Association. The street and lanes constructed within said Reserve "M" will be private streets and lanes which will not be dedicated to the City of Hilliard and the City of Hilliard will not be responsible for the maintenance of said streets.

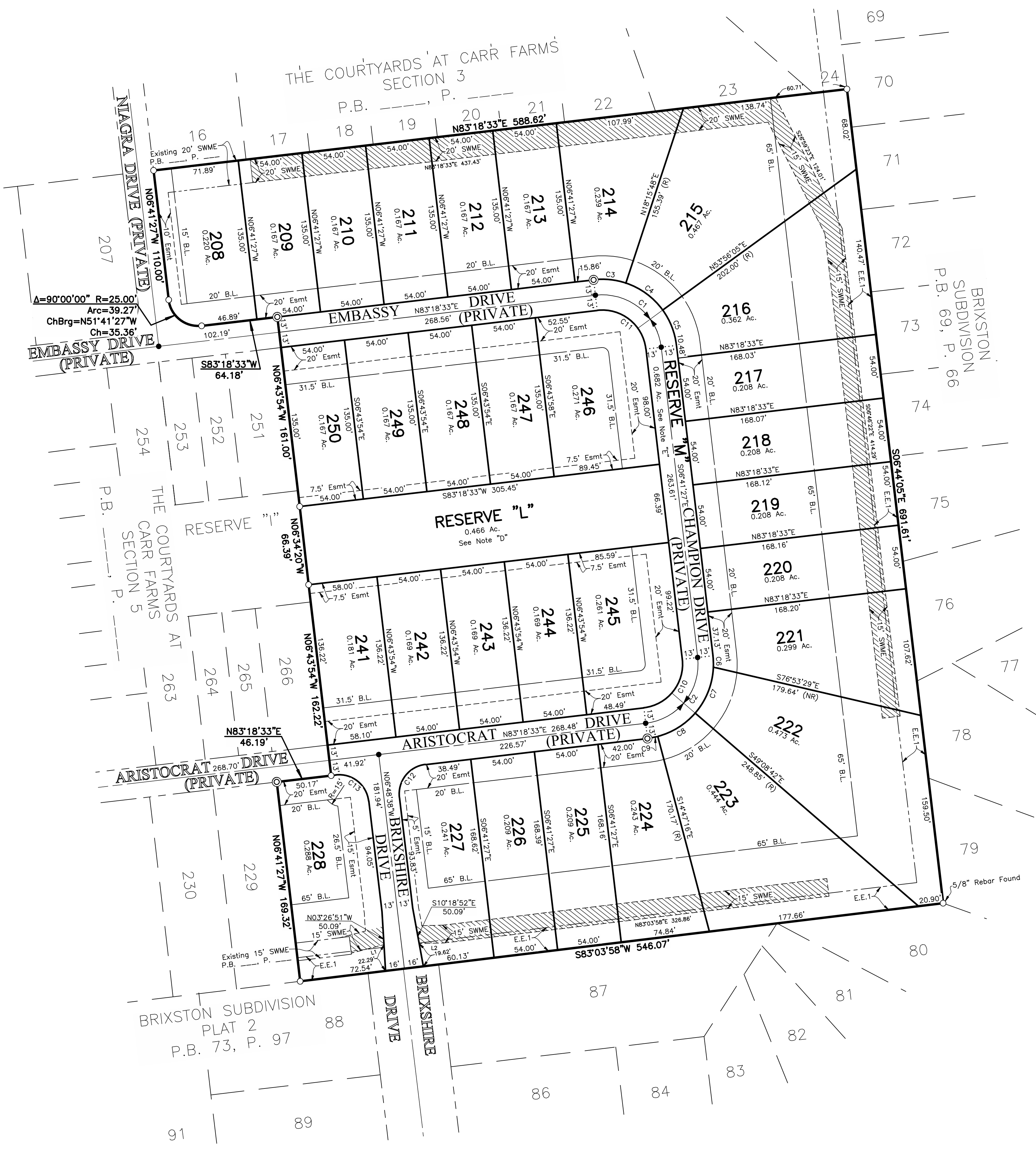


- Legend**
- B.L. = Building Line
 - Esmt = Easement
 - S.E. = Sanitary Easement
 - (R) = radial to street centerline
 - (NR) = non-radial to street centerline
 - SWME = Storm Water Management Easement (SWME). See paragraph regarding "Easements" and "Storm Water Management Easements" on sheet 1 for restrictions within this easement.
 - E.E.1 = Existing 20' Telephone Esmt D.B. 3045, P. 121

LINE TABLE			
LINE	BEARING	DISTANCE	
L1	S75°24'22"W	28.54'	
L2	N88°43'18"E	21.13'	

CURVE TABLE					
CURVE NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C1	90°00'00"	50.00'	78.54'	N 51°41'27" W	70.71'
C2	90°00'00"	50.00'	78.54'	N 38°18'33" E	70.71'
C3	24°57'15"	63.00'	27.44'	N 84°12'50" W	27.22'
C4	35°40'18"	63.00'	39.22'	N 53°54'03" W	38.59'
C5	29°22'27"	63.00'	32.30'	N 21°22'41" W	31.95'
C6	8°48'35"	63.00'	9.69'	N 02°17'10" W	9.68'
C7	38°44'09"	63.00'	42.59'	N 21°29'13" E	41.79'
C8	34°21'26"	63.00'	37.78'	N 58°02'01" E	37.21'
C9	8°05'49"	63.00'	8.90'	N 79°15'38" E	8.90'
C10	90°00'00"	37.00'	58.12'	N 38°18'33" E	52.33'
C11	90°00'00"	37.00'	58.12'	N 51°41'27" W	52.33'
C12	90°07'11"	25.00'	39.32'	S 38°14'57" W	35.39'
C13	89°52'49"	25.00'	39.22'	N 51°45'03" W	35.32'

- Line Type Legend**
- Existing Property Line
 - Existing R/W Line
 - Existing R/W Centerline
 - Existing Easement Line
 - Subdivision Boundary Line
 - Lot Line
 - R/W Line
 - R/W Centerline
 - Easement Line



THE COURTYARDS AT CARR FARMS SECTION 6

This sheet is to clearly designate and delineate the Sanitary Easement (S.E.). All information about Lots and Reserves can be found on Sheet 2 of 3 of this plat.

Legend

B.L. = Building Line
Esmt = Easement
S.E. = Sanitary Easement
(R) = radial to street centerline
(NR) = non-radial to street centerline
[Hatched Box] = Storm Water Management Easement (SWME).
See paragraph regarding "Easements" and "Storm Water Management Easements" on sheet 1 for restrictions within this easement.

E.E.1 = Existing 20' Telephone Esmt
D.B. 3045, P. 121

Line Type Legend

[Solid Line]	Existing Property Line
[Dashed Line]	Existing R/W Line
[Dotted Line]	Existing R/W Centerline
[Dash-dot Line]	Existing Easement Line
[Thick Solid Line]	Subdivision Boundary Line
[Thin Solid Line]	Lot Line
[Thick Dashed Line]	R/W Line
[Thin Dashed Line]	R/W Centerline
[Dash-dot-dot Line]	Easement Line



I:\2021\10\18\DWG\C48SHEETS\PLAT\20211018-VS-PLAT-SEC6.DWG plotted by KIRK, MATTHEW on 1/27/2022 11:30:04 AM last saved by JMASTON on 1/27/2022 10:56:24 AM
User:

Attachment: Exhibit A.CAFRR 6 final plat (22-R-40) : The Courtyards at Carr Farms Section 6)

Council Memo: Legislation (22-R-41)

Subject: Authorizing Construction Manager at Risk (CMR) for Recreation & Wellness Campus
From: Michelle Crandall, City Manager
Date: May 9, 2022

Executive Summary

This legislation authorizes the City Manager to enter into a contract with Ruscilli Construction Co., Inc. ("Ruscilli") for Construction Manager at Risk (CMR) services for the Community Recreation and Wellness Campus.

Staff Recommendation

Staff recommends that City Council approve the contract with Ruscilli in the amount of \$105,000 for preconstruction services. Future legislation will authorize the expenditure for the balance of construction manager services.

Background

On November 2, 2021, residents approved increasing the City's municipal income tax by 0.5% and dedicating the resulting funds for recreation and parks, including (but not limited to) construction of a new community center (the "Project"). On December 13, 2021, City Council approved Resolution No. 21-R-85, authorizing the City Manager to enter into a Professional Services Agreement with McCarthy Consulting, LLC to be the Owner's Representative for the Project. With the Owner's Representative assistance, in March/April 2022, the City issued a request for proposals Construction Manager services for the Hilliard Recreation & Wellness Campus.

On April 14, 2022, 5 proposals were received. From those received, a team of City staff along with the Owner's Representative reviewed and scored all submissions and decided to interview 3 firms: Ruscilli, Corna Kokosing Construction Company, and Elford Inc.

In late April, each firm interviewed and answered questions from the team of City staff and the City's Owner's Representative. Following these sessions, the team met again, reviewed and scored each firm's interview and determined that Ruscilli submitted the best proposal for the CMR Services. Ruscilli is partnering with Ascension Construction Solutions, a local firm whose background and focus will be on stormwater management for the Campus.

At a later meeting this year, Ruscilli will issue its first GMP (guaranteed maximum price). At that point, City Council will approve additional funds for Ruscilli's contract for construction management services.

Financial Impacts

On February 28, 2022, City Council approved an amended Capital Budget which appropriated funds due to the passage of Issue 22.

Expected Benefits

The City is confident that Ruscilli will provide CMR services in a professional manner and will work hand in hand with the members of the design team to ensure the completion of a quality project.

Attachments

- Exhibit A – Contract with Ruscilli



Resolution: 22-R-41

Adopted:

Page 1 of

Effective:

AUTHORIZING A CONTRACT WITH THE RUSCILLI CONSTRUCTION CO. INC. AS CONSTRUCTION MANAGER AT RISK FOR THE HILLIARD RECREATION AND WELLNESS CAMPUS.

WHEREAS, on November 2, 2021, City electors approved increasing the City's municipal income tax by 0.5% and dedicating the resulting funds for recreation and parks, including (but not limited to) construction of a community center; and

WHEREAS, following the issuance of a Request for Proposal (RFP), the City interviewed three firms and determined that Ruscilli Construction Co., Inc. is the best firm to be the Construction Manager at Risk (CMR) for the Hilliard Recreation and Wellness Campus; and

WHEREAS, funding for the contract is appropriated in the City's Capital Improvement Budget, RP – 7; and

WHEREAS, initial funding for the Project was appropriated by Ordinance No. 22-07, and pursuant to Section 3.10 of the Charter, authorization for funding this Project may be established by resolution of Council; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, that:

SECTION 1. An expenditure is authorized from Fund 103, Object 55 in the amount not to exceed \$105,000 initiate the contract with Ruscilli Construction Co., Inc.

SECTION 2. The City Manager is hereby authorized to enter into a contract with Ruscilli Construction Co., Inc., in substantially the same form as the on attached hereto as Exhibit "A" and incorporated herein, in an amount not to exceed \$105,000. The City Manager is authorized to make such changes to the Agreement that are not inconsistent with this Resolution and not adverse to the City.

SECTION 3. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with the expenditure of funds provided herein.

SECTION 4. This Resolution is effective upon its adoption.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
 Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
 Director of Law

✓ Vote Record - Resolution 22-R-41						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopted	Andy Teater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Adopted as Amended	Omar Tarazi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Defeated	Les Carrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Tabled	Tina Cottone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Held Over	Peggy Hale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Pete Marsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Positive Recommendation	Cynthia Vermillion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> No Recommendation						
<input type="checkbox"/> Referred Back To Committee						

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-41** passed by the Hilliard City Council on the 9th day of May 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 9th day of May 2022.

Diane C. Werbrich, MMC

PRECONSTRUCTION AGREEMENT

AGREEMENT made as of the « 28th » day of « April » in the year « 2022 »
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

City of Hilliard, Ohio
3800 Municipal Way
Hilliard, Ohio 43026

and the Construction Manager:
(Name, legal status, address, and other information)

Ruscilli Construction Co., LLC
5815 Wall Street
Dublin, Ohio 43017

for the following Project:
(Name, location, and detailed description)

City of Hilliard – Recreation & Wellness Center and Athletic Field Complex Project
Cosgray Road Extension
Hilliard, Ohio 43026

The Architect's for the Project:
(Name, legal status, address, and other information)

Prime AE Group of America – Recreation & Wellness Center Project
8415 Pulsar Place
Columbus, Ohio 43240

EDGE Group, Inc. – Athletic Field Complex Project
330 West Spring Street
Suite #350
Columbus, Ohio 43215

Columbus, Ohio 43240

The Owner and Construction Manager agree as follows.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	GENERAL PROVISIONS
3	CONSTRUCTION MANAGER'S RESPONSIBILITIES
4	OWNER'S RESPONSIBILITIES
5	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7	COST OF THE WORK FOR CONSTRUCTION PHASE
8	DISCOUNTS, REBATES, AND REFUNDS
9	SUBCONTRACTS AND OTHER AGREEMENTS
10	ACCOUNTING RECORDS
11	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12	DISPUTE RESOLUTION
13	TERMINATION OR SUSPENSION
14	MISCELLANEOUS PROVISIONS
15	SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

« Is being developed. »

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

« To be determined. »

§ 1.1.3 Not Used.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:

« See the Master Project Schedule, Exhibit A. »

- .2 Construction commencement date:

« To be determined. »

- .3 Substantial Completion date or dates:

« To be determined. »

- .4 Other milestone dates:

« To be determined. »

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:

(Identify any requirements for fast-track scheduling or phased construction.)

« See the Master Project Schedule, Exhibit A. »

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

« Not Applicable. »

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

« Not Applicable. »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

Don McCarthy
McCarty Consulting LLC
84 West Riverglenn Drive
Worthington, Ohio 43085

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

(List name, address and other contact information.)

« To be determined. »

§ 1.1.10 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

« Professional Service Industry, Inc. »
 « 545 East Algonquin Road »
 « Arlington Heights, Illinois 60005 »

.2 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

« Not Applicable. »

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

« Craig Vander Veen »
 « Project Manager »
 « Prime AE »
 « 8415 Pulsar Place, Suite #300 »
 « Columbus, Ohio 43240 »
 « 614-224-1504 »

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

(List name, address, and other contact information.)

Adam Drexel
 Ruscilli Construction Co., Inc.
 5815 Wall Street
 Dublin, Ohio 43017

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

(List any Owner-specific requirements to be included in the staffing plan.)

« Exhibit B – Staffing Plan »

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

(List any Owner-specific requirements for subcontractor procurement.)

« To be determined. »

§ 1.1.15 Other Initial Information on which this Agreement is based:

« Not Applicable. »

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, as modified, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017, as modified, referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall perform its Preconstruction Services in accordance with the applicable standard of care. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

The Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Project schedule shall be based on the information contained in the Preliminary Master Schedule attached as Exhibit A. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, preparation and processing of shop drawings and samples; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction or that require long-lead-time procurement; specific milestone dates related to the requirements of the Sustainability Plan; the occupancy requirements of the Owner showing portions of the Project having occupancy priority; and proposed date of Substantial Completion. If Project Schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations to the Owner and Architect.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems. The Construction Manager shall, when requested by Owner, provide to the Owner and Architect reasonable supporting data for the Construction Manager's estimates including, but not limited to, detailed estimates from Subcontractors.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager

agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project. As required during the Construction Documents Phase, the Construction Manager shall furnish to the Owner and Architect for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Work. The Owner will reply in writing to the Construction Manager if the Architect or Owner know of any objection to the listed subcontractors or suppliers. The receipt of the list shall not require the Owner or Architect to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed subcontractor or supplier.

§ 3.1.11.3 The processes described in Article 9 of the A133 – 2019 Standard Form of Agreement between Owner and Construction Manager as Constructor included in the Request for Proposal dated March 22, 2022 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.11.4 The Construction Manager shall not enter into any contract or other arrangement ("Arrangement") for the furnishing of any portion of Work with any entity which is an Affiliated Entity (as defined below), unless the Owner approves the Arrangement in writing after the Construction Manager's full disclosure in writing to the Owner of the affiliation or relationship and all details relating to the proposed Arrangement.

§ 3.1.11.5 Except with the Owner's prior written authorization, the Construction Manager shall not self-perform any of the Work directly or through an Affiliated Entity.

§ 3.1.11.6 The term "Affiliated Entity" means any entity related to or affiliated with the Construction Manager or with respect to which the Construction Manager has direct or indirect ownership or control, including, without limitation, any entity owned in whole or part by the Construction Manager; any holder of more than 10% of the issued and outstanding shares of, or the holder of any interest in, the Construction Manager; any entity in which any officer, director, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the

Construction Manager or any entity owned by the Construction Manager has a direct or indirect interest, which interest includes, but is not limited to, that of a partner, employee, agent or shareholder.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Schematic Design Phase

§ 3.1.14.1 The Construction Manager shall complete its services in the Schematic Design Phase according to the Preliminary Master Project Schedule attached as Exhibit A except to the extent that schedule is superseded by the Project Schedule prepared by the Construction Manager and approved by the Owner.

- .1 Within 10 days after the start of the Schematic Design Phase, **the** Construction Manager shall prepare and submit a Project Schedule for the Architect's review and the Owner's acceptance.

§ 3.1.14.2 At intervals acceptable to the Owner, the Construction Manager must meet with the Owner and the Architect to review drawings and other documents which depict the current status of the Schematic Design Phase of the Project.

§ 3.1.14.3 During the Schematic Design Phase, the Construction Manager shall:

- .1 advise the Owner and Architect in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;
- .2 assist the Owner with filing documents required for the approvals of governmental authorities having jurisdiction over the Project;
- .3 coordinate the location of new grading, drainage, and site utilities;
- .4 update and re-issue the Project Schedule as necessary to keep the Owner and Architect apprised of the schedule's current status;
- .5 make recommendations to the Owner for actions designed to minimize adverse effects of labor shortages; and
- .6 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor, and systems, long-lead items, safety and security plans, quality control, time requirements for construction and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

§ 3.1.14.4 The Architect will email PDFs of the Architect's provisional Schematic Design Documents to the Construction Manager. The Construction Manager shall perform a detailed review of the provisional Schematic Design Documents within seven days after receiving them. At the completion of that review, the Construction Manager shall provide a written "Opinion of Document Characteristics" to the Owner and email a copy of the Opinion to the Architect.

- .1 Through that Opinion, the Construction Manager shall document to the Owner the Construction Manager's opinion of the provisional Schematic Design Documents in terms of what the Construction Manager would reasonably expect to see in schematic design documents on a similar project. The Opinion shall individually address each of the following topics at a minimum:
 - .1 clarity of the documents;
 - .2 completeness of the documents;
 - .3 coordination of the documents;
 - .4 constructability of the Work described in the documents to the extent appropriate during schematic design;
 - .5 whether the Work described in the documents appears consistent with the Project's budget requirements; and
 - .6 whether the Work described in the documents appears consistent with the Project's schedule requirements.
- .2 If it is the Construction Manager's opinion that the provisional Schematic Design Documents do not reflect what the Construction Manager would reasonably expect to see in schematic design documents on a similar project:
 - .1 The Construction Manager shall also describe and identify in writing specific examples of the deficiencies.
 - .2 The Construction Manager shall immediately meet to review the Opinion with the Owner and the Architect. The Owner will thereafter determine an appropriate course of action, which may include the Architect's revision and resubmission of the documents and the Construction Manager's re-evaluation of them.

§ 3.1.14.5 Within 14 days after the completion of the activities described under Section 3.1.14.4 (except as provided under Section 3.1.14.4.2), and on the basis of the Architect's provisional Schematic Design Documents and other Owner-provided information the Construction Manager shall prepare the following documents and submit three hard-copy sets of them to the Owner and email PDFs of them to the Architect:

- .1 an estimate of the Contract Sum ("Schematic Design Estimate") using area, volume or similar conceptual estimating techniques;
 - .1 If the Schematic Design Estimate exceeds the Construction Budget by more than 5%, the Owner may require the Construction Manager to immediately work with the Architect to develop viable "value engineering" proposals, which will bring the estimate in line with the budget. The Construction Manager will present those value-engineering proposals as part of its Schematic Design Phase submission.
- .2 a preliminary Construction Schedule ("Schematic Design Schedule") for the Project that shall identify preliminary manpower requirements by critical trade;
- .3 cost evaluations of alternative materials and systems;
- .4 a schedule analysis of alternative phasing and sequencing; and
- .5 a preliminary site utilization plan illustrating things such as access, construction traffic flow, storage, staging, etc.

§ 3.1.14.6 The Owner, the Architect, and the Construction Manager shall meet to review the provisional Schematic Design Documents and the related documents submitted by the Construction Manager and to reach agreement on any Owner-authorized adjustments to or clarifications of the provisional Schematic Design Documents, the related documents submitted by the Construction Manager, the Project Schedule, and the Construction Budget.

§ 3.1.14.7 Unless the Owner agrees otherwise, within five business days after the review meeting, the Architect and the Construction Manager shall revise their respective Schematic Design submissions to reflect the adjustments and clarifications agreed upon in the review meeting. The Construction Manager shall submit three sets of its revised submission to the Owner and email PDFs of the revised submission to the Architect. When the Owner signs the Architect's and Construction Manager's revised submissions, they will become the final Schematic Design Documents. The Owner will return one signed set of the revised submissions to the Construction Manager for the Construction Manager's records.

§ 3.1.15 Design Development Phase

§ 3.1.15.1 Unless the Owner agrees otherwise in writing, the Design Development Phase will begin upon the completion of the activities described in Section 3.1.14.7.

§ 3.1.15.2 The Construction Manager shall complete the services in the Design Development Phase within the period set forth in the Project Schedule.

§ 3.1.15.3 At intervals acceptable to the Owner, the Construction Manager must meet with the Owner and the Architect to review drawings and other documents which depict the current status of the Design Development Phase of the Project.

§ 3.1.15.4 During the Design Development Phase, the Construction Manager shall:

- .1 advise the Owner and Architect in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;
- .2 develop estimates of the Contract Sum in increasing detail;
- .3 develop the Construction Schedule in increasing detail;
- .4 update and re-issue the Project Schedule as necessary to keep the Owner and Architect apprised of the schedule's current status;
- .5 refine the analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;
- .6 make recommendations to the Owner for actions designed to minimize adverse effects of labor shortages;
- .7 assist the Owner in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project; and
- .8 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

§ 3.1.15.5 The Architect will email PDFs of the Architect's provisional Design Development Documents to the Construction Manager. The Construction Manager shall perform a detailed review of the provisional Design Development Documents within seven days after receiving them. At the completion of that review, the Construction Manager shall provide a written "Opinion of Document Characteristics" to the Owner and email a

copy of the Opinion to the Architect.

- .1 Through that Opinion, the Construction Manager shall document to the Owner the Construction Manager's opinion of the provisional Design Development Documents in terms of what the Construction Manager would reasonably expect to see in design development documents on a similar project. The Opinion shall individually address each of the following topics at a minimum:
 - .1 clarity of the documents;
 - .2 completeness of the documents;
 - .3 coordination of the documents;
 - .4 constructability of the Work described in the documents;
 - .5 whether the Work described in the documents appears consistent with the Project's budget requirements; and
 - .6 whether the Work described in the documents appears consistent with the Project's schedule requirements.
- .2 If it is the Construction Manager's opinion that the provisional Design Development Documents do not reflect what the Construction Manager would reasonably expect to see in design development documents on a similar project:
 - .1 The Construction Manager shall also describe and identify in writing specific examples of the deficiencies.
 - .2 The Construction Manager shall immediately meet to review the Opinion with the Owner and the Architect. The Owner will thereafter determine an appropriate course of action, which may include the Architect's revision and resubmission of the documents and the Construction Manager's re-evaluation of them.

§ 3.1.15.6 Within 21 days after the completion of the activities described under Section 3.1.15.5 (except as provided under Section 3.1.15.5.2), and on the basis of the Architect's provisional Design Development Documents and other Owner-provided information the Construction Manager shall prepare the following documents and submit three hard-copy sets of them to the Owner and email PDFs of them to the Architect:

- .1 an updated Project Schedule;
- .2 a detailed, unit-cost estimate of the Contract Sum of the entire Project ("Design Development Estimate") which shall include reasonable contingencies for design, bidding, and price escalation;
 - .1 If the Design Development Estimate exceeds the Construction Budget by more than 5%, the Owner may require the Construction Manager to immediately work with the Architect to develop viable "value engineering" proposals, which will bring the estimate in line with the budget. The Construction Manager will present those value-engineering proposals as part of its Design Development Phase submission.
- .3 a written description of all proposed or previously agreed upon Alternates (if any);
- .4 a written description of all proposed or previously agreed upon allowances (if any);
- .5 a developed Construction Schedule ("Design Development Schedule") for the entire Project;
- .6 a written description of the Construction Manager's strategy for packaging and scheduling bidding;

- .7 a cash-flow forecast for the Project; and
- .8 a refined site utilization plan illustrating things such as access, construction traffic flow, storage, staging, etc.

§ 3.1.15.7 The Owner, the Architect, and the Construction Manager shall meet to review the provisional Design Development Documents and the related documents submitted by the Construction Manager and to reach agreement on any Owner-authorized adjustments to or clarifications of the provisional Design Development Documents, the related documents submitted by the Construction Manager, the Project Schedule, and the Construction Budget.

§ 3.1.15.8 Unless the Owner agrees otherwise, within five business days after the review meeting, the Architect and the Construction Manager shall revise their respective Design Development submissions to reflect the adjustments and clarifications agreed upon in the review meeting. The Construction Manager shall submit three sets of its revised submission to the Owner and email PDFs of the revised submission to the Architect. When the Owner signs the Architect's and Construction Manager's revised submissions, they will become the final Design Development Documents. The Owner will return one signed set of the revised submissions to the Construction Manager for the Construction Manager's records.

§ 3.1.16 Construction Documents Phase

§ 3.1.16.1 Unless the Owner agrees otherwise in writing, the Construction Documents Phase will begin upon the completion of the activities described in Section 3.1.15.8.

§ 3.1.16.2 The Construction Manager shall complete the services in the Construction Documents Phase within the period set forth in the Project Schedule.

- .1 The Construction Manager shall notify the Owner in writing of any revision of the Project that would cause a change in the cost of or time for construction of the Project. Upon the Owner's approval of any such revision, the Construction Manager shall revise and resubmit to the Owner and Architect the Construction Manager's Design Development Estimate, Construction Schedule, and Project Schedule.

§ 3.1.16.3 At intervals acceptable to the Owner, the Construction Manager must meet with the Owner and the Architect to review drawings and other documents which depict the current status of the Construction Documents Phase of the Project.

§ 3.1.16.4 During the Construction Documents Phase, the Construction Manager shall:

- .1 advise the Owner and Architect in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;
- .2 update and re-issue the Project Schedule as necessary to keep the Owner and Architect apprised of the schedule's current status;
- .3 develop, prepare, and compile all forms and information needed to properly bid and complete the Project including without limitation the "front-end" of the Project Manual;
- .4 work with the Architect to prepare Division 1 of the Specifications (the Construction Manager shall not amend the General Conditions except by Special Conditions approved by the Owner in advance and in writing);
- .5 ensure that the scopes of Work of the various subcontractors is coordinated, all requirements for the Project have been assigned to the appropriate subcontract, the likelihood of jurisdictional disputes between trades has been minimized, and proper coordination has been provided for phased construction (if any);

- .6 refine the analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;
- .7 make recommendations to the Owner for actions designed to minimize adverse effects of labor shortages;
- .8 assist the Owner in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project; and
- .9 provide recommendations on: value engineering; constructability; logistics; site use and improvements; availability and suitability of materials, equipment, labor, and systems; long-lead items; safety and security plans; quality control; time requirements for construction; and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets, and possible economies.

§ 3.1.16.5 On the date which marks the expiration of 90% of the time allotted in the schedule for the performance of the Architect's services for the Construction Documents Phase, the Architect shall email to the Owner and Contractor for review:

- .1 PDFs of the Construction Documents (i.e., a "90% Construction Documents progress submission");
- .2 Word/Excel files of the fully prepared and compiled, final draft of the "front-end" of the Project Manual and Division 1 of the Specifications; and

§ 3.1.16.6 The Construction Manager shall promptly complete a detailed review the documents submitted by the Architect as described under Section 3.1.16.5. At the completion of that review, the Construction Manager shall provide a written report of the acceptability of the documents submitted by the Owner. If, in the opinion of the Construction Manager, the documents are not acceptable, the Construction Manager shall describe and identify in writing specific examples of the deficiencies and schedule a meeting with the Owner and Architect to review these deficiencies. Once the documents are deemed acceptable to the Construction Manager, the Construction Manager may use those final documents to prepare bid documents such as bid forms and subcontractor scopes of work.

§ 3.1.16.7 At a time agreed upon by Construction Manager and the Owner, and on the basis of the Architect's provisional Construction Documents and other Owner-provided information the Construction Manager shall prepare the following documents and submit three hard-copy sets of them to the Owner and email PDFs of them to the Architect:

- .1 an updated Project Schedule which shall include fully developed Construction Schedule and the Submittal Schedule described under the A-201, 2017 General Conditions, as modified ;
- .2 a detailed constructability review of the Construction Documents;
- .3 a revised cash-flow forecast for the Project;
- .4 a refined site utilization plan illustrating things such as access, temporary walkway location, construction parking, construction traffic flow, storage, staging, trailer locations, etc.;
- .5 a detailed list of prospective bidders for each bid package; and
- .6 a proposed bidding schedule.

§ 3.1.16.8 The Owner, the Architect, and the Construction Manager shall meet to review the provisional Construction Documents and the related documents submitted by the Construction Manager and to reach agreement on any Owner-authorized adjustments to or clarifications of the provisional Construction Documents, the related documents submitted by the Construction Manager, the Project Schedule, and the Construction Budget.

§ 3.1.16.9 Unless the Owner agrees otherwise, within five business days after the review meeting referenced in §3.1.11.8, the Architect and the Construction Manager shall revise their respective Construction Documents submissions to reflect the adjustments and clarifications agreed upon in the review meeting. The Construction Manager shall submit three sets of its revised submission to the Owner and email PDFs of the revised submission to the Architect. When the Owner signs the Architect's and Construction Manager's revised submissions, they will become the final Construction Documents subject to revision as provided in the General Conditions. The Owner will return one signed set of the revised submissions to the Construction Manager for the Construction Manager's records.

§ 3.1.16.10 Government Approvals. The Construction Manager shall assist the Architect and Owner with the Architect's submission to the appropriate review authority such sets of the Construction Documents as may be required for approval, together with any necessary completed applications and all required fees.

- .1 The Construction Manager shall assist the Architect and the Owner in connection with filing of documents required for the approval of governmental authorities having jurisdiction over the Project.
- .2 The Construction Manager shall assist the Architect with obtaining the general building permit(s) for the Project.
 - .1 Unless the Owner agrees otherwise at the time the application(s) for the building permit(s) is submitted, the Owner shall be the building permit "applicant."
- .3 The Construction Manager shall assist the Architect with securing any necessary National Pollution Discharge Elimination System Storm Water General Permit, preparing a storm water pollution prevention plan for the Project to provide sediment and erosion controls at the Project, and preparing and processing the required notice of termination prior to final completion of the Work.

§ 3.1.17 Bidding Phase

§ 3.1.17.1 Unless the Owner agrees otherwise in writing, the Bidding Phase will begin upon the completion of the activities described in Section 3.1.16.9.

§ 3.1.17.2 The Construction Manager shall complete the Bidding Phase within 21 days.

§ 3.1.17.3 During the Bidding Phase, the Construction Manager shall:

- .1 develop bidders' interest in the Project, including specifically those bidders (if any) the Owner asks the Construction Manager to contact;
- .2 before issuing bidding documents for any subcontract, obtain the Owner's approval of a list of the Construction Manager's proposed bidders for that subcontract;
- .3 issue bidding documents to bidders included on the Owner-approved list of bidders;
- .4 conduct prebid conferences with prospective bidders;
- .5 as appropriate, forward questions from bidders to the Architect;
- .6 as appropriate, assist the Architect with the preparation of addenda for issuance to the Construction Manager;
- .7 receive all bids, prepare bid analyses and tabulations, conduct pre-award conferences, and report that information to the Owner and the Architect as part of the Construction Manager's Contract Sum proposal.

§ 3.1.17.3 Upon completion of the Bidding Phase, the Construction Manager shall submit to the Owner a Guaranteed Maximum Price proposal as described under Section 3.2.

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.
- .6 A list of all allowances and a statement of their basis including a detailed description;
- .7 A list of unit prices and a statement of their basis including a detailed description;
- .8 A list of alternates and a statement of their basis including a detailed description;
- .9 The Project Schedule;
- .10 The Contractor's Construction Schedule;
- .11 The Submittal Schedule;
- .12 A detailed Scope-of-Work description for each anticipated Subcontract; and,
- .13 A detailed Scope-of-Work description for all Work the Construction Manager proposes to self-perform.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

- .1 During the review meeting, the Construction Manager shall present to the Owner the bid of the proposed Subcontractor for each proposed Subcontract plus no less than two other bids for each proposed Subcontract, unless the Owner previously agreed to allow fewer bids.
- .2 The Owner will review the bids and with the advice of the Architect and Construction Manager then determine which bids will be accepted.
- .3 If a specific bidder among those whose bids are delivered by the Construction Manager to the Owner and Architect (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted the lowest bid which conforms to the

requirements of the Contract Documents without reservations or exceptions, but the Owner requires that higher bid be accepted, then the Construction Manager may require an adjustment of the Contract Sum and the Contract Time equal to the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 3.2.6 The period for the Owner's acceptance of the proposed Contract Sum Amendment shall be no less than thirty (30) days after the date of the initial submission and no less than seven (7) days after the date of any revised submission. If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use, CAT, and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.2.10 If the Owner and Construction Manager are unable to reach agreement on the Contract Sum Amendment, the Owner may terminate the Contract as described under Article 15 of the General Conditions, A201-2017, as modified, included in the Request for Proposal dated March 22, 2022.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:

1. Preconstruction Fee = \$0.00
2. Not-To-Exceed Preconstruction Phase Staff Cost = \$94,112.00
3. Preconstruction Phase Reimbursable Expenses = \$10,888.00 Allowance. All costs to be charged to this line item are to include detailed cost breakdowns and supporting documentation before being reimbursed.

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within sixteen (16) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

1% (one percent)

This Agreement is entered into as of the day and year first written above.

Robert A Ruscilli Jr

OWNER (signature)

CONSTRUCTION MANAGER (signature)

Michelle Crandall
City of Hilliard
City Manager

Robert A. Ruscilli
Ruscilli Construction Co., Inc.

Signature: Robert A Ruscilli Jr
Robert A Ruscilli Jr (May 2, 2022 12:58 EDT)

Email: truscilli@ruscilli.com

Signature:

Email: afredelake@ruscilli.com

Council Memo: Legislation (22-R-42)

Subject: Appointments to RPAC
From: Michelle Crandall, City Manager
Initiated by: Diane Werbrich, Clerk of Council
Date: May 9, 2022

Executive Summary

This legislation approves appointments to the Recreation and Parks Advisory Committee ("RPAC").

Staff Recommendation

Staff recommends that Council adopt this legislation.

Background

Section 149.07 of the City's Codified Ordinances established the RPAC. By the passage of Ordinance No. 22-15 on April 11, 2022, City Council approved changes to the membership in order to appoint up to 3 high school students, with not more than one for each high school.

As a result, City Council desires to appoint Prince Tabung to one of the additional high school student appointments, whose term will begin when Ordinance No. 22-15 is effective on May 11, 2022. Pursuant to 149.07(b)(5), the term will be for one year.

On March 28, 2022, Jane Rice was reappointed to the RPAC for a 2-year term. On April 23, Ms. Rice notified the City that she is no longer to serve on the RPAC and so it is necessary to appoint a new member to fill the remainder of the term which expires on February 21, 2024.

Financial Impacts

There are no anticipated financial impacts.

Expected Benefits

The Hilliard Recreation and Parks Advisory Committee will continue to advise the City as it continues to develop and improve the amenities and opportunities available in our community. They will serve as a sounding board for future projects, policies, and development, also helping with special events and park evaluations.

Attachments

N/A



Resolution: 22-R-42

Adopted:

Page 1 of

Effective:

APPROVING APPOINTMENTS TO THE RECREATION AND PARKS ADVISORY COMMITTEE.

WHEREAS, on January 25, 2021, City Council adopted Resolution No. 21-R-06, which enacted Section 149.07 of the City's Codified Ordinances establishing the Recreation and Parks Advisory Committee (the "RPAC"); and

WHEREAS, by the passage of Ordinance No. 22-15 on April 11, 2022, City Council amended the membership of the RPAC to include additional high school students; and

WHEREAS, City Council desires to appoint Prince Tabung, a high school student to a term on the RPAC; and

WHEREAS, Jane Rice, whose current term expires on February 21, 2024, has resigned her position on the RPAC and City Council desires to appoint _____ to fill the remainder of the term.

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

SECTION 1. City Council appoints the following individuals to the Recreation and Parks Advisory Committee:

Name	Term
Prince Tabung (High School Student)	May 11, 2022 – May 10, 2023
	May 9, 2022 – February 21, 2024

SECTION 2. This Resolution shall be effective upon its adoption.

ATTEST:**SIGNED:**

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-42						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopted	Andy Teater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Adopted as Amended	Omar Tarazi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Defeated	Les Carrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Tabled	Tina Cottone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Held Over	Peggy Hale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Pete Marsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Positive Recommendation	Cynthia Vermillion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> No Recommendation						
<input type="checkbox"/> Referred Back To Committee						

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-42** passed by the Hilliard City Council on the 9th day of May 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 9th day of May 2022.

Diane C. Werbrich, MMC

Council Memo: Legislation (22-R-43)

Subject: Approving Initial Appointments to APAC
From: Michelle Crandall, City Manager
Initiated by: Diane Werbrich, Clerk of Council
Date: May 9, 2022

Executive Summary

The Resolution approves the appointment of initial members to the City's Aging-in-Place Advisory Committee.

Staff Recommendation

Staff recommends that Council adopt this Resolution.

Background

By the passage of Ordinance No. 22-09 on April 14, 2022, Section 149.08 of the City's Codified Ordinances was enacted establishing an Aging-in-Place Advisory Committee. This Committee will have ten members, consisting of 9 residents that are 55 years of age or older as well as one City Council Member.

During the month of April, Council advertised and accepted cover letters and resumes from residents interested in volunteering. The City received applications from 14 residents. After review of the cover letters and resumes, City Council desires to appoint Jan Dickerson, Kathryn Grubbe, Brian Meginnis, Deborah Mitchell, Rose Reed, Paula Santry, Leslie Sauer, Sue Timan, and Lynn Tramontano, along with one Council member appointed by Council President.

Due to the fact that Ordinance No. 22-09 is not effective until May 14, 2022, the terms of the appointments will begin on that date. Additionally, Council will need to amend the resolution to appoint 3 people to 3-year initial terms, 3 people to 2-year initial terms and 3 people to 1-year initial term.

Financial Impacts

There are no anticipated financial impacts.

Expected Benefits

The Aging-in-Place Advisory Committee will help advise the City of Hilliard on matters affecting older adult residents in order to ensure that Hilliard is an age-friendly community where residents can enjoy all the community has to offer.

Attachments

None.



Resolution: 22-R-43

Adopted:

Page 1 of

Effective:

APPOINTING INITIAL MEMBERS TO THE CITY'S AGING-IN-PLACE ADVISORY COMMITTEE.

WHEREAS, on April 14, 2022, City Council adopted Ordinance No. 22-09, which enacted Section 149.08 of the City's Codified Ordinances establishing the Aging-in-Place Advisory Committee (the "APAC"); and

WHEREAS, 149.08(b)(2) provides that City Council shall appoint 9 residents 55 years and older to the APAC; and

WHEREAS, City Council advertised and sought applications from candidates interested in serving on the APAC; and

WHEREAS, based on each individual's application materials, City Council is prepared to appoint members to the APAC.

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

SECTION 1. City Council hereby appoints the following individuals to the Aging-in-Place Advisory Committee as initial members:

Name	Term
	May 14, 2022 – May 13, 2025
	May 14, 2022 – May 13, 2025
	May 14, 2022 – May 13, 2025
	May 14, 2022 – May 13, 2024
	May 14, 2022 – May 13, 2024
	May 14, 2022 – May 13, 2024
	May 14, 2022 – May 13, 2023
	May 14, 2022 – May 13, 2023
	May 14, 2022 – May 13, 2023

SECTION 2. This Resolution shall be effective upon its adoption.

ATTEST:**SIGNED:**

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-43						
<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Held Over <input type="checkbox"/> Withdrawn <input type="checkbox"/> Positive Recommendation <input type="checkbox"/> No Recommendation <input type="checkbox"/> Referred Back To Committee			Yes/Aye	No/Nay	Abstain	Absent
	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-43** passed by the Hilliard City Council on the 9th day of May 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 9th day of May 2022.

Diane C. Werbrich, MMC