

Tom Alf
Commission Member

Teri Horsley
Commission Member

Dale McAllister
Chairperson

David Belew
Commission Member

Patrick Moeller
Mayor

Michael Samoviski
Commission Member

Joshua Smith
City Manager

Roll Call:

2 Public Hearings

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Swearing in of Those Providing Testimony to the Commission:

Kathy Dudley, Assistant Law Director

Approval of Meeting Minutes- Written summary and audio recording for the following dates:

1. October 17, 2016

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

2. October 31, 2016

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Old Business:

Agenda Item #1- Public Hearing – Item Tabled on October 17, 2016

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day’s Sunoco & Towing LLC., Applicant/Owner).

Staff: John Creech

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith



New Business:

Agenda Item #2- Public Hearing

Request to Amend the Zoning Ordinance of the City of Hamilton, Ohio: Section 1118.00 R-4 Multi-Family Residence District (City of Hamilton, Applicant)
Staff: John Creech

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Agenda Item #3

Request to Replat City Lot Nos. 30470 and 30471 located in Random Oaks, Section One, First Ward North Side, City of Hamilton, Ohio (Shelton & Sons, Inc. Applicant)
Staff: John Creech

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Reports:

1. Verbal Report on Architectural Design Review Board Meeting of October 18, 2016 – Staff: John Creech
2. Verbal Report on Board of Zoning Appeals Meeting of November 3, 2016 – Staff: John Creech
3. Verbal Report on previous Planning Commission cases in progress – Staff: John Creech
4. Comprehensive Plan Update – Staff: John Creech

Adjournment:



**WRITTEN SUMMARY
PLANNING COMMISSION
MEETING MINUTES
Monday, October 17, 2016
1:30 p.m.**

The meeting was called to order at 1:30 by Mr. McAllister.

Roll Call:

Members Present:

Mr. Dave Belew, Mr. Dale McAllister, Mayor Pat Moeller, Mr. Mike Samoviski and Mr. Joshua Smith.

Members Absent:

Mr. Tom Alf and Ms. Teri Horsley.

City Staff Present:

Mr. Eugene (Bud) Scharf, Mr. John Creech, Mrs. Heather Hodges, Ms. Kim Kirsch, Mrs. Meredith Snyder, Mr. Ed Wilson, and Ms. Kathy Dudley (Assistant Law Director).

Swearing in of Those Providing Testimony to the Commission:

Ms. Dudley swore in the audience members wishing to speak.

Approval of Meeting Minutes- Written summary and audio recording for the following dates:

1. **October 3, 2016** - Motion to approve by Mr. Samoviski, 2nd by Mr. Belew. With all "ayes" to roll call vote, the motion was approved.

Old Business:

Agenda Item #1- Public Hearing

Staff: John Creech

Tabled Item from October 3, 2016

Request for a Conditional Use to allow the establishment of an Automobile Service and Minor Repair Facility (i.e. self service fuel dispensing) on property zoned B-2 Community Business District located at 302 East Avenue (City Lot No. 32098) (Thomas Dunn/Trenton Veer Inc., Applicant/Owner).

Mr. McAllister made a Motion to take the Motion off of the table. With a 2nd by Mr. Smith and all "ayes", the Motion was removed from the table and the Public Hearing progressed.

Mr. Creech gave a summary of the case before the Board. He then gave details of the site visit and meeting that Staff had on October 10, 2016, with Mr. Tom Dunn, the owners

of the property, several members of the Board, and residents of the surrounding neighborhood. The hours of operation, fencing, landscaping, and security of the property were discussed and agreed on between the residents, the owners, and the architect doing the work, and Mr. Creech gave the specifics of those to the Board.

Mr. Creech then showed the revised site plan, verified the lighting plan, and showed the new plans for the fencing.

Mr. Creech stated that if the Planning Commission approves the request for a Conditional Use, the Department of Community Development requests that the Planning Commission recommends that City Council approve the request for a Conditional Use subject to the following conditions of approval:

1. Construction drawings/documents for the proposed improvements and work shall be revised subject to any future review requirements of the City of Hamilton Inter-Departmental Review.
2. Proposed building will be single story masonry material veneer as shown on plans and supporting material submitted by the applicant.
3. Minimum of six (6') feet of proposed fuel canopy island supports be covered/wrapped in masonry material to closely match final building color.
4. Proposed dumpster/refuse area enclosure be covered/wrapped in masonry material to closely match final building color.
5. Proposed fencing along east property line, approximately 120 feet in length, to be four (4') high chain link.
6. No exterior storage/sales of merchandise or material other an ice and/or propane sales to be indicated on final construction plans.
7. Landscaping shall be provided as follows: All proposed landscaping item sizes to conform to the minimum size requirements found in Section 1111.10 of the Hamilton Zoning Ordinance. (Deciduous trees minimum of 2 ½ inches caliper, evergreen trees minimum of six (6') feet in height, shrubs/bushes minimum of 12 inches). Final landscaping selection to be coordinated with Municipal Arborist. Landscaping located along east property line will be kept low by planting bushes and shrubs instead of trees.
8. All future signage (permanent or temporary) will comply with Section 1138.00 Hamilton Sign Ordinance.
9. Mechanical equipment in support of the building to be screened from the public right of way by landscaping/privacy fencing.
10. Add a pedestrian connection from front of building to the East Avenue or Ludlow Avenue sidewalk.
11. No automobile repair, sales or storage is permitted on the property, only dispensing of fuel and fluids for operable motor vehicles.
12. Hours of operation will be:
 - Monday – Thursday 6AM to 11PM
 - Friday 6AM to 12AM (midnight)
 - Saturday 7AM to 12AM (midnight)
 - Sunday 8AM to 10PM

13. All improvements and work indicated on construction drawings/documents approved as part of the Conditional Use be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Conditional Use - (includes building and exterior finishes, canopies, dumpster enclosure, landscaping, pavement surfaces, fencing, and striping).

Mr. Smith asked if the additional elevations asked for previously are included in the presentations being done for the Board, and Mr. Dunn indicated that he had not provided those previously, but they were on the drawings that he brought with him for the Board to review.

Mr. Smith asked Mr. Creech some questions about the elevation drawings, and Mr. Creech answered those. Mr. McAllister and Mr. Smith then asked Mr. Dunn several questions about the plans, and he answered those.

Mr. Smith then gave specifics of what he will be asking for with regard to any Motion that may be made with regard to the materials on the building, the dumpster enclosure, and supports for the canopy.

Mr. McAllister then asked Mr. Creech to give a brief synopsis of the on-site meeting, and Mr. Creech did so, saying that he had repeated the specific issues agreed on to the residents at the on-site meeting in order to ensure that there were no misunderstandings.

Mayor Moeller then spoke about the meeting to Mr. Dunn and expressed his appreciation to him for meeting Staff and the Board on site, and said that he hopes that the owners will stay sensitive to the neighborhood's needs.

Mr. Scharf verified with Mr. Creech that all residents in attendance at the site visit were notified in writing of the agreed issues and the current meeting being held.

Mr. Smith then added a request that he would like a condition be added that the chain link fence be coated in black vinyl. Mr. Scharf asked Mr. Creech if there was a concern expressed about being able to see through the fence, and Mr. Creech said that the residents did want to be able to see through it.

Mr. McAllister and Ms. Dudley had a brief conversation about the items that Mr. Smith had requested and the procedure for adding them.

Mr. McAllister asked if there was anyone in the audience wishing to speak on behalf of the item.

First was Mr. Thomas Dunn. He gave his opinion of the meeting, and said that Mr. Creech's summary addressed all issues that were covered at the October 10 meeting. Mr. McAllister questioned whether the proposed "Hours of Operation" that were listed were for the entire business operation or just the gas pumps, and Mr. Creech verified that they were for the entire operation.

Mayor Moeller then spoke to the audience members that were at the site meeting. He thanked them for coming out and for working hard to get their property looking good as well.

Mr. Ed Walker, 334 East Avenue, spoke. He asked how high the proposed chain link fence was going to be, and it was answered that it will be 4' high.

There was then a Motion and 2nd to close the Public Hearing. With all "ayes", the Public Hearing was closed.

Mrs. Linda Walker, 334 East, expressed a desire to speak. There was a Motion and 2nd to reopen the Public Hearing. With all "ayes", the Public Hearing was re-opened.

Mrs. Walker said that they want the proposed business to make the neighborhood look better, but she is concerned about loitering, the hours, parking, security, and the Board addressed those items with her. As part of the discussion, Mr. Dunn advised that there are 15 parking spaces in addition to the spots by the pumps. Mr. Smith said that he believes the parking should be adequate, but added that she should contact the City if there are not enough.

Mr. Scharf explained the Conditional Use specifics to Ms. Walker and ensured her that Staff will be monitoring the property to make sure the guidelines are being followed. Ms. Walker asked if there was another meeting scheduled regarding the property, and Ms. Dudley told her that there was nothing further scheduled.

With no further discussion, Mr. Samoviski made a Motion to re-close the Public Hearing. With a 2nd by Mr. Smith and all "ayes", the Public Hearing was closed.

Mr. McAllister thanked the Staff for working with the residents, and also thanked Mr. Dunn for resolving the issues and coming up with a workable solution for all parties involved.

Mr. Smith asked if there has been a Condition Use permit that ties to law enforcement type of issues and Mr. Scharf answered him. Ms. Dudley added that once the Conditional Use is done, it cannot be changed, no matter what the issues may be that trigger police calls. There was a bit of conversation after that between the Board regarding the matter, and the final determination was that if there are issues other than what's provided for in the Conditional Use with regard to trespassing, etc, it would be between the owner and the Police Department.

Mr. McAllister verified with Mr. Creech that there is to be no Automotive Repair outside of the building.

Mr. Smith made a Motion to Approve the Conditional Use permit with the recommendations provided by the Planning Staff with following amendments:

Condition #2 to read “ Proposed building will be single story masonry of 3' red brick wainscoting and the remainder being stucco as currently shown on the submitted elevation plan.”

Condition #3 to read “Proposed fuel canopy island supports be covered/wrapped in red brick material to exactly match the wainscoting material on the building.”

Condition #4 to read “Proposed dumpster/refuse area enclosure be covered/wrapped in red brick to match the red brick on the building.”

Mr. Smith said he will defer to Planning Staff for where to place the black vinyl coating on any of the fencing that’s going to be installed, wherever they think the most appropriate place is for that.

He said that he believes that this is consistent with the last two service stations that have been installed, the one on High Street and also the one on Rt. 4.

With a 2nd by Mr. Samoviski and a roll call vote of all “ayes”, the Motion passes with a vote of 5-0 and the Conditional Use permit is approved.

New Business:

Agenda Item #2 - Public Hearing

Staff: John Creech

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day’s Sunoco & Towing LLC

Mr. Creech gives the details of the Conditional Use permit request. He shows the Public Hearing map, with the areas in questioned being highlighted in red and yellow.

The property is zoned I-1 Limited Industrial District and is comprised of a single 35,153 square foot lot (0.807 Acres). Vehicular access to City Lot No. 5993 is provided by the same driveway for 859 Franklin Street.

He then shows a different map with the zoning for surrounding areas, and gives specifics of those.

Day’s Sunoco & Towing LLC was issued a notice of zoning violation on November 4, 2015, after the City received a complaint about vehicles being stored at 259 South Edgewood Avenue. These vehicles were visible from South Edgewood and Millville Avenue. On November 24, 2015, Mr. Day visited the City of Hamilton Community Development Department Office to discuss the zoning violation. Mr. Day was informed that the City had no record of a Conditional Use approval on the subject property for a Vehicle Impound Lot. His options were to cease using the property as a Vehicle Impound Lot or apply for a Conditional Use. Because Mr. Day did not cease using the property as a

Vehicle Impound Lot or submit an application for a conditional use before the extended deadline of December 28, 2015, the city now has pending legal action against Day's Sunoco & Towing LLC, which prompted the application for a Conditional Use.

Mr. Creech then shows pictures from Google images with vehicles parked in the front of the property on Edgewood Avenue.

The subject property is zoned I-1 Limited Industrial District. Vehicle Impound Lots are Conditional Uses in the I-1 zoning district. Vehicle Impound Lots require Conditional Use review by the Planning Commission and approval by City Council (Section 1155.00).

Mr. Creech then shows the map again with the zoning for surrounding areas and gives more details of those, including the U.S. Post Office branch on Franklin Street and the old Hamilton Beltway railroad right-of-way.

He shows the one-page written description of the property, survey, and photographs as provided by Mr. Day. Mr. Creech states that Mr. Day did not submit a site plan for the property (other than some written description). Based on that, Staff is assuming that Mr. Day has no plans for changing the property as it currently is.

In response to the nine Criteria to be considered by the Planning Commission, Mr. Day submitted a Conditional Use application along with a written document entitled "*Criteria in Support of Application*". *The last sentence of the document* indicates that the proposed conditional use meets the nine (9) conditional use standards above as follows: "*Lastly, Applicant suggest that the Application for Conditional Use as a vehicle impoundment lot meets the general standard for conditional use review criteria under 1155.30.C. (1) through and include (9).*"

A review of the nine Conditional Use Review Criteria found in Section 1155.30 (Exhibit C) provides the Planning Commission with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria and the information provided by the applicant there is sufficient reason in the findings below to consider **denial of the Conditional Use** based on Conditional Use Review Criteria – General Standards (#2, #3, #5, #7, and #9).

Mr. Creech then goes through each of the Criteria, and gives Staff information for each.

Notification

Public Hearing Notices were mailed to the owners of 172 properties within 500 feet of the property in question. One phone call of objection was received, and an email was received expressing vehicle parking concerns (provided to the Board prior to the meeting).

Mr. Creech then shows all supporting documentation to the Board, including photos which were taken by Staff after the Application was received, and aerial photos of the property from 2006 and 2015.

Mr. McAllister asks if there is anyone in the audience wishing to speak to the matter.

Mr. Robert Michael Day, 3051 Old Oxford Road, Hamilton, Ohio, spoke. He says that they have cleaned the property up significantly since they purchased it, put the gravel down, and put privacy fence up. He then spoke to the history of the property, the previous owner, and his use for the property. He says that he keeps cars parked on the lot in front of the impound lot that are overflow from his business (Sunoco) on Main Street, and to keep other cars from pulling in and loitering on the lot.

Mr. Day says that they have received no complaints from the neighbors. He continued, saying that the tires on the lot are picked up regularly from Rumpke, and the scrap metal is disposed of. He also said that they use the metal fencing because it is more secure and blocks the view of the cars.

He spoke of the constant traffic of semi trucks that there used to be with honking horns in and out of the post office. He said that his business has much less traffic, and tries to enter the business from Edgewood Avenue instead.

Mr. Day went on to say that he would like to try to resolve this issue with the City.

Mr. McAllister asked for questions from the Board.

Mr. Samoviski asked Mr. Day if there is a certain time frame that he keeps the cars on the lot. Mr. Day responded by saying that 80% of the time, the cars are picked up in 10 days. The exception to that is if it is a police tow, that might take longer (depending on the police department and the circumstances that it was towed).

Mr. Samoviski asked Mr. Day a few questions about daily business and what his normal access to the property is. Mr. Day answered his questions and gave a bit more information for his uses of the property.

Mr. Samoviski made a Motion to close the Public Hearing. With a 2nd by Mr. Smith and all "ayes", the Public Hearing is closed.

Mr. Smith asked Staff to go to Google Images to pull up the entrance on the Edgewood Street side. Mr. Smith then asked Mr. Day if what they were looking at on the screen was the area that he previously referred to where he parks overflow cars from his Sunoco station, and he said that it was. Mr. Day and Mr. Smith then had a brief conversation about some other cars on the lot.

Mr. McAllister then asked Mr. Day about the letter of opposition that Staff received about a blue Cadillac on the lot that has been there quite a while. Mr. Day says that the car belongs to Mr. Acton. He said that Mr. Acton either needs to pick the car up or he's going to have to put it back inside.

Mr. Day then spoke about a few of the cars that are on the lot that actually belong to the neighbors.

Mayor Moeller said that he's not in opposition to giving the matter a little bit of time to see if something can be worked out with the City.

Mr. Smith made a Motion to table the item and ask Staff to meet on site with the Board and talk through some options with the owner.

With a roll call vote of all "ayes", the Motion is tabled.

Mr. McAllister asked Ms. Dudley if tabling the Motion halts enforcement action against Mr. Day, and she responded that it does not.

Mr. McAllister asked Mr. Creech to set up a meeting for the Board and the owner to visit the site and take a look at the operation.

Mr. Samoviski said that based on the fact that the triangle is contiguous to an existing approved impound lot, it's totally isolated and screened away, it presents some unusual challenges for re-use. He continued, saying that Mr. Day is a person who has a viable business, provides a service, and has a difficult piece of property. He went on to say that he thinks that everyone can acknowledge the improvements that have been done by Mr. Day, and he thinks that the Board has to work with a local businessman to come to some reasonable solution. He concluded by saying that he disagrees with the commentary about the traffic, as there is no traffic anymore.

There was then a brief discussion on the best time for the meeting. It was decided that it will be at 8:30 a.m. on site, meet in the front parking lot on the Edgewood side, and all parties will be notified.

Verbal Reports:

Staff: John Creech

1. Architectural Design Review Board Meeting of October 4, 2016:
 - 228 Linden St – Painting - Tabled from previous meeting – Approved
 - 302 Main St – Painting - Approved
 - 407 N. Third St – Painting of Front Door (Purple Door) – Denied
2. Board of Zoning Appeals Meeting of October 6, 2016:
 - 140 Wasserman – Driveway Setback – Approved
3. Planning Commission cases in progress:
 - 735 S. Erie – Conditional Use for Auto Use - Denied – Effective 10/14/16
 - 140 Ross Ave – Conditional Use for Institutional Use – Approved – Effective 10/14/16
 - 759 Park Ave – Rezoning to R-2A – Public Hearing held 10/12/2016, Second Reading scheduled for 10/26/16

4. Upcoming Zoning Code Text Amendment R-4 Multi-Family Residence District:
- Amending the R-4 District by removing “Lodging and Boarding Houses” from the list of permitted land uses in the R-4 district and adding it to “Prohibited Uses”. That item will be on the November 4 meeting agenda.

Adjournment:

Mr. Samoviski made a Motion to adjourn. With a 2nd by Mayor Moeller and all “ayes”, the meeting was adjourned.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant

Mr. Eugene Scharf
Secretary

Mr. Dale McAllister
Chairman

**WRITTEN SUMMARY
SPECIAL PLANNING COMMISSION MEETING
Monday, October 31, 2016
8:35 a.m.**

The meeting was called to order at 8:35 a.m. by Mr. McAllister at the site visit of 259 S. Edgewood Avenue, Hamilton, Ohio.

Roll Call:

Members Present:

Mr. Dave Belew, Ms. Teri Horsley, Mr. Dale McAllister, Mayor Pat Moeller, and Mr. Joshua Smith.

Members Absent:

Mr. Tom Alf and Mr. Mike Samoviski.

City Staff Present:

Mr. Eugene (Bud) Scharf, Mr. John Creech, Ms. Kim Kirsch, Ms. Kathy Dudley (Assistant Law Director), Mr. Tim Werdmann, Mr. Scott Scrimizzi, Mr. Jody Gunderson, Mr. Tom Vanderhorst, and Mr. Boyce Swift.

Guests:

Mr. Mike Day, Property Owner, Mr. Larry Fiehrer, Attorney at Law.

Swearing in of Those Providing Testimony to the Commission:

Ms. Dudley swore in Mr. Mike Day (owner of the property and Applicant).

Agenda Item #1- Site Visit

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day's Sunoco & Towing LLC., Applicant/Owner).

This special meeting was prompted by the Planning Commission meeting which was held on October 17, 2016. At that time, the item was tabled, and it was suggested that the Board and Staff do a site visit to the property in question.

There were several Board members present, as well as Staff and other City of Hamilton employees. Also present was Mr. Day, and Mr. Larry Fiehrer (on behalf of Mr. Day).

After the meeting was officially convened and Mr. Day was sworn in, he said that he would like to keep the entrance on S. Edgewood Avenue as the main entrance for the business. He added that the gate to the back part of the lot where the cars are kept is 100% contained. He continued saying that he believes that the best defense for crime against his type of business is if people don't know it's there, and with the fence that he has up around it, it's hard to see what's contained within the boundaries.

Mayor Moeller asked Mr. Day if he does anything to keep the open part of the lot secure, and he replied that the only thing he does is to keep a couple of cars on it so that it looks like someone is around.

When asked how many cars are on the impound lot presently, he responded that he believed it was about 30. He added that some of the cars are waiting to be scrapped at this time.

When asked who maintains the grassy area on the Millville Avenue side of the lot, Mr. Day responded that part of it is his responsibility, and part of it belongs to the railroad to maintain. He said that he had someone who normally cut the grass for him, but that person had passed away recently and that's why his portion is unmaintained at this time. He then added that someone was scheduled to come today to cut the grass.

Mr. Day opened the gate to the impound lot itself, and the group proceeded inside. Mr. McAllister asked Mr. Day if the cars that are on the lot are in the same condition as when they were brought in, and he responded that they were. Mr. Day was asked if he had considered getting gravel to put down, and he responded that the lot has a good blacktop surface to it at this time, so he didn't see any need.

When asked how long he keeps cars on the lot, Mr. Day responded that he tries to do everything within 90 days.

Mr. Day was asked if he knew if there were any tenants in the building directly behind the carwash and who owned it (239 S. Edgewood), and he responded that he believed it was Cox Saddlery, and gave a little more information about who he believed was there as a tenant.

When asked where his property line is in relation to the car wash, Mr. Day showed what he believes to be the marker and said that he thinks that it's approximately 10' away.

Mr. McAllister asked Mr. Day about the telephone tower on the property, and he said that it's on his property, but the tower owner has an easement for access to it.

Before the meeting concluded, Mr. Day said that he was going to try to find a way to reach the railroad because when we had the last huge rainfall, there was a large deluge of water that came from their area and poured straight into his buildings located along the Millville Avenue side.

Mr. McAllister made a Motion to Adjourn. With a 2nd by Mr. Smith, the meeting was adjourned at 9:09 a.m.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant

Mr. Eugene Scharf
Secretary

Mr. Dale McAllister
Chairman

DRAFT

For the Planning Commission Meeting of November 7, 2016

To: Planning Commission

From: John Creech

Subject: AGENDA ITEM #1

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day's Sunoco & Towing LLC., Applicant/Owner).

Date: November 1, 2016

This item was tabled at the October 17, 2016 Planning Commission Meeting.

BASIC INFORMATION		
Applicant/Property Owner	Robert M. Day/Day's Sunoco & Towing LLC	
Architect/Engineer/Consultant	N/A	
Size of Property	0.807 Acres (35,153 square feet)	
Current Zoning	I-1 Limited Industrial District	
Proposed Use: Conditional Use	Vehicle Impound Lot	
Comp. Plan Land Use Designation	Commercial	
Special Purpose/CRA	N/A	
ADJACENT LAND USE/ZONING INFORMATION		
<i>Direction</i>	<i>Land Use</i>	<i>Zoning</i>
North	Commercial	I-1
South	Residential	R-2
East	Residential	R-3
West	Residential	R-2
ZONING/DIMENSIONAL INFORMATION		
	<i>Minimum Required</i>	<i>Existing/Proposed</i>
Minimum Lot Area	N/A	(0.807 Acres) 35,153 Sq Ft
Minimum Lot Width	N/A	60 LF
Minimum Front Yard Setback	N/A	N/A
Minimum Side Yard Setback	N/A	N/A
Minimum Rear Yard Setback	N/A	N/A
Maximum Bldg. Height	N/A	N/A
Other Requirements	1155.00	N/A

Introduction:

This is a request submitted by Robert M. Day of Day's Sunoco & Towing LLC., to approve a Conditional Use to expand an existing Vehicle Impound Lot located at 859 Franklin Street onto the adjacent property at 259 South Edgewood Avenue (City Lot



No. 5993) as shown on Exhibit A. The property is zoned I-1 Limited Industrial District (Exhibit B) and is comprised of a single 35,153 square foot lot (0.807 Acres). Vehicular access to City Lot No. 5993 is provided by the same driveway for 859 Franklin Street.

Day's Sunoco & Towing LLC was issued a notice of zoning violation on November 4, 2015, after the City received a complaint about vehicles being stored at 259 South Edgewood Avenue. These vehicles were visible from South Edgewood and Millville Avenue. On November 24, 2015, Mr. Day visited the City of Hamilton Community Development Department Office to discuss the zoning violation. Mr. Day was informed that the City had no record of a Conditional Use approval on the subject property for a Vehicle Impound Lot (Exhibit D) and that the options were to cease using the property as a Vehicle Impound Lot or apply for a Conditional Use. Because Mr. Day did not cease using the property as a Vehicle Impound Lot or submit an application for a conditional use before the extended deadline of December 28, 2015, the city now has pending legal action against Day's Sunoco & Towing LLC, which prompted the application for a Conditional Use.

Aerial images of the property from 2006 and 2015 are attached as Exhibit E. The 2006 image shows the existing vehicle impound lot located at 859 Franklin Street and the vacant property at 259 South Edgewood. The 2015 image shows the expansion of the vehicle impound lot from 859 Franklin Street onto 259 South Edgewood Avenue (Exhibit E).

The subject property is zoned I-1 Limited Industrial District. Vehicle Impound Lots are Conditional Uses in the I-1 zoning district. Vehicle Impound Lots require Conditional Use review by the Planning Commission and approval by City Council (Section 1155.00).

Surrounding Zoning/Land Use:

The property to the north is zoned I-1 Limited Industrial District and is occupied by the US Postal Service. The property to the east is zoned I-1 and is the existing Vehicle Impound Lot, the address being 859 Franklin Street. The property to the south is zoned I-1 and is a multi-tenant building and car wash (253 South Edgewood Ave). The properties to the west are residential uses zoned R-2 Single Family Residential. Between the residential properties and the subject property is the abandoned Hamilton Beltline railroad right-of-way. The Hamilton Beltline ROW is being considered by the City of Hamilton for a multi-use recreational trail project. The City is aggressively pursuing grant opportunities to implement the beltline recreational project.

Proposed Project:

The proposed project involves using the surface area of City Lot No. 5993 for the surface parking/storage of vehicles. Vehicular access to the expanded property will be from the existing driveway on Franklin Street as indicated by Mr. Day below.



Mr. Day states that *“There will be minimal traffic, being a tow to the facility, with the probability that the vehicle will be driven from the premises during normal work hours. It will be a quiet atmosphere with minimal activity. Owners take possession of vehicles with a legal release, if a vehicle would be abandoned, upon confirmation, it would be removed to a salvage yard.”* In addition, Mr. Day states that *“The ingress and egress to Part Lot 5993 (the subject property) will be from Franklin Street.”*

A review of the Conditional Use application indicates that Mr. Day proposes no changes to the existing layout or use of the property. According to Mr. Day’s application the property (City Lot No. 5993) *“is bordered by a row of buildings (to the south), the west side which is bordered by metal fencing and the east side which is bordered by metal fencing. Again the general public will not be able to see any of the impounded vehicles on Part Lot 5993.”*

CONDITIONAL USE REVIEW

The process for Conditional Use Review is outlined below:

1155.10 – Conditional Uses:

1. The Planning Commission (PC) shall review and make a recommendation to City Council, in accordance with the provisions of this Ordinance for applications for Conditional Uses. The PC shall review the particular facts and circumstances of each proposed Conditional Use, and if recommending approval shall find adequate evidence that the proposed conditional use complies with the General Standards applicable to all Conditional Uses found in 1155.30. (REVISED OR2015-9-80)
2. The PC has no obligation to recommend approval of a Conditional Use, and City Council has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the PC that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (REVISED OR2015-9-80)
3. In considering an application for a Conditional Use, the PC and City Council shall give due regard to the nature and condition of all adjacent uses and structures and in recommending approval of a conditional use may impose such requirements and conditions, in addition to any expressly stipulated in this Ordinance, as the PC may deem necessary for the protection of adjacent properties and the public interest. (REVISED OR2015-9-80)

Section 1155.00 which regulates Conditional Uses states the following:

1155.30 – Application and Review



The applicant shall submit an application to the Department of Community Development for a Conditional Use along with applicable fee. The applicant shall submit at least the following supporting information to be considered for a Conditional Use.

- A. A written description of the proposed Conditional Use including nature of the business and hours of operation. The written description of the proposed Conditional Use should further address the nine (9) Conditional Use Review Criteria below in Section 1155.30.C.
- B. Plans of the proposed site for the Conditional Use indicating the location of all existing and proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks, and such other information as the PC may require to determine of the effect of the proposed Conditional Use on the surrounding neighborhood. (REVISED OR2015-9-80)

The applicant did not submit a site plan for the proposed conditional use that identifies items listed in 1155.30 B. above. Mr. Day submitted a Plat of Survey that show lot lines, buildings, and property dimensions and abutting public roadways only (labeled Exhibit 1). In addition, Mr. Day submitted eleven photographs of the site from various perspectives (labeled Exhibits 2-12). Since no site plan was submitted indicating the location of all existing/proposed buildings, parking, loading, and driveway areas, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signage, yards and setbacks as required in 1155.30B above, it is assumed that Mr. Day proposes no changes to the property.

C. Conditional Use Review Criteria – General Standards

In reviewing an application for a Conditional Use, the PC shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the nine (9) General Standards below.

- 1. The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
- 2. The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- 3. The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- 4. The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the



applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.

5. The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets.
6. The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.
7. The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
8. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
9. The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Mr. Day submitted a Conditional Use application along with a written document entitled "*Criteria in Support of Application*". The last sentence of the document indicates that the proposed conditional use meets the nine (9) conditional use standards above as follows: "*Lastly, Applicant suggest that the Application for Conditional Use as a vehicle impoundment lot meets the general standard for conditional use review criteria under 1155.30.C. (1) through and include (9).*"

Summary Review of Conditional Use Standards:

Section 1155.10.2 confirms that the Planning Commission has no obligation to approve a Conditional Use. The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed.

Notification

Public Hearing Notices were mailed to the owners of 172 properties within 500 feet of the property in question. At the time this report was written, one (1) objection was expressed to the proposed conditional use for 259 South Edgewood Avenue.

Previous Meetings

The Planning Commission held a public hearing and reviewed the Conditional Use application on October 17, 2016. After the public hearing and discussion, the item was tabled by the Planning Commission on October 17, 2016 for a future site visit by members of the Planning Commission. The Planning Commission held a site visit of the property on October 31, 2016 (see Exhibit F).



Review and Findings:

A review of the nine Conditional Use Review Criteria found in Section 1155.30 (Exhibit C) provides the Planning Commission with the basic facts and circumstances of the proposed Conditional Use. After consideration of the Conditional Use Review Criteria and the information provided by the applicant there is sufficient reason in the findings below to consider **denial** of the Conditional Use.

- 1) The proposed use will substantially or permanently injure the appropriate use of neighboring property and will not serve the public convenience and welfare. The area is surrounded by residential land uses with the exception of the US Postal Service office. In addition the former beltline RR, which served industrial sites on the west side of Hamilton is now closed which has changed the character of the immediate area.
- 2) The proposed use will not be harmonious with the existing or intended character of the general vicinity, and that such use will change the essential character of the same area. The existing and intended character of the general vicinity is residential. This property and the property occupied by the US Postal Service are zoned I-1 and appear, in part, to be legacy properties occupied by former industrial uses.
- 3) The proposed use will not have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets. While the property is zoned I-1 Limited Industrial, vehicular access to the property is through Franklin Street. Franklin Street is a residential street with the exception of the US Postal Service office.
- 4) The proposed use will be hazardous to or have a negative impact on existing or future neighboring uses. The existing Impound Vehicle Lot is nonconforming and appears to have been established prior to Vehicle Impound Lots becoming Conditional Uses – sometime between 1987 and 1989 by a previous property owner. However the proposed expansion will increase the size of the vehicle storage area which would increase the number of vehicles (customers & tow vehicles) using Franklin Street, which is a residential street.
- 5) The proposed use will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The number of vehicles entering and exiting the property, noise generated by towing/on and off loading vehicles and the condition of the surrounding privacy fencing could impede the development or improvement of surrounding residential properties, including the proposed Hamilton Beltline recreational trail.



Recommendation:

If the Planning Commission denies the proposed Conditional Use the Department of Community Development recommends that the Planning Commission utilize the following motion:

The Planning Commission recommends that City Council deny the proposed conditional use after consideration of the site plan, written description provided by the applicant, findings, and review of the Conditional Use Review Criteria – General Standards #2, #3, #5, #7, and #9) for the following reasons below:

- 1) The proposed use will substantially or permanently injure the appropriate use of neighboring property and will not serve the public convenience and welfare. The area is surrounded by residential land uses with the exception of the US Postal Service office. In addition the former beltline RR, which served industrial sites on the west side of Hamilton is now closed which has changed the character of the immediate area.
- 2) The proposed use will not be harmonious with the existing or intended character of the general vicinity, and that such use will change the essential character of the same area. The existing and intended character of the general vicinity is residential. This property and the property occupied by the US Postal Service are zoned I-1 and appear, in part, to be legacy properties occupied by former industrial uses.
- 3) The proposed use will not have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets. While the property is zoned I-1 Limited Industrial, vehicular access to the property is through Franklin Street. Franklin Street is a residential street with the exception of the US Postal Service office.
- 4) The proposed use will be hazardous to or have a negative impact on existing or future neighboring uses. The existing Impound Vehicle Lot is nonconforming and appears to have been established prior to Vehicle Impound Lots becoming Conditional Uses – sometime between 1987 and 1989 by a previous property owner. However the proposed expansion will increase the size of the vehicle storage area which would increase the number of vehicles (customers & tow vehicles) using Franklin Street, which is a residential street.
- 6) The proposed use will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The number of vehicles entering and exiting the property,



noise generated by towing/on and off loading vehicles and the condition of the surrounding privacy fencing could impede the development or improvement of surrounding residential properties, including the proposed Hamilton Beltline recreational trail.

Attachments:

- 1) **Exhibit A - Public Hearing Location Map**
- 2) **Exhibit B – Zoning Map**
- 3) **Exhibit C – Conditional Use Application & Supporting Material**
 - a. **Application**
 - b. **Criteria in Support of Application**
 - c. **Exhibits 1-12**
- 4) **Exhibit D – Zoning Violation Correspondence**
- 5) **Exhibit E – Aerial photographs of the subject property.**
- 6) **Exhibit F – Agenda and Sign in Sheet for Site Visit**





A163327
A163341

LAWRENCE P. FISHER
300 HIGH ST. ATTORNEY
FIRST FINANCIAL BANK
SUITE 550
HAMILTON, OH 45011

APPLICATION FOR CONDITIONAL USE

Please Note: The Planning Commission has no obligation to approve a Conditional Use.

The Hamilton Zoning Ordinance assumes that the uses listed as conditional are not outright appropriate unless an applicant demonstrates to the Planning Commission that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which the Conditional Use is proposed. (HZO Section 1155.10)

Property Address: 259 S. Edgewood Ave.

Lot No(s): 5993

Property Owner: Day's Sunoco & Towing, LLC

Owner's Mailing Address: 1275 S. Main St. Hamilton, Ohio 45013

Applicant's Name (If different than owner): Robert M. Day, Member

Applicant's Mailing Address: same

Applicant's Email Address: unknown

Applicant's Phone Number: unknown

Previous Legal Use of Property: Vehicle Impoundment Lot

Date Previous Use Discontinued: _____

Proposed New Use of Property: _____

Requesting a Conditional Use Approval from the following Sections of the Hamilton Zoning Code:

1123.00 "I-1" Limited Industrial District, 1123.10,

1123.30 & 1123.31

City of Hamilton
Office: 9/11/16
Assessor: 9/21/16
9:06 AM
\$200.00

Criteria in Support of Application

Applicant, Day's Sunoco and Towing LLC, acknowledges the purpose of the "I-1" District is to create industrial areas that will be acceptable within the city and will not adversely affect adjacent business or residential neighborhoods by permitting industrial establishments which are clean, quiet and free of hazardous or objectionable elements, and whose objectionable features will be obviated by design and/or appropriate devices. Under 1123.30 and 1123.31, the vehicle impoundment lot is a conditional use if specifically authorized by the Board of Zoning Appeals. Applicant respectfully requests the authorization to operate a vehicle impoundment lot.

In support thereof, Applicant has attached a copy of the Plat of Survey depicting Part Lots 5992 and 5993. Part Lot 5992 is not the subject matter of this application but rather, only Part Lot 5993 adjacent to and bordering Part Lot 5992 to the north. Further, and not the subject matter of this application, Applicant is the deeded owner of lots 5972 through and including 5984 to the east of Part Lot 5993.

Based upon an on site meeting with then City Manager Mark Brandenburger, Applicant mistakenly believed Part Lot 5993 was approved as a vehicle impoundment lot. Based upon that good faith belief, Applicant installed a 10 foot metal fence along the west lot line which then bordered a railroad track which has since been conveyed or vacated to the City of Hamilton, Ohio. At the present time, there are vehicles on Part Lot 5993, but the vehicles cannot be seen by the general public. It is the intent of the Applicant to continue ownership of Part Lot 5992 for permitted uses. The ingress and egress to Part Lot 5993 will be from Franklin Street. Applicant has attached numerous photographs depicting the south side Part 5993 which is bordered by a row of buildings, the west side which is bordered by metal fencing and the east side which is bordered by metal fencing. Again, the general public will not be able to see any of the impounded vehicles on Part Lot 5993.

There will be minimal traffic, being a tow to the facility, with the probability that the vehicle will be driven from the premises during normal work hours. It will be a quiet atmosphere with minimal activity. Owners take possession of vehicles with a legal release, If a vehicle would be abandoned, upon confirmation, it would be removed to a salvage yard.

Lastly, Applicant suggests that the Application for Conditional Use as a vehicle impoundment lot meets the general standard for conditional use review criteria under 1155.30 C. (1) through and including (9).

Respectfully Submitted,

- NOTES**
- 1) Source documents are as shown hereon.
 - 2) Occupation in general fits Survey except as shown.
 - 3) Monumentation found in good condition.
 - 4) → ← - Indicates 5/16" iron rod with I. D. cap [feet] unless otherwise noted.

Plat of Survey

Part Lots 5992 and 5993
 Also part of Parcel Contained
 in Ward 5.3, City of Hamilton
 Butler County, Ohio

For: Robert Mike Day
 Date: Sept 14, 2010
 Scale: 1" = 50'

By: **Daniel R. Brosey P.S.**
 Land Surveyor
 phone: 513-8620237

I certify that the herein plotted property was measured to acceptable Survey Standards only.

Daniel R. Brosey
 Registered Surveyor, 8492 In Ohio



PC412-067-000-072- Lot 5143
 PC412-067-000-070- Pt Lot 5992

Bearings shown hereon are based on an assumed meridian and are used to determine angles only.

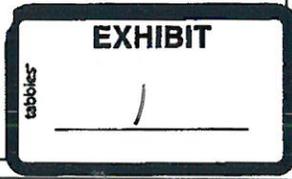
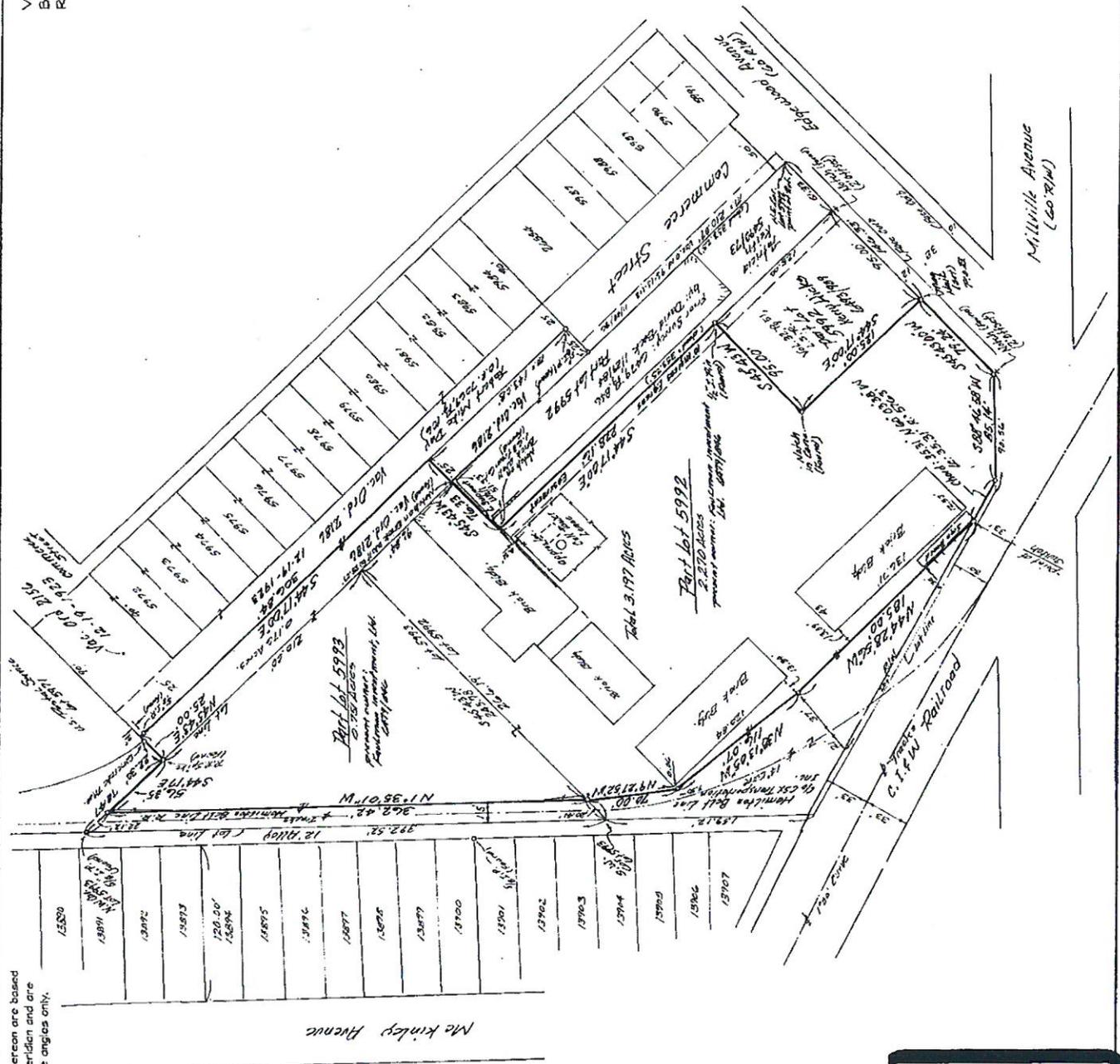




EXHIBIT
2

A photograph of a brick building with a sign that reads "DAY'S TOWING IMPOUND AND STORAGE 859 FRANKLIN ST 895-6907". To the right of the building is a white metal gate or fence. The sky is blue with white clouds. A security camera is mounted on the roof of the building.

DAY'S TOWING
IMPOUND AND STORAGE
859 FRANKLIN ST
895-6907

tabbies®
EXHIBIT
3



EXHIBIT
4
tabbles



EXHIBIT
5



tabbles®
EXHIBIT
6



tabbles®
EXHIBIT
7



EXHIBIT
tabbies®
8



EXHIBIT
9

tabbies



EXHIBIT
10



EXHIBIT
11



EXHIBIT
12

tabbies



11/04/2015

Days Sunoco And Towing Llc
Attn: Robert M Day
1275 Main St
Hamilton, OH 45013

Dear Days Sunoco And Towing Llc:

Location of property 253-259 EDGEWOOD AVE
Complaint ID # 201508118
LOT # 5992 PARCEL P6412007000070

The property referenced above is located in a I-1 Limited Industrial Zoning District and is regulated by Section 1123.00 of the Hamilton Zoning Ordinance (HZO).

An inspection of referenced property indicates a violation of the following City Ordinance(s).

Section 1123.30 HZO Conditional Uses: The following uses shall be permitted only if specifically authorized by the Board of Zoning Appeals in accordance with the provisions in Section 1170.00.

<1124.31 Impound Lots require a conditional use approval from the Board of Zoning Appeals (BZA).>

< This office has no record of a conditional use approval for an auto impound/storage business at this location. Remove all vehicles parts and other debris from the property by November 20, 2015. If you wish to pursue a conditional use approval contact Sr. Planner John Creech at 785-7355. >

1150.40 Certificates Of Zoning Compliance: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefore by the Commissioner stating that the proposed use of the building or land conforms to the requirements of this Ordinance. This may be issued in conjunction with a building permit.

1186.00 Violation And Penalty:

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of the Zoning Ordinance No. 7503, and all amendments thereto, shall be guilty of an unclassified misdemeanor and shall be fined not less than \$250.00 or more than five hundred (\$500.00) dollars for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

If you have any questions or concerns please call the Community Development Department at 513-785-7350.



Public Health
345 High Street, Suite 330
Hamilton, Ohio 45011

Served: ___ Regular Mail Certified Mail ___ Posted on property

Larry Bagford

Planning and Zoning Specialist
Phone: 513-785-7367 ~~09/25/2015~~



December 1, 2015

Mr. Mike Day
Days Sunoco & Towing
1275 Main Street
Hamilton, Ohio 45013

RE: 259 South Edgewood Avenue, Hamilton, Ohio 45013

Dear Mr. Day:

Thank you for taking the time to come in last Tuesday, November 24th, to discuss the above referenced property. We have researched our records of approved Conditional Uses and we can find no record of a conditional use application for a Vehicle Impound Lot ever being submitted or approved for 259 S. Edgewood Avenue.

The property at 259 S. Edgewood Avenue is currently zoned I-1 Limited Industrial District and Vehicle Impound Lots are Conditional Uses in the I-1 zone. Conditional Uses require review and approval by the City Planning Commission and City Council.

As I indicated last Tuesday, there are two (2) options available regarding the property. Option #1 is to vacate the property and not use it as a Vehicle Impound Lot to comply with the City of Hamilton Zoning Violation letter dated November 4, 2015 (attached). Your extended deadline for vacating the property and complying with the zoning violation letter is December 28, 2015. Option #2 is to submit an application for a Conditional Use for a Vehicle Impound Lot. The deadline for submitting an application for a Conditional Use is December 28, 2015 for the January 19, 2016 Planning Commission meeting. I have attached another copy of the Conditional Use application.

In the meantime, you may also submit any information that indicates that the City of Hamilton or City of Hamilton officials previously approved 259 S. Edgewood Avenue for a Vehicle Impound Lot, please submit the information as soon as possible and I will forward to the appropriate authority for review.

If you have any questions, please call 513-785-7350 or email me directly at creechj@ci.hamilton.oh.us.

Respectfully,


John Creech
Senior Planner

c: Larry Bagford, Public Health Dept.

UNITED STATES POSTAL SERVICE

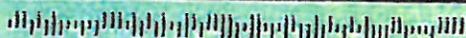
OH 452
07 DEC 15



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box®

City of Hamilton
Community Development
345 High Street, Ste. 370
Hamilton, OH 45011



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Mike Day
c/o Day's Sunoco & Towing
1275 Main Street
Hamilton, OH 45013

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail®
- Registered
- Insured Mail
- Priority Mail Express™
- Return Receipt for Merchandise
- Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
(Transfer from service label)

7009 0820 0001 4217 7864

PS Form 3811, July 2013

Domestic Return Receipt

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent to Mike Day
 Street, Apt. No.,
 or PO Box No. 1275 Main St
 City, State, ZIP+4 Hamilton OH 45013

PS Form 3800 August 2006 See Reverse for Instructions

7009 0820 0001 4217 7864



Special Meeting
October 31, 2016 @ 8:30 a.m.
Site Visit
259 South Edgewood
Hamilton, Ohio 45013

Tom Alf
Commission Member

Teri Horsley
Commission Member

Dale McAllister
Chairperson

David Belew
Commission Member

Patrick Moeller
Mayor

Michael Samoviski
Commission Member

Joshua Smith
City Manager

Roll Call:

1 Site Visit

Alf	Belew	Horsley	McAllister	Moeller	Samoviski	Smith

Old Business:

Agenda Item #1- Site Visit

Request for a Conditional Use to allow the expansion of an existing Vehicle Impound Lot to operate on property zoned I-1 Limited Industrial District located at 259 South Edgewood Avenue (City Lot No. 5993) (Robert M. Day/Day's Sunoco & Towing LLC., Applicant/Owner).

Adjournment:



PLANNING COMMISSION
 City of Hamilton
 259 S. Edgewood Avenue

MEETING DATE: 10/31/16

MEETING TIME: 8:30 a.m.

Please sign in and provide requested information. Thank you for your participation.

Name	Agency	Address	Phone	Email
John Creech	COH	345 High St.	785-7350	John.Creech@hamilton-oh.gov
Dale McAuliffe	PC			
Nancy Fishkin	City	300 N. High St.	889-9300	laneyfishkin@cityofhamilton.com
Tim Werdman	City of Hamilton	345 High		
Pat Mullen	CM	325 Maple	383-0734	
Paul Butler		318 S. "D" St	863-1543	
JOSHUA SMITH	COH	345 HIGH	785-7002	
SCOTT SCAMIZZI	COH	345 High	785 7181	
Jody Gundersen	COH	345 High	785-7070	
Kathy Pulley	COH	345 High	785-7141	

PLANNING COMMISSION
 City of Hamilton
 259 S. Edgewood Avenue

MEETING DATE: 10/31/16

MEETING TIME: 8:30 a.m.

Please sign in and provide requested information. Thank you for your participation.

Name	Agency	Address	Phone	Email
Bud Schart	City of Hamilton	345 High	785-7000	
Liz Hensley	Planning Commission			
Mike Day	Days Towing	3051 Old Oxford Rd		
Tom Vanderhorst	City of Hamilton		785-7174	
Belle Swift	City of Hamilton		x7057	
Jim Kurpen	City of Hamilton			



For the Planning Commission Meeting of November 7, 2016

To: Planning Commission

From: John Creech

Subject: AGENDA ITEM #2

Request to Amend the Zoning Ordinance of the City of Hamilton, Ohio: Section 1118.00 R-4 Multi-Family Residence District (City of Hamilton, Applicant)

Date: November 1, 2016

BASIC INFORMATION		
Applicant/Property Owner	City of Hamilton	
Architect/Engineer/Consultant	N/A	
Size of Property	N/A	
Current Zoning	N/A	
Proposed Zoning	N/A	
Comp. Plan Land Use Designation	N/A	
Special Purpose/CRA	N/A	
ADJACENT LAND USE/ZONING INFORMATION		
<i>Direction</i>	<i>Land Use</i>	<i>Zoning</i>
North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A
ZONING/DIMENSIONAL INFORMATION		
	<i>Minimum Required</i>	<i>Existing/Proposed</i>
Minimum Lot Area	N/A	N/A
Minimum Lot Width	N/A	N/A
Minimum Front Yard Setback	N/A	N/A
Minimum Side Yard Setback	N/A	N/A
Minimum Rear Yard Setback	N/A	N/A
Maximum Bldg. Height	N/A	N/A
Other Requirements	N/A	N/A

BACKGROUND INFORMATION

The City of Hamilton Zoning Ordinance was adopted in 1971. From time to time, as newly defined land uses occur or as land uses become obsolete, the current zoning definitions, permitted and conditional land uses found within the City of Hamilton zoning ordinance may require amendment or revision to bring the zoning ordinance up to date. The City of Hamilton proposes to amend the R-4 Multi-Family Residence District in order to preclude the establishment of "Lodging and Boarding Houses". Lodging and Boarding Houses are not the same land use as hotels or multi-family



dwelling, both of which are separately defined and regulated in the Hamilton Zoning Ordinance.

Proposed Zoning Amendment:

The zoning code currently allows boarding houses in the R-4 and subsequent zoning districts with up to 20 unrelated individuals in a single building. There is no minimum lot size requirement or minimum lot area requirement per dwelling unit or individual. This could lead to severe overcrowding – for example 20 individuals in a structure on a 5,000 square foot lot would be the equivalent of one person for every 250 square feet of lot area. This compares to a minimum of 1,500 square feet of lot area per dwelling unit for other residential uses in the R-4 zoning district. The proposed amendment will promote the public health, safety and welfare of residents in the city by preventing the future establishment of Lodging and Boarding Houses which could lead to overcrowding conditions on small or undersized properties.

The proposed zoning ordinance amendment will amend Section 1118.00 R-4 Multi-Family Residence District by removing “Lodging and Boarding Houses” from the list of permitted land uses in the R-4 district and adding to prohibited uses. By removing “Lodging and Boarding Houses” from the list of permitted uses in the R-4 zoning district, such uses will also not be permitted in subsequent zoning districts.

RECOMMENDATION

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

The Planning Commission recommends that City Council approve the request to amend the Zoning Ordinance of the City of Hamilton, Ohio regarding Lodging and Boarding Houses encompassing Section 1118.00.

EXHIBITS

Exhibit No. 1 – Proposed Zoning Amendment



**Exhibit 1 – Proposed Zoning Amendment to Section 1118.00 of the
City of Hamilton Zoning Ordinance:**

1. Move the following from Principal Permitted Uses found in Section 1118.23:

Lodging and Boarding Houses: Lodging and boarding houses, including incidental accessory service.

2. Create 1118.45 Prohibited Uses and add the following:

1118.45 Prohibited Uses:

Lodging and Boarding Houses: Lodging and boarding houses, including incidental accessory service.



For the Planning Commission Meeting of November 7, 2016

To: Planning Commission

From: John Creech

Subject: AGENDA ITEM #3

Request to Replat City Lot Nos. 30470 and 30471, located in Random Oaks, Section One, First Ward North Side, City of Hamilton, Ohio (Shelton & Sons, Inc., Applicant)

Date: November 1, 2016

BASIC INFORMATION		
Project Name	Replat for Lots 30470 and 30471	
Applicant/Property Owner	Shelton & Sons, Inc.	
Architect/Engineer/Consultant	Bayer Becker	
Size of Property	4.4 Acres	
Current Zoning	R-1 Single Family Residence District	
Proposed Zoning	N/A	
Comp. Plan Land Use Designation	Residential	
ADJACENT LAND USE/ZONING INFORMATION		
<i>Direction</i>	<i>Land Use</i>	<i>Zoning</i>
North	Residential	R-1 – Single-Family Residential
South	Residential	R-1 – Single-Family Residential
East	Residential	R-1 – Single-Family Residential
West	Residential	R-1 – Single-Family Residential
ZONING/DIMENSIONAL INFORMATION		
	Minimum Required	Existing
Minimum Lot Area	12,000 sq ft	+2.0 Acres
Minimum Lot Width	100 ft	+100 ft
Minimum Front Yard Setback	N/A	N/A
Minimum Side Yard Setback	N/A	N/A
Minimum Rear Yard Setback	N/A	N/A
Maximum Bldg. Height	N/A	N/A
Other Requirements	N/A	N/A

BACKGROUND INFORMATION

Bayer Becker Engineers has submitted a request, on behalf of Shelton & Sons, Inc., for Planning Commission review and approval of the Replat of City Lot Nos. Lots 30470 and 30471, located at 680 and 690 Devanshae Court (See attached location map). The replat is attached for reference as an Exhibit Item 2. The replat will shift the property line a range of 3 feet to 7.8 feet between 680 and 690 Devanshae Court



to address a driveway encroachment of 690 Devanshae Court onto the adjacent vacant lot at 680 Devanshae Court.

The Hamilton Zoning Ordinance requires a minimum setback of 3 feet from the side property line for side-entry garages in residential zoning districts.

PLAN/PROPOSAL ANALYSIS

1. **Zoning** – Property is zoned R-1 Single Family and no change in zoning is proposed.
2. **Setbacks** –No changes in building setbacks are proposed, only the driveway setback.
3. **Parking** – N/A
4. **Land Division** – Replat of City Lot Nos. 30470 and 30471.
5. **Landscaping** – N/A
6. **Lighting** – N/A
7. **Interdepartmental Review** – N/A
8. **Other** – N/A

RECOMMENDATION

If the Planning Commission approves the proposed replat, the Department of Community Development requests that the Planning Commission recommends that City Council Approve the Replat of City Lot Nos. 30470 and 30471, located in Random Oaks, Section One, First Ward North Side, City of Hamilton, Ohio located at 680 and 690 Devanshae Court.

EXHIBITS

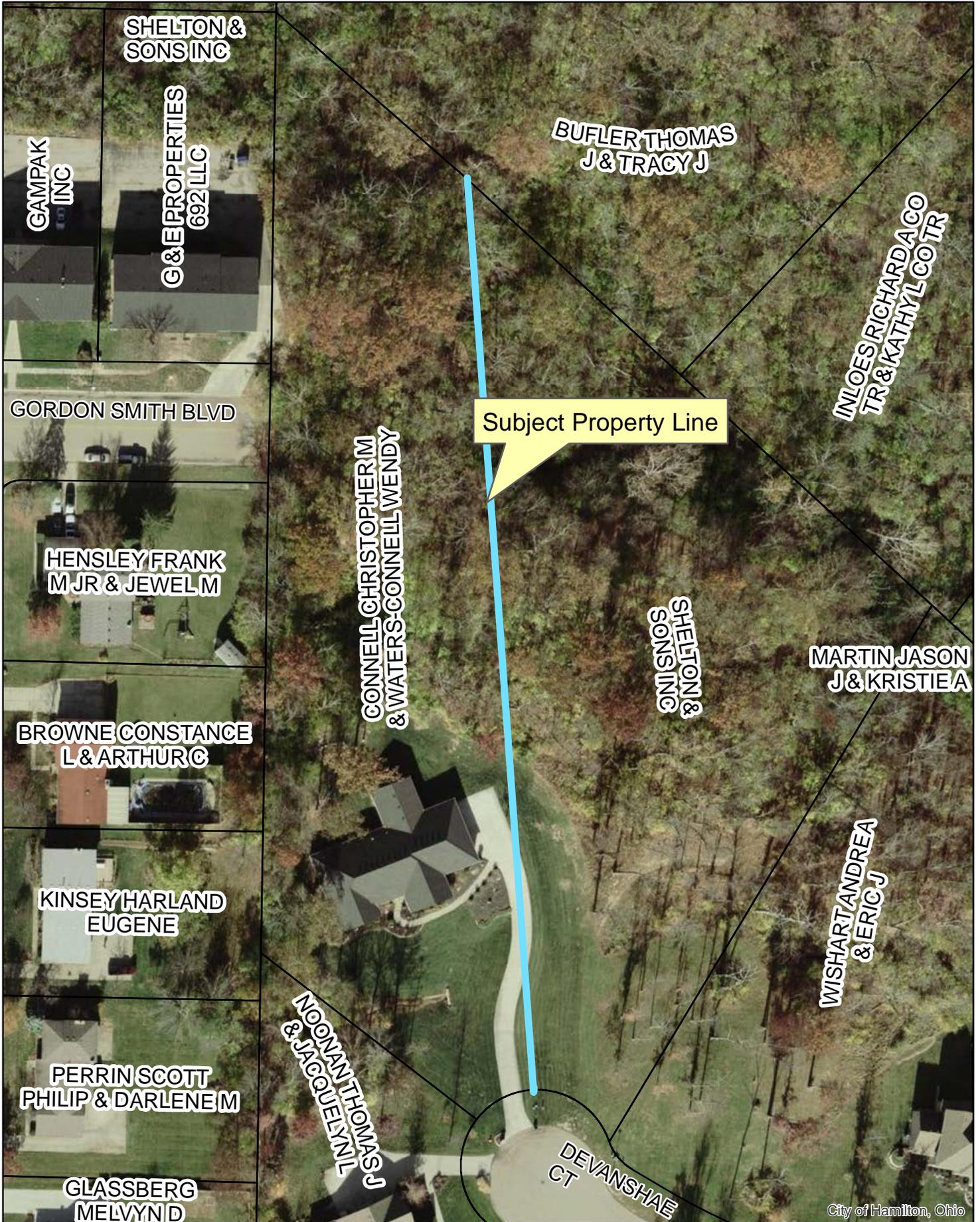
1. Aerial Location Map
2. Replat of Lots 30470 and 30471

COPIES PROVIDED TO:

1. Shelton & Sons, Inc
2. Christopher Connell & Wendy Waters-Connell



Location Map



 Property Line

0 35 70 140 Feet

City of Hamilton, Ohio



KNOW ALL MEN BE THESE PRESENTS:

THAT THE UNDERSIGNED, BEING THE OWNERS OF ALL OF LOT #304740 (2.254 ACRES) AND ALL OF LOT #30471 (2.183 ACRES) LOCATED BETWEEN THE MIAMIS, FIRST WARD AND NORTH SIDE, CITY OF HAMILTON, BUTLER COUNTY, OHIO, AND AS DESIGNATED ON THE LIST OF LOTS IN THE CITY OF HAMILTON AND AS RECORDED IN PLAT ENVELOPE 3299, PLAT #30471, BUTLER COUNTY, OHIO, HAVE HEREBY ASSENT TO AND ADOPT THIS RE-PLAT OF SAID LOTS, THE SAME TO BE KNOWN AS LOT #32113 AND #32114 OF RANDOM OAKS, SECTION ONE, IN ACCORDANCE WITH THE LAWS IN SUCH CASES MADE AND PROVIDED.

TITLE ACQUIRED BY:
OFFICIAL RECORD 7712, PAGE 1411 (LOT #30470)
OFFICIAL RECORD 8889, PAGE 480 (LOT #30471)

EASEMENTS ON SAID PLAT, DESIGNATED AS (UTILITY EASEMENT) ARE PROVIDED FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF POLES, WIRES AND THE TRANSMISSION OF ELECTRIC, TELEPHONE AND OTHER PURPOSES; FOR THE CONSTRUCTION AND MAINTENANCE OF SURFACE AND UNDERGROUND STORM WATER DRAINS; FOR THE CONSTRUCTION AND MAINTENANCE OF SANITARY SEWER, PIPELINES FOR SUPPLYING GAS, WATER, HEAT AND OTHER PUBLIC OR QUASI PUBLIC UTILITY FUNCTIONS TOGETHER WITH NECESSARY CONNECTIONS; AND ALSO THE RIGHT TO CUT, TRIM OR REMOVE ANY TREES, SHRUBS, OR BRANCHES OR REMOVE ANY TREES, UNDERGROWTH OR OVERHANGING BRANCHES WITHIN SAID EASEMENT OR IMMEDIATELY THEREADJACENT THERETO, NO BUILDINGS OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENTS, NOR MAY THE EASEMENT AREA BE PHYSICALLY ALTERED SO AS TO (1) REDUCE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) IMPAIR THE LAND SUPPORT OF SAID FACILITIES; (3) IMPAIR ABILITY TO MAINTAIN THE FACILITIES OR (4) CREATE A HAZARD.

FOR VALUABLE CONSIDERATION, THE UNDERSIGNED, DO HEREBY PERMANENTLY GRANT TO THE CITY OF HAMILTON, FOR THE BENEFIT OF ALL PUBLIC UTILITY PROVIDERS AND SUCCESSORS AND ASSIGNS, FOREVER NON-EXCLUSIVE EASEMENTS AS SHOWN ON THE WITHIN PLAT AND, DESIGNATED AS "UTILITY EASEMENT" FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR OR REPLACEMENT OF ANY AND ALL NECESSARY FIXTURES FOR THE OVERHEAD OR UNDERGROUND FACILITIES INCLUDING THE INSTALLATION OF NECESSARY ATTACHMENTS THERETO AND FOR THE CONSTRUCTION AND MAINTENANCE OF SURFACE AND UNDERGROUND STORM WATER AND SANITARY SEWER, PIPELINE STRUCTURES AND NECESSARY LATERAL CONNECTIONS.

THE ABOVE PUBLIC UTILITY EASEMENTS ARE DEDICATED TO THE CITY OF HAMILTON; LIMITED TO CINCINNATI BELL, AND TIME WARNER CABLE.

SAID GRANTEEES SHALL HAVE THE RIGHT TO INGRESS TO AND EGRESS FROM SAID EASEMENTS, AND ALSO THE RIGHT TO CUT, TRIM OR REMOVE ANY TREES, UNDERGROWTH OR OVERHANGING BRANCHES WITHIN SAID EASEMENT. NO BUILDINGS OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENT. THE GRANTEEES SHALL BE RESPONSIBLE TO MAINTAIN TO (1) REDUCE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) IMPAIR THE LAND SUPPORT OF SAID FACILITIES; (3) IMPAIR THE ABILITY TO MAINTAIN THE FACILITIES OR (4) CREATE A HAZARD. WE ACKNOWLEDGE HAVING FULL POWER TO CONVEY THESE EASEMENTS AND WILL DEFEND THE SAME AGAINST ALL CLAIMS.

ALL LOTS SHOWN ON THE ACCOMPANYING PLAT SHALL BE SUBJECT TO THE SAME PROTECTIVE COVENANTS AND RESTRICTIVE PROVISIONS AS SET FORTH IN PLAT ENVELOPE 3299, PAGE A-C OF THE BUTLER COUNTY, OHIO RECORDS, WHICH COVENANTS AND PROVISIONS ARE HEREBY MADE A PART OF THIS DEED OF SUBDIVISION.

EASEMENTS ON SAID PLAT, DESIGNATED AS "SANITARY SEWER EASEMENTS" OR "WATER MAIN EASEMENTS" ARE PROVIDED FOR THE RIGHT TO CONSTRUCT, USE, MAINTAIN, REPAIR OR REPLACE ANY AND ALL NECESSARY SANITARY SEWER MAINS AND APPURTENANCES THERETO NECESSARY TO THE OPERATION THEREOF.

ALL LOTS SHOWN HEREON SHALL BE SERVED BY PUBLIC SANITARY SEWERS AND WATER.

TYPICAL FIVE (5) FOOT PRIVATE DRAINAGE EASEMENT TO BE PROVIDED ON BOTH SIDES OF EVERY LOT LINE, INSIDE THE PLATTED AREA, NOT PRESENTLY LABELED WITH AN EASEMENT.

HOME OWNERS ASSOCIATION DRAINAGE EASEMENTS

THE CITY OF HAMILTON DOES NOT ACCEPT ANY PRIVATE, H.O.A. (HOME OWNERS ASSOCIATION) DRAINAGE EASEMENTS SHOWN ON THE ACCOMPANYING PLAT. THE CITY OF HAMILTON IS NOT OBLIGATED TO MAINTAIN OR REPAIR ANY CHANNELS OR INSTALLATIONS IN SAID EASEMENTS. THE EASEMENT AREA OF EACH LOT SHALL BE MAINTAINED CONTINUOUSLY BY THE OWNER OF THE LOT. HOME OWNERS SHALL BE RESPONSIBLE FOR THE CONSTRUCTION, MAINTENANCE AND REPAIR OF SEWERS. THE RESPONSIBILITY OF THE RANDOM OAKS HOME OWNERS ASSOCIATION AS PROVIDED FOR IN THE DECLARATION AND IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS OF THE CITY OF HAMILTON ENGINEER, WITHIN THE EASEMENT AREA, NO STRUCTURE, PLANTING OR OTHER MATERIAL SHALL BE PLACED OR PERMITTED TO REMAIN IN WHICH MAY OBSTRUCT, RETARD OR CHANGE THE DIRECTION OF FLOW OF THE WATER.

IN WITNESS THEREOF, SHELTON & SONS, INC., AN OHIO LIMITED LIABILITY CORPORATION, HEREBY SETS HIS HAND AND SEAL AT EDWARD SHELTON, PRESIDENT OF SHELTON & SONS, INC., THIS _____ DAY OF _____, A.D., 2016.

OWNER (LOT #30471)
SHELTON & SONS INC., AN OHIO CORPORATION
625 DEVANSHAE COURT
HAMILTON, OHIO 45013
(513) 863-6165

EDWARD SHELTON, PRESIDENT
SHELTON & SONS, INC.
AN OHIO CORPORATION

WITNESS: (NAME)

WITNESS: (NAME)

STATE OF OHIO BUTLER COUNTY S.S.

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, A.D., 2016 BEFORE ME, A NOTARY PUBLIC IN AND OF SAID COUNTY AND STATE, PERSONALLY CAME SHELTON & SONS, INC., AN OHIO LIMITED LIABILITY COMPANY, BY EDWARD SHELTON, PRESIDENT, WHO ACKNOWLEDGED THE SIGNING OF THE FOREGOING INSTRUMENT TO BE THE FREE ACT AND DEED OF SAID COMPANY AND OF HIMSELF AS AN INDIVIDUAL FOR THE USES AND PURPOSES HEREIN MENTIONED.

IN TESTIMONY WHEREOF, I HAVE SET MY HAND AND AFFIXED MY NOTARIAL SEAL ON THE DAY AND YEAR LAST AFORESAID.

NOTARY PUBLIC, STATE OF OHIO

MY COMMISSION EXPIRES _____

OWNERS (LOT #30470)
CHRISTOPHER M. & WENDY WATERS-CONNELL
690 DEVANSHAE COURT
HAMILTON, OHIO 45013
(513) 330-1983

CHRISTOPHER M. CONNELL

WENDY WATERS-CONNELL

WITNESS: (NAME)

WITNESS: (NAME)

STATE OF OHIO BUTLER COUNTY S.S.

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, A.D., 2016 BEFORE ME, A NOTARY PUBLIC IN AND OF SAID COUNTY AND STATE, PERSONALLY CAME CHRISTOPHER M. CONNELL AND WENDY WATERS-CONNELL, THE OWNERS, WHO ACKNOWLEDGED THE SIGNING OF THE FOREGOING INSTRUMENT TO BE THEIR FREE ACT AND DEED OF HIMSELF/HERSELF AS AN INDIVIDUAL FOR THE USES AND PURPOSES HEREIN MENTIONED.

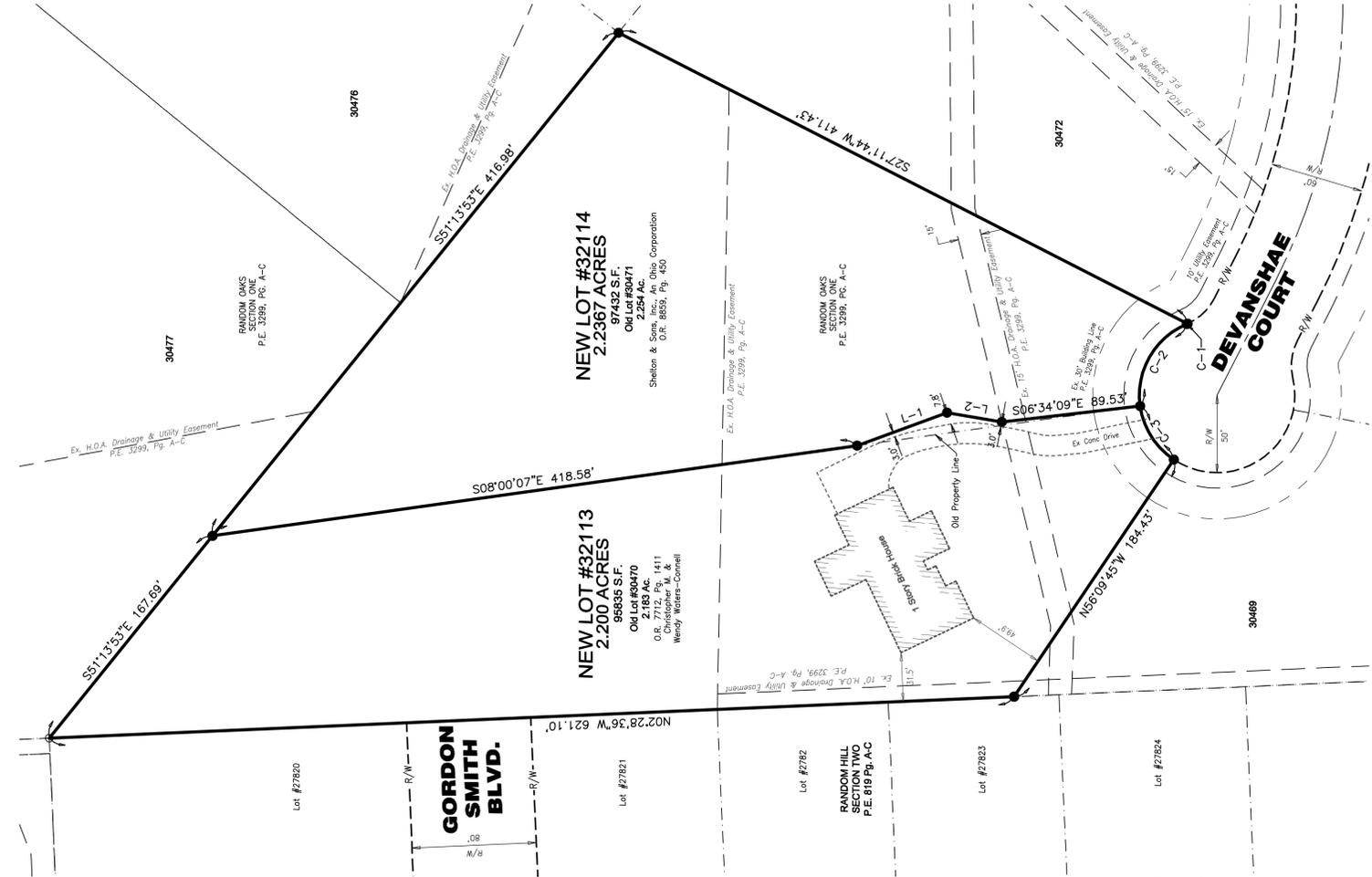
IN TESTIMONY WHEREOF, I HAVE SET MY HAND AND AFFIXED MY NOTARIAL SEAL ON THE DAY AND YEAR LAST AFORESAID.

NOTARY PUBLIC, STATE OF OHIO

MY COMMISSION EXPIRES _____

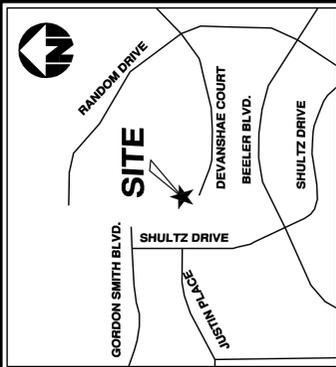
NEW LOTS #32113 & #32114

BEING A RE-PLAT OF LOT #30470 & #30471 OF RANDOM OAKS, SECTION ONE AS RECORDED IN PLAT ENVELOPE 3299, PAGES A-C BETWEEN THE MIAMIS SECTION 20, TOWN 2, RANGE 3 FIRST WARD, NORTH SIDE CITY OF HAMILTON, BUTLER COUNTY, OHIO



LINE TABLE with columns: Line, Direction, Distance. Rows: L-1 (S20°15'53"E, 61.68'), L-2 (N09°41'17"E, 35.74')

CURVE TABLE with columns: Curve, Delta, Radius, Length, Chord. Rows: C-1 (0°52'59", 35.00', 123°24'18"W, 0.54'), C-2 (75°02'18", 50.00', 65.48', 166°28'58"W, 60.90'), C-3 (48°09'37", 50.00', 42.03', 55°25'04"W, 40.80')



CITY COUNCIL

APPROVED BY THE CITY COUNCIL OF THE CITY OF HAMILTON, OHIO BY ORDINANCE NO. _____ PASSED AT THE _____ MEETING OF _____

CLERK OF COUNCIL _____ MAYOR _____

PLATTING COMMISSIONER

APPROVED BY THE PLATTING COMMISSIONER OF THE CITY OF HAMILTON, OHIO THIS _____ DAY OF _____, A.D. 2016.

COMMISSIONER _____

PLANNING COMMISSION

APPROVED BY THE CITY PLANNING COMMISSION OF THE CITY OF HAMILTON, OHIO THIS _____ DAY OF _____, A.D. 2016.

CHAIRMAN _____

COUNTY AUDITOR

ENTERED FOR TRANSFER _____, A.D., 2016 BY: _____

TRANSFERRED _____, A.D., 2016 BY: _____

AUDITOR, BUTLER COUNTY, OHIO _____ DEPUTY _____

COUNTY RECORDER

FILED FOR RECORD _____ AT _____, A.D. 2016

RECORDED _____ PAGES _____

OFFICIAL RECORD _____

RECORDER, BUTLER COUNTY, OHIO _____ DEPUTY _____

FILE _____ FEE _____

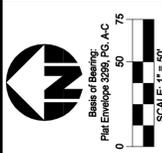
- NOTES: 1. BASIS OF BEARINGS: RANDOM OAKS SECTION ONE PLAT ENVELOPE 3299, PAGES A-C 2. REFERENCES: PLATS AND DEEDS AS SHOWN LINES OF OCCUPATION WHERE THEY EXIST GENERALLY AGREE WITH BOUNDARY LINES, UNLESS OTHERWISE SHOWN ON PLAT 3. ALL MONUMENTS IN GOOD CONDITION UNLESS OTHERWISE NOTED

SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THE ACCOMPANYING PLAT IS A CORRECT RETURN OF A FIELD SURVEY MADE UNDER MY DIRECTION.



BRIAN R. JOHNSON, P.S. PROFESSIONAL SURVEYOR #8484 IN THE STATE OF OHIO _____ DATE _____



Revision table with columns: Item, Description, Date, Dwn, Chk.

Table with columns: Item, Description, Date, Dwn, Chk.

NEW LOTS #32113 & #32114 BEING A RE-PLAT OF LOT #30470 & #30471 AS RECORDED IN PLAT ENVELOPE 3299, PAGES A-C BETWEEN THE MIAMIS SECTION 20, TOWN 2, RANGE 3 FIRST WARD, NORTH SIDE CITY OF HAMILTON, BUTLER COUNTY, OHIO RE-PLAT

Project information including drawing title, drawing number (16-0188-RE), and sheet number (1/1). Includes the Bayer logo and contact information for the surveying firm.