

**CITY OF GAHANNA
BOARD OF ZONING AND BUILDING APPEALS**

The Academy Ridge Community Association,
Inc.,

Appellant,

vs.

City of Gahanna, Planning Commission

Appellee.

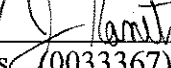
BZD No:

Re: FDP-0007-2019
DR-0022-2019

THE ACADEMY RIDGE COMMUNITY ASSOCIATION'S NOTICE OF APPEAL

The Academy Ridge Community Association (the "Association") hereby appeals the decision of the Gahanna Planning Commission (the "Planning Commission") approving the Final Development Plan (FDP-0007-2019) and Design Review Application (DR-0022-2019) (collectively referred to as the "Development Plan") submitted by applicant William J. Schottenstein (the "Applicant"), which approval was granted on November 20, 2019. An affidavit from a Board Member of the Association listing the names and addresses of the property owners required by Gahanna City Code ("GCC") 147.03(3) is being filed simultaneously with this appeal, and a memorandum setting forth the grounds of the appeal is attached hereto and incorporated herein.

Respectfully Submitted,

/s/ Jesse M. Kanitz/ 
Charles T. Williams (0033367)

Robin L. Strohm (0077665)

Nicholas R. Barnes (0083615)

Brad J. Terman (0083974)

Jesse M. Kanitz (0085438)

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Attorneys for the Academy Ridge Community
Association

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BY: 

MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

The Development Plan concerns a 5.19 acre property generally located at 1041 N. Hamilton Road (the “Property”). The Property is adjacent to the Academy Ridge Subdivision, a community of 81 homes. The Association is the homeowners’ association that oversees the subdivision, and pursuant to R.C. §5312(D), it has the explicit right to appeal an administrative decision in a representative capacity for the homeowners within the subdivision.

On November 20, 2019, the Planning Commission held a public hearing on the Development Plan (the “Hearing”). At the Hearing, the Association objected to the Development Plan on the grounds that its intent to use the Property primarily for professional offices and medical uses did not comply with the Property’s zoning designation and that the Development Plan would create substantial and unmitigated traffic issues for the surrounding area. The Planning Commission, over the Association’s objection and based primarily on documents not present in the record, voted to approve the Development Plan (the “Approval”). The Planning Commission’s Approval was certified via a Record of Action on December 2, 2019. The Association is now appealing that Approval on the grounds that it conflicts with the requirements of the Property’s zoning designation and Chapter 1108 of the GCC.

II. LAW AND ARGUMENT

The Planning Commission failed to properly follow the zoning requirements adopted by the City of Gahanna (the “City”). As a municipality, the City has authority to, for the most part, regulate itself pursuant to Home Rule. Under Home Rule, the City may enact legislation governing the use and appearance of properties within its jurisdiction, as it did when zoning the Property. The City, however, cannot choose to disregard its own zoning requirements. *See Labaorde v. City of Gahanna*, Franklin C.P. 12 CV 008517 (Sept. 11, 2014). The Planning Commission did exactly that when it approved the Development Plan despite the clear intent to utilize the Property for uses not authorized by its zoning designation. Further, the Planning Commission improperly relied on materials not submitted in the record to support its decision and failed to make any effort to minimize the negative consequences that the Development Plan will bring to the surrounding areas. For these reasons, the Association respectfully requests that the Planning Commission’s Approval of the Development Plan be reversed.

A. The Development Plan Must Satisfy All Requirements of GCC 1108.05(a)

The Planning Commission must determine that an application for a final development plan is consistent with the City’s zoning requirements as a condition of approval. The Planning Commission’s authority to approve an application for a final development plan is set forth in GCC 1108.05(a). GCC 1108.05(a)(1) states as follows:

The Planning Commission shall hold a public hearing and act on a Final Development Plan in one of the following ways: (1) *Approval*. The Planning Commission shall approve an application for a Final Development Plan *if the following four conditions are met*

(A.) the proposed development meets the applicable development standards of this Zoning Ordinance.

(B.) The proposed development is in accord with appropriate plans for the area.

(C.) The Proposed development would not have undesirable effects on the surrounding area.

(D.) The proposed development would be in keeping with the existing land use character and physical development potential of the area.

(Emphasis Added.) The Code language is clear that the Planning Commission must find that each of these four requirements is satisfied before it approves an application.

If an application fails to satisfy any one of the criteria set forth in GCC 1108.05(a)(1), the Planning Commission lacks the authority to approve it. Faced with the inability to approve an application, the Planning Commission must either deny the application pursuant to GCC 1108.05(a)(3) or, if the deficiency is curable, approve the application with modification pursuant to GCC 1108.05(a)(2). The Planning Commission, however, cannot simply ignore a failure to satisfy one of the four criteria set forth in GCC 1108.05(a)(1) and proceed to approve an application that does not satisfy the approval criteria.

B. The Development Plan Does Not Meet the Zoning Standards

The Property is zoned as a Planned Commercial Center District pursuant GCC 1153.06 ("PCC"). The PCC zoning designation expresses the specific intent of the City for the Property and explicitly outlines both the permitted and conditional uses for which the Property can be used. Pursuant to the GCC, a PCC district shall be used for "only" the following permitted uses:

(1) *Shopping Center*. Commercial establishments, developed, operated and maintained within an organized development of associated commercial activities in accordance with the approved plan of Development.

(2) *Community facilities*. Such as libraries, offices, or educational facilities operated by a public agency or government.

GCC 1156.06(a). In addition to these permitted uses, the GCC authorizes, pursuant to the approval procedures set forth in GCC Chapter 1169, the following conditional uses:

(1) *Modified Commercial use.* Any commercial use or arrangement of structure other than as specified in the approved plan of Development after the subdivision plat has been approved and improved. Such modification shall not increase the overall structural density on the lot or change the essential character of development from that approved in the Plan of development.

(2) *Lodging Places.* 7011 Hotels and motels, but excluding tourist courts.

GCC 1156.06(b). The allowed uses for the Property were placed on the Property by the City, and the Property's PCC zoning designation has not been amended or rescinded. As such, the requirements for development of the Property set forth in GCC 1156.06 remain the binding development standards as established by the City, and these requirements demand that the Property be used "only" as a shopping center, community facilities, or, with the appropriate approvals, lodging places. Id.

The Applicant's Final Development Plan Application (the "Application") indicates that the Applicant intends to use the Property in a manner that is inconsistent with its PCC zoning designation. The Application states that the intended uses for the Property include "professional office," "medical office," and an "off-site emergency department." Further, the project summary contained in the Planning and Development Staff Report (the "Staff Report"), which was attached to the Application, states that the Property "is proposed to be medical use." Based on the Application and the City's own review of the Application, therefore, the Development Plan does not propose to use the Property for either the permitted or conditional uses set forth in the GCC.

A plain reading of the PCC zoning designation demonstrates that medical offices and an "off-site emergency center" are not the uses intended by the City. As stated above, the permitted uses for the Property are as a shopping center, community facilities that are operated by a public agency or the government, or, with the appropriate approvals, lodging places. None of the uses sought by Applicant involve any public agency, government, or intends to be used as a lodging place, so it is clear the community facility and lodging places provisions are inapplicable. Looking more closely at the "shopping center" designation, it is hard see how a medical facility offering twenty-four hour emergency care fits within any reasonable definition of the term. One does not usually employ "shopping" terminology when discussing emergency medical facilities, and the Applicant did not offer any argument that such use is consistent with a plain understanding of what would be included in a shopping center.

Further, the 1990 Ordinance governing the Property (the "Ordinance") illustrates that an emergency facility and medical offices is not how this Property was intended to be used. As set forth in the Staff Report, the Property is governed by the Ordinance, which sets forth certain, additional development standards governing the Property's use. The Ordinance includes two illustrations to provide examples of what the intended shopping center is supposed to resemble.

Unsurprisingly, the illustrations depict a scene that is nothing close to what is set forth in the Development Plan. While the Ordinance provides that these illustrations were not meant to be “exact renderings” for a future development, they do provide insight on what the City intended by demanding the Property be used as a shopping center under its PCC zoning designation. The Development Plan does not comport in any manner with these illustrations and this stark discrepancy helps to visually show that the Development Plan does not comply with the Property’s PCC zoning designation.

In addition to not being consistent with the plain meaning of the term shopping center, an analysis of the GCC further confirms that the PCC zoning designation does not allow medical uses such as those included in the Development Plan. When the City wished to allow medical uses or professional offices within a particular zoning designation, it did so clearly. For instance, the City’s Suburban Office and Institutional District zoning designation explicitly provides that “Professional offices engaged in providing tangible and intangible services to the general public, involving both persons and their possessions” as a permitted use and goes on to list “hospitals” as an authorized conditional use. GCC 1153.01(a) and (b). Likewise, the City’s Neighborhood Commercial District and Community Commercial District zoning designations explicitly provide for designated medical and professional offices to be included as either permitted or conditional uses. As a review of the GCC demonstrates, when the City wished to authorize professional offices or medical uses within a particular zoning designation, it clearly expressed that intent. The fact that the PCC zoning designation does not mention professional offices or medical uses as permitted or conditional uses, in any fashion, therefore, evidences the fact that these uses are not authorized within PCC zoning.

The Planning Commission lacked the authority to approve the Development Plan. The Development Plan, as demonstrated above, does not seek to use the Property in a manner that is consistent with its PCC zoning designation. Put simply, a hospital surrounded by professional offices is not a shopping center and is not a permitted use under GCC 1153.06. Because the Development Plan fails to meet the applicable zoning standards for the Property, it failed to satisfy the very first, and arguably most important, requirement of GCC 1108.05(a)(1)(A)—namely that an application must comply with the zoning ordinances. Consequently, the Planning Commission should have denied the Development Plan, and its action to approve it in spite of this failure was an error that must be reversed.

C. The Planning Commission Granted the Approval Without Regard to the GCC

Faced with the reality that the Development Plan did not comport with the PCC zoning designation, the Planning Commission improperly relied on a “land use plan,” which was not contained in the record, as the basis for its Approval. While it is clear that the actual language of the PCC zoning designation does not authorize professional offices or medical uses, the Interim Director of Planning and Development, Michael Blackford, testified that the Development Plan was consistent with the Property’s zoning. (Minutes p. 2.) A review of the Staff Report demonstrates that this conclusion was drawn not from the GCC, however, but instead from the

“City’s new comprehensive land use plan” (the “Land Use Plan”). (Staff Report p.2.) The Land Use Plan referred to, however, was not contained in the record nor made available at the Hearing. Further, the Land Use Plan does not supersede the formal PCC zoning designation that was adopted and remains in place.

Because the Land Use Plan does not formally augment the GCC, it cannot form the basis for the Approval when it conflicts with the actual PCC zoning designation. Again, GCC 1108.05(a)(1)(A) requires the Planning Commission to review an application for compliance with the zoning ordinances, not some unofficial and off-the record document. The minutes from the Hearing (the “Minutes”), however, demonstrate that at least two commissioners based their approval on this unofficial Land Use Plan rather than on the PCC zoning language contained in the GCC. The Minutes indicate that Commissioner Wester based his approval on his belief that the “plan meets the applicable development standards,” and Commissioner Suriano stated that “he agrees with Wester” and that he “believes this is appropriate for the area when looking at the Land Use Plan.” (Minutes p. 7.) The Planning Commission is required to base its determinations on the actual provisions of the GCC, not on unofficial documents not contained in the Record. Because it is clear the Planning Commission did not base its Approval of the Development Plan on the actual requirements contained in the GCC, but rather something else, the Approval was improper and must be reversed.

D. The Planning Commission Failed To Consider or Address the Negative Consequences of the Development Plan

The Development Plan will have significant and negative traffic consequences for those that live near the Property. The Development Plan includes a request for curb cuts to provide it with access to Beecher Road (the “Curb Cuts”). Beecher Road is the sole road that provides access to the homes of the 81 residents within the Association. As discussed at the Hearing, traffic on Beecher Road is already burdensome, and the Development Plan’s intended use of Beecher Road will worsen this situation and severely overburden this local road.

The Planning Commission improperly failed to acknowledge or address the negative consequences of the Development Plan based on a 2013 easement agreement (the “Easement”), which again was absent from the record. The Association has attached a copy of the Easement hereto as Exhibit A. At the Hearing, the Applicant argued that the Curb Cuts requested in the Application were previously authorized by the Easement, and as such, the Planning Commission was required to approve this aspect of the Development Plan. On request for clarification from the Planning Commission, Shane Ewald, the City’s attorney, confirmed the view that the Curb Cuts were already agreed to and thus were “outside the scope of their authority.” (Minutes p. 6.) Based on this exchange, Commissioner Hicks confirmed that the Planning Commission “will not be considering a Curb Cut as part of the FDP.” The Easement, however, does not absolve the Planning Commission from reviewing and determining whether the Curb Cuts set forth in the Development Plan lead to negative effects or whether it is possible to mitigate those effects.

The validity of the Easement itself is questionable to the extent it seeks to determine zoning matters that are rightfully within the purview of the Planning Commission. The Planning Commission is the body that has been granted authority by the City to review zoning and development matters and to make determinations as to what development is appropriate for a specific area. Further, this review and determination process requires public participation. GCC 1108.04(c). The Easement attempts to usurp the Planning Commission's responsibility and to remove any input from the Public. Additionally, the Easement bears only the signature of the Property owner, the un-notarized signature of Mr. Ewald, with the inscription that it is "approved as to form," and includes as an exhibit an approval letter from the Mayor in power at that time. It is the Planning Commission, however, that the GCC has vested with the authority to make zoning determinations, not the City attorney or Mayor. To the extent the Easement makes determinations that the GCC has delegated to the Planning Commission, those determinations were made without authority and are not valid or binding.

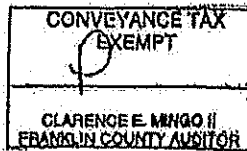
The Planning Commission should have reviewed the Curb Cuts and made its own, independent determinations regarding the negative traffic consequences. Pursuant to GCC 1108.05(a)(1)(C), the Planning Commission is required to ensure that a proposed development "would not have undesirable effects on the surrounding area." At the Hearing, the Association presented testimony detailing the traffic complications that the Development Plan will undoubtedly cause. The Planning Commission, based on the belief that the Curb Cuts were already finalized, however, ignored those negative issues and made no effort to modify the Development Plan in a manner that could have reduced them. Because the Planning Commission failed to properly consider the consequences of the Curb Cuts, the Approval was improper.

III. CONCLUSION

The Board of Zoning and Appeals must reverse the Approval. The Development Plan's intended use of the Property for primarily Medical and office usage is not consistent with a shopping center or the other permitted uses authorized by its PCC zoning designation. The Development Plan, therefore, clearly does not meet the requirements of the zoning provisions set forth in the GCC. Pursuant to GCC 1108.05(a)(1)(A), it is the responsibility of the Planning Commission to ensure all applications comply with the applicable zoning standards, and an application should not be approved unless this compliance is clear. Rather than apply the appropriate standards, however, the Planning Commission improperly based its approval on a Land Use Plan that is not binding and was not contained in the record before it. Further, the Planning Commission improperly relied on the Easement and, consequently, failed to adequately review the negative consequences that the Curb Cuts will bring to the surrounding area or to discuss any options to mitigate those effects. The Planning Commissions' Approval, therefore, was granted in contravention of the requirements of GCC 1108.05(a)(1)(A) and (C) and must be reversed.

TRANSFER
NOT NECESSARY

JUN 19 2013

CLARENCE E. MINGO II
AUDITOR
FRANKLIN COUNTY, OHIO

201306190102785

Pg: 11 \$100.00 Y20130655523

06/19/2013 3:02PM ESCROW SEAR

Terry J. Brown

Franklin County Recorder
DEED OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS, That ACADEMY DEVELOPMENT LIMITED PARTNERSHIP, an Ohio limited partnership ("Grantor"), in consideration of the sum of Ten Dollars (\$10.00), the mutual covenants contained herein and other good and valuable consideration to it paid by the CITY OF GAHANNA, OHIO, a municipal corporation ("Grantee"), the receipt and sufficiency of which are hereby acknowledged, does hereby grant and release to said Grantee, its successors and assigns, forever, a non-exclusive easement (the "Easement") over and through the following described real estate, being a 1.076 acre area and a 0.903 acre area as shown on Exhibits "A" and "B" attached hereto and made a part hereof (collectively, the "Easement Areas");

SEE ATTACHED EXHIBITS "A" AND "B"

The Easement Areas are portions of a larger parcel of real estate owned by Grantor and located on the southwest corner of Hamilton Road and Beecher Road (the "Property").

The Easement is granted for the purpose of constructing, using and maintaining all public utilities above and below the surface of the ground and appurtenant works in any part of said Easement Areas, including the right to clean, repair and care for said public utilities, together with the right of access to said Easement Areas for said purpose, provided that Grantee shall at all times conform to the terms and conditions set forth below:

Notwithstanding any provision to the contrary contained herein, by delivery and acceptance of this Deed of Easement, Grantee agrees to the following terms and conditions and Grantor covenants to do the following:

1. Grantor and Grantee hereby agree that, subject to the provisions of Paragraph 2 below, no structure or building shall be placed upon, in or under any portion of the Easement Areas, nor shall any work be performed in the Easement Areas which would alter the natural state of such areas or damage any of the trees or vegetation thereon; provided, however, that there shall be such construction areas as may be required for the installation, operation and maintenance of utilities and drainage facilities as Grantor, its successors and assigns may deem necessary for efficient development of the Property. Such maintenance shall occur only in areas approved by the Gahanna City Engineer. Areas disturbed by such maintenance shall be restored as nearly as practical to their original condition. Notwithstanding the foregoing, trees and/or vegetation which are dead or diseased may be removed therefrom.

Surety Title Agency, Inc.

Order No.: ST 33356Escrow No.: 12-228C

2. Grantee agrees that its right to perform work in the McKenna Creek bed shall be limited to using hand tool methods, removing debris, excessive plant growth and dead woody vegetation from said creek and performing measures to control erosion of the creek banks. Notwithstanding the foregoing, Grantee shall have no obligation hereunder to perform any such work in the Easement Areas, except as required in connection with Grantee's operation and maintenance of public utilities.
3. Grantor shall have no obligation hereunder to monitor the Easement Areas or otherwise incur any expense in connection therewith.
4. Grantee agrees that Grantor shall be entitled to rights of public access to/from the Property from/to Hamilton Road and Beecher Road, as specified for the "Arshot parcel" in the Traffic Access Study prepared for Grantee by W. E. Stilson Consulting Group, dated December 13, 2012, and as generally depicted on Exhibit "C" attached hereto and made a part hereof. Provided that Grantor's proposed development of the Property otherwise complies with requirements of the City of Gahanna Code, Grantor may elect to include either or both of such access points as part of Grantor's development and Grantee shall issue permits and approvals required for construction of the same, without the requirement of any further traffic access study. Notwithstanding the foregoing, the Parties agree that Grantee may elect to require an updated traffic access study, in the event that Grantor fails to develop the Property and install its access point(s) within twenty (20) years after the date hereof. Grantor is relying on the provisions of this Paragraph 4 as an inducement of Grantor's execution and delivery of this Deed of Easement.
5. The provisions of this Deed of Easement shall run with the land and be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Deed of Easement may be amended or terminated, in whole or in part, only by a written agreement between Grantor and Grantee, or by their respective successors in title to land underlying the Easement Areas and the Property.
6. If any provision of this Deed of Easement or the application of that provision to any persons or circumstances shall, to any extent, be invalid or unenforceable under the applicable law, the remainder of this Deed of Easement, or the application of the provision to other persons or circumstances, shall not be affected, and each provision of this Deed of Easement shall be valid and enforceable to the fullest extent permitted by law. Notwithstanding the foregoing or any other provision to the contrary set forth herein, if at any time within twenty (20) years after the date hereof Grantor is denied any right of public access to/from the Property from/to Hamilton Road and Beecher Road as described in Paragraph 4 above, the restrictions set forth in Paragraph 1 and the Easement shall terminate and be of no further force or effect.
7. Nothing contained in this Deed of Easement is intended to grant or create, nor shall it be construed as a dedication of, any rights in, to, or for the benefit of the general public.

TO HAVE AND TO HOLD said premises unto said Grantee, the City of Gahanna, Ohio, its successors and assigns, for the uses and purposes herein mentioned,

IN WITNESS WHEREOF, ACADEMY DEVELOPMENT LIMITED PARTNERSHIP, an Ohio limited partnership, hereby covenants with Grantee that it is the lawful owner of the above-described real estate, that it is lawfully seized of the same in fee simple and has good, right and full power to make this grant, have hereto set its hand this 30th day of May, 2013.

ACADEMY DEVELOPMENT LIMITED
PARTNERSHIP, an Ohio limited partnership

By: Lion Academy Development Corporation,
its authorized general partner

By: [Signature]
Name: Thomas H. Schuttengrein
Title: President

APPROVED AS TO FORM:

CITY OF GAHANNA, OHIO

By: [Signature]
Shane Bwald, City Attorney

Date: May 21st, 2013

[Acknowledgment on Next Page]

STATE OF OHIO)ss:
COUNTY OF FRANKLIN)

BE IT REMEMBERED, That on this 30th day of May, 2013, before me, the subscriber, a Notary Public in and for the said State, personally came the above named Thomas H. Schuttearsen, who acknowledged the signing of this instrument to be his voluntary act and deed for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.



JOSEPH A. SUGAR, III
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.

[Signature]
Notary Public
My Commission Expires N/A

This Instrument Prepared By:
City of Gahanna, Ohio

EXHIBIT A

March 27, 2013
Revised April 17, 2013

PRESERVATION EASEMENT – NORTH LEGAL DESCRIPTION

A parcel of land being part of Lot 2 in Lion Academy Village as recorded in Volume 75, Page 99 Franklin County Plat Records, in the City of Gahanna, Franklin County, Ohio, said parcel of land being bounded and described as follows:

Beginning at the intersection of a line drawn fifty and zero hundredths (50.00') feet westerly of and parallel with the centerline of Hamilton Road, as it now exists, with the South line of said Lot 2 in Lion Academy Village, said point being marked with a set capped iron rebar;

thence in a northerly direction along said line drawn fifty and zero hundredths (50.00') feet westerly of and parallel with the centerline of Hamilton Road, as it now exists, North four (04) degrees, nine (09) minutes, forty-seven (47) seconds East, a distance of four hundred eighty-eight and zero hundredths (488.00) feet to a point;

thence North eighty-six (86) degrees, eleven (11) minutes, eleven (11) seconds West along a line, a distance of three hundred seventy and zero hundredths (370.00') feet to the True Point of Beginning;

thence North eighty-six (86) degrees, eleven (11) minutes, eleven (11) seconds West along a line, a distance of one hundred nineteen and zero hundredths (119.00) feet to a point;

thence North seventy-one (71) degrees, eighteen (18) minutes, eighteen (18) seconds West, along a line, a distance of six and twenty (6.20) feet to the intersection of East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records;

thence North four (04) degrees, nine (09) minutes, forty-seven (47) seconds East along said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records, a distance of ninety-two and zero hundredths (92.00') feet to an angle point in said East line of Academy Ridge Section 1;

thence North nineteen (19) degrees, fifty-four (54) minutes, fifty-one (51) seconds East along said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records, a distance of two hundred two and sixty-one hundredths (202.61') feet to an angle in said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records;

thence North four (04) degrees, nine (09) minutes, forty-seven (47) seconds East along said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records, a distance of two hundred forty-seven and sixty-seven hundredths (247.67') feet to the intersection of the Southerly Right-of-Way Line of Beecher Road, as it now exists;

**Feller,
Finch**

& Associates, Inc.
Engineers • Architects • Surveyors

1683 Woodlands Drive, Maurice, Ohio 43037

Additional office in Jackson, Michigan Phone: (419) 893-3680
Fax: (419) 893-2982
www.fellerfinch.com

thence in a southeasterly direction along said Southerly Right-of-Way Line of Beecher Road, as it now exists, along a non-tangent curve to the left an arc distance of seventy-six and twenty-eight hundredths (76.28') feet to a point of tangency, said non-tangent arc of curve to the left having a radius of four hundred forty-five and zero hundredths (445.00') feet, a central angle of nine (09) degrees, forty-nine (49) minutes, sixteen (16) seconds, a chord distance of seventy-six and nineteen hundredths (76.19') feet and a chord bearing of South sixty-two (62) degrees, thirty-five (35) minutes, twenty-three (23) seconds East;

thence South four (04) degrees, nine (09) minutes, forty-seven (47) seconds West along a line, a distance of five hundred five and forty-three hundredths (505.43) feet to the True Point of Beginning.

Said parcel of land contains an area of 46,861 square feet or 1.076 acres of land more or less.

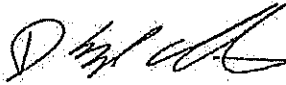
The above described parcel of land is subject to any and all leases, easements and restrictions of record.

The bearings used hereon are based on an assumed meridian and are for the express purpose of calculating angular measurement.

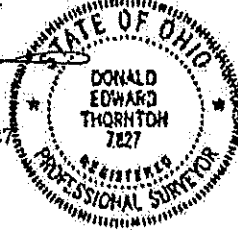
Prior Plat Reference is Volume 75, Page 99, Franklin County Deed Records.

Prepared by:

FELLER, FINCH & ASSOCIATES, INC.

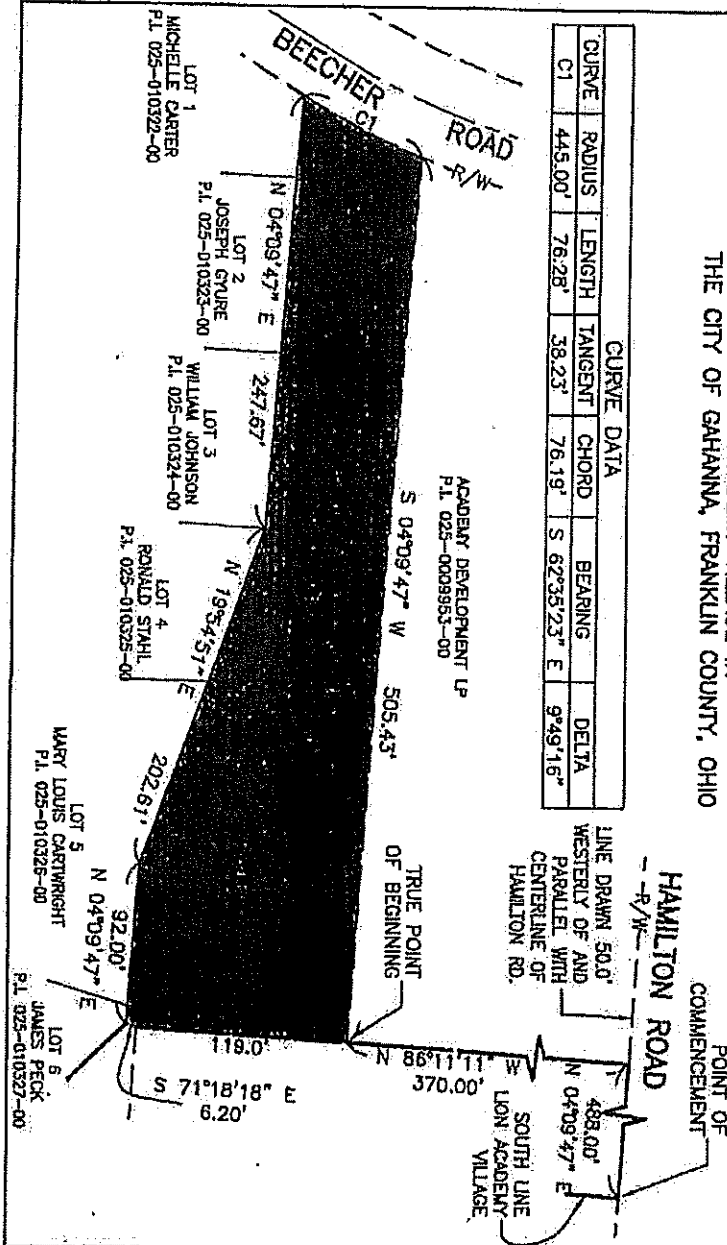


D. Edward Thornton, P. S.
Professional Surveyor No. 7827



EASEMENT EXHIBIT
A PARCEL OF LAND BEING PART OF LOT 2,
LION ACADEMY VILLAGE IN
THE CITY OF GAHANNA, FRANKLIN COUNTY, OHIO

CURVE DATA				
CURVE	RADIUS	LENGTH	TANGENT	CHORD
C1	445.00'	76.28'	38.23'	76.19'
			S 62°35'23" E	9°49'16"



© 2013 FELLER, FINCH & ASSOC., INC.

SCALE: 1" = 60'
 DATE: 3-27-13
 DRAWN BY: DEW
 PROJECT NO.: 10E07082
 DRAWING: 10-07082FED0A1



Feller Finch & Associates, Inc.
 Engineers • Architects • Surveyors

1683 Woodlands Drive, Maumee, Ohio 43537
 Phone (419) 893-3680
 Fax (419) 893-2643
 www.fellerfinch.com

EXHIBIT B

March 27, 2013
Revised April 17, 2013

PRESERVATION EASEMENT - SOUTH LEGAL DESCRIPTION

A parcel of land being part of Lot 2 in Lion Academy Village as recorded in Volume 75, Page 99 Franklin County Plat Records, in the City of Gahanna, Franklin County, Ohio, said parcel of land being bounded and described as follows:

Beginning at the intersection of a line drawn fifty and zero hundredths (50.00') feet westerly of and parallel with the centerline of Hamilton Road, as it now exists, with the South line of said Lot 2 in Lion Academy Village;

thence in an easterly direction along said South line of Lot 2 in Lion Academy Village, having a bearing of North eighty-six (86) degrees, eleven (11) minutes, eleven (11) seconds West, a distance of four hundred eighty-nine and zero hundredths (489.00') feet to the True Point of Beginning;

thence continuing North eighty-six (86) degrees, eleven (11) minutes, eleven (11) seconds West along said South line of Lot 2 in Lion Academy Village, a distance of forty-six and one hundredths (46.01') feet to the intersection of the East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records;

thence North four (04) degrees, nine (09) minutes, forty-seven (47) seconds East along said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records, a distance of fifty-one and eighty-four hundredths (51.84') feet to an angle point in said East line of Academy Ridge Section 1;

thence North thirty-three (33) degrees, fifty-nine (59) minutes, thirty-nine (39) seconds West along said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records, a distance of eighty-nine and two hundredths (89.02') feet to an angle point in said East line of Academy Ridge Section 1;

thence North four (04) degrees, nine (09) minutes, forty-seven (47) seconds East along said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records, a distance of two hundred fifty-five and zero hundredths (255.00') feet to an angle point in said East line of Academy Ridge Section 1;

thence North forty-four (44) degrees, thirteen (13) minutes, two (02) seconds East along said East line of Academy Ridge Section 1, as recorded in Plat Book 78, Page 77, Franklin County Plat Records, a distance of one hundred forty-seven and sixty-three hundredths (147.63') feet to a point;

thence South seventy-one (71) degrees, eighteen (18) minutes, eighteen (18) seconds East, along

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a line, a distance of six and twenty hundredths (6.20) feet to a point;

thence South four (04) degrees, nine (09) minutes, forty-seven (47) seconds West along a line, a distance of four hundred eight-eight and zero hundredths (488.00) feet to the True Point of Beginning.

Said parcel of land contains an area of 39,322 square feet or 0.903 acres of land more or less.

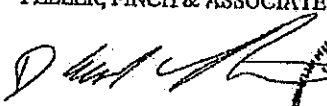
The above described parcel of land is subject to any and all leases, easements and restrictions of record.

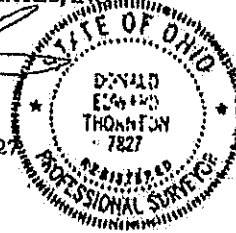
The bearings used hereon are based on an assumed meridian and are for the express purpose of calculating angular measurement.

Prior Plat Reference is Volume 75, Page 99, Franklin County Deed Records.

Prepared by:

FELLER, FINCH & ASSOCIATES, INC.


D. Edward Thornton, P. S.
Professional Surveyor No. 7827



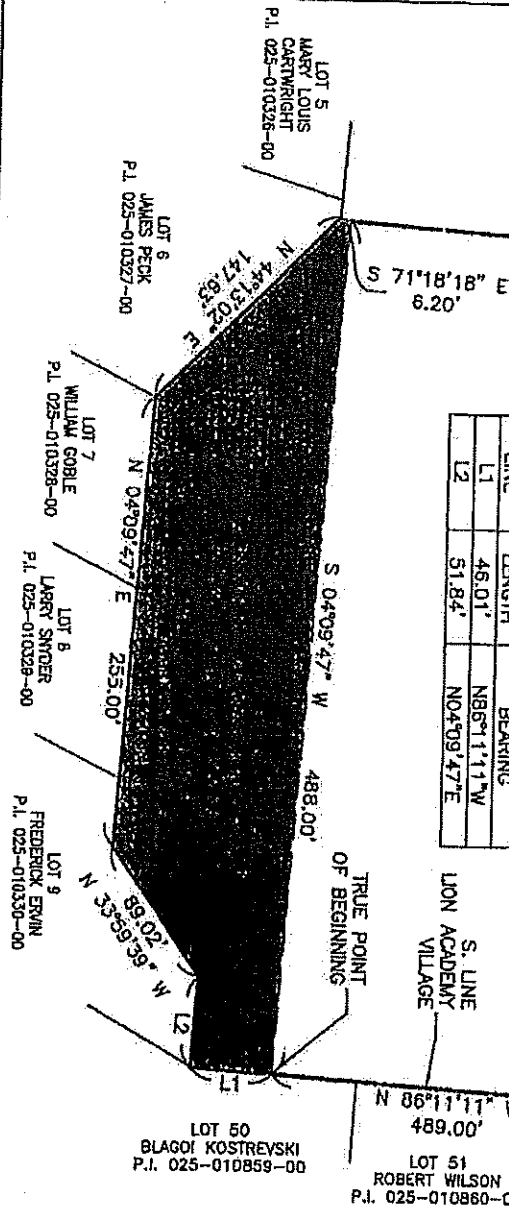
EASEMENT EXHIBIT A PARCEL OF LAND BEING PART OF LOT 2, LION ACADEMY VILLAGE IN THE CITY OF GAHANNA, FRANKLIN COUNTY, OHIO

HAMILTON ROAD

POINT OF
COMMENCEMENT
R/W

ACADEMY DEVELOPMENT LP
P.L. 025-0009953-00

LINE	LENGTH	BEARING
L1	46.01'	N86°11'11"W
L2	51.84'	N04°09'47"E



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SCALE: 1" = 50'
DATE: 3-27-13
DRAWN BY: DEM
PROJECT NO.: 10E07082
DRAWING NO.: 10-07082FE00A1



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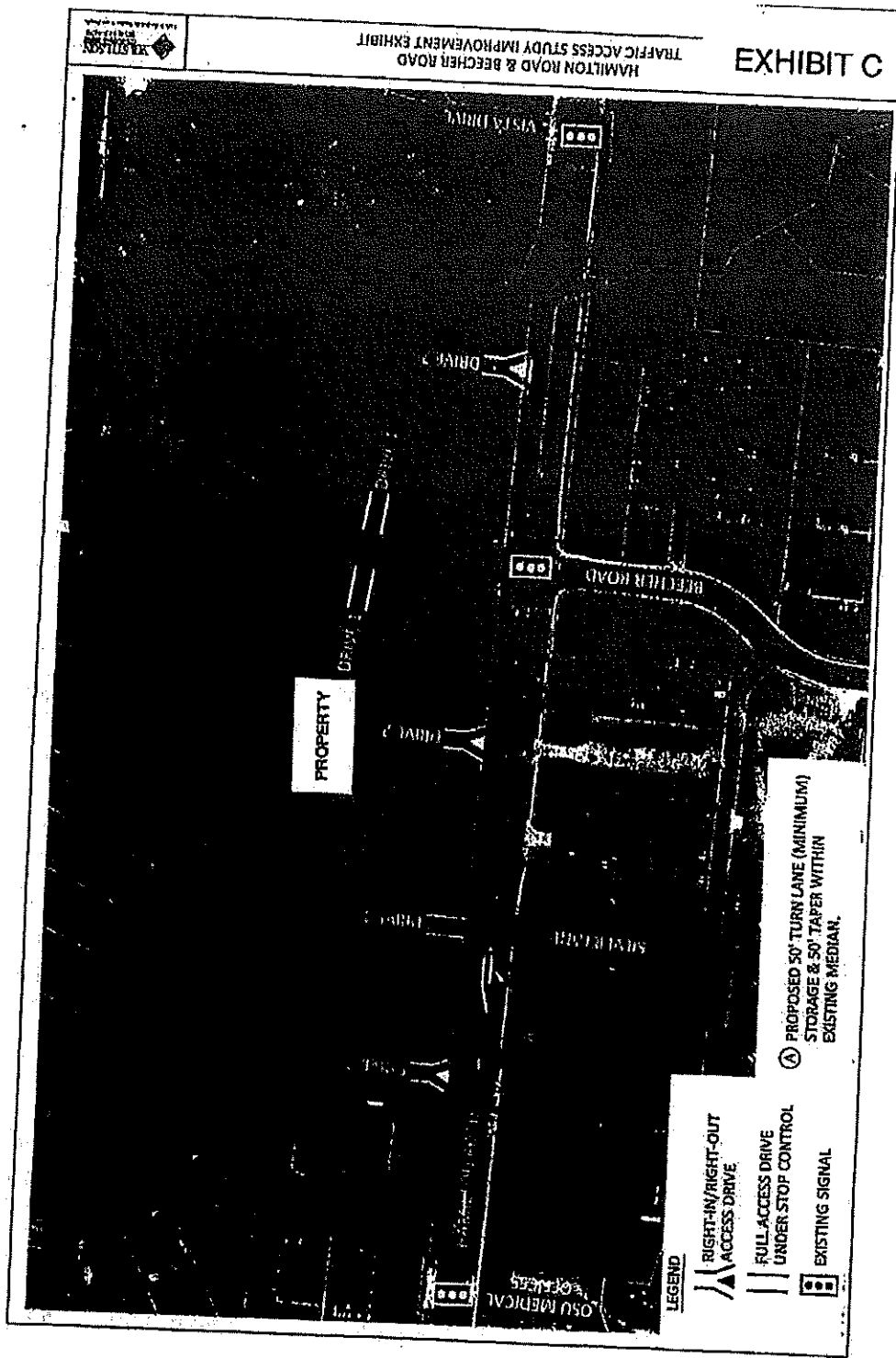
1633 Woodlands Drive, Maumee, Ohio 43537

Phone: (419) 893-3660

Fax: (419) 893-2882

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EXHIBIT C



**CITY OF GAHANNA
BOARD OF ZONING AND BUILDING APPEALS**

The Academy Ridge Community Association,
Inc.,

Appellant,

vs.

City of Gahanna, Planning Commission

Appellee.

BZD No:

Re: FDP-0007-2019
DR-0022-2019

AFFIDAVIT IN COMPLIANCE WITH GCC 147.03(3)

State of Ohio :
County of Franklin : SS

I, Scott L. Schickel, hereby declare as follows:

1. I am over the age of 18 and of sound mind.
2. I am a board member of the Academy Ridge Community Association (the "Association") and have authority to sign this affidavit on behalf of the Association.
3. I have obtained personal knowledge of all of the facts set forth in the Affidavit.
4. The Association is appealing the Gahanna Planning Commission's action in regard to the following matters: FDP-0007-2019 and DR-0022-2019.
5. To the best of my knowledge, the names and addresses of all property owners contiguous to and directly across any street from the property dealt with in FDP-0007-2019 and DR-0022-2019 are set forth in Exhibit A, attached hereto and incorporated herein.

Signature

Print Name

Sworn to before me this 19 day of December, 2019.



ANGELA M SMITH
Notary Public, State of Ohio
My Comm. Expires 09/09/2024
Recorded in Franklin County

Notary Public

EXHIBIT A

PROPERTY OWNER

Academy Development L.P.
c/o Joe Sugar
107 South High Street
Columbus, OH 43215

Michelle Carter
Paul Szymanski
"or current occupant"
1040 Ridge Crest Drive
Columbus, OH 43220

Ronald A & Janice E Stahl
"or current occupant"
1022 Ridge Crest Drive
Columbus, OH 43220

Constance Camman
"or current occupant"
400 Beecher Road
Columbus, OH 43220

Canini Investments Ltd
"or current occupant"
630 Link Road
Grove City, OH 43123

State of Ohio
"or current occupant"
2003 Millikin Road, Suite 200
Columbus, OH 43210

SURROUNDING PROPERTY OWNERS

Joseph S & Beverly S Gyure
"or current occupant"
1034 Ridge Crest Drive
Columbus, OH 43220

Mary Louise Cartwright TR
"or current occupant"
1016 Ridge Crest Drive
Columbus, OH 43220

Hammerhead-Gahanna LLC
"or current occupant"
2555 Bethel Road
Columbus, OH 43220

Cruise-N-Carwash LLC
"or current occupant"
1040 North Hamilton Road
Gahanna, OH 43230

William C Johnson
Huei-Nin Liu-Johnson
"or current occupant"
1028 Ridge Crest Drive
Columbus, OH 43220

James P & Jane F Peck
"or current occupant"
1010 Ridge Crest Drive
Columbus, OH 43220

4328 North Hamilton Road Properties
"or current occupant"
4328 North Hamilton Road
Columbus, OH 43230

Otterbein Gahanna Real Estate LLC
"or current occupant"
580 North State Route 741
Lebanon, OH 45036