

**A G E N D A**  
**PIQUA CITY COMMISSION**  
**MONDAY, MARCH 3, 2008**  
**7:30 P.M.**  
**201 WEST WATER STREET**  
**PIQUA, OHIO 45356**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**REGULAR CITY COMMISSION MEETING**

- **Proclamation: Mental Retardation and Development Disabilities Month**  
Karen Mayer, Superintendent of Riverside of Miami County  
Terry Naas, Community Relations & Staff Development Manager
- **Proclamation: American Red Cross Month – Susan Smith**
- **Introduction of Southview Neighborhood Association - Mr. Jim Vetter**
- **Miami Conservancy District Activities - Mr. Hans Landefeld**

1. **APPROVAL OF MINUTES** Approval of the minutes from February 11, 2008 Piqua City Commission Work Session and the February 19, 2008 Regular City Commission Meeting
2. **ORD. NO. 5-08-Amended**  
**(3<sup>rd</sup> Reading)** An Ordinance enacting Chapter 54 of the Piqua Municipal Code to establish a new Chapter entitled Right-of-Way Management, which regulates the use of the public right-of-way and establishes a permit schedule
3. **ORD. NO. 6-08**  
**(2<sup>nd</sup> Reading)** An Ordinance amending Zoning Ordinance No. 42-96 and map of the City for the rezoning of 133 E. Main Street from I-1 (Light Industrial) to R-2 (Two-Family Residential)
4. **RES. NO. R-39-08** A Resolution reappointing one member to the Tree Committee

5. **RES. NO. R-40-08**  
**(Public Hearing)** A Resolution approving the application for placement of farmland in an agricultural district filed by Donald E. Apple for parcels N44-076881 and N44-076907 in the City of Piqua
6. **RES. NO. R-41-08** A Resolution establishing the Civil Citation Appeal Board for the City of Piqua
7. **RES. NO. R-42-08** A Resolution establishing a City Commission 2008 calendar of meetings
8. **RES. NO. R-43-08** A Resolution accepting the recommendations of the Tax Incentive Review Council of the City of Piqua for the purpose of the Administration of the City of Piqua's Enterprise Zone Program, as required by Section 5709.85 (C) (1) of the Ohio Revised Code

Monthly Reports – January 2008

**MINUTES  
PIQUA CITY COMMISSION WORK SESSION  
FEBRUARY 11, 2008  
5:00 P.M.  
201 WEST WATER STREET  
PIQUA, OHIO 45356**

Piqua City Commission met in Special Work Session at 5:00 P.M. in the Municipal Government Complex City Commission Chambers, 201 W. Water Street. Mayor Hudson called the meeting to order at 5:00 P.M. Also present were Commissioners Martin, Vogt, and Fess. Absent: Terry. Also in attendance: City Manager Fred Enderle, Department Heads, several citizens.

**REVIEW REVENUE ALTERNATIVES**

City Manager Enderle explained the reason for the Revenue Alternatives.

- Look at long range plan.
- Provide the best services with the level of services we have now.
- Work-study session in March will explain expenditures and reductions.

Finance Director Cindy Holtzapple explained the Governmental Revenues.

- New Fees
- Current Fee Increases
- Cost Recovery of Services
- Cost Recovery of Services for Events
- Grant & Foundation Support
- Property Rental
- Income Tax

Several questions were asked concerning transient parking, illegal runs for fire department, current fee increases, cost of recovery of services, and area event cost recovery.

There was also discussion of the Governmental-Grant & Foundation Support, which has a total potential of \$49,900, Governmental Property Rental, which has total potential of \$17,800, and Governmental Income Tax, which has a total potential of \$95,000.

After a brief discussion all questions were answered.

Finance Director Holtzapple explained the Enterprise Revenue Alternatives

- New Fees
- Current Fee Increases
- Cost Recovery of Services
- New Utility
- Rate Increases

Several questions were asked concerning all the above, and after a brief discussion all questions were answered.

Finance Director Holtzapple explained the Enterprise 2008 Rate Increases

- |                  |             |
|------------------|-------------|
| • Power 5.45%    | \$1,167,447 |
| • Water 7%       | \$209,274   |
| • Wastewater 10% | \$263,899   |
| • Refuse 9%      | \$128,550   |

Several questions were asked on each of the above areas and after a brief discussion all questions were answered.

Public Comment

Joe Drapp, Park Avenue asked several questions concerning City Taxes and Rental Fees.

Ms. Holtzapple answered all of Mr. Drapp's questions.

Jim Roth, W. Ash Street asked several questions concerning the rental inspections of properties, charging a fee for auto accident investigations, cost of refuse pickup, and the amount of refuse legally picked up.

Health & Sanitation Director Amy Welker, and Police Chief Willcox answered all of Mr. Roth's questions.

There was discussion of several other areas including Refuse Rate Increases, and Special Event Fees and how these increases be handled.

City Manager Enderle stated he would look at charging fees for Festivals & etc.

Mayor Hudson thanked everyone for attending.

Moved by Commissioner Vogt, seconded by Commissioner Fess, to adjourn from the Piqua City Commission Work Session at 6:25 P.M. Voice vote, Aye: Hudson, Terry, Vogt, Fess, and Martin. Nay: None. Motion carried unanimously.

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THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION

**MINUTES  
PIQUA CITY COMMISSION  
TUESDAY, FEBRUARY 19, 2008  
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Hudson called the meeting to order. Also present were Commissioners Martin, Vogt, Fess, and Terry. Absent: None.

**REGULAR CITY COMMISSION MEETING**

**APPROVAL OF MINUTES**

Moved by Commissioner Vogt, seconded by Commissioner Terry, that the minutes of the January 28, 2008 Piqua City Commission Work Session and the Regular City Commission Meeting of February 4, 2008 be approved. Voice vote, Aye: Terry, Martin, Vogt, Hudson, and Fess. Nay: None. Motion carried unanimously.

Moved by Commissioner Fess, seconded by Commissioner Martin to adjourn into Executive Session for discussion of Confidential Matters (Charter Section 4-Meetings of Commission) at 7:32 P.M. Roll Call, Aye: Terry, Hudson, Fess, Vogt and Martin. Nay: None.

Moved by Commissioner Terry, seconded by Commissioner Martin to adjourn from Executive Session and return to Regular City Commission Meeting at 8:15 P.M. Voice vote, Aye: Martin, Terry, Fess, Hudson, and Vogt. Nay: None.

**ORD. NO. 5-08**

An Ordinance enacting Chapter 54 of the Piqua Municipal Code to establish a new chapter entitled Right-of-Way Management, which regulates the use of the public right-of-way and establishes a permit schedule

Moved by Commissioner Terry, seconded by Commissioner Vogt, that the Ordinance be given a second reading. Voice vote, Aye: Martin, Fess, Terry, Vogt, and Hudson. Nay: None. Motion carried unanimously.

**ORD. NO. 6-08**

An Ordinance amending Zoning Ordinance No. 42-96 and map of the City for the rezoning of 133 E. Main Street from I-1 (Light Industrial) to R-2 (Two Family Residential)

Brad Boehring, 132 E. Main asked several questions concerning the property located at 133 E. Main Street.

City Planner Chris Schmiesing answered Mr. Boehring's questions regarding the property located at 133 E. Main Street.

Nathan Wright, owner of the property located at 133 E. Main Street explained the use of the property at the time he purchased it and would like to continue the use by having the zoning changed.

Commissioner Terry asked if the property in question was connected to the brick building adjacent to it, and if the property will be sold as a two-family dwelling?

Mr. Wright explained the property has always been used as a two-family dwelling and he will sell it as a two-family dwelling.

Moved by Commissioner Fess, seconded by Commissioner Terry, that Ordinance No. 6-08 be given a first reading. Voice vote, Aye: Martin, Fess, Vogt, Terry, and Hudson. Nay: None. Motion carried unanimously.

**RES. NO. R-34-08**

A Resolution repealing Resolution No R-21-08 regarding the approval of a Mixed Use Planned Unit Development Concept Plan located at US Route 36 and R.M. Davis Parkway

Moved by Commissioner Terry, seconded by Commissioner Martin, that Resolution No. R-34-08 be adopted. Voice vote, Aye: Hudson, Fess, Vogt, Martin, and Terry. Nay: None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-34-08 adopted.

**RES. NO. R-35-08**

A Resolution approving a Mixed Use Planned Unit Development (M-PUD) Concept Plan for the Davis Village located at the northwest corner of US Route 36 and R.M. Davis Parkway

City Planner Chris Schmiesing explained the reason for the changes in the M-PUD.

Peter Schwiegeraht, representative of Miller Valentine, handed out colored plans of Davis Village along with floor plans of the units. Mr. Schwiegeraht explained the rental fee for the units would be about \$575 to citizens over 55 with a yearly income of \$32,520 for an individual.

Commissioner Vogt asked if there were other rental units in Piqua similar to the Davis Village units.

Mr. Schwiegeraht stated that they have other units in Piqua, such as Bent Tree on Garbry Rd., but not just like the proposed one-floor units at Davis Village.

Mayor Hudson asked how much of investment were they planning on making in Davis Village. Mr. Schwiegeraht stated about \$105,00 per unit or about five to six million total.

Commissioner Terry asked when would construction begin?

Mr. Schwiegeraht stated they hope to begin construction in the Spring of 2009 and be completed by 2010.

Commissioner Fess inquired if there would be additional storage for residents on site.

Mr. Schwiegeraht explained not in the project area outside, but they have incorporated extra storage area inside the home.

Mayor Hudson inquired as to the length of rental per unit, how long would the lease be for?

Mr. Schwiegeraht explained the lease would be for one year, and renewable each year if so desired.

We would like to provide condo quality at reasonable rates for senior citizens said Mr. Schwiegeraht

Commissioner Fess stated she felt the floor plan was very nice and laid out for the best use of the size of the unit.

Chet Osborne, 406 Staunton Street, voiced his opinion about the location of the Davis Village along Rt. 36.

Moved by Commissioner Martin, seconded by Commissioner Fess, that Resolution No. R-35-08 be adopted. Roll Call, Aye: Fess, Vogt, Martin, Terry, and Hudson. Nay: None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-35-08 adopted.

**RES. NO. R-36-08**

A Resolution appointing members to various Boards and Committee for the City of Piqua

Moved by Commissioner Fess, seconded by Commissioner Terry, that Resolution No. R-36-08 be adopted. Voice vote, Aye: Martin, Terry, Hudson, Fess, and Vogt. Nay: None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-36-08 adopted.

**RES. NO. R-37-08**

A Resolution authorizing the City Manager to execute a labor contract with Local Union 252, International Association of Firefighters, AFL-CIO-CLC (Fire Officers)

Commissioner Terry asked if the contract was worked out over a long period of time.

Law Director Stacy Wall explained how the contract was reached.

Moved by Commissioner Terry, seconded by Commissioner Vogt, that Resolution No. R-37-08 be adopted. Voice vote, Aye: Hudson, Fess, Vogt, Martin, and Terry. Nay: None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-37-08 adopted.

Moved by Commissioner Martin, seconded by Commissioner Vogt, to amend the agenda to add Resolution No. R-38-08 to the agenda at this time. Voice vote, Aye: Terry, Hudson, Vogt, Martin, and Fess. Nay: None. Motion carried unanimously.

City Manager Enderle explained the reason for Resolution No. R-38-08 being added at this time, despite the failure of the referendum, city commissioners said they felt the items deserved consideration by Piqua voters.

The five Ordinances No.'s 27-08, 28-08, 29-08, 30-08, and 32-08 will be placed on the November ballot, said City Manager Enderle.

Commissioner Terry asked if between now and the November election would the Ordinances be enforced?

City Manager Enderle stated yes, the Ordinances would be enforced at this time unless stayed, and further explained the options that were offered.

Commissioner Fess stated she is a firm believer in Code Enforcement, and thinks it is something we need to stay on top of in this city.

**RES. NO. R-38-08**

A Resolution to request the Miami County Board of Elections to put on the November 2008 General Election Ballot whether the citizens of Piqua are for or against Ordinance Nos. 27-07, 28-07, 29-07, 30-07 and 32-07

Moved by Commissioner Fess, seconded by Commissioner Martin, that Resolution No. R-38-08 be adopted. Roll call, Aye: Martin, Terry, Hudson, Fess, and Vogt. Nay: None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-38-08 adopted.

Several citizens voiced their opinions on Resolution No. R-38-08 and commended the City Commission for their actions.

Brad Boehring, 132 E. Main Street, asked for clarification, are the Ordinances going to be stayed?

City Manager Enderle stated no, legally the ordinances are not stayed at this time.

**Public Comments**

Chet Osborne, 406 Staunton Street, voiced his opinion about cutting costs in the Police Department if necessary. Mr. Osborne stated cuts should be from other department first before the safety services. Commissioner Vogt thanked all citizens who were appointed to the various Boards and Committees for stepping up and volunteering their services to the City of Piqua.

Commissioner Vogt stated the referendum is done, the petitioners wanted it on the ballot, and we listened to the citizens, now it is up to the voters in November to decide.

Commissioner Martin stated there were 750 petitioners who signed the petitions to see the ordinances put on the ballot, and we have listened to the citizens and choose to put it on the November ballot to be decided by the citizens.

Commissioner Fess congratulated Deputy Police Chief Christy, on achieving the Certified Law Enforcement Status he will be joining Police Chief Willcox and Deputy Police Chief Jamieson on being one of 150 selected out of 20,000 Police Officers to achieve this status.

Commissioner Fess encouraged citizens to sign up for the Workcamp Group.

Commissioner Terry thanked the volunteers who were appointed to the various Boards and Committees.

Commissioner Terry also voiced her opinion on the referendum, by putting the ordinances on the ballot this will enable the citizens of Piqua to have their voice heard. All these codes are in place to improve the city, said Commissioner Terry.

City Manager Enderle stated he did not know where the article that appeared in the Piqua Daily Call regarding Police Budget Cuts circulated from. Mr. Enderle wanted to clarify there are several cuts being discussed at this time, but nothing has been determined. There will be a work study session on March 10, 2008 to discuss the revisions of the budget and the cuts to be considered.

Mayor Hudson stated there is a movie in the process of being filmed based on the life of Piqua Airman William Pitsenbarger entitled "Last Full Measure" and is scheduled to be released in 2009 sometime.

Moved by Mayor Hudson, seconded by Commissioner Vogt, to adjourn from the Regular Piqua City Commission meeting at 9:20 P.M. Voice vote, Aye: Fess, Hudson, Vogt, Terry, and Martin. Nay: None. Motion carried unanimously.

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THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

REBECCA J. COOL  
CLERK OF COMMISSION

**ORDINANCE NO. 5-08**

**AN ORDINANCE ENACTING CHAPTER 54 OF THE PIQUA MUNICIPAL CODE TO ESTABLISH A NEW CHAPTER ENTITLED RIGHT-OF-WAY MANAGEMENT, WHICH REGULATES THE USE OF THE PUBLIC RIGHT-OF-WAY AND ESTABLISHES A PERMIT SCHEDULE**

WHEREAS, it is in the public interest for the City of Piqua to exercise control over the City Rights-of-Way, including construction and other work activity in the City Rights-of-Way; and

WHEREAS, it is necessary to regulate such activity in the City Rights-of-Way to promote efficiencies, to discourage duplication of activity, to encourage coordination of such activity, to lessen public inconvenience, and to promote public safety.

NOW THEREFORE, BE IT RESOLVED BY the Piqua City Commission, a majority of its members concurring that:

SECTION 1. That the City of Piqua hereby adopts Chapter 54 entitled Right-of-Way Management and hereby reads in full as follows:

**CHAPTER 54: RIGHT-OF-WAY MANAGEMENT**

Section

- 54.01 Purpose and scope of chapter
- 54.02 Definitions
- 54.03 Types of permits; grant of authority
- 54.04 Procedure for Permits, Terms
- 54.05 Criteria for granting permits
- 54.06 Use of right-of-way
- 54.07 Obligations of permittees; conditions of permits
- 54.08 Permit fees and auditing
- 54.09 Notice of right of way work, joint planning
- 54.10 Use of permittee facilities
- 54.11 Indemnification
- 54.12 Removal, discontinuance or abandonment of facilities

54.13	Remedies and revocation
54.14	Reservation of rights
54.15	Street vacation
54.16	Temporary movement of facilities
54.17	Permanent removal or relocation of facilities
54.18	Foreclosure and receivership
54.96	Nonenforcement and waivers by city
54.97	Controlling law.
54.98	Captions
54.99	Penalties

**§ 54.01 PURPOSE AND SCOPE OF CHAPTER**

(A) The purpose of this chapter is to provide requirements for the use or occupation of any and all right-of-way and public property in the City, the issuance of permits to persons for such use or occupancy and to set forth the policies of the City related thereto.

(B) This chapter does not take the place of any franchise, license, or permit which may be additionally required by law and shall not alter or affect the requirements imposed by Piqua Code sections 51.45 to 51.47, Chapter 92, and/or Chapter 117. Each permittee shall obtain any and all such additional franchises, licenses or permits necessary to the operations and conduct of its business.

(C) The Public Works Director, or his or her representative, is hereby granted the authority and duty of enforcing the provisions of this chapter.

(D) No person shall erect, place or store any objects, items, basketball poles, fixtures, material, equipment, shed, roof, fence or temporary walk, guard, device or any other structure on a public right of way without first obtaining a permit from the Public Works Director; nor shall any person move any building or structure onto, across or over any public right of way without first obtaining a permit from the Public Works Director.

(1) Newspaper disseminating devices or other similar devices are exempt from requiring a permit if: (a) the placement of the device does not adversely affect the public health, safety or welfare and (b) the device does not materially interfere with other lawful uses of the right-of-way.

(E) The policy of the City with regard to right-of-way is hereby declared to be:

1. To authorize any right-of-way user to utilize the right-of-way in a competitively neutral, non-discriminatory manner that maximizes the efficient use of and conserves the right-of-way and minimizes the burden on the right-of-way, physically and aesthetically;
2. To promote public safety and protect public property;
3. To promote the utilization of right-of-way for the public health, safety and welfare and to promote economic development in the City;
4. To promote the availability of a wide range of utility, communication and other services, including the rapid deployment of new technologies and innovative services, to the City's citizens and taxpayers at reasonable rates;
5. To promote cooperation among the City and permittees in the occupation of right-of-way, and work therein, in order to minimize public inconvenience during work in the right-of-way and avoid uneconomic, unneeded and unsightly duplication of facilities;
6. To ensure adequate public compensation for the regulation of the private use of the right-of-way and the regulation thereof; and
7. To promote and require reasonable accommodation of all uses of right-of-way and to establish the following priority of use of right-of-way, when all requested usage of right-of-way by permittees cannot be accommodated:
  - (a) First priority: use by the City;
  - (b) Second priority: use by another governmental entity with City's concurrence or other uses required by law;
  - (c) General Permittees and franchisees shall have third priority;
  - (d) General Permittees shall have fourth priority; and
  - (e) Special Permittees shall have fifth priority; provided, however, that the Public Works Director may reasonably require right-of-way permittees to cooperate to accommodate use by other permittees and provided further that the Public Works Director may alter this priority when the Public Works Director reasonably determines a deviation to be in the public interest.
8. To protect the value of private property by setting minimum aesthetic standards for uses of public property; and
9. To require underground placement of all facilities in areas with existing underground facilities; and
10. To require the improvement of existing areas to underground facilities to be at the permittee's cost; and

11. To protect existing facilities, structures, and trees in the public right-of-way during the installation of new underground facilities and to assure the repair of existing underground facilities and co-existence with new underground facilities to protect the first facilities' usability.
12. To minimize the impact on existing facilities and/or utilities including landscaping.

(F) Nothing in this Chapter should be construed to apply the provisions of this chapter to facilities owned or operated by the City or any of its operations.

(G) Unless otherwise specifically stated in a permit or in a franchise, all permits granted hereunder shall be non-exclusive.

(H) The Public Works Director is the principal city official for administration of right-of-way permits for work and excavations made in the right-of-way. The Public Works Director may delegate any or all of the duties hereunder.

#### **§54.02 DEFINITIONS**

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words *shall* and *will* are mandatory and *may* is *permissive*. Words not defined shall be given their common and ordinary meaning.

**"Applicant"** means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.

**"Approved"** means approval by the City pursuant to this chapter or any regulations adopted hereunder.

**"Best efforts"** means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, safety, expedition, available technology and human resources and cost.

**"Chapter"** or **"this chapter"** means this chapter 54 of the City of Piqua Code of Ordinances, as amended from time to time and any regulations adopted hereunder.

**"City"** means the City of Piqua, Ohio, or, as appropriate in the case of specific provisions of this chapter, any board, bureau, authority, agency, commission, department of, or any other entity of or acting on behalf of, the City of Piqua, or any officer, official, employee, representative or agent thereof, the designee of any of the foregoing, or any successor thereto.

**"Commission"** means the City Commission of the City of Piqua.

**"Facility"** means lines, pipes, irrigation systems, wires, cables, conduit facilities, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, or other equipment.

**"Force majeure"** means a strike, acts of God, acts of public enemies, orders of any kind of a government of the United States of America or of the State of Ohio or any of their departments, agencies, or political subdivisions; riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party, but only to the extent the disabled party notifies the other party as soon as practicable regarding such *Force Majeure* and then of only so long as and to the extent that, the *Force Majeure* prevents compliance or causes non-compliance with the provisions hereof.

**"Franchise"** shall mean a valid franchise pursuant to the Constitution and laws of Ohio and/or the United States, extended by the City and accepted by any person, business, firm or entity, pursuant to which such person, business, firm or entity may operate or provide utility, cable television, communications or other such services to consumers within the City.

**"Gross revenues"** shall mean all cash, credit, property of any kind or nature, or other consideration received directly or indirectly by a general permittee arising from or attributable to the sale or exchange of any services within the City in any way derived from the operation of its facilities in or use of the right-of-way.

**"Permit"** means the non-exclusive grant of authority to use or occupy all or a portion of City's rights-of-way granted pursuant to this chapter.

**"Permittee"** means any person, business, firm or entity issued a permit pursuant to this chapter to use or occupy all or a portion of the right-of-way in accordance with the provisions of this chapter and said permit.

**"Person"** means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit.

**"Public property"** means any real property owned by the City or easements held or used by the City, other than a right-of-way.

**"Public Works Director"** means the Director of the Public Works Department of the City of Piqua, Ohio, or the authorized representative.

**"Regulation"** means any rule adopted by and pursuant to the authority of this chapter.

**"Residential related purposes"** shall mean residential use of right-of-way for mailboxes, decorative purposes, curb cuts, driveways, irrigation systems and other uses permitted in the right-of-way by ordinance.

**"Right-of-way"** means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement or right-of-way now or hereafter held by the City which shall, within its proper use and meaning in the sole opinion of the City, entitle a permittee or franchisee, in accordance with the terms hereof and of any permit, to the use thereof for the purpose of installing or operating any poles, wires, cables, transformers, conductors, ducts, lines, mains, conduits, vaults, manholes, amplifiers, appliances, attachments or other property or facilities as may be ordinarily necessary and pertinent to the provisions of utility,

cable television, communications or other services as set forth in any franchise or any permit. Right-of-way shall also include public property, but only to the extent the use or occupation thereof is specifically granted in a permit or by ordinance or regulation.

### **§54.03 TYPES OF PERMITS; GRANTS OF AUTHORITY**

(A) The following type of permits are available:

1. Franchise Permit – Permit granted to holders of a valid franchise;
2. General Permit – Permit granted to persons who do not hold a franchise but who desire and are granted authority to utilize rights-of-way generally; provided, however, that nothing in this chapter or in any general permit shall be construed to authorize the permittee to provide any utility, cable television, communications or other services for which the City may lawfully require a franchise;
3. Special Permit – Permit granted to persons for a specific, limited use of the rights-of-way or a specific portion thereof;
4. Residential Permit - Permit granted to an adjacent or proximate residential landowner to occupy or use a portion of the right-of-way for residential related purposes.

(B) All Permits shall specify the use or uses for which such permits are granted, the conditional date of expiration of the permit and such other non-discriminatory terms and conditions as are appropriate and as are set forth in the regulations.

(C) Permits and the rights of permittees there under are not transferable without the express written approval of the City Manager or the Public Works Director.

### **§54.04 PROCEDURE FOR PERMITS, TERMS**

(A) Applicants for Franchise Permits shall be granted a franchise permit hereunder which shall be valid as long as the applicable provisions of this chapter and any franchise agreement are complied with; provided, however, that a franchise permit shall only entitle the franchise permittee to utilize the right-of-way, in accordance with this chapter, for purposes directly related to the provision of the specific services for which it has a specific franchise. Any other right-of-way use by such permittee shall require a separate permit. Any condition of Chapter 117 Competitive Service Authorizations shall also be satisfied.

(B) Applicants for General Permits, or renewals thereof, shall file an application therefore, in such form as regulations require, along with an application fee as also set forth in the regulations. The Public Works Director shall determine if the application satisfies the criteria set forth in Section 54.06, and if so, the Applicant should be granted a permit hereunder. The Public Works Director shall make a final determination as to whether or not such permit should be granted and if so, upon what terms and conditions. The term of such permit shall be for five (5) years.

(C) Applicants for Special Permits, or renewals thereof, shall file an application therefore, in such form as the regulations require, along with an application fee as also set forth in the regulations. The Public Works Director shall determine if the application is in order and if so, and if the Public Works Director also finds, in accordance with the criteria set forth in Section 54.06 that the application should be granted, the Public Works Director shall conditionally grant or renew such a Permit. Residential Permits shall be valid until canceled by the Public Works Director upon sixty (60) days' written notice to the permittee; provided, however, that upon a finding by the Public Works Director that an emergency exists, the Public Works Director may cancel any such permit upon such lesser notice as is necessary under the circumstances.

(D) Permits for residential related purposes are not required; however any residential related uses:

1. Exists and continues at the sufferance of the City;
2. May not jeopardize or adversely affect the public health, welfare, morals or safety;
3. May not interfere with the City's own uses or the right-of-way;
4. Must be modified, moved, or removed, upon notice, when the City determines in its sole judgment that such action is necessary; provide further, that in an emergency, or upon failure of the responsible party to respond in a timely fashion, the City may do or contract to do whatever it requires and recover the costs of same as such costs are recoverable by law.

(E) Before any construction may be begun in the right-of-way, the permittee shall file with the Public Works Director a performance bond in the required amount from a company licensed to do business in the State of Ohio, which such performance bond shall be maintained at the sole expense of the permittee so long as the permittee has facilities located in the right-of-way.

(F) Any applicant may appeal the failure of the Public Works Director to grant a permit or to recommend it to be granted upon terms and conditions acceptable to the applicant. In order to perfect such appeal, the applicant shall file within ten (10) days of the Public Works Director's determination or recommendation or ninety (90) days of the filing of the application if the Public Works Director has taken no action, an appeal to the City Manager. The City Manager shall then review the matter and render a final determination after affording the applicant an opportunity to be heard either in person or in writing. Except to the extent otherwise appealable by law, the City Manager's decision shall be final.

#### **§54.05 CRITERIA FOR GRANTING PERMITS**

(A) Franchise permits shall be granted to all persons holding a valid franchise and shall be effective for so long as such franchise is valid and the permittee complies with the provisions or such permit and this chapter.

(B) General and special permits shall be granted to persons based upon a determination that the following criteria are met:

1. The granting of the permit will contribute to the public health, safety or welfare in the City;
2. The granting of the permit will be consistent with the policy of the City as set forth in Section 54.01 hereof;
3. The permittee has and will continue to have liability insurance in effect, which names the City as an additional insured, in such amounts and for such liability as the City may require. Proof of said insurance, in a manner acceptable to the City, shall be provided to the City annually. If the insurance coverage expires, the permit will become null and void;
4. The applicant is a proper person to hold a permit and will fulfill all its obligations hereunder;
5. All field and maintenance personnel and equipment shall be responsible to perform proper construction zone traffic control as per the Ohio Department of Transportation (ODOT) Guidelines.

#### **§54.06 USE OF RIGHT-OF-WAY**

(A) The permittee's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.

(B) The permittee shall coordinate the placement of facilities in a manner which minimizes adverse impact on any public improvement, as reasonably determined by the City.

(C) The permittee shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.

(D) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the permittee shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks or other public lands of the City.

(E) All facilities of the permittee shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.

(F) Whenever reasonably possible, all newly constructed facilities shall be located underground. The permittee shall comply with all requirements of the City relating to underground facilities.

(G) The permittee shall not interfere with the facilities of the other right-of-way users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time.

(H) The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the Right-of-Way user's facilities. Any Right-of-Way user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the Right-of-Way user.

(I) All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the City to make such repair or replacement and bill the permittee for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do any necessary additional work at the permittee's expense.

(J) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a permittee's facilities in the right-of-way shall be in accordance with applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the permittee. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Ordinance may be in addition to or stricter than such minimum standards. A permittee shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

(K) The permittee shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the permittee without any expense to the City, its employees, agents, or authorized contractors.

## **§54.07 OBLIGATION OF PERMITTEES; CONDITIONS OF PERMITS**

(A) In addition to the other requirements set forth herein each franchise, general and special permittee shall:

1. Locate its improvements within the right-of-way in a manner which attempts to anticipate and preserve available space for future use by the City or other permittees, and submit to the City, in the form of a scaled drawing, the proposed location of the improvements for approval by the City prior to the placement or installation of any of the improvements;
2. Use its best efforts to cooperate with other permittees and the City for the best, most efficient, most aesthetic and least obtrusive use of right-of-way, consistent with safety and to minimize traffic and other disruptions including street cuts;
3. Participate in such joint planning and advance notification of right-of-way work, excepting such work performed in emergencies or other exigent circumstances;
4. Cooperate with other permittees and in utilization of, construction in and occupancy of private right-of-way, but only to the extent the same is not inconsistent with the grant thereof or state or federal law or is not additionally burdensome to any property owner;
5. Provide maps or other information identifying any changes since the most recent, previous plans, maps or description, in such form and at such times, no less than annually, as the regulations require. Said maps and information shall locate, describe and identify all uses, structures and facilities of such permittee, of and in the rights-of-way;
6. Perform all work, construction, maintenance or removal of structures and facilities within the right-of-way in accordance with good engineering and construction practice and ODOT traffic control guidelines, including any appropriate safety codes and in accordance with the regulations and use best efforts to repair and replace any street, curb or other portion of the right-of-way, or facilities or structure located therein, to a condition materially equivalent or to City standards, whichever is greater, to its condition prior to such work, and to do so in a manner which minimizes inconvenience to the public, the City and other permittees, all in accordance with regulations and City Engineering Standards;
7. Register with all appropriate underground reporting services; and
8. Not, unless otherwise set forth in a permit and without the City's prior written approval, enter into leases or other agreements for the use of such permittee's facilities located within the rights-of-way. All such final, approved leases or agreements shall be filed with the Public Works Director.

(B) Each permittee shall assure that all subcontractors or others performing any work or services in the right-of-way on behalf of said permittee comply with all applicable provisions of this chapter and said permittee shall be responsible and liable hereunder for all actions of any such subcontractor or others as if said permittee had performed or failed to perform any such obligation.

(C) To the extent allowed by law, the City may limit the number of right-of-way opening permits, based upon, but not necessarily limited to, specific local considerations such as:

1. The capacity of the right-of-way to accommodate service facilities;
2. The impact on the community of the volume of facilities in the right-of-way;
3. The disruption arising from numerous excavations of the right-of-way;
4. The financial capabilities of the service provider and its guaranteed commitment to make necessary investments to erect, maintain and operate the proposed facilities; or
5. Any other consideration based upon the interests of the public safety and welfare.

#### **§54.08 PERMIT FEES AND AUDITING**

(A) Telecommunication and Utility Permittees pay an annual fee determined by the following:

1. Permittees utilizing less than one mile of Right-of-Way shall pay a fee of One Thousand Dollars per year.
2. Permittees utilizing between one and ten miles of Right-of-Way shall pay a fee of Ten Thousand Dollars.
3. Permittees utilizing more than ten miles of Right-of-Way shall pay a fee of Twenty Five Thousand Dollars.

Such fee shall be paid in advance for each year prior to January 31. Partial year permits shall be prorated.

(B) Special Permittees shall pay an annual fee of Ten Cents (\$.10) per linear foot of Right-of-Way used or occupied, but not less than One Hundred Dollars (\$100). Such fee shall be paid in advance for each year prior to January 31 of such year. Partial year permits shall be prorated.

(C) In addition to the annual fees set forth in subsection (A) and (B) hereof, Permittees shall reimburse the City for the cost of inspection of the erection, installation, maintenance and/or restoration authorized by the Right-of-Way Work Permit. Such reimbursement is payable upon receipt of an invoice from the City.

(D) As additional compensation for the use of the Right-of-Way, the City Manager, in his sole discretion, may require Permittees to release the City from any obligation to pay compensation to the Permittee for the cost of relocation of

utilities located in private easements in conjunction with road improvement projects.

#### **§54.09 NOTICE OF RIGHT OF WAY WORK, JOINT PLANNING**

(A) All permittees shall file a written notice, in such form as the regulations require, with the Public Works Director at least thirty (30) days before working in or on the right of way. In addition to such other information as the regulations require, such notice shall contain or indicate, to the extent applicable:

1. The right-of-way affected;
2. A description of any facilities to be installed, constructed or maintained;
3. Whether or not any street will be opened or otherwise need to be restricted, blocked or closed;
4. An estimate of the amount of time needed to complete such work;
5. A description and timetable of any remedial measures planned to close any street opening or repair any damage done to facilitate such work;
6. A statement verifying that other affected or potentially affected permittees have been notified; and
7. A map showing the proposed facilities' location, and the location of any other infrastructure located near the proposed facilities

(B) The Public Works Director shall adopt regulations governing joint planning requirements for all permittees.

(C) Permittees may, under emergency or other exigent circumstances, work in the right of way so long as the permittee uses best efforts to provide the City the notice required by subsection (A) hereof at the earliest possible time.

(D) Permittees shall, under emergency conditions as declared by the Public Works Director work 24 hours per day with full crew levels.

#### **§54.10 USE OF PERMITTEE FACILITIES**

The City shall have the right to install and maintain upon any poles and within any underground pipes and conduits or other facilities of any franchise general or special permittee any facilities desired by the City unless such installation and maintenance unreasonably and materially interferes with existing and future operations of the permittee, and that such installation and maintenance would be unduly burdensome to such permittee. Each permittee shall cooperate with the City in planning and design of its facilities so as to anticipate the City's needs in this regard.

#### **§54.11 INDEMNIFICATION**

Each permittee shall indemnify, protect and hold harmless the City from any claim, loss or damage arising in any way from permittee's use of the right-of-way including but not limited to traffic control, OSHA or the construction operation or maintenance of permittee's facilities or from any such permittee's negligent or wrongful act or omission.

#### **§54.12 REMOVAL, DISCONTINUANCE OR ABANDONMENT OF FACILITIES**

(A) In the event any permittee intends to discontinue use of any facilities within the right-of-way, such permittee shall submit a notice to the Public Works Director describing the portion of the facilities to be discontinued and the date of discontinuance, which date shall not be less than thirty (30) days from the date such notice is submitted to the Public Works Director. The permittee may not remove, destroy or permanently disable any such facilities after such notice without the written approval of the Public Works Director. The permittee shall remove and repair surface conditions, and secure such facilities as set forth in the notice unless directed by the Public Works Director to abandon such facilities in place.

(B) Upon such abandonment and acceptance by the City in writing, full title and ownership of such abandoned facilities shall pass to the City, excluding any environmental hazards, and the City shall have no obligation to pay compensation to the permittee. The permittee shall, however, continue to be responsible for all taxes on such facilities or other liabilities associated therewith, until the date the same is accepted by the City.

(C) Facilities of a Provider which fail to comply with this Section and which remain Unused Facilities shall be deemed to be abandoned. Abandoned Facilities are deemed to be a public nuisance. The City may exercise any remedies or rights it has at Law or in equity, including, but not limited to: abating the nuisance; or taking possession of the Facilities and restoring them to a useable condition subject to the finding of the PUCO pursuant to the requirements of O.R.C. Sections 4905.20 and 4905.21; or requiring removal of the Facilities by the Provider or by the Provider's surety. If the City determines to require a Provider to remove Unused Facilities in any Rights-of-Way, the City shall use reasonable efforts to direct that this removal occur in conjunction with other scheduled excavation of the Rights-of-Way. If the City abates the nuisance it may take all action necessary to recover its costs to abate said nuisance, including but not limited to, those methods set forth in O.R.C. Section 715.261.

#### **§54.13 REMEDIES AND REVOCATION**

(A) In case of any failure of permittee's facilities, whether due to damage, age, lack of maintenance or any other cause, the City shall notify permittee who shall, within the time stipulated by the City, respond and repair such failed facility. Should permittee fail to act as required, or in cases where protection of public safety requires an immediate response, the City may take any required, corrective action and recover the costs of same from the permittee by bond execution, civil action or by certifying the amount to the County Auditor for collection with the permittee's personal property or real estate taxes.

(B) The Public Works Director shall give the permittee thirty (30) days prior written notice of City's intent to revoke the permit under this section stating the reasons for such action, unless it is an automatic revocation pursuant to this

chapter. If the permittee cures the stated reason within the thirty (30) day notice period or if the permittee initiates efforts satisfactory to the City to remedy the stated violation, the City may not revoke the permit. If the permittee does not cure the stated violation or undertake efforts satisfactory to the City to remedy the stated violation, then, after granting the permittee an opportunity to be heard in person or in writing, the Public Works Director may revoke the permit.

In the event the permit is revoked, all facilities located in the right-of-way or located upon public property shall be removed from the streets and public places of the City at the sole expense of the permittee.

#### **§54.14 RESERVATION OF RIGHTS**

(A) Nothing in this chapter shall be construed to prevent the City from constructing, maintaining, repairing or relocating any City utility, communications or like facilities; grading, paving, maintaining, repairing, relocating or altering any street, utility, or right-of-way; or constructing, maintaining, relocating, or repairing any sidewalk or other public work or improvement.

(B) Nothing in this chapter should be construed so as to grant any right or interest in any right-of-way or public property other than that explicitly set forth herein or in a permit.

(C) Nothing in this chapter shall be construed to alter or modify any rights previously granted under a franchise agreement.

(D) In emergency situations, the City reserves the right to relocate any and all facilities with no compensation to the permittee. Any permittee facilities removed will remain on site or as otherwise arranged until the permittee can reinstall the facilities. No notice of such emergency removal shall be made by the City to the permittee but the City shall notify the permittee of the emergency removal as soon as it is practical. No claims against the City for damages created by emergency removal of permittee facilities shall be made by the permittee.

#### **§54.15 STREET VACATION**

Unless preempted by state or federal law, in the event any right-of-way or public property used by a permittee shall be vacated or conveyed to others by the City during the term of any permit granted pursuant to this chapter, the permittee shall, at the permittee's expense, forthwith remove its facilities there from unless specifically permitted by the City to continue the same, and upon the removal thereof, restore, repair or reconstruct the area where such removal has occurred to a condition materially equivalent to that existing before such removal took place. Regulations may be adopted to further specify this requirement. In the event of failure, neglect or refusal of the permittee, after thirty (30) days written notice by the City to remove the facilities or to repair, restore, reconstruct, improve or maintain such vacated area, the City may do such work or cause it to be done, and the cost thereof as found and declared by the City shall be paid by the permittee as directed by the City and collection may be made by any available remedy.

#### **§54.16 TEMPORARY MOVEMENT OF FACILITIES**

In the event it is necessary temporarily to move or remove any of the permittee's wires, cables, poles, or other facilities placed pursuant to this chapter, in order to lawfully move a large object, vehicle, building or other structure over the streets

or utilities of the City, upon two (2) weeks written notice by the City to the permittee, the permittee shall, at the expense of the person requesting the temporary removal of such facilities (excluding the City), comply with the City's request.

#### **§54.17 PERMANENT REMOVAL OR RELOCATION OF FACILITIES**

In the event that City utilities must be moved, removed or additional structures installed within the right-of-way or other public property, which requires the relocation or removal of the permittee's facilities, the permittee shall, at its own expense, cause such relocation or removal to be made within thirty (30) days.

#### **§54.18 FORECLOSURE AND RECEIVERSHIP**

(A) Foreclosure. Upon the foreclosure or other judicial sale of the permittee's facilities located within the right-of-way, the permittee shall notify the City of such fact and its permit shall be deemed void and of no further force and effect. The permittee shall remove all facilities from the right-of-way and repair existing facilities to a condition equivalent to that existing upon the voiding of the permit, bonding shall be used as needed to insure the facilities are removed.

(B) Receivership. The City shall have the right to cancel any permit granted pursuant to this chapter subject to any applicable provisions of law, including the Bankruptcy Act, one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the permittee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

1. Within one hundred and twenty (120) days after his election or appointment such receiver or trustee shall have fully complied with all the provisions of this chapter and the relevant permit and remedied all defaults there under; and
2. Such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter and the relevant permit.

#### **§54.96 NONENFORCEMENT AND WAIVERS BY CITY**

The permittee shall not be relieved of its obligation to comply with any of the provisions of this chapter by reason of any failure of the City or to enforce prompt compliance. However, the Public Works Director may in individual instances and upon a request in writing establishing hardship and for good cause shown waive, in writing, any requirements of this chapter.

#### **§54.97 CONTROLLING LAW**

This chapter shall be construed and enforced in accordance with the Constitution and laws of the State of Ohio.

#### **§54.98 CAPTIONS**

The captions and headings in this chapter are for convenience and reference purposes only and shall not affect in any way the meaning of interpretation of this chapter.

**§54.99 PENALTIES**

(A) In addition to any other penalties set forth in this chapter, and the remedy of specific performance, the following penalties shall apply:

1. Any person, firm, corporation, or permittee violating Sections 54.01(D) or 54.14 shall be guilty of a misdemeanor of the first (1st) degree. Each day such violation continues shall be deemed a separate offense; and
2. For failure to comply with any other provision of this chapter, the penalty shall be a civil forfeiture, payable to the City, in the amount of \$100.00 per day for each day of violation.

(B) Any permittee may be excused for violations of this chapter and its permit for reasons of Force Majeure.

SECTION 2. The Clerk shall send by certified mail a copy of this Ordinance to Time Warner Cable.

SECTION 3. This Ordinance shall take effect from the earliest allowable period by law.

\_\_\_\_\_  
THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_  
3<sup>rd</sup> Reading-Amended

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CITY COMMISSION CLERK

**ORDINANCE NO. 6-08**

**AN ORDINANCE AMENDING ZONING ORDINANCE  
NO. 42-96 AND MAP OF THE CITY FOR THE  
REZONING OF 133 E. MAIN STREET FROM I-1  
(LIGHT INDUSTRIAL) TO R-2 (TWO-FAMILY RESIDENTIAL)**

WHEREAS, the City Planning Commission by its Resolution No. P. C. 09-08 (Exhibit "A" attached hereto) has approved the rezoning of 133 E. Main Street from I-1 (Light Industrial) to R-2 (Two-Family Residential); and

WHEREAS, Section 154.141 of the Piqua Code has been complied with in all respects;

NOW, THEREFORE, BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The application to rezone 133 E. Main Street from I-1 (Light Industrial) to R-2 (Two-Family Residential) is hereby approved.

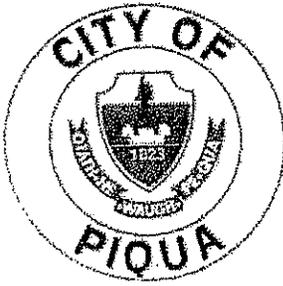
SEC. 2: The zoning map attached to Ordinance No. 42-96 as subsequently amended is hereby revised and amended to rezone 133 E. Main Street from I-1 (Light Industrial) to R-2 (Two-Family Residential) and the City Manager is hereby authorized to make said change on the original zoning map.

SEC. 3: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_  
2<sup>nd</sup> Reading

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION



## PLANNING AND ZONING

Christopher W. Schmiesing -- Planning and Zoning Supervisor  
201 West Water Street • Piqua, Ohio 45356  
(937) 778-2049 • FAX (937) 778-5165  
E-Mail: cschmiesing@piquaoh.org

February 11, 2008

### MEMORANDUM

**TO:** Frederick E. Enderle, City Manager  
**RE:** Request for Legislation to Change the Zoning Designation of the Property known as 133 E. Main Street from I-1 Light Industrial to R-2 Two-Family Residential

At the February 5, 2008 meeting of the Planning Commission, with all members present, the Planning Commission unanimously recommended approval of the above referenced zoning designation change for the subject property. Therefore, in accordance with § 154.141 of the codified ordinances I am forwarding this item for the City Commissions' consideration.

While the principal structure found on this property was once occupied by an office use that supported an adjacent light industrial use activity, this is no longer the case. The structure found on this parcel is currently occupied by a two-family use and is no longer associated with the use of the adjacent property (the use of which is now more commercial than industrial). The building and site characteristics found at the subject property adequately support the two-family use of the structure, as is attested to by the findings of the code compliance inspections recently completed at this location by building code and zoning code officials. Off-street parking requirements are satisfied by a parking area at the rear of the lot, and the non-standard setbacks of the principal structure were found to be consistent with the established building lines found within this neighborhood. Likewise, the residential use fits well with the surrounding residential land uses found in this neighborhood. No public comments for or against this request were received at the public hearing conducted by the Planning Commission on February 5, 2008.

Included with this memo for the City Commission's reference in considering this request, please find a copy of the Planning Commission resolution and the supporting documents pertaining to this matter.

Sincerely,

*Chris Schmiesing*

Chris Schmiesing  
City Planner

Enc.

Exhibit "A"

RESOLUTION No. PC 09-08

WHEREAS, Nathan Wright, owner of 133 E. Main Street, the subject parcel, has requested the Planning Commission recommend approval of a change to the zoning designation of the subject parcel from I-1 Light Industrial to R-2 Two-Family Residential; and

WHEREAS, article 154.141(B) of the City of Piqua Code of Ordinances provides the procedure for considering a request to make an amendment, change, or repeal of any provision of the zoning chapter;

WHEREAS, the Planning Commission has studied the request, conducted a public hearing on the matter, and established as fact that the request being considered:

- Will be compatible with the stated intent of the zoning district.
- Will not threaten the general health, safety, and welfare of the surrounding properties, and the adjacent property values will not be negatively affected.
- Is compatible with the general economic development policies of the City.
- Conforms to all other applicable codes and regulations of the city.

NOW THEREFORE BE IT RESOLVED, board member Franz hereby moves to approve the request made, as described by this resolution, the testimony provided, and the documents attached hereto, the motion is seconded by board member Taylor, and the voting record on this motion is hereby recorded as follows.

---

	AYE	NAY	ABSTAIN	ABSENT
Mr. Jim Oda	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Dick Sword	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mike Taylor	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mrs. Jean Franz	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mark Spoltman	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CITY OF PIQUA, OHIO

Application for Zoning Change

1. Applicant's Name NATHAN WRIGHT Phone 778-0329

Applicant's Address 318 PINEWOOD AVE.

2. Owner's Name NATHAN & IRENE WRIGHT Phone 778-0329

Owner's Address 318 PINEWOOD AVE. PIQUA, OH

3. Type of legal interest held by applicant OWNER

4. Location of Rezoning request

A. Legal description (Inlot No. or attach legal description) 12 3509 50 1/2

B. Address 133 E. MAIN ST. PIQUA, OH

5. Existing zoning R-1

6. Existing usage 2-FAMILY RESIDENTIAL

7. Proposed zoning 2-FAMILY RESIDENTIAL

8. Proposed usage 2-FAMILY RESIDENTIAL

9. Is this "Request for Zoning" contingent upon annexation? Y  N

10. Describe the reason for the requested rezoning: HAS BEEN USED 2-FAMILY  
HAVE NO FUTURE PLAN TO USE AS INDUSTRIAL

11. Has a Rezoning Request for this location been made before? Y  N   
If yes, give date of previous application \_\_\_\_\_

12. No. of site plans submitted (16 required UNLESS waived) \_\_\_\_\_

I hereby certify that the proposed request is authorized by the "Owner of Record" and agree to conform to all applicable laws of the City of Piqua, Ohio.

Signature of Applicant Nathan Wright Date 1/24/2008

Signature of Owner Nathan Wright Date 1/24/2008

Note: Both the owner and the applicant shall sign when application is made by someone other than the owner.

\*\*\*\*\* OFFICE USE ONLY \*\*\*\*\*

Fee paid \$100.00 Date fee paid 1-24-08

Receipt no. 180246 P.C. Res. no. \_\_\_\_\_



## PLANNING AND ZONING

Christopher W. Schmiesing – City Planner  
201 West Water Street • Piqua, Ohio 45356  
(937) 778-2049 • FAX (937) 778-5165  
E-Mail: cschmiesing@pquaoh.org

January 25, 2008

To: Planning Commission Members

**RE: PC Resolution 09-08**

The above referenced resolution if adopted will approve a change in the zoning designation of the subject parcel from I-1 Light Industrial to R-2 Two-Family Residential. The property in question is located at 133 E. Main Street.

The subject parcel is occupied by a structure that is currently occupied by a two-family use. Research indicates the retail commercial and service use of the structure, the last authorized use, existed until the mid 1980's. After that there was a period of vacancy until the dwelling unit use of the structure began in the mid 90's. A records review has verified that no zoning permit was secured for the conversion of this structure. However, the architectural characteristics of the building seem to support the two-family use of the structure, and the residential use also appears to fit well with the existing surrounding land uses. With off-street parking being satisfied by a parking area at rear of the lot, the only non-standard zoning conditions that exist at this premise pertain to the setbacks of the principal structure. Beyond that, the applicant will be required to have the property inspected by the zoning and building officials to determine what if any permits and improvements will be required to remedy any identified code deficiencies if the zoning change is approved.

Included in your packet you will find an illustration of the zoning in this vicinity and a photograph of the exterior of the front of the subject building for the commissions' use in considering this matter.

Respectfully,

*Chris Schmiesing*

Christopher W. Schmiesing  
City Planner

Enc.

Jan. 31. 2008 12:36PM

MIAMI CO BLDG REG 937 440 5486

No. 6206 P. 2

# OCCUPANCY PERMIT

## BUILDING INSPECTION OFFICE

### Miami County

510 W. Water St., Suite 120, Troy, Ohio 45373-2884  
440-8075 440-8086

**UPPER VALLEY REALTY INC (NATHAN WRIGHT)**

This is to confirm that the following building or structure located

at 133 EAST MAIN ST., PIQUA, OH 45356

Lot No. \_\_\_\_\_ Plat \_\_\_\_\_ Township \_\_\_\_\_

Zoning Permit No. N/A

Bldg. Permit No. 15693 Electrical Permit No. \_\_\_\_\_ Heating Permit No. \_\_\_\_\_

Sprinkler Permit No. \_\_\_\_\_

Building Contractor \_\_\_\_\_

Architect or author of Plans \_\_\_\_\_

Water Meter installed and  
Waste Water system operational \_\_\_\_\_

Has been inspected and the following occupancy there is authorized

- Dwelling 2 FAMILY
- Accessory Building
- Pole Barn
- Addition
- Modular
- Storage Building
- Garage
- Porch

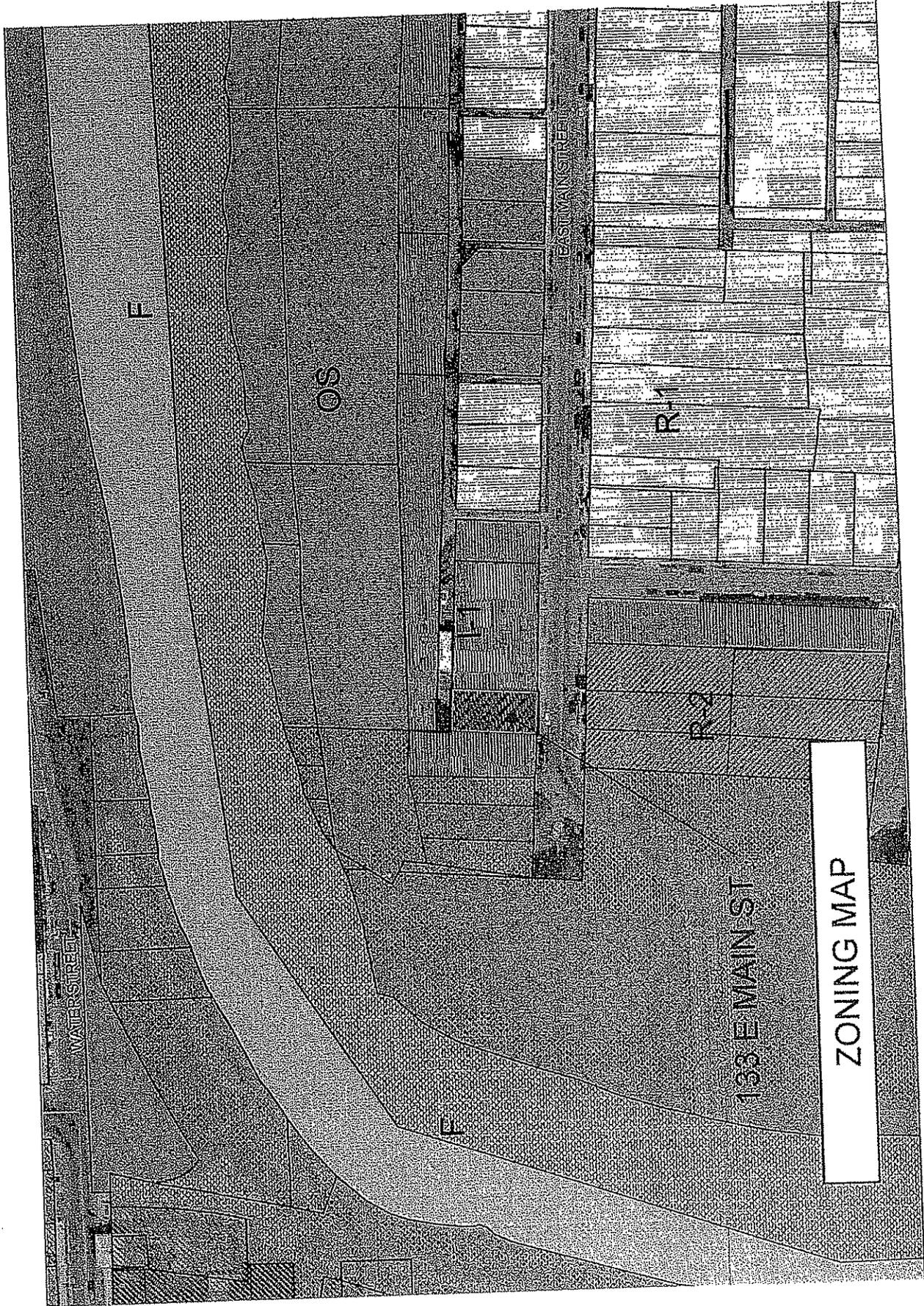
Other \_\_\_\_\_  
MAINTAIN SMOKE DETECTORS WITHIN 15' OF EVERY BEDROOM AND ON EACH LEVEL. REPLACE LUMINAIRES (KEYLESS TYPE) WITH COMPLETELY ENCLOSED INCANDESCENT FIXTURES OR FLUORESCENT TYPE.

Final inspection made 1/30/2008 By BOB BOWMAN Inspector

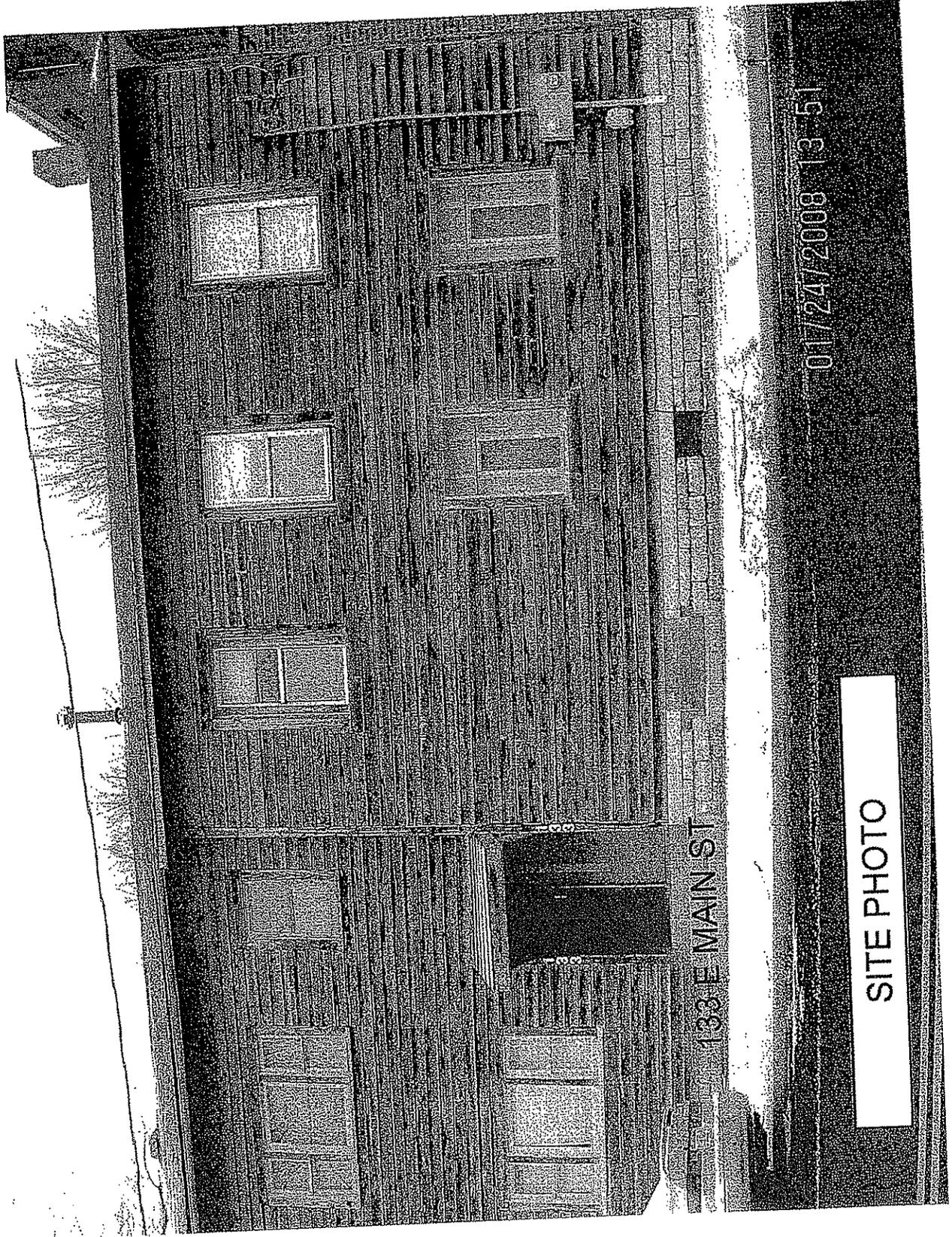
Approved for Occupancy 1-31-2008 Building Official Robert D. Bowman

REMARKS:

OCCUPANCY INSPECTION FOR TWO FAMILY OCCUPANCY



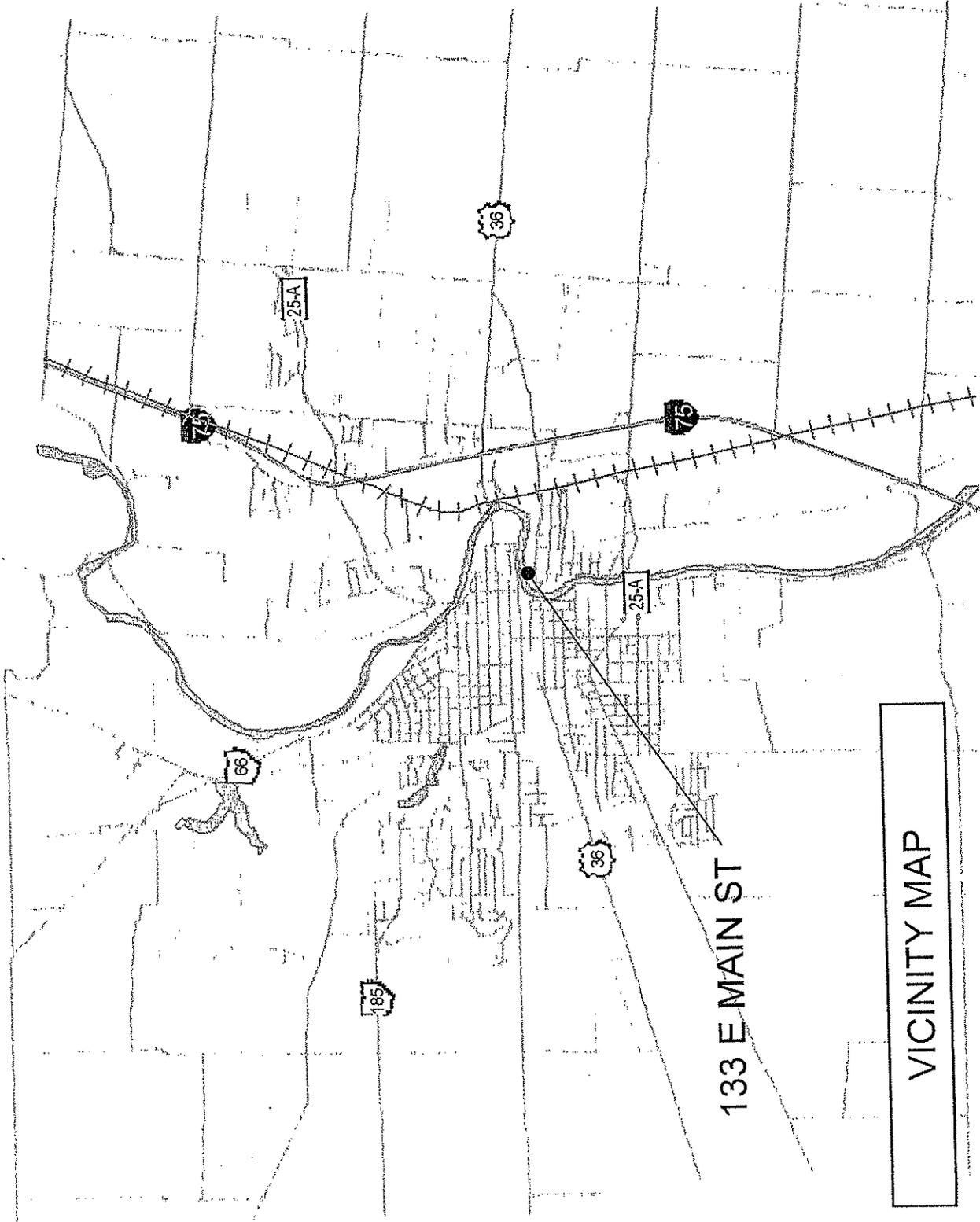
ZONING MAP

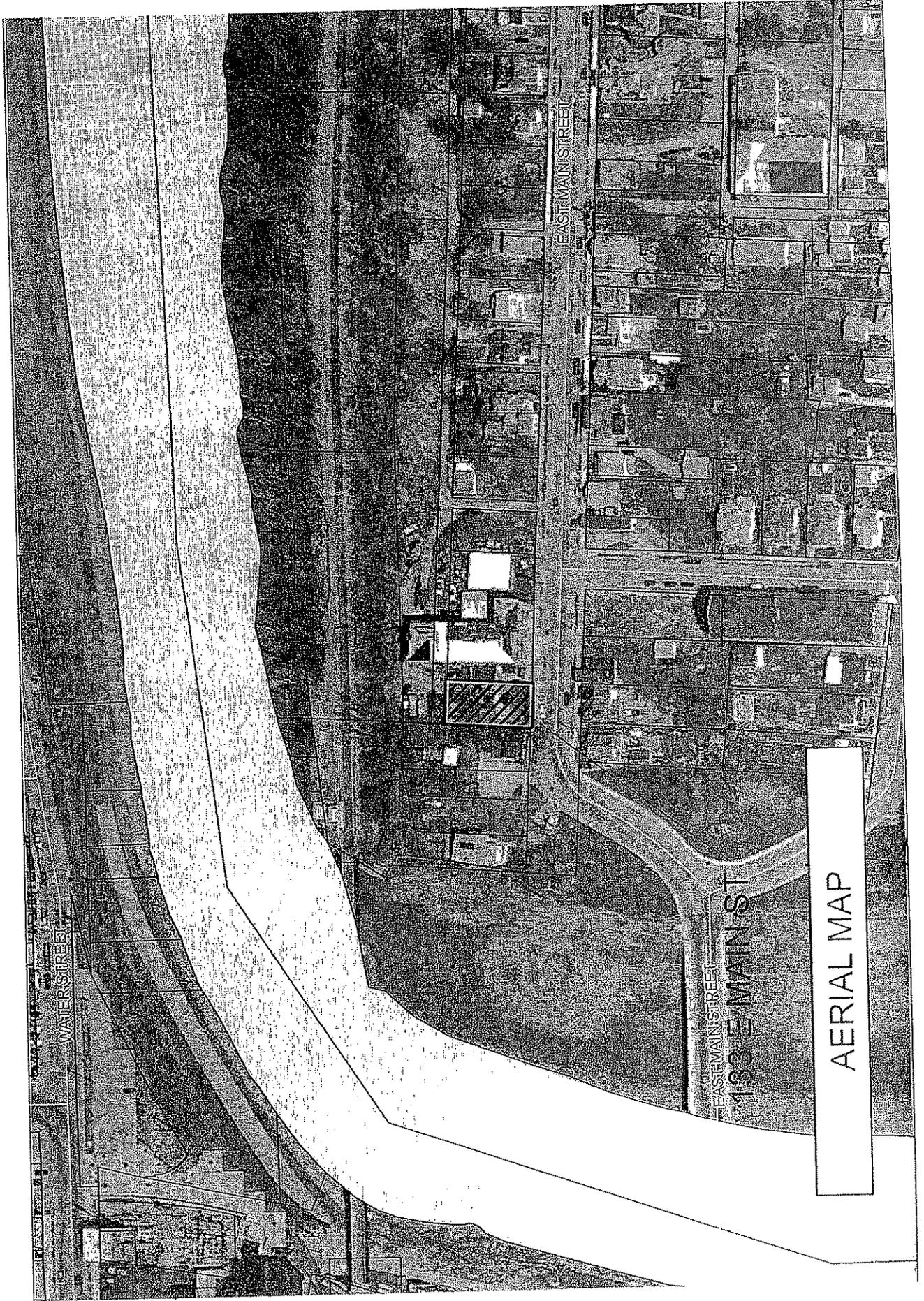


01/24/2008 13.51

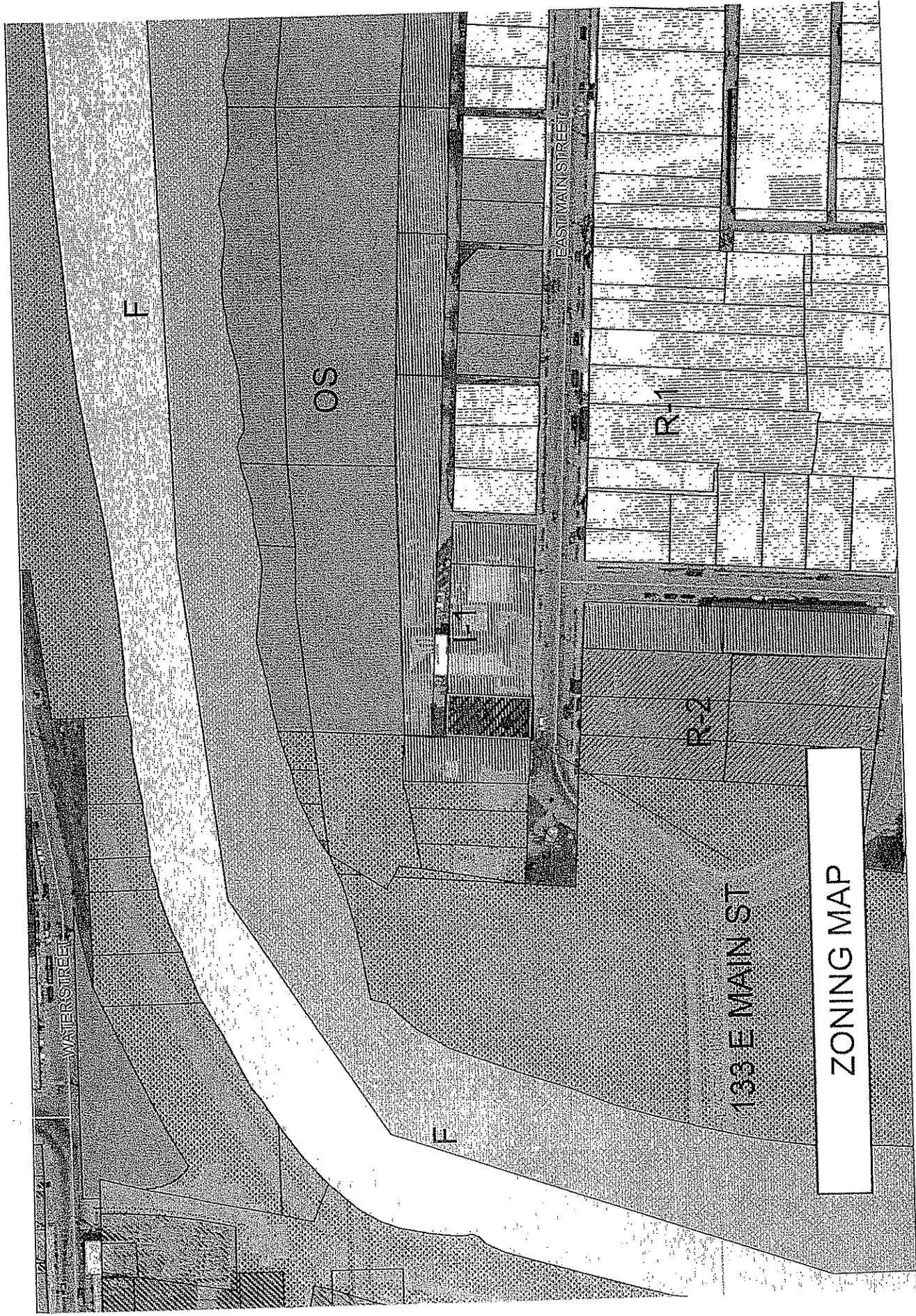
133 E MAIN ST

SITE PHOTO





AERIAL MAP



ZONING MAP



133 E MAIN ST

0172472008 13:51

SITE PHOTO

**RESOLUTION NO. R-39-08**

**A RESOLUTION REAPPOINTING ONE  
MEMBER TO THE TREE COMMITTEE**

BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: Judy Terry is hereby reappointed as a member of the Tree Committee for a four (4) year term to expire on March 1, 2012 or until her successor is confirmed and qualified;

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION

**PUBLIC HEARING  
RESOLUTION NO. R-40-08**

**A RESOLUTION APPROVING THE APPLICATION FOR  
PLACEMENT OF FARMLAND IN AN AGRICULTURAL  
DISTRICT FILED BY DONALD E. APPLE FOR PARCELS  
N44-076881 AND N44-076907 IN THE CITY OF PIQUA**

WHEREAS, Donald E. Apple has submitted an application to designate parcels N44-076881 and N44-076907 as an agricultural use; and

WHEREAS, parcels N44-076881 and N44-076907 are devoted exclusively for agricultural use; and

WHEREAS, the placement of these properties in an agricultural use district will not adversely impact the City of Piqua's development needs;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The application to place parcels N44-076881 and N44-076907 in an agricultural use district as provided by Ohio Revised Code Section 929.02 is hereby approved;

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION



## INFORMATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT

### INSTRUCTIONS FOR COMPLETING APPLICATION

- Print or type all entries.
  - List description of land as shown on the most recent tax statement or statements. Show total number of acres.
  - Describe location of property by roads, etc., and taxing district where located.
  - State whether any portion of land lies within a municipal corporation.
    - Note: See "Section B." "Where to File" to be sure that a copy of this Application is also filed with the Clerk of the municipal legislative body as well as the County Auditor.
  - A renewal application must be submitted after the first Monday in January and prior to the first Monday in March of the year in which the agricultural district terminates for the land to be continued in this program.
  - If the acreage totals 10 acres or more, do not complete Part D on the front side.
  - If the acreage totals less than 10 acres, complete either D (1) or (2) on the front side.
  - Do not complete "Action of County Auditor". This space to be completed by the County Auditor and/or Clerk of the municipal legislative body.

#### A. WHO MAY FILE?

Any owner of land used for agricultural production may file an application to have the land placed in an agricultural district.

#### B. WHERE TO FILE

The completed application must be filed with the auditor of the county where the land is located. The applicant will be notified of action taken by the county auditor within 30 days of the filing of the application if the land is not within a municipal corporation or an annexation petition has not been filed. If the land for which an application has been made lies within a municipal corporation limit or if an annexation petition that includes the land has been filed with the Board of County Commissioners under Section 709.02 of the Ohio Revised Code, a copy of the application must also be filed with the Clerk of the legislative body of the municipal corporation. The legislative body is required to conduct a public hearing on the application within 30 days after the application has been filed with the Clerk. Within 30 days of the hearing, the legislative body may approve the application, modify and approve the application as modified, or reject the application.

#### C. WHEN TO FILE AND RENEWAL

The original application may be filed at any time for placement of land in an agricultural district for a five-year period. If at the end of five years, the owner decides to keep some or all of his or her land in a district, he or she shall submit a renewal application and must meet the same land requirements and use the same application process as the original application. The renewal application may be filed at any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, for a period of time ending on the first Monday in April of the fifth year following the renewal application.

#### D. WHAT IS "LAND USED FOR AGRICULTURAL PRODUCTION?"

In accordance with Section 929.01(A) of the Revised Code, land is devoted to "agricultural production" when it is used for commercial aquaculture, apiculture, animal husbandry, poultry husbandry; the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees; flowers or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices provided that the tracts, lots, or parcels of land or portions thereof that are used for conservation practices comprise not more than twenty-five percent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed.

"Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

#### E. WHAT DOES "TRACTS, LOTS, OR PARCELS OF LAND" MEAN?

Tracts, lots, or parcels mean distinct portions of pieces of land (not necessarily contiguous) where the title is held by one owner, as listed on the tax list and duplicate of the county, is in agricultural production and conforms with the requirements of either F1, F2, or F3 below.

#### F. ARE THERE ANY OTHER REQUIREMENTS?

1 The land for which the application is made must have been used exclusively for agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency for the three consecutive calendar years prior to the year in which application is made. Evidence must be shown on the application. If the land contains timber which is not being grown for commercial purposes the land on which the timber is growing must be contiguous to or part of a parcel under common ownership that is otherwise devoted exclusively to agricultural use.

2 If the total amount of land for which application is made is less than 10 acres, there is an additional requirement that the applicant submit evidence with his application that the activities conducted on the land have produced an average yearly gross income of at least \$2500.00 over the three years immediately preceding the year in which application is made or that the land will produce an anticipated annual gross income of that amount.

3 Evidence of annual gross income may be satisfied by attaching to the application form a short statement stating the

#### G. IS THERE A PENALTY FOR EARLY WITHDRAWAL?

Land removed from this program before the 5-year enrollment period is subject to penalty, per Section 929.02(D) of the Ohio Revised Code. See County Auditor's Office for details on how the amount of the withdrawal penalty is determined.

#### H. APPEAL OF APPLICATION

The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice denying the application. When the land lies within a municipality the applicant may also appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection. In addition the

**§ 929.02. Application to place land in agricultural district; auditor to notify owner; withdrawal penalty.**

(A) Any person who owns agricultural land may file an application with the county auditor to place the land in an agricultural district for five years if, during the three calendar years prior to the year in which that person files the application, the land has been devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government and if:

(1) The land is composed of tracts, lots, or parcels that total not less than ten acres; or

(2) The activities conducted on the land produced an average yearly gross income of at least twenty-five hundred dollars during that three-year period or the owner has evidence of an anticipated gross income of that amount from those activities. The owner shall submit with the application proof that the owner's land meets the requirements established under this division. If the county auditor determines that the application does not meet the requirements of this section, the county auditor shall deny the application and notify the applicant by certified mail, return receipt requested, within thirty days of the filing of the application. The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice. If the county auditor determines that the application meets the requirements of this section, the county auditor shall approve the application and notify the applicant within thirty days of the filing of the application. An application that is not denied shall be deemed to be approved. The county auditor shall provide an applicant with a copy of an approved application within thirty days of the filing of the application. An application that is approved is effective upon the date of the filing of the application.

The county auditor shall keep a record of all land in the county that is within an agricultural district, including a copy of the final action taken by a legislative body regarding applications modified by a legislative body pursuant to division (B) of this section.

(B) If the land of a person who files an application under division (A) of this section is within a municipal corporation or if an annexation petition that includes the land has been filed with the board of county commissioners under section 709.02 of the Revised Code at the time of the filing, the owner also shall file a copy of the application for inclusion in an agricultural district with the clerk of the legislative body of the municipal corporation. No later than thirty days after the filing of an application or, in the case of an annexation petition filed pursuant to section 709.02 of the Revised Code, no later than thirty days after the petition has been granted, the legislative body shall conduct a public hearing on the application. The clerk of the legislative body shall cause a notice containing the substance of the application and the time and place where it will be heard to be published in a newspaper of general circulation in the county in which the application or annexation petition is filed no later than seven days prior to the time fixed for the hearing. The clerk of the legislative body also shall notify the applicant of the time and place of the hearing by certified mail sent no later than ten days prior to the hearing. Any interested person or representative of an interested person may appear in support of or to contest the granting of the application. Affidavits presented in support of or against the application shall be considered by the legislative body. Within thirty days of the hearing, the legislative body may approve the application, modify the application and approve the application as modified, or reject the application. An application that is not modified or rejected by a majority vote of the members of the legislative body shall be deemed to be approved. Prior to rejecting an application, the legislative body shall make every effort to modify the application. Modifications may include the length of time during which land is

considered to be within an agricultural district, size of the agricultural district, and any provisions of sections 929.03 to 929.05 of the Revised Code. If the applicant disapproves of the modifications made by the legislative body, the applicant may withdraw the application to place the land in an agricultural district. In rejecting or modifying an application to place land in an agricultural district, the legislative body shall demonstrate that the rejection or modification is necessary to prevent a substantial, adverse effect on the provision of municipal services within the municipal corporation, efficient use of land within the municipal corporation, the orderly growth and development of the municipal corporation, or the public health, safety, or welfare.

If an annexation petition is denied under section 709.033 [709.03.3] of the Revised Code, if a legislative body fails to conduct a hearing in the time prescribed by this section, or if an application is approved, the application shall be deemed to have been approved and shall become effective as of the date the application was filed. An application approved with modifications shall become effective as of the date the application was filed unless the modification provides otherwise.

The clerk of the legislative body shall notify the applicant by certified mail, return receipt requested, sent within five days of the decision to approve, modify, or reject an application for inclusion of land in an agricultural district. The clerk of the legislative body shall also transmit a copy of the decision to approve, modify, or reject an application to the county auditor. An applicant may appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection.

(C) At any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, the owner of land in the agricultural district may file a renewal application to continue the inclusion of all or part of the owner's land in an agricultural district for a period of time ending on the first Monday in April of the fifth year following the renewal application. The requirements for continued inclusion in the agricultural district and the renewal application procedure shall be the same as those required for the original application for placing land in an agricultural district. The county auditor shall notify owners of land in agricultural districts eligible to file a renewal application for continued inclusion in an agricultural district on or prior to the first Monday in February or the date upon which the county auditor notifies owners of land valued at agricultural use value for real property tax purposes of the necessity of filing a renewal application to continue valuing the land at agricultural use value. On or before the second Tuesday after the first Monday in March, the county auditor shall determine whether the owner of any land in an agricultural district eligible to file a renewal application failed to file a renewal application with respect to that land and shall forthwith notify each owner of the land by certified mail that unless a renewal application is filed prior to the first Monday in April, the land will be removed from the agricultural district upon its termination date. An approved renewal application is effective on the termination date of the preceding agricultural district. Failure of an owner to file a renewal application prior to the first Monday in April of the year during which the owner's agricultural district terminates shall not prevent the owner from filing an application to include the owner's land in an agricultural district.

Land that is transferred to a new owner during the period in which the land is an agricultural district shall continue in the agricultural district under the terms of the existing district unless the new owner elects to discontinue inclusion in the agricultural district and files the election with the county auditor within sixty days after the transfer. Failure of the new owner to continue inclusion in the agricultural district for the duration of the period in which the land is in the agricultural district is withdrawal from an agricultural district subject to penalty.

(D) If, at any time during which land is in an agricultural district, the owner withdraws the land from the district, the owner shall notify the county auditor of the withdrawal and shall pay to the county auditor a withdrawal penalty calculated as follows:

(1) If the owner's action also disqualifies the owner's land for any tax savings that it had been receiving under sections 5713.30 to 5713.38 of the Revised Code, the owner shall pay a percentage of the amount charged under section 5713.34 of the Revised Code that is equal to the average bank prime rate at the time the amount charged under that section is required to be paid. The withdrawal penalty shall be in addition to the amount charged under that section.

(2) If the land had not been receiving any tax savings under those sections, or if the owner's action does not disqualify the land for tax savings under them, the owner shall pay a percentage of the amount that would have been charged under section 5713.34 of the Revised Code if the owner's land had been receiving tax savings and became disqualified for them in an amount that is equal to the average bank prime rate at the time the amount that would have been charged under that section would have been required to be paid.

For the purposes of divisions (D)(1) and (2) of this section, the county auditor shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If the statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the county auditor shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

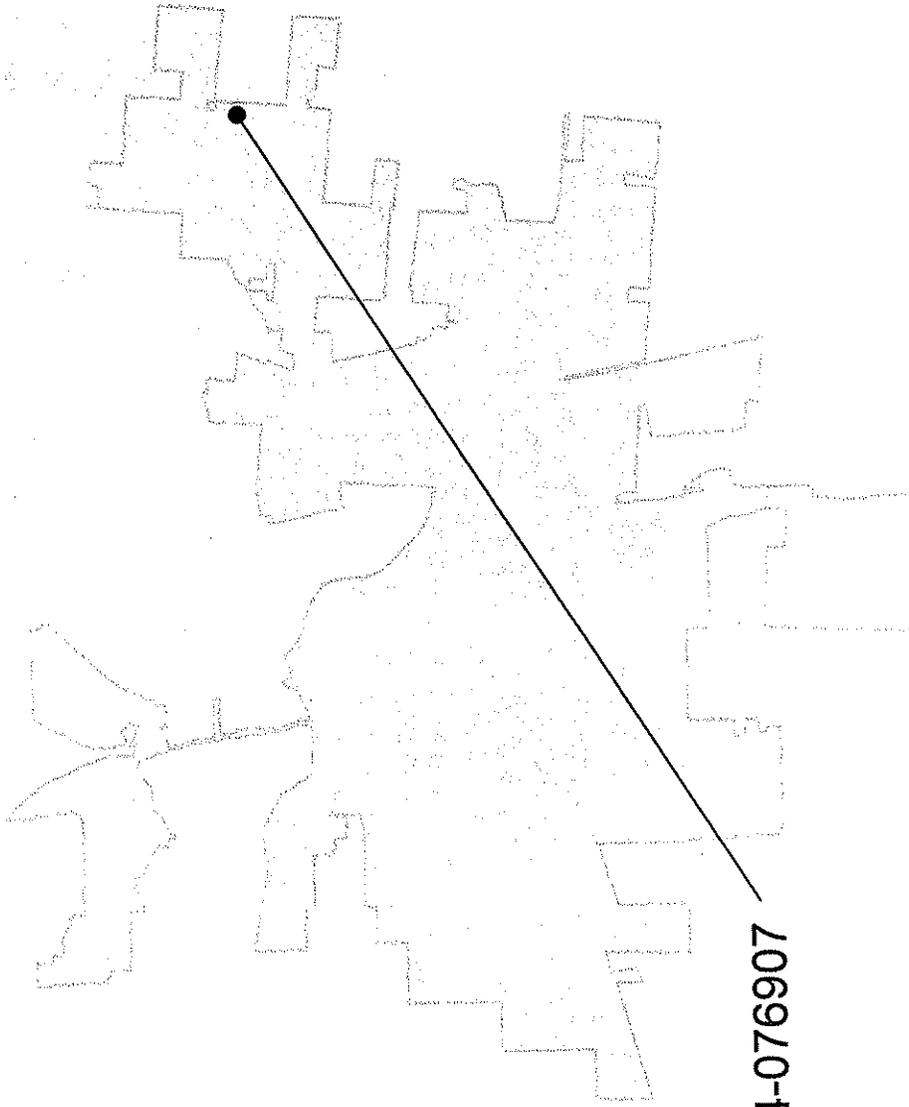
The county auditor shall calculate the amount of the withdrawal penalty that is due and shall notify the owner of it. The auditor also shall note the withdrawal in the auditor's records.

The county auditor shall distribute the moneys collected under division (D) of this section in the manner provided in section 5713.35 of the Revised Code for moneys that the county auditor collects under that section.

(E) Land that is included in an agricultural district under this section and that is subsequently annexed by a municipal corporation shall not be subject to division (B) of this section either at the time of annexation or at the time of any subsequent application or renewal application for inclusion in the district if, at the time of annexation, its owner did not sign a petition favoring annexation under section 709.02 of the Revised Code. If its owner did sign a petition favoring annexation, as provided in that section, or if the owner who opposed annexation has sold or transferred the land to another person who is keeping the land in the agricultural district, the land shall be subject to division (B) of this section at the time of any subsequent application or renewal application for inclusion in the district.

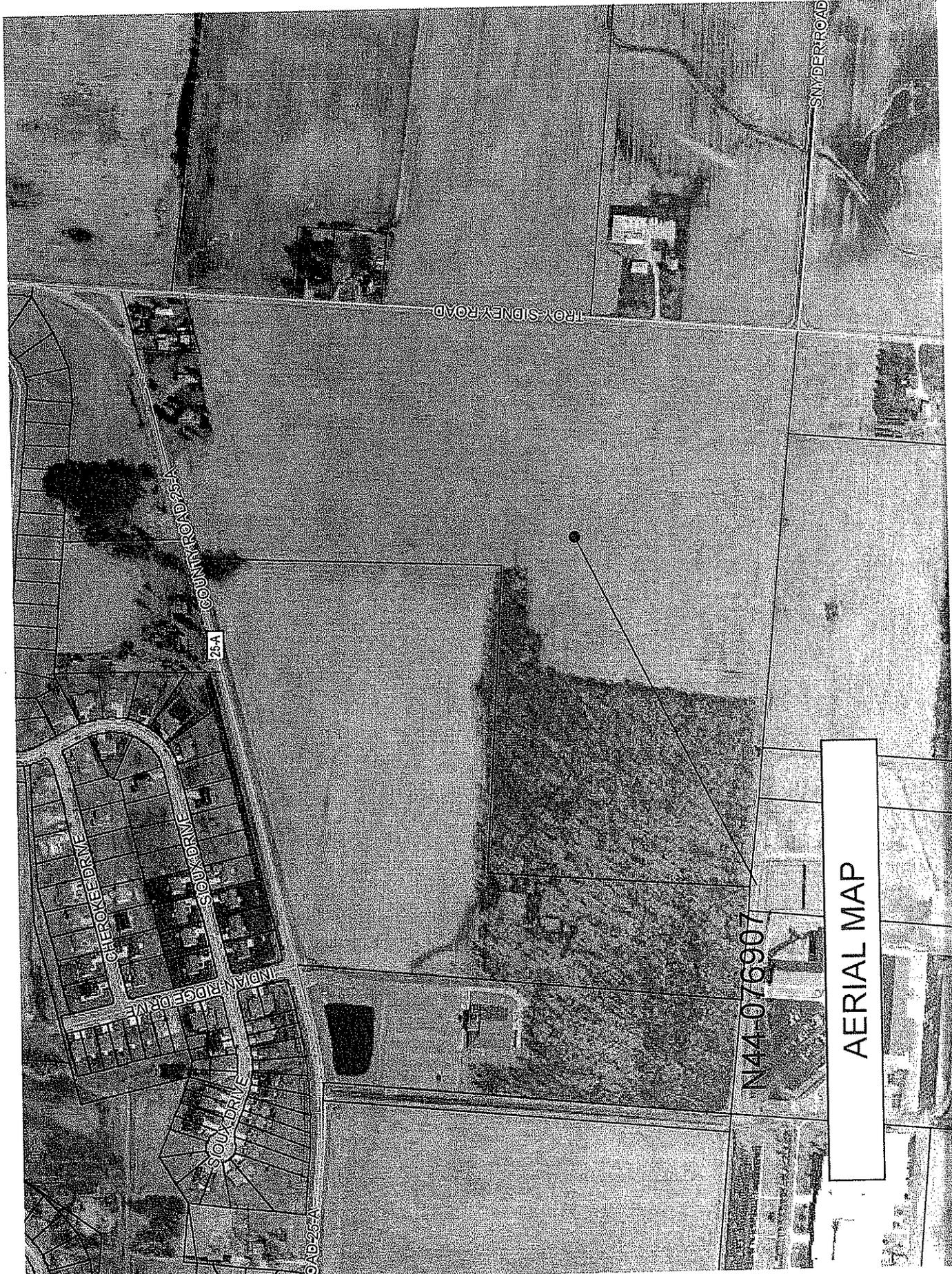
(F) The director of agriculture shall prescribe the application and renewal forms required under this section and shall furnish them to county auditors. In prescribing the forms, the director shall consult with the tax commissioner to determine if a single form can be developed for the purposes of this section and section 5713.31 of the Revised Code.

**HISTORY:** 139 v S 78 (Eff 6-29-82); 139 v H 35 (Eff 1-1-83); 140 v H 260 (Eff 9-27-83); 144 v H 95 (Eff 3-19-93); 146 v H 516 (Eff 9-3-96); 149 v S 5. Eff 10-26-2001.



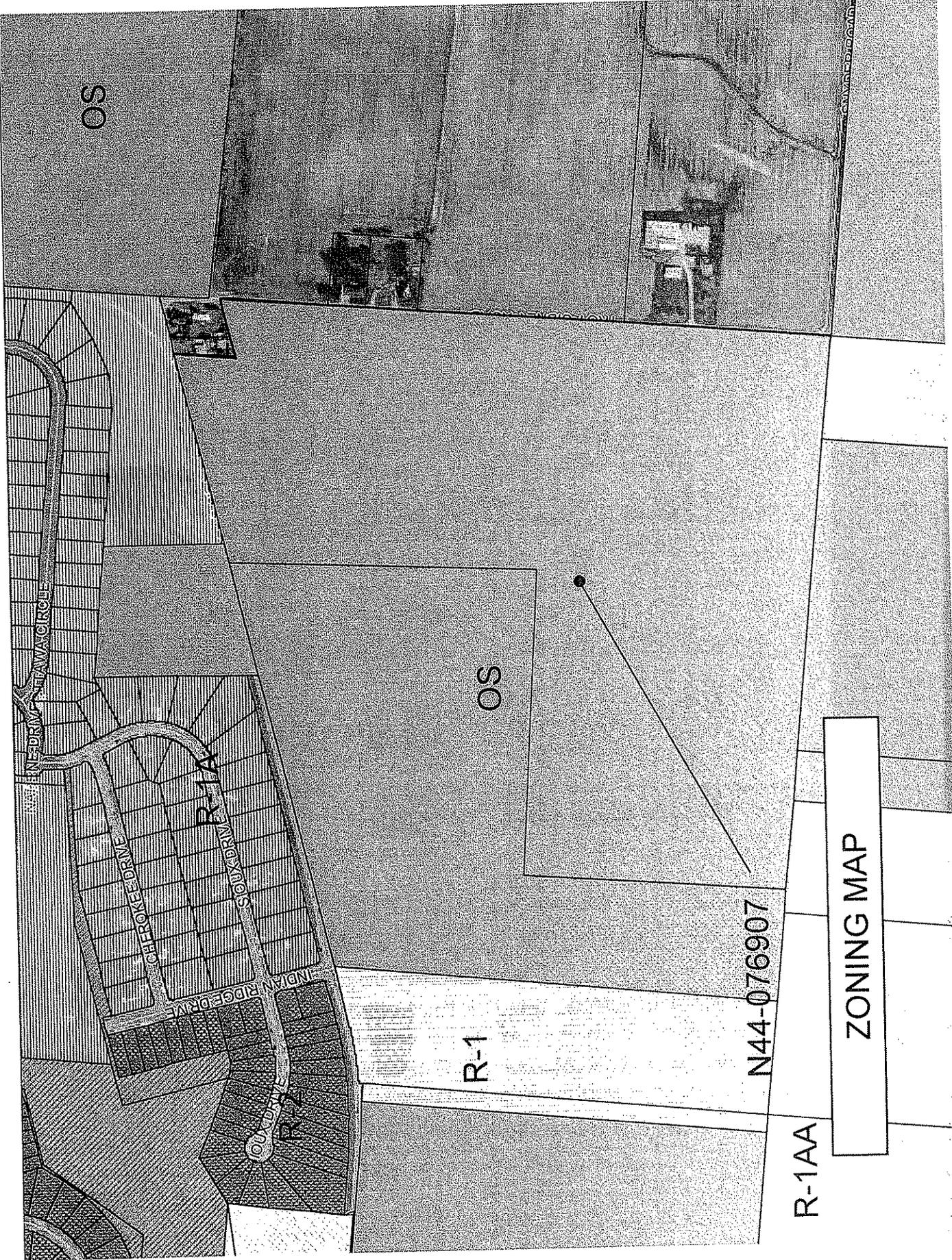
N44-076907

VICINITY MAP



N44-076907

AERIAL MAP



OS

OS

R-1

R-1AA

N44-076907

ZONING MAP

WASHBURN DRIVE

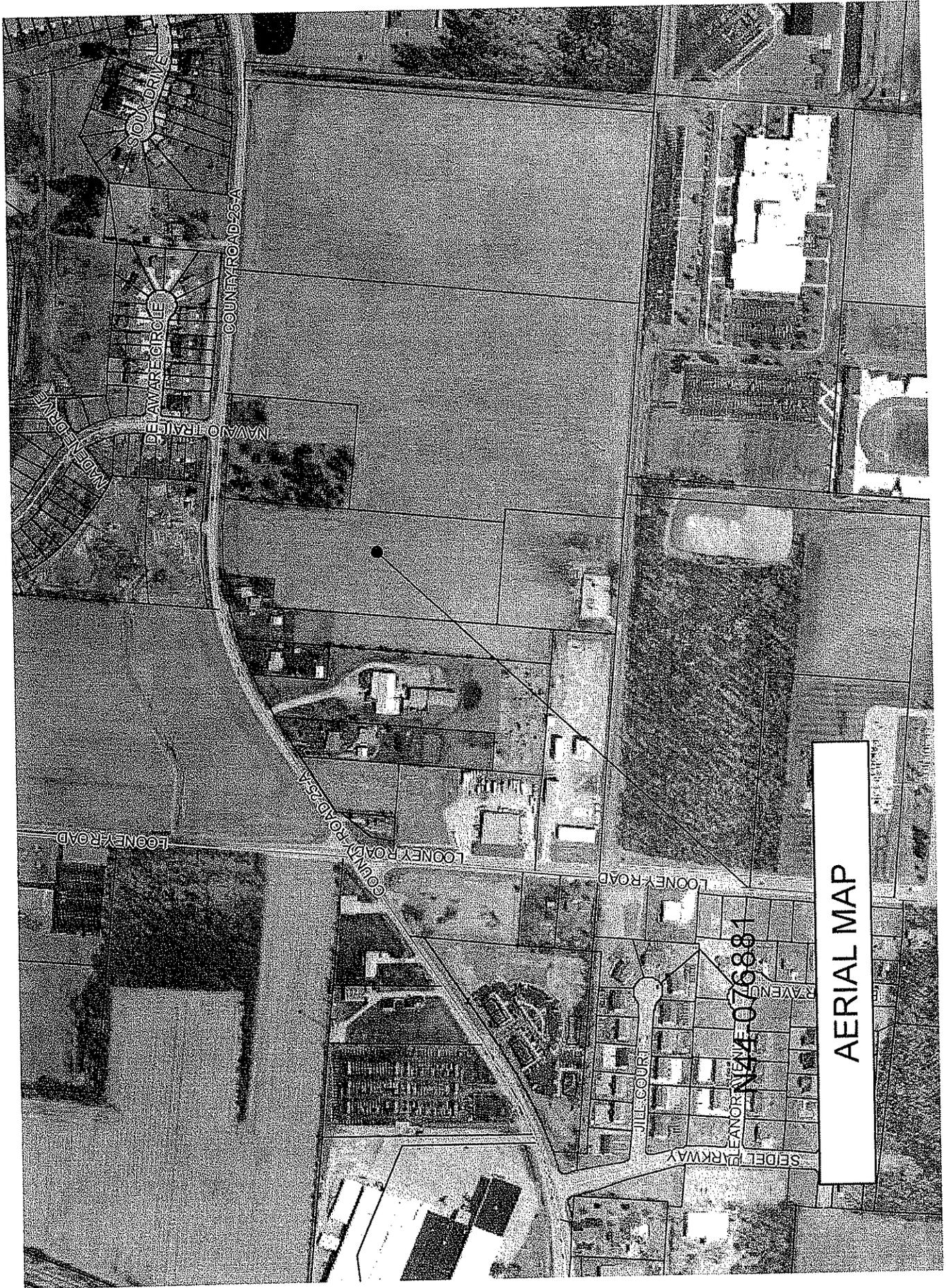
CHEROKEE DRIVE

INDIAN RIDGE DRIVE

S BROCKWOOD AVENUE

SHAWNEE DRIVE





AERIAL MAP

SEIDEL PARKWAY  
RAVENSWOOD  
EAGLE AVENUE 076881

JILL COURT

LOONEY ROAD

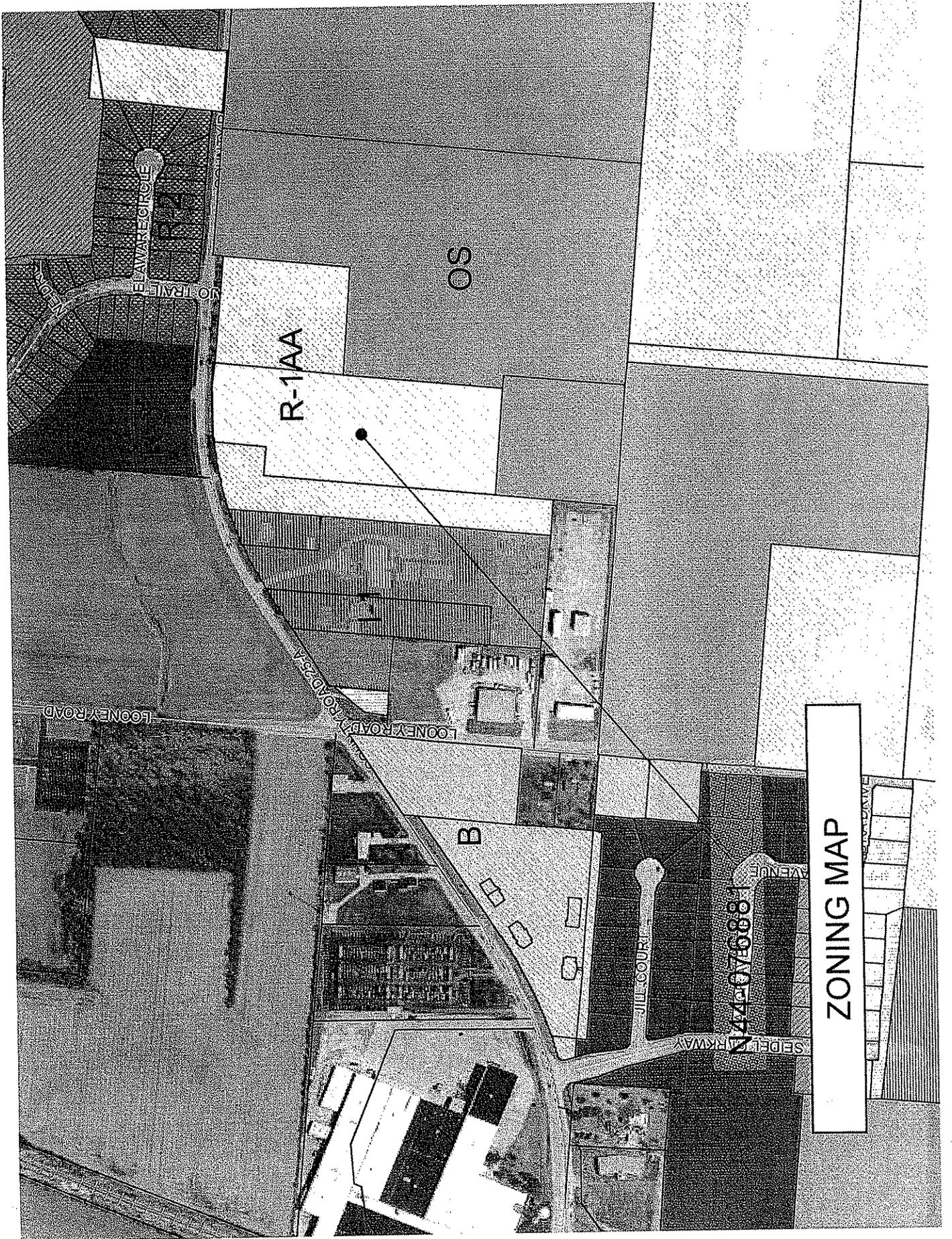
LOONEY ROAD  
COUNTRY ROAD 265A

MAWN OF TRAIL

DELAWARE CIRCLE

SOUTH DRIVE

MADRID DRIVE



ZONING MAP

**RESOLUTION NO. R-41-08**

**A RESOLUTION ESTABLISHING THE CIVIL CITATION APPEAL BOARD FOR THE CITY OF PIQUA**

WHEREAS, according to Ordinance 32-07 the civil code establishes a panel to hear appeals of a civil citation issued by a code official of the City of Piqua;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The panel to hear appeals of a civil citation shall be known as the Civil Citation Appeal Board;

SEC 2: The purpose of the Civil Citation Appeal Board is to hear appeals regarding the civil penalty assessed as a result of the civil citation issued by a city code official. This appeal is not to determine whether there is a code violation but to determine if:

1. Due notice of the civil penalty has been issued;
2. If the civil penalty is the correct amount, including whether the violation is a first, second, or third offense; and
3. Whether there has been compliance or the violation has been abated within the allotted time period provided by the civil citation in order to reduce the penalty.

SEC 3: Terms: The panel shall consist of three members. The City Manager or his/her designee shall serve as the Chairperson and shall serve indefinitely. Two citizens appointed by the City Commission shall serve one year terms and may be reappointed. Hearings shall be held in accordance with the Civil Code as adopted under the Codified Ordinances.

SEC 4: The Civil Citation Appeal Board may adopt rules that do not conflict with the Civil Code as adopted under the Codified Ordinances.

SEC. 5: This Resolution shall take effect and be in force from the earliest period allowed by law.

\_\_\_\_\_  
THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION

**RESOLUTION NO. R-42-08**

**A RESOLUTION ESTABLISHING A CITY COMMISSION  
2008 CALENDAR OF MEETINGS**

WHEREAS, Section 4 of the City of Piqua Charter (*Meetings of Commission*) states that Commission Meetings shall be held on the first Monday in January following a regular municipal election beginning at 7:30 P.M.; and

WHEREAS, thereafter the Commission shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month; and

WHEREAS, it is in the best interest of the Piqua City Commission to adopt a 2008 calendar of meetings attached hereto as Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The 2008 Calendar of Meetings for the Piqua City Commission is hereby approved.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION

Exhibit "A"

**City of Piqua  
Piqua City Commission  
2008 Meeting Calendar**

**March 2008**

Monday, March 17

**April 2008**

Monday, April 7

Monday, April 21

**May 2008**

Monday, May 5

Monday, May 19

**June 2008**

Monday, June 2

Monday, June 16

**July 2008**

Monday, July 7

Monday, July 21

**August 2008**

Monday, August 4

Monday, August 18

**September 2008**

Tuesday, September 2

Monday, September 15

**October 2008**

Monday, October 6

Monday, October 20

**November 2008**

Monday, November 3

Monday, November 17

**December 2008**

Monday, December 1

Monday, December 15

**RESOLUTION NO. R-43-08**

**A RESOLUTION ACCEPTING THE RECOMMENDATIONS OF  
THE TAX INCENTIVE REVIEW COUNCIL OF THE CITY OF PIQUA  
FOR THE PURPOSE OF THE ADMINISTRATION OF THE CITY OF  
PIQUA'S ENTERPRISE ZONE PROGRAM, AS REQUIRED BY  
SECTION 5709.85(C)(1) OF THE OHIO REVISED CODE**

WHEREAS, the Tax Incentive Review Council of the City of Piqua met on Tuesday, February 26, 2008 for the purpose of reviewing and making recommendations to the City Commission of the City of Piqua in the administration of the City of Piqua's Enterprise Zone Program; and

WHEREAS, the Tax Incentive Review Council has recommended the continuation of the tax incentives provided to the following companies in the City of Piqua; B & L Labels, Inc.; Crane Pumps and Systems, Inc.; Harmony Systems and Service, Inc.; Jackson Tube Service, Inc.; and Miami Valley Steel Service; and

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The tax incentives provided to B & L Labels, Inc.; Crane Pumps and Systems, Inc.; Harmony Systems and Service, Inc.; Jackson Tube Service, Inc.; and Miami Valley Steel Service through the City of Piqua's Enterprise Zone Program be continued.

SEC 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
THOMAS D. HUDSON, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

REBECCA J. COOL  
CLERK OF COMMISSION



## DEVELOPMENT OFFICE

William Lutz – Development Program Manager  
201 West Water Street • Piqua, Ohio 45356  
(937) 778-2062 • FAX (937) 778-0809  
E-Mail: [blutz@piquaoh.org](mailto:blutz@piquaoh.org)  
Web: <http://www.piquaoh.org>

To: Fred Enderle, City Manager

CC: Harry Bumgarner, Director of Economic  
Development/Assistant City Manager

From: William Lutz, Development Program Manager

Date: February 29, 2008

Subj.: Resolution Accepting Recommendations of the Tax  
Incentive Review Council

Each year, by State Statute, the Tax Incentive Review Council meets to review the current status of those companies participating in the City's Enterprise Zone Program. This year I am proud to report that those companies participating in the Enterprise Zone program provide jobs for 840 individuals and have made a combined financial commitment of nearly \$55,000,000 in their operations in Piqua. The chart below shows current investment and employment at these companies.

Company	Jobs Created/ Retained due to EZ	Current Employment	Current Investment
Jackson Tube	0/0	277	\$21,002,337
Miami Valley Steel Service	7/143	150	\$20,684,404
Evenflo, Inc.	26/0	320	\$8,481,422
Harmony Systems and Service, Inc.	0/46	46	Not Reported
B&L Labels, Inc.	2/6	8	\$241,850
Classic Products, Inc.	7/0	42	\$3,545,574
<b>TOTAL</b>	<b>42/195</b>	<b>843</b>	<b>\$53,955,587</b>

This year, the TIRC met on February 26th and reviewed information provided by the companies participating in the program and compared their figures with the levels contained in the enterprise zone agreements. The TIRC agreed to have the current enterprise zone agreements continue with Jackson Tube, Miami Valley Steel Service, Evenflo, Inc., Harmony Systems and Service, Inc., B&L Labels, Inc., and Crane Pumps and Systems. The TIRC noted that most of the companies far exceeded their commitments to personal and real property investment which should indicate that employment figures should rise at these companies. The TIRC felt that pulling incentives from these companies at this time would not benefit the companies from increasing employment or investment in the City of Piqua, which is a community priority.

Please note, with the establishment of the Commercial Activities Tax a few years ago by the State of Ohio, many companies have not found benefit in utilizing the Enterprise Zone agreement to abate taxes on Tangible Personal Property, since that property is generally exempt from the Tangible Personal Property Tax. Over the next few years, the number of Enterprise Zone agreements the City of Piqua has with local businesses will expire and will more than likely, not be replaced with new agreements.

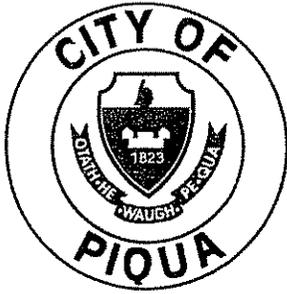
A Resolution Accepting the Recommendations of the Tax Incentive Review Council, as required by State Statute, is attached and recommended for adoption.

Sincerely,

William Lutz  
Development Program Manager



Good News Reports-Attachments  
Piqua City Commission  
March 3, 2008



## CITY MANAGER'S OFFICE

---

Frederick E. Enderle – City Manager  
201 West Water Street • Piqua, Ohio 45356  
(937) 778-2051 • FAX (937) 778-2048  
E-Mail: fenderle@piquaoh.org

February 27, 2008

Mr. John Owsiany, President  
Hartzell Hardwoods, Inc.  
1025 S. Roosevelt Avenue  
PO Box 919  
Piqua, OH 45356

Dear John,

On behalf of the City of Piqua, I would like to congratulate Hartzell Hardwoods for being named “Exporter of the Year” by U.S. Export Promotion Magazine.

We are proud to say that *Hartzell Hardwoods* is located in our *City*. With a total of 133 years of your company doing business in Piqua, it is quite obvious that Hartzell Hardwoods strives to be innovative in regards to marketing and exporting your products, as evidenced by your ability to export products to over 35 countries.

We wish you much success in the future, and congratulate your company for the very worthy award.

Sincerely,

Frederick E. Enderle  
City Manager

Cc: Piqua City Commission

FEE/ds

