

IN THE SUPREME COURT OF OHIO

State of Ohio ex rel. Lynn A.  
Clark

Relator

v.

City of Twinsburg, et al.

Respondents

Original Action (Expedited  
Election Case S.Ct.Prac.R.  
12.08)

Supreme Court Case No.  
2022-0995

---

Notice of Filing Affidavit of Law Director Matt Vazzana

---

Brouse McDowell LPA  
Irving B. Sugerman (0020607)  
(Lead Counsel)  
388 S. Main St., Ste. 500  
Akron, OH 44311  
(330) 434-7516  
Fax (330) 253-8601  
[ibsugerman@brouse.com](mailto:ibsugerman@brouse.com)

Matthew G. Vansuch (0079328)  
6550 Seville Dr., Ste. B  
Canfield, OH 44406  
(330) 533-6195  
Fax (330) 533-6195  
[mvensuch@brouse.com](mailto:mvensuch@brouse.com)

*Counsel for Respondents*

Warner D. Mendenhall III (0070165)  
Logan Trombley (0096858)  
190 N. Union St., Ste. 201  
Akron, OH 44304  
(330) 535-9160  
Fax (330) 762-3423  
[warner@warnermendenhall.com](mailto:warner@warnermendenhall.com)  
[logan@warnermendenhall.com](mailto:logan@warnermendenhall.com)

*Counsel for Relator*

STATE OF OHIO                    )  
  )  
COUNTY of SUMMIT            )        SS.    AFFIDAVIT

Now comes Matthew J. Vazzana, an adult, having first been sworn according to law, and herein states as follows:

1.     I am the Law Director for the City of Twinsburg, Ohio. I have been the Law Director since January 3, 2022. I have personal knowledge of the facts stated here.
2.     On May 24, 2022, I was present at a Twinsburg City Council Meeting (hereinafter, the “May 24 Council Meeting”) held at the Twinsburg Government Center located at 10075 Ravenna Road, Twinsburg, Ohio 44087.
3.     Resolution No. 57-2022 (a Resolution confirming the Twinsburg Planning Commission’s approval of the final site plan for Project Gumbo) was on City Council’s agenda for consideration at the May 24 Council Meeting.
4.     The property that is the subject of Project Gumbo has been zoned in the I-2 Industrial Zoning District.
5.     Immediately prior to the start of the May 24 Council Meeting, Attorney Warner Mendenhall approached me in person and informed and provided me with a copy of the Final Order in the case of *State of Ohio ex rel. Marcella Gaydosh vs. City of Twinsburg* (Summit County, Ohio Court of Common Pleas Case No. CV 2012-09-5055, (hereinafter, the “2014 Decision”). The 2014 Decision is attached hereto and incorporated herein as Exhibit “A”).
6.     In the above referenced case, Attorney Mendenhall represented Twinsburg resident Marcella Gaydosh in successfully bringing an action against the City to strike down the Twinsburg City Council’s passage of an ordinance (Ord. No. 97-

2012, attached hereto and incorporated herein as Exhibit “B”) which sought to permit building height in the I-2 and I-3 Industrial Zoning Districts up to forty-five (45) feet.

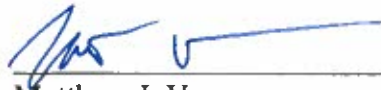
7. Prior to Council passing Ord. No. 97-2012, building height in the I-2 and I-3 Industrial Zoning Districts was not permitted to exceed thirty five (35) feet unless the front and rear yard depth was increased two (2) feet for each additional foot of height over thirty five (35) feet and the side yard width was increased one (1) foot for each additional foot of height over thirty five (35) feet and a conditional use permit was approved.
8. During the May 24 Council Meeting, Attorney Mendenhall spoke publicly during the audience participation portion.
9. During his public comments to Council at the May 24 Council Meeting, Attorney Mendenhall informed City Council of the 2014 Decision and its impact on Project Gumbo’s proposed height. (A copy of the minutes from the May 24 Council Meeting are attached to and incorporated herein as “Exhibit C.”)
10. During his public comments to Council at the May 24 Council Meeting, Attorney Mendenhall identified himself as an attorney representing Lynn Clark.
11. During the May 24 Council meeting, City Council continued any consideration of the Project Gumbo final site plan to its next Council Meeting scheduled for June 14, 2022.
12. Subsequent to the May 24 Council meeting I determined that the 2014 Decision mandated that the maximum height of any building in an I-2 or I-3 Industrial Zoned District was thirty-five feet. However, for some unknown reason, the

Zoning Ordinance utilized by the City (and posted on its website) did not reflect that fact.

13. The site plan for Project Gumbo that was approved by the Twinsburg Planning Commission contained building heights of forty-five feet.
14. As a result of my investigation, and prior to Council's next meeting on June 14, 2022, I revised the text of Resolution No. 57-2022 to include the stipulation that Project Gumbo's building height not exceed thirty-five feet, in conformance with this section of the Zoning Ordinance. (The revisions to Resolution 57-2022 from the May 24 Council Meeting are indicated in **bold underlined** text therein.) This was done at the applicant's request.
15. On June 14, 2022, I was present at a Council meeting held at the Twinsburg Government Center located at 10075 Ravenna Road, Twinsburg, Ohio 44087 whereby Council passed the revised version of Resolution No. 57-2022, a copy of which was attached to the *Verified Complaint* as Exhibit 2. (A copy of the Final Site Plan that Council considered and approved is attached hereto and incorporated herein as "Exhibit D.") Relator and Mr. Mendenhall were both present at the June 14, 2022 Council Meeting.
16. The heights of the buildings in the final site plan approved by Council on June 14, 2022 conformed to the applicable sections of the Zoning Ordinance.
17. On July 13, 2022, Lynn Clark (via Attorney Mendenhall) filed a notice of administrative appeal of Resolution No. 57-2022 pursuant to R.C. Sections 2505 and 2506 with the Summit County Court of Common Pleas (Case No. 2022-07-2332). Therein Relator expressly stated that he was bringing his claim "under

R.C. 2505 and 2506". (A copy of the time-stamped Notice of Appeal is attached hereto and incorporated herein as "Exhibit E.")

18. On June 27, 2022, a committee of four Twinsburg residents filed notice with the Clerk of Council regarding their intent to circulate a referendum petition to place Resolution No. 57-2022 on the November 8, 2022 ballot.
19. On June 30, 2002 I sent an e-mail the members of the committee and Mr. Mendenhall advising them, *inter alia*, that the action by Council approving Resolution No. 57-2022 was administrative, and not legislative, and therefore not subject to referendum. (A copy of the June 30 Email is attached hereto and incorporated herein as "Exhibit F.")
20. Relator and the other members of the committee submitted a referendum petition to the Council Clerk on July 13, 2022.
21. On July 21, 2022, I sent Relator, the committee, and Mr. Mendenhall a memorandum which reiterated my previous conclusion and advised them that the petition would not be transmitted to the Summit County Board of Elections. (A copy of the July 21 Memorandum is attached hereto and incorporated herein as "Exhibit G.")
22. FURTHER AFFIANT SAYETH NAUGHT.



Matthew J. Vazzana

Sworn before me and subscribed on this 25th day of August 2022.



**Samuel Scaffide**  
Resident Summit County  
Notary Public, State of Ohio  
My Commission Expires:  
July 11, 2023



Notary Public

DANIEL M. HARRIGAN  
2014 SEP 16 PM 1:01

SUMMIT COUNTY  
IN THE COURT OF COMMON PLEAS  
CLERK OF COURT  
SUMMIT COUNTY, OHIO

|                           |   |                           |
|---------------------------|---|---------------------------|
| MARCELLA GAYDOSH          | : | CASE NO. CV 2012-09-5055  |
|                           | : |                           |
| Plaintiff,                | : | JUDGE AMY CORRIGALL JONES |
|                           | : |                           |
| vs.                       | : |                           |
|                           | : | ORDER                     |
| CITY OF TWINSBURG, et al. | : | FINAL AND APPEALABLE      |
|                           | : |                           |
| Defendant                 | : |                           |

This matter came before the Court for a trial on the briefs. The matter has been fully brief and submitted for consideration.

Relator Marcella Gaydosh filed a Complaint for Declaratory and Injunctive relief and/or mandamus asserting that Twinsburg City Ordinance 97-2012 is invalid. Ordinance 97-2012 sought to amend §1149.09 of the Codified Ordinances of the City of Twinsburg, that established height regulations in industrial districts I-2 and I-3 in the City of Twinsburg. In the alternative, Relator seeks for this Court to issue a Writ of Mandamus ordering the City to place Ordinance 97-2012 on the ballot at the next election.

Relator asserts that this case presents the question: is regulation of the height of a building fundamental to zoning classification and therefore a trigger to the Twinsburg Charter provision requiring voter approval. Relator asserts that height restrictions are fundamental to zoning classifications and therefore require voter approval. The City of Twinsburg ("Twinsburg") asserts in opposition that because the change in height does not change a zoning classification or district or the use permitted in any district, that this legislation does not require voter approval.

Section 7A.01 of the Twinsburg City Charter provides:

Any change in *zoning classifications or districts*, or in *the uses permitted* in any zoning use classifications or districts within the City of Twinsburg must first be submitted to the Planning Commission, for consideration and report. In the event the City Council should approve any of the preceding requested changes, upon the report of the Planning Commission, it shall not be approved or passed by the declaration of an emergency, and it shall not be effective, but it shall be mandatory that the same be approved by a majority vote of all votes cast of the qualified electors of the City of Twinsburg and of each ward in which the property so changed is located at the next scheduled election. *Said issue shall be submitted to the electors of the City only after approval by Council of a change in zoning classification or districts, or in the uses permitted in any zoning use classifications or districts*; however, should Council disapprove any such changes, the issues shall not be submitted to the voters. However, any change in zoning classifications or districts or designation of zoning classifications or districts or in uses permitted in any zoning use classification of land hereinafter annexed to the City shall be subject to the requirements of Section 7A.05 herein.

Ordinance 97-2012, specifically Section II provides:

1149.09 HEIGHT REGULATIONS.

The height of any main or accessory industrial building in an I-1 district shall not exceed 35 feet. Building height in an I-2 and I-3 district may not exceed forty-five feet.

The issue before this Court is whether the change in the height regulation is a change in a *zoning classification, district, or in the use permitted*.

There is no dispute that the Charter of Twinsburg mandates voter approval of zoning changes pursuant to Charter Section 7A.01. Furthermore, Ohio Revised Code 713.06 provides in pertinent part:

The planning commission of any municipal corporation may frame and adopt a plan for dividing the municipal corporation or any portion thereof into zones or districts, representing the recommendations of the commission, in the interest of the public health, safety, convenience, comfort, prosperity, or general welfare, *for the limitations and regulation of the height, bulk, and location*, including percentages of lot occupancy, set back building lines, and area and dimensions of yards, courts and other open spaces, and the uses of buildings and other structures and of premises in such zones and districts.

There is further no dispute that the voters of Twinsburg elected to approve height regulations by the establishment of districts:

**1141.01 ESTABLISHMENT OF DISTRICTS**

For the purpose of promoting the public health, safety, morals, convenience and the general welfare of the community, and in order to classify, regulate and restrict the location of trades, residences, recreation and other uses and the buildings designed for special uses, to regulate *and limit the height, bulk, number of stories and size of buildings* and other structures ...

Plaintiff asserts that the passage of Ordinance of 97-2012 *did* change the height regulations for Industrial Districts impermissibly without voter approval.

The prior version of 1149.09 provided:

The height of any main or accessory building shall not exceed 35 feet. However, building height in an I-2 or I-3 district may exceed 35 feet provided the front and rear yard depth is increased two (2) feet for each additional foot of height over 35 feet and the side yard width is increased one (1) foot for each additional foot of height over 35 feet and a conditional use permit is approved. Maximum building height in an I-2 and I-3 Industrial District shall be recommended by the Mayor and Planning Commission and confirmed by City Council. (Ordinance 87-1989. Passed 7-11-89).

The current (and challenged) version of 1149.09 provides:

The height of any main or accessory industrial building in an I-1 district shall not exceed 35 feet. Building height in an I-2 and I-3 district may not exceed forty-five (45) feet.

As explained by Planning Director Larry Finch, the effect of the change was that "The prior 1140.09 permitted heights in excess of 35 feet, so they both are now in excess of 35 feet. The difference is that the additional setback requirement that was in the prior regulation was removed to allow 45 feet by right ... without the conditions use for setbacks." Finch Depo. pg. 22.

Defendants argue in opposition that the proposed change does not seek to change the zoning classification or zoning district of any property. Defendants further argue that Twinsburg followed the required procedures.

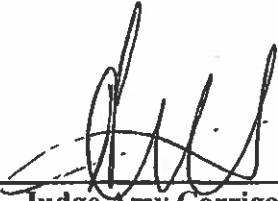


Upon review and consideration of the Twinsburg Charter and Ordinances, this Court finds that height regulations fall within Chapter 1141.01. A change in the height regulations without requiring a vote by the electorate is a violation of Charter Section 7A.01 which reserves to the voters of Twinsburg the final say in legislative zoning power.

This Court finds that Plaintiff is entitled to judgment as a matter of law. Judgment is rendered in favor of Plaintiff. The electorate of Twinsburg must be given the opportunity to vote on changes to height restrictions.

This is a final and appealable order. There is no just cause for delay.

**IT IS SO ORDERED.**



\_\_\_\_\_

**Judge Amy Corrigall Jones**

## CITY OF TWINSBURG, OHIO

## ORDINANCE 97-2012

AN ORDINANCE AMENDING CHAPTER 1148 AND 1149 OF THE CODIFIED ORDINANCES OF THE CITY OF TWINSBURG REGARDING "HEIGHT REGULATIONS"

---

**WHEREAS**, Council and the Administration has established a Planning Commission to study and make recommendations Zoning and Development Regulations in the City; and

**WHEREAS**, on the 23<sup>rd</sup> day of January, 2012 the Planning Commission reviewed and made such recommendations as they relate to the regulation of building heights; and

**WHEREAS**, pursuant to Ordinance 18-2012 this Council approved the recommendations of the Planning Commission by amending Sections 1148 (regulating Commercial height) and Section 1149 (regulating Industrial height); and

**WHEREAS**, Council recognizes that the amendments are necessary as they relate to the Industrial Districts and Council further wants to retain the language in the Zoning and Development Regulations as it existed prior to Ordinance 18-2012 as it relates to the Commercial Districts.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Twinsburg, County of Summit and State of Ohio:

**SECTION I:** That Chapter 1148.15 is hereby amended to read as follows:

**1148.15 HEIGHT REGULATIONS.**

The height of any main building shall not exceed thirty-five (35) feet in any C-1, C-2 and C-5 zoning district. Mechanical space for building equipment placed on a flat building roof may be allowed above the maximum height specified, provided that such mechanical space is set back a minimum of fifteen (15) feet from any exterior wall, does not exceed six (6) feet in height and is adequately screened from view, and provided, further, that such mechanical space and screening are approved by the Planning Commission. The height of any main building in a C-3 and C-4 zoning district may exceed 35 feet provided that the front and rear yard depth is increased by two (2) feet for each additional foot of height over 35 feet and the side yard width is increased by one (1) foot for each additional foot of height over 35 feet and a conditional use permit is approved. In a C-5 zoning district building height may exceed thirty-five (35) feet, if a conditional use permit is acquired through the process described at Chapter 1151.

**SECTION II:** That Chapter 1149.09 is hereby amended to read as follows:

**1149.09 HEIGHT REGULATIONS.**

The height of any main or accessory industrial building in an I-1 district shall not exceed 35 feet. Building height in an I-2 and I-3 district may not exceed forty-five (45) feet.

**SECTION III.** Any prior ordinances in conflict herewith, specifically Ordinance 18-2012 is hereby repealed upon passage.

**SECTION IV:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meeting or meetings of this Council, and that all deliberations of this Council were in meetings open

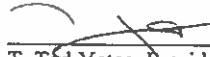
to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

**SECTION V:** That this Ordinance shall take effect and be in force at the earliest period allowed by law upon its passage.

PASSED: 8/28/12

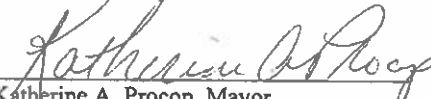
APPROVED: 8/28/12

EFFECTIVE: 8/28/12


  
\_\_\_\_\_  
T. Ted Yates, President of Council

Submitted to the Mayor for approval this  
28<sup>th</sup> day of August, 2012

Approved by the Mayor 8/28, 2012

  
\_\_\_\_\_  
Katherine A. Procop, Mayor

ATTEST:

  
\_\_\_\_\_  
Shannon Collins  
Clerk of Council


1<sup>st</sup> Rdg. 6-26-12  
2<sup>nd</sup> Rdg. 7-10-12  
3<sup>rd</sup> Rdg. 8-28-12

Passed: 8-28-12

Yes 7 No 0

CERTIFICATE OF POSTING

I, Shannon Collins, Clerk of Council, of the City of Twinsburg, State of Ohio, do hereby certify that publication of the forgoing ordinance, resolution was duly made by posting true copies at five of the most public places in said City as determined by Section 113.02 of the Codified Ordinances of the City of Twinsburg; each for a period of fifteen days commencing on the 31 day of August, 2012.

  
\_\_\_\_\_  
Shannon Collins  
Clerk of Council  
City of Twinsburg

# Twinsburg

NATURALLY BEAUTIFUL *Ohio*

**Caucus & Regular Council Meeting Minutes**  
**Tuesday, May 24, 2022**  
**7:00 p.m.**

**CAUCUS:**

The caucus meeting was called to order at 7:03 pm.

**ROLL CALL:** S. Scaffide, S. Barr, D. Walker, G. Bellan, D. Post, K. Labbe & B. Furey

**ABSENT:**

**ALSO PRESENT:** Ted Yates, Mayor  
Matt Vazzana, Law Director  
Sarah Buccigross, Finance Director  
Shannon Collins, Clerk of Council  
Zach Hebebrand, IT

**Presentations:**

No presentations this evening.

**Items for Discussion:**

Amy Mohr, City Engineer spoke about the Ethan's Green Sewer Outfall Lining. She stated the project was recommended and funding was received for the amount \$250,000 of the \$500,000 estimated total cost with construction in the fall to meet the grant criteria. The money will need to be moved up in the budget to this year and the project will need added to the bid list which would need a motion this evening.

No items for discussion this evening.

**Audience Participation:**

Bruce Baldwin – 3310 Cannon Road

Mr. Baldwin stated the signs are still out that he talked about a while ago. He thanked the city for patching Hadden Road, Route 82 and the grass at the Blue Top looks good but said the parcel next door is bad along with others in town. Stated the property on Depot still needs cleaned up behind the old Millsville.

No further audience participations at this time.

**Pending Legislation:**

Ordinance 56-2022 - Mr. Scaffide stated this ordinance will be on its second reading tonight. It is to amend the policy for contracts for capital improvement projects between \$25,000 but is less than

\$50,000 to have the mayor obtain three quotes with a few exceptions including, if it is for personal or professional services, the expenditure is made pursuant to the cooperative purchasing program, or it is not possible to obtain three quotes. If the mayor enters into a contract pursuant to this policy the mayor shall notice council of these actions.

Resolution 57-2022 – Mr. Scaffide stated this resolution is to confirm planning commission’s approval for the site plan for the Gumbo Project. Planning Commission approved this project at their meeting on Monday, May 16<sup>th</sup>.

Resolution 58-2022 - Mr. Scaffide stated this resolution is to confirm planning commission’s approval for the site plan for Summit Sound. Planning Commission approved this project at their meeting on Monday, May 16<sup>th</sup>.

Ordinance 59-2022 – Mr. Scaffide stated this ordinance is for the purchase of a 5 ton dump truck. This was approved by the Capital Improvement Board and is in the budget. Total cost with upfitting, rustproofing and 2 way radio is \$205,463.41. This will be on an emergency tonight so the truck can get ordered as soon as possible.

Resolution 60-2022 – Mr. Scaffide stated this resolution is to enter a mutual aid agreement with the Summit County Sherriff’s office Major Crime Scene Investigation Unit.

**Miscellaneous:**

Mr. Furey asked the city look into the Reminderville Dispatch agreement.

Mr. Scaffide stated that he will be making a motion in the regular meeting for a D5 liquor permit for Hong Hai Properties, Inc.

No further miscellaneous this evening.

Meeting adjourned at 7:13 pm.

**Regular Council Meeting:**

Mr. Scaffide called the Regular Council meeting to order at 7:30 pm.

**ROLL CALL:** S. Scaffide, S. Barr, D. Walker, G. Bellan, D. Post, K. Labbe & B. Furey

**ABSENT:**

**ALSO PRESENT:** Ted Yates, Mayor  
Matt Vazzana, Law Director  
Sarah Buccigross, Finance Director  
Shannon Collins, Clerk of Council  
Zach Hebebrand, IT

**INVOCATION & PLEDGE OF ALLEGIANCE:**

Mr. Furey bestowed the Invocation and Pledge of Allegiance.

**APPROVAL OF MINUTES:**

**MOTION: TO APPROVE THE MINUTES FROM THE REGULAR COUNCIL MEETING OF MAY 10, 2022 AS AMENDED**

Moved by B. Furey, seconded by D. Walker

Upon roll call motion passed unanimously

**AWARDS & PRESENTATIONS:**

No awards or presentations this evening.

**AUDIENCE PARTICIPATION:**

Glenn Pleta – 2238 Old Mill Road

Mr. Pleta stated the lot on Old Mill used to be an open field. Some buildings went up and they were able to dress the area to no look bad. This proposed building is outrageous. Old Mill Road is a beautiful road. The trees were all cut down. There will be issues with getting mail across the street because of the increased traffic. He showed pictures before and after with the proposed site. Asked council to really look at what is going on in on Old Mill Road.

Erika Paci – 9822 Ridgewood Drive

Ms. Paci spoke about the barking dogs next door who bark from 6am-11pm every day. She asked how the city can help resolve this issue because calling the police doesn't work because when they get there the owner makes the dog be quite. She stated it has been going on for two years.

Laurie Facsina -2950 Cannon Road

Ms. Facsina stated in 2012 city council passed ordinance 97-2012 without the vote of the people. In 2014 a judge ruled ordinance 97-2012 was unlawful. The law director at the time, stated the city would revert back to the old code. She stated there have been seven buildings built with unlawful code.

Sean Beckett – 8029 McGhee Lane

Mr. Beckett stated there are some pretty good ordinances in place that protect neighbors. He stated that the Old Mill site was cleared before some steps were taken. He stated some practices were not followed. He thinks the city should think before passing the Old Mill legislation this evening.

Sue Clark

Mrs. Clark stated that Resolution 57-2022 is to be voted on tonight. She asked council to think about the residents who should have never been put in this situation. She stated council members work for the people. She stated there are three parcels of land in the city where commercial, industrial and residential meet. She asked the city to be proactive with these locations and look ahead.

Mr. Scaffide asked how many more we had that signed up to speak on the Old Mill property. Mrs. Collins stated there are eight more signed up. Mr. Scaffide stated that the council rules stated only three can talk on the same matter. He stated council will allow three additional speak tonight.

Dawn Sutkowki – 2445 Old Mill Road

Mrs. Sutkowski talked about the Planning Commission minutes from March 2, 1992. She stated they were talking about the first build on the large plat of land. The points in that meeting that are relevant to their concerns are that: the entrance on Old Mill would be for car traffic only and the entrance on Darrow Road was for truck traffic; the question of how to service the large portion of the property east of the proposed building and the planning commission see how this property would ultimately be developed (the project Gumbo site). The motion read given an additional lane on 91, entrance to line up opposite Case Pkwy S., ten feet to be dedicated along Old Mill, any future development of the back property will necessitate the construction of a dedicated road to city standards. The motion passed unanimously.

She read a statement that Mark Sutkowski had prepared. It stated the planning commission asked for some changes but in the end the design came back and approved. She stated that it has been said to be neighborly but is the developer being neighborly. Why is there an emergency tonight? She stated that the residents were encouraged to email their concerns. A few more trees were added but nothing else. What is the plan B when water may go bad? Who will pay for this? She stated it should be tabled until there are answers.

Lynn Clark – 2238 Old Mill Road

Mr. Clark spoke about project Gumbo. He stated that the city is keeping taxes low by bringing in businesses but it should be done in an environmentally responsible way. His oath as a licensed engineer is to protect the safety, health and welfare of the public and additional requirements. He stated just because he lives on Old Mill these are his professional opinions. Water issues should be regarded as very important. He has consulted with a hydrologist and reported what they looked at and found. He stated there are fractured sandstone. He stated the conclusion was this site is high risk and requested a more in-depth hydrology report and scientific data.

Matt Eppele – 2668 Old Mill Road

Mr. Eppele stated that he is deeply concerned without residents' concerns are addressed. The 1992 planning commission members saw the potential issues and addressed them. The residents are at the meeting to be neighborly but the developer is not. He stated that he is a truck driver by trade and holds his CDL with additional endorsements. He has seen first-hand the noise and pollution these type of locations create. This should not be allowed on a residential street. He asked what the plan B is?

Steve Humel – 2238 Old Mill Road

Mr. Humel talked about permits and property. The Campbell property would have to get a permit to drop any trees and couldn't do it until November if larger than three inches in diameter. There are drainage laws and diverting water may be considered but only with proof of benefit.

Warner Mendenhall – 190 N. Union Street, Akron

Mr. Mendenhall understands there has been some confusion that has grown on 1149.09 regarding height regulations. He represented Sally Gaydosh in 2012 regarding 97-2012 which was stricken by the judge from the zoning record. He stated that he is also a litigator on the first amendment. When you limit public participation on an issue there are issues that come up. There can be limitation on time, place and manner.

Mike Turle – 9930 Forest Lake Drive

Mr. Turle asked why there is an emergency clause on 57-2022. He stated there is no reason to push this through. He also asked that all residents get to speak. He spoke about the road for old mill project should be on Darrow, the properties brought up by Mrs. Clark should be looked at.

Mr. Scaffide stated it is not going to be on an emergency tonight.

Sally Gaydosh – 9250 Liberty Road

Mrs. Gaydosh thanked Warner Mendenhall for coming to represent the city residents. She stated he has represented the residents of the city multiple times. She wished Sam the best of luck as being mayor.

No further public participation this evening.

Mayor Yates thanked the residents for coming tonight. He asked that we add an executive session to the agenda this evening regarding litigation.

Mr. Scaffide responded to Ms. Paci's comments regarding the dog issue. He stated he has been working with the law director and police chief. The neighbor has been cited and they have paid the fee. Mr. Scaffide stated that he is not sure what the next step is within the law. Mr. Vazzana stated he has reviewed the file and charges have been filed. There are also civil actions that the resident can look into.

**MOTION: TO AMENDED THE AGENDA TO ADD AN EXECUTIVE SESSION REGARDING PENDING LITIGATION.**

Moved by B. Furey, seconded by G. Bellan

Upon roll call motion passed unanimously

**MOTION: TO ENTER INTO AN EXECUTIVE SESSION TO DISCUSS MATTERS PURSUANT TO OHIO REVISED CODE § 121.22(G) (3): PENDING LITIGATION**

Moved by B. Furey, seconded by G. Bellan

Upon roll call motion passed unanimously

Mr. Scaffide reconvened the meeting and report that pending litigation was discussed in executive session.

**COUNCIL COMMUNICATION AND REPORTS**

**Karen Labbe - Parks & Recreation, JEDI, Fitness Advisory, Twins Day, Districting**

- Stated there was a Districting Commission meeting on 5/12. Mr. Vazzana went over the rules and duties with the commission. Next meeting will be on 5/31 at 6:00pm.
- The next JEDI meeting will be on 6/13 at 6:00pm.
- The next Parks & Recreation meeting will be on 6/23 at 6:30pm.
- The next Twins Days meeting will be on 6/1 at 6:30pm.
- Donations for the food bank can be made Monday-Friday from 9:00a-3:00p.



- Nothing to further report this evening.

**Greg Bellan – Finance, Golf Advisory, Public Works, Public Safety**

- Attended the Finance meeting earlier this evening. The committee talked about the new PAFR report which will be an easy way to digest the financial information. They also discussed some major project updates. The next Finance Committee meeting will be on 6/28 at 6:00pm.
- The Golf Advisory Board met on 5/17. Mayor Yates filled in for Mr. Bellan. The members were sworn in, election on chair and vice-chair were done and staff reports were given.
- The next Public Safety Committee will be 7/12 at 6:00pm.
- The next Public Works meeting will be on 6/14 at 6:00pm.
- Nothing further this evening.

**Daisy Walker - Charter Review/Oversight, Chamber, Community Relations, JEDI**

- Attended the Finance Committee meeting earlier this evening.
- Attended the Stonecreek HOA meeting on 5/17.
- Attended the school board meeting with the mayor and presented Martin Aho with a proclamation on behalf of the city.
- Nothing to further report this evening.

**Sam Scaffide – BZA, Public Works, Public Safety**

- Condolences to the family of Bill LaFavier who was the city law director from July of 1982 until November 1987.
- Asked for a moment of silence for the victims in the Texas school shooting today.
- Stated that the Ravenna Road repaving will begin on 6/6. The road work will take place from Glenwood to E. Idlewood.
- BZA will meet on 5/25 at 6:30pm.
- Nothing further this evening.

**Scott Barr – Planning, Public Safety, Volunteer Fireman’s Board, Community Relations**

- Planning Commission will meet on 6/6 at 7:00pm.
- The next Public Safety Committee meeting will be on 7/12 at 6:00pm.
- Nothing further this evening.

**Bill Furey – ARB, Finance, Treasury Investment, Tax Incentive, JEDI**

- Stated ARB met on 5/19 and heard four cases. Their next meeting will be on 6/2 at 6:00pm.
- The next JEDI meeting will be on 6/13.
- The CIC will meet on 6/9 at 5:00pm...
- Nothing further this evening.

**David Post - Environmental, Finance, Capital Improvements, Public Works**

- Finance Committee met earlier tonight.
- The next Public Works meeting will be on 6/14 at 6:00pm.
- Environmental Commission will hold their shred day on 6/25 from 9am-12pm at the Service Garage.
- Nothing to further report this evening.

**MAYOR'S REPORT:**

- Attended the CVCC Career Day and Signing Day on 5/11.
- Attended the State of the Schools event.
- Attended the school board meeting and presented a proclamation to Martin Aho.
- Stated the Police Department held a moment of silence at the Mikitarian Memorial during Police week and also incorporated a Blessing of the Badge.
- Stated that there were some CERT members who assisted with a medical emergency and we will be recognizing them at an upcoming meeting.
- Stated the Memorial Day Parade and service will begin at 10:30am on Monday, May 30<sup>th</sup>.
- Nothing further this evening.

**DEPARTMENT HEAD REPORTS:**

**Sarah Buccigross – Finance Director**

- Gave a short report on income tax revenue for the month of May. There was \$2.79 million over last year of \$2.58 so we are up about 8%. YTD \$10.7 mill over \$9.9 last year.

No further Department Head reports this evening.

**LEGISLATION**

**ORDINANCE 56-2022 - AN ORDINANCE AMENDING THE POLICY FOR THE HANDLING OF CONTRACTS FOR CAPITAL IMPROVEMENT PROJECTS IN EXCESS OF TWENTY-FIVE THOUSAND DOLLARS.**

Read by S. Collins

Mr. Scaffide stated this ordinance now stands on its second reading.

**RESOLUTION 57-2022 - A RESOLUTION CONFIRMING THE PLANNING COMMISSION'S APPROVAL OF THE FINAL SITE PLAN FOR PROJECT GUMBO DATE STAMPED RECEIVED MAY 10, 2022; AND DECLARING AN EMERGENCY**

Resolution 57-2022 was passed over this evening.

**RESOLUTION 58-2022 - A RESOLUTION CONFIRMING THE PLANNING COMMISSION'S APPROVAL OF THE FINAL SITE PLAN FOR SUMMIT SOUND, DATE STAMPED RECEIVED MARCH 2, 2022; AND DECLARING AN EMERGENCY.**

Read by S. Collins

**MOTION: TO ADOPT RESOLUTION 58-2022 AS AN EMERGENCY**

Moved by S. Scaffide, seconded by G. Bellan

Upon roll call motion passed unanimously

**ORDINANCE 59-2022 - AN ORDINANCE AUTHORIZING THE PURCHASE OF VEHICLES AND EQUIPMENT FOR USE BY THE SERVICE DEPARTMENT AS PREVIOUSLY APPROVED THROUGH THE CAPITAL IMPROVEMENTS BUDGET; AND DECLARING AN EMERGENCY.**

Read by S. Collins

**MOTION: TO PLACE ORDINANCE 59-2022 ON THE THIRD AND FINAL READING AND DECLARING AN EMERGENCY**

Moved by S. Scaffide, seconded D. Walker

Upon roll call motion passed unanimously

**MOTION: TO ADOPT ORDINANCE 59-2022 AS AN EMERGENCY**

Moved by S. Scaffide, seconded by B. Furey

Upon roll call motion passed unanimously

**RESOLUTION 60-2022 - A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUTUAL AID AGREEMENT WITH SUMMIT COUNTY FOR THE PROVISION OF SERVICES BY THE COUNTY SHERIFF'S MAJOR CRIME SCENE INVESTIGATIVE UNIT.**

Read by S. Collins

**MOTION: TO ADOPT RESOLUTION 60-2022**

Moved by S. Scaffide, seconded by B. Furey

Upon roll call motion passed unanimously

**UNFINISHED BUSINESS, NEW BUSINESS, MISCELLANEOUS**

**Mr. Bellan:**

- Nothing further this evening

**Mrs. Walker:**

- Nothing further this evening

**Mr. Scaffide:**

**MOTION: THAT CITY COUNCIL DOES NOT OPPOSE THE NEW LIQUOR PERMIT FOR HONG HAI PROPERTIES, INC., LOCATED AT 8941 WILCOX DRIVE AND AUTHORIZE THE CLERK TO SUBMIT THE FORM TO THE OHIO DIVISION OF LIQUOR CONTROL.**

Moved by S. Scaffide, seconded by K. Labbe

Upon roll call motion passed unanimously

- Nothing further this evening

**Mr. Post:**

**MOTION: TO ADD THE PHASE 2 OF THE ETHAN'S GREEN SEWER OUTLININGG PROJECT TO THE 2022 BID LIST.**

Moved by D. Post, seconded by B. Furey

Upon roll call motion passed unanimously

- Stated that the comments made that council does not care are incorrect. Most members have come to the site and talked to the neighbors.
- Nothing further this evening

**Mr. Barr:**

- Nothing further this evening

**Mr. Furey:**

- Thanked all the Veteran's for their sacrifices.
- Stated Lt. Donato is taking donations and registration for this year's Josh Miktarian Memorial Golf Outing.
  - Stated Our Community Hunger Center is in need of food. Their website has a list of the items in they are in need of [www.ochc-food.org](http://www.ochc-food.org)
- Nothing further this evening

**Karen Labbe:**

- Nothing further this evening

**Mayor Yates:**

- Nothing further this evening

**Mr. Vazzana**

- Nothing further this evening

**Mrs. Collins**

- Nothing further this evening

**Mrs. Buccigross**

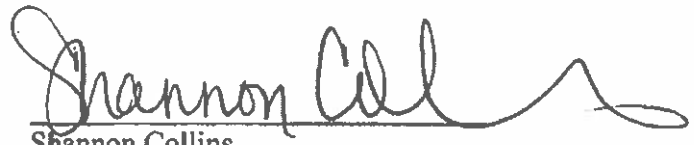
- Nothing further this evening

**ADJOURNMENT:**

Meeting unanimously adjourned at 9:07pm.

Attest:

  
Sam Scalfide  
President of Council

  
Shannon Collins  
Clerk of Council

STATE OF OHIO            )  
  )  
CITY OF TWINSBURG        )  
COUNTY OF SUMMIT        )

**CERTIFICATION**

I, SHANNON COLLINS, do hereby certify that I am the duly appointed, qualified Clerk of Council of the City of Twinsburg, Ohio, and that the attached is a true and exact copy of the minutes from the May 24, 2022 Council Meeting as approved by the Council of the City of Twinsburg at their Regular Meeting on June 14, 2022.

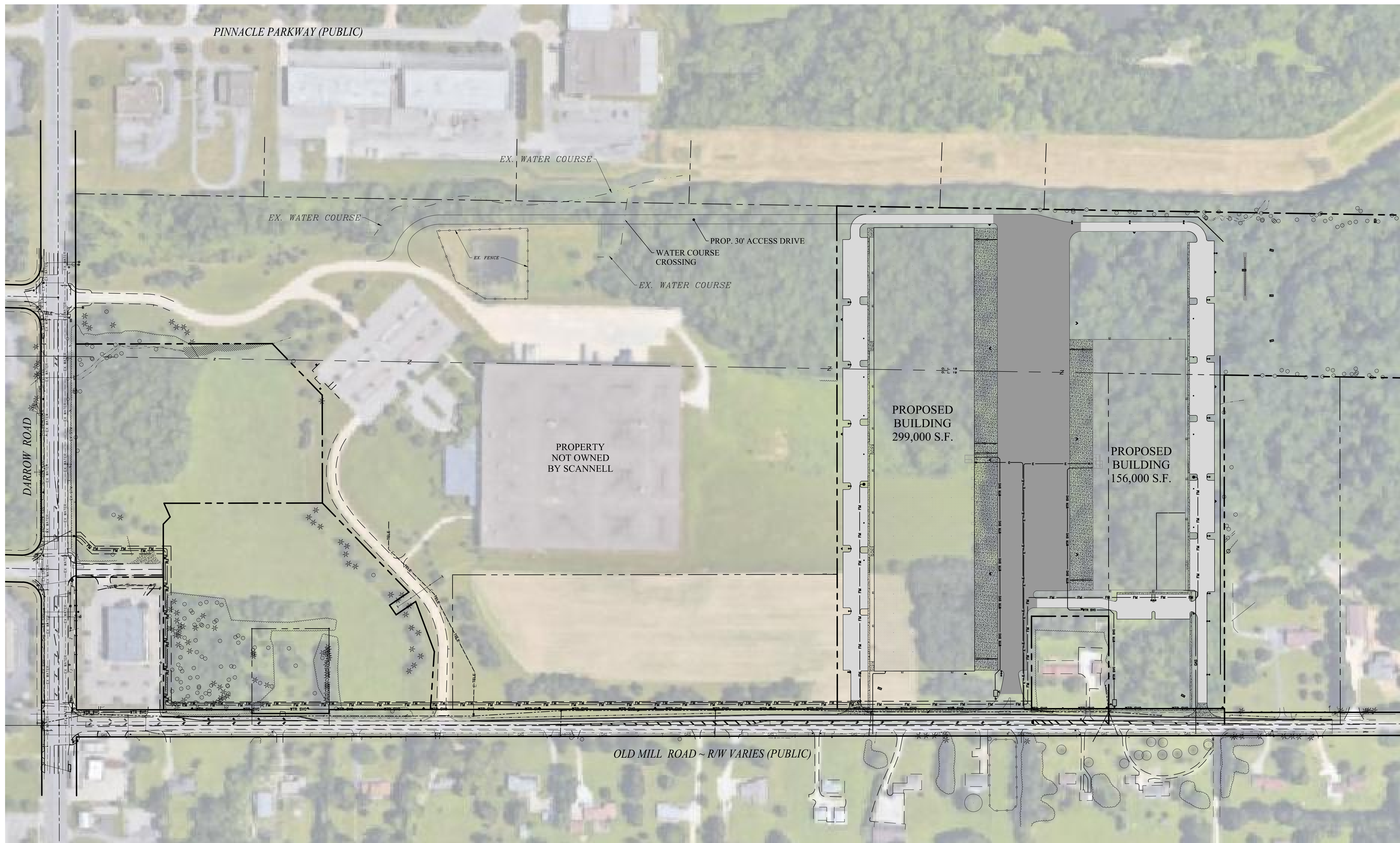
That the minutes will be posted in accordance with requirements stated in the City Charter. The minutes are a record of the City of Twinsburg, Ohio.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the City of Twinsburg, this 24<sup>th</sup> day of August, 2022.



A handwritten signature in blue ink that reads "Shannon Collins". The signature is fluid and cursive, written over a horizontal line.

Shannon Collins  
Clerk of Council



**WEBER ENGINEERING SERVICES**  
 Where Strong Relationships & Superior Service Guide Your Project  
 2555 Hartville Rd., Suite B  
 Rossstown, OH 44272  
 www.WeberEngineeringServices.com  
 330-329-2037  
 matt@webercivil.com

**STATE OF OHIO**  
 MATTHEW WEBER  
 61709 REGISTERED PROFESSIONAL ENGINEER  
 Reg. No.: 61709

**CLIENT:**  
  
 8801 RIVER CROSSING BLVD.  
 SUITE 300  
 INDIANAPOLIS, IN  
 REP: MICHAEL CONZEMIUS

**OWNER:**

**PROJECT GUMBO NEW SITE**  
 2321 & 2387 OLD MILL RD., TWINSBURG, OHIO

**Issue Date**  
 02-09-2022  
 02-24-2022  
 03-02-2022  
 03-15-2022  
 05-10-2022

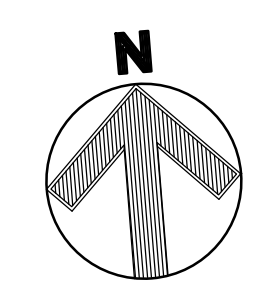
**OVERALL PLAN**

**1 OF 1**  
 Project No. 2021-398

Survey by: \_\_\_\_\_



www.dempseysurvey.com  
 85  
**DEMPSEY / SURVEYING / COMPANY**  
 P 216/226/1130 | 12815 DETROIT AVENUE  
 F 216/226/1131 | CLEVELAND, OH 44107-2835



Scale: 1" = 120'

**EXHIBIT D**

W:\A-1 Projects\2021 Projects\2021-398 Project Gumbo\2021-398 Site\011 Alternate - 05-10-2022\011-398 Site\011 Alternate.DWG

ZONING: I-2

PPN 6405349  
MICHAEL T. SEKELA  
OR 1980 P. 842 S.C.R.

PPN 6405347  
JESSE BOLING  
OR 736 P. 948 S.C.R.

PPN 6405352  
CHET S. MISTUR & LINDA M. MISTUR  
REC. #55344127 S.C.R.

ZONING: I-2

SITE BENCH MARK  
BENCH MARK #1  
R.R. SPIKE SET N. SIDE  
POLE #5041000  
ELEVATION = 1098.68

SITE BENCH MARK  
BENCH MARK #2 (OUT OF SHEET VIEW)  
R.R. SPIKE SET N. SIDE POLE #5041006  
N. 39834.44  
E. 2302602.91  
ELEVATION = 1101.92

**WEBER ENGINEERING SERVICES**  
Where Strong Relationships & Superior Service Guide Your Project

2555 Hartville Rd., Suite B  
Rookstown, OH 44272  
www.WeberEngineeringServices.com  
330-329-2037  
matt@webercivil.com

STATE OF OHIO  
MATTHEW WEBER  
61709  
REGISTERED PROFESSIONAL ENGINEER

Reg. No.: 61709

CLIENT:

**SCANNELL PROPERTIES**

8801 RIVER CROSSING BLVD.  
SUITE 300  
INDIANAPOLIS, IN  
REP: MICHAEL CONZEMIUS

OWNER:

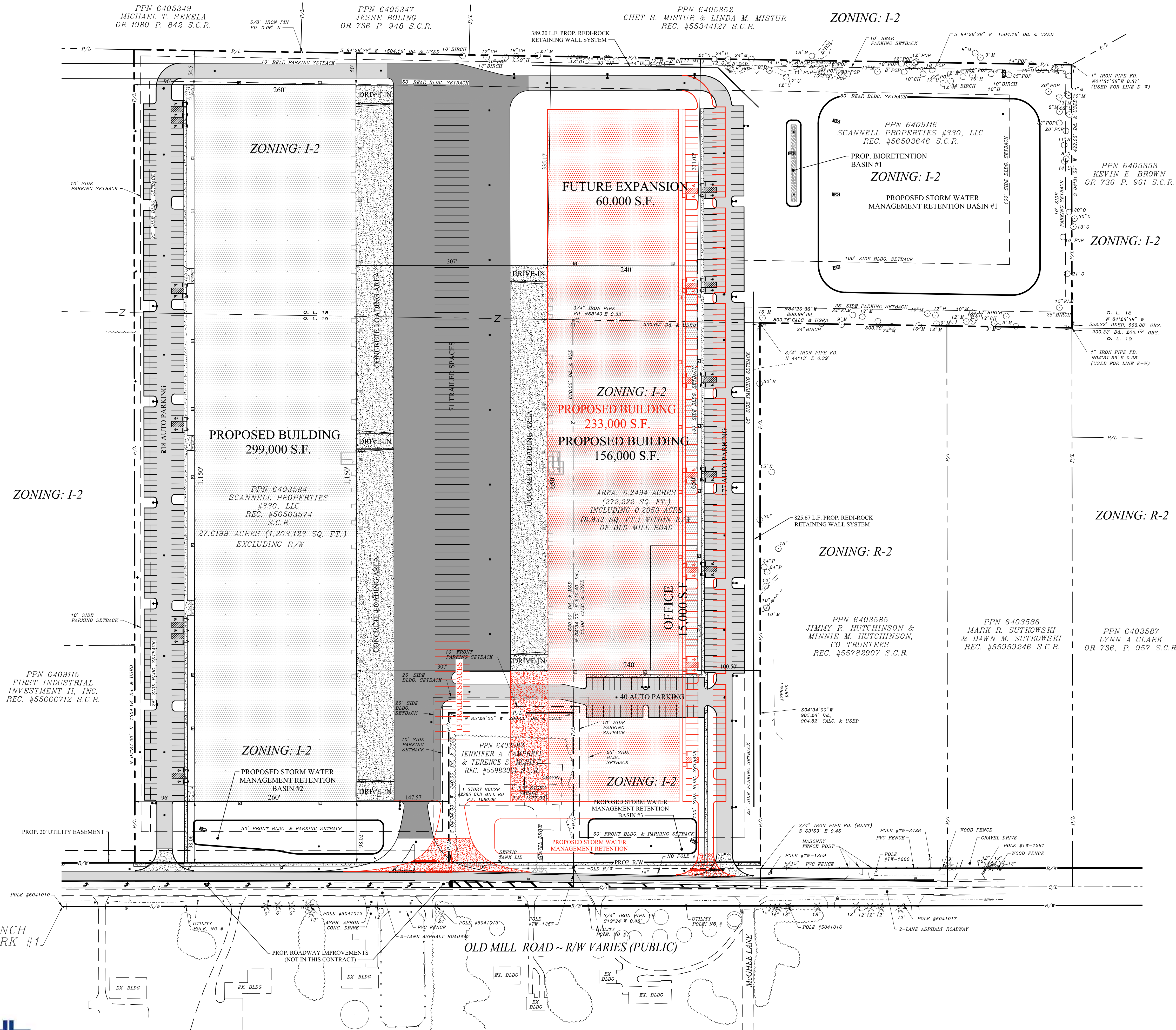
Issue Date

02-09-2022  
02-24-2022  
03-02-2022  
03-15-2022  
05-10-2022

PROJECT GUMBO  
NEW SITE  
2321 & 2387 OLD MILL RD., TWINSBURG, OHIO

OVERALL  
SITE PLAN

C102  
Project No. 2021-398



**SITE DATA**

|                                  |   |
|----------------------------------|---|
| USE DISTRICT                     | = I-2 (LIMITED INDUSTRIAL DISTRICT)                             |
| SITE AREA                        | = 33.66 AC.   |
| PROP. BUILDING AREA              | = 515,00 S.F. TOTAL (INCLUDES BOTH BLDG'S AND FUTURE EXPANSION) |
| MAX. BLDG. COVERAGE              | = 40% - ACTUAL = 35.1%  |
| <b>BUILDING SETBACKS:</b>        |   |
| FRONT YARD                       | = 50'   |
| SIDE YARD                        | = 25'(WEST) / 100'(EAST)  |
| REAR YARD                        | = 50'   |
| <b>PARKING SETBACKS:</b>         |   |
| FRONT YARD                       | = 50'   |
| SIDE YARD                        | = 10' / 25'(ADJACENT TO RES.)                                   |
| REAR YARD                        | = 10'   |
| <b>NUMBER OF PARKING SPACES:</b> |   |
| REGULAR PARKING SPACES           | = 413   |
| HANDICAP PARKING SPACES          | = 22  |
| TOTAL PARKING SPACES             | = 435   |

**FLOOD ZONE**

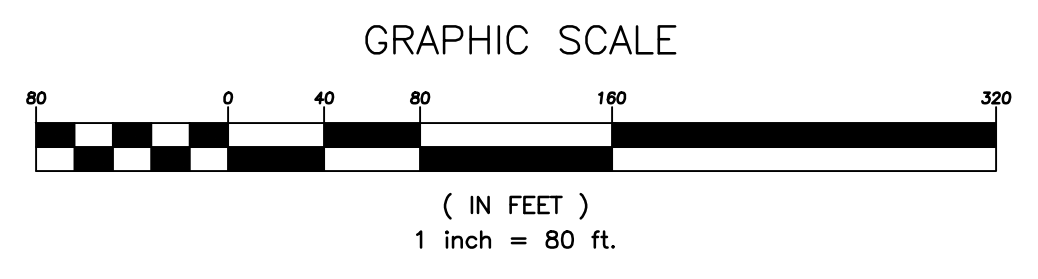
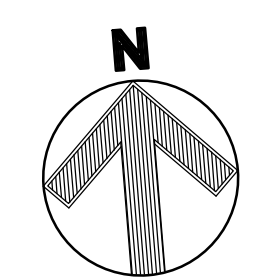
FLOOD ZONE "X" PER FLOOD INSURANCE  
RATE MAP NUMBER 39155C002F  
COMMUNITY PANEL NUMBER 3905340062F  
EFFECTIVE DATE APRIL 9, 2016

**LEGEND**

|  |                      |
|--|----------------------|
|  | REGULAR DUTY ASPHALT |
|  | HEAVY DUTY ASPHALT   |
|  | CONCRETE PAVING      |

ITALICS TEXT REPRESENTS EXISTING CONDITION  
NON-ITALICS TEXT REPRESENTS PROPOSED CONDITION

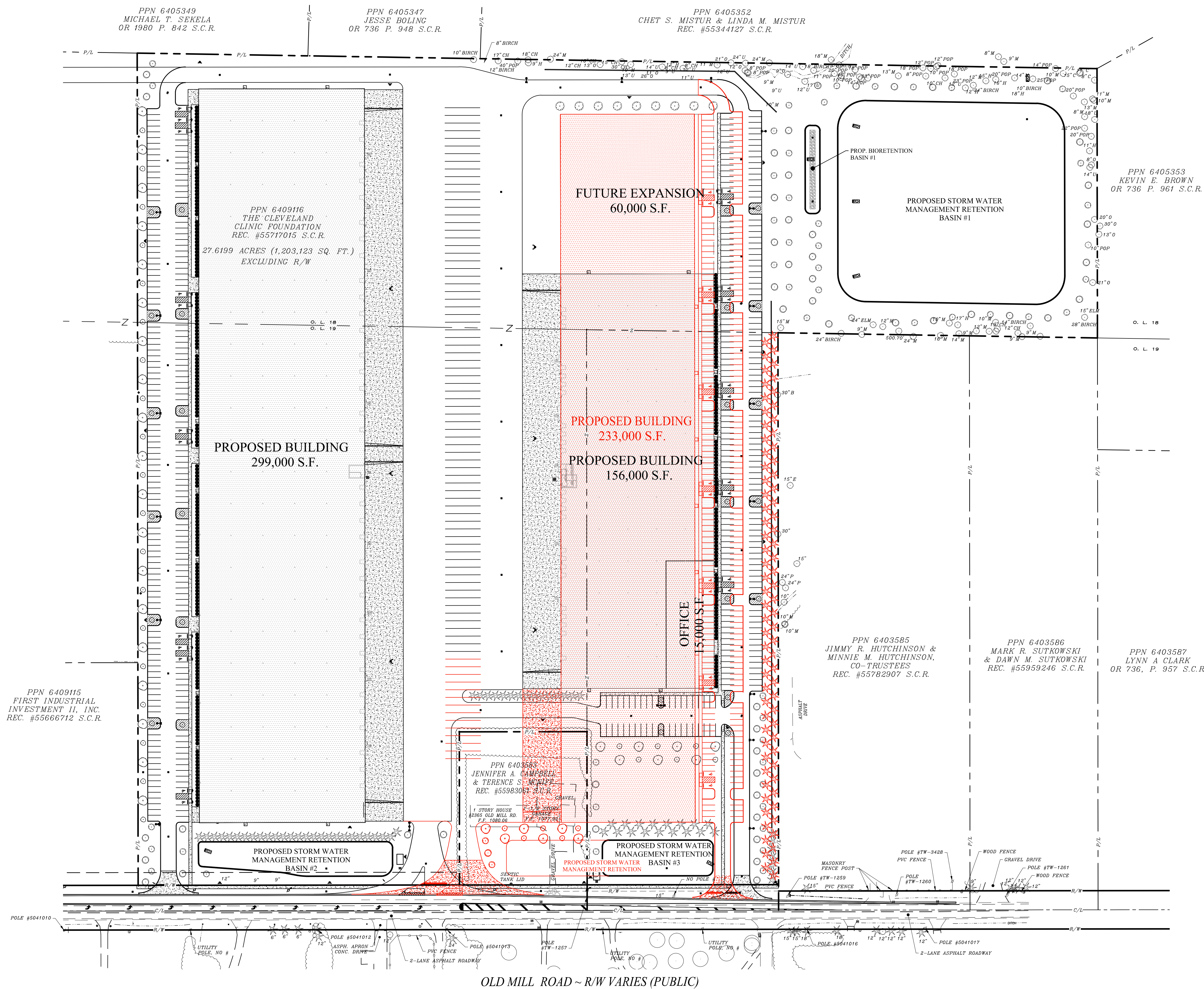
ALTERNATE FOR CONSIDERATION UPON APPROVAL OF CURRENT PLAN AND CLOSING ON CAMPBELL PARCEL.



W:\A-1 Projects\2021-398 Project Gumbo\2021-398 Draw\2021-398 Site011 Alternate - 05-10-2022\021-398 Site011





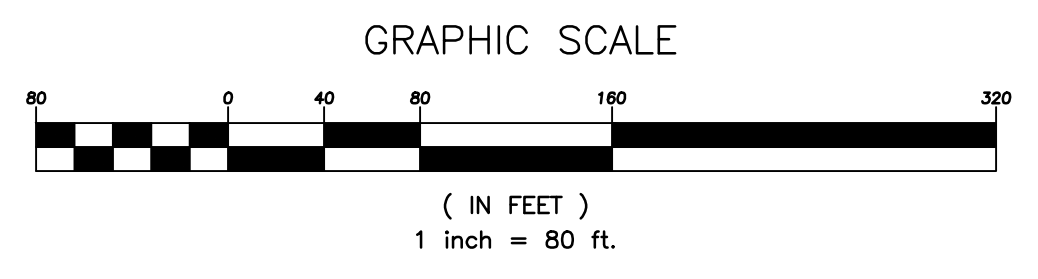
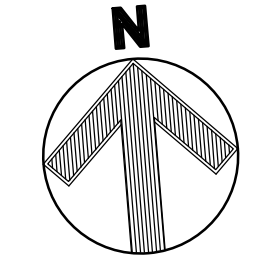


**LANDSCAPING DATA**

|                              |                      |
|------------------------------|----------------------|
| LANDSCAPING REQ'D.           | = 5.00% = 7,160 S.F. |
| LANDSCAPING PROVIDED         | = 5.49% = 7,864 S.F. |
| SITE TREES REQUIRED (8/ACRE) | = 264                |
| EXISTING SITE TREES          | = 81                 |
| PROPOSED SITE TREES          | = 184                |
| TOTAL SITE TREES             | = 265                |

**TO BE REVISED UPON CONTEMPLATION OF ALTERNATE**

**LEGEND**  
 ITALICS TEXT REPRESENTS EXISTING CONDITION  
 NON-ITALICS TEXT REPRESENTS PROPOSED CONDITION



**ALTERNATE FOR CONSIDERATION UPON APPROVAL OF CURRENT PLAN AND CLOSING ON CAMPBELL PARCEL.**

**WEBER ENGINEERING SERVICES**  
*Where Strong Relationships & Superior Service Guide Your Project*

2555 Hartville Rd., Suite B  
 Rootstown, OH 44272  
 www.WeberEngineeringServices.com  
 330-329-2037  
 matt@webercivil.com

STATE OF OHIO  
 MATTHEW WEBER  
 61709 REGISTERED PROFESSIONAL ENGINEER

Reg. No.: 61709

**CLIENT:**

**SCANNELL PROPERTIES**

8801 RIVER CROSSING BLVD.  
 SUITE 300  
 INDIANAPOLIS, IN  
 REP: MICHAEL CONZEMIUS

**OWNER:**

**PROJECT GUMBO**  
**NEW SITE**  
 2321 & 2387 OLD MILL RD., TWINSBURG, OHIO

Issue Date  
 02-09-2022  
 02-24-2022  
 03-02-2022  
 03-15-2022  
 05-10-2022

**OVERALL LANDSCAPE PLAN**

**C1021**  
 Project No. 2021-398



W:\A-1 Projects\2021-398 Project Gumbo\2021-398 Draw\2021-398 Site\011 Alternate - 05-10-2022\011-398 Site\011

|   |   |
|---|---|
| <b>SITE BENCH MARK</b><br>BENCH MARK #1<br>R.R. SPIKE SET N. SIDE<br>POLE #5041010<br>ELEVATION = 1098.68 | <b>SITE BENCH MARK</b><br>BENCH MARK #2 (OUT OF SHEET VIEW)<br>R.R. SPIKE SET N. SIDE POLE #5041006<br>N: 399834.44<br>E: 2302602.91<br>ELEVATION = 1101.92 |
|---|---|

**WEBER ENGINEERING SERVICES**  
Where Strong Relationships & Superior Service Guide Your Project

2555 Hartville Rd., Suite B  
Roanstown, OH 44272  
www.WeberEngineeringServices.com  
330-329-2037  
matt@webercivil.com

STATE OF OHIO  
MATTHEW WEBER  
61709  
REGISTERED PROFESSIONAL ENGINEER

Reg. No.: 61709

CLIENT:

**SCANNELL PROPERTIES**

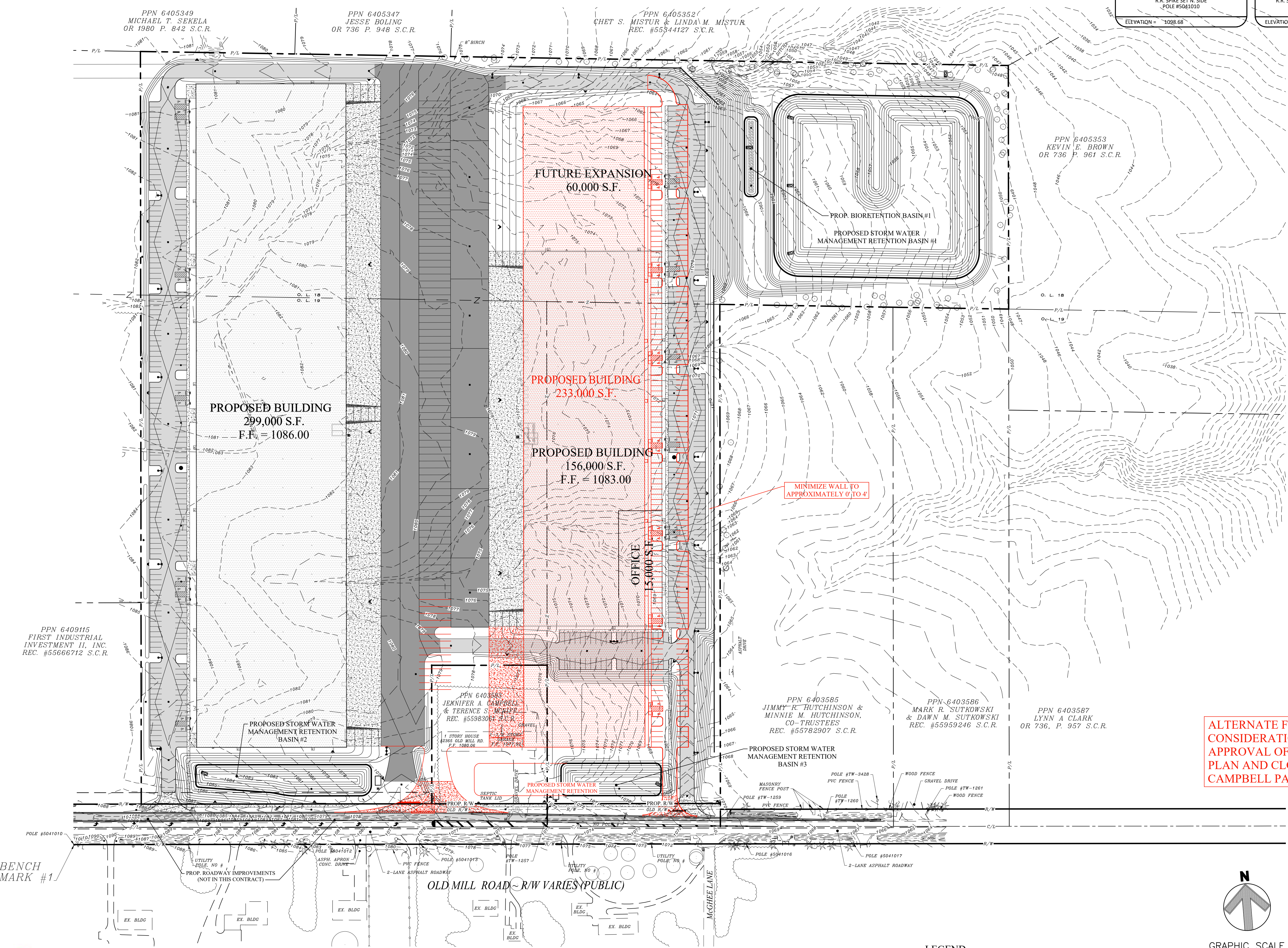
8801 RIVER CROSSING BLVD.  
SUITE 300  
INDIANAPOLIS, IN  
REP: MICHAEL CONZEMIUS

OWNER:

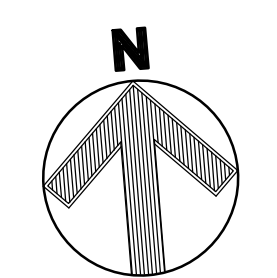
|  |            |
|--|------------|
| PROJECT GUMBO<br>NEW SITE<br>2321 & 2387 OLD MILL RD., TWINSBURG, OHIO | Issue Date |
|  | 02-09-2022 |
|  | 02-24-2022 |
|  | 03-02-2022 |
|  | 03-15-2022 |
| 05-10-2022   |            |

**OVERALL GRADING PLAN**

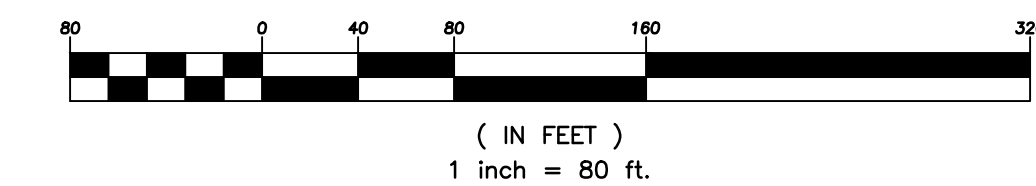
**C104**  
Project No. 2021-398



ALTERNATE FOR CONSIDERATION UPON APPROVAL OF CURRENT PLAN AND CLOSING ON CAMPBELL PARCEL.



GRAPHIC SCALE



**LEGEND**  
ITALICS TEXT REPRESENTS EXISTING CONDITION  
NON-ITALICS TEXT REPRESENTS PROPOSED CONDITION



W:\A-1 Projects\2021-398 Project Gumbo\2021-398 Draw\2021-398 Sheet\011-398 Site\011

COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

Lynn Clark  
2485 Old Mill Rd.  
Twinsburg, OH 44236

Plaintiff/Appellant,

v.

City of Twinsburg  
Acting Mayor Sam Scaffide  
and Council  
10075 Ravenna Road  
Twinsburg, OH 44087

Resolution 57-2022

NOTICE OF APPEAL

Please take notice that under R.C. 2505 and 2506, Plaintiff/Appellant Lynn Clark hereby appeals from the City of Twinsburg's, Planning Commission and Council decisions passing Resolution 57-2022 which approved the final site plan for Project Gumbo date stamped received May 10, 2022.

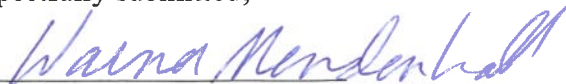
The decision was approved by the Twinsburg City Council on June 14, 2022. Ex. A. Appellant has served a praecipe on the Township requesting all materials pertinent to this matter.

Plaintiff/Appellant is a property owner and taxpayer of the City of Twinsburg who owns property impacted by the proposed development. Plaintiff/Appellant appeared before the City of Twinsburg Planning Commission and Council on numerous occasions to oppose the decision to approve this development. The decision to approve this development is adverse to Plaintiff/Appellant.

This appeal is on questions of law and fact and is taken in whole from the orders and decisions of the City of Twinsburg Planning Commission and Council because the decisions were unlawful, unreasonable, and against the manifest weight of the evidence.



Respectfully submitted,



Warner Mendenhall 0070165  
Mendenhall Law Group  
190 North Union Street, Suite 201  
Akron, OH 44304  
330-535-9160  
*Attorney for Plaintiff/Appellant*

FINANCE DEPARTMENT  
2022 JUL 13 PM 1:38

**RECEIVED**

**JUL 13 REC'D**

**CITY OF TWINSBURG  
FINANCE DEPARTMENT**

**CERTIFICATE OF SERVICE**

A copy of the foregoing was served by hand delivery on 7-13-2022 on the following:

City of Twinsburg  
Acting Mayor Sam Scaffide  
and Council  
10075 Ravenna Road  
Twinsburg, OH 44087



Warner Mendenhall  
Warner Mendenhall 0070165

Emailed 05/20/2022  
As revised June 14, 2022

**CITY OF TWINSBURG, OHIO**

**RESOLUTION 57-2022 - REVISED**

A RESOLUTION CONFIRMING THE PLANNING COMMISSION'S APPROVAL OF THE FINAL SITE PLAN FOR PROJECT GUMBO DATE STAMPED RECEIVED MAY 10, 2022

**WHEREAS**, the Planning Commission reviewed and recommended the Final Site Plan for Project Gumbo (Summit County Permanent Parcel Nos. 64-09116, 64-03583, and 64-03584) at its meeting of May 16, 2022; and

**WHEREAS**, Section 1181.09 of the Twinsburg Planning and Development Regulations provides for Council to review and take final action on Planning Commission's action with respect to applications for Site Plan approval; and

**WHEREAS**, this Council has reviewed the Planning Commission's decision, the application and associated materials, and the factors, standards, and criteria in the Twinsburg Planning and Development Regulations concerning Site Plan approval; and

**WHEREAS, after considering public testimony, the applicant requested to reduce the height of their project so that the project's building height does not exceed thirty five feet; and**

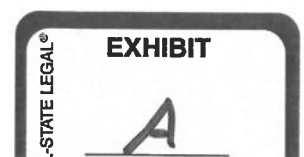
**WHEREAS**, this Council wishes to confirm the Planning Commission's approval of the Final Site Plan for Project Gumbo **with the condition that the project's building height not exceed thirty-five feet without the later receipt of a conditional use permit regarding the same.**

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Twinsburg, County of Summit and State of Ohio:

**SECTION I:** That the Planning Commission's action of approving the Final Site Plan for Project Gumbo on May 16, 2022, attached hereto and incorporated herein as "Exhibit A", be and the same hereby is confirmed by this Council **with the condition that the project's building height shall not exceed thirty five feet.**

**SECTION II:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meeting or meetings of this Council, and that all deliberations of this Council were in meetings open to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

**SECTION III:** That this Resolution is not of a general or permanent nature necessitating the requirement to be read on three different days as contemplated by



Ordinance 57-2022  
Page 2

§111.09(a) of the Codified ordinances of the City of Twinsburg and shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 6/14/2022

APPROVED: 6/21/2022

EFFECTIVE: 7/21/2022

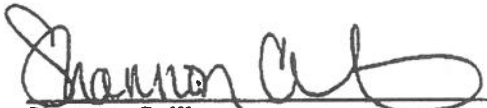
  
Sam Scaffide, President of Council

Submitted to the Mayor for approval this  
14 day of June, 2022

Approved by the Mayor 6/21, 2022

  
Ted Yates, Mayor

ATTEST:

  
Shannon Collins  
Clerk of Council


1<sup>st</sup> Rdg. 6/14/2022  
2<sup>nd</sup> Rdg. —  
3<sup>rd</sup> Rdg. —

Passed: 6/14/2022

Yes 5 No 2

**CERTIFICATE OF POSTING**

I, Shannon Collins, Clerk of Council, of the City of Twinsburg, State of Ohio, do hereby certify that publication of the foregoing ordinances, resolutions was duly made by posting true copies thereof at five of the most public places in said City as determined by Section 113.02 of the Codified Ordinances of the City of Twinsburg; each for a period of fifteen days commencing on the 22 day of June, 2022

  
Shannon Collins  
Clerk of Council  
City of Twinsburg



CITY OF TWINSBURG

CITY COUNCIL

Lynn Clark  
2485 Old Mill Rd.  
Twinsburg, OH 44236

Plaintiff/Appellant,

v.

City of Twinsburg  
Acting Mayor Sam Scaffide  
and Council  
10075 Ravenna Road  
Twinsburg, OH 44087

Resolution 57-2022

NOTICE OF APPEAL

Please take notice that under R.C. 2505 and 2506, Plaintiff/Appellant Lynn Clark hereby appeals from the City of Twinsburg’s, Planning Commission and Council decisions passing Resolution 57-2022 which approved the final site plan for Project Gumbo date stamped received May 10, 2022.

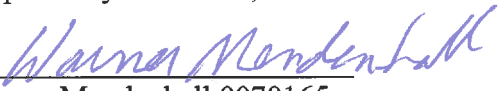
The decision was approved by the Twinsburg City Council on June 14, 2022. Ex. A.

Plaintiff/Appellant is a property owner and taxpayer of the City of Twinsburg who owns property impacted by the proposed development. Plaintiff/Appellant appeared before the City of Twinsburg Planning Commission and Council on numerous occasions to oppose the decision to approve this development. The decision to approve this development is adverse to Plaintiff/Appellant.



This appeal is on questions of law and fact and is taken in whole from the orders and decisions of the City of Twinsburg Planning Commission and Council because the decisions were unlawful, unreasonable, and against the manifest weight of the evidence.

Respectfully submitted,



Warner Mendenhall 0070165  
Mendenhall Law Group  
190 North Union Street, Suite 201  
Akron, OH 44304  
330-535-9160  
*Attorney for Plaintiff/Appellant*

FINANCE DEPARTMENT  
2022 JUL 13 PM 1:34

**RECEIVED**

**JUL 13 REC'D**

CITY OF TWINSBURG  
FINANCE DEPARTMENT

Emailed 05/20/2022  
As revised June 14, 2022

**CITY OF TWINSBURG, OHIO**

**RESOLUTION 57-2022 - REVISED**

A RESOLUTION CONFIRMING THE PLANNING COMMISSION'S APPROVAL OF THE FINAL SITE PLAN FOR PROJECT GUMBO DATE STAMPED RECEIVED MAY 10, 2022

**WHEREAS**, the Planning Commission reviewed and recommended the Final Site Plan for Project Gumbo (Summit County Permanent Parcel Nos. 64-09116, 64-03583, and 64-03584) at its meeting of May 16, 2022; and

**WHEREAS**, Section 1181.09 of the Twinsburg Planning and Development Regulations provides for Council to review and take final action on Planning Commission's action with respect to applications for Site Plan approval; and

**WHEREAS**, this Council has reviewed the Planning Commission's decision, the application and associated materials, and the factors, standards, and criteria in the Twinsburg Planning and Development Regulations concerning Site Plan approval; and

**WHEREAS, after considering public testimony, the applicant requested to reduce the height of their project so that the project's building height does not exceed thirty five feet; and**

**WHEREAS**, this Council wishes to confirm the Planning Commission's approval of the Final Site Plan for Project Gumbo **with the condition that the project's building height not exceed thirty-five feet without the later receipt of a conditional use permit regarding the same.**

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Twinsburg, County of Summit and State of Ohio:

**SECTION I:** That the Planning Commission's action of approving the Final Site Plan for Project Gumbo on May 16, 2022, attached hereto and incorporated herein as "Exhibit A", be and the same hereby is confirmed by this Council **with the condition that the project's building height shall not exceed thirty five feet.**

**SECTION II:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meeting or meetings of this Council, and that all deliberations of this Council were in meetings open to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

**SECTION III:** That this Resolution is not of a general or permanent nature necessitating the requirement to be read on three different days as contemplated by




Ordinance 57-2022  
Page 2

§111.09(a) of the Codified ordinances of the City of Twinsburg and shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 6/14/2022

APPROVED: 6/21/2022

EFFECTIVE: 7/21/2022

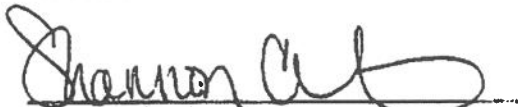
  
Sam Scaffide, President of Council

Submitted to the Mayor for approval this  
14 day of June, 2022

Approved by the Mayor 6/21, 2022

  
Ted Yates, Mayor

ATTEST:

  
Shannon Collins  
Clerk of Council

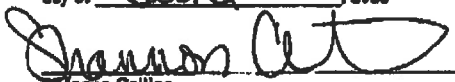
1<sup>st</sup> Rdg. 6/14/2022  
2<sup>nd</sup> Rdg. —  
3<sup>rd</sup> Rdg. —

Passed: 6/14/2022

Yes 5 No 2

**CERTIFICATE OF POSTING**

I, Shannon Collins, Clerk of Council, of the City of Twinsburg, State of Ohio, do hereby certify that publication of the foregoing ordinances, resolutions was duly made by posting true copies thereof at five of the most public places in said City as determined by Section 113.02 of the Codified Ordinances of the City of Twinsburg; each for a period of fifteen days commencing on the 22 day of June, 2022

  
Shannon Collins  
Clerk of Council  
City of Twinsburg

CITY OF TWINSBURG

CITY COUNCIL

Lynn Clark  
2485 Old Mill Rd.  
Twinsburg, OH 44236

Plaintiff/Appellant,

v.

City of Twinsburg  
Acting Mayor Sam Scaffide  
and Council  
10075 Ravenna Road  
Twinsburg, OH 44087

Resolution 57-2022

PRAECIPE TO CLERK OF COUNCIL

Now comes Plaintiff/Appellant who, through attorney Warner Mendenhall, request you to prepare and file a complete transcript of all papers, testimony and evidence, offered, heard and taken into consideration by the decision of the City of Twinsburg to pass Resolution 57-2022. In addition, file your conclusions of facts supporting the June 14<sup>th</sup>, 2022 decision, if any.

Respectfully submitted,



Warner Mendenhall 0070165  
Mendenhall Law Group  
190 North Union Street,  
Suite 201  
Akron, OH 44304  
330-535-9160

*Attorney for Plaintiff/Appellee*

2022 JUL 13 PM 1:59  
FINANCE DEPARTMENT

**RECEIVED**

**JUL 13 REC'D**

CITY OF TWINSBURG  
FINANCE DEPARTMENT

**From:** [Vazzana, Matt](#)  
**To:** [Sugerman, Irving B.](#); [Vansuch, Matthew G.](#)  
**Subject:** FW: Correction: Effective Date of Twinsburg Res. No. 57-2022: June 14, 2022  
**Date:** Tuesday, August 16, 2022 10:31:26 AM  
**Attachments:** [image001.png](#)

---

[REDACTED]

[REDACTED]

---

**From:** Vazzana, Matt  
**Sent:** Thursday, June 30, 2022 3:53 PM  
**To:** 'warner@warnermendenhall.com' <warner@warnermendenhall.com>  
**Cc:** Clark, Sue - Internet <tclark6670@gmail.com>; 'lclarkomcs@aol.com' <lclarkomcs@aol.com>; 'sallygosh@roadrunner.com' <sallygosh@roadrunner.com>; 'laurie.sasala@gmail.com' <laurie.sasala@gmail.com>  
**Subject:** Correction: Effective Date of Twinsburg Res. No. 57-2022: June 14, 2022

Good afternoon, Mr. Mendenhall:

I was recently informed by the City's Clerk of Council that on June 27, 2022 a committee of petitioners (Ms. Suzanne Clark, Ms. Marcella Gaydosh, Mr. Lynn Clark, and Ms. Laurie Facsina) filed notice with the City of Twinsburg that they are circulating a referendum petition re: Res. No. 57-2022 (passed by Twinsburg City Council on June 14, 2022). Given that you appeared on behalf of two of the petitioners (Ms. Gaydosh and Mr. Clark) at public meetings concerning Res. No. 57-2022 (and the subject matter thereto), I wanted to send you a courtesy email concerning the effective date of Res. No. 57-2022.

As I am sure you know given your experience in local government law, Res. No. 57-2022 was an administrative act by the Twinsburg Council. Because Res. No. 57-2022 was an administrative act, it is effective immediately. Therefore, for those with standing, the thirty-day window for an administrative appeal is thirty-days from the date of passage: June 14, 2022. I have instructed the Clerk of Council to make the aforementioned changes to Res. No. 57-2022 via a corrected effective date sheet based upon the advice of the Law Director. For record keeping purposes (and to ensure a complete record), both the original effective date sheet and the corrected effective date sheet will be retained in the permanent record with the petitioner's notice of referendum. I am of the opinion that the petitioners need not submit a revised notice of referendum petition.

For clarity, my courtesy comments above are strictly limited to the narrow matter of: (1) the effective date of Res. No. 57-2022; and (2) the calculation of the thirty-day appeal window thereto.

I have CCd the four-person petition committee to this email in the event that you no longer represent Ms. Gaydosh and/or Mr. Clark with respect to their efforts concerning Res. No. 57-2022.



Thank you and please let me know if you have any additional questions.

Matt

**Matt Vazzana**

Law Director

---

City of Twinsburg

10075 Ravenna Road

Twinsburg, Ohio 44087

(330) 963-6248 – Office

(330) 963-6251 – Fax

[mvazzana@twinsburg.oh.us](mailto:mvazzana@twinsburg.oh.us)



**From:** [Panczyk, Sandra](#)  
**To:** [Clark, Sue - Internet](#); "[sallygosh@roadrunner.com](#)"; "[laurie.sasala@gmail.com](#)"; "[lclarkomcs@aol.com](#)"; "[warner@warnermendenhall.com](#)"  
**Cc:** [Scaffide, Sam](#); CITY COUNCIL; "[jwysmierski@summitcountyboe.gov](#)"; "[dpetty@summitcountyboe.gov](#)"; "[nlaria@summitcountyboe.gov](#)"; "[jcavileer@summitcountyboe.gov](#)"; [Collins, Shannon](#); [Vazzana, Matt](#)  
**Subject:** Sufficiency Determination re: Referendum Petition on Council Res. No. 57-2022  
**Date:** Thursday, July 21, 2022 4:25:41 PM  
**Attachments:** [Sufficiency Determination Letter re Referendum Petition on Council Res. No. 57 2022 \(21JULY2022\).pdf](#)

---

Attached please find a memorandum concerning the referendum petition regarding Council Res. No. 57-2022.

*Sandy Panczyk*  
*Executive Assistant*  
*Law & HR Departments*



10075 Ravenna Road  
Twinsburg, OH 44087  
330.963.6204  
330.963.6251 (fax)





July 21, 2022

**MEMORANDUM**

**To:** Ms. Suzanne Clark  
Ms. Marcella Gaydosh  
Ms. Laurie Facsina  
Mr. Lynn Clark  
Attorney Warner Mendenhall

**CC:** Sam Scaffide, Mayor  
City Council  
Summit County Board of Elections

**From:** Shannon Collins, Clerk of Council  
Matt Vazzana, Law Director

**Subject:** Sufficiency Determination re: Referendum Petition on Council Res. No. 57-2022

---

***The Referendum Process in Ohio***

The Ohio Constitution, pursuant to Article II, Section 1f, reserves the power of initiative and referendum to the people of each municipality "...on all questions which such municipalities may now or hereafter be authorized by law to control by **legislative** action..." (Emphasis added). The Ohio Supreme Court has interpreted this Constitutional provision to exclude from the reach of referendum proceedings a City Council's administrative actions. And the Ohio Supreme Court has held this interpretation as applicable to Charter municipalities.

In *Myers v. Schiering* (1971), 27 Ohio St.2d 11, 56 O.O.2d 6, 271 N.E.2d 864, the Ohio Supreme Court held that pursuant to Article II, Section 1f of the Ohio Constitution, municipal referendum powers are limited to questions which municipalities are authorized by law to control by legislative action. *Myers* at paragraph one of the syllabus. In *Buckeye Community Hope Foundation v. City of Cuyahoga Falls* (1998), 82 Ohio St.3d 539, 697 N.E.2d 181, the Ohio Supreme Court held that a section of the Charter of Cuyahoga Falls that provided for voters to exercise the power of referendum on any ordinance or resolution passed by the City Council to be constitutionally invalid. *Id.* at 543. The *Buckeye* Court held that, regardless of the language contained in the Cuyahoga Falls Charter, Article II, Section 1f of the Ohio Constitution does not authorize the voters of Cuyahoga Falls to exercise the power of referendum on any ordinance or resolution by City Council. *Id.* at 543-544. The Court concluded that the Constitution permits referendum powers only on those matters that constitute legislative action. *Id.* at 544.



In *Donnelly v. Fairview Park*, the Ohio Supreme Court outlined the test for determining whether an action of a legislative body was administrative or legislative:

The test for determining whether the action of a legislative body is legislative or administrative is whether the action taken is one enacting a law, ordinance or regulation, or executing or administering a law, ordinance or regulation already in existence. (1968), 13 Ohio St.2d 1, 233 N.E.2d 500, paragraph two of the syllabus.

In discussing the *Donnelly* test, the *Buckeye* Court explained that the test requires an examination of the nature of the action taken rather than the action's form. *Id.* at 544. Notably, both *Buckeye* and *Donnelly* involved situations where a city council was reviewing the recommendation of a city planning commission. And in both *Buckeye* and *Donnelly* the Ohio Supreme Court found the city council's action of reviewing the recommendation of a planning commission to be administrative and not legislative.

***The Petitioner's Referendum Petition on Resolution No. 57-2022 (And Simultaneous Administrative Appeal of Resolution No. 57-2022)***

On June 14, 2022, pursuant to Twinsburg Codified Ordinance Section 1181.09, City Council passed Res. No. 57-2022 to confirm the Planning Commission's action of approving the final site plan for Project Gumbo.

On June 27, 2022 a committee of four Twinsburg residents (Ms. Suzanne Clark, Ms. Marcella Gaydosh, Ms. Laurie Facsina, and Mr. Lynn Clark (collectively, the "Petitioners")) filed notice with the Twinsburg Clerk of Council of their intent to circulate a referendum petition to place Res. No. 57-2022 on the November 8, 2022 ballot.

Because Ohio law precludes an administrative act from being subject to referendum, and with a desire to save Petitioners the time and effort of circulating petitions in vain, on June 30, 2022, Twinsburg Law Director, Matthew Vazzana, notified the Petitioners (and their legal counsel, Warner Mendenhall) that Res. No. 57-2022 was an administrative act subject to an administrative appeal (versus a legislative act that would be subject to referendum). The Law Director's June 30, 2022 correspondence further confirmed with Petitioners and Mr. Mendenhall that the administrative appeal filing deadline was July 14, 2022. Mr. Mendenhall acknowledged receipt of the Law Director's notice with the reply: "Matt, Thank you for the clarification."

Thereafter, on July 14, 2022, Mr. Lynn Clark (via his attorney Warner Mendenhall's Office) filed an **administrative appeal** against Res. No. 57-2022 in the Summit County Court of Common Pleas (Case No. CV-2022-07-2332). Confusingly, however, nearly simultaneously to his filing of the aforementioned administrative appeal, Mr. Lynn Clark also filed a referendum petition to place Res. No. 57-2022 on the November 8, 2022 ballot.

Under Ohio Law, it is an accepted legal principle that a Council action cannot be subject to both the referendum process and the administrative appeal process at the same time. It is one or the other. In other words, an individual would not file an administrative appeal against a Council action if they believe the action is subject to the referendum process – and vice versa. Put more simply, Petitioner Clark's action in filing an administrative appeal against Res. No. 57-2022 on July 14, 2022 was an affirmative recognition by Petitioner Clark and his attorney, Warner Mendenhall, that Res. No. 57-2022 was not a

legislative act and, therefore, was never subject to the referendum process in Ohio to begin with. Given the above, it is unknown why Petitioner Clark continued circulating his referendum petition for some two additional weeks after receiving notice from the Twinsburg Law Department (that was acknowledged by his attorney, Warner Mendenhall) that Res. No. 57-2022 was an administrative action – not a legislative action and was, therefore, not subject to the referendum process in Ohio.

### **Conclusion**

City Council, through Res. No. 57-2022, administered a law that was already in existence – Twinsburg Codified Ordinances Section 1181.09. Res. No. 57-2022 did not enact a new law, ordinance, or regulation. Therefore, pursuant to Ohio law, Res. No. 57-2022 is an administrative action and, therefore, not subject to referendum proceedings. Consequently, it is determined that the Petition is not sufficient and Res. No. 57-2022 will not be sent to the November 8, 2022 ballot because the subject matter of the Petition is not an action that is subject to referendum proceedings. The appropriate and legal forum to address Petitioners' concerns with Res. No. 57-2022 is through the filing of an Administrative Appeal, which Petitioners and their legal counsel, Warner Mendenhall, have acknowledged through having actually already filed said appeal.

Respondents City of Twinsburg, Shannon Collins, and Matt Vazzana submit the attached Affidavit of Law Director Matt Vazzana (with accompanying Exhibits A through G) in support of their merit brief. S.Ct.Prac.R. 12.06, 12.08(A)(2)(a).

Respectfully submitted,

/s/ Matthew G. Vansuch  
Matthew G. Vansuch (0079328)  
Brouse McDowell LPA

*Counsel for Respondents*

#### CERTIFICATE OF SERVICE

I certify that a copy of this *Notice of Filing of Affidavit of Matt Vazzana* was sent by email to the counsel identified on the cover page on August 25, 2022.

/s/ Matthew G. Vansuch  
Matthew G. Vansuch (0079328)  
Brouse McDowell LPA

*Counsel for Respondents*

[1502213.1]