

CITY COUNCIL AGENDA

July 2, 2018

7:30p.m.

The meeting convenes at City Hall, in Council Chambers, 1st Floor, 538 N. Market Street, Wooster, Ohio.

I. ROLL CALL & ORDERING OF AGENDA

II. APPROVAL OF MINUTES

III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION

Mayor's Recommendation: John Scavelli for the Law Director position.

IV. PETITIONS/COMMUNICATIONS FROM PUBLIC

1. LiquorControl Notice – D3
Styx Acquisition LLC
336 N. Market Street & Patio
Wooster, Ohio 44691

V. COMMITTEE REPORTS; PUBLIC HEARINGS

VI. UNFINISHED BUSINESS

VII. NEW BUSINESS

1. First Reading – ORDINANCE NO. 2018-010
A RESOLUTION STATING TO THE WAYNE COUNTY COMMISSIONERS, PURSUANT TO REVISED CODE SECTION 709.03, THE SERVICES WHICH THE CITY OF WOOSTER WOULD BE ABLE TO PROVIDE FOR A SINGLE PARCEL SITE KNOWN AS 4430 FRIENDSVILLE ROAD, WOOSTER, OHIO (PARCEL 53-00456.00) WHICH IS BOUND BY THE WOOSTER CITY LIMITS TO ITS EAST, SOUTH AND WEST AND WHICH IS BISECTED BY FRIENDSVILLE ROAD, AND DECLARING AN EMERGENCY. (J. Alex Quayl, Esq., Agent for Petitioners James R. Richard, Dale D. Richard, Suzanne M. Short, and Sally J. Schreck) (Sanders)
2. First Reading – ORDINANCE NO. 2018-011
AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERMANENT EASEMENT FOR AN ENCROACHMENT UPON THE PUBLIC RIGHT-OF-WAY, AND DECLARING AN EMERGENCY (Sanders)
3. First Reading – ORDINANCE NO. 2018-012
AN ORDINANCE AMENDING CHAPTER 162, MANAGEMENT BENEFITS, OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO (Sanders)
4. First Reading – RESOLUTION NO. 2018-044
A RESOLUTION REQUESTING THAT THE PLANNING COMMISSION, PURSUANT TO WOOSTER CODIFIED ORDINANCE SECTION 1105.03, REVIEW AND CONSIDER PROPOSED TEXT AMENDMENT TO THE PLANNING AND ZONING CODE SECTION 1113.01 (Sanders)
5. First Reading – ORDINANCE NO. 2018-013
AN ORDINANCE AMENDING CHAPTER 949 OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO, WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC WAY AND DECLARING AN EMERGENCY (Sanders)

VIII. MISCELLANEOUS

IX. ADJOURNMENT

NOTICE TO LEGISLATIVE
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

86538890010		NEW		STYX ACQUISITION LLC 336 N MARKET ST & PATIO WOOSTER OHIO 44691
PERMIT NUMBER		TYPE		
ISSUE DATE				
06 15 2018				
FILING DATE				
D3				
PERMIT CLASSES				
85	165	B	C01674	
TAX DISTRICT		RECEIPT NO.		

FROM 06/20/2018

PERMIT NUMBER		TYPE	
ISSUE DATE			
FILING DATE			
PERMIT CLASSES			
TAX DISTRICT		RECEIPT NO.	



MAILED 06/20/2018

RESPONSES MUST BE POSTMARKED NO LATER THAN. 07/23/2018

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES

B NEW 8653889-0010

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF WOOSTER CITY COUNCIL
538 N MARKET ST
PO BOX 1128
WOOSTER OHIO 44691

ORDINANCE NO. 2018-010

A RESOLUTION STATING TO THE WAYNE COUNTY COMMISSIONERS, PURSUANT TO REVISED CODE SECTION 709.03, THE SERVICES WHICH THE CITY OF WOOSTER WOULD BE ABLE TO PROVIDE FOR A SINGLE PARCEL SITE KNOWN AS 4430 FRIENDSVILLE ROAD, WOOSTER, OHIO (PARCEL 53-00456.00) WHICH IS BOUND BY THE WOOSTER CITY LIMITS TO ITS EAST, SOUTH AND WEST AND WHICH IS BISECTED BY FRIENDSVILLE ROAD, AND DECLARING AN EMERGENCY. (J. Alex Quayl, Esq., Agent for Petitioners James R. Richard, Dale D. Richard, Suzanne M. Short, and Sally J. Schreck)

WHEREAS, J. Alex Quay, Esq., agent for Petitioners, has, pursuant to Revised Code Section 709.023, filed a petition with the Wayne County Commissioners seeking annexation of 162.213 acres of land owned by petitioners in Wayne Township, adjacent to the City of Wooster (a map of said area is attached hereto); and

WHEREAS, Revised Code Section 709.023 provides that upon the clerk of the municipal legislative authority receiving notice of a proposed annexation, the municipal legislative authority shall, by ordinance or resolution, adopt a statement indicating what services, if any, the municipal corporation will be able to provide upon annexation of the territory proposed for annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WOOSTER, OHIO:

SECTION 1: That upon annexation to the City of Wooster, the land contained in the petition for annexation would receive the following services from the City of Wooster:

- A. Police protection from the full-time police department of the City of Wooster; and fire protection and emergency squad services from the full-time fire department of the City of Wooster. The projected response time for first arriving fire and emergency units is 4 minutes. Full force travel time would be 10 minutes from stations #1 and #3. These services would be immediately available, and the addition of this area as an R-1 residential district would have little impact to Fire and Police divisions. Higher density commercial or residential development would not affect response times, but could increase call volumes, and require additional safety forces staffing in the future.
- B. A twelve-inch water line is located at the intersection of Friendsville and Riffel Roads, immediately adjacent to the territory proposed for annexation and immediately accessible for extension thereto. The water plant and water resources of the City of Wooster have sufficient capacity to serve this property. This service would be immediately available upon the Petitioners paying the necessary fees and obtaining the necessary permits.
- C. An eight-inch sanitary sewer line and lift station is located on Friendsville Road, approximately 400 feet south of the territory proposed for annexation and

immediately accessible for extension thereto. The water pollution control plant has sufficient capacity to serve this property. This service would be immediately available upon the Petitioners paying the necessary fees and obtaining the necessary permits. Future, higher density development of the site may require upgrades to the sanitary lift station.

- D. The City would also provide miscellaneous other city services, including, but not limited to, residential solid waste pickup, maintenance of dedicated streets and access to parks and recreation facilities. These services would be immediately available.

SECTION 2. This Council finds and declares that all formal actions concerning and relating to the adoption of this resolution occurred in an open meeting of this Council or its committees, in compliance with law.

SECTION 3. This Resolution is hereby declared to be an emergency measure necessary to the immediate preservation of the public health, peace, safety and welfare of the City or providing for the usual daily operation of a municipal department or division, and for the further reason that it is necessary to act pursuant to statute to provide timely notice to the Wayne County Commissioners of services which the City would provide in order to facilitate the orderly process of annexation; wherefore, this Resolution shall be in full force and effect from and immediately after its passage and approval by the Mayor; provided it receives the affirmative vote of at least three-fourths of the members of the Council; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

1st reading _____ 2nd reading _____ 3rd reading _____

Passed: _____, 2018 Vote: _____

Attest: _____
Clerk of Council President of Council

Approved: _____, 2018 _____
Mayor

Introduced by: Craig Sanders

Request for Agenda Item

Authorization for Bid

☐

Purchase Capital Item

☐

Non-Capital

☒

Division Planning and Zoning	Meeting Date Requested 7/2/18
Project Name Annexation of Parcel 53-00456.000	Estimated Total Funds/Costs \$0
Is Full Amount Budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, three readings NOT REQUIRED N/A	
If No, How is the Purchase to be Funded?	
Description of Request <p>A petition to annex Parcel Number 53-00456.00, 162.2193 acres located on the south side of Smithville Western Road and east and west sides of Friendsville Road, into the City of Wooster.</p> <p>The applicant submitted an Expedited Type 2 annexation petition on June 25, 2018. Section 709.023 of the Ohio Revised Code includes procedural requirements for such annexation. The Section requires that the City <i>shall</i> adopt an ordinance or resolution within 20 days of the submitted petition stating what services the City will provide, and an approximate date by which it will provide them to the property. In addition, the Section also requires that within 25 days of the submitted petition, the City <i>may</i> adopt an ordinance or resolution consenting or objecting to the proposed annexation. Any objection must be solely based on conditions found in Section 709.023(E) of the Ohio Revised Code. If the City fails to adopt such an ordinance or resolution, the annexation is deemed to be consented by the City.</p> <p>Zoning In a typical annexation process, a Zoning Map Amendment application is made by the property owner proposing a zoning district for the property prior to annexation. The application is first reviewed by the Planning Commission, which includes a public hearing and recommendation to City Council. The application is then reviewed by City Council, which includes another public hearing and approval of an ordinance. The ordinance approving the zoning district is passed at the same City Council meeting as the ordinance accepting annexation. Due to timing and notification requirements, the process typically takes around 90 days.</p> <p>However, a property is not required to proceed through the Zoning Map Amendment process prior to annexation. Per Section 1107.04(c) of the Planning and Zoning Code: "If City Council does not simultaneously accept an annexation and designate a zoning district, the territory annexed shall become an R-1 Suburban Single-Family Residential District until otherwise classified".</p> <p>The owner of the subject 162-acre property has not proceeded through the Zoning Map Amendment process at this time. Therefore, if the property is accepted to be annexed into the City, it will be zoned R-1 Suburban Single-Family Residential. Any future change in zoning will be required to proceed through the formal Zoning Map Amendment process as described above and as found in Section 1105.03 of the Planning and Zoning Code.</p> <p>Permitted uses in the R-1 District include Agriculture (Raising of Crops), Single Family Detached Dwellings, and Parks and Open Space.</p> <p>Permitted Uses with Standards in the R-1 District include Community Gardens, Cluster Residential Developments and Group Homes/Residential Facilities.</p> <p>Conditional uses in the R-1 District include Active Recreational Uses, Cemeteries, Community Recreational Facilities, Cultural Facilities, Educational Institutions (K-12), Government Facilities and Offices, Nursery Schools/Day Cares, Places of Worship, and Utility Facilities.</p>	

Justification / Benefits

The City will gain a large property capable of supporting future development. The City is currently in need of developable land to support needed residential and commercial development, which the property may support in the future.

Will this Project affect the City's Operating Costs

Upon annexation, the property, which currently is used for agriculture and one single-family home, would require road maintenance of Friendsville Road and the southern half of Smithville Western Road. Projected development of the area could require additional services by the city including additional road maintenance, police service and fire service, depending on the type and extent of development. Current services are adequate to serve this area.

What Alternatives Exist and what are the Implications of the Alternatives

If the property is not annexed into the City, development may occur in Wayne Township without City regulations and services. In addition, if the property is not annexed, it may remain undeveloped for a longer period of time as City utilities and services will not be available

Is this a Sole Source Bid or Non-Bid Situation ☐ Yes ☒ No

If Yes, Explain The Circumstances:

Is there a need for Suspension of the Rules or a Time Frame when this must be passed? ☒ Yes ☐ No

If Yes, Note Reasons

The requirements of Section 709.023 require the City to pass an ordinance or resolution prior to the next regularly scheduled City Council meeting.

NOTE: Emergency Clause Required if Legislative Effective Date is IMMEDIATE.

Manager Requesting: Andrew Dutton/Joel Montgomery

Date: 6/28/18

Approved for Agenda ☒ Yes ☐ No

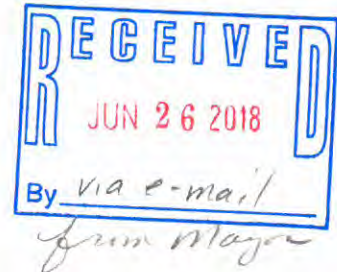


J. Alex Quay
Attorney at Law
Direct Dial 330.434.4730
aquay@brouse.com

June 25, 2018

VIA HAND DELIVERY

Wayne County Commissioners
Attn: Diane L. Austen, Clerk
County Administration Building
428 West Liberty Street
Wooster, OH 44691



Re: Annexation of 162.2217 Acres to the City of Wooster

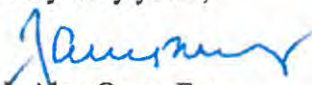
Ms. Austen:

Pursuant to R.C. 709.023, I am submitting the enclosed Expedited Type 2 Petition for the Annexation of 162.2217 acres to the City of Wooster on behalf of Petitioners James M. Richard, Dale D. Richard, Suzanne M. Short, and Sally J. Schreck, which includes the following:

1. An original and four copies of the Expedited Type 2 Petition, with the following attached Exhibits:
 - a. Exhibit A – Legal Description of the Proposed Territory to be Annexed
 - b. Exhibit B – 8 ½ x 11 Map of the Proposed Territory to be Annexed
 - c. Exhibit C – A list of Adjoining Parcels, Current Owners, and Addresses.
2. An original Mylar/Plat Map.
3. An Expedited Type 2 Annexation Petition Deposit Check in the amount of \$150.00.

Please contact my office if you have any questions or concerns.

Very truly yours,


J. Alex Quay, Esq.
Agent for Petitioners

cc: James Richard

**PETITION FOR ANNEXATION
TO THE CITY OF WOOSTER
OF 162.2193 ACRES, MORE OR LESS
IN THE TOWNSHIP OF WAYNE
(Expedited Type 2 Petition O.R.C. § 709.023)**

**TO THE BOARD OF COUNTY COMMISSIONERS
OF WAYNE COUNTY, OHIO**

The undersigned, petitioners in the premises, and being ALL OF THE OWNERS OF REAL ESTATE (100% Owner Signed) in the territory described, consisting of 162.2193 acres, more or less, in the Township of Wayne, which area is contiguous and adjacent to the City of Wooster, do hereby petition for the annexation of the following territory to the City of Wooster, Wayne County, Ohio.

Legal Description is attached as Exhibit A and incorporated herein.

Attached hereto as Exhibit B is an accurate map/plat showing the boundaries of the territory sought to be annexed, marked, "Map for Annexation to the City of Wooster".

There are 4 owners of real estate in the territory sought to be annexed.

James M. Richard (address below) along with Craig S. Horbus, Esq., Irving B. Sugerman, Esq. and J. Alex Quay, Esq., of 388 South Main St., Suite 500, Akron, Ohio 44311 are hereby appointed as Agents for the undersigned Petitioners, as required by Section 709.02 of the Revised Code of Ohio, with full power to amend, increase or decrease the area, to do any and all things essential hereto, and to take any action necessary for obtaining the granting of this petition, without further expressed consent of the petitioners.

<u>PETITIONER'S NAME</u>	<u>ADDRESS</u>	<u>PARCEL NO.</u>
1. James M. Richard	127 East Liberty St. Suite 100 Wooster, Ohio 44691	53-00456.000
2. Dale D. Richard	481 Sanchez San Francisco, CA 94114-1302	53-00456.000
3. Suzanne M. Short	801 Foxbriar Lane Goshen, IN 46526	53-00456.000
4. Sally J. Schreck	64706 Orchard Dr. Goshen, IN 46526	53-00456.000

The undersigned, petitioners in the premises, in the territory described above, in the Township of Wayne, do hereby petition for annexation to the City of Wooster, Wayne County, Ohio and request that the Board of County Commissioners for Wayne County follow those requirements as outlined in Section 709.023 of the Revised Code of Ohio.

"WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE"

-SIGNATURE PAGES FOLLOW-

**PETITION FOR ANNEXATION
TO THE CITY OF WOOSTER
OF 162.2193 ACRES, MORE OR LESS
IN THE TOWNSHIP OF WAYNE
(Expedited Type 2 Petition O.R.C. § 709.023)
SIGNATURE #1**

Dated: 5.7.2018

James M. Richard, Petitioner

STATE OF OHIO)
) SS:
COUNTY OF WAYNE)

BEFORE ME a notary public, in and for said county and state, personally appeared the above-named **James M. Richard**, who acknowledged that he did sign the foregoing Petition for Annexation, and duly acknowledged to me that he executed the same as Petitioner as aforesaid and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Wooster, Ohio this 7th day of May, 2018.



PAMELA A. WRIGHT
Notary Public, State of Ohio
My Commission Expires
February 22, 2021

Notary Public

**PETITION FOR ANNEXATION
TO THE CITY OF WOOSTER
OF 162.2193 ACRES, MORE OR LESS
IN THE TOWNSHIP OF WAYNE
(Expedited Type 2 Petition O.R.C. § 709.023)
SIGNATURE #2**

Dated: 05/01/18

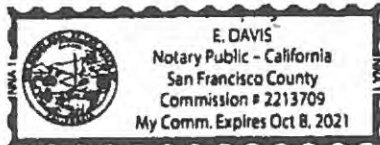
Dale D. Richard
Dale D. Richard, Petitioner

STATE OF CALIFORNIA)
) SS:
COUNTY OF San Francisco

BEFORE ME a notary public, in and for said county and state, personally appeared the above-named **Dale D. Richard**, who acknowledged that he did sign the foregoing Petition for Annexation, and duly acknowledged to me that he executed the same as Petitioner as aforesaid and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at San Francisco, California this 1st day of May, 2018.

E. Davis
Notary Public



**PETITION FOR ANNEXATION
TO THE CITY OF WOOSTER
OF 162.2193 ACRES, MORE OR LESS
IN THE TOWNSHIP OF WAYNE
(Expedited Type 2 Petition O.R.C. § 709.023)
SIGNATURE #3**

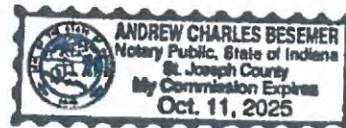
Dated: 4-27-18

Suzanne M. Short
Suzanne M. Short, Petitioner

STATE OF INDIANA)

COUNTY OF Elkhart)

SS:



BEFORE ME a notary public, in and for said county and state, personally appeared the above-named **Suzanne M. Short**, who acknowledged that she did sign the foregoing Petition for Annexation, and duly acknowledged to me that she executed the same as Petitioner as aforesaid and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Goshen, Indiana this 27th day of April, 2018.

Andrew Charles Besemer
Notary Public

**PETITION FOR ANNEXATION
TO THE CITY OF WOOSTER
OF 162.2193 ACRES, MORE OR LESS
IN THE TOWNSHIP OF WAYNE
(Expedited Type 2 Petition O.R.C. § 709.023)
SIGNATURE #4**

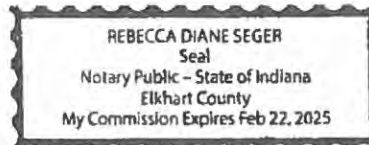
Dated: 4-30-18

Sally J. Schreck
Sally J. Schreck, Petitioner

STATE OF INDIANA)

COUNTY OF Elkhart)

SS:



BEFORE ME a notary public, in and for said county and state, personally appeared the above-named **Sally J. Schreck**, who acknowledged that she did sign the foregoing Petition for Annexation, and duly acknowledged to me that she executed the same as Petitioner as aforesaid and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Goshen, Indiana this 30 day of April, 2018.

Rebecca Diane Seger
Notary Public



Description of a 162.2193 Acre Annexation Parcel

Situated in the State of Ohio, County of Wayne, Township of Wayne, being in the Northeast and Northwest quarters of Section 21, Township 16N, Range 13W, being that 162.2193 Acre tract conveyed to James M. Richard, Suzanne M. Short, Sally J. Schreck and Dale D. Richard as described in Official Record Volume 824, Page 1252, in the records of the Wayne County Recorder and being more particularly described as follows:

Commencing at an iron pin found in a Monument Box at the centerline intersection of Burbank Road and Smithville Western Road, said iron pin being in the Northerly Section Line of said Northwest quarter of Section 21;

Thence continuing South 89°41'50" East with said Northerly line of said Northwest Quarter of Section 21 a distance of 1669.06 feet to a mag nail to be set at the Northeast corner of a 39.316 acre parcel conveyed by deed to the Grace Brethren Church of Wooster in Deed Volume 673, Page 220, said mag nail being the Point of Beginning of the parcel to be described;

Course 1. Thence continuing with said Northerly Section Line South 89°41'50" East a distance of 429.49 feet to the Quarter Section Line, referenced by an iron pin found South 0°24'27" East a distance of 50.51 feet;

Course 2. Thence with the Northerly line of the Northeast Quarter of Section 21 South 89°52'37" East a distance of 2620.43 feet to an iron pin to be set at the Northeast corner of said Section 21;

Course 3. Thence with the Easterly Section line of said Section 21 and a Westerly line of the Wilson Smith Allotment and a Westerly line of that 67.181 acre parcel conveyed by deed to Conard Stitzlein et al in Official Record Volume 718 Page 444 South 00°19'00" East a distance of 2653.84 feet to an iron pin found at the Quarter Section Line of Section 21, said pin being on a Northerly line of that 42.56 acre parcel conveyed by deed to the City of Wooster DBA Wooster Community Hospital in Official Record 504 Page 1360;

Course 4. Thence with said Northerly line South 89°55'30" West a distance of 1702.02 feet to an iron pin set on an Easterly line of that parcel conveyed by deed to the City of Wooster in Official Record Volume 741, Page 359, being Lot B in the Northeast Quarter of Section 21;

Course 5. Thence with said Easterly line along a curve to the left with a

TECHNICAL SKILL.
CREATIVE SPIRIT.



radius of 1482.39 feet, an arc length of 92.24 feet, an interior angle of 03°33'55" and a chord that bears North 11°14'02" West a distance of 92.23 feet to an iron pin to be set;

- Course 6. Thence with said Easterly line North 13°01'00" West a distance of 297.42 feet to an iron pin to be set;
- Course 7. Thence with said Easterly line North 18°43'38" West a distance of 201.00 feet to an iron pin to be set on a Northerly line of said Lot B;
- Course 8. Thence with said Northerly line South 76°59'00" West a distance of 30.00 feet to a point in the centerline of Friendsville Road (C.R.9) Right of Way;
- Course 9. Thence with said centerline South 13°07'12" East a distance of 238.94 feet to a point;
- Course 10. Thence leaving said centerline South 76°55'13" West a distance of 30.00 feet to the Westerly right of Way line of said Friendsville Road;
- Course 11. Thence with a curve to the right with a radius of 20.01 feet, an arc length of 35.95 feet, an interior angle of 102°55'28" and a chord that bears South 38°25'35" West a distance of 31.30 feet to an iron pin found on a Northerly Right of Way line of Riffel Road;
- Course 12. Thence with said Northerly Right of Way line South 89°54'56" West a distance of 638.93 feet to an iron pin to be set on an Easterly line of Hunter's Chase Condominiums Phases One Through Eight, being City of Wooster Lot Number 7461;
- Course 13. Thence with said Easterly line and an Easterly line of HCC Enterprises Inc., being City of Wooster Lot Number 7958, North 13°05'12" West a distance of 1256.62 feet to an iron pin found on an Easterly line of said Grace Brethren Church of Wooster parcel, passing an iron pin found on the Quarter Section Line at 471.20 feet;
- Course 14. Thence with said Easterly line North 13°07'10" West a distance of 1171.66 feet to the Point of Beginning passing iron pins found at 1076.78 feet and 1109.97 feet and containing 162.2193 acres be the same more or less but subject to all legal highways and easements of record.

Basis of Bearings is the Ohio State Plane (North) Coordinate System, NAD 83. Pins set will be 5/8" rebar with a plastic cap marked "Mannik & Smith Group Inc"

Greg Schunck,
Professional Surveyor # 8374



Description of a 158.8212 Acre Annexation Parcel with Right of Way Exceptions

Situated in the State of Ohio, County of Wayne, Township of Wayne, being in the Northeast and Northwest quarters of Section 21, Township 16N, Range 13W, being part of that 162.2193 Acre tract conveyed to James M. Richard, Suzanne M. Short, Sally J. Schreck and Dale D. Richard as described in Official Record Volume 824, Page 1252, in the records of the Wayne County Recorder and being more particularly described as follows:

Commencing at an iron pin found in a Monument Box at the centerline intersection of Burbank Road and Smithville Western Road, said iron pin being in the Northerly Section Line of said Northwest quarter of Section 21;

Thence continuing South 89°41'50" East with said Northerly line of said Northwest Quarter of Section 21 a distance of 1669.06 feet to a mag nail to be set at the Northeast corner of a 39.316 acre parcel conveyed by deed to the Grace Brethren Church of Wooster in Deed Volume 673, Page 220; Thence leaving said Northerly Section line South 13° 07' 10" East a distance of 46.27 feet to an iron pin to be set in the proposed Southerly Right-of-Way of Smithville Western Road, said iron pin being the Point of Beginning of the parcel to be described:

- Course 1. Thence continuing with the proposed Southerly Right-of-Way South 89°40'51" East a distance of 36.81 feet to an iron pin to be set;
- Course 2. Thence continuing with said proposed Southerly Right-of-Way South 86°14'50" East a distance of 250.45 feet to an iron pin to be set;
- Course 3. Thence continuing with said proposed Southerly Right-of-Way South 89°47'28" East a distance of 300.21 feet to an iron pin to be set;
- Course 4. Thence with said proposed Southerly Right-of-Way South 81°20'51" East a distance of 202.24 feet to an iron pin to be set;
- Course 5. Thence with said proposed Southerly Right-of-Way North 81°01'55" East a distance of 253.18 feet to an iron pin to be set;
- Course 6. Thence continuing with said proposed Southerly Right-of-Way South 89°52'40" East a distance of 200.00 feet to an iron pin to be set;
- Course 7. Thence with said proposed Southerly line North 80°39'36" East a distance of 61.52 feet to an iron pin to be set;

TECHNICAL SKILL.
CREATIVE SPIRIT.

- Course 8. Thence parallel with and 40 feet south of the centerline of the Right of Way of Smithville Western road as it now exists South $89^{\circ}52'37''$ East a distance of 1741.97 feet to an iron pin to be set;
- Course 9. Thence leaving the proposed Southerly Right-of-Way of Smithville Western Road and with the Easterly Section line of said Section 21 and a Westerly line of the Wilson Smith Allotment and a Westerly line of that 67.181 acre parcel conveyed by deed to Conard Stitzlein et al in Official Record Volume 718 Page 444 South $00^{\circ}19'00''$ East a distance of 2613.54 feet per plat to an iron pin found at the Quarter Section Line of Section 21, said pin being on a Northerly line of that 42.56 acre parcel conveyed by deed to the City of Wooster DBA Wooster Community Hospital in Official Record 504 Page 1360;
- Course 10. Thence with said Northerly line South $89^{\circ}55'30''$ West a distance of 1702.02 feet to an iron pin set on an Easterly line of that parcel conveyed by deed to the City of Wooster in Official Record Volume 741, Page 359, being Lot B in the Northeast Quarter of Section 21;
- Course 11. Thence with said Easterly line along a curve to the left with a radius of 1482.39 feet, an arc length of 92.24 feet, an interior angle of $03^{\circ}33'55''$ and a chord that bears North $11^{\circ}14'02''$ West a distance of 92.23 feet to an iron pin to be set;
- Course 12. Thence with said Easterly line North $13^{\circ}01'00''$ West a distance of 297.42 feet to an iron pin to be set;
- Course 13. Thence with said Easterly line North $18^{\circ}43'38''$ West a distance of 201.00 feet to a point on a Northerly line of said Lot B;
- Course 14. Thence with said Norrly line South $76^{\circ}59'00''$ West a distance of 30.00 feet to a point in the original centerline of Friendsville Road (C.R.9);
- Course 15. Thence with said original centerline South $13^{\circ}07'12''$ East a distance of 238.94 feet to a point;
- Course 16. Thence South $76^{\circ}55'13''$ West a distance of 30.00 feet to a point in the original Westerly Right of Way line of said Friendsville Road;
- Course 17. Thence along a curve to the Right with a radius of 20.01 feet, an arc length of 35.95 feet, an interior angle of $102^{\circ}55'28''$ and a chord that bears South $38^{\circ}25'35''$ West a distance of 31.30 feet to an iron pin found on a Northerly Right of Way line of Riffel Road;
- Course 18. Thence with said Northerly Right of Way line South $89^{\circ}54'56''$ West a distance of 638.93 feet to an iron pin to be set on an Easterly line of Hunter's Chase Condominiums Phases One Through Eight, being City of Wooster Lot Number 7461;

Course 19. Thence with said Easterly line and an Easterly line of HCC Enterprises Inc., being City of Wooster Lot Number 7958, North 13°05'12" West a distance of 1256.62 feet to an iron pin found on an Easterly line of said Grace Brethren Church of Wooster parcel, passing an iron pin found on the Quarter Section Line at 471.20 feet;

Course 20. Thence with said Easterly line North 13°07'10" West a distance of 1125.39 feet to the Point of Beginning passing iron pins found at 1076.78 feet and 1109.97 feet and containing 158.8212 acres more or less but subject to all legal highways and easements of record.

EXCEPTING THEREFROM:

A parcel of land located in the 158.8212 acre parcel described above being a permanent Right of Way for Friendsville Road described as follows:

Commencing at an iron pin found in a Monument Box at the centerline intersection of Burbank Road and Smithville Western Road, said iron pin being in the Northerly Section Line of said Northwest quarter of Section 21;

Thence continuing South 89°41'50" East with said Northerly line of said Northwest Quarter of Section 21 a distance of 1669.06 feet to a mag nail to be set at the Northeast corner of a 39.316 acre parcel conveyed by deed to the Grace Brethren Church of Wooster in Deed Volume 673, Page 220; Thence leaving said Northerly Section line South 13° 07' 10" East a distance of 46.27 feet to an iron pin to be set in the proposed Southerly Right-of-Way of Smithville Western Road; Thence with said proposed Southerly Right of Way of Smithville Western Road South 89°40'51" East a distance of 36.81 feet to an iron pin to be set; Thence continuing with said proposed Southerly Right-of-Way South 86°14'50" East a distance of 250.45 feet to an iron pin to be set; Thence South 89°47'28" East a distance of 300.21 feet to an iron pin to be set on the proposed Westerly Right of Way of Friendsville road, said iron pin being the Point of Beginning of the parcel to be described:

Course 1. Thence with the proposed Southerly Right of Way line of Smithville Western road South 81°20'51" East a distance of 202.24 feet to an iron pin to be set on the proposed Easterly Right of Way line of Friendsville road;

Course 2. Thence with said Easterly Right of Way and crossing that tract of land conveyed to James M. Richard, Suzanne M. Short, Sally J. Schreck and Dale D. Richard in Volume 824, Page 1252 South 43°09'21" West a distance of 40.96 to an iron pin to be set;

Course 3. Thence with said Easterly Right of Way and across said tract South 13°07'03" East a distance of 395.00 feet to an iron pin to be set;

- Course 4. Thence with said Easterly Right of Way and across said tract North 76°52'57" East a distance of 9.00 feet to an iron pin to be set;
- Course 5. Thence with said Easterly Right of Way and across said tract South 13°07'03" East a distance of 20.00 feet to an iron pin to be set;
- Course 6. Thence with said Easterly Right of Way and across said tract South 76°52'57" West a distance of 9.00 feet to an iron pin to be set;
- Course 7. Thence with said Easterly Right of Way and across said tract South 13°07'03" East a distance of 30.00 feet to an iron pin to be set;
- Course 8. Thence with said Easterly Right of Way and across said tract South 13°07'12" East a distance of 1728.16 feet to an iron pin to be set on the Easterly line of a tract of land conveyed by deed to the City of Wooster in Official Record Volume 741, Page 359, being Lot B in the Northeast Quarter of Section 21;
- Course 9. Thence with said Easterly line North 18°43'38" West a distance of 154.35 feet to a point on a Northerly line of said Lot B;
- Course 10. Thence with said Northerly line South 76°59'00" West a distance of 30.00 feet to a point in the original centerline of Friendsville Road (C.R.9);
- Course 11. Thence with said original centerline South 13°07'12" East a distance of 238.94 feet to a point;
- Course 12. Thence South 76°55'13" West a distance of 30.00 feet to the original Westerly Right of Way line of said Friendsville Road;
- Course 13. Thence with a curve to the Right with a radius of 20.01 feet, an arc length of 14.31 feet, an interior angle of 40°57'58" and a chord that bears South 07° 26' 50" West a distance of 14.00 feet to an iron pin to be set at the intersection of the proposed Westerly Right of Way of Friendsville road and the Northerly Right of Way of Riffel road;
- Course 14. Thence leaving said Northerly Right of Way of Riffel Road with said proposed Westerly Right of Way and crossing said Richard, et al tract North 13°07'12" West a distance of 1782.80 feet to an iron pin to be set;
- Course 15. Thence with said proposed Westerly Right of Way crossing said Richard, et al tract North 37°04'48" East a distance of 36.93 feet to an iron pin to be set;
- Course 16. Thence with said proposed Westerly Right of Way crossing said Richard, et al tract North 13°50'01" West a distance of 400.03 feet to an iron pin to be set;

Course 17. Thence with said proposed Westerly Right of Way crossing said Richard, et al tract North 37° 53' 33" West a distance of 71.59 feet to an iron pin to be set;

Course 18. Thence with said proposed Westerly Right of Way crossing said Richard, et al tract North 28° 15' 42" West a distance of 90.91 feet to the Point of beginning and containing 4.3609 acres more or less but subject to all legal highways and easements of record.

Basis of Bearing is the Ohio State Plane (North) Coordinate System, NAD 83. Pins set will be 5/8" rebar with a plastic cap marked "Mannik & Smith Group Inc."

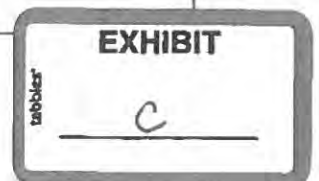
Greg L. Schuck
Professional Surveyor #8374



[Handwritten Signature] 04-30-18

Exhibit C – List of Adjoining Parcels, Current Owners, and Addresses

Name	Parcel Address	Tax Mailing Address	Parcel #
Ewing Terrence	5642 Friendsville Rd. Wooster, OH 44691	2317 Bramble Ln. Wooster, OH 44691	53-00322.000
Bowen Realty Holdings, LLC	5061 Friendsville Rd. Wooster, OH 44691	28907 State Route 643 Fresno, OH 43824	53-00108.000
Ohio Power Company	Smithville Western Rd. Wooster, OH 44691	P.O. Box 16428 Columbus, OH 43216	53-01205.004
Kimberly Coates	E Smithville Western Rd. Wooster, OH 44691	584 E Smithville Western Rd. Wooster, OH 44691	53-00561.000
Kimberly Coates	584 E Smithville Western Wooster, OH 44691	584 E Smithville Western Rd. Wooster, OH 44691	53-00562.000
Betty J. Snyder	Canaan Center Rd. Wooster, OH 44691	5168 Canaan Center Rd. Wooster, OH 44691	53-01205.000
Saber Properties Ltd.	Canaan Center Rd. Wooster, OH 44691	5022 Canaan Center Rd. Wooster, OH 44691	53-01205.005
Crum, John L. & Patricia L.	E Smithville Western Rd. Wooster, OH 44691	1428 E Smithville Western Rd. Wooster, OH 44691	53-01193.004
Allen, Barbara C. Tod	1215 E Smithville Western Rd. Wooster, OH 44691	1215 E Smithville Western Rd. Wooster, OH 44691	71-00379.000
Dilyard Lynne	4768 Ogden Dr. Wooster, OH 44691	4768 Ogden Dr. Wooster, OH 44691	71-00379.003
Kara Anderson*	4728 Ogden Dr. Wooster, OH 44691	3925 Peabody Pl. Wooster, OH 44691	71-00407.000
Susan Foster	4716 Ogden Dr. Wooster, OH 44691	7401 Louisburg Rd. Raleigh, NC 47616	71-00408.000
Sally Sackett	4706 Ogden Dr. Wooster, OH 44691	4706 Ogden Dr. Wooster, OH 44691	71-00409.000
Stitzlein Conard, et al.	4591 Country Ln. Wooster, OH 44691	4591 Country Ln. Wooster, OH 44691	71-00146.002



Stitzlein Conard, et al.	Merle Ave. Wooster, OH 44691	4551 State Route 514 Glenmont, OH 44628	71-00145.000
Wooster Community Hospital	4153 Friendsville Rd. Wooster, OH 44691	1761 Beall Ave. Wooster, OH 44691	73-00001.000
Ohio Greenbriar Associates	50 Riffel Rd. Wooster, OH 44691	50 Riffel Rd. Wooster, OH 44691	67-02849.002
Certified Angus Beef, LLC	206 Riffel Rd. Wooster, OH 44691	206 Riffel Rd. Wooster, OH 44691	67-02863.001
Hunter's Chase Condominiums	4320 Hunters Chase Ln. Wooster, OH 44691	5227 Galway Cir. NW North Canton, OH 44720	67-02863.017
HCC Enterprises, LLC	Hunters Chase Ln. Wooster, OH 44691	5227 Galway Cir. NW North Canton, OH 44720	67-02863.180
Grace Brethren Church	W Smithville Western Rd. Wooster, OH 44691	4599A Burbank Rd. Wooster, OH 44691	67-02864.000

*Denotes current owner of Parcel No. 71-00407.000, identified as Bee Belva, the prior owner, on Wooster Annexation Plat filed in conjunction with the Petition for Annexation.

EXPEDITED TYPE 2 ANNEXATION PLAT OF 162.2193
ACRES FROM THE TOWNSHIP OF WAYNE TO THE CITY OF
WOOSTER CREATING DUAL JURISDICTION LOT NO. _____

SITUATED IN THE STATE OF OHIO, COUNTY OF WAYNE, TOWNSHIP OF WAYNE AND BEING PARTS
OF THE NORTHEAST AND NORTHWEST QUARTERS OF SECTION 21, TOWNSHIP 16N, RANGE 13W

EXHIBIT

B

3/2/2018

ACCEPTANCE

DATED _____
JAMES M. RICHARD, PERFORMER

STATE OF OHIO }
COUNTY OF WAYNE } SS

BEFORE ME A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE
ABOVE-NAMED JAMES M. RICHARD, WHO ACKNOWLEDGED THAT HE DID SIGN THE FOREGOING PERFORM FOR
ANNEXATION, AND DULY ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS PERFORMER AS AFORESAID
AND THAT THE SAME IS HIS FREE ACT AND DEED.

IN TESTAMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL AT _____
OHIO THIS _____ DAY OF _____, 2018.

NOTARY PUBLIC

DATED _____
DALE D. FRYHARD, PERFORMER

STATE OF CALIFORNIA }
COUNTY OF _____ } SS

BEFORE ME A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE
ABOVE-NAMED DALE D. FRYHARD, WHO ACKNOWLEDGED THAT HE DID SIGN THE FOREGOING PERFORM FOR
ANNEXATION, AND DULY ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS PERFORMER AS AFORESAID
AND THAT THE SAME IS HIS FREE ACT AND DEED.

IN TESTAMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL AT _____
CALIFORNIA THIS _____ DAY OF _____, 2018.

NOTARY PUBLIC

DATED _____
SUZANNE M. SHORT, PERFORMER

STATE OF INDIANA }
COUNTY OF _____ } SS

BEFORE ME A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE
ABOVE-NAMED SUZANNE M. SHORT, WHO ACKNOWLEDGED THAT SHE DID SIGN THE FOREGOING PERFORM FOR
ANNEXATION, AND DULY ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME AS PERFORMER AS AFORESAID
AND THAT THE SAME IS HER FREE ACT AND DEED.

IN TESTAMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL AT _____
INDIANA THIS _____ DAY OF _____, 2018.

NOTARY PUBLIC

DATED _____
SALLY J. SCHRECK, PERFORMER

STATE OF INDIANA }
COUNTY OF _____ } SS

BEFORE ME A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE
ABOVE-NAMED SALLY J. SCHRECK, WHO ACKNOWLEDGED THAT SHE DID SIGN THE FOREGOING PERFORM FOR
ANNEXATION, AND DULY ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME AS PERFORMER AS AFORESAID
AND THAT THE SAME IS HER FREE ACT AND DEED.

IN TESTAMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL AT _____
INDIANA THIS _____ DAY OF _____, 2018.

NOTARY PUBLIC



WORTHY MAP N.T.S.

ACREAGE SUMMARY

TOTAL AREA TO BE ANNEXED IS 162.2193 ACRES
FUTURE PARCEL - 134.4733 ACRES
ACRES IN THE NE 1/4 - 114.5258
ACRES IN THE NW 1/4 - 8.8515
FREMONTVILLE RD ROW DEDICATION - 4.5539 ACRES
FAIRHILL WESTERN RD ROW DEDICATION NE 1/4 - 2.8707 ACRES
FAIRHILL WESTERN RD ROW DEDICATION NW 1/4 - 0.5274 ACRES

APPROVALS

APPROVED THIS _____ DAY OF _____, 2018 BY THE WAYNE
COUNTY COMMISSIONERS

RON AMSTUTZ

ANDY W. OBRECHT

SUE SWARTZ

ACCEPTED BY THE CITY OF WOOSTER, BY RESOLUTION/ORDINANCE NUMBER _____
AT ITS MEETING HELD ON THE _____ DAY OF _____, 2018

MAYOR _____
ROBERT E. BRENNEMAN

SECRETARY _____

APPROVED THIS _____ DAY OF _____, 2018 BY THE CITY OF
WOOSTER PLAYING AND ZONING MANAGER

ANDREW DUTTON

APPROVED THIS _____ DAY OF _____, 2018 BY THE CITY OF
WOOSTER ENGINEER

ROGER F. OBLARSKI

APPROVED FOR RECORDING THIS _____ DAY OF _____, 2018 BY
THE WAYNE COUNTY MAP OFFICE

BY: _____
DOUGLAS K. GREEN

RECEIVED FOR TRANSFER THIS _____ DAY OF _____, 2018 BY THE
WAYNE COUNTY AUDITOR

BY: _____
LINDA FORMER DEPUTY

FEE _____

RECEIVED FOR RECORDING THIS _____ DAY OF _____
2018 BY THE WAYNE COUNTY RECORDER

BY: _____
JANE CARSMITH

FEE _____ TOTAL _____

RECORDED IN PLAT BOOK _____ PAGE _____, 100 _____ AT
_____ O'CLOCK _____

CREG SCHURICK, P.E.P.S. #8374

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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JAMES RICHARD
117 E. LIBERTY ST.
SUITE 100
WOOSTER, OH 44691

WOOSTER
ANNEXATION PLAT

1 / 2

[illegible]

NO	NAME	LOT	FACILITY ADDRESS	LOCAL FAC. ADDRESS	APPROX. F.
1	FAIRBANKS TRAIL	8	5842 FINE HAVEN LN BOZEMAN, MT 59717	7147 SPANGLER LN BOZEMAN, MT 59717	53-06321 0000
2	BORN & BORN TR. HAYDEN DR LLC	9	5851 FINE HAVEN LN BOZEMAN, MT 59717	72007 STATE HWY 101 MT 59717	53-06308 0000
3	CHAD ALLEN & CATHY ANN	10	7205 FINE HAVEN LN BOZEMAN, MT 59717	PO BOX 14179 BILLINGS, MT 59112	53-06307 0000
4	WHEELER & CATHY	9	1 DOWNHILL RD NW BOZEMAN, MT 59717	3404 E 3RD AVE BOZEMAN, MT 59717	53-06304 0000
5	WHEELER & CATHY	1	901 E 3RD AVE BOZEMAN, MT 59717	5842 E 3RD AVE BOZEMAN, MT 59717	53-06304 0000
6	WITTY & BISHOP	1	1 DOWNHILL RD NW BOZEMAN, MT 59717	5842 E 3RD AVE BOZEMAN, MT 59717	53-06304 0000
7	SANDRA JOHNSON LLC	1	1 DOWNHILL RD NW BOZEMAN, MT 59717	3277 SANDRA CATHY DR BOZEMAN, MT 59717	53-06304 0000
8	CHAD ALLEN & CATHY	1	1 DOWNHILL RD NW BOZEMAN, MT 59717	14179 STATE HWY 101 BOZEMAN, MT 59717	53-06307 0000
9	WILLIAM BISHOP & CATHY	779	721 E 3RD AVE BOZEMAN, MT 59717	121 E 3RD AVE BOZEMAN, MT 59717	79-06379 0000
10	DE HAVEN & HILL	1790	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
11	DE HAVEN	31	4700 DOWNHILL RD BOZEMAN, MT 59717	3675 DE HAVEN RD BOZEMAN, MT 59717	79-06379 0000
12	WILLIAM BISHOP	790	4700 DOWNHILL RD BOZEMAN, MT 59717	7400 LINDSEY RD BOZEMAN, MT 59717	79-06379 0000
13	WITTY & BISHOP	30	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
14	WILLIAM BISHOP & CATHY	4	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
15	WILLIAM BISHOP & CATHY	110	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
16	WILLIAM BISHOP & CATHY	10	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
17	CHAD ALLEN & CATHY	7450	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
18	WILLIAM BISHOP & CATHY	6000	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
19	WILLIAM BISHOP & CATHY	10	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
20	WILLIAM BISHOP & CATHY	779	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000
21	WILLIAM BISHOP & CATHY	4	4700 DOWNHILL RD BOZEMAN, MT 59717	4700 DOWNHILL RD BOZEMAN, MT 59717	79-06379 0000

**Mannik
Smith
GROUP**
TECHNICAL, COMMERCIAL,
CONSTRUCTION GROUP

JAMES RICHARD
121 S. LAMAR ST
SUITE 100
HOUSTON, TX 77001

WOOSTER
ANNEXATION PLAT



Robert F. Breneman, Mayor

CITY OF WOOSTER

538 N. Market Street
P.O. Box 1128
Wooster, Ohio 44691-7082

Kevin J. Gibbons

Deputy Director of Law
Phone: (330) 263-5243
Fax: (330) 263-5247
Email: kgibbons@woosteroh.com

MEMORANDUM

Date: June 28, 2018

To: City Council

From: Kevin J. Gibbons, Deputy Law Director

Re: Rubbermaid Encroachment Easement

This request was initiated due to a recent survey completed by R. W. Gasbarre & Associates in preparation for the sale of the downtown Rubbermaid building. It was discovered there are several minor encroachments, that have existed for decades, that need to be handled before the property can be transferred.

As we have done in the past, this ordinance acknowledges and documents the encroachments and provides legal documentation that will be recorded at the Wayne County Recorder's office.

ORDINANCE NO. 2018-011

AN ORDINANCE AUTHORIZING THE MAYOR TO
EXECUTE A PERMANENT EASEMENT FOR AN
ENCROACHMENT UPON THE PUBLIC RIGHT-OF-WAY,
AND DECLARING AN EMERGENCY

WHEREAS, the owner of Lots 64, 65, 66, 67 S. Pt., 73 S. Pt. of the 1870 Renumbering of Lots, Pg. 49 and Lot 2043, in the first block of South Market Street (as more fully described in Exhibit A, attached hereto) bounded on the south by a 20 foot public alley and on the east by South Market Street, with a sidewalk width in excess of fourteen (14) feet in the first block South of Liberty Street, has determined as part of recent survey work to replat and renumber those lots described above that the existing improvements on the land have encroached onto the public right-of-way for many years in three different respects, as reflected on the Plat attached as Exhibit B:

- (a) The east building wall (front wall) and cornerstones of the building built in 1887 encroach onto the public sidewalk by a maximum distance of 0.6 feet; and
- (b) Concrete step added when the Everything Rubbermaid store opened in 1992 onto a 20-foot wide dedicated public alley, named Beaver Alley, adjoining to the South, a maximum distance of 0.2 feet; and
- (c) Concrete ramp added when the Everything Rubbermaid store opened in 1992 onto a 20-foot wide dedicated public alley, named Beaver Alley, adjoining to the South, a maximum distance of 0.6 feet; and

WHEREAS, the existing sidewalk is in excess of fourteen (14) feet wide, and the encroachment of 0.6 feet by the building wall and cornerstones from the existing building line leaves sufficient room for the passage of pedestrians; and

WHEREAS, an easement of 0.2 feet for the concrete step and an easement of 0.6 feet for the concrete ramp, both extending into the 20 foot wide Beaver alley leaves sufficient room for vehicles and pedestrians who use that alley; and

WHEREAS, the Engineering Division has examined the location of each of the three encroachments and determined that none of the three encroachments will interfere with any current municipal interest.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WOOSTER, OHIO:

SECTION 1. That the Mayor is hereby authorized to grant a permanent easement for each of the three encroachments of the existing commercial structure located the land described on Exhibit A upon the public right-of-way as follows:

- (A) No more than 0.6 feet wide easement parallel to the east lot line onto the public sidewalk, beginning at the northeast corner of proposed Lot 9819 and continuing south a distance of 95.7 feet, being the area occupied by the existing east building wall and corner foundation stones; and

(B) No more than 0.2 feet wide easement parallel to the south lot line onto the public alley known as Beaver Alley beginning at a point 10.8 feet east of the southwest corner of Lot 9819, continuing east a distance of 14.8 feet, being the area occupied by the existing concrete step extending from the south lot line; and

(C) No more than 0.6 feet wide easement parallel to the south lot line onto the public alley known as Beaver Alley beginning at a point 0.9 feet west of the southeast corner of Lot 9819 continuing west a distance of 32.6 feet.

Each of the three easements described above is subject to the following limitations: (1) that it will be dissolved immediately upon the destruction, dismantling or removal of the structure constructed thereupon; and (2) that the property owner assumes all responsibility and liability for that which it owns, erects or otherwise places upon the easement, and for damage occurring to persons or property attributable to such. Each of the easements is granted independently of the others, and if the easement were dissolved as to one or more of the matters, the easement would continue as to the remaining matters.

SECTION 2. This Council finds and declares that all formal actions concerning and relating to the adoption of this Ordinance occurred in an open meeting of this Council or its committees, in compliance with the law.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary to the immediate preservation of the public health, peace, safety and welfare of the City, or providing for the usual daily operation of a municipal department or division, and for the further reason that time is of the essence in enabling the property owner to fully establish the boundaries of the easement in order to facilitate the sale of the property; wherefore, this Resolution shall be in full force and effect from and immediately after its passage and approval by the Mayor; provided it receives the affirmative vote of at least three-fourths of the members of Council; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

1st reading _____ 2nd reading _____ 3rd reading _____

Passed: _____, 2018 Vote: _____

Attest: _____
Clerk of Council President of Council

Approved: _____, 2018
Mayor

Introduced by: Craig Sanders

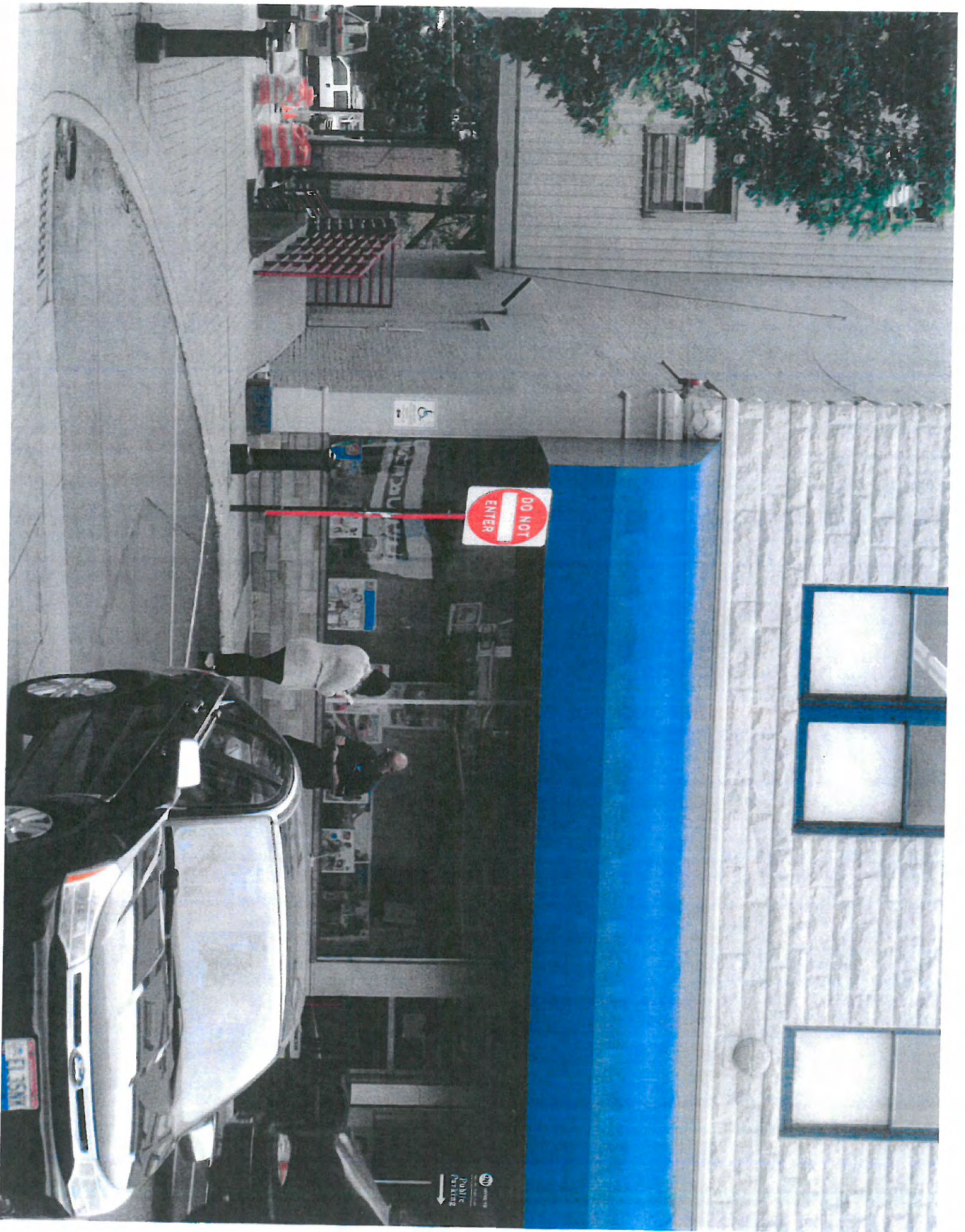


Exhibit "A"

LEGAL DESCRIPTION OF REAL PROPERTY

Part 1 – Existing legal description (not approved for transfer, per Wayne County Tax Map Office)

Situated in the City of Wooster, County of Wayne and State of Ohio:

And being Lot Nos. 2043, 64, 65, 66, and parts of Lot Nos. 67 and 73, and described as follows:

Beginning at a cross cut in a stone step in the southeast corner of Lot No. 2043; thence West along the south line of Lot Nos. 2043 and 73 and in north line of an alley 78.55 feet to a cross cut in brick pavement, said cross marking the southwest corner of Lot 73, 99 feet to a point, said point being 5.05 feet west of an iron pipe; thence East 5.05 feet to said iron pipe marking the northwest corner of Lot No. 67; thence continuing East along the north line of Lot No. 67, 17.5 feet to an iron pipe, said pipe marking the southwest corner of Lot No. 68; thence South on a line parallel to the east line of Lot No. 67, 0.20 feet to a point; thence East 4.16 feet to the southwest corner of the former building of The Wayne County National Bank, 51.84 feet to a point on the east line of Lot No. 67 and the west line of South Market Street, said point being 0.43 feet south of the northeast corner of Lot No. 67 (cross cut in concrete sidewalk 5.0 feet East); thence South along the east line of Lot Nos. 67, 66, 65, 64 and 2043 and the west line of South Market Street, 98.57 feet to the place of beginning.

EXCEPTING THEREFROM, HOWEVER, the portion of Lot No. 73 hereinafter described, which portion was conveyed in 1964 by William E. Quinby, et al., to The Wayne County National Bank by quit claim deeds recorded in Volume 408, Page 262 and Volume 420, Page 468 of the Wayne County Deed Records;

Beginning at an iron pipe in the northwest corner of Lot No. 67; thence Southerly along the west line of Lot No. 67 and the east line of Lot No. 73, 116.00 feet to a point; thence Westerly along a line parallel to the south line of Lot No. 73, 5.05 feet to a point on the west line of Lot No. 73, said point being 83.00 feet northerly of the southwest corner; thence Northerly along the west line of Lot No. 73, 16.00 feet to a point; thence Easterly along a line parallel to the south line of Lot No. 73, 5.05 feet to the place of beginning, containing 81 square feet.

For survey of said premises, see Volume M, Page 201 of the Wayne County Survey Records.

Auditor's Parcel Numbers: 64-01282.000; 64-01283.000; 64-01284.000; 64-01285.000; 64-01286.000 and 64-01287.000

Part 2 – New legal description (based on survey performed during June, 2018, by
Edward A. Gasbarre

Situated in the City of Wooster, County of Wayne and State of Ohio:

Being Lot Number 9819 of Quinby 1887 Plat, as shown by the plat recorded in Volume
____, Page _____, Plat Records of Wayne County, Ohio.

Permanent Parcel Number: _____

NOTE: Plat Volume and Page, and Permanent Parcel Number, will be assigned when
the plat is recorded.

[end of Exhibit "A"]

Exhibit "B"

See Quinby 1887 Plat (Draft 2) attached.



ORDINANCE NO. 2018-012

AN ORDINANCE AMENDING CHAPTER 162,
MANAGEMENT BENEFITS, OF THE CODIFIED
ORDINANCES OF THE CITY OF WOOSTER, OHIO
AND DECLARING AN EMERGENCY

WHEREAS, the Director of Administration has recommended that Section 162.03 LEAVES be amended so that credit for prior government service will be consistent with the Ohio Revised Code. Vacation Cash-Out be amended to be consistent with the City's Collective Bargaining Agreements.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WOOSTER, OHIO:

SECTION 1. That Chapter 162 of the Codified Ordinances, entitled Management Benefits, be amended at Section 162.03, LEAVES, to read as follows:

162.03 LEAVES.

Management level employees shall be paid their full salary while on sick and vacation leaves. They shall continue to earn sick leave and vacation credit while on sick leave, injury leave, vacation leave and military leave.

(a) Sick Leave. Management employees shall earn 1.25 sick leave days for each month of service. Such sick leave credit shall be recorded in the first pay period of each month. The amount of sick leave which may be accumulated is unlimited. Employees may only use sick leave which has been previously accumulated.

(1) The previously accumulated sick leave of employees who have been separated from the public service other than through retirement may be placed to their credit upon their re-employment in public service, if re-employed within ten years. Employees who transfer from one public agency to another shall be credited with the unused balance of their accumulated sick leave upon furnishing a satisfactorily written statement signed by an appropriate official of such other public agencies stating the employees' accumulated balance from such other public agencies.

(2) A. With respect to employees who retire on or before December 31, 2018, when management employees with at least ten years of service with the City retire, they shall be paid thirty-three percent (33%) of their accumulated sick leave, not to exceed seventy-five (75) days. When management employees with less than ten years of service with the City, but with ten or more years' service with the State, any political subdivision, or a combination thereof retire from active service with the City, the rate shall be reduced to twenty-five percent (25%), not to exceed seventy-five (75) days. Such payment shall be based on the employee's rate of pay at the time of retirement and eliminates all sick leave credit accrued but unused by the employee at the time of the payment. As used in this section, "retirement" is limited to the point at which an employee is then eligible to receive disability or service retirement payments under any State or municipal retirement system in this State.

B. With respect to employees who retire on or after January 1, 2019, when management employees with at least ten years of service with the City retire, they shall be paid twenty-five percent (25%) of their accrued but unused sick leave, not to exceed three hundred sixty (360) hours. Management employees with less than ten years of service with the City, but with ten or more years' service with the State, any political subdivision, or a combination thereof retire from active service with the City, shall be paid twenty-five percent (25%) of their accrued but unused sick leave, not to exceed three hundred sixty (360) hours. Such payment shall be based on the employee's rate of pay at the time of retirement and eliminates all sick leave credit accrued but unused by the employee at the time of the payment. As used in this section, "retirement" is limited to the point at which an employee is then eligible to receive disability or service retirement payments under any State or municipal retirement system in this State.

C. In the case of the death of an employee, the estate of an employee with ten or more years of service to the City shall receive payment for his/her accumulated sick leave based upon the employee's rate of pay at time of death. Maximum payment shall be as prescribed in the preceding subsection, provided that an employee who died before becoming eligible for retirement will be limited to a maximum payment calculated by multiplying the figure from subsection (a)(2) A. hereof by the fraction of the employee's total years of service divided by 30.

(3) Management employees may use sick leave for absences due to personal illness, and/or examination by an appropriate health care practitioner. Sick leave may also be used for illness of or injury to a member of the employee's family (spouse, children or employee's parents). For use of sick leave for parents of an employee, employees are limited to no more than three days per calendar year.

(4) Sick leave incentive. Management level employees who have a minimum of forty days of accumulated sick leave on the first day of the last pay period ending in the preceding year, and who increase that balance by an additional eleven days from the first day of the last pay period ending in December of the current year, shall qualify for sick leave incentive.

A. Management employees who meet the criteria shall receive an additional two and one-half day's pay on their last paycheck in December.

B. When sick leave incentive payment is made, the Mayor or his/her designee is authorized to deduct two and one-half days of sick leave credit from the employee's balance on the last day of the first pay period ending in December.

C. Sick leave used when attending funerals shall not be counted as used when calculating sick leave incentive.

(b) Injury Leave. If management employees are injured while performing their assigned duties or contract illness under such conditions and, as a result of such injury or illness are certified unable to work by a licensed physician, employees shall be compensated according to the following plan: The first one hundred twenty (120) scheduled working hours of disability shall be drawn from accumulated sick leave. The next four hundred eighty (480) consecutive working hours of certified disability caused by the original injury or illness shall be compensated as follows: the employees will be compensated through Wage Continuation, whereby the employer will pay the employee's regular earnings in lieu of Ohio Bureau of Worker's Compensation

reimbursement. In the event the employee continues to be certified as disabled and unable to return to work after having exhausted the initial four hundred eighty (480) hours of earnings paid through Wage Continuation, the employer shall pay to the employee the difference between the payment received from the Ohio Bureau of Worker's Compensation and his/her regular earnings for an additional four hundred forty (440) scheduled working hours.

(c) Family Medical Leave Act (FMLA). The City of Wooster is and will remain in compliance with respect to the FMLA regulations and requirements.

(d) Bereavement Leave. In the event of the death of an immediate family member, employees will be permitted to take up to five (5) days with full pay for purposes of dealing with matters related to death and grieving. Such leave will not be granted to employees attending a funeral during periods when, for other reasons, they are not at work, such as during vacation, holidays or illness.

(e) Personal Leave. A management level employee may request an unpaid or personal leave of absence for a period not to exceed thirty-one (31) calendar days. Request for renewal may be made only once. Award or denial of a personal leave shall be made by the Mayor and/or Director of Administration. All decisions shall be final. During any such period of personal leave employees will continue to be covered by the City's existing health care plan.

(f) Non-FMLA Medical Leave. Management employees who have exhausted both their FMLA eligibility and their accrued sick leave balance and require additional time off because of illness, may request a medical leave of absence.

(1) A medical leave is taken without pay.

(2) The employee does not earn vacation or sick leave credit while on an unpaid medical leave. The Mayor and/or Director of Administration shall continue health insurance coverage for such employee.

(3) The maximum length of time an employee may request for a non-FMLA medical leave is ninety (90) calendar days. A renewal may be awarded only once.

(g) Vacation Leave.

(1) Effective June 1, 2018 and forward, the Mayor or designee shall permit prior service with any other governmental agencies for any new management employee who is hired from such agency for purposes of computing the amount of the employee's vacation leave. A written statement signed by an appropriate official of such other governmental agency stating the employee's service time shall be provided.

(2) Management employees hired or promoted prior to June 1, 2004 shall receive vacation based on the following schedule:

<u>Years of Service</u>		<u>Vacation Days Accrued</u>
<u>At Least</u>	<u>But Less Than</u>	<u>Per Month of Service</u>
0	3	0.834 (annually, 10 days)
3	6	1.250 (annually, 15 days)

6	10	1.670 (annually, 20 days)
10		2.084 (annually, 25 days)

Upon the adoption of this section, current management employees shall convert from the previous method of annual vacation accrual to the monthly accrual thereof effective upon the first day of the month following their anniversary date. (Ord. 2004-14. Passed 6-14-04.)

(3) Management employees hired or promoted on or after June 1, 2004, shall accrue vacation based on the following schedule:

<u>Years of Service</u>		<u>Vacation Days Accrued</u>
<u>At Least</u>	<u>But Less Than</u>	<u>Per Month of Service</u>
0	8	1.250 (annually, 15 days)
8	15	1.670 (annually, 20 days)
15		2.084 (annually, 25 days)

Notwithstanding the provisions of the vacation accrual schedule in this subsection, hourly employees who are employees of the City as of the date of adoption of this section, and who are promoted on or after June 1, 2004 to a management position, and whose annual vacation accrual as a management employee would be less than the accrual to which they were entitled prior to promotion, and irrespective of whether calculated at the time of promotion or over the course of service, shall accrue vacation at the rate in subsection (g)(2) above.

(3) Management employees may not accrue vacation leave in excess of the accrual from three years of employment, as calculated in accordance with Section [162.03\(g\)\(2\)](#) or (3), above. Any accumulated vacation exceeding that amount shall be forfeited unless the Mayor, in his/her sole discretion, has granted a waiver to the employee, in which case the employee, solely for the purpose of using such excess vacation leave, may exceed the maximum accrual for the period of the waiver, which shall not exceed six months.

(4) Time spent in military service is to be counted as service with the City when determining vacation leave, provided the employee in question was a City employee for at least 120 calendar days before entering military service.

(5) Upon separation from municipal service, employees are entitled to compensation for any unused vacation leave to their credit upon date of separation, but not in excess of the accrual from his/her last three years of employment preceding separation from employment. This payment shall be in addition to any severance pay which may be due.

(6) In case of the death of an employee, the unused accumulated vacation leave shall be paid to the deceased employee's estate.

(7) Vacation Cash-Out Option. Subject to the approval of the Director of Administration, employees will be permitted to "cash out" unused vacation time of up to one-half of their annual accrual once during any calendar year (January through

(h) Court Leave. Employees subpoenaed to represent the City to appear before any court or called for jury duty shall be paid their regular wage. Any compensation received from the court for jury duty or court appearance shall be submitted to the City. (Ord. 2014-05. Passed 3-17-14.)

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

1st reading _____ 2nd reading _____ 3rd reading _____

Passed: _____, 2018 Vote: _____

Attest: _____
Clerk of Council

President of Council

Approved: _____, 2018

Mayor

Introduced by: Craig Sanders

Request for Agenda Item

Authorization for Bid

☐

Purchase Capital Item

☐

Non-Capital

☒

Division Administration	Meeting Date Requested 7/2/18
Project Name Chapter 162 – Management Benefits	Estimated Total Funds/Costs \$0
Is Full Amount Budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, three readings NOT REQUIRED N/A	
If No, How is the Purchase to be Funded?	
Description This is a request to modify the management benefits ordinance to conform to Ohio Revised Code (ORC) and other City collective bargaining agreements (CBAs). Chapter 162 currently does not allow for the transfer of service time from another government agency for the purpose of vacation accrual. The ORC and other CBAs allow for this transfer. This does NOT provide for transfer of vacation time, only for service time used to calculate accrual. Chapter 162 currently also only allows for cash out of 90% of unused vacation. Any cash out is capped at 50% of what is earned in any year, and cannot reduce vacation to less than 10 days. This proposed provision allows employees to not lose a portion of accrued vacation if unable to take it due to work schedules, etc. Less than 10 employees have taken advantage of this benefit in each of the last two years., however, other CBAs allow for the 100% cash-out.	
Justification / Benefits These changes will conform the City ordinance to ORC and other CBAs, as well as help with recruiting efforts for individuals with required skills for management positions.	
Will this Project affect the City's Operating Costs These changes should have little effect on operating costs.	
What Alternatives Exist and what are the Implications of the Alternatives Leave the ordinance the same, which will not conform those provisions to the ORC and other CBAs.	
Is this a Sole Source Bid or Non-Bid Situation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, Explain The Circumstances:	
Is there a need for Suspension of the Rules or a Time Frame when this must be passed? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Note Reasons Immediate passage is not needed, but approving now would allow these provision to be applied to any new employees and help with recruiting efforts for open positions.	
NOTE: Emergency Clause Required if Legislative Effective Date is IMMEDIATE.	
Manager Requesting: Joel Montgomery	Date: 6/28/18
Approved for Agenda <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	



CITY OF WOOSTER

Planning and Zoning Division

538 North Market Street Wooster, OH 44691

Phone: 330-263-5235 Fax: 330-263-5274

MEMORANDUM

DATE: June 28, 2018
TO: City Council
FROM: Andrew Dutton, Planning and Zoning Manager
RE: Amendment to Section 1113.01(e)(8)(D.)(ii.) of the Planning and Zoning Code

Per conversations with City Council members, it is believed to be the intent of Council to initiate an amendment to Section 1113.01(e)(8)(D.)(ii.) of the Planning and Zoning Code, which requires fencing on a single property to be the same style and color, per the following:

~~"All fences on a single property shall have a unified style and a unified color. Different styles of fencing may be permitted on a single property in an attempt to match existing fence styles on the property or existing adjacent fencing on a neighboring property."~~

Initiation of an amendment to the Planning and Zoning Code is regulated by Section 1105.03(c)(3), which states that "City Council may initiate a code text or map amendment by the passing of a resolution to make such an amendment." The passing of such resolution would initiate the process by scheduling a review of the amendment by the Planning commission at their next meeting. The Planning Commission would then hold a public hearing and provide a recommendation to City Council to approve or deny the proposed amendment. The amendment would then be reviewed by City Council in the form of an ordinance, which would include a second public hearing.

The section was discussed in length and revised by City Council during the recent update of the entire Planning and Zoning Code. As forwarded to City Council from the Planning Commission, the proposed section only required fencing to be the same style in color when visible from a public street. After discussion, the section was amended to require all fencing on a property to be the same style and color.

Though well-intentioned, the section is believed to be overly restrictive to property owners, difficult to interpret, and is rarely utilized by municipalities. In many situations, different styles of fencing on a single property are appropriate and not a detriment to the area. In addition, without a number of specific caveats, the section cannot take into account a variety of different circumstances such as large lots, needs for different fencing types, conformance with existing onsite fencing, etc.

Please contact me at 330-263-5238 or adutton@woosteroh.com if you have any questions or require any further information.



Robert F. Breneman, Mayor

CITY OF WOOSTER

538 N. Market Street
P.O. Box 1128
Wooster, Ohio 44691-7082

Kevin J. Gibbons

Deputy Director of Law

Phone: (330) 263-5243

Fax: (330) 263-5247

Email: kgibbons@woosteroh.com

MEMORANDUM

Date: June 28, 2018

To: City Council

From: Kevin J. Gibbons, Deputy Law Director

Re: Cell Tower Revised Legislation

In early 2017 the State of Ohio enacted Senate Bill (SB) 331, creating new regulations that required municipalities to allow small cell wireless antennas in the public right-of-way. In response to this new law, Wooster City Council enacted WCO 949 regarding small cell antennas on March 20, 2017.

SB 331 was challenged in five common pleas courts across the state as having violated the one-subject rule for legislation. The City of Wooster participated in the case filed in Summit County Common Pleas. SB 331 was also challenged as it severely limited a municipality's ability to regulate these small cell antennas. Four out of the five common pleas courts ruled that SB 331 violated the one-subject rule. Rather than litigate the matter the state legislature passed a new bill, House Bill (HB) 487 that did not violate the one-subject rule—but also gave municipalities greater control over small cell antennas in the public right-of-way.

We are submitting a new version of WCO 949 that will conform to the new state law and allow the City of Wooster to take advantage of provisions in the law that are more favorable to municipalities. Additionally, we have simplified the Ordinance by placing many of the technical requirements in the City's Design Guidelines which can be easily revised to meet changes in technology over the coming years.

ORDINANCE NO. 2018-013

AN ORDINANCE AMENDING CHAPTER 949 OF THE
CODIFIED ORDINANCES OF THE CITY OF WOOSTER,
OHIO, WIRELESS COMMUNICATION FACILITIES IN THE
PUBLIC WAY AND DECLARING AN EMERGENCY

WHEREAS, with the passage of Ohio House Bill 487, effective July 31, 2018, new regulations require that the City permit wireless “small cell” facilities in the public way; and

WHEREAS, Council desires to minimize and control the adverse effects of the new regulations in order to protect the health, safety, and welfare of the citizenry; preserve the quality of life; preserve the character of surrounding neighborhoods and historic districts; and

WHEREAS, Council also desires to provide new regulations for (1) standards for the construction and installation of wireless communication facilities in the City’s public way, (2) provide for a fee structure, (3) ensure that the facilities will conform to applicable health and safety regulations, (4) provide for incentives, (5) preserve the character of the City’s neighborhoods and historic districts, and (6) comply with all state and federal laws; and

WHEREAS, the Council recognizes its constitutional duty to interpret, construe, and amend its laws to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the City and the Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Ohio Constitutions, Ohio Revised Code, and the Ohio Rules of Civil and Criminal Procedure; and

WHEREAS, Council has determined that it is in the best interests of the City of Wooster and its residents to enact and codify the proposed additional chapter to part nine of the Streets, Utilities, and Public Service Code, as described below.

NOW, THEREFORE, be it ordained by the Council of the City of Wooster, Ohio:

SECTION 1. Chapter 949 of the Codified Ordinances of the City of Wooster, Ohio shall be amended to read in accordance with the attached Exhibit A.

SECTION 2. This Council finds and declares that all formal actions concerning and relating to the adoption of this Ordinance occurred in an open meeting of this Council or its Committees, in compliance with the law.

SECTION 3. This Ordinance is declared to be an emergency measure necessary to the immediate preservation of the public health, peace, safety and welfare of the City, or providing for the usual daily operation of a municipal department or division, and for the further reason that prompt action is necessary to protect the public and the City; wherefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor; provided it receives the affirmative vote of at least three-fourths of the members of the Council; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

1st reading: _____ 2nd reading: _____ 3rd reading: _____

Passed: _____, 2018 Vote: _____

Attest: _____
 Clerk of Council President of Council

Approved: _____, 2018
 Mayor

Introduced by: Craig Sanders

Exhibit A

Chapter 949 Wireless Communications Facilities In the Public Way

Section

- 949.01 Purpose and Goals
 - 949.02 Applicability
 - 949.03 Use of the Public Way
 - 949.04 Design Guidelines
 - 949.05 Insurance and Indemnification
 - 949.06 Recovery of Costs
 - 949.07 Miscellaneous Provisions
 - 949.99 Penalties
-

§949.01 PURPOSE AND GOALS

The purpose of this chapter is to establish general procedures, rules, and standards, consistent with all applicable federal, state, and local laws for the siting, construction, installation, collocation, modification, operation, and removal of small cell facilities and wireless support structures in the City's public way.

This chapter intends to:

- (a) Establish basic criteria for requests to locate small cell facilities and wireless support structures in the public way and to authorize the Director of Administration or his or her designee to develop, publish, and from time to time amend the Design Guidelines, the Facility License Agreement, and other associated materials to provide clear information to applicants;
- (b) Ensure that small cell facilities and wireless support structures are carefully designed, constructed, modified, maintained, and removed when no longer in use in conformance with all applicable health and safety regulations;
- (c) Preserve the character of the City of Wooster by minimizing the potentially adverse visual impact of small cell facilities and wireless support structures through careful design, siting, landscaping and camouflaging techniques to blend these facilities into their environment to the maximum extent practicable;
- (d) Enhance the ability of wireless communications carriers to deploy small cell facilities and wireless support structures in the City quickly, effectively, and efficiently so that

residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability;

- (e) Establish an application and work permit process and structure for payment of fees and charges to be uniformly applied to all applicants, operators, and owners of small cell facilities and wireless support structures for such facilities;
- (f) Comply with, and not conflict with or preempt, all applicable state and federal laws, including without limitation Section 101(a) and Section 704 of the Telecommunications Act, Pub. L. 104-104, 101 Stats. 56, 70 (Feb. 8, 1996) (codified as 47 U.S.C. §§ 253(a), 332(c)(7)), as may be amended or superseded, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, Pub. L. 112-96, 126 Stat. 156 (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)), as may be amended or superseded, and all FCC rules and regulations to interpret and implement applicable federal statutes.

§949.02 APPLICABILITY

Subject to the Ohio Revised Code, upon the completion of the application outlined in §949.03, and issuance of a work permit under this chapter, an Operator may collocate a small cell facility and/or construct, maintain, modify, operate, or replace wireless support structures in, along, across, upon, and under the City public way. If consent for the work is required it will be granted by the issuance of a work permit.

- (a) An Operator shall comply with the Design Guidelines and any other standards that are consistent with this chapter and adopted by the City for construction and public safety in the public way.
- (b) All wireless support structures and small cell facilities shall be constructed and maintained so as not to impede or impair public safety or the legal use of the public way by the City, the traveling public, or other public utilities.
- (c) A work permit is required for work in the public way including work that does not require the consent of the City of Wooster. Such work includes, but is not limited to, modifications, collocation of new transmission equipment, removal or replacement of transmission equipment, and routine maintenance.

(1) Exclusions

(A) Amateur radio facilities. This chapter shall not govern the installation of any amateur radio facility that is owned or operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

(B) Certain over-the-air receiving devices (OTARD). This chapter shall not

govern the installation of any OTARD antennas covered under FCC regulations codified in 47 C.F.R. §§1.4000 et seq., as may be amended or superseded. OTARD antennas include, without limitation, direct-to-home satellite dish antennas less than one meter in diameter, television antennas and wireless cable antennas.

- (C) Handsets and user equipment. This chapter shall not govern the use of personal wireless devices (e.g., cell phones) or other consumer-grade mobile user equipment used in the public way.
- (2) The permitting procedures and authorizations set forth herein shall apply only to the placement of small cell facilities and wireless support structures in the public way, and do not authorize the construction and operation of a wireline backhaul facility, which continues to be governed by Chapter 901: Excavations and Curb Cuts.
- (3) This chapter shall supersede all conflicting requirements of other titles and chapters of this Code regarding the locating and permitting of small cell facilities and wireless support structures in the public way.
- (4) Nothing in this chapter precludes the City from applying its generally applicable health, safety, and welfare regulations when granting consent or issuing work permits for a small cell facility or wireless support structure.

§949.03 USE OF THE PUBLIC WAY

General Requirements. The following requirements shall apply to all small cell facilities and wireless support structures proposed within the public way.

- (a) No person shall occupy or use the public way except by law.
- (b) In occupying or using the public way, no person shall unreasonably compromise the public health, safety, and welfare.
- (c) Any person seeking to install, construct or operate small cell facilities or wireless support structures in the public way shall file the Designated Application and obtain a work permit from the City of Wooster, Division of Engineering, in accordance with the requirements of this Ordinance and requirements outlined in the Design Guidelines as modified from time to time by the Director of Administration.
- (d) Any person seeking to maintain, modify, collocate new transmission equipment, remove or replace small cell facilities or wireless support structures in the public way shall obtain a work permit with the City of Wooster, Division of Engineering, in accordance with the requirements in this Ordinance and requirements outlined in the

Design Guidelines as modified from time to time by the Director of Administration.

- (e) No person shall occupy or use the public way without first obtaining a work permit from City of Wooster, Division of Engineering
- (f) Except in the case of an emergency, no Operator, or any person acting on the Operator's behalf, shall commence any work in the public way of the City of Wooster without providing twenty-four (24) hours advance notice to the City.

§949.04 DESIGN GUIDELINES

The Director of Administration shall promulgate detailed Design Guidelines with objective, technically feasible criteria applied in a non-discriminatory manner that reasonably match the aesthetics and character of the immediate area regarding all of the following, which the City shall consider in reviewing a work permit application:

- (a) The location of any ground-mounted small cell facilities;
 - (b) The location of a small cell facility on a wireless support structure;
 - (c) The appearance and concealment of small cell facilities, including those relating to materials used for arranging, screening, and landscaping;
 - (d) The design and appearance of a wireless support structure.
-
- (1) The Design Guidelines shall provide examples of acceptable small cell facilities and wireless support structures including visual depictions.
 - (2) The Design Guidelines shall provide administrative and procedural guidance for work permit applications. This guidance includes, but is not limited to, a list of minimum application requirements, definitions, information on pre-application conferences, categories of applications, required application materials, standard conditions of issued work permits, safety requirements, and application review time-frames and process.
 - (3) The provisions in this section shall not limit or prohibit the Director of Administration's discretion to promulgate and make publicly available other information, materials or requirements in addition to, and separate from, the Design Guidelines which do not conflict with state or federal law.
 - (4) The Director of Administration shall have authority to update the Design Guidelines to address relevant changes in law, technology, or administrative processes. In the event of any conflict between the Design Guidelines and the standards articulated in this chapter of the Codified Ordinances of the City of Wooster, the language of this chapter takes precedence over the language of the

Design Guidelines.

- (e) The Design Guidelines will also include a Facilities License Agreement to establish terms and conditions for the collocation of small cell facilities upon wireless support structures owned by the City that are located within the City's public way.

§949.05 INSURANCE AND INDEMNIFICATION

Operator Insurance: As a condition of the work permit an Operator must secure and maintain, at a minimum, the following liability insurance policies insuring both the Operator and the City as additional insured:

- (a) Comprehensive general liability insurance with limits not less than
 - (1) One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) annual aggregate, for bodily injury or death to each Person;
 - (2) One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) annual aggregate, for property damage resulting from any one accident; and
 - (3) One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) annual aggregate, for all other types of liability.
- (b) The liability insurance policies required by this Section shall be maintained by the Operator throughout the period of time during which the Operator is Occupying or Using the Public Way, or is engaged in the removal of its Facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) days after receipt by the City of Wooster, by registered mail, of a written notice addressed to the Director of Administration of such intent to cancel or not to renew."

- (c) Within thirty (30) days after receipt by the City of said notice, and in no event later than fifteen (15) days before said cancellation, the Operator shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.
- (d) All insurance policies required herein shall be written with an insurance company authorized to do business in the State of Ohio in relation to the specific type of insurance required.
- (e) Upon written application to, and written approval by, the Director of Finance of the City, an Operator may be self-insured to provide all of the same coverages as listed in this Section. As part of the review process, the Director of Finance may require, and the self-insurance applicant shall provide, any and all financial documents necessary to make a valid determination of the applicant's ability to meet the needs of this Chapter.

- (f) General Indemnification. Any Operator who owns or operates small cell facilities or wireless support structures in the public way shall indemnify, protect, defend, and hold the City of Wooster and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the Operator who owns or operates small cell facilities and wireless service in the public way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in the public way.

§949.06 RECOVERY OF COSTS

- (a) Application Processing Fee. For processing the Designated Application the City may charge a fee for each small cell facility and wireless support structure requested as prescribed under section 4939.0316 of the Ohio Revised Code.
- (b) Annual Collocation Fee. For reimbursement for Operator's attachment of small cell facilities to wireless support structures owned by the City and located in the public way, the City may charge an annual fee as prescribed under 4939.322 of the Ohio Revised Code.
- (c) Work Permit Fee. The fee for this permit is established by the City of Wooster Schedule of Fees and Charges.
- (d) The Director of Administration shall impose reasonable requirements for bonds, escrow deposits, letters or credit or any other type of financial surety he/she deems adequate, to ensure removal of abandoned or unused wireless facilities or damage to municipal property caused by an Operator or its agent.
- (e) Tax liabilities and assessments not applicable. Placement of small cell facilities in the public way or collocation of small cell facilities to a wireless support structure and any fees associated therewith shall not subject a municipal corporation to any state or local tax liabilities or assessments.

§949.07 MISCELLANEOUS PROVISIONS.

- (a) Other City Ordinances. In the event that any provision of this Chapter conflicts with

any other provision of the City's Codified Ordinances or other ordinances or resolutions of the City, the more restrictive provision shall govern.

- (b) Preemption by State and Federal Law. Except as may be preempted by applicable State or Federal law, rates, regulations, and orders, this Chapter shall apply and be controlling over each Operator engaged in the business of transmitting, supplying or furnishing of Wireless Services originating, passing through, or terminating in the City.
- (c) Exemption for City-Owned or Operated Facilities. Nothing in this Chapter shall be construed to apply the provisions of this Chapter to Facilities, Facility, Micro Wireless Facility or Private Facility owned or operated by the City or any of its operations.
- (d) Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Chapter, or its application to any Person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

§949.99 PENALTIES

- (a) Penalties. Any Person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor of the fourth (4th) degree. A separate and distinct Offense shall be deemed committed each day on which a violation occurs or continues.
- (b) Other Remedies. Nothing in this Chapter shall be construed as limiting any administrative or judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.