

A G E N D A

Massillon Planning Commission
January 13, 1988 7:30 P.M.
Massillon City Council Chambers

1. Introduction of new Commission Members.
2. Election of Officers for 1988.
3. Approval of the Minutes for the October 14, 1987 Commission Meeting.
4. Petitions and Requests

Rezoning Request

Location: Lot No. 509 located at the southeast corner of 9th Street, N.E., and Federal Avenue, N.E., presently zoned R-1 Single Family Residential, to be rezoned P-1 Vehicular Parking. The request has been submitted by Bob Spencer of Burger Town, Inc.

Alley Vacation Request

Location: A 12 foot alley lying between 9th Street, N.E., and 10th Street, N.E., and running in a north/south direction between Lincoln Way East and Federal Avenue, N.E.; the request being to vacate that portion of the alley from Lincoln Way East to Federal Avenue, N.E., a distance of 230 feet. This request has been submitted by Bob Spencer of Burger Town, Inc.

5. New Business

Proposed Zoning Code Amendment

The City of Massillon is proposing an amendment to the City Zoning Code to require the submission of a preliminary site plan as part of the application for zoning change.

6. Other Business

The Massillon Planning Commission met in regular session on February 11, 1987, at 7:30 p.m. The following members were present:

Chairman Fred Wilson
Vice Chairman Rev. David Dodson
Dr. Dale Hart
Doris Hintz
Bernie Green
Mayor Delbert Demmer
Ted Willoughby
Henry Joiner

Staff

Robert Wagoner
Aane Aaby
Marilyn Frazier

The first item of business was the minutes for the January 14, 1987, meeting. The minutes were approved as prepared.

The next item under Petitions and Requests was a rezoning request. Location: 2417, 2427, 2431, and 2439 Lincoln Way, East, Lots No. 3641, 3642, 3643, 3644, and 3645, to be rezoned from RM-1 Multiple Family Residential to B-1 Local Business to the purpose of developing a strip commercial shopping center. This request was submitted by Carl Oser. It is a revised version of the rezoning request considered by the Planning Commission at its January 14, 1987, meeting. Mr. Aaby presented the request. The previous proposal was revised by adding two additional lots, 3644 and 3645. The proposal for the area is a two and a half acre strip shopping center. There has been a petition filed by neighbors in opposition of the proposal. Mr. Aaby said that he and Mr. Wagoner had discussed the possibility of a buffer area to prevent business from approaching the residences. Mr. Oser was present and commented on the benefits to the City. Mark Perez, 2427 Lincoln Way, East was also present and spoke on behalf of the proposal. Virginia Paris 2407 Lincoln Way, East commented that she sees no difference in this proposal and the previous one. She commented further that her home is unique in design and she and her husband does not want to sell it. Jerry Tully, 147 25th Street, S.E. appealed to the Commission to please consider the request carefully. Josephine Annen, 2439 Lincoln Way, East was present and added that she also owns 2431 Lincoln Way, East. Her comments were in favor of the zoning change. Richard Henry, who lives on 24th Street, commented that he doesn't feel the neighborhood has deteriorated since the construction of Oak Park Shopping Center as others had said. He feels the traffic problems are a result of the location of the traffic light. Donald Paris, 2407 Lincoln Way, East anticipates a serious drainage problem. Dale Maurer, 129 25th Street, and Tom Robinson, 2455 Lincoln Way East also commented in opposition of the request. Councilman David Smith had submitted a letter regarding the request. This was read by Chairman Wilson. (A copy of the letter is kept on file) Mr. Green commented on Mr. Smith's letter. He also commented that the commission must decide what is the best concept for the area. Henry Joiner added that he sympathized with the residents even though he felt that eventually Lincoln Way will become completely business. Rev. Dodson added that there are positives and negatives to every decision, but the Commission had to decide what is best for the City. Dr. Hart then moved to recommend denial of the request, Mrs. Hintz seconded, the motion carried 4 to 3, with the Mayor abstaining.

The next item of business was a rezoning request. Location: 38 Pearl, S.E., Lot No. 10003, to be rezoned from R-1 Single Family Residential to RM-1 Multiple Family Residential. This request has been submitted by Todd and Kathey Mays who wish to convert the existing residence into apartment units. Mr. Aaby presented the request. He said the property was an older house that Mr. and Mrs. Mays wanted to convert into apartments. Mr. Mays commented that they thought it was an opportunity to make some extra money by renting the property.

2/11/87

Rev. Dodson moved to recommend approval of the request, seconded by Bernie Green, motion carried.

The next item of business was a Lot Plat. Location: North side of Lincoln Way, N.W., west of 23rd Street, N.W. the purpose of the request is to designate with a new City lot number, an existing parcel of land situated between Lot No. 10178 and Out Lot No. 169. This existing parcel is approximately 7 feet wide and 195 feet deep. This request has been submitted by Peoples Federal Savings and Loan Association, the property owner. Mr. Wagoner presented the request. Mr. Wagoner stated that evidently, in 1928 when lots were re-numbered, this one was missed. The Law directed had told him that the only way to correct the situation, was to re-plat the lot. Bernie Green moved to recommend approval of the platting of the lot, seconded by Henry Joiner, motion carried.

The next item was a Replat of Lots. Location: Southwest corner of Cherry Road, N.W., and 5th Street, N.W.; including Lot No. 9746, Part of Lot No. 9747, Lot No. 10456, and Out Lot No. 97. The purpose of the request is to replat these 4 parcels of land into 3 new City Lots. This request was submitted by the owner. Mr. Wagoner presented the request. He stated that a young gentleman had purchased these properties and wanted to sell them. In order to do so, they had to be re-platted. The Mayor moved for approval, seconded by Bernie Green, motion carried.

The next item for the evening was a Lot Split. The request was to split off a parcel of land, 50 feet wide and 130 feet deep, from part of Out Lot No. 298, located on the north side of Marion Avenue, S.E., between 1102 Marion, S.E. and 3rd Street, S.E. This was requested by the Owner. Mr. Wagoner presented the request. He said the deed was brought in for approval, but it didn't conform to subdivision regulations. The request is to enable the owner to add the other property to his and use it as yard area. A motion for approval carried contingent on 15 feet being left public.

The next item was Historic Districts-Proposed City Council Ordinance The Historic Preservation Study Committee of Massillon City Council has introduced an ordinance that would regulate the establishment and preservation of historic districts within the City. This ordinance is being submitted to the Planning Commission for its review and recommendation. Mr. Wilson explained that Kirk Albrecht was Chairman of the Council committee, but was unable to be here, but Gene Boerner and Steve Seeton were present and would explain the Ordinance. Mr. Boerner is from First Savings and Loan and Mr. Seeton is from the Main Street Program. They are working on the proposed Historic District ordinance with City Council committee members. Mr. Seeton gave a presentation of the proposal. Mr. Green stated that he objected to the idea of a committee telling a property owner how to renovate his property. He felt that the property owner should be a part of the review process. There was a lot of discussion about this aspect of the ordinance. Dr. Hart moved to recommend support of the overall concept, with the stipulation that the property owner be a part of the review process. Rev. Dodson seconded Dr. Hart's motion, which carried.

Under Old Business, there was a discussion about the possibility of a study being conducted of the Lincoln Way area to determine future zoning options.

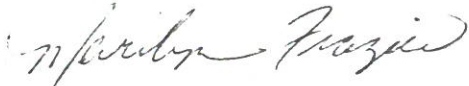
Planning Commission

Page 3

2/11/87

There being no further business before the Commission, the meeting adjourned at 9:30 p.m.

Respectfully submitted:



Marilyn Frazier, Clerk

Approved:

Fred Wilson, Chairman

PROPOSED STREET VACATION

LINCOLN

FIR AVE.

ST.

7TH

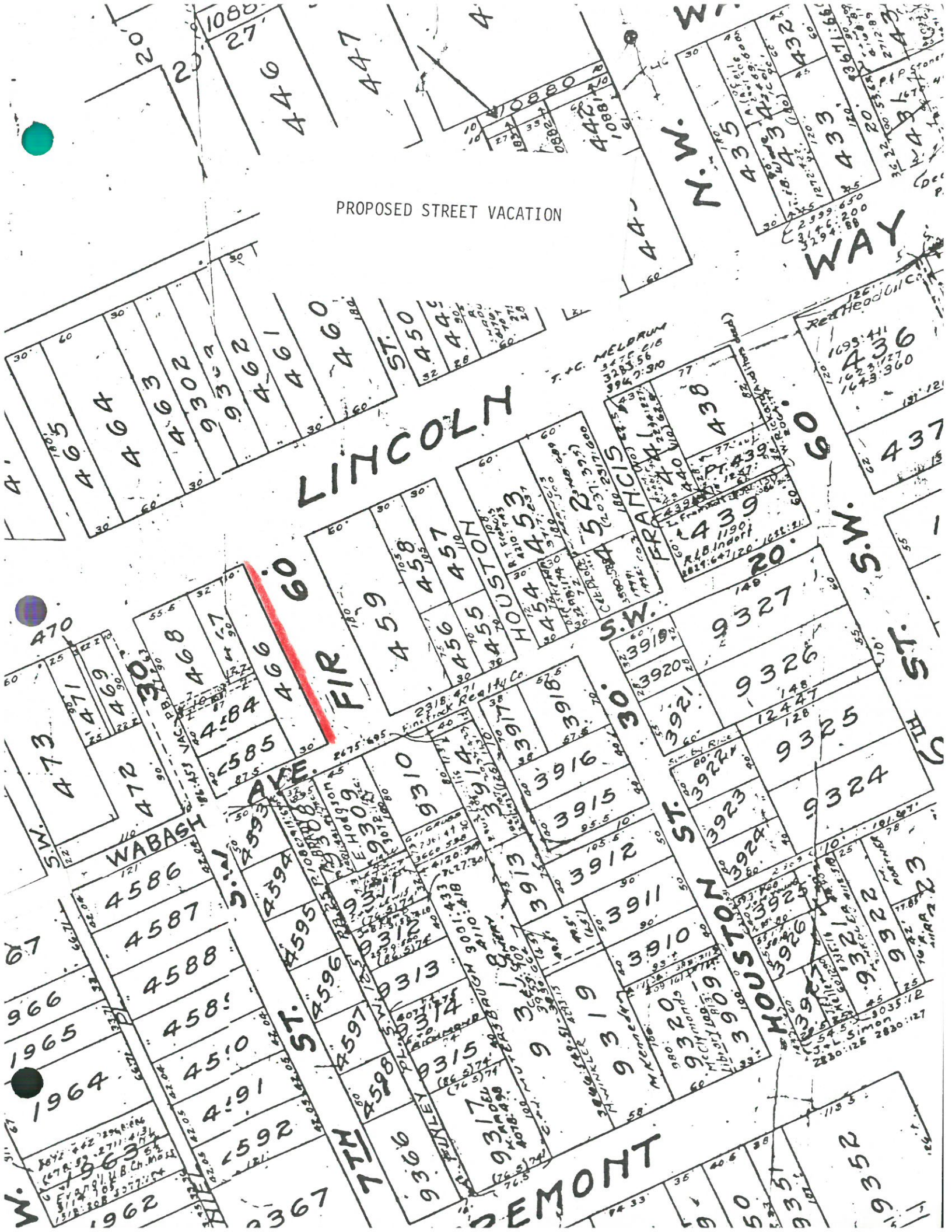
N.W.

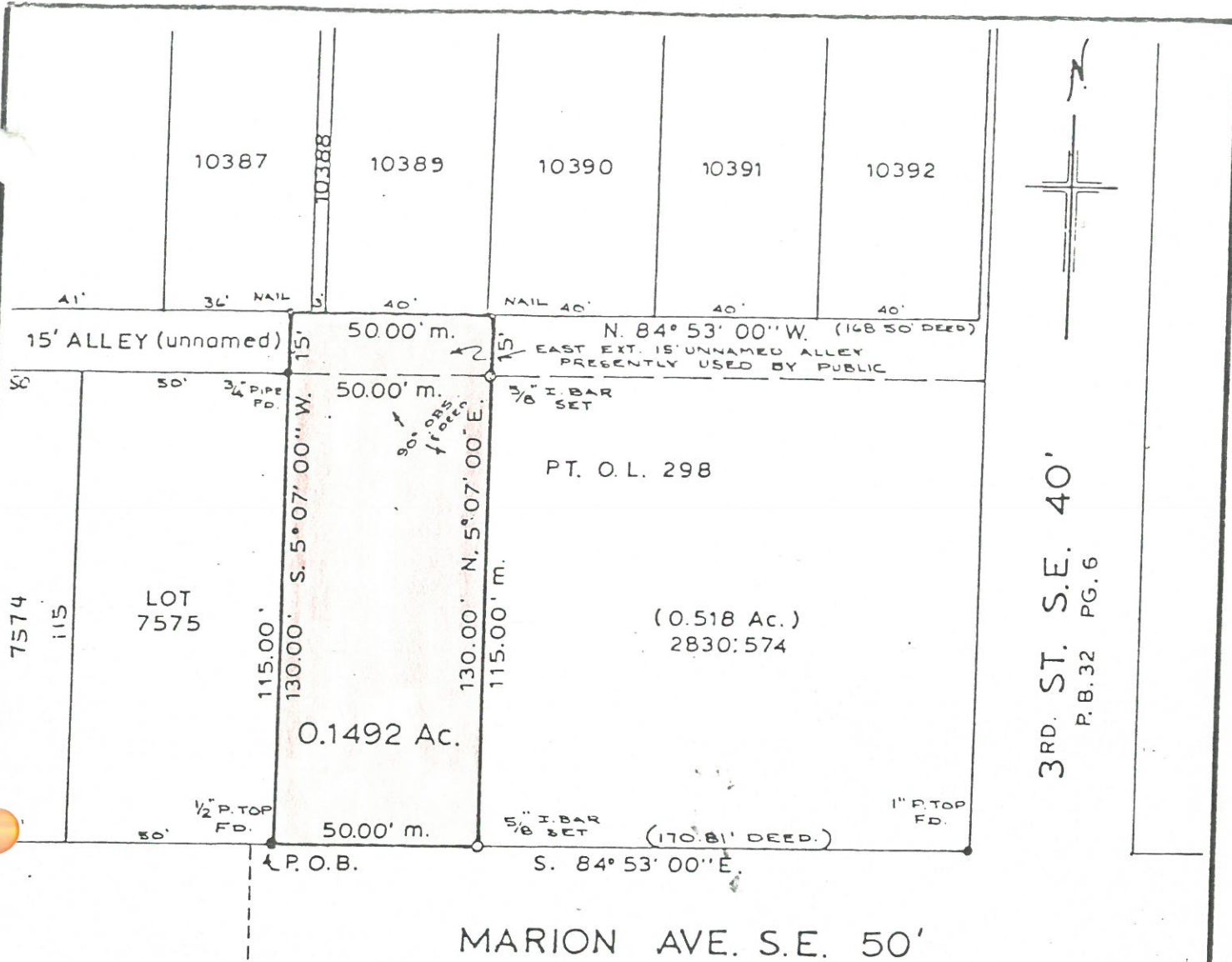
WAY

S.W.

ST.

DEMONT





PLAT of a SURVEY
OF PART OF OUT LOT 298
IN THE CITY OF MASSILLON
STARK COUNTY, OHIO

SCALE 1" = 40'

JANUARY, 1987



BASIS OF BEARINGS:

NORTH LINE OF MARION AVE. S.E.

DOCUMENTS USED:

DEED VOLUME 2830:574
MASSILLON EXT. 65
WAGONER SURVEY (1961)



Jay T. Dunlap
JAY T. DUNLAP R.L.S. No. 6250

DATE: FEBRUARY 2, 1987

CLERK: MARY ANN COYNE

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 25 - 1987

BY: THE HISTORIC PRESERVATION STUDY COMMITTEE

Title: AN ORDINANCE repealing CHAPTER 1349 "HISTORIC DISTRICTS" of the Codified Ordinances of the City of Massillon, Ohio, and enacting a new CHAPTER 1349 "HISTORIC DISTRICTS" of the Codified Ordinances of the City of Massillon, Ohio, and declaring an emergency. :

WHEREAS, there has been presented to the Council of the City of Massillon a report of the Historic Preservation Study Committee recommending certain amendments and changes to the Planning and Zoning Code of Massillon, Ohio, and

WHEREAS, such changes have been submitted to the Planning Commission of the City.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, OHIO, IN REGULAR SESSION SITTING: TWO-THIRDS OF THE MEMBERS CONCURRING:

Section 1:

That CHAPTER 1349 "HISTORIC DISTRICTS" of the Codified Ordinances of the City of Massillon, Ohio, be and the same is hereby repealed.

Section 2:

That a new CHAPTER 1349 "HISTORIC DISTRICTS" of the Codified Ordinances of the City of Massillon, Ohio, be and hereby is enacted. Said new CHAPTER shall read as follows:

1349.01 PURPOSE.

The purposes of this Chapter are:

- (a) To establish procedures whereby certain areas, places, sites, buildings, structures, objects and works of art shall be allowed that measure of protection afforded by a thorough study of alternatives to incompatible alterations or demolition before such acts are performed, so that the following objectives are reached:
 - (1) To maintain and enhance the distinctive character of historical buildings and historical areas in the City of Massillon.
 - (2) To safeguard the architectural integrity of the City's listed properties and historic resources within designated districts.

- (6) Facilitating the reinvestment in and revitalization of certain older districts and neighborhoods.
- (7) Promoting the use and preservation of historic sites and structures for the education and general welfare of the people of Massillon.

1349.02 DEFINITIONS.

The following definitions shall apply only to the provisions of this chapter:

- (a) "Alter" or "alteration" means any material change in external architectural feature(s) of any property, including a change or rearrangement in the structural parts or building service equipment or an enlargement, whether by extending on a side or by increasing height. For the purposes of this ordinance, "alteration" shall include a change in design, color, texture, material or exterior architectural feature. Ordinary maintenance to correct any deterioration or damage to a structure and to restore the structure to its condition prior to such deterioration or damage is excluded from the definition of "alteration", provided such work does not involve a change in design, color, texture, material or exterior architectural feature.
- (b) "Applicant" means any owner, owners, association, partnership or corporation who applies for a Certificate of Approval.
- (c) "Commission" means the Historic Preservation Commission of Massillon.
- (d) "Demolish" or "demolition" means the razing or removal, in whole or in part, of any structure.
- (e) "Exterior Architectural Feature" means the architectural style, general design and general arrangement of the exterior of a building or structure including but not limited to windows, doors, porches, storefronts, signage, cornices, siding materials, decorative trim, and other fixtures appurtenant to the exterior of the building.
- (f) "Historic District" means any area established by City Council and designated by this chapter for the purpose of maintaining and fostering a distinctive historical, architectural, cultural or environmental character.
- (g) "Listed property" means any property which has special character historical, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the City of Massillon, State of Ohio, or the United States and which has been designated as a listed property pursuant to the provisions of this chapter.
- (h) "Member" means any member of the Historic Preservation Commission of Massillon.

preservation-related professional members from the fields of architecture, architectural history, history, archeology, planning or a related discipline. Two (2) members shall be designated by the City Planning Commission and shall serve terms concurrent with their terms such Commission. One (1) member shall be a member of City Council designated by City Council at the first meeting of alternate calendar years, and shall serve a two (2) year term. Four (4) members shall be appointed by the Mayor with the consent of City Council from recommendations made by the Massillon Museum, Inc. and shall serve two (2) year terms. One (1) member of the City's Planning Department staff, designated the Historic Preservation Officer, shall serve as City Liaison to the Commission in an advisory, non-voting capacity. Terms of office shall be staggered, except that two (2) of the members appointed by the Mayor shall serve an initial term of one (1) year. All members shall be residents of the City of Massillon. All members of the Commission shall serve without compensation from the City. The Mayor and the City Council shall have the power to remove any member of the Commission for just cause. Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as original appointments are made. Vacancies shall be filled within sixty (60) days unless extenuating circumstances require a longer period.

(b) The Commission shall elect a Chairman, a Vice-Chairman to serve in the absence of the Chairman, and a Secretary at its first meeting after November 1 of each year. The Commission shall adopt its own rules of procedure, including conflict of interest prohibitions, which shall be made available for public inspection. The rules of procedure shall provide for at least four (4) regular meetings per year and additional special meetings which will be held in a public place, advertised in advance and made public. All review decisions will be made in a public forum, with applicants notified of meetings and advised of decisions. Written minutes of actions and decisions of the Commission shall be made available for public inspection.

1349.04 DUTIES OF THE HISTORIC PRESERVATION COMMISSION

The duties of the Historic Preservation Commission are as follows:

- (a) To improve the quality of life in the City by striving to further and achieve the spirit and purpose of this ordinance.
- (b) To act in an advisory role to other officials and departments of local government regarding the protection of local cultural properties.
- (c) To act as liaison on behalf of the local government to individuals and organizations concerned with historic preservation.
- (d) To work for the continuing education of the residents of the City with respect to the architectural and historic heritage of the City, and historic preservation issues and concerns.
- (e) To employ technical experts as may be required to perform its duties within the appropriations made available therefor and to perform such

- (l) To keep a current register of all listed properties and provide the City Engineer and the Building Department with a current copy thereof, showing any additions thereto, this register shall be made available to the public and shall be located at the Building Department, City Hall, 100 City Hall Street, S.E., Massillon, Ohio.
- (m) To prepare an Annual Report documenting the Commission's activities, cases, decisions, special projects and membership that will be available for public inspection.
- (n) To conduct hearings to consider or determine any matters related to Historic District or Listed Property designations within the corporate boundaries of the City which shall be scheduled by a vote of the membership at regular or special meetings. Parliamentary procedures shall be used during any official hearing.
- (o) To review and act upon all applications for "Certificates of Approval" as required by this Chapter and to establish criteria, rules and regulations not otherwise included in this ordinance for evaluating applications for Certificates of Approval submitted to it.
- (p) To use written guidelines in making decisions on requests for permits for alterations, additions to or demolition of listed properties and buildings within historic districts.
- (q) To consider whether the failure to issue a certificate of approval will involve a "substantial hardship" to the applicant and whether the certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the interest and purposes stated herein.

1349.05 DESIGNATION OF HISTORIC DISTRICT OR LISTED PROPERTY.

- (a) In considering the designation of any area, place, site, building, structure, object or work of art, in the City as a Historic District or Listed Property, the Historic Preservation Commission, the City Planning Commission and City Council shall apply the following criteria with respect to each property. One or more of the following must apply:
 - (1) The character, interest or value as part of the heritage of the City, the State of Ohio or the United States.
 - (2) The location as a site of a significant historic event.
 - (3) The identification with a person or persons who significantly contributed to the historic district.

In addition to meeting at least one of the above criteria, proposed historic districts must also meet the following criteria in order to be designated:

- (1) The proposed area must be enclosed by boundaries, such as streets, freeways, railroads, rivers or open space, which set the area off in relation to its surroundings.
- (2) The area within the proposed boundaries must have a high degree of historic integrity, without excessive loss of architectural or historic character.
- (3) The area within the proposed boundaries must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to a master plan, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.
- (b) The Commission shall notify the owners of any proposal to list his property or designate a Historic District which encompasses his property either by certified mail or personal delivery.
- (c) Whenever possible, the Commission shall secure the written consent of the property owners for a listing of property. Upon receipt of such consent, the recommendation for listing shall be sent to City Council for submission to the City Planning Commission for its review and recommendation. Thereafter, City Council shall hold a public hearing on any such proposed listing and following such hearing, Council may list said area, place, site, building, structure, object or work of art as a listed property by majority vote.
- (d) In the event that the owners of the properties shall refuse or decline to give written consent to the proposed listing of property, and the Commission feels it is of considerable importance to the community that the property be listed, and in the designation of all historic districts the following procedure shall be followed:

- (1) The Commission shall schedule a public hearing on the question of the proposed designation or listing, setting forth a date, time and place and causing written notice to be given to the owner, or in the case of a large historic district (50 or more properties) where individual notices may not be practical, notice to be given through existing neighborhood or other organizations. The Commission shall cause a legal notice to be published in a newspaper of general circulation in the City setting forth the nature of the hearing, the property or district involved and the date, time and place of the scheduled public hearing.

1349.06 LIMITATIONS ON ISSUANCE OF BUILDING AND DEMOLITION PERMITS.

No construction, reconstruction, alteration or demolition of any structure or significant exterior architectural feature thereof in any designated Historic District or of any Listed Property shall be undertaken prior to obtaining a Certificate of Approval from the Commission and a permit from the Building Department, if applicable. No permit shall be issued by the Building Department for the construction, reconstruction, alteration or demolition of any area, place, site, building, structure, object or work of art within a designated Historic District or Listed Property, except in cases coming under the exclusions in this ordinance, unless the application for such permit is approved by the Historic Preservation Commission through the issuance of a Certificate of Approval in the manner prescribed herein:

1349.07 CERTIFICATE OF APPROVAL

- (a) When the owner of a property within a Historic District or owner of a Listed Property intends to construct, reconstruct, alter or demolish any portion of a structure within the District or of a Listed Property, he shall first apply for and secure a Certificate of Approval from the Commission. The application for a Certificate of Approval shall be deposited with the City's Historic Preservation Officer, together with such plans, specifications, and other material as the Commission may from time to time prescribe.
- (b) Within thirty (30) days, the Commission shall consider the applications, plans and specifications, and determine 1) whether any "exterior architectural feature" is involved and 2) whether a Certificate of Approval shall be issued or denied. If the Commission determines that no architectural feature is involved, it shall cause the secretary to endorse the Certificate of Approval and return the application, plans and specifications to the applicant.
- (c) In the event that the Commission finds that an architectural feature is involved, the Commission shall determine whether the proposed construction, reconstruction, alteration or demolition is appropriate or whether it has an adverse effect upon the purposes of this Chapter, the Historic District or Listed Property. In making such determination, the Commission shall refer to the Secretary of the Interior's Standards for Rehabilitation, and to the design guidelines adopted by the Commission. In the case of archeological properties, the Commission shall refer to the Advisory Council on Historic Preservation's Treatment of Archeological Properties; A Handbook.
- (d) The Commission may require any person applying for a Certificate of Approval or request any person whose interests appear adverse to those of the applicant, to file with the Commission prior to any hearing or determination, information concerning the applicant's intentions, or such adverse person's interests or intentions.

with the owner of the property in order to develop a compromise proposal acceptable to both. The first meeting between Commission and applicant shall be held within 30 days from the date of disapproval. If a compromise proposal is accepted by both parties, the Commission may henceforth issue a Certificate of Approval.

(i) In the case of denial of a Certificate of Approval for demolition:

(1) The Commission and applicant shall undertake meaningful and continuing discussion during the waiting period in order to find a means of preserving the property. The Commission and applicant shall investigate the feasibility of all means of preserving the listed property. If the Commission and applicant do not agree on a means of preserving the structure at the initial meeting then they must continue to undertake meaningful and continuing discussions for the purpose of finding a method of saving the structure, and such good faith meetings shall be held at least every forty-five (45) days after the initial meeting.

(2) If the applicant fails to meet with the Commission in good faith, in the time specified, then the Commission's denial of the application will stand.

(3) If, after holding such good faith meeting in the waiting period specified by the Commission, the Commission determines that failure to issue a Certificate of Approval will create a substantial hardship to the applicant and that such certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the purposes of this Chapter, then and in such event, the secretary of the Commission shall issue a Certificate of Approval for such proposed demolition.

(4) If, after holding such good faith meetings in the waiting period specified by the Commission, no alternative property use is developed or no offer to save the structure is made by the applicant, the Commission or a third party, then the applicant may appeal the decision to City Council. City Council may affirm or reverse the Commission's decision. If Council affirms the decision, the denial of Certificate of Approval stands.

(j) In the case of denial of a Certificate of Approval for construction, reconstruction, or alteration:

(1) The Commission and the applicant shall undertake meaningful and continuing discussion during the waiting period in order to find an alternative to incompatible new construction, reconstruction, or alteration within a Historic District or to a Listed Property. If the Commission and applicant do not agree on an alternative solution at the initial meeting, then they must continue to undertake meaningful discussions for the purpose of

1349.08 PERMITTED USES.

The uses permitted and conditionally permitted in any designated Historic District shall be those included in the corresponding zoning district as indicated on the official Zoning Map of the City.

1349.09 PENALTY.

- (a) Whoever constructs, reconstructs, alters, changes or demolishes any exterior feature of any area, place, building, structure, object or work of art in violation of these regulations shall be punished under Section 1141.99.
- (b) In the event any change is made in any property which has been designated a Listed Property or which is situated in a Historic District, the City may institute appropriate proceedings to prevent such unlawful change.

Section 3:

That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the community and for the more efficient preservation of our Historic Districts and Listed Properties of the City of Massillon, Ohio. And provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 1987.

ATTEST:

MARY ANN COYNE, Clerk of Council

CARL M. TURKAL, President of Council

APPROVED: _____

DELBERT A. DEMMER, Mayor