### AGENDA

# MASSILLON PLANNING COMMISSION MARCH 9, 1994 7:30 P.M. MASSILLON CITY COUNCIL CHAMBERS

- 1. Approval of the Minutes for the Commission Meeting of February 9, 1994.
- 2. Petitions and Requests

Replat - Lots No. 8786, 8822, & 11604

Location: The west side of Wales Road, N.E., between Lennox Avenue, N.E., and Burd Avenue, N.E. The request is to replat Lots No. 8786, 8822, and 11604 into three new lots, as the original lots are irregular in shape, and the property is being sold to three separate owners. This request has been filed by Alfred D. McCallin, attorney for Dr. and Mrs. Donald Wilson, the property owner.

## Alley Vacation

Location: Whittier Place, N.E., a 14 foot wide alley lying between Commonwealth Avenue, N.E., and State Avenue, N.E., and running in a north-south direction between Amherst Road, N.E., and 8th Street, N.E. Specifically, the request is to vacate that portion from the north right-of-way line of State Avenue, N.E., to the south property line of Lot No. 14225. This request has been submitted by Massillon Community Hospital.

## Request for Oil and Gas Well Permit

Location: Out Lot 536 and Out Lot 537, located at the southern end of the City between State Route 21 and the Tuscarawas River, in the vicinity of Indian River School and the Massillon Wastewater Treatment Plan. MB Operating Co., Inc., of Canton has filed a request for a permit to drill two oil and gas wells on these properties, both of which are owned by the City of Massillon. Chapter 741 of the Codified Ordinances of the City provides for Planning Commission review and recommendation to Council prior to the issuance by the City of an oil and gas well permit.

## 4. Other Business

### MASSILLON PLANNING COMMISSION

### February 9, 1994

The Massillon Planning Commission met in regular session on this date at 7:30 P.M. in City Council Chambers. The following members were present.

#### Members

Staff

Co-Chairman Rev. David Dodson
Mike Loudiana
Thomas Wilson
Barbara Thomas
Mayor Francis H. Cicchinelli, Jr.
Safety-Service Director Al Climer
Janet Holloway

Robert Wagoner Aane Aaby

The first item on the agenda was consideration of the Minutes for the Commission Meeting of January 12, 1994. Mayor Cicchinelli made a motion to approve the Minutes as mailed. Seconded by Tom Wilson, the motion carried.

Under Item 2 on the agenda were the following requests:

REZONING REQUEST - Location: Lots No. 6108, 6109, 6110, 6111, 6112, 6113 and 6114 located on the south side of Lincoln Way East between 20th and 21st Streets, S.E., and including 2017, 2023, 2027, 2039, 2043, and 2049 Lincoln Way East (along with one vacant Lot - No. 6111). The request is to rezone these properties from RM-1 Multiple Family Residential to R-1 Single Family Residential. This request has been submitted by Scott Renzenbrink.

Mr. Climer - Prior to this being presented by Mr. Aaby, as I am one of the neighbors in the signatures on the application for rezoning I will abstain from participating on the vote on this issue and I would request the right to speak as a neighbor and a resident at the appropriate time.

<u>Rev. Dodson</u> - point well taken, request is granted, please let the record indicate such. Thank you.

Mr. Aaby - Thank you Rev. Dodson. There is a map of the area that was distributed with the agenda for the meeting. Parts of it are a little bit blurry, but basically it's property that is on the south side of Lincoln Way East, between 20th and 21st Street S.E., being Lot 6108 through 6114, there are, that's a total of 7 lots. Six of these lots are presently occupied with single family structures and all six of those owner occupants signed a petition for this zoning. The Massillon Zoning Code states that a zoning petition may be filed to rezone an area if a majority of the property owners within the area to be rezoned sign such a petition

and in this case we had 6 out of the 7 property owners sign this petition. I think that the addresses are 2017 through 2049 Lincoln Way East. The area along the south side of Lincoln Way East from Tremont Avenue up through about 27nd Street is zoned multiple family residential, however, the usage on these particular lots is single family residential and the rezoning was submitted by the property owners with the idea of trying to keep this area single family residential. By point of reference there is one vacant lot within the area of the request, which is lot 6111, approximately in the middle of these properties. Now, there has been a request that has been submitted to the Massillon Zoning Board of Appeals, which will be meeting tomorrow and the owner of that parcel is requesting to build apartments on this lot, but they cannot meet the zoning requirements I guess for a number of reasons, and so they have applied for a variance. Now, it is my understanding that it has been this request that has sort of precipitated the idea to rezone this property, that the owners do not wish to have a multi-family residence constructed essentially within their area, that's just by way of information, so you get a full picture of what the situation is. Our zoning ordinance requires that a petition be circulated to property owners within 200 feet of the property that is being sought for the rezoning and try to get a majority of those property owners within 200 feet of the applied area to sign such a petition. A petition has been submitted with the signatures of 13 out of the 23 neighboring property owners on all sides, so there was support for the rezoning requests from a majority of the property owners in the surrounding area. I've got a blown up copy of our City Zoning Map, which I can pass out if you'd like to see it. This being Lincoln Way East here and this being the south side, it shows the area that the City has as multiple family residential zoning being basically those properties fronted along the south side of Lincoln Way East, down to this alley that runs behind these lots. Then all property to the south is single family residential. The area in yellow that is outlined are the seven lots that being sought for single family residential zoning. On the north side these striped areas are the commercial zones. You can see Meadows Shopping Center, where the Holiday Inn is, Your Pizza Shop and what used to be Kardoleys but I can pass this out just so you can get now is Blockbuster Video. an orientation of how the building looks in this area. basically the information that I have regarding this, if you have any questions regarding any particular items.

<u>Barbara Thompson</u> - One question, how long has it been zoned for multi-family?

Mr. Aaby - When the city's current Zoning Code was adopted in 1970, the south side of Lincoln Way East in this area was zoned multifamily residential, basically with the idea being it being a transitional area between the commercial businesses on the north side of Lincoln Way East and the residential neighborhoods on the south side. So, this area has been zoned multiple family since 1970.

<u>Jeanette Holloway</u> - Is there multi-family housing out there at this time?

Mr. Aaby - There are, if you'd look at this map, lots 6115 and 6116 which are immediately tot he west of the request that intersect at 20th Street and Lincoln Way East, there is an apartment building. There are also some apartment buildings along Vermont Avenue, and I would imagine that they are non-conforming use. So that the area is a mixture of single family uses and some scattered non-conforming multi-family uses with the apartment here at the corner of 20th and Lincoln Way East, so it's a mixed area right now.

Ms. Holloway - Will residents feel that there is a saturation of multi-housing or what? Why do they want to zone it single?

Mr. Aaby - It is my understanding that what the residents in this particular area, they are single family homes and they are wishing to preserve their part of this area single family. I think there are probably a number of them here who can probably speak to why they are requesting this.

Rev. Dodson - Are there further questions from the Commission relative to the request.

<u>Ms. Thomas</u> - I have one other, what size complex could be built on this size lot? It doesn't look very large.

Mr. Aaby - The lot 6111? It is 52-1/2 feet wide and about 215 feet deep. It's under 12,000 sq. foot in size. Based on our density formula you could conceivably build three two-bedroom apartments on this property, if you could fit it on without variances, but evidently it does not quite fit in within our zoning code requirementsr, so they've got an application pending before the Zoning Board of Appeals for certain variances and that hearing will be tomorrow night.

Rev. Dodson - Further questions from the Commission. Is there anyone here that would like to speak to this request. Please state your name and your address for the records..

Charles Tribett - I live at 2043 Lincoln Way East. And I have lived in this neighborhood for 27 years. For the last 10 years, I've been coming down to City Hall speaking against some of the requests where various businessmen have tried to come in an rezone this property commercial, the entire block. And the neighbors are frankly rather tired of it, fighting something for over a ten year period. So we got the idea of putting forth our own petition and rezoning these lots residential. I have a couple handouts that might help the Commission. The area that is in pink is already residential property, it is zone R-1, the area that we are asking to be rezoned is in the yellow and is currently RM-1. There are a number of reasons that we are for this rezoning issue. First and foremost, the only access that we have to our properties is in a little alley at the rear of the property and it is single lane. You are right, there are currently some apartments located in this area and one is the DeVille Apartments and we get quite a bit of from that and it really doesn't fit in with the neighborhood as far as looks. The other two apartments are very small and look much like residential housing, so it really doesn't distract from the neighborhood that we have. The problem some of the neighbors and I have our only privacy is located in the back, if they build this apartment, they would have to blacktop their entire back area, which would very much detract from the other neighbors that are here tonight as far as the esthetics of their property and their privacy. But we also have small children located on these properties and quite frankly we get a lot of traffic through there. We have a video here that I think will explain it much better than I can, it is about 3-1/2 minutes and I am not going to take a lot of your time. I want you to see the (THE FOLLOWING STATEMENTS WERE MADE BY MR. TRIBETT DURING THE SHOWING OF THE VIDEO WHICH IS NARRATED BY AL CLIMER) I'd like to point out a couple things to the Commission. Notice how all these houses are in a row, not protruding like this apartment. Notice the privacy we have here. These are parking areas here. This car had to turn around and go back because of the narrowness of the alley way. Here's the DeVille Apartments, notice the blacktop back of the parking, all the way up to the alley and that's what we would face if this went through tomorrow night. So Mr. Climer could have blacktop from there is all blacktop. right up to the back of his house. You can see that, that would take off 32 feet beyond the current housing there and how distracting that would be as far as the esthetics to the whole neighborhood, but not only that, just the plain privacy that we would lose Mr. Climer and some of the other neighbors, because this thing would be located right in the middle of our back yard. As I said, I don't want to take anymore of your time. I would hope that you would consider our feelings, the residents who have lived there for a long time. Thank you.

 $\underline{Rev.\ Dodson}$  - Are there any other comments, please, approach the bench, state your name and address for the record.

Scott Renzenbrink - 2027 Lincoln Way East. My concerns are mostly the amount of traffic that we are going to have. What this could possibly do to our property value. We just moved in several years back. We bought it because we wanted to raise a family in a large house, in a nice neighborhood, and not have to worry about you know, people moving in and moving out at a constant rate, not having substantial neighbors that are going to be there. biggest reason you know, we'd like to have it single family is just to keep it that way, just so our family can be raised with other single families along there and not have to worry about the building, not have to worry about the traffic going up the alley way, not having to worry about people parking on our yard, because somebody wants to visit and there is not enough parking spaces there. The way it would make our house look from Lincoln Way. What it would do to the visual aspect of our house and they are all nice looking houses and I'd hate to see you know, when you're driving up Lincoln Way, see a 35 foot structure sticking out in front of all of our houses. It would obstruct our view, the building would be almost a wall outside of our windows and I hope you guys can see our concerns and I think you very much.

Rev. Dodson - Thank you Scott. Further comments from residents in the area.

MIKE PASSALACQUA - I live at 2017 Lincoln Way East. I live right next to DeVille Apartments and my biggest concern is, right now, the majority of the time that I can get into my driveway is from the east and we have a lot of traffic and the people who have homes on Vermont park behind their houses and you couldn't see it in the film, but I drive a pick-up truck, normal size pick-up truck and I have a problem getting in and out of my driveway, and having an apartment house right in the middle of our block would be very detrimental to trying to get in and out of our access road, you know, as far as I can see it. At least with DeVilles Apartment he has an entrance that comes off of 20th Street, which cuts down on the usage of our back street. And if a four unit were put in, it would have to have at least 8 parking places behind the apartment complex and if both people in the family work you know, that would be the 8 parking places and if somebody comes to visit them, there is no room, except parking along the alley where there are no parking signs and people park there already and it would be very bad for us to try to get in and out because we can't park out on Lincoln Way. Thank you.

Rev. Dodson - Any further comments from residents of the immediate
area.

Al Climer - Mr. Chairman I retained the right to speak. Lincoln Way East. I have been a resident of this neighborhood since 1986. Mr. Tribett explained that in the past 10 years there has been a multiple request for rezoning to change everything. was brought to our attention, a few weeks back that an individual wished to put on this lot 6111, not a three unit, Mr. Aaby explained that would fit on there, but he had put in a request for a four unit apartment complex. He had requested a set back of 50 feet to the Building Department. It's not going to fit into the neighborhood as several of the neighbors have stated, Mr. Renzenbrink stated that they wish to have a family and they have children in the area, I already have children in the area. Some of the other neighbors have children in the area, stated that by putting either a three or a four unit apartment in there, each unit is required to have two parking spaces which is going to be anywhere from 6 to 8 parking spaces. By rezoning this none of the neighbors have any objection if the owner of putting in a nice single family house, it fits into the neighborhood. A comment was made that there are some duplexes behind us, those were built there There are three of them sit in the 25, 30 and 40 years ago. alleyway just south of the residences that we wish to be rezoned. If you look at your papers, all the area that is in pink is already We are trying to in essence make the entire block single family. If maybe we won't get a couple of them, we would have the vast majority and it is going to retain the neighborhood and it's integrity the way that it looks. We have no objection if the owner wants to put in a house, I think that would look very nice up there. An apartment, you were shown on the film how all the houses look, it is not going to fit into it. I don't want to look out my front window and see 32 feet of a building and 30 feet up in the air that is going to obstruct any view that I have of Lincoln Way or anything outside the house. Mr. Renzenbrink is going to have the same problem looking in a northeasterly fashion. So behalf of all the neighbors up there, we are requesting that you seriously consider our zoning request to change it from an RM-1 to a Single Family Residential.

<u>Rev. Dodson</u> - Any further comments from the Commission. Any questions from the Commission.

<u>Mike Loudiana</u> - My question is, if this is before the Zoning Appeals, who takes precedence, I mean if they, if we change the zoning tonight and they make their decision tomorrow, then, do you follow what I'm saying, if we change it back, how does that work.

Mr. Aaby - Any decision of the Zoning Board of Appeals is eligible to be appealed to Massillon City Council for overturning of the decision. If the Zoning Board of Appeals would grant the varience, the neighbors can appeal it to council, if they turn the request for variance down, the owner of the lot in question could appeal to Council, so it could end up that the entire matter would eventually go before Council.

<u>Mr. Climer</u> - Mr. Chairman I talked to Mr. Surby, the Building Department Inspector, Superintendent, he stated that the Board of Appeals hearing tomorrow night, regardless of what the outcome of tonight would be they would run it as if this never took place tonight.

Rev. Dodson - Does that answer your question.

<u>Mr. Loudiana</u> - Well my question is if they say that the building can be constructed tomorrow, okay, we change the zoning tonight to single family, tomorrow the Zoning Board of Appeals says well now you go ahead and construct that building, who takes precedence.

Mr. Aaby - The decision of the Planning Commission is only a recommendation. The zoning would not be officially changed until it went before City Council and the public hearing would be held, 30 day notice is required before that hearing could be held so the matter of the zoning would not be settled for at least 30 or more days.

Rev. Dodson - Does that answer your question? (YES) Are there any further questions of the Commission.

<u>Ms. Holloway</u> - The builder, or whoever is going to build here, are they here tonight?

 $\underline{\text{Rev. Dodson}}$  - Is the contractor here. The person that would do....

Carl Oser - 131 Cherry N.W. I am here representing Gerald Heck that purchased the lot possibly one year ago, to build apartments. It has been zoned here since November 2nd, 1970. It was purchased, nothing was done here as far as changing this until on January he filed with the Zoning Board of Appeals. I think Mr. Wagoner will tell you, the reason, one of the reasons we are at the Zoning Board of Appeals because in their books, they say that two bedrooms equals three rooms is that right. Which they will not change. It may have to go to court to show that three is not two, but they won't change it. But that is one of the things that we're at the Zoning Board of Appeals to say that two bedrooms is two bedrooms, not three, that's the way it reads there in the book. Now, as far as it's a building being, it would be much lower in height than the adjacent houses there, it is 24 feet, the other homes are two story homes in the area. And from this lot here, clear through to 21st Street, every lot is occupied by a duplex in the rear. You have DeVille Apartments on the other, we have other apartments on Vermont. Mr. Aaby there's a petition being circulated for three lots right at the corner of Vermont, Lot No. 6207,8 and 9 for apartments, is that right Mr. Aaby?

Mr. Aaby - The applications has been taken out, but whether they
are asking for multi-family or duplex .....

<u>Mr. Oser</u> - They are because I signed a petition for Mike Halco. The first thing that anyone would tell me if I brought in anything like this, it's spot zoning. What do you think Mr. Aaby? You're taking the center out of the lot. You are letting lots open on each end.

Mr. Aaby - Spot zoning as I understand it, not being an attorney is something that and then it is determined by the courts to be spot zoning, so I mean, I'm not lawyer so...

 $\underline{\operatorname{Mr. Oser}}$  - I mean this has always come up every time I've brought in....

Rev. Dodson .... May I call your attention to the fact that we are not here to argue a case but rather to consider the petition request at hand and lets stick to that particular matter please.

Mr. Oser - Well that's what he want to build is a four family there, which we shouldn't have any problem, but if it has to be three family he'll build it, he has the assets to do it, he is not asking for any help from the City or anything, and I'm sure the City of Massillon needs housing. In fact it was in the paper tonight, a letter to the Editor from NAACP said we need housing. And you can't stop it everywhere you go because a neighbor don't want it here, they don't want it there. As far as in the back of these properties, the accessibility of getting in and out, a lot of people wouldn't have that problem if they would tear their garages down and build them, their garages are practically on the alley the way they are built, they are only a few feet off. it is no wonder they have a problem getting in and I don't think they would deny that there, they were built maybe 6 - 8 foot off the alley.

<u>Rev. Dodson</u> - Before you take your seat, did you have any other questions of Mr. Wilson, Ms. Holloway.

Mr. Oser - So I believe that is all I have, he would definitely like to go ahead with it and it was zoned when bought it, he bought it in good faith, the neighbors had 28 years there, like Mr. Tribett knew how it was zoned, he was on Council, he should have known, Climer was there. A sign stuck on it for over two years for sale, they did nothing. Now when someone buys it and comes in to build then they don't do anything.

Mr. Climer - Wrong.....

<u>Mr. Oser</u> - If you couldn't see a sign you are blind, that's all. Thank you. Rev. Dodson - And thank those of you who had your suggestions and comments as well from the audience. If there are no further comments or questions the Chair will entertain a motion.

<u>Tom Wilson</u> - Since I am a homeowner myself and I believe in maintaining the integrity of residential neighborhoods I'm going to move that we accept this petition, this request, seconded by Mayor Cicchinelli.

<u>Mayor Cicchinelli</u> - Mr. Chairman my only question, not actually on the motion but shouldn't the Commission excuse Mr. Climer from voting?

<u>Rev. Dodson</u> - He is abstaining from voting, he made that clear at the top of the order.

<u>Mayor Cicchinelli</u> - Okay, we don't need to vote to have him abstain.

Rev. Dodson - Roberts suggest that if you are principal subject then you are ineligibly to vote.

The request for rezoning was approved by a roll call vote of four yes votes and one no. Those in favor Mayor Cicchinelli, Tom Wilson, Barbara Thomas and Mike Loudiana. Those opposed Jeanette Holloway.

REZONING REQUEST - Location: part of Lot No. 798, a vacant parcel of land located on the south side of Orchard Avenue, N.E., east of Amherst Road, N.E. The request is to rezone this property from R-1 Single Family Residential to B-1 Local Business. The request has been submitted to Carl Oser, who wishes to utilize this property as part of his commercial development located at 930 Amherst Road, N.E.

Mr. Aaby explained that this lot was zoned B-1 Local Business in the 1970's and a commercial building was built in the 80's by Mr. Recently he acquired property to the rear of his business development. Lot 798 was split into two separate pieces with a house on each part. He acquired the western most portion of the He sold the house but retained this irregularly shaped portion and wants to utilize this as part of his commercial development. So he would like this small portion rezoned B-1 Local Business to be added to his commercial development along Amherst He has a petition that has the signature of the owner of house immediately to the east, but there were no other signatures of any other neighborhood property owners. We counted 21 within 200 feet of his rezoning area. The one signature is the owner of property adjacent to the parcel in question. If this property is rezoned according to the Zoning Code there would have to be a fence or some type of securing wall to screen the business

development from the residential area along Orchard Avenue, that would be one requirement. Mr. Loudiana questions if the other neighbors had been notified. Mr. Aaby responded that he wasn't sure but they would be notified at the public hearing before Council would take any action. The Mayor questioned what was on the property now and was informed that this parcel is vacant and is a concrete parking lot that has been there for four years. Mr. Oser explained that he wanted to square off the parking lot. When questioned if he had any plans for the building, Mr. Oser stated he was just waiting for now.

Mr. Loudiana moved that this rezoning request be approved, seconded by Jeannette Holloway. Voice vote of approval was given.

REPLAT - LOTS NO. 14631 AND 14632 - Location: Replat of Lots No. 14631 and 14632 located respectively at 1012 Cloverdale Circle, N.E. and 2504 Fallen Oak Circle, N.E. The purpose of the proposed replat is to convey a small portion of Lot No. 14631 to Lot No. 14632 to adjust for the location of a driveway on this property. This request has been submitted by David and Debra Buchanan.

Mr. Robert Wagoner explained when the owners built the house they had the driveway over in the adjoining property. Mr. Aaby stated that the sliver of land outlined on the attached map would be replatted so that the gentleman's driveway would actually end up being on his property. There is no objection by the neighbor, he has agreed to sell it and the deed is being made up right now.

Mayor Cicchinelli moved to approve the replatting of these lots, seconded by Tom Wilson. Voice vote of approval.

REPLAT - LOTS NO. 2405 AND 2408 - Location: The southeast corner of Maple Avenue, S.E. and 2nd Street, S.E. The request is to replat Lots No. 2405 and 2408 located respectively at 205 Maple Avenue, S.E., and 816 2nd Street, S.E. to convey 300 feet off the south end of Lot No. 2405 to Lot No. 2408. This request has been submitted by Orville R. DeBos, surveyor. Mr. Wagoner explained this property was transferred some time ago and they need to replat this into the two lots. City ordinance says you cannot build a garage on a separate parcel of land it has to be on the same lot. They may want to build a garage in the future. The same property owner owns both lots.

Ms. Jeanette Holloway moved for approval, seconded by Mike Loudiana. Voice vote of approval.

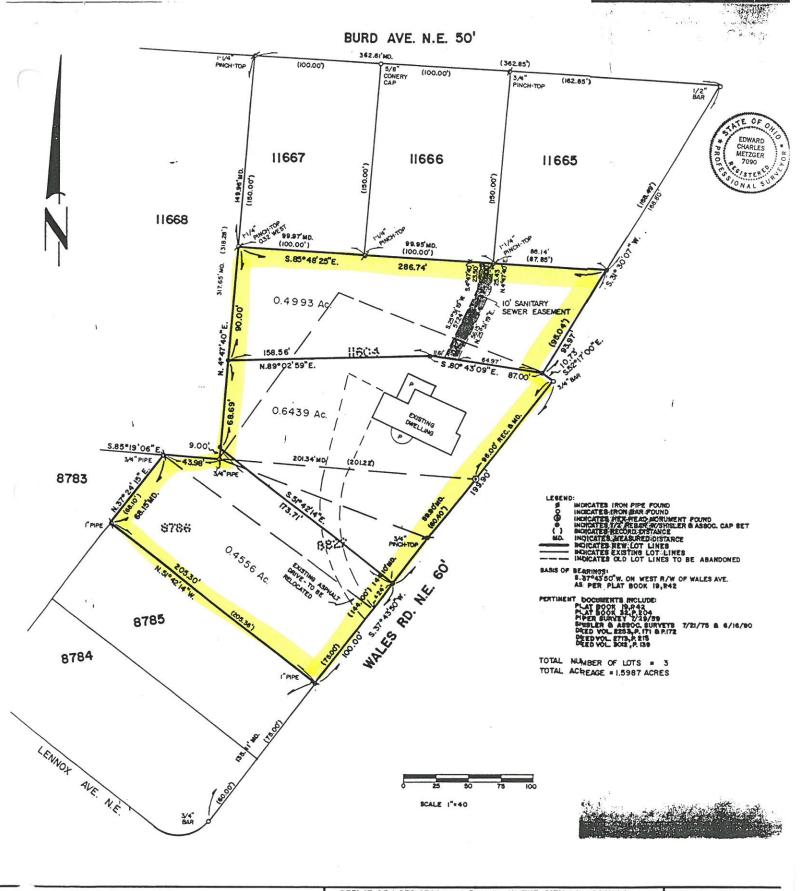
REPLAT - LOT NO. 14897 AND 14965 Mr. Aaby asked to add this replat to the agenda. It is a housekeeping item. We have had several annexations in the last several months and it turns out that there are two different lots in the City with the same lot number so we need to renumber one of these lots.

Mayor Cicchinelli moved to add this replat item to the agenda, seconded by Jeanette Holloway. Voice vote of approval.

Mayor Cicchinelli moved that we replat 14897 and renumber it to 14965, seconded by Barbara Thomas. Voice vote of approval.

Tom Wilson moved for adjournment - approval of all.

RESPECTFULLY SUBMITTED:



SHISLER & ASSOCIATES
LAND SURVEYING SERVICES
2011 FULTON RO. N.W. CANTON, OHIO 44709
(216) 455-4942

REPLAT OF LOTS 8786,8822 8 11604 IN THE CITY OF MASSILLON COUNTY OF STARK, AND STATE OF OHIO

DATE: FEB.2,1994

FOR: D.S.J. WILSON

JOB NO. 94-004

F.B. 106 P. 79

