

A G E N D A
MASSILLON PLANNING COMMISSION
MARCH 12, 2003 7:30 P.M.
MASSILLON CITY COUNCIL CHAMBERS

1. *Approval of the Minutes for the Commission Meeting of February 12, 2003.*
2. *Petitions and Requests*

Rezoning Request – 2nd Street NE and Thorne Avenue NE

Location and Description:

Lot No. 613 (207 2nd Street NE) From RM-1 Multiple Family Residential to B-2 Central Business District.

Lot No. 611 (vacant lot on the west side of 2nd Street NE between North and Thorne Avenues NE, presently used as driveway) From RM-1 Multiple Family Residential to P-1 Vehicular Parking.

Lot No. 621 (vacant lot on the south side of Thorne Avenue NE, west of 2nd Street NE) From RM-1 Multiple Family Residential to P-1 Vehicular Parking.

Proposed Use: The properties will be used for parking and access to the commercial property located at 136 North Avenue NE

Applicant: F & M Properties

Final Plat – Kenyon Creek Estates Phase 1

Location and Description: Part of Out Lot 872, a total 18.0444 acre parcel located on the east side of Kenyon Avenue NW, south of Wooster Street NW.

Proposed No. of Lots: 51 lots, zoned R-1 One Family Residential.

Streets to be Dedicated: Kenyon Creek Avenue NW, Silver Creek Circle NW, Wood Creek Circle NW, and Lake Creek Circle, NW.

Owner/Developer: A. R. Lockhart Development Company.

Final Plat – Shawview Estates Phase II

*Preliminary
plat*

Location and Description: Out Lot 851, a total 2.459 acre parcel located on the west end of Shaw Avenue NE.

Proposed No. of Lots: 8 lots, zoned R-1 One Family Residential.

Variance Requested: The proposed cul-de-sac of Shaw Avenue NE will be 626 feet in length (the City standard length for a cul-de-sac is 600 feet).

Owner/Developer: A. J. Diana & Sons.

Re-Plat – 1972 Wales Road NE (Massillon Auto Club)

Location and Description: Part of Out Lot 507 and Out Lot 810, a total 2.848 acre parcel located at the northeast corner of the intersection of Wales Road NE and Hills & Dales Road. The request is to replat this property into two new out lots.

Applicant: The Terra Group.

Re-Plat – 935 and 1135 Burd Avenue NE

Location and Description: Out Lot 392 and Lots No. 11576 and 11684, located on the south side of Burd Avenue NE. The request is to replat this property into four new lots.

Applicant: Eric Klein

Re-Plat – 26th Street NW

Location and Description: Lots No. 13271 - 13273, located on the west side of 26th Street NW, north of Main Avenue West. The request is to replat this property into two new lots.

Applicant: Kevin Glick.

3. New Business

Erosion/Sediment Control Regulations

The City Engineer is requesting the City to enact a new Chapter 920 of the Massillon City Codified Ordinances setting forth new rules regulating erosion / sediment control activities.

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3. *New Business*

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The Massillon Planning Commission met in regular session on February 12, 2003, at 7:30 P.M. in Massillon City Council Chambers. The following were present:

Members

Chairman Rev. David Dodson
Vice Chairman James Johnson
Paul Manson
Ben Bradley
Vincent Pedro
Thomas Seesan

Staff

Aane Aaby
Marilyn Frazier
Steve Hamit
Jason Haines

Also present

Councilman Tim Bryan
Councilman Mike Loudiana

The first item of business was approval of the minutes for the Commission meeting of January 15, 2003. Mr. Manson moved for approval, seconded by Mr. Pedro, motion carried unanimously.

The next item was a rezoning request presented by Mr. Aaby.

Rezoning Request – 33 Sixth Street SE

Location and Description: Lot No. 16620, located at 33 Sixth Street SE.

Zone Change Request: From P-1 Vehicular Parking to R-1 One Family Residential.

Proposed Use: The property will continue to be used as a single family residence.

Applicant: Bob Princehorn, Princehorn Realty

This property was before the Commission last month as a replat. The property is in the area of Wendy's Restaurant and the old Taco Bell Restaurant. It is a part of the Hillary Canary estate. Back in the 1970's, there was a rezoning which occurred in order to allow for a proposed Ponderosa Restaurant, but when it didn't materialize and Wendy's came in, less land was necessary. This property has remained residential and is being sold, therefore the lender is requiring single family residential zoning. Bob Princehorn was present and commented that this house was built in 1920 and has always been used as a residence. This is only to facilitate financing. Mr. Johnson moved to approve the rezoning request, seconded by Mr. Pedro, motion carried unanimously.

The next item of business was a final plat presented by Mr. Haines.

Final Plat – University Village – Phase 8

Location and Description: Part of Out Lot 557, a total 12.231 acre parcel located on the west side of Richville Drive SE, north of Nave Street SE.

Proposed No. of Lots: 37 total lots, with 14 lots zoned R-1 One Family Residential, and 23 lots zoned R-2 One Family Residential.

Streets to be Dedicated: portions of Mt. Union Avenue SE; Heidelberg Avenue SE; and Bowling Green Drive SE. *Owner/Developer:* P.R.M.D.C. LTD *Engineer:* Cooper & Associates

All of the lots meet the necessary requirements. Russ Doyle, of Cooper & Associates, was present. He added that this development has been very successful. Mr. Manson moved for approval, seconded by Mr. Seesan, motion carried unanimously.

The next item under Old Business was a final plat presented by Mr. Haines.

Final Plat – Westbrook Estates – Phase 2 (Tabled at last month's meeting)

Location and Description: Part of Out Lot 636, a total of 20.4332 acre parcel located on the north side of Lincoln Way NW, between Manchester and Kenyon Avenues.

Proposed No. of Lots: 47 lots, zoned R-2 One Family Residential.

Streets to be Dedicated: Woodstone Avenue NW; Woodforest Street NW; and Brightleaf Avenue NW.

Owner/Developer: A. R. Lockhart Development Company

This was tabled at the last meeting due to a lack of representation. This property is near the northwestern city limits. Mr. Haines pointed out that the storm water areas, Block A & B, should be platted and included as lots. Jeff Smith, from Lockhart Development Company, was present. He added that they would work with the Engineer's office regarding the storm water situation. Mr. Seesan moved to approve the final plat with the additional consideration as described by the Engineer's office, seconded by Mr. Manson, motion carried unanimously.

The final item under New Business was a proposed zoning amendment presented by Mr. Aaby.

Proposed Zoning Amendment: R-CRD Condominium District

The proposed amendment would create a new residential zoning district designed exclusively for owner occupied condominium projects. The regulations would provide standards for the location, design and development of condominium projects. As part of the rezoning process, a site plan of the proposed development would also be submitted along with rezoning application.

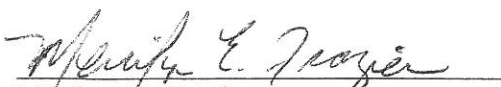
Mr. Aaby explained that the intent of this zoning amendment is to create a classification exclusively for condominiums. Formerly developers have had to seek a multiple family classification which created concern. Under this new classification, developers would be required to submit a site plan along with the application. Mr. Aaby then reviewed the proposed zoning amendment. A copy is attached and a part of the minutes. Rev. Dodson then clarified that the City has never had a condominium zoning classification.

Ed Davila, from Cicchini Enterprises, was present. He commented that this came about as a result of a prior zoning request. He expressed concern with the proposed classification in regard to a lack of definition of open space and also conditional use under single family classification. Mr. Aaby referred to Section E and clarified that a gas well would be considered open space. He also re-emphasized that the proposal is to create a new zoning district, not to allow for conditional use under a Single Family Classification. Mr. Aaby also clarified some other language issues. Mr. Bryan asked about open space. Mr. Aaby then reviewed some of the factors taken into consideration in order to develop the proposed ordinance. Mr. Seesan, Rev. Dodson, and the Commission then complimented Mr. Aaby and others who worked to develop the amendment. After additional discussion by the members, Mr. Johnson moved to approve the draft, seconded by Mr. Manson, motion carried unanimously.

There being no further business before the Commission, the meeting adjourned at 8:10 P.m.

Respectfully submitted,

Approval:


Marilyn E. Frazier

MEF/ky

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CHAPTER 1156

R-CRD Condominium Residential District

1156.01 Intent	1156.05 District Requirements
1156.02 Definitions	1156.06 Application and Review Process
1156.03 Principal Uses Permitted	1156.07 Amendments to Site Plan,
1156.04 Accessory Uses	Construction Progress

1156.01 INTENT

The R-CRD Condominium Residential District is designed exclusively for owner occupied condominium projects. Condominium projects require special additional regulations because of the issues resulting from the divided ownership of individual buildings, and the purpose of this Chapter is to provide reasonable standards for the location, design, and development of condominium projects and the information to be contained in the site plan of development which shall be filed with the application for zone change.

1156.02 DEFINITIONS

"Condominium" means a residential building containing one to four dwelling units which shall be separately owned in fee, and shall be owner occupied. Condominiums are further distinguished from other dwelling types by having joint ownership and/or responsibility for the maintenance of building, grounds and other areas owned in common.

1156.03 PRINCIPAL USES PERMITTED

In a Condominium Residential District, no building or land shall be used and no building shall be erected except for one or more of the following uses unless otherwise provided in the Zoning Ordinance.

- (a) Condominium residential units. The number of residential units permitted in a condominium building located within the R-CRD District shall be not exceed four residential units per building.
- (b) Accessory buildings and uses customarily incident to a condominium development, such as clubhouses, swimming pools, parks, playgrounds, and recreational facilities.

1156.04 ACCESSORY USES

All garages for the purpose of storing private vehicles shall be attached to the primary residential unit, and accessible therefrom. Free standing garages, carports and storage buildings of any type are not an allowable accessory use within the R-CRD District.

1156.05 DISTRICT REQUIREMENTS

Condominium development within the R-CRD District shall be constructed according to a formally approved Site Plan subject to the following District requirements:

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- (a) A Condominium Residential Development shall contain a minimum of five contiguous acres.
- (b) Water and sewer facilities shall be approved by the City Engineer prior to start of construction.
- (c) Housing density shall not exceed the following: seven residential dwelling units per acre.
- (d) The following setbacks shall be applied to condominium lots: the front yard setback shall be twenty-five (25) feet; the side yard setback shall be fifteen (15) feet; and the rear yard setback shall be thirty (30) feet. The minimum distance between condominium buildings shall be no less than thirty feet. The maximum height of condominium buildings shall not exceed two stories or twenty-five (25) feet.
- (e) Each development shall be required to provide a minimum of open space equaling 20% of the total land area exclusive of driveways, parking and loading areas. The site plan shall designate land suitable for use as open space.
- (f) Off-street parking shall be provided at a ratio of two spaces per residential unit.
- (g) All streets and parking areas shall be constructed and paved according to City standards, unless otherwise provided below:
 - (1) All private streets shall be paved to a minimum width of twenty-four (24) feet. They shall be laid out so that their use by through traffic will be discouraged and shall be subject to review and approval by the Planning Commission.
 - (2) Dead-end private streets shall be no longer than two hundred (200) feet and shall terminate with a paved turn-around having an outside paved diameter of at least ninety (90) feet.

1156.06 APPLICATION AND REVIEW PROCESS

Application for a R-CRD Condominium Residential Development shall be made in the following manner:

- (a) An "Application for Zoning Change" shall be completed by the prospective applicant and filed with the Director of Community Development for review by the Planning Commission.
- (b) A Site Plan shall be submitted along with the Application for Zone Change, subject to review and approval by the Planning Commission and including the following details shown to scale:
 - (1) The location, elevation, gross floor area, and proposed uses of each existing structure to remain and for each proposed structure; a typical floor plan shall also be provided;
 - (2) The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, and curb cuts;
 - (3) The location, elevation, and type of materials for walls or fences;
 - (4) The location of all landscaped areas, the type of landscaping, and a statement specifying the method by which the landscaping areas shall be maintained;

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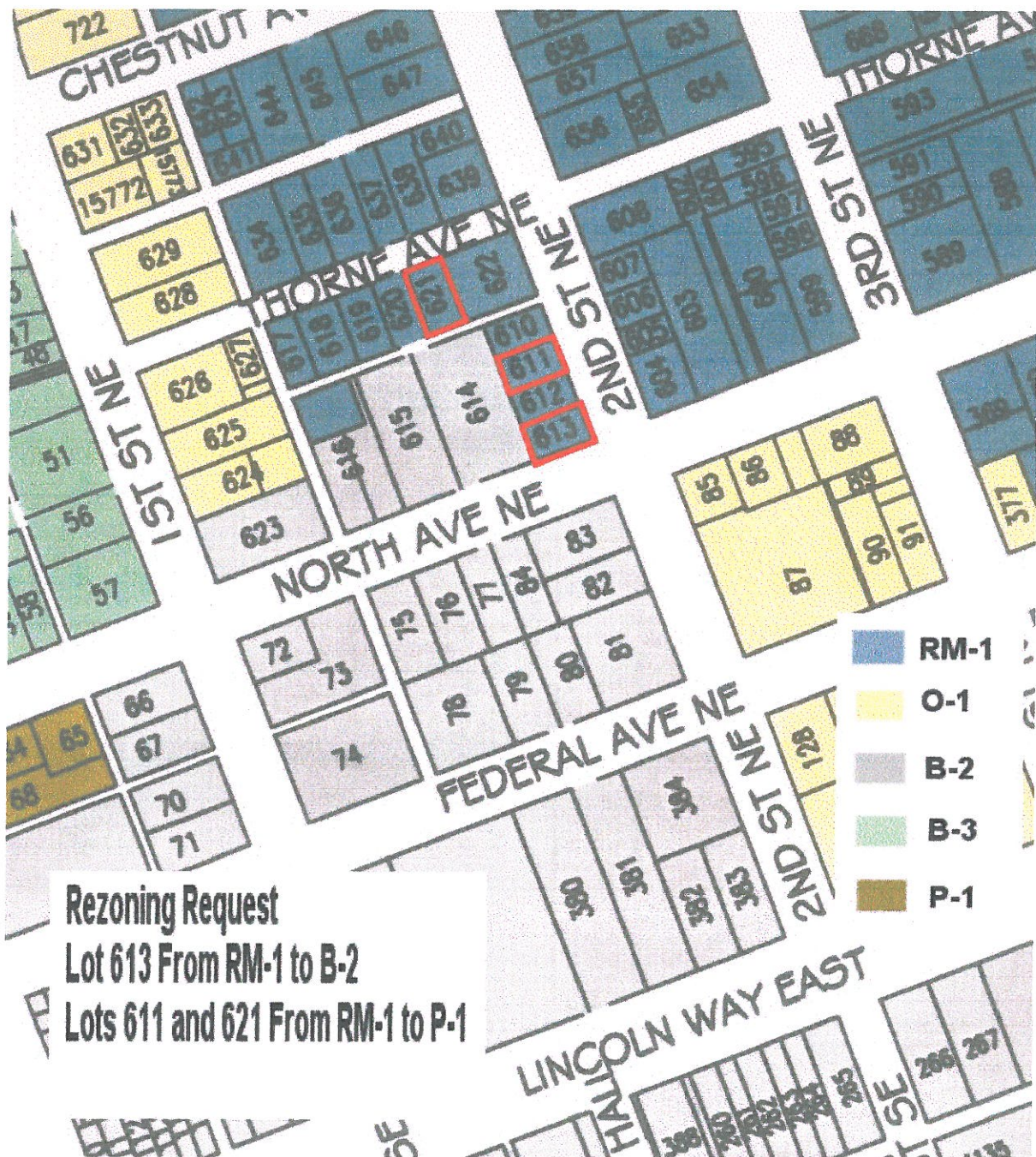
- (5) The location of all recreational facilities and a statement specifying the method of the maintenance thereof; and
- (6) The location of the parking facilities to be used in conjunction with each condominium unit;
- (c) Three (3) copies of the plans and elevations of all structures, showing the architectural features and the types and materials of construction; and
- (d) Three (3) copies of the covenants, conditions, and restrictions or, if there are no covenants, conditions, or restrictions, any other agreements between any person who has an ownership interest in the project and who has the right to reside in such project which will apply to the condominium project, which covenants, conditions, and restrictions or agreements shall include, but not be limited to, the following provisions:
 - (1) Provisions satisfactory to the City for the maintenance of the common areas of any such project by the City in the event of default in the maintenance of such common areas by individual owners of the units and for reimbursement to the City for any costs incurred thereby;
 - (2) In residential condominium projects the covenants, conditions, and restrictions or agreements shall include:
 - (i) Provisions restricting the use of each residential unit to use as a single-family residence; and
 - (ii) Provisions establishing each individual unit owner's exclusive right to the use of not less than two (2) specifically designated covered parking spaces for each unit; and
 - (3) A provision that any provision required to be included in the covenants, conditions, and restrictions or agreements by this Section or by the conditions of approval imposed on the project shall not be deleted or amended without the written consent of the City.
- (e) Planning Commission recommendation for approval of the site plan shall be contingent upon a finding by the Commission that:
 - (1) The project is an integrated plan designed for the primary purpose of owner-occupied residential use; and
 - (2) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways and parking area to encourage pedestrian and vehicular traffic safety; and
 - (3) All the development features including the principal building or buildings and any accessory buildings, or uses, open spaces and any service roads, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulation routes located as to interfere with police or fire equipment access.
- (f) Upon determination by the Planning Commission that both the Application for Zone Change and the Site Plan meet all requirements incorporated herein, the Commission will transmit its recommendation to Council. If and when Council determines that the requirements have been met, Council shall

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establish the R-CRD District in accordance with the procedures of Chapter 1137.

1156.07 AMENDMENTS TO SITE PLAN, CONSTRUCTION PROGRESS

- (a) Minor changes in an approved R-CRD Site Plan concerning the location, siting, or character of buildings and structures may be authorized by the Site Plan Review Committee, if required by the City or other circumstances not foreseen at the time of Site Plan approval. No change authorized by the Site Plan Review Committee under this section may increase the size of a building or structure by more than ten percent (10%), nor change the location of any building or structure by more than ten feet in any direction; provided, notwithstanding anything in the foregoing, the Site Plan Review Committee may not permit changes beyond the minimum or maximum requirements set forth in this chapter; all other changes in the R-CRD District including changes in the site plan and in the development schedule, must be made under the procedures that are applicable to the initial approval of an R-CRD District.
- (b) A time period of one year beginning with the official approval of the R-CRD Site Plan shall be granted for commencement of construction. Failure to begin substantial construction within this one year period shall void the Plan as approved. If for any reason the Plan is abandoned, or if construction is terminated at any stage, Council may rescind its approval of the R-CRD District upon recommendation of the Planning Commission, and the entire tract shall revert to a District (or Zone) consistent with the Comprehensive or Land Use Plan. Application for extension of time shall be made to the Planning Commission and shall be accompanied by such evidence as is necessary to show substantial need and shall be presented prior to the one year expiration date. Where the Commission finds an extension is warranted and so recommends to Council, Council may, by resolution, grant the extension.



Uare: 11/103



Title: G:\1 Current Maps\Cities\Massillon\023e_MAS.dwg

RECORD PLAT OF
KENYON CREEK ESTATES - PHASE I
FINAL PLAT
18.0444 ACRES

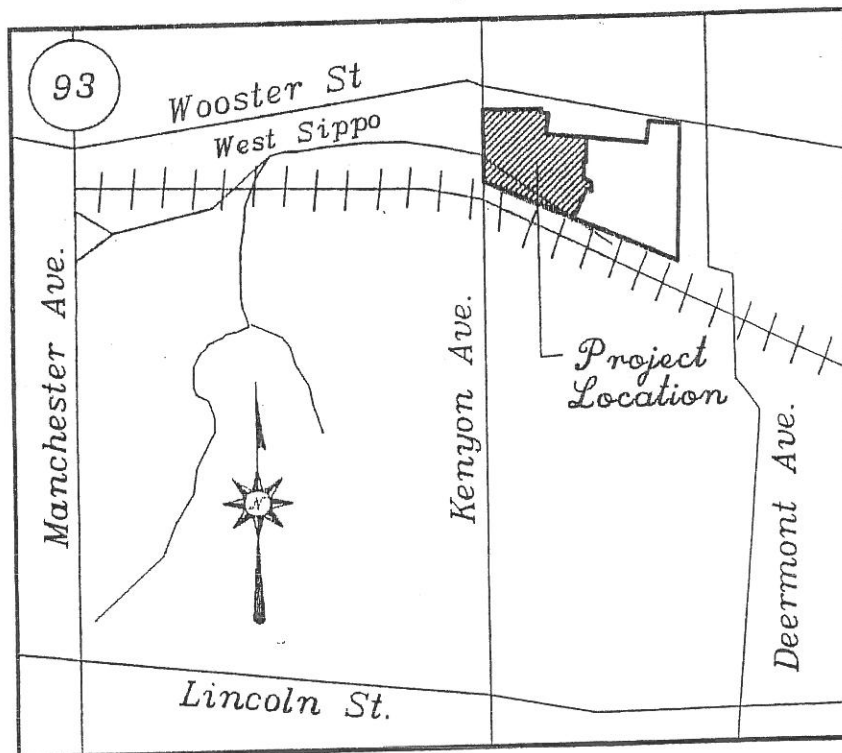
PART OF THE SW 1/4 SECTION 2
TOWNSHIP 12, RANGE 10
FORMERLY TUSCARAWAS TWP.,
BEING PART OF OUTLOT 872 OF
CITY OF MASSILLON

ACREAGE IN LOTS (51):	12.1992 AC.
ACREAGE IN OUTLOTS (3):	2.5972 AC.
ACREAGE IN R/W:	3.2480 AC.
TOTAL ACREAGE:	18.0444 AC.

OWNER / DEVELOPER

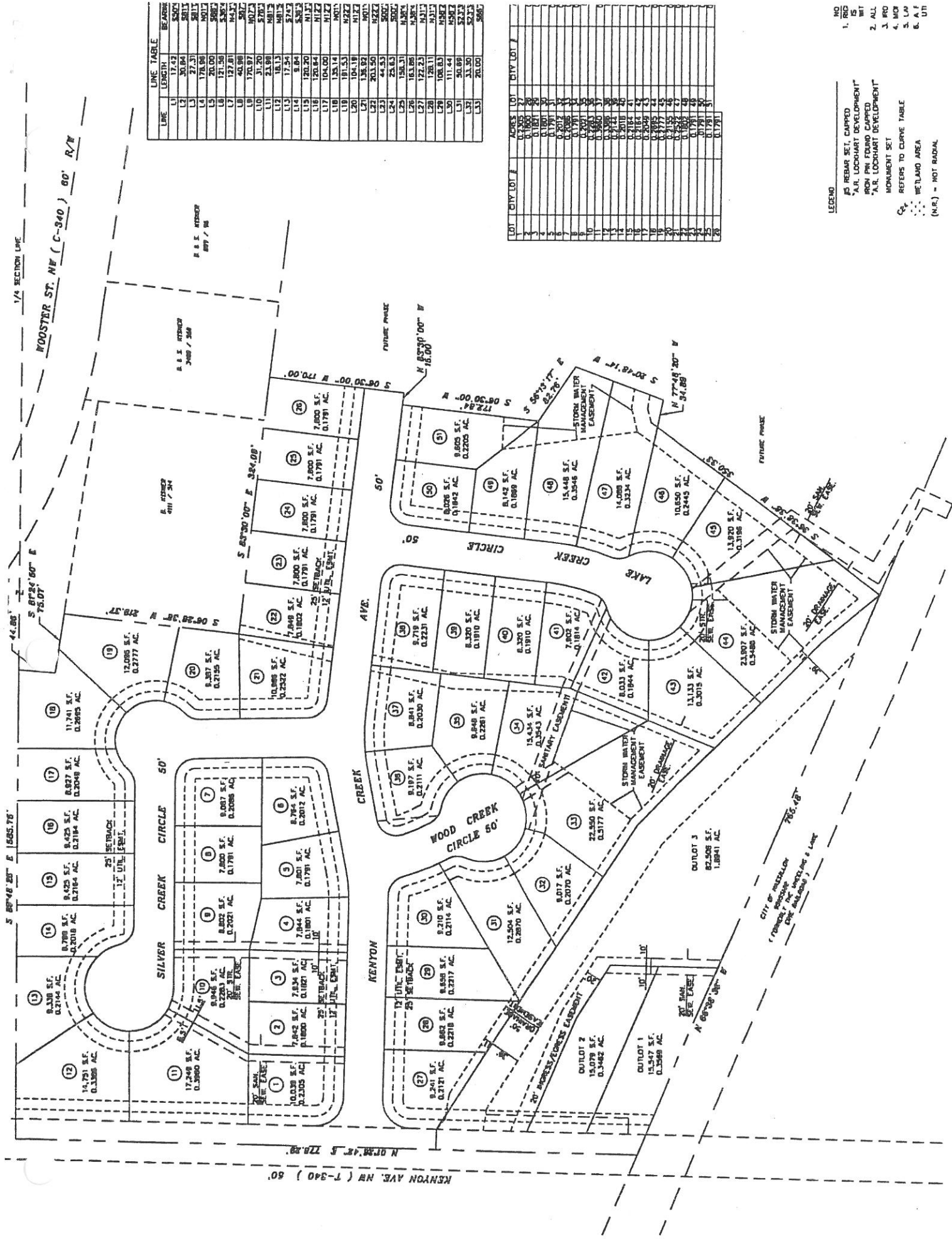
A.R. LOCKHART DEVELOPMENT CO.
800 WEST WATERLOO ROAD
AKRON, OHIO 44319
PH: (330) 745-6520
FAX (330) 745-0716

FEBRUARY 2003



LOCATION MAP

Not to scale

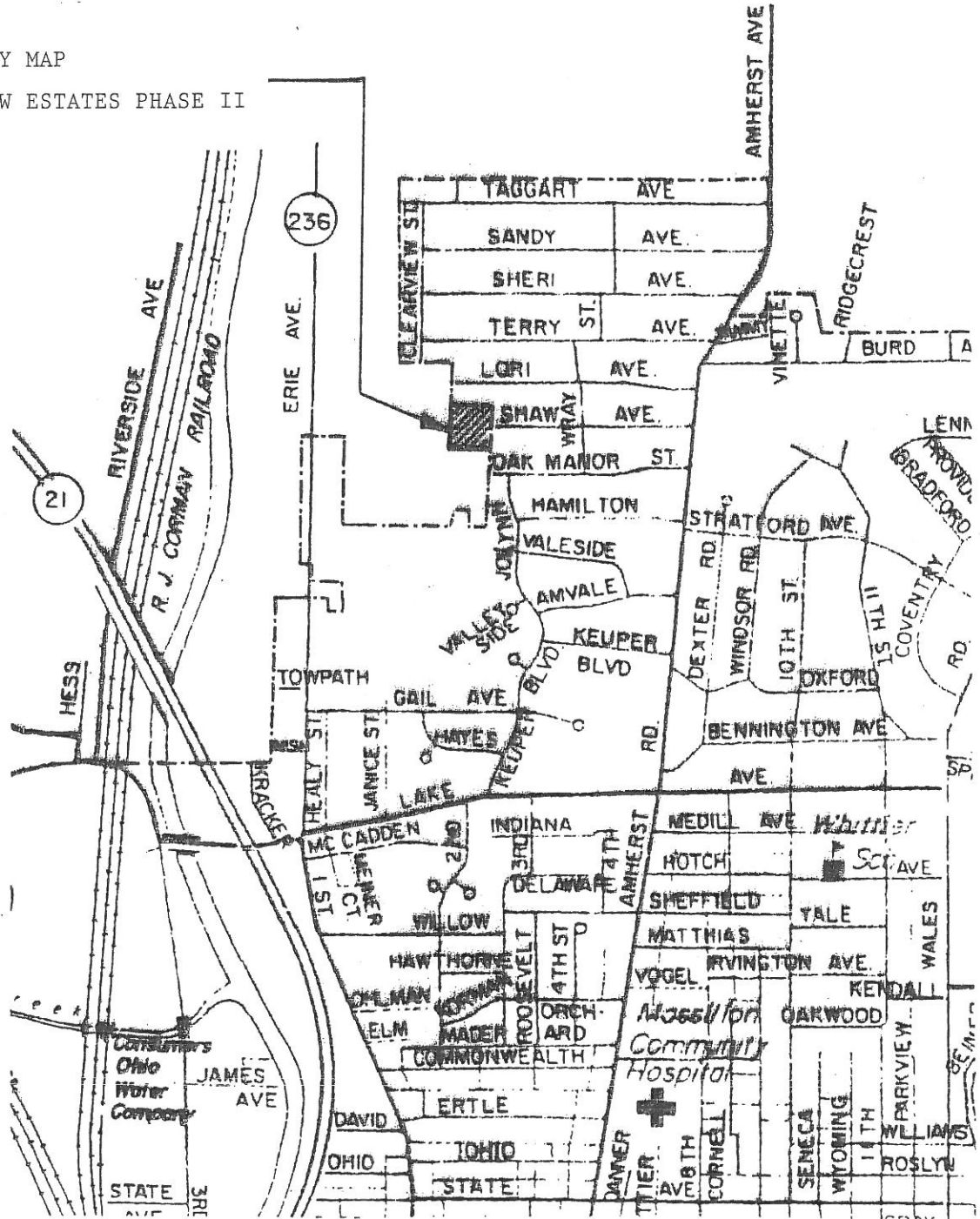


- LEGEND**
- 1. PRO
 - 2. ALL
 - 3. PRO
 - 4. PRO
 - 5. A.F.
 - 6. UT
- AS REBAR SET, CAPPED
 "A.R. LOCKHART DEVELOPMENT"
 FROM PIN TO BOUNDARY
 "A.R. LOCKHART DEVELOPMENT"
 MONUMENT SET
 REFERS TO CURVE TABLE
 WETLAND AREA
 (N.R.) = NOT RADIAL

LOT	CITY LOT #	ACRES	LOT #	CITY LOT #
1	1	0.1000	1	1
2	2	0.1000	2	2
3	3	0.1000	3	3
4	4	0.1000	4	4
5	5	0.1000	5	5
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VICINITY MAP

SHAWVIEW ESTATES PHASE II



VICINITY MAP

g
H
f
STARI

EXISTING
CORP

FINAL PLAT SHAWVIEW ESTATES PHASE II

1257

3
MIS
668

12572
G. HARDESTY
& W. CHERY
06-04667

R.L. ECKROH
06-04670

06-04668

S 88°04'36"

S 88°01'35" E 305.62'

(63.24')

(6

1" PINCH TOP
PIPE FOUND &
USED - BENT

● TRUE PLACE
OF BEGINNING

15882

A.J. DIANA

SHAWVIEW
PLAT B
LOTS

AREA TO BE ANNEXED =
2.459 AC.

TEMP. TURN-AROUND EASEMENT
P.B. 66, PG. 68

20' SAN. SEW. EASEMENT
P.B. 66, PG. 68

50' R
155'

626' SHAW AVE.

20.01'

285.58'
285.01'

(50.09')

A.J. DIANA & SONS INC.
O.R.769-359

2.178 AC.

0.281 AC. A.J. DIANA & SONS INC.
O.R.598-148
305.67'

1/2" IRON PIPE
IN CONCRETE
FOUND & USED

S 05°15'44" W

(150.33')

A.J. DIANA

15881

EXISTING CITY OF MASSILLON CORPORATION LINE

N 88°11'26" W

(79.42')

N 8

1" = 50'

20' STORM SEWER
DRAINAGE EASE.

504
VOL.

LOT SPLIT

THE MASSILLON AUTO CLUB
1972 WALES ROAD N.E.
MASSILLON, OHIO

ADA ARCHITECTS, INC.
1110 DETROIT AVE. SUITE 100, DETROIT, MI 48202
PHONE (313) 521-8100 FAX (313) 521-0624

Date:	03.05.02
By:	MMVM
Scale:	1" = 30'
Job:	Y2308
Sheet	2 of 2

CENTERLINE CURVE DATA
WALES RD & HILLS AND DALES
RELOCATION PLAN CURVE DATA USED
1-30-54

$$\Delta = 3319.01^{\circ}$$

SE QTR SEC 32

0.178 ACRES IN R/W

124046.310 SQ. FT. THE MASSLOW AUTO CLUB
2.840 ACRES VCL 3540 PG 01
-0.178 ACRES IN R/W (MALES)
-0.178 ACRES IN R/W (H&D)
P 025L

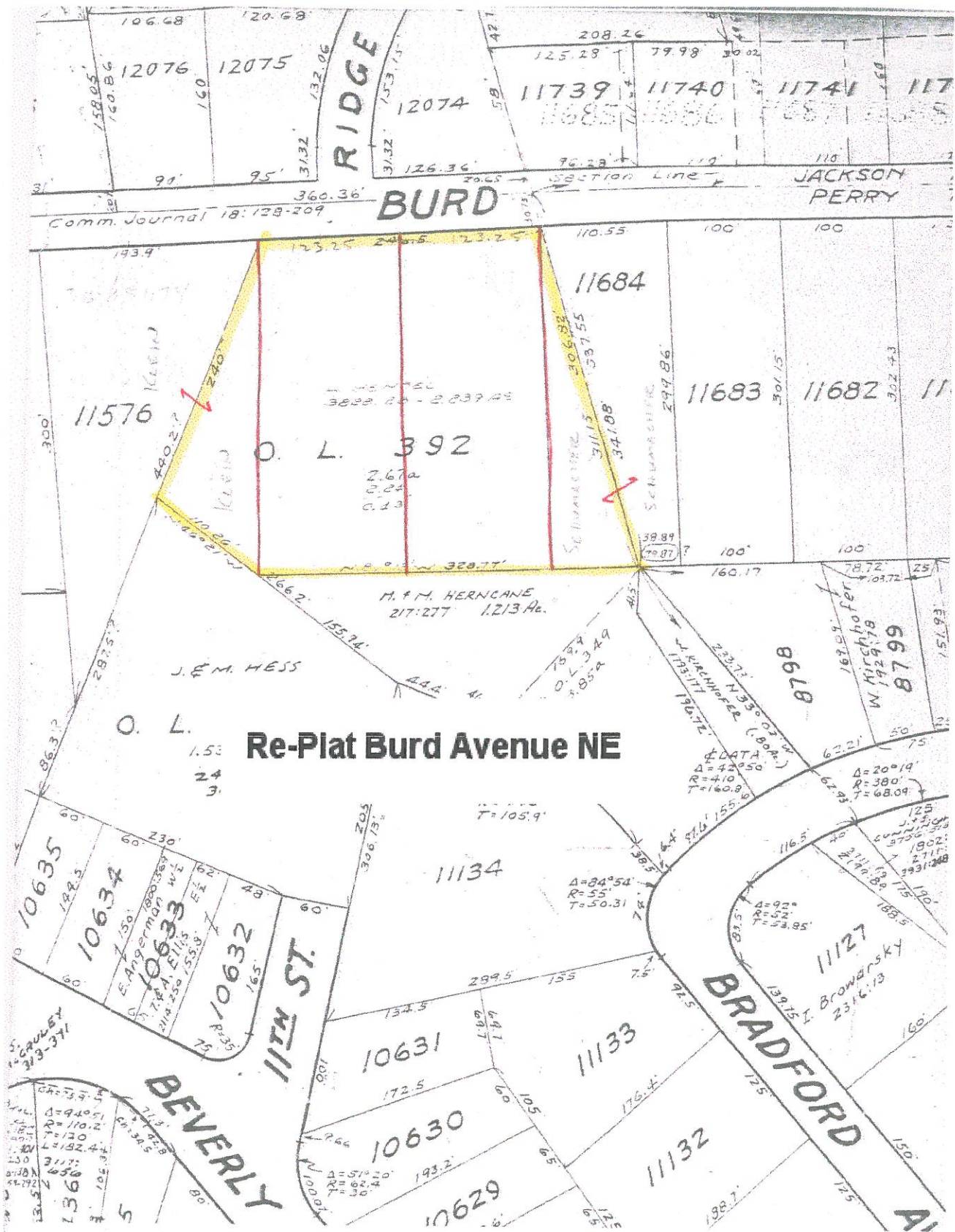
(O.L. 366)

SON THE
CITY

JACKSON TWP.

KENNETH G. HALL, TRUSTEE
O.R. 1504 PG 289

MASSILLON CITY
CORPORATION L
FORMERLY PERRY TWP.
(JACKSON TWP.)



This is a detailed plat map of a portion of the City of St. Louis, Missouri. The map shows a grid of lots, with Main Ave. running horizontally across the middle and West Main Ave. running horizontally above it. Kelly St. runs vertically on the right side. The lots are numbered as follows:

- Along Main Ave. (from left to right): 13048, 13049, 13050, 13051, 13052, 13053, 13054, 13055, 13056.
- Along West Main Ave. (from left to right): 13057, 13058, 13059, 13060, 13061, 13062, 13063, 13064.
- Along Kelly St. (from top to bottom): 13273, 13272, 13271, 13270, 13269, 13268, 13267, 13266, 13265.

Lot 13271 is highlighted with a red border. The map includes various dimensions and bearings for the lot boundaries. For example, the width of Main Ave. is 60.16 feet, and the width of West Main Ave. is 60.16 feet. The width of Kelly St. is 60.16 feet. The map also shows the intersection of Main Ave. and Kelly St. and the intersection of West Main Ave. and Kelly St.

PROPOSED RE PLAT 26TH STREET NW

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Chapter 920 EROSION/SEDIMENT CONTROL

920.01	Findings/Purpose and Scope
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920.01 Findings/Purpose and Scope

The City of Massillon finds that erosion and sedimentation from land-disturbing activities detrimentally affects the public health, safety and general welfare in the following ways:

Increases the risk of flooding because streams and storm water facilities that receive excessive sediment have a reduced capacity to convey water;

Damages fisheries and habitat quality in streams and wetlands when siltation clogs spawning gravel and when excessive turbidity impairs the survivability of aquatic organisms;

Increases public expenditures for maintenance of stormwater facilities, ditches, culverts and storm sewers that receive excessive amounts of sediment;

Damages adjacent properties, including public right-of-ways, when sediment is deposited on these properties;

Promotes transport of nutrients to lakes causing algal blooms and oxygen depletion;

These rules are adopted in accordance with the City of Massillon's authorization for small municipal separate storm sewer systems (MS4's) to discharge storm water under the national pollutant discharge elimination system and shall apply to all soil-disturbing activities on land within the incorporated area of the City of Massillon used or being developed for non-farm commercial, industrial residential, or other non-farm purposes, including, but not limited to, individual or multiple lots, subdivisions, multi-family developments, condominium units, commercial and industrial developments, recreational projects, general clearing and grading projects, underground utilities, highways, building activities on farms, redevelopment of urban areas and all other uses unless expressly excluded as follows:

- a) Activities related to producing agricultural crops and silviculture operations or areas regulated by the Ohio Agricultural Sediment Abatement Rules (H.B 88)
- b) Strip mining and surface mining operations regulated under Revised Code 1513.01, 1514.01.

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- c) Normal landscape maintenance activities and gardening/horticulture.
- d) An Erosion Sediment Control Plan is not required before clearing, grading, excavating, filling or otherwise wholly or partially less than 1(one) contiguous acres of land owned by one person or operated as one development unit; however, areas of less than 1 (one) contiguous acres are not exempt from compliance with all other provisions of these rules (See, 920.04(a)).

920.02 ADMINISTRATION

The Stark Soil & Water Conservation District, acting as the City of Massillon's duly authorized representative, shall administer these regulations. Staff of the Stark SWCD shall be responsible for the determination of compliance with these regulations and shall, through the Stark SWCD board of supervisors, issue notices and orders as may be necessary.

920.03 TERMS DEFINED

a) INTERPRETATION OF TERMS AND WORDS

- 1) Words used in the present tense include the future tense and the singular includes the plural, unless the context clearly indicates the contrary.
- 2) The term "shall" is always mandatory and not discretionary; the word "may" is permissive. The term "should" is permissive but indicates strong suggestion.
- 3) The word or term not interpreted or defined by this section shall be construed according to the rules of grammar and common usage so as to give these Rules their most reasonable application.

b) Acre: A unit of measure equaling 43,560 square feet.

c) Stark SWCD: The office responsible for administering sediment pollution and/or storm water run-off control programs.

d) Best Management Practice or BMP: Means physical, structural, non-structural and managerial practices that when used singly or in combination prevent or reduce erosion.

e) Channel: A natural bed that conveys water. A ditch excavated for water flow

f) Cut: An excavation that reduces an existing elevation, as in road or foundation construction.

g) Detention Structure: A permanent storm water management structure whose primary purpose is to temporarily store water runoff and release the stored runoff at controlled rates.

h) Development Area: Any contiguous area owned by one person or persons, or operated as one development unit, and use being developed for non-farm commercial, industrial, residential or other institutional construction or alteration which changes the runoff characteristics of a parcel of land.

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i) Disturbed Area: An area of land subject to erosion due to the removal of vegetative cover and/or soil moving activities, including filling.

j) Ditch: An open channel, either dug or natural, for the purpose of drainage or irrigation with intermittent flow.

k) Drainage: The removal of excess surface water or ground water from land by surface or subsurface drains.

l) Drainage Surface Area: An area, measured in a horizontal plane, enclosed by a topographic divide from which surface run-off from precipitation normally drains by gravity into a stream, river or lake above the specified point of measurement.

m) Drainage Improvement: As defined in O.R.C 6131.01 (C), and/or conservation works of improvement, O.R.C. 1511 and 1515.

n) Engineer: A Professional Engineer registered by the State of Ohio.

o) Erosion: The process by which the land surface is worn away by the action of wind, water, ice, gravity or any combination of those forces.

p) Erosion & Sediment Control: The control of soil material, both mineral and organic, during soil disturbing activity to prevent its transport out of the disturbed area by means of wind, water, ice or gravity.

q) Farm: Land or water devoted to growing crops and nursery crops.

r) Grading: Excavating, filing, or stockpiling of earth material or any combination thereof, including the land in its excavated or filled condition.

s) Impervious: That which does not allow infiltration.

t) Landslide: A rapid mass movement of soil and rock materials downhill under the influence of gravity.

u) Multi-family development: Apartments, condominiums, duplexes or other similar buildings housing more than one family

v) One Hundred-Year Frequency Storm: A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 100 years. It may also be expressed as an exceedence probability with a 1 percent chance of being equaled or exceeded in any given year

w) Person: Any individual, corporation, firm, trustee, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government or any combination thereof.

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x) Pre-construction Meeting: A meeting between the Stark SWCD and all principal parties, prior to the start of any construction, at a site that requires an Erosion and Sediment Control Plan.

y) Pre-Winter Stabilization Meeting: A meeting between the Stark SWCD and all principal parties, prior to October 1, in order to plan winter erosion and sediment controls for a site that requires an Erosion and Sediment Control Plan.

z) Qualified Person: Professional Engineer or Surveyor, Landscape Architect, Soil Conservationist, Certified Professional in Erosion/Sediment Control or any person having completed a minimum of 20 hours of accredit training in erosion sediment control.

aa) Retention Structure: A permanent structure whose primary purpose is to permanently store a given volume of storm water runoff for release of the given volume by infiltration and/or evaporation.

bb) Sediment: Soils or other surface materials that can be transported or deposited from its site of origin by the action of wind, water, ice or gravity as a product of erosion.

cc) Sedimentation: Deposition of sediment particles in water bodies.

dd) Sediment Basin: A temporary barrier or other suitable retention structure built across an area of water flow to intercept runoff and allow transported sediment to settle and be retained prior to discharge into waters of the State.

ee) Sediment Pollution: Degradation of Waters of the State by sediment as a result of failure to apply management or conservation practices to abate wind or water soil erosion, specifically in conjunction with soil-disturbing activities on land used or being developed for commercial, industrial, residential or other non-farm purposes.

ff) Sloughing: A slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.

gg) Soil Conservation: The use of the soil within the limits of its physical characteristics and protecting it from unalterable limitations of climate and topography.

hh) Soil-Disturbing Activity: A clearing, grading, excavating, filling or other alteration of the earth's surface where natural or man-made ground cover is destroyed, which may result in, or contribute to, erosion and sediment pollution.

ii) Soil and Water Conservation District: The agency responsible for implementing these regulations as organized under Chapter 1515 of the Ohio Revised Code; referring either to the Soil and Water Conservation District Board or its designated employee(s), hereinafter referred to as the Stark SWCD.

jj) Soil Loss: Soil moved from a given site by the forces of erosion, measured using "T".

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kk) Stabilization: The installation of vegetative and/or structural measures to establish a soil cover in order to reduce soil erosion by storm water runoff, wind, ice, and gravity.

ll) Storm Drain: A conduit, pipe, or human-made structure, which serves to transport storm water runoff.

mm) Storm Water Management: Runoff water safely conveyed or temporarily stored and released at an allowable rate to minimize erosion and flooding.

Storm Water Runoff: The direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a stream, ditch, storm sewer or other concentrated flow during and following the precipitation.

nn) Stream: A body of water running or flowing on the earth's surface in which flow may be perennial and/or seasonally intermittent.

oo) Subsoil: That portion of the soil below the topsoil or plow layer, beginning 6-12" below surface down to bedrock parent material.

pp) T: The soil loss tolerance expressed in tons per acre per year as determined by the USDA Revised Universal Soil Loss Equation (RUSLE)

qq) Temporary Soil Erosion and Sediment Control Measures: Interim control measures which are installed or constructed to control soil erosion or sedimentation until permanent soil erosion control measures are established.

rr) Top soil: The upper layer of soil that is usually darker in color and richer in organic matter and nutrients than the subsoil.

ss) Unstable Soils: A portion on land surface or area which is prone to slipping, sloughing, landslides or is identified by Natural Resource Conservation Service, USDA methodology as having a low soil strength.

tt) Watercourse: A definite channel with bed and banks within which concentrated water flows, either continuously or intermittently; e.g. streams.

uu) Watershed: The total drainage area contributing runoff to a single point.

920.04 REGULATED ACTIVITIES

No person shall cause or allow soil-disturbing activities, land clearing, grading, excavating or filling within the scope of these rules without full compliance with the requirements set forth in these rules.

a) When a proposed soil-disturbing activity on land used or being developed, either wholly or partially, for non-farm residential, commercial, industrial, recreational or other non-farm purposes consisting of one (1) or more contiguous acres of land owned by one person or operated as one development unit for the construction of non-farm buildings, structures, utilities, recreational areas or other limited non-farm uses, the owner of said land shall

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prepare and file with the Stark SWCD an Erosion and Sediment Control (ESC) plan. Areas of less than one (1) contiguous acres shall not be exempt from compliance with other provisions of these rules including but not limited to installing and maintaining erosion/sediment control practices to prevent sediment from depositing into local creeks, ditches, ponds, streets, highways or public lands or onto existing landowners properties.

b) The owners must obtain an approved plan before starting any soil-disturbing activity. It is mandatory that a qualified person with knowledge of erosion/sediment control design the ESC Plan.

c) The owner shall submit the ESC plan to the City of Massillon Engineer for review by the Stark SWCD no less than thirty (30) days before any soil-disturbing activity at the proposed site. This process is explained in section 920.06.

d) The owner or owner's delegated representative of said land shall notify the City of Massillon Engineer and Stark SWCD no less than two (2) working days before the start of soil-disturbing activity. The owner shall also notify the City of Massillon Engineer and Stark SWCD no later than five (5) working days after project completion.

e) The ESC plan shall contain narrative and drawings that explain practices to be used to prevent soil erosion and off-site disposal of soil sediment during and after land development. (See Section 920.05 for plan requirements and review schedules)

f) Erosion and sediment control practices used to satisfy the performance criteria of these Rules shall meet the specifications provided in the most current edition of Rainwater & Land Development Manual, Ohio's Standards for Storm water Management and Land Development, and Urban Stream Protection, published by Ohio Department of Natural Resources. The Stark SWCD shall review any new or innovative practice before incorporating them into a plan. (See Section 920.05 for performance standards and requirements.)

g) The ESC plan shall contain all items in Section 920.05 of these rules and shall be accompanied by proof of compliance and/or notification with required natural resource permits and documentation relevant to the project, including:

- 1) Proof of compliance with the Ohio Environmental Protection Agency (OEPA) General Storm Water National Pollution Discharge Elimination System (NPDES) permit. Proof of compliance shall be, but not limited to, a copy of NPDES General Storm Water permit Notice of Intent, and/or a copy of NPDES General Storm Water permit number, and/or a copy of OEPA Director's Acceptance Letter for NPDES permit.

- 2) Proof of compliance with Section 404 of the Clean Water Act administered by the US Army Corps to streams, wetlands, and waterways under its jurisdiction. Proof of compliance shall be, but is not limited to, a copy of the US Army Corps of Engineers permit number, and/or project approval letter from a US Army Corps of Engineers agent

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3) Proof of compliance with the Ohio Dam Safety Law administered by ODNR Division of Water. Proof of compliance shall be, but is not limited to, a copy of the ODNR Division of Water permit number, and/or project approval letter from the ODNR Division of Water. If the dam is exempt from the Ohio Dam Safety Laws, a letter from the designer stating the criteria for exemption is satisfactory.

4) Wetland Delineation verified by the US Army Corps of Engineers

h) The owner and/or developer of said land and/or the developer's delegated representative, shall meet with the Stark SWCD for a Pre-Construction Meeting no less than seven (7) days prior to soil-disturbing activity at the site.

i) The Developer's delegated representative shall perform first inspection of erosion and sediment control practices to certify that the practices comply with the approved plan no less than two (2) working days after the start of the project. An inspection report confirming this should be completed by the Developer's delegated representative and if requested, sent to the Stark SWCD confirming said inspection. Stark SWCD will perform bi-monthly inspections of on going construction sites sending a verbal report of any deficiencies.

j) All permitted activity shall be subject to monitoring. Site inspection by the Stark SWCD shall record compliance. (See Section 920.06) for monitoring schedule, inspection reports and findings of non-compliance.)

k) If the site is, or plans to remain active through the winter months, a Pre-Winter Stabilization Meeting shall be held by the developer of said land and/or delegated representative of the project and the Stark SWCD prior to October 1, in order to plan winter erosion and sediment controls as defined in the most current edition of Rainwater & Land Development Manual, Ohio's standards for Storm water Management and Land Development, and Urban Stream Protection, published by Ohio Department of Natural Resources.

l) Upon completion of all construction and final stabilization of the entire construction site, the owner or delegated representative of said land shall contact the Stark SWCD through written notification that construction is complete and final stabilization, as specified in the Rainwater & Land Development Book, has been achieved.

920.05 PERFORMANCE STANDARDS

a) All properties adjacent to the site of soil-disturbing activity shall be protected to the maximum extent practicable, from soil erosion and sediment runoff and drainage, including, but not limited to private properties, natural and artificial waterways, wetlands, storm sewers and public lands.

b) Construction site erosion and sediment control practices used to satisfy this requirement shall conform, as a minimum, to State of Ohio standards as set forth in the most-current edition of the Rainwater and Land Development Manual, defined by the Ohio Department of Natural Resources Division of Soil and Water Conservation and Natural Resource

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Conservation Service and shall conform to the most current Ohio Environmental Protection Agency, Ohio Revised Code chapter 6111 requirements.

c) Erosion and sediment control plan approvals issued in accordance with these Rules do not relieve the owner of responsibility for obtaining all other necessary permits and or approvals from federal state, and/or county agencies. If requirements vary, the most stringent requirements shall be followed.

d) Erosion and sediment control practices at the site, and as identified in the ESC plan shall comply with the following:

- 1) An approved erosion and sediment control plan or approval letter from the Stark SWCD shall be located on site for review.

- 2) Limits to clearing and grading shall be shown on ESC plans. Limits to clearing and grading shall be clearly marked on site with signage, flagging, and/or fencing etc.

- 3) Install erosion and sediment perimeter controls as a first action of construction as specified by construction sequence. This shall include and is not limited to protective BMP's for stream corridors and crossings, wetlands, site entrance, sediment traps & basins, barriers, and diversion dikes.

- 4) Concentrated storm water runoff shall pass through a sediment control device before exiting the site boundaries. Concentrated runoff from bare soil areas shall be diverted into a settling pond or sediment control structure, or other approved sediment barrier before leaving the site.

- 5) Earthen structures such as dams, basins, stream modifications and water diversions shall be seeded and mulched within seven (7) days of the completion of installation. Dams shall conform to the Ohio Dam Laws (ORC 1521.06).

- 6) Stabilization of critical areas within 50 feet of any stream or wetland shall be temporarily stabilized within two (2) days of disturbance if area will remain inactive for fourteen (14) days or longer. Construction vehicles shall avoid streams and the 50 foot buffer areas. If an active drainage-way must be crossed by construction vehicles repeatedly during construction, a temporary stream crossing shall be constructed according to the specifications in the Rainwater & Land Development Book. Construction of bridges, culverts or sediment control structures shall not place soil, debris and other fine particulate material into or close to the water resource in such a manner that it may slough, slip or erode.

- 7) Storm sewer inlets (and sanitary) shall be protected so that sediment-laden runoff will not enter the storm sewer system without first being filtered and/or treated.

- 8) Re-vegetate soil. Temporary soil stabilization shall occur within seven (7) days after rough grading if the area will remain idle longer than thirty (30) days.

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Permanent soil stabilization shall be installed within seven (7) days after final grade is reached on any portion of the site. Permanent vegetation is a ground cover dense enough to cover 80% of the soil surface and mature enough to survive winter weather condition.

9) Soil stockpiles shall be stabilized or protected to prevent soil loss. Stabilization shall be required if stockpiles are located within critical areas near streams or wetlands, or if determined by the Stark SWCD that sediment from stockpiles will leave the site.

10) Unstable soils prone to slipping or sloughing shall not be cleared, graded, excavated, filled or have loads imposed upon them unless the work is Planned by a qualified professional engineer and installed in accordance with the ESC plan. Cut and fill slopes should be designed to minimize erosion problems. Adequate slope design includes use of rough soil surface along the face of the slope; water diversion along the top of the slope away from the face; terraces to reduce slope length; delivery of concentrated storm water flows to the base of the slope via adequate channel or pipe; and drainage for water seeps in the slope that endanger slope stability.

11) Soil shall be removed from paved surfaces and/or public roads at the end of each day in such a manner that does not create off-site sedimentation in order to ensure safety and abate off-site soil loss. Collected sediments shall be placed in a stable location on site or taken off-site to a stable location.

12) Stabilize disturbed or modified drainage ways. Reduce erosive effects of storm water by using and/or maintaining grassed swales, infiltration structures, or water diversions.

13) Sediment and erosion controls shall be inspected once every seven (7) days and within 24 hours of a 0.5" or greater rainfall event. A written log of these inspections and improvements to controls shall be kept on site. The inspections shall include the date of inspection, name of inspector, weather conditions, actions taken to correct any problems and the date corrective actions were taken.

14) Trenches for underground utility lines and pipes shall be temporarily stabilized within seven (7) days if they are to remain inactive for thirty (30) days. Trench de-watering devices shall discharge in a manner that filters soil-laden water before discharging it to a receiving drainage ditch or pond. If seeding, mulching, or other erosion and sediment control measures were previously installed, these protective measures shall be reinstalled.

920.06 APPLICATION PROCEDURES FOR ESC PLAN

a) Two (3) copies of the ESC Plan for all projects which are subject to the City of Massillon Subdivision Regulations, as adopted and administered by the City of Massillon, Engineering Department in accordance with Sec. 711.10 of the Ohio Revised Code, shall be submitted to the City of Massillon Engineering Department. The City of Massillon Engineering

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Department will forward these copies to the Stark SWCD after the approval of the preliminary plans and prior to the approval of Improvement Plans or Drawings by the City of Massillon in the case of subdivisions; concurrently with the submittal of construction drawings to the City of Massillon in the case of other construction projects; and thirty (30) working days prior to any earth-disturbing activity for general clearing projects.

b) The Stark SWCD shall review the ESC plan and approve, or return for revision with comments and recommendations for revision, within twenty-one (21) working days of receipt of said plan. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and procedure for filing a revised plan. At the time of receipt of a revised plan, another 21-day review period shall be commenced. If no letter is received from the Stark SWCD after twenty-one (21) working days the plan is automatically approved.

c) The applicant may be required to provide additional copies of ESC plan if required by City of Massillon or its agents.

d) Approved plans shall remain valid for two years from the date of approval. The Stark SWCD shall forward a copy of the approved plan and/or its review report to the City of Massillon, Engineering Department.

e) A plan is considered complete when it contains two sets of the following:

- 1) Site construction plans intended for contractor's bid, for erosion/sediment control.
- 2) Contact information for the owner of the land, the developer, the ESC plan designer and person responsible for the implementation and maintenance of the plan; project's name; project vicinity map.
- 3) Permit Verification
 - a) Jurisdictional Wetland: In areas where jurisdictional wetlands as defined by an on-site delineation verified by the United States Army Corps of Engineers will be affected, a copy of the wetland delineation report and a copy of the appropriate permit showing project approval and any restrictions that apply to site activities shall be submitted with the ESC Plan, or notification thereof.
 - b) An Ohio environmental Protection Agency (OEPA) National Pollutant Discharge Elimination System (NPDES) permit with permit verification number or Notice of Intent shall be submitted with the ESC Plan.
- 4) Project Description: A brief description of the project and types of soil-disturbing activities. Note specifically items not self-evident from the plan

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drawings. The project description shall list total project acreage, north arrow, and adjacent property boundaries.

5) Existing site conditions shown with maximum scale of 1"=200' and 2' contour intervals; locations and names of soil type boundaries, vegetation, ditches, springs, streams, lakes, wetlands, woods, agricultural fields; location of downstream lakes and wetlands within 1000' of project based on Wetland Inventory Maps; existing drainage patterns including direction of flow and watershed acreage.

6) Grading plan-showing types of soils and boundaries; limits of disturbance; areas of excavation and fill; final contours; and proposed drainage pattern including storm sewer inlets and permanent storm water basins. Basin detail shall be drawn to scale and show volumes, size of contributing drainage area and method for calculating trapping efficiency. Basins and/or ponds must conform to the Ohio Dam Laws (ORC 1521.06).

7) Erosion and Sediment Control plan showing location, type, and construction detail for perimeter controls; sediment settling devices; limits of disturbance; buffers for streams, wetlands, ponds, and drainage's; seeding mixtures and rates; type of mulching & fertilizer. Erosion and sediment control plans shall also provide a detailed construction sequence. Updates and/or corrections to schedules and/or sequencing shall be clearly marked or listed on approved plans, which shall be located at the site.

8) Contractor's Construction Sequence that estimates the time frame required for the following:

- a) Pre-Construction Meeting
- b) Initial clearing and grubbing to gain access, and installation of perimeter controls within seven (7) days of clearing and grubbing
- c) Clearing and grubbing followed by excavation of sediment traps and basins; temporary soil stabilization for these sediment settling devices within fourteen (14) days of excavation
- d) Maintenance inspection schedule and party responsible for inspection and repair of erosion and sediment control devices
- e) Pre-Winter Stabilization meeting if project is to be through the Winter
- f) Final grading and permanent soil stabilization within 30 days of finishing final grade
- g) Removal of temporary erosion and sediment control devices

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- h) Final Stabilization meeting with provisions for long-term maintenance of storm water facilities including mechanisms for notification of future responsible parties and/or property owners.

920.07 FEE

For the purpose of these regulations, the following fee schedule shall apply: (Minimum \$100.00 review fee for 1-5 acres)

Preliminary Plan Review \$20.00 per/acre
Storm Water Pollution Prevention Plan Review (SWP3)..... \$20.00 per/acre

920.08 MONITORING THE PERMIT FOR COMPLIANCE

a) Following the initial inspection of erosion and sediment control devices by the developers delegated representative, regular inspections (bi-monthly) will be performed by the Stark SWCD for compliance with these Rules. If it appears that a violation of any of these Rules has occurred, the owner and developer will be notified of deficiencies or non-compliance in writing by certified mail, return receipt requested. If within 7 days after receipt of the letter, the owner or developer has not rectified the deficiency or received approval of plans for its correction, the deficiency or non-compliance shall be reported to the City of Massillon Engineering Department for consideration of referral to the Prosecuting Attorneys Office for immediate enforcement of these regulations

b) If the City of Massillon Engineer determines that a violation exists and requests the City of Massillon Director of Law in writing, the Director of Law shall seek an injunction to cease work immediately until compliance with these rules. A court may also order the construction of sediment control improvements or implementation or other control measures.

c) The Stark SWCD may require revisions to the ESC plan as necessary to achieve compliance to these Rules.

d) A final inspection will be made to determine if the criteria of these Rules have been satisfied and a report sent to the City of Massillon Engineer on the compliance status of the site.

920.09 VARIANCE TO RULES

a) The City of Massillon Engineer upon consulting the Stark SWCD the responsible party for plan review and approval may grant a written variance from any requirement of these Rules if there are special conditions applicable to the site such that strict adherence to the provisions of these rules will result in unnecessary hardship and not fulfill the intent of these Rules. A written request for variance shall be provided to the City of Massillon Engineer and shall state the specific variances sought and the reasons with supporting data for their granting. The City of Massillon Engineer shall not grant a variance unless and until the applicant provides sufficient specific reasons justifying the variance. The City of Massillon Engineer in conjunction with the Stark SWCD will conduct a review of the request for variance within 20 (twenty) working days.

Adverse economic conditions shall not be a valid reason to grant a variance.

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920.10 DISCLAIMER of LIABILITY

a) Neither approval of a plan under these provisions, nor compliance with provisions of these regulations, shall relieve any person from responsibility for damage to any person or property otherwise imposed by law.

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