



Lori Kokoski Sharon Sweda Matt Lundy

cc KC
mk
PZ
DB
TS
file

226 Middle Avenue
Elyria, OH 44035-5641
Office: 440-329-5111
Fax: 440-323-3357
www.loraincounty.us

RECEIVED

2020 MAR 17 PM 1:53

County Administrator
James R. Cordes
440-329-5760

Clerk of the Board
Theresa Upton
440-329-5103

Dog Kennel
Timothy Pihlblad
440-326-5997

Budget
K.C. Saunders
440-329-5406

Charles Berry Bridge
Al Zocchi
440-244-2137

Children & Family Council
440-284-4464

Community Development
Don Romancak
440-328-2323

Emergency 9-1-1
Tracy Lopez
440-329-5444

Emergency Management &
Homeland Security
Thomas Kelley
440-329-5117

Facilities Management
Karen Davis
440-329-5102

Human Resources
440-329-5150

IT/Telecommunications
Cameron MacDonald
440-329-5786

Crime/Drug Lab
Elizabeth Doyle
440-329-5636

Lorain County Transit
Pamela Novak
440-329-5525

Purchasing
Pamela Wilkens
440-329-5240

Records Center
Denise Lindak
440-326-4866

Solid Waste Management
440-329-5440

Visit Lorain County
440-984-5282

Workforce Development
Mike Longo
440-284-1834

KEN CARNEY
LORAIN COUNTY ENGINEER

March 16, 2020

Richard J. Beran, Agent
Builders & Developers, Inc.,
27201 Royalton Road
Columbia Station, Ohio 44028

Dear Mr. Beran:

Enclosed is Resolution No. 20-193, adopted by the Lorain County Board of Commissioners on March 11, 2020 receiving and journalizing the proposed Expedited 1 Annexation of 38.665 acres from Carlisle Township to the City Elyria, Ohio

You are said Agent for Petitioner Middle Ave., Investment Co., LLC., by Timothy J. Radachi, Manager - Member

The Lorain County Board of Commissioners has scheduled a decision on the proposed Annexation if all conditions are met, to be placed on their agenda at 9:30 a.m., on Wednesday, March 25, 2020.

Sincerely,


Theresa L. Upton
Clerk

tlu
Enclosure

cc. Carlisle Township
City of Elyria
Gerald A. Innes, LC APA
Ken Carney, LC Engineer
Craig Snodgrass, LC Auditor
File

b.13

RESOLUTION NO. 20-193

In the matter of receiving and journalizing an)
Expedited 1 Annexation of 38.665 acres from)
Carlisle Township to the City of Elyria, Ohio)
- Richard Beran, Agent for Petitioner Middle)
Ave., Investment Col., LLC by Timothy J.)
Radachi, Manger – Member)

March 11, 2020

WHEREAS, the Lorain County Board of Commissioners received and journalizes a petition and map that was received in the Commissioners Office on March 6, 2020 for the proposed expedited 1 annexation of approximately 38.665 acres of land in the Township of Carlisle to the City of Elyria, Ohio; and

WHEREAS, Richard Beran, Agent for Petitioner Middle Ave., Investment Col., LLC by Timothy J. Radachi, Manger – Member; and

WHEREAS, the Petition reads as follows:

PETITION FOR ANNEXATION
EXPEDITED TYPE 1 PROCEEDING – R.C. 709.022

RECEIVED
LORAIN COUNTY
COMMISSIONERS
2020 MAR -6 P 2 01
OFFICE OF THE CLERK

The undersigned, being one hundred percent (100%) of the property owners in the area proposed to be annexed, such property being adjacent and contiguous to the City of Elyria, State of Ohio, hereby petition the Board of Commissioners of Lorain County, Ohio, for annexation of the vacant property located at Middle Ave., Elyria, Ohio 44035 and further described in the legal description and survey map attached hereto as Exhibit A and Exhibit B, respectively, and incorporated herein by reference.

Lorain County Permanent Parcel No. 10-00-007-101-028

The undersigned further request that the Board follow the procedures specified in Ohio Revised Code Section 709.022. A certified copy of the Annexation Agreement evidencing the consent of the City of Elyria and the Township of Carlisle is attached hereto as Exhibit C and incorporated herein by reference.

The name of the person to act as agent for the undersigned petitioners is **Richard J. Beran, Authorized Representative for Builders & Developers Co., Inc., 27201 Royalton Road, Columbia Station, Ohio 44028** as authorized agent for the Owner, **Middle Ave. Investment Co., LLC, 44201 State Route 18, East Wellington, OH 44090.**

WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL ANY ACTION ON THE PETITION TAKEN BY THE BOARD OF COUNTY COMMISSIONERS. THERE IS ALSO NO APPEAL FROM THE BOARD'S DECISION IN THIS MATTER IN LAW OR IN EQUITY.

Middle Ave. Investment Co., LLC

Date: 03/02/2020
(Must be dated at time of execution)

By: Timothy J. Radachi
Timothy J. Radachi, Manager - Member

And;

WHEREAS, Exhibit A - Legal Description reads as follows:

Exhibit A

19003172DE-01
38.6665 AC
February 25, 2020

RECEIVED
COUNTY CLERK
LORAIN COUNTY
FEB 25 2020

Situated in the Township of Carlisle, County of Lorain and State of Ohio, and being part of Lot 7 in Original Carlisle Township, and being more fully bounded and described as follows:

Commencing at a 1" iron pin in a monument box at the northwesterly corner of said Lot 7 and being on the centerline of Middle Avenue 60 feet wide, thence North 89°42'50" East along the northerly line of said section 7 and along the southerly line of a parcel of land now or formerly owned by Colonial Oaks Property LLC as recorded in Instrument number 2018-0677077 of the Lorain County records, a distance of 202.16 feet to a 5/8 inch iron pin capped "Simon" found at the Place of Beginning of the parcel of land herein described;

Course No. 1: thence North 89°42'50" East continuing along the northerly line of said Lot 7 and the southerly line of said Colonial Oaks land, the southerly line of a parcel of land now or formerly owned by Colonial Oaks Community Corp. as recorded in Official Record Volume 643, Page 718 of the Lorain County Records and the southerly line of a parcel of land now or formerly owned by Joseph J. Elbert, Trustee as recorded in Instrument number 2017-0617123 of the Lorain County Records, a distance of 2438.96 feet to a 5/8 inch iron pin set at the northwesterly corner of a second parcel of land now or formerly owned by Joseph J. Elbert, Trustee as recorded in Instrument number 2017-0617123 of the Lorain County Records;


Course No. 2: thence South 00°20'52" West along the westerly line of said second Joseph Elbert land and the westerly line of a parcel of land now or formerly owned by Lorene A. Elbert as recorded in Instrument number 2008-0237106 of the Lorain County Records, a distance of 664.67 feet to a 1 inch iron pipe found at the northeasterly corner of a parcel of land now or formerly owned by The United Polish Club of Elyria, Ohio as recorded in Instrument number 2005-0055048 of the Lorain County Records;

Course No. 3: thence South 89°49'23" West along the northerly line of said United Polish Club land, passing over a 5/8 inch iron pin capped "KS" at a distance of 2611.15 a total distance of 2640.93 feet to the centerline of said Middle Avenue;

Course No. 4: thence North 00°20'10" East along the said centerline of Middle Avenue, a distance of 341.29 to the southwest corner of a parcel of land now or formerly owned by Nancy L. and Wilbur A. Dunn as recorded in Instrument number 2018-0699079 of the Lorain County Records;

Course No. 5: thence North 89°42'50" East along the southerly line of said Dunn land, passing over a 5/8 inch iron pin capped "Simon" found at 30.20 a total distance of 202.16 feet to a 5/8 inch iron pin capped "Simon" at the southeasterly corner thereof;

Course No. 6: thence North 00°20'10" East along the easterly line of said Dunn land and along the easterly line of a parcel of land now or formerly owned by Heather M. Salyers as recorded in Instrument number 2019-0711656 of the Lorain County Records, passing over a 5/8 inch iron pin found at 187.00 feet a total distance of 318.35 feet to the place of beginning of the parcel of land herein described containing 38.6665 acres of land according to a survey by Atwell, LLC under the supervision of Alex E. Marks, PS 8616 and being the same more or less and being subject to all legal highways and easements.


Alex E. Marks, PS 8616



02/25/2020
Date

And;

WHEREAS, Exhibit B is the map; and

WHEREAS, Exhibit C is the Annexation Agreement as follows:

EXHIBIT C
ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (the "Agreement"), is entered into as of the last 01 / date of signature below (the "Effective Date"), by and between the City of Elyria, Ohio (the "City"), an Ohio municipal corporation having its address at 125 Court Street, Elyria, Ohio 44035; and Carlisle Township, Lorain County, Ohio (the "Township"), a township duly organized and validly existing under the laws of the State of Ohio, having its address at 11969 State Route 301 LaGrange, Ohio 44050.

WITNESSETH:

WHEREAS, (the "Petitioner") owns certain real estate containing acres, more or less, as illustrated in the attached Exhibit "A" (the "Property"); and

WHEREAS, the Petitioner desires to annex the Property from the Township into the City pursuant to Ohio R.C. Sections 709.2021 and 709.022; and

WHEREAS, the City and the Township desire to maintain a cooperative relationship, foster economic development on the Property and provide for necessary public infrastructure improvements that will serve the residents and property owners of the City and the Township; and

WHEREAS, in furtherance of this relationship, the City and the Township desire to enter into this Agreement to outline the procedure under which the annexation of the Property to the City will occur; and

WHEREAS, the City and the Township desire to work in good faith to identify certain public infrastructure improvements that will serve residents and property owners in the Township and they City; and

WHEREAS, the legislative authorities of the City and the Township have each authorized the execution of this Agreement through the adoption of City Resolution No. ^{ORDINANCE} ~~19-169~~ ²⁰²⁰⁻³ and Township Resolution 2020-02, respectively, in public meetings held in accordance with the Ohio Revised Code and the applicable ordinances of the City.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the City and the Township hereby agree as follows:

1. Territory Defined: This Agreement shall cover and be applicable only to the Property, which is presently located within the boundaries of the Township as illustrated in Exhibit "A". The boundaries of the Property relevant to this Agreement shall not be reduced, enlarged, modified, or altered in any way except by written consent approved by the legislative authorities of both the City and the Township by means of appropriate actions authorizing such reduction, enlargement, modification, or alteration. Any changes to the boundaries of the Property shall require a written amendment to this Agreement.

2. Annexation of the Property: On or after the Effective Date of this Agreement, all or part of the Property shall, upon proper petition(s) to and with the approval of the Lorain County Board of Commissioners (the "Commissioners"), and the Township Trustees, and acceptance of the annexation by the City, be annexed to and accepted by the City and shall be subject to all other conditions and limitations in this Agreement.

- 2.1 **Procedure:** The petition seeking to annex the Property of the City shall be filed pursuant to and in compliance with the provisions of Sections 709.021 and 709.022 of the Ohio Revised Code as an “expedited type 1” annexation.

Immediately following approval of the annexation, the City shall accept the Property into its municipal boundaries and petition the Commissioners to conform the boundaries to exclude the Property from the Township pursuant to R.C. 503.07.

- 2.2 **Effect of Annexation:** Immediately following (i) approval of the annexation petition affecting the Property by the Township and Commissioners and (ii) the City’s acceptance into its municipal boundaries of the Property affected by the petition, then, subject to paragraph 2.5 herein, the annexed Property shall be treated and viewed as part of the City for all purposes.

2.3 **Cooperative Efforts:**

- A. The Township and the City shall cooperate in good faith to facilitate the approval and success of the annexation petition. Each party shall refrain from taking any action that would directly or indirectly delay the annexation petition by the Commissioners.
- B. City will require any development of the annexed property to submit a storm water management plan that will provide for drainage and storm water detention/retention methods. Said plan will be designed to minimize water run off to properties located in the Township on the west side of

Middle Avenue and direct water away from properties located in the Township.

The storm water management plan will be submitted to the Lorain County Engineer for comments and recommendations, and as much as is reasonably feasible, incorporate those recommendations into the plan.

- 2.4 Services: Following the annexation of the Property, the City shall provide police, fire, EMS, street maintenance, storm sewer, sanitary sewer, and all other Municipal services authorized by Ordinance and/or City Council, to the residents of the Property at the same cost and under the same policies and conditions that such services are provided to other residents of the City.

The City shall not supply water to the residents of the Property absent future legislation by City Council.

- 2.5 Real Estate Tax Revenue: Following the annexation of the Property, the Township will continue to receive real estate tax revenues in accordance with Ohio R.C. 709.19(C) or 709.19(D), as applicable.

3. Miscellaneous:

- 3.1 Notices: Any notice required to be given hereunder shall be given in writing by ordinary United States mail, postage prepaid, by nationally recognized overnight courier, by facsimile transmission, or by hand delivery addressed to the parties at their respective addresses as set forth below:

City:

City of Elyria
131 Court St.
Elyria, OH 44035
(Fax) 440-326-1488

Township:

Carlisle Township Board of Trustees
11969 State Route 301
LaGrange, OH 44050
(Fax) 440-458-5179

Notices shall be deemed received at the earlier of (i) actual hand delivery to the address of the receiving party, (ii) when received or when receipt is refused or (iii) two business days following proof of mailing via the United States mail.

- 3.2. **Severability:** In the event of any one or more of the provisions of this Agreement are held to be invalid, illegal or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement. Such provisions shall be modified in order to best preserve the intention of the City and the Township. The Agreement as modified shall remain in full force and effect. In such provisions cannot be so modified, then such provisions shall be severed and the remaining provisions of the Agreement shall remain in full force and effect.
- 3.3. **Governing Law:** This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio.
- 3.4. **Binding Effect:** This Agreement shall inure to the benefit of and shall be binding upon the City and the Township, their legal representatives, successors and assigns.
- 3.5. **Entire Agreement:** This Agreement embodies the entire understanding among the parties with respect to the subject matter herein contemplated. Any

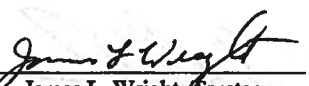
amendments hereto shall be in writing and shall be executed by both the City and the Township.

3.6. Counterparts: This Agreement may be executed in counterparts, each of which, when executed and delivered, shall be deemed an original, and all counterparts shall constitute one and the same instrument.

City of Elyria

Carlisle Township Board of Trustees

By: 
Frank Whitfield, Mayor

By: 
James L. Wright, Trustee

Date: 02/21/2020

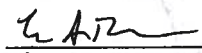
By: 
Jared W. Smith, Trustee

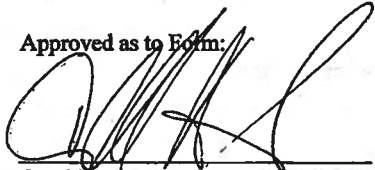
By: 
Berry A. Taylor, Trustee

Date: 02/12/2020

Approved as to Form:

Approved as to Form:


A/S. City Law Director


Gerald A. Innes
Assistant Lorain County Prosecutor

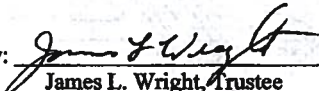
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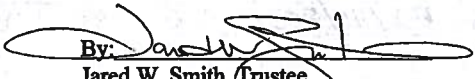
City of Elyria

Carlisle Township Board of Trustees

By: 
Frank Whitfield, Mayor

By: 
James L. Wright, Trustee

Date: 02/21/2020


By: 
Jared W. Smith, Trustee

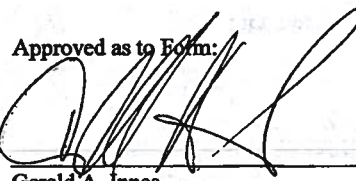
By: 
Berry A. Taylor, Trustee

Date: 02/12/2020

Approved as to Form:

Approved as to Form:


Asst. City Law Director


Gerald A. Innes
Assistant Lorain County Prosecutor

And;

WHEREAS, this is the list of owners as follows:

LIST OF CURRENT OWNER AND OWNERS OF PROPERTY ADJACENT TO AND DIRECTLY ACROSS THE ROAD FROM PETITIONERS (MIDDLE AVE. INVESTMENT CO. LLC) (TO COMPLY WITH OHIO REVISED CODE §709.02(D))

Middle Ave. Investment Co. LLC (Current Owner)
Lorain County PPN: 10-00-007-101-028
Middle Avenue
Elyria, OH 44035
44201 State Route 18, East
Wellington, OH 44090

Wilbur A. Dunn and Nancy L. Dunn
Lorain County PPN: 10-00-007-101-026
10563 Middle Avenue
Elyria, OH 44035

Heather M. Salyers
Lorain County PPN: 10-00-007-101-027
10523 Middle Avenue
Elyria, OH 44035

United Polish Club of Elyria Ohio
Lorain County PPN: 10-00-007-101-017
Middle Avenue
Elyria, OH 44035
1501 Middle Ave
Elyria, OH 44035

Colonial Oaks Property LLC
Lorain County PPN's: 10-00-004-113-046 and 10-00-004-113-038
112 South Carolina Ave.
Elyria, OH 44035
c/o Colonial Oaks Mobile Home Park Elyria
32255 Northwestern Highway, Suite 201
Farmington, MI 48334

Alco Manufacturing Real Estate Corporation LLC
Lorain County PPN: 10-00-008-116-025
10584 Middle Ave.
Elyria, OH 44035

1

Lorene A. Elbert, Trustee
Lorain County PPN: 10-00-007-102-014
Vacant land at Indian Hollow Rd.
Elyria, OH 44035
c/o Lorene A. Elbert
155 Yorkshire Ct.
Elyria, OH 44035

Joseph J. Elbert, Trustee
Lorain County PPN: 10-00-007-102-015
10516 Indian Hollow Rd.
Elyria, OH 44035
c/o Joseph J. Elbert
155 Yorkshire Ct.
Elyria, OH 44035

Joseph J. Elbert, Trustee
Lorain County PPN: 10-00-004-127-018
Vacant land at Southwood Dr.
Elyria, OH 44035
c/o Joseph J. Elbert
155 Yorkshire Ct.
Elyria, OH 44035

2

And;

WHEREAS, Carlisle Township adopted Ordinance 2020-02 accepting the Annexation Agreement with the City of Elyria as follows:



Carlisle Township
Lorain County, OH
Resolution 2020-02

Resolution 2020-02 A Resolution to Accept the Annexation Agreement Between City of Elyria and Carlisle Township -- Builders & Developers Co., Inc. Petitioner

Be it resolved by the Board of Trustees of Carlisle Township, Lorain County, OH, that:

Trustee Wright moved to adopt the following:

WHEREAS, Builders & Developers Co., Inc. (the "Petitioner") owns certain real estate containing 38.7 acres, more or less, hereafter referred to as (the property); and

WHEREAS, the Petitioner desires to annex the Property from the Township into the City pursuant to Ohio R.C. Sections 709.021 and 709.022; and

WHEREAS, the City and Township desire to maintain a cooperative relations, foster economic development on the Property and provide for necessary public infrastructure improvements that will serve the resident and property owners of the City and Township; and

WHEREAS, in furtherance of this relationship, the City and Township desire to enter into this Agreement attached hereto to outline the procedure under which the annexation of the Property to the City will occur; and

WHEREAS, the City and Township desire to work in good faith to identify certain public infrastructure improvements that will serve residents and property owners in the Township and the City;

NOW, THEREFORE, in consideration of the City authorizing and executing this agreement, the Township does hereby approve such agreement and authorize the execution of this agreement.

NOW, THEREFORE, BE IT ORDAINED BY CARLISLE TOWNSHIP, LORAIN COUNTY, OH, THAT, it is found and determined that all formal actions of the Board of Trustees of Carlisle Township concerning and relating to the adoption of this resolution were adopted in an open meeting of the Board, and that all deliberations of the Board and any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Revised Code of Ohio.

Furthermore, That it is found and determined by the Board of Trustees of Carlisle Township, Lorain County that the requirement of reading a proposed resolution on two separate days, pursuant to O.R.C. 504.10 be waived for proposed Resolution No. 2020-02 in accordance with O.R.C. 504.10 and, therefore, that the Board of Trustees be authorized to adopt proposed Resolution No. 2020-02 after its first reading.

Seconded by Trustee Smith, vote resulted as follows:

Trustee Berry Taylor AY Trustee Jared Smith AY Trustee James Wright AY

And;

WHEREAS, City of Elyria adopted Ordinance No. 2020-3 authorizing Mayor to enter into an annexation agreement with Carlisle Township as follow:

Sponsored by:
COMMUNITY DEVELOPMENT

- T. Callahan
- M. Jessie
- D. Mitchell
- J. Cerra
- M. Madison

ORDINANCE NO. 2020-3


AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN ANNEXATION AGREEMENT WITH CARLISLE TOWNSHIP.


BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ELYRIA, STATE OF OHIO:

SECTION 1: That the Mayor be and hereby is authorized to enter into an Annexation Agreement with Carlisle Township for approximately 38.52 acres of property on Middle Avenue, south of and adjacent to Colonial Oaks Mobile Home Park, Permanent Parcel Number 10-00-007-101-028. Said Agreement shall be in form and substance as approved by the Elyria City Law Director.

SECTION 2: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in meetings open to the Public, in compliance with Ohio law.

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

PASSED: 11/21/2020 
Victor F. Stewart II, President

ATTEST:  APPROVED: 11/21/2020
Michael J. Lotko III, Clerk


Frank Whitfield, Mayor

DATE: 01/21/2020

Approved as to form:
 01/15/2020
Amanda R. Deery, Law Director


WHEREAS, the County Auditor and Engineer have been notified to review and advise on their findings as to the accuracy of said petition.

NOW, THEREFORE BE IT RESOLVED, the Lorain County Board of Commissioners will schedule a decision to be placed on their agenda for Wednesday, March 25, 2020

Motion by Kokoski, seconded by Sweda to adopt Resolution. Upon roll call the vote taken, thereon, resulted as: Ayes: Kokoski, Sweda & Lundy / Nays: None.

Motion carried.

I, Theresa L. Upton, Clerk to the Lorain County Board of Commissioners do hereby certify that the above Resolution No. 20-193 is a true copy as it appears in Journal No. 2020 on date of March 11, 2020



Theresa L. Upton, Clerk