



LORAIN COUNTY COMMISSIONERS

Matt Lundy Lori Kokoski Sharon Sweda

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

County Administrator
James R. Cordes
440-329-5760

Clerk of Board of Commissioners
Theresa Upton
440-329-5103

Dog Warden
Timothy Pihlblad
440-326-5997

Budget Director
440-329-5201

Charles Berry Bridge Superintendent
Al Zocchi
440-244-2137

Children & Family Council
440-284-4464

Community Development Director
Don Romancak
440-328-2323

E-9-1-1 Director
Tracy Lopez
440-329-5444

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

Facilities Management Director
Karen Davis
440-329-5102

Human Resources Department
440-329-5150

IT Director
Ernie Smith
440-329-5786

Lorain County Crime/Drug Lab Director
440-329-5636

Lorain County Transit
Pamela Novak
440-329-5525

Office of Sustainability Coordinator
440-328-2361

Purchasing
440-329-5240

Records Center Supervisor
Denise Lindak
440-326-4866

Solid Waste Director
440-329-5442

Visit Lorain County
440-984-5282

Workforce Development Director
Mike Longo
440-284-1834

March 26, 2020

City of Elyria
131 Court Street
Elyria, Ohio 44035

Attn: Michael Lotko, Clerk

Enclosed is Resolution No. 20-222, adopted by the Lorain County Commissioners on March 25, 2020 granting the Expedited 1 Annexation Petition of 38.665 acres from Carlisle Township to The City of Elyria. Richard J. Beran, Agent for Petitioner Middle Ave., Investment Co, LLC., by Timothy J. Radachi, Manager, Member

This is the complete transcript.

Sincerely,

Theresa L. Upton
Clerk

tlu
Enclosure

Cc: Richard J. Beran, Agent
Carlisle Township Trustees
Craig Snodgrass, LC Auditor
Kenneth P. Carney, LC Engineer
Judy Nedwick, LC Recorder
Ted Spillman, Tax Map
Paul Adams, Board of Elections
Tracey Lopez, Director 9-1-1
File

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RESOLUTION NO. 20-222

In the matter of granting 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 25, 2020

WHEREAS, a Petition, Legal Description and Map were filed in the Board of Commissioners received by the Clerk on March 6, 2020 for the proposed Annexation of approximately 38.665 acres in Carlisle Township to the City of Elyria, Ohio as follows:

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

RECEIVED
LORAIN COUNTY
COMMISSIONERS
2020 MAR - 8 PM 2:01
CITY OF ELYRIA

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, OHIO
MAR 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;

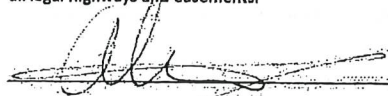
Course No. 2: thence South 00°20'52" West along the westerly line of said second Joseph Elbert land and the westerly line of a parcel of land now or formerly owned by Lorene A. Elbert as recorded in Instrument number 2008-0237106 of the Lorain County Records, a distance of 664.67 feet to a 1 inch Iron 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 southwestly 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, Resolution No. 20-193, adopted March 11, 2020 received and journalized said petition; and

WHEREAS, Letters were issued to Ken Carney, Lorain County Engineer and Auditor Craig Snodgrass, asking for review and accuracy of the Petition and Map. (There is no requirement to send these documents to the Auditor or Engineer, but did so as information status); and

WHEREAS, March 20, 2020 Lorain County Engineer issued a letter stating “the petition’s legal description and accompanying survey map accurately describe the perimeter of territory proposed to be annexed to the City of Elyria.

To avoid segmentation of Middle Avenue (a county road) the City of Elyria and County Engineer met, and we have a tentative understanding to share the road’s maintenance”; and

WHEREAS, this petition was submitted as an Expedited 1 and Carlisle Township adopted Ordinance 2020-02 accepting the Agreement and City of Elyria Ordinance No. 2020-3 Authorizing Mayor to enter into an annexation agreement with Carlisle Township effective January 21, 2020 is 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

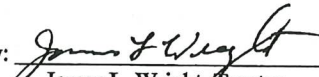
amendments hereto shall be in writing and shall be executed by both the City and the Township.

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

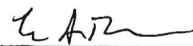
By: 
Jared W. Smith, Trustee

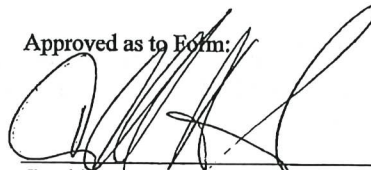
By: 
Berry A. Taylor, Trustee

Date: 02/12/2020

Approved as to Form:

Approved as to Form:


Asst. City Law Director


Gerald A. Innes
Assistant Lorain County Prosecutor

And;

WHEREAS, Assistant County Prosecutor Innes said this Expedited Type 1 annexation does not require a hearing. The petition has been signed by all owners, a map and legal description were received along with the agent and an annexation agreement.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Lorain County, Ohio, that upon review of the documents submitted, the following findings are made:

The Petition contains the signatures of all the property owners in the territory to be annexed.

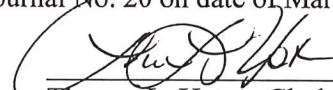
1. The Petition contains an accurate legal description of the perimeter of the territory proposed to be annexed.
2. The Petition contains an accurate map or plat of the territory proposed to be annexed.
3. The Petition contains the name of the person acting as statutory agent for the petitioners.
4. Filed with the Petition is a list of all the tracts, lots or parcels in the territory proposed to be annexed together with all the tracts, lots or parcels located adjacent to the territory to be annexed or directly across the road, including the name and mailing address of each owner and the permanent parcel number of each parcel.
5. Filed with the Petition is an Annexation Agreement between the City of Elyria and Carlisle Township

BE IT FURTHER RESOLVED that:

- I. Upon the findings that all of the conditions of annexation as contained in Revised Code Section 709.022 have been met, the Petition as presented is granted, incorporating the Annexation Agreement between the City of Elyria and Carlisle Township.
- II. Herein the annex area will not be excluded from the Township
- III. The Clerk is directed to enter the resolution upon the journal of the Board and send a certified copy of the record (including all resolutions, the petition, the map and all other papers on file to the City of Elyria)

Motion by Kokoski, seconded by Sweda to adopt Resolution. Upon roll call the vote taken thereon, resulted as: Ayes: All 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. 20-222 is a true copy as it appears in Journal No. 20 on date of March 25, 2020

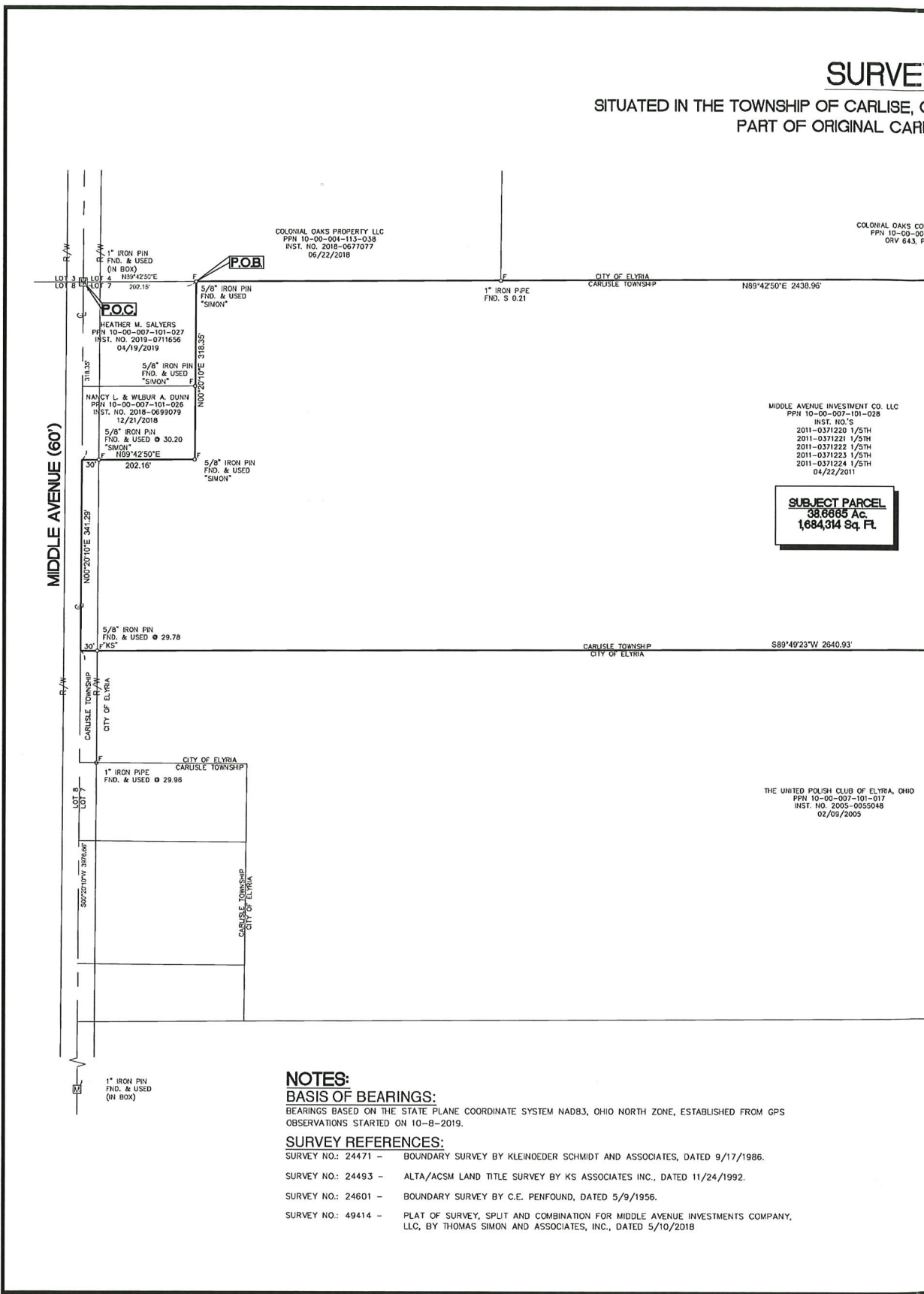


Theresa L. Upton, Clerk

Exhibit B

SURVEY

SITUATED IN THE TOWNSHIP OF CARLISE, C
PART OF ORIGINAL CARL



SUBJECT PARCEL
38.6665 Ac.
1,684,314 Sq. Ft.

NOTES:

BASIS OF BEARINGS:

BEARINGS BASED ON THE STATE PLANE COORDINATE SYSTEM NAD83, OHIO NORTH ZONE, ESTABLISHED FROM GPS OBSERVATIONS STARTED ON 10-8-2019.

SURVEY REFERENCES:

- SURVEY NO: 24471 - BOUNDARY SURVEY BY KLEINOEDER SCHMIDT AND ASSOCIATES, DATED 9/17/1986.
- SURVEY NO: 24493 - ALTA/ACSM LAND TITLE SURVEY BY KS ASSOCIATES INC., DATED 11/24/1992.
- SURVEY NO: 24601 - BOUNDARY SURVEY BY C.E. PENFOUND, DATED 5/9/1956.
- SURVEY NO: 49414 - PLAT OF SURVEY, SPLIT AND COMBINATION FOR MIDDLE AVENUE INVESTMENTS COMPANY, LLC, BY THOMAS SIMON AND ASSOCIATES, INC., DATED 5/10/2018

