

RESOLUTION NO. 06-23
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER JoAnne Ray ON THE 9th
DAY OF January, 2023.

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO UPTOWN PARKING DISTRICT
AGREEMENTS WITH BATU LLC; GOOD CATS, LLC;
AMOI LLC; AND CENTERVILLE-WASHINGTON
HISTORY FOR THE UPTOWN PARKING DISTRICT AND
AUTHORIZING THE CITY MANAGER TO EXECUTE
FUTURE PARKING DISTRICT AGREEMENTS.**

WHEREAS, the City of Centerville is developing a public parking district to assist all businesses and residents located in the area of Main and Franklin Streets in the City known as Uptown; and

WHEREAS, the City desires to create a public parking district to be built and established in several phases (the "Project"); and

WHEREAS, the Project requires the cooperation of property owners in agreeing to be a party to the Project and the Parking District; and

WHEREAS, BATU LLC; Good Cats, LLC; AMOI LLC; and Centerville-Washington History, as owners of properties located in the Uptown have agreed to be part of the Parking District; and

WHEREAS, additional property owners will become part of the Uptown Parking District.

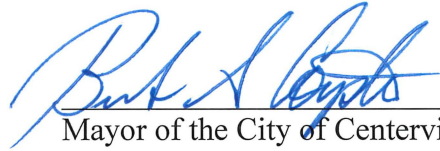
**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF
THE CITY OF CENTERVILLE, MONTGOMERY COUNTY, OHIO, AS
FOLLOWS:**

Section 1. The City hereby agrees to enter into the Parking District Agreements with BATU LLC; Good Cats, LLC; AMOI LLC; and Centerville-Washington History for the Project; and the City Manager is hereby authorized to execute the Agreements attached hereto as Exhibits "A", "B", "C" and "D" and incorporated herein on behalf of the City of Centerville.

Section 2. The City Manager is hereby further authorized to execute all additional Parking District Agreements for the Project that are in substantially the same form as the agreements attached hereto.


Section 3. This Resolution shall be in full force and effect at the earliest date allowed by law.

PASSED THIS 9th day of January, 2023.



Mayor of the City of Centerville, Ohio

ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 06-23, passed by the Council of the City of Centerville, Ohio on the 9th day of January, 2022.



Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

PARKING DISTRICT AGREEMENT

This PARKING DISTRICT AGREEMENT ("**Agreement**") is effective as of _____, 2022, ("**Effective Date**"), and is between the **CITY OF CENTERVILLE**, an Ohio municipal corporation, 100 West Spring Valley Road, Centerville, Ohio 45458 (hereinafter the "**City**") and **BATU, LLC, an Ohio limited liability company, 101 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** (hereinafter "**Property Owner**"). City and the Property Owner are sometimes referred to individually as a "party," and collectively as the "parties." The parties agree as follows:

PREAMBLE

The City is committed to enhancing the Uptown area in alignment with strategies of the 2019 Uptown Action Plan. The purpose of this Agreement is to establish a shared Uptown Parking District to provide additional public parking, reduce traffic congestion, improve pedestrian walkability, and general improvements for the mutual benefit of the City and the Property Owner. The Property Owner acknowledges a Parking Easement is required and in exchange the City will construct and maintain the shared public parking areas in the proposed district.

RECITALS

A. The Property Owner is the owner of the real property located at **101 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** and more particularly described on the attached Exhibit A ("Legal Description") and depicted on the map attached as Exhibit B ("Parcel Map"); and

B. The City is developing a public parking district to assist all of the businesses located and/or to be located in the area of Main and Franklin Streets in the City, including the Property Owner's (hereinafter the "Uptown Parking District"), described on the attached Exhibit C; and

C. The City and Property Owner desires to establish the herein Parking District Agreement reflecting terms and conditions upon which visitors and employees to the Uptown Parking District may utilize the Parking Area for parking and access to the businesses as

well as the circumstances under which the general public may also utilize the Parking Area for parking and special events; and

D. The City will require easements for public parking, ingress/egress, and utilities over the property owned by the Property Owners.

ARTICLE 1 DEFINED TERMS

The following capitalized terms in this Agreement have the meanings set forth below.

1.1 Employees mean persons who work in the businesses in the Uptown Parking District.

1.2 Special Event means scheduled events or other gatherings on the Parking Area, which are authorized at the sole discretion of the City.

1.3 Parking Area means the portions of the property on which parking spaces including drive aisles, landscape areas, and the entry driveway are located as depicted on the Site Plan.

1.4 Regular Business Hours means the period between 7:00 AM and 11:00 PM, Monday through Sunday.

1.5 Visitors mean customers, guests, invitees, officials and other persons visiting the businesses in the Uptown Parking District.

ARTICLE 2 PARKING AREA

2.1 Grant of Easements. Subject to the terms and conditions of this Agreement, the Property Owner hereby grants to the City, for the benefit of the Uptown Parking District, and the public a perpetual nonexclusive parking, utilities, and ingress/egress easement ("**Parking Easement**"). Said Parking Easement shall be for the use of business property owners, Employees, and Visitors. The boundaries of said easement align with the boundaries of the Parking Area in Exhibit D ("Site Plan") and as depicted by Exhibit E ("Legal Description of the Parking Area") attached hereto and incorporated herein.

2.2 Use of Parking Area

2.2.1 Types of Vehicles. Use of the parking spaces under this Agreement is limited to the parking of automobiles, motorcycles, and small trucks, such as pickup trucks, and may not be used for staging or storage or for the parking of larger or heavier commercial vehicles, such as buses and delivery trucks.

2.2.1 Limitation on City Liability. Use of the Parking Area, and the exercise of the

easement rights under this Agreement is at the sole risk of the Employees and Visitors of the businesses and in no event will the City have any liability for any damages caused to any Employee or Visitor or the vehicles or personal property of any Employee or Visitor, except for liability arising out of City's negligence, gross negligence or willful misconduct. Property Owner agrees to indemnify and hold the City harmless and free from damages of any kind or nature due to or arising from the use or maintenance of the Parking Area, except damages, if any, due to the fault or negligence of the City, its officials, employees, agents or contractors for any and every reasonable expense incurred as a result of any such claim for damages.

2.2.2 Parking Area to Remain Open. The City and the Property Owner acknowledges and agrees that except with respect to any Special Events or required maintenance, the City will keep the Parking Area open for public parking during Regular Business Hours.

2.2.3 Special Events. Use of the Parking Area for Special Events is solely at the discretion of the City. The City will provide notice to the Property Owner of each intended Special Event use of the Parking Area during Regular Business Hours at least seven (7) days prior to such use.

2.2.4 Clean Up After Special Events. After each Special Event, the City will cause the Parking Area to be cleaned, including the removal of any debris that would interfere with the use of the Parking Area by Employees and Visitors.

ARTICLE 3

CONSTRUCTION, MAINTENANCE, AND ADMINISTRATION

3.1 Maintenance of Parking Area.

3.1.1 Regular Maintenance. The City is responsible for all regular maintenance of the Parking Area. For purposes of this section, regular maintenance of the Parking Area means all regular maintenance required to keep the Parking Area in good condition and repair, including minor repairs and the maintenance of any landscaped areas, repair or replacement of parking signage and lighting fixtures.

3.1.2 Long-Term Maintenance. The parties acknowledge and agree that proper long-term maintenance of the surface of the Parking Area requires that it be seal coated and striped approximately every five (5) years from the Effective Date, and that the surface be completely overlaid every 20 years. The City will cause such long-term maintenance to be performed as periodically needed.

3.1.3 Snow Plowing. The City is responsible for plowing snow from the Parking Area and access drives as necessary for the reasonable use of the Parking Area, as determined by the City.

3.2 Notice of Damage; Third Party Claims. The parties agree to provide prompt notice with respect to any unusual damage to the Parking Area including information regarding who may have caused such damage. Each party also agrees to use commercially

reasonable efforts to pursue any available claims for damage with respect to third parties, including third parties that may have a contractual obligation to either City or Property Owner to pay the costs of repairing such damage. In the event of any such unusual damage, the City agrees to perform any required repairs subject to reimbursement by the Property Owner, less any third-party reimbursement received.

3.3 Utilities. The City shall pay all utilities associated with the Parking Area, including lighting, electric, and water.

3.4 Refuse. The City will cause the rubbish to be removed from the common dumpster enclosures located in the Parking Area. Dumpsters use shall be limited to refuse generated from normal operations of business tenants and Property Owners, and shall not include:

- a. Construction debris
- b. Toxic and/or hazardous materials
- c. Medical waste
- d. Grease
- e. Excess waste related to tenant move-in or move-out

3.5 Right of Entry. The Property Owner hereby grants to the City and its agents, employees and contractors the right to enter onto the Property for the purpose of construction and performing maintenance in the Parking Area.

3.6 Drive Apron Removal. The Property Owner hereby authorizes the City and its agents, employees and contractors to demolish and remove any driveway apron and curbcuts designated for elimination by Exhibit C in conjunction with construction of the Parking Area. The City agrees to demolish and remove any associated driveway at the time of construction.

ARTICLE 4 INSURANCE

4.1 Insurance.

4.1.1 City Insurance. The City shall maintain commercial general liability insurance against claims for injuries to persons or damages to property which may arise due to the City's negligence with respect to its use of the Property. Such coverage shall have a limit of One Million Dollars (\$1,000,000) per Occurrence and shall cover, or be endorsed to cover, the Property Owner as an Additional Insured.

4.1.2 Property Owner Insurance. The Property Owner shall maintain for the duration of the Agreement commercial general liability insurance for claims, damages, and liability arising from the use or maintenance of the Parking Area, except claims, damages, or liability, if any, due to the fault or negligence of the City, its officials, employees, agents or contractors. Such coverage shall have a limit of not less than One Million Dollars (\$1,000,000) per

Occurrence and shall cover, or be endorsed to cover, the City, its officials, employees, and volunteers as an Additional Insureds. The coverage shall be primary and non-contributing as respects the City, its officials, employees, and volunteers.

**ARTICLE 5
AMENDMENTS AND TERMINATION**

5.1 Amendments. No modification or amendment shall be effective unless in written recordable form signed by both parties hereto, their heirs, successors or assigns. This Agreement supersedes any prior written agreement or oral understanding between the parties.

5.2 Termination. The Agreement and all of the provisions, covenants, conditions, restrictions, and obligations may be terminated with the written approval of the parties.

**ARTICLE 6
MISCELLANEOUS**

6.1 Covenants Running with the Land: Prohibition of Fragmentation of Ownership of Easements. The easements and all of the provisions, agreements, covenants, conditions, restrictions and obligations contained in this Agreement are perpetual and shall run with the land and be binding upon City and the Property Owners, and their respective heirs, executors, administrators, successors, assigns, devisees, representatives, and all other persons acquiring any portion of either property, or any interest therein whether by operation of law or any manner whatsoever.

6.2 Notices. All notices or other communications required or permitted under this Agreement must be in writing and must be delivered either by hand (including by courier or reputable overnight delivery service), or deposited in the United States Mail, registered or certified mail, postage prepaid, and addressed as follows:

City:	City of Centerville Attn: City Manager 100 W. Spring Valley Rd. Centerville, OH 45458
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Property Owner:	BATU, LLC 101 WEST FRANKLIN STREET CENTERVILLE, OH 45459
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6.3 Binding Effect. All of the limitations, covenants, conditions, easements, and restrictions contained in this Agreement attach to and run with the property and will, except as otherwise set forth herein, benefit or be binding upon the successors and assigns.

6.4 Effect On Third Parties. The rights, privileges, or immunities conferred under this Agreement are for the benefit of the owners of the Parcels and not for any third party.

6.5 Waiver. No waiver of any provision of this Agreement or any breach of this Agreement will be effective unless such waiver is in writing and signed by the waiving party and any such waiver will not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

6.6 Severability. In the event any term, covenant, condition, or provision of this Agreement is held to be invalid, void, or otherwise unenforceable, by any court of competent jurisdiction, such holding will in no way affect the validity of enforceability of any other term, covenant, condition, or provision of this Agreement.

6.7 Captions. Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

6.8 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

6.9 Counterparts. This Agreement may be executed in more than one counterpart, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

6.10 Tax Exemption. The Property Owners agree to cooperate with the City's efforts to apply for an exemption to real property taxes for the area covered by the easement.

6.11 No Joint Venture. Nothing in this Agreement shall be construed to make the parties partners or joint venturers or to render any party liable for the debts or obligations of the other, except as expressly provided in this Agreement.

6.12 Exhibits. All exhibits referred to in this Agreement are attached to this Agreement and incorporated by reference.

6.13 Future Business Expansion. The City is generally supportive of building renovations and expansions that conform to the City's Ordinances, including, but not limited to, the Unified Development Ordinance and Design Review Guidelines. The parties acknowledge the Parking Area and Parking Easement may be amended, subject to Section 5.1 of this Agreement at the discretion and determination of the City, to accommodate expansion of the existing structure, so long as the proposed expansion does not negatively impact the connectivity, access, and/or greatly reduce capacity of the Parking Area or related Utilities.

[Signatures on the following page.]

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this Agreement as of the Effective Date set forth above.


CITY:

CITY OF CENTERVILLE


PROPERTY OWNER:

BATU, LLC, an Ohio Limited Liability Company

By: Wayne S. Davis
Its: City Manager

By: 
Name: Ali Bas
Title: owner

Approved as to Form:



Scott A. Liberman
Municipal Attorney

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS:

BE IT REMEMBERED, that on this ____ day of _____, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Wayne S. Davis, who acknowledged that he did sign said instrument as the City Manager on behalf of the City of Centerville and that said instrument was signed as his free act and deed individually, and the free act and deed of said municipality.

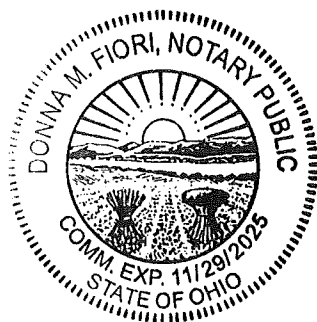
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.

Notary Public

STATE OF OHIO)
COUNTY OF Montgomery) SS:

BE IT REMEMBERED, that on this 20th day of June, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Ali Bas who acknowledged that he/she did sign said instrument as the owner on behalf of said company and that said instrument was signed as his/her free act and deed individually, and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.



Donna M. Fiori
Notary Public

Exhibit A

Legal Description of Building Parcel

Type: DEED
Kind: DEE .
Recorded: 08/19/2021 at 10:18:42 AM
Fee Amt: \$34.00 Page 1 of 2
Montgomery County, OH
Brandon C. McClain Recorder
File# 2021-00062286

TRANSFER
14:47:18 8/18/2021
Reg BT05 Receipt 5374 Cashier CD
Montgomery County Auditor
Karl L. Keith
CONV # 016523 \$936.00

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GENERAL WARRANTY DEED

LAS PIRAMIDES, INC. an Ohio Corporation("Grantors"), for valuable consideration paid to it by BATU, LLC., an Ohio limited liability company("Grantee"), whose address is 9125 Surrey Gate Place Dayton, OH 45458 grants it with general warranty covenants to said Grantee, its successors and assigns forever, the following described real estate (the "Property"):

*See Exhibit "A" attached hereto
And made a part hereof*


There are excepted from the general warranty covenants and the Property is conveyed subject to legal highways, easements, conditions, restrictive covenants of record, and installments of taxes and assessments due and payable after the date hereof.

Prior Instrument References: Official Records Book 98-0165, Page C10 in the Public Records of Montgomery County, Ohio.

Auditor's Parcel ID Number: O68001020022, O68001020013

Grantor has executed this Deed this 19th day of July, 2021.

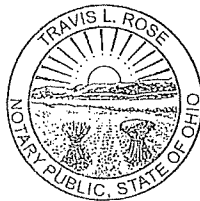
GRANTORS:


ALFREDO LEON, PRESIDENT

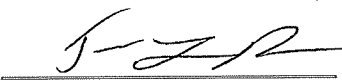
STATE OF OHIO)
 : SS:
COUNTY OF WARREN)

BE IT REMEMBERED, That on this 19th day of July, 2021 before me, the subscriber, a Notary Public, in and for said State and County, personally appeared ALFREDO LEON, PRESIDENT of LAS PIRAMIDES, INC. an Ohio Corporation, the Grantors in the foregoing deed and acknowledged the signing thereof to be their voluntary act and deed and the voluntary act and deed of said company.

Witness my official signature and seal on the day last above mentioned.



Travis L. Rose
NOTARY PUBLIC
STATE OF OHIO
My Commission Expires
July 28, 2025



Notary


 This instrument prepared by: Gordon L. Rose, Attorney at Law, c/o Trico Title Inc., 61 E. Main Street, Suite #2 Wilmington, Ohio 45177 (937) 383-1320



Exhibit "A"

Situate in Section 25, Town 2, Range 6, M.R.s., City of Centerville, Montgomery County, Ohio, being all of a 1.003 acre tract (by Deed) is conveyed to Helen Ming Meng by deed recorded in Microfiche NO. 28-201B07 as recorded in the Deed Records of said Montgomery County and being more particularly described as follows:

Starting for reference at the southwest corner of Lot 32 of the Robbins Plat of Town of Centerville as recorded in Plat Book 1, Page 111 of the Plat Records of said County and also being on the centerline of West Franklin Street (S.R. 725); thence from said starting point S 85 degree 56' 00" W with the centerline of said West Franklin Street and the south line of a 0.453 acre tract as conveyed to David I. and Donna J. Sarber by MF#85-606C12 a distance of 96.81 feet to the southwest corner of said 0.453 acre tract and the True Point of Beginning for the herein described tract;
thence S 85 degrees 56' 00" W with the said centerline a distance of 160.48 feet to an angle point in said centerline;
thence S 85 degrees 51' 30" W Continuing with said centerline a distance of 48.29 feet to p.k. nail set, said nail also being the southeast corner of a 0.497 acre tract as conveyed to the City of Centerville by MF# 90-595C08;
thence N 00 degree 06' 41" W with the east line of said 0.497 acre tract (passing a iron pin set at 33.08' feet) a distance of 207.15 feet to a 3" steel post, said post also being the northeast corner of said 0.497 acre tract and also being on the south line of a 0.53 acre tract as conveyed to Edward Lang by Deed Book 1854, Page 561;
thence N 85 degrees 45' 00" E with the south line of said 0.53 acre tract and its easterly extension a distance of 211.19 feet to an iron pin set, said iron pin also being the northwest corner of said 0.453 acre tract;
thence S 00 degrees 32' 30" W with the west line of said 0.453 acre tract a distance of 207.94 feet (passing an iron pin set at 174.83 feet) to the True Point of Beginning, containing 0.997 acres of land, subject to all legal conditions, easements and rights -of way record. This description prepared by McDougill Associates based on a survey made by same in February 1998. Bearings are based on Deed Microfiche No. 88-201B07 as recorded in the Deed Records of Montgomery County, Ohio.

Parcel Numbers: O68 00102 0022 & O68 00102 0013
Prior Deed Ref: Deed Book 98-0165, Page C10, Montgomery
County, Ohio
Property Address: 101 West Franklin St., Centerville, OH 45459

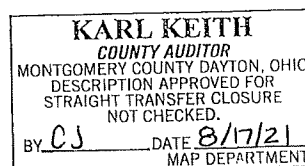


Exhibit B

Parcel Map

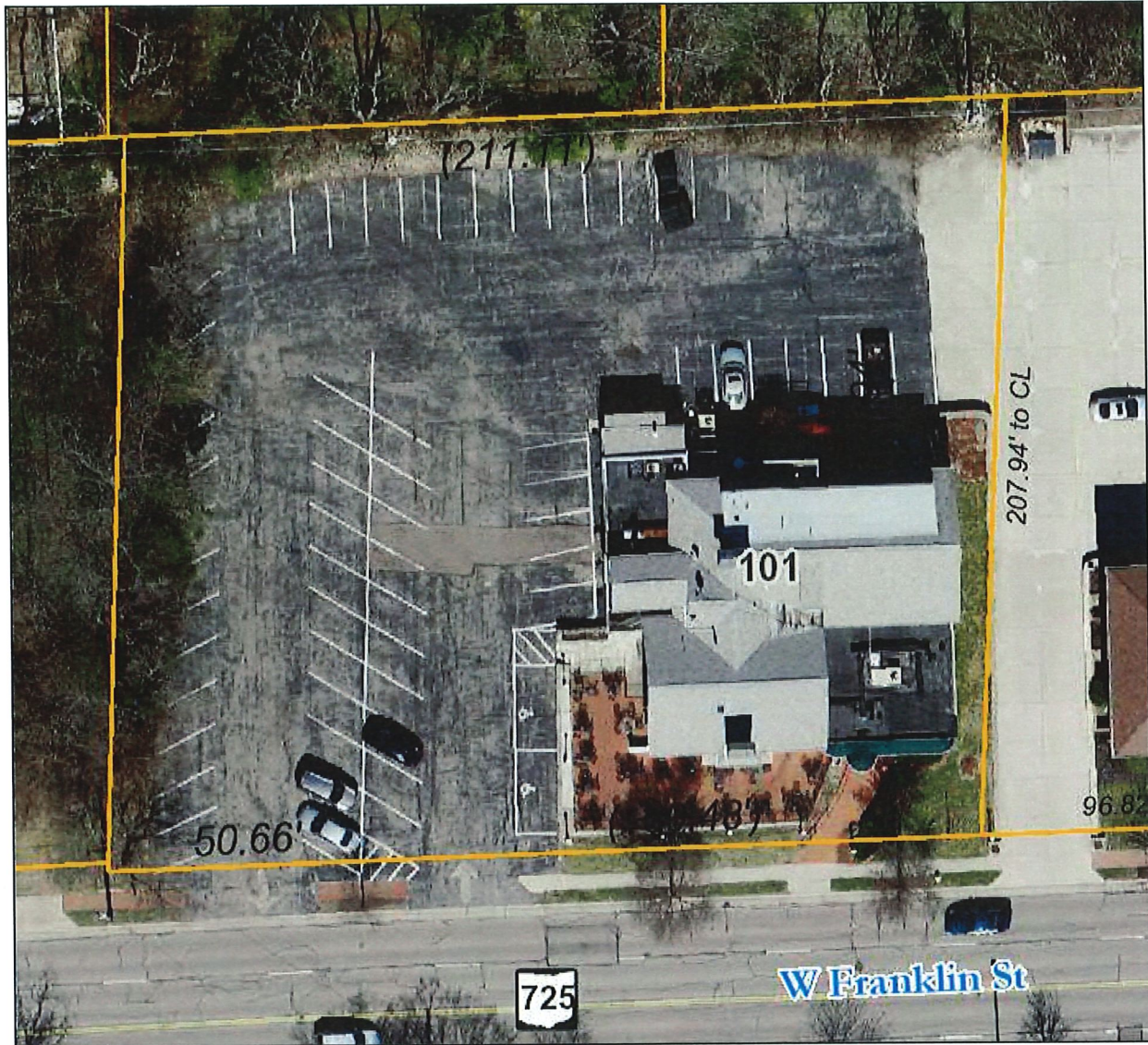


Exhibit C

Uptown Parking District



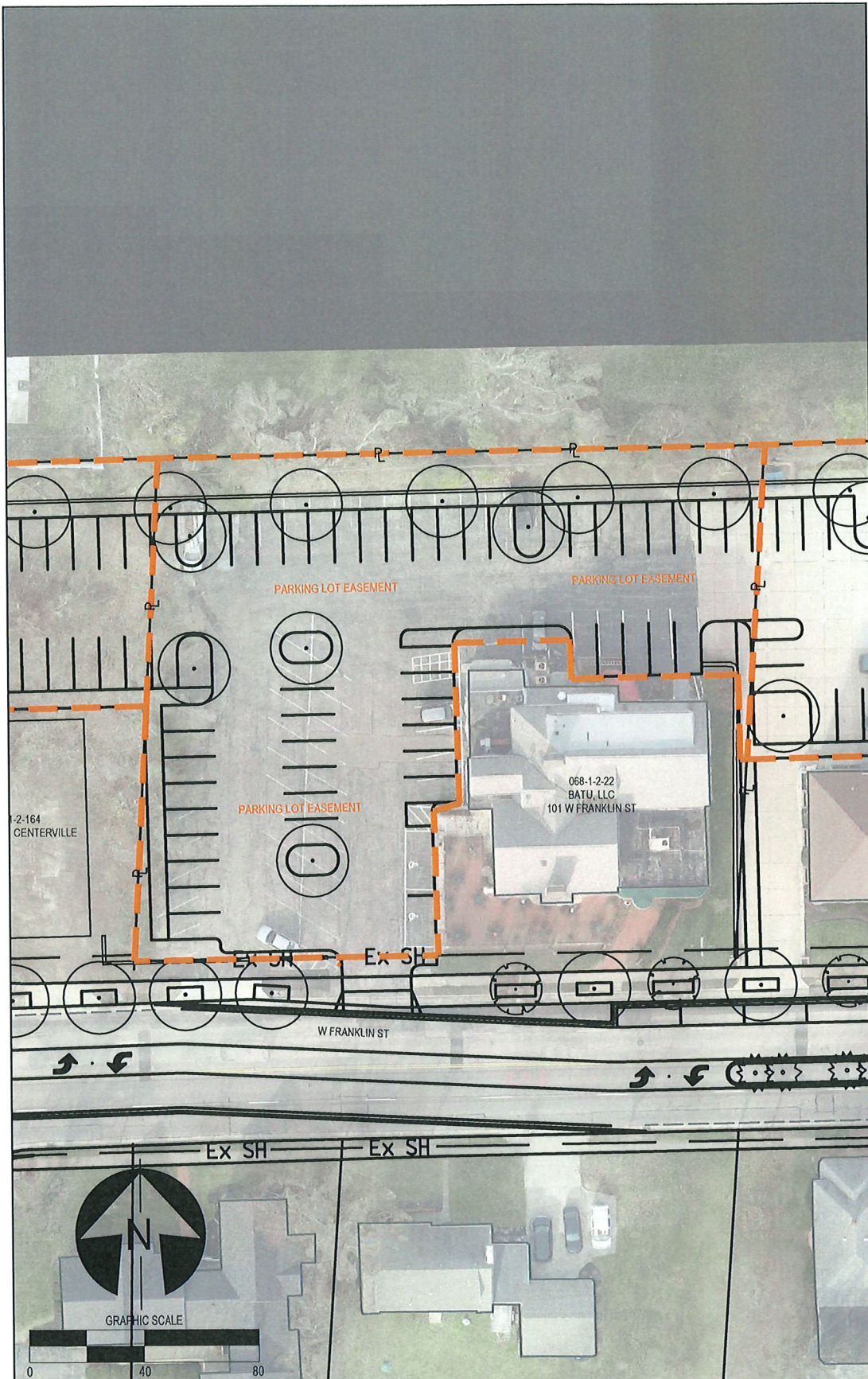
Exhibit D

Site Plan: 101 W. Franklin Street




Exhibit E

**Legal Description of the
Parking Area**



PROJECT: UPTOWN IMPROVEMENT PLAN			JOB #: 0120159	
SUBJECT: 068-1-2-22 - PARKING LOT EASEMENT			DATE:	
DSGN: KWW	DRWN: CMM	CHKD:	SHEET NO.: 1/1	SCALE: 1"=40'



LJB Inc.
We think bigger.

LJBinc.com
info@LJBinc.com
(866) 552-3536

Exhibit "B"

PARKING DISTRICT AGREEMENT

This PARKING DISTRICT AGREEMENT ("**Agreement**") is effective as of _____, 2022, ("**Effective Date**"), and is between the **CITY OF CENTERVILLE**, an Ohio municipal corporation, 100 West Spring Valley Road, Centerville, Ohio 45458 (hereinafter the "**City**") and **GOOD CATS, LLC**, an Ohio limited liability company, **133 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** (hereinafter "**Property Owner**"). City and the Property Owner are sometimes referred to individually as a "party," and collectively as the "parties." The parties agree as follows:

PREAMBLE

The City is committed to enhancing the Uptown area in alignment with strategies of the 2019 Uptown Action Plan. The purpose of this Agreement is to establish a shared Uptown Parking District to provide additional public parking, reduce traffic congestion, improve pedestrian walkability, and general improvements for the mutual benefit of the City and the Property Owner. The Property Owner acknowledges a Parking Easement is required and in exchange the City will construct and maintain the shared public parking areas in the proposed district.

RECITALS

A. The Property Owner is the owner of the real property located at **133 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** and more particularly described on the attached Exhibit A ("Legal Description") and depicted on the map attached as Exhibit B ("Parcel Map"); and

B. The City is developing a public parking district to assist all of the businesses located and/or to be located in the area of Main and Franklin Streets in the City, including the Property Owner's (hereinafter the "Uptown Parking District"), described on the attached Exhibit C; and

C. The City and Property Owner desires to establish the herein Parking District Agreement reflecting terms and conditions upon which visitors and employees to the Uptown Parking District may utilize the Parking Area for parking and access to the

businesses as well as the circumstances under which the general public may also utilize the Parking Area for parking and special events; and

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ARTICLE 4 INSURANCE

4.1 Insurance.

4.1.1 City Insurance. The City shall maintain commercial general liability insurance against claims for injuries to persons or damages to property which may arise due to the City's negligence with respect to its use of the Property. Such coverage shall have a limit of One Million Dollars (\$1,000,000) per Occurrence and shall cover, or be endorsed to cover, the Property Owner as an Additional Insured.

4.1.2 Property Owner Insurance. The Property Owner shall maintain for the duration of the Agreement commercial general liability insurance for claims, damages, and liability arising from the use or maintenance of the Parking Area, except claims, damages, or

liability, if any, due to the fault or negligence of the City, its officials, employees, agents or contractors. Such coverage shall have a limit of not less than One Million Dollars (\$1,000,000) per Occurrence and shall cover, or be endorsed to cover, the City, its officials, employees, and volunteers as an Additional Insureds. The coverage shall be primary and non-contributing as respects the City, its officials, employees, and volunteers.

**ARTICLE 5
AMENDMENTS AND TERMINATION**

5.1 Amendments. No modification or amendment shall be effective unless in written recordable form signed by both parties hereto, their heirs, successors or assigns. This Agreement supersedes any prior written agreement or oral understanding between the parties.

5.2 Termination. The Agreement and all of the provisions, covenants, conditions, restrictions, and obligations may be terminated with the written approval of the parties.

**ARTICLE 6
MISCELLANEOUS**

6.1 Covenants Running with the Land; Prohibition of Fragmentation of Ownership of Easements. The easements and all of the provisions, agreements, covenants, conditions, restrictions and obligations contained in this Agreement are perpetual and shall run with the land and be binding upon City and the Property Owners, and their respective heirs, executors, administrators, successors, assigns, devisees, representatives, and all other persons acquiring any portion of either property, or any interest therein whether by operation of law or any manner whatsoever.

6.2 Notices. All notices or other communications required or permitted under this Agreement must be in writing and must be delivered either by hand (including by courier or reputable overnight delivery service), or deposited in the United States Mail, registered or certified mail, postage prepaid, and addressed as follows:

City:	City of Centerville Attn: City Manager 100 W. Spring Valley Rd. Centerville, OH 45458
-------	--

Property Owner:	GOOD CATS, LLC 133 W. FRANKLIN ST. CENTERVILLE, OH 45459
-----------------	--

6.3 Binding Effect. All of the limitations, covenants, conditions, easements, and

restrictions contained in this Agreement attach to and run with the property and will, except as otherwise set forth herein, benefit or be binding upon the successors and assigns.

6.4 Effect On Third Parties. The rights, privileges, or immunities conferred under this Agreement are for the benefit of the owners of the Parcels and not for any third party.

6.5 Waiver. No waiver of any provision of this Agreement or any breach of this Agreement will be effective unless such waiver is in writing and signed by the waiving party and any such waiver will not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

6.6 Severability. In the event any term, covenant, condition, or provision of this Agreement is held to be invalid, void, or otherwise unenforceable, by any court of competent jurisdiction, such holding will in no way affect the validity of enforceability of any other term, covenant, condition, or provision of this Agreement.

6.7 Captions. Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

6.8 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

6.9 Counterparts. This Agreement may be executed in more than one counterpart, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

6.10 Tax Exemption. The Property Owners agree to cooperate with the City's efforts to apply for an exemption to real property taxes for the area covered by the easement.

6.11 No Joint Venture. Nothing in this Agreement shall be construed to make the parties partners or joint venturers or to render any party liable for the debts or obligations of the other, except as expressly provided in this Agreement.

6.12 Exhibits. All exhibits referred to in this Agreement are attached to this Agreement and incorporated by reference.

6.13 Future Business Expansion. The City is generally supportive of building renovations and expansions that conform to the City's Ordinances, including, but not limited to, the Unified Development Ordinance and Design Review Guidelines. The parties acknowledge the Parking Area and Parking Easement may be amended, subject to Section 5.1 of this Agreement at the discretion and determination of the City, to accommodate expansion of the existing structure, so long as the proposed expansion does not negatively impact the connectivity, access, and/or greatly reduce capacity of the Parking Area or related Utilities.

[Signatures on the following page.]

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this Agreement as of the Effective Date set forth above.


CITY:

CITY OF CENTERVILLE

PROPERTY OWNER:

GOOD CATS, LLC, an Ohio Limited Liability Company

By: Wayne S. Davis
Its: City Manager

By: 
Name: Andrew Summers
Title: owner

Approved as to Form:



Scott A. Liberman
Municipal Attorney

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS:

BE IT REMEMBERED, that on this ____ day of _____, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Wayne S. Davis, who acknowledged that he did sign said instrument as the City Manager on behalf of the City of Centerville and that said instrument was signed as his free act and deed individually, and the free act and deed of said municipality.

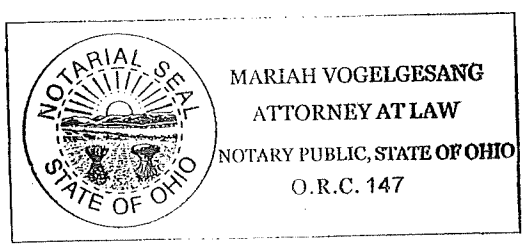
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.

Notary Public

STATE OF OHIO)
COUNTY OF Montgomery) SS:

BE IT REMEMBERED, that on this 2nd day of June, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Andrew Summers who acknowledged that he/she did sign said instrument as the owner on behalf of said company and that said instrument was signed as his/her free act and deed individually, and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.



Mariah Vogelgesang
Notary Public

Exhibit A

Legal Description of Building Parcel

GENERAL WARRANTY DEED

PARCEL #068-1-2-21

CENTERBROOK INVESTMENTS, an Ohio General Partnership,

for valuable consideration paid, grants with general warranty covenants, to

GOOD CATS, LLC, an Ohio Limited Liability Company, whose tax mailing address 133 West Franklin Street, Centerville, Ohio 45459 the following described real property:

Situate in the City of Centerville, County of Montgomery and State of Ohio and being a tract of land described as follows:

Situate in Section 25, Town 2, Range 6 M.R.S. Beginning at a point in the centerline of West Franklin Street, said point being South 87 degrees 4' 2" West and 17.23 feet from the intersection of the centerline of said West Franklin Street with the centerline of Virginia Avenue; thence with the centerline of said West Franklin Street, South 87 degrees 4' 2" West 100.50 feet to the Southeast corner of land conveyed to Ronald R. Decker, et al., by deed recorded in microfiche 79-063 E11 in the Deed Records of Montgomery County, Ohio; thence with the West line of said Decker land, North 2 degrees 53' 15" West for 206.22 feet to the Northwest corner of said Decker land; thence with the North line of said Decker land, North 86 degrees 57' 31" East for 108.93 feet; thence South 00 degrees 33' 5" East for 206.61 feet to the point of beginning, containing 0.496 acres more or less.

The above described tract of land is subject to an easement for ingress and egress, being 30.0 feet wide, taken by parallel lines off the East side of the above described tract of land. Said easement begins at the South line of the above described tract of land and runs Northwardly for 100.0 feet.

The above described tract of land shall have access to an easement for ingress and egress being 30.0 feet taken by parallel lines adjoining to and East of the East line of the above described tract of land. Said easement begins at the South lines of the above described tract of land and runs Northwardly for 100.0 feet.

Said premises are conveyed subject to all easements, conditions, restrictions, limitations and covenants of records and to all legal highways and easements.

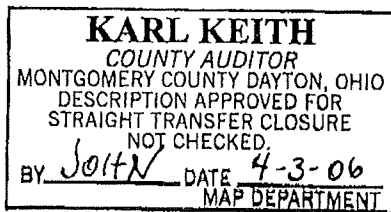
Prior Instrument Reference: Deed Microfiche 97-0001 B04 of the Deed Records of Montgomery County, Ohio.

Executed this 29th day of March, 2006.

Centerbrook Investments
(an Ohio General Partnership)

By Sueleal Kramer
Sueleal Kramer

By Date M. Berry
Date M. Berry



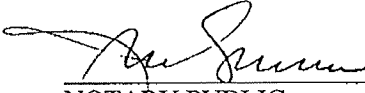
4-4-06
Date
I hereby certify that said partnership was registered in the Recorder's Office on 2-14-06
Judy Dodge, Recorder
By Judy Clark
Deputy
De-013324

\$28.00 04/04/06 09:19:10
DEED-05-029157 0002
Montgomery County
Judy Dodge:Recorder

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

BE IT REMEMBERED, that on this 29th day of March, 2006, before me, the subscriber, a Notary Public, in and for said state, personally came Sueleal Kramer, Partner and Dale M. Berry, Partner of Centerbrook Investments, the Grantor in the foregoing deed, an Ohio General Partnership, and acknowledged the signing of this General Warranty Deed to be their voluntary act and deed as a partner of said Partnership and the voluntary act and deed of the Partnership.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last aforesaid.



NOTARY PUBLIC

This instrument prepared by:
John M. Ruffolo, Attorney at Law
7501 Paragon Road, Dayton, Ohio 45459
(937) 434-3556



JILLORA H. SUMMERS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION
SECTION 147.03 R.O.

Exhibit B

Parcel Map



Exhibit C

Uptown Parking District



Exhibit D

Site Plan: 133 W. Franklin Street

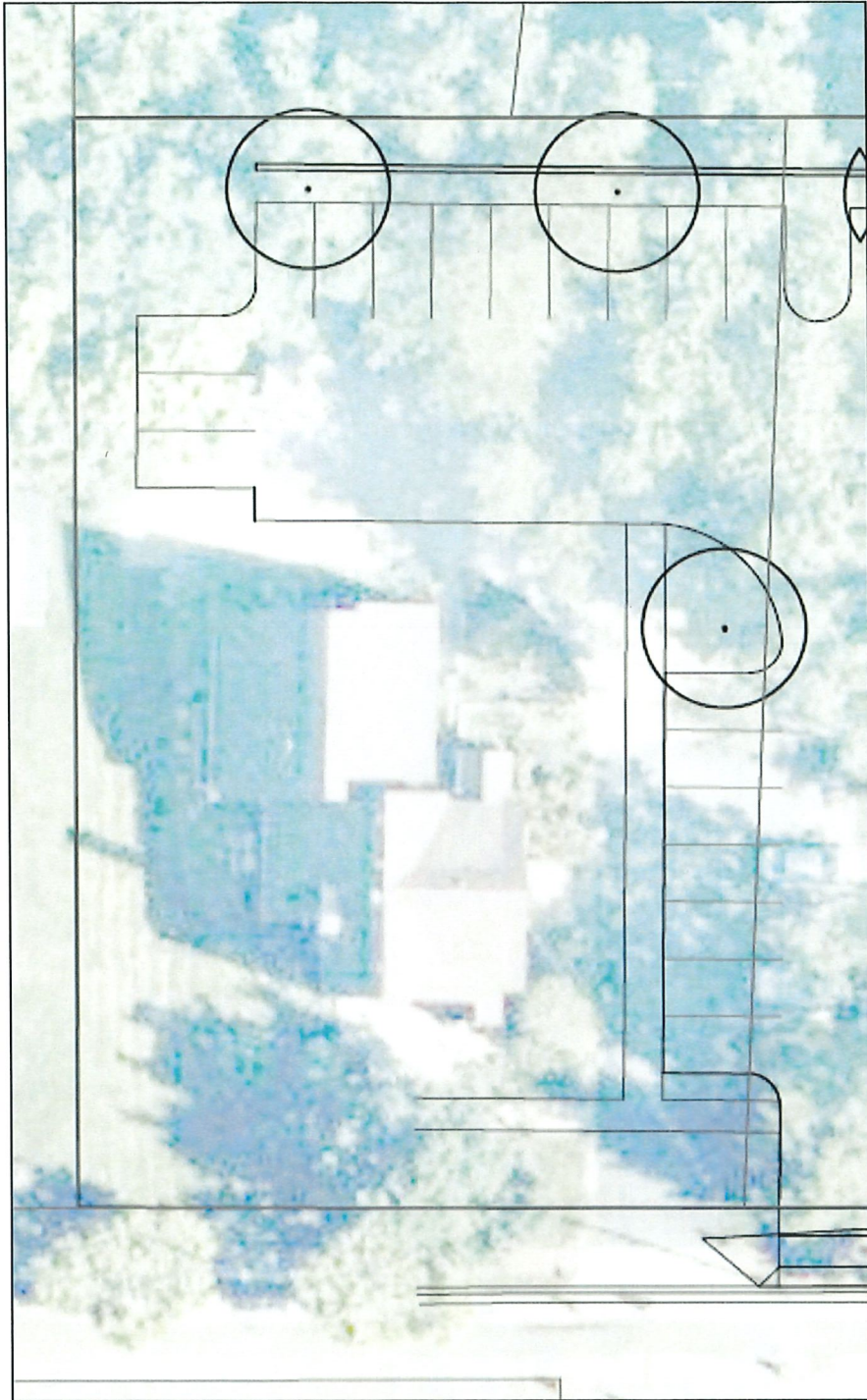
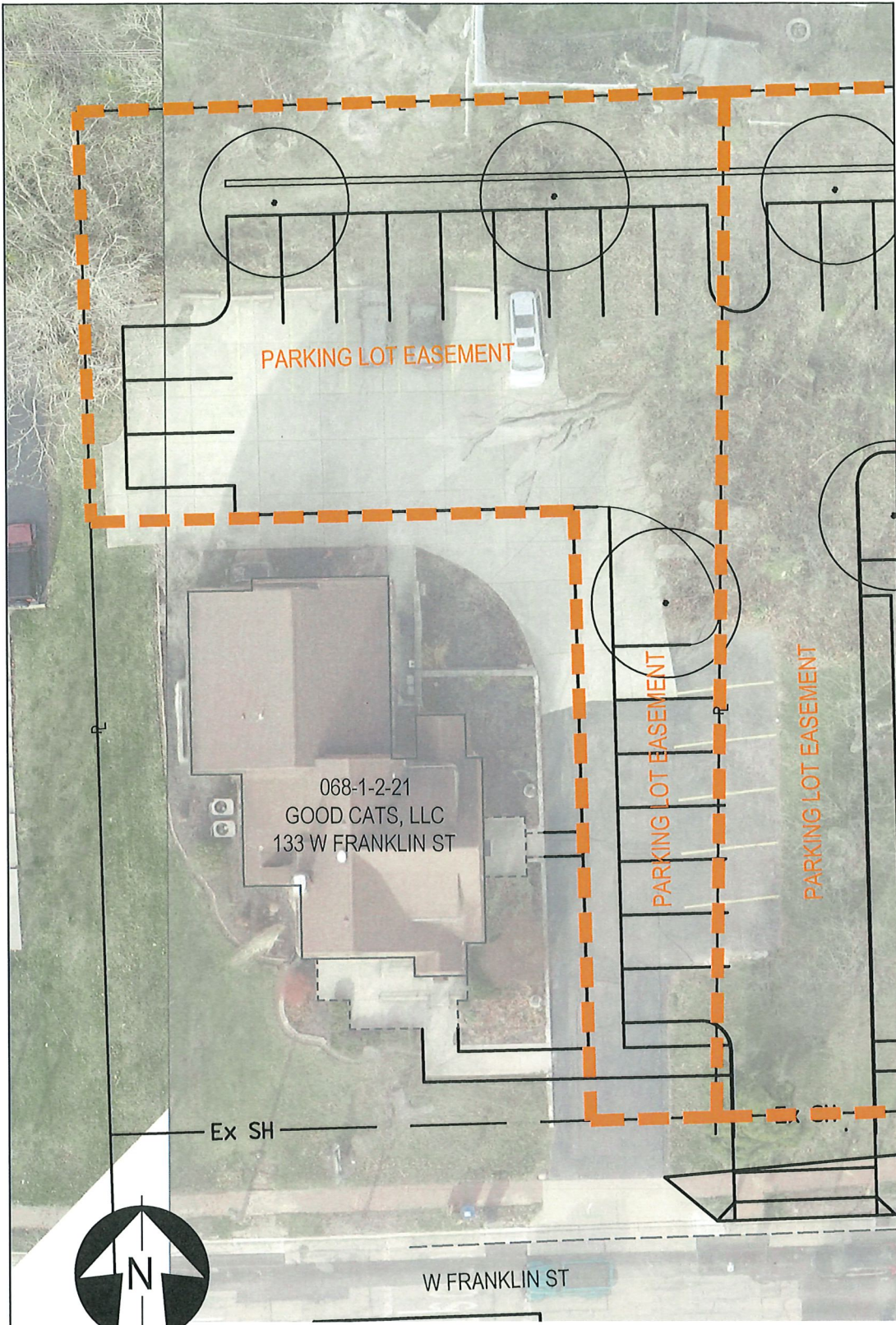
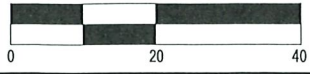


Exhibit E

**Legal Description of the
Parking Area**



GRAPHIC SCALE




PROJECT: UPTOWN IMPROVEMENT PLAN				JOB #: 0120159	
SUBJECT: 068-1-2-21 - PARKING LOT EASEMENT				DATE:	
DSGN: KWW	DRWN: CMM	CHKD:	SHEET NO.: 1/1	SCALE: 1"=20'	 LJB Inc. We think bigger.

Exhibit "C"

PARKING DISTRICT AGREEMENT

This PARKING DISTRICT AGREEMENT ("**Agreement**") is effective as of *26th September* 2022, ("**Effective Date**"), and is between the **CITY OF CENTERVILLE**, an Ohio municipal corporation, 100 West Spring Valley Road, Centerville, Ohio 45458 (hereinafter the "**City**") and **AMOI, LLC, an Ohio limited liability company, 61 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** (hereinafter "**Property Owner**"). City and the Property Owner are sometimes referred to individually as a "party," and collectively as the "parties." The parties agree as follows:

PREAMBLE

The City is committed to enhancing the Uptown area in alignment with strategies of the 2019 Uptown Action Plan. The purpose of this Agreement is to establish a shared Uptown Parking District to provide additional public parking, reduce traffic congestion, improve pedestrian walkability, and general improvements for the mutual benefit of the City and the Property Owner. The Property Owner acknowledges a Parking Easement is required and in exchange the City will construct and maintain the shared public parking areas in the proposed district.

RECITALS

A. The Property Owner is the owner of the real property located at **61 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** and more particularly described on the attached Exhibit A ("Legal Description") and depicted on the map attached as Exhibit B ("Parcel Map"); and

B. The City is developing a public parking district to assist all of the businesses located and/or to be located in the area of Main and Franklin Streets in the City, including the Property Owner's (hereinafter the "Uptown Parking District"), described on the attached Exhibit C; and

C. The City and Property Owner desires to establish the herein Parking District Agreement reflecting terms and conditions upon which visitors and employees to the Uptown Parking District may utilize the Parking Area for parking and access to the businesses as

well as the circumstances under which the general public may also utilize the Parking Area for parking and special events; and

D. The City will require easements for public parking, ingress/egress, and utilities over the property owned by the Property Owners.

ARTICLE 1 DEFINED TERMS

The following capitalized terms in this Agreement have the meanings set forth below.

1.1 Employees mean persons who work in the businesses in the Uptown Parking District.

1.2 Special Event means scheduled events or other gatherings on the Parking Area, which are authorized at the sole discretion of the City.

1.3 Parking Area means the portions of the property on which parking spaces including drive aisles, landscape areas, and the entry driveway are located as depicted on the Site Plan.

1.4 Regular Business Hours means the period between 7:00 AM and 11:00 PM, Monday through Sunday.

1.5 Visitors mean customers, guests, invitees, officials and other persons visiting the businesses in the Uptown Parking District.

ARTICLE 2 PARKING AREA

2.1 Grant of Easements. Subject to the terms and conditions of this Agreement, the Property Owner hereby grants to the City, for the benefit of the Uptown Parking District, and the public a perpetual nonexclusive parking, utilities, and ingress/egress easement ("**Parking Easement**"). Said Parking Easement shall be for the use of business property owners, Employees, and Visitors. The boundaries of said easement align with the boundaries of the Parking Area in Exhibit D ("Site Plan") and as depicted by Exhibit E ("Legal Description of the Parking Area") attached hereto and incorporated herein.

2.2 Use of Parking Area

2.2.1 Types of Vehicles. Use of the parking spaces under this Agreement is limited to the parking of automobiles, motorcycles, and small trucks, such as pickup trucks, and may not be used for staging or storage or for the parking of larger or heavier commercial vehicles, such as buses and delivery trucks.

2.2.1 Limitation on City Liability. Use of the Parking Area, and the exercise of the

easement rights under this Agreement is at the sole risk of the Employees and Visitors of the businesses and in no event will the City have any liability for any damages caused to any Employee or Visitor or the vehicles or personal property of any Employee or Visitor, except for liability arising out of City's negligence, gross negligence or willful misconduct. Property Owner agrees to indemnify and hold the City harmless and free from damages of any kind or nature due to or arising from the use or maintenance of the Parking Area, except damages, if any, due to the fault or negligence of the City, its officials, employees, agents or contractors for any and every reasonable expense incurred as a result of any such claim for damages.

2.2.2 Parking Area to Remain Open. The City and the Property Owner acknowledges and agrees that except with respect to any Special Events or required maintenance, the City will keep the Parking Area open for public parking during Regular Business Hours.

2.2.3 Special Events. Use of the Parking Area for Special Events is solely at the discretion of the City. The City will provide notice to the Property Owner of each intended Special Event use of the Parking Area during Regular Business Hours at least seven (7) days prior to such use.

2.2.4 Clean Up After Special Events. After each Special Event, the City will cause the Parking Area to be cleaned, including the removal of any debris that would interfere with the use of the Parking Area by Employees and Visitors.

ARTICLE 3

CONSTRUCTION, MAINTENANCE, AND ADMINISTRATION

3.1 Maintenance of Parking Area.

3.1.1 Regular Maintenance. The City is responsible for all regular maintenance of the Parking Area. For purposes of this section, regular maintenance of the Parking Area means all regular maintenance required to keep the Parking Area in good condition and repair, including minor repairs and the maintenance of any landscaped areas, repair or replacement of parking signage and lighting fixtures.

3.1.2 Long-Term Maintenance. The parties acknowledge and agree that proper long-term maintenance of the surface of the Parking Area requires that it be seal coated and striped approximately every five (5) years from the Effective Date, and that the surface be completely overlaid every 20 years. The City will cause such long-term maintenance to be performed as periodically needed.

3.1.3 Snow Plowing. The City is responsible for plowing snow from the Parking Area and access drives as necessary for the reasonable use of the Parking Area, as determined by the City.

3.2 Notice of Damage; Third Party Claims. The parties agree to provide prompt notice with respect to any unusual damage to the Parking Area including information regarding who may have caused such damage. Each party also agrees to use commercially

reasonable efforts to pursue any available claims for damage with respect to third parties, including third parties that may have a contractual obligation to either City or Property Owner to pay the costs of repairing such damage. In the event of any such unusual damage, the City agrees to perform any required repairs subject to reimbursement by the Property Owner, less any third-party reimbursement received.

3.3 Utilities. The City shall pay all utilities associated with the Parking Area, including lighting, electric, and water.

3.4 Refuse. The City will cause the rubbish to be removed from the common dumpster enclosures located in the Parking Area. Dumpsters use shall be limited to refuse generated from normal operations of business tenants and Property Owners, and shall not include:

- a. Construction debris
- b. Toxic and/or hazardous materials
- c. Medical waste
- d. Grease
- e. Excess waste related to tenant move-in or move-out

3.5 Right of Entry. The Property Owner hereby grants to the City and its agents, employees and contractors the right to enter onto the Property for the purpose of construction and performing maintenance in the Parking Area.

3.6 Drive Apron Removal. The Property Owner hereby authorizes the City and its agents, employees and contractors to demolish and remove any driveway apron and curbcuts designated for elimination by Exhibit C in conjunction with construction of the Parking Area. The City agrees to demolish and remove any associated driveway at the time of construction.

ARTICLE 4 INSURANCE

4.1 Insurance.

4.1.1 City Insurance. The City shall maintain commercial general liability insurance against claims for injuries to persons or damages to property which may arise due to the City's negligence with respect to its use of the Property. Such coverage shall have a limit of One Million Dollars (\$1,000,000) per Occurrence and shall cover, or be endorsed to cover, the Property Owner as an Additional Insured.

4.1.2 Property Owner Insurance. The Property Owner shall maintain for the duration of the Agreement commercial general liability insurance for claims, damages, and liability arising from the use or maintenance of the Parking Area, except claims, damages, or liability, if any, due to the fault or negligence of the City, its officials, employees, agents or contractors. Such coverage shall have a limit of not less than One Million Dollars (\$1,000,000) per

Occurrence and shall cover, or be endorsed to cover, the City, its officials, employees, and volunteers as an Additional Insureds. The coverage shall be primary and non-contributing as respects the City, its officials, employees, and volunteers.

**ARTICLE 5
AMENDMENTS AND TERMINATION**

5.1 Amendments. No modification or amendment shall be effective unless in written recordable form signed by both parties hereto, their heirs, successors or assigns. This Agreement supersedes any prior written agreement or oral understanding between the parties.

5.2 Termination. The Agreement and all of the provisions, covenants, conditions, restrictions, and obligations may be terminated with the written approval of the parties.

**ARTICLE 6
MISCELLANEOUS**

6.1 Covenants Running with the Land; Prohibition of Fragmentation of Ownership of Easements. The easements and all of the provisions, agreements, covenants, conditions, restrictions and obligations contained in this Agreement are perpetual and shall run with the land and be binding upon City and the Property Owners, and their respective heirs, executors, administrators, successors, assigns, devisees, representatives, and all other persons acquiring any portion of either property, or any interest therein whether by operation of law or any manner whatsoever.

6.2 Notices. All notices or other communications required or permitted under this Agreement must be in writing and must be delivered either by hand (including by courier or reputable overnight delivery service), or deposited in the United States Mail, registered or certified mail, postage prepaid, and addressed as follows:

City: City of Centerville
Attn: City Manager
100 W. Spring Valley Rd.
Centerville, OH 45458

Property Owner: AMOI, LLC
9460 PARKSIDE DR
DAYTON, OH 45458

6.3 Binding Effect. All of the limitations, covenants, conditions, easements, and restrictions contained in this Agreement attach to and run with the property and will, except as otherwise set forth herein, benefit or be binding upon the successors and assigns.

6.4 Effect On Third Parties. The rights, privileges, or immunities conferred under this Agreement are for the benefit of the owners of the Parcels and not for any third party.

6.5 Waiver. No waiver of any provision of this Agreement or any breach of this Agreement will be effective unless such waiver is in writing and signed by the waiving party and any such waiver will not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

6.6 Severability. In the event any term, covenant, condition, or provision of this Agreement is held to be invalid, void, or otherwise unenforceable, by any court of competent jurisdiction, such holding will in no way affect the validity of enforceability of any other term, covenant, condition, or provision of this Agreement.

6.7 Captions. Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

6.8 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

6.9 Counterparts. This Agreement may be executed in more than one counterpart, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

6.10 Tax Exemption. The Property Owners agree to cooperate with the City's efforts to apply for an exemption to real property taxes for the area covered by the easement.

6.11 No Joint Venture. Nothing in this Agreement shall be construed to make the parties partners or joint venturers or to render any party liable for the debts or obligations of the other, except as expressly provided in this Agreement.

6.12 Exhibits. All exhibits referred to in this Agreement are attached to this Agreement and incorporated by reference.

6.13 Future Business Expansion. The City is generally supportive of building renovations and expansions that conform to the City's Ordinances, including, but not limited to, the Unified Development Ordinance and Design Review Guidelines. The parties acknowledge the Parking Area and Parking Easement may be amended, subject to Section 5.1 of this Agreement at the discretion and determination of the City, to accommodate expansion of the existing structure, so long as the proposed expansion does not negatively impact the connectivity, access, and/or greatly reduce capacity of the Parking Area or related Utilities.

[Signatures on the following page.]

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this Agreement as of the Effective Date set forth above.


CITY:

CITY OF CENTERVILLE

By: Wayne S. Davis
Its: City Manager

PROPERTY OWNER:

AMOI, LLC, an Ohio Limited Liability Company

By: 
Name: MARGOT BLONDEL
Title: OWNER.

Approved as to Form:



Scott A. Liberman
Municipal Attorney

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS:

BE IT REMEMBERED, that on this ____ day of _____, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Wayne S. Davis, who acknowledged that he did sign said instrument as the City Manager on behalf of the City of Centerville and that said instrument was signed as his free act and deed individually, and the free act and deed of said municipality.

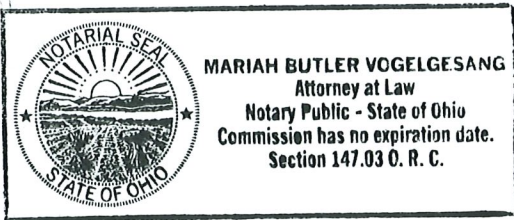
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.

Notary Public

STATE OF OHIO)
COUNTY OF Montgomery) SS:

BE IT REMEMBERED, that on this 26th day of September, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Margot Blondet who acknowledged that he/she did sign said instrument as the owner on behalf of said company and that said instrument was signed as his/her free act and deed individually, and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.



Mariah Butler Vogelgesang
Notary Public

Exhibit A

Legal Description of Building Parcel

TRANSFER
12:27:06 6/03/2021
Reg DT10 Receipt 7078 Cashier JK
Montgomery County Auditor
Karl L. Keith
CONV H 011743 \$915.00

Type: DEED
Kind: DEE
Recorded: 06/03/2021 at 02:29:18 PM
Fee Amt: \$58.00 Page 1 of 5
Montgomery County, OH
Brandon C. McClain Recorder
File# 2021-00042469

5

General Warranty Deed *

Mulay Holdings, LLC, an Ohio limited liability company of Montgomery County, OH for valuable consideration paid, grant(s) with general warranty covenants, to **AMOI LLC, an Ohio limited liability company**, whose tax-mailing address is 57-59 W. Franklin St. and 63 W. Franklin St, Dayton OH 45459, the following **REAL PROPERTY**:
Situated in the County of Montgomery, in the State of Ohio and in the City of Centerville:

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART
HEREOF.

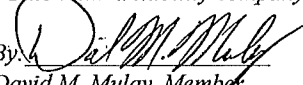
**SUBJECT TO ALL RESTRICTIONS, EASEMENTS, CONDITIONS, AND
CONVENANTS OF RECORD; AND ALL LEGAL HIGHWAYS AND REAL ESTATE
TAXES AND ASSESSMENTS NOT YET DUE AND PAYABLE; AND ALL COAL, OIL,
GAS, AND OTHER MINERAL RIGHTS AND INTEREST PREVIOUSLY
TRANSFERRED OR RESERVED OF RECORD.**

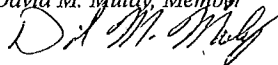
Parcel No. O68-001-03-0007, 0006

*Prior Instrument Reference: Instrument No 2016-007953 and 2006-110657 Of the Deed Records
of Montgomery County, Ohio.*

The undersigned has hereunto set his hand(s) this 18 day of May, 2021.

Mulay Holdings, LLC
An Ohio limited liability company

By: 
David M. Mulay, Member





The undersigned has hereunto set her hand(s) this 19 day of May, 2021.

Mulay Holdings, LLC

By: Susan M. Mulay
Susan M. Mulay, Member

State of Ohio County of Montgomery ss:

This is an acknowledgment clause; no oath or affirmation was administered to the signer.
BE IT REMEMBERED, That on this 19th day of May, 2021, before me, the subscriber, a Notary Public in and for said state, personally came, **Susan M. Mulay, Member of Mulay Holdings, LLC, an Ohio limited liability company** the Grantor(s) in the foregoing deed, and acknowledge the signing thereof to be her voluntary act and deed.
IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Sarah I. Clark
Notary Public

This instrument was prepared by: Jeffrey W. Gammell, Attorney at Law
7925 Paragon Rd., Dayton, Ohio 45459 *me*

* See Sections 5302.05 and 5302.06 Ohio Revised Code

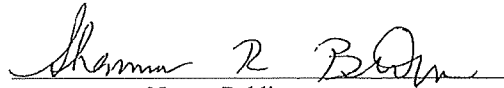


Sarah I. Clark
Notary Public
State of Ohio
My Comm. Exp. 8/5/23

*me: M+M Title Co.
7925 Paragon Rd
Dayton, OH 45459*

State of Colorado County of DOUGLAS ss:

This is an acknowledgment clause; no oath or affirmation was administered to the signer.
BE IT REMEMBERED, That on this 18 day of May, 2021, before me, the subscriber, a Notary Public in and for said state, personally came, **David M. Mulay, member of Mulay Holdings, LLC an Ohio limited liability company** the Grantor(s) in the foregoing deed, and acknowledge the signing thereof to be his voluntary act and deed.
IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.


Notary Public

SHANNON R BROWN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20114045147
My Commission Expires July 19, 2023

EXHIBIT "A" LEGAL DESCRIPTION

TRACT 1

Situated in the State of Ohio, County of Montgomery and in the City of Centerville and being the west one-half (1/2) of Lot Numbered TWENTY-FOUR (24) of Benjamin Robbins Plat, as recorded in Plat Book 1, Page 11, of the Plat Records of Montgomery County, Ohio.

Parcel No. O68-00103-0006

TRACT 2

Situate in Section 25, Range 6, M.Rs., City of Centerville, Montgomery County, Ohio, part of Lot TWENTY-FIVE (25) of the Plat of the Town of Centerville, (a.k.a. Benjamin Robbins' Plat) as recorded in Plat Book 1, Page 11, being part of the land conveyed to Mulay Holdings, LLC by deed recorded in IR Deed 04-142139, more particularly described as follows: (all references to deed books, microfiche numbers, instrument numbers, survey records and/or plats refer to the Montgomery County, Ohio Recorder's Office).

POINT OF BEGINNING being a 5/8" iron pin set at the northeast corner of said Lot 25 and the northwest corner of Lot TWENTY-FOUR (24) of the said Plat of the Town of Centerville, and in the South line of a 0.67 acre parcel of land conveyed to Michael W. and Cynthia Sue Majusick by deed recorded in IR Deed 03-004408;

Thence with the west line of said Lot 24, South 03° 55' 06" West, passing a 5/8" iron pin set at 177.83 feet in the north right of way line of West Franklin Street (State Route 725) as shown on the Location Plat of State Route 725, MOT-725-18.11, recorded in Plat Book 80, Page 77, a total distance of 211.02 feet to a Mag Nail set in the south line of said Section 25;

Thence with the south line of said Section 25, South 87° 51' 54" West, a distance of 56.98 feet to a Mag Nail set;

Thence with a new division line through said Lot 25, North 03° 55' 06" East, passing a Mag Nail set at 33.19 feet in the north right-of-way line of said West Franklin Street, a total distance of 210.84 feet to a 5/8" iron pin set in the South line of a 0.54 acre parcel of land conveyed to John O'Bryan by deed recorded in Deed MF 92-249E11;

Thence with the south line of said 0.54 acres and the south line of said 0.67 acres, North 87° 41' 10" East, a distance of 57.00 feet to the Point of Beginning.

Containing 0.2312 acres net plus 0.0432 acres within the right-of-way for a total of 0.2744 acres, more or less.

Basis of Bearings: Construction centerline of West Franklin Street (State Route 725) being N 87° 57' 00"E as shown on the Location Plat of State Route 725, MOT-725-18.11, recorded in Plat Book 80, Page 77.

A (5/8" iron pin set) refers to a 30" long rebar with a plastic identification cap stamped "Haley-Dusa 6819".

This description is based upon a field survey conducted under the supervision of John P. Haley, Registered Surveyor, Ohio License Number 6819, on December 3, 2015 as filed in Montgomery County, Engineer's Office Record of Land Surveys, Survey Record Volume 2016, Page 0005.

Parcel Nos. O68-00103-0007

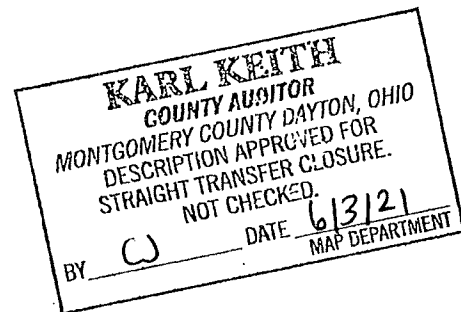


Exhibit B

Parcel Map



Exhibit C

Uptown Parking District



Exhibit D

Site Plan: 61 W. Franklin Street

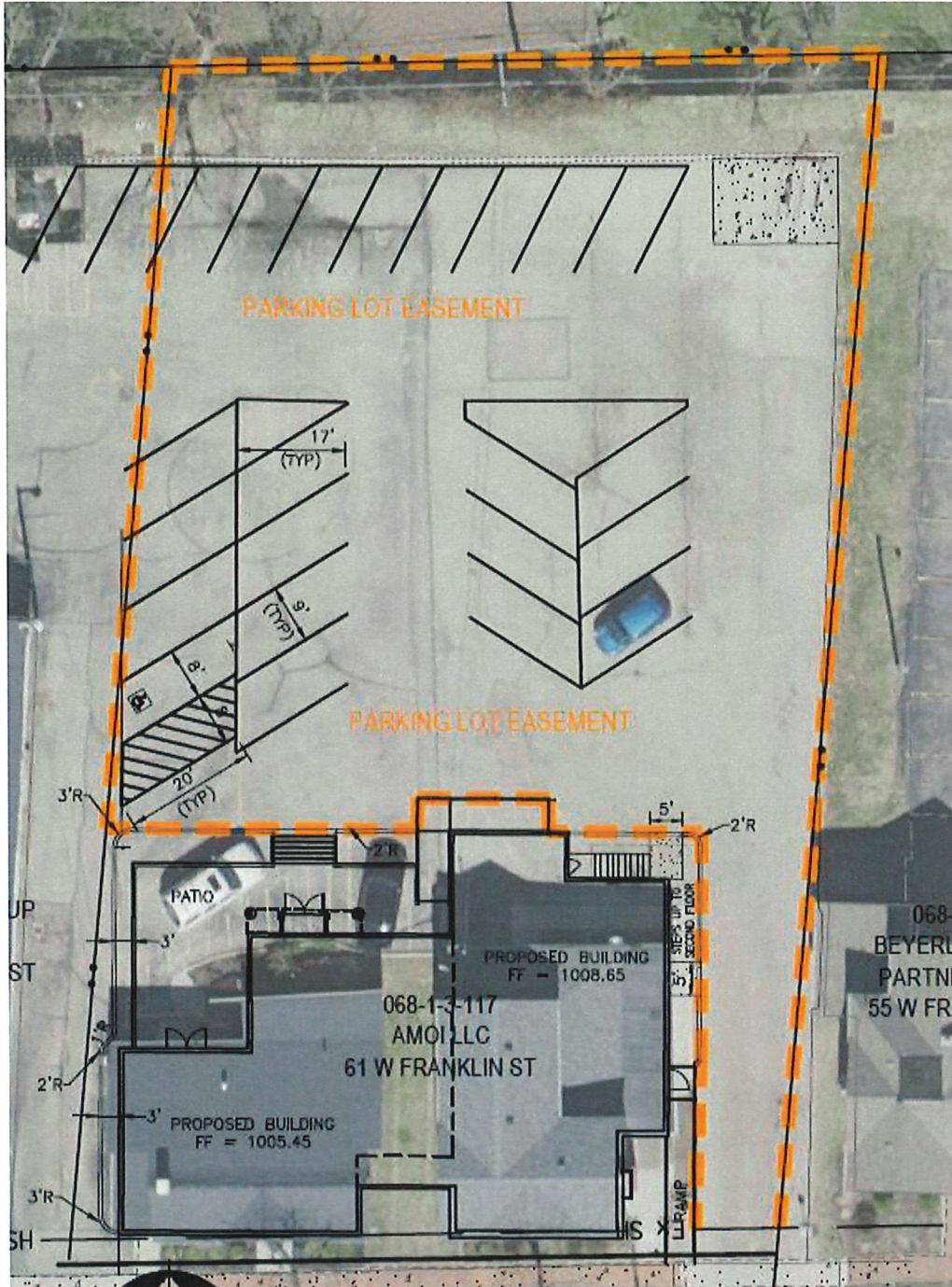
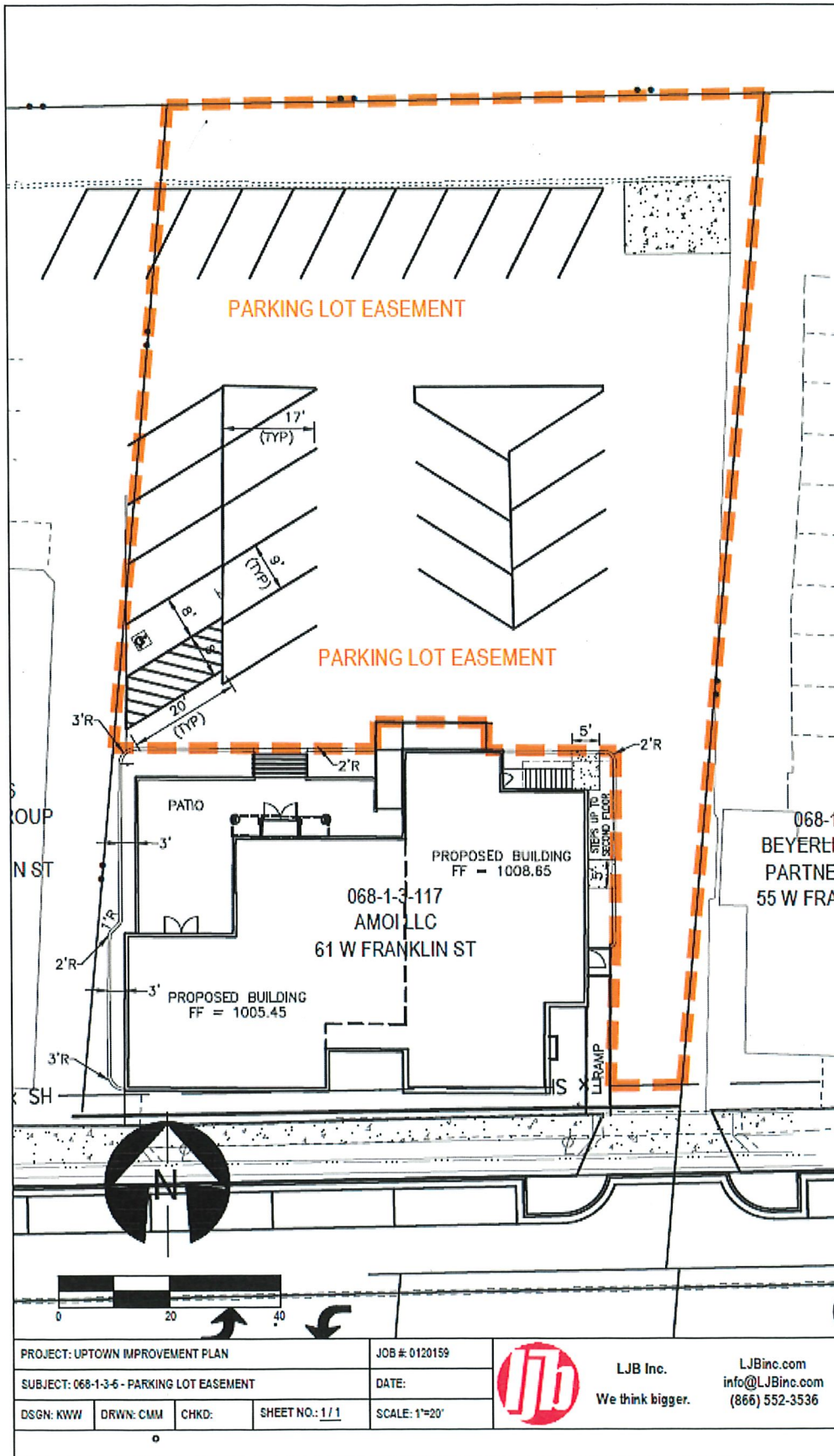


Exhibit E

**Legal Description of the
Parking Area**



PROJECT: UPTOWN IMPROVEMENT PLAN			JOB #: 0120159	
SUBJECT: 068-1-3-6 - PARKING LOT EASEMENT			DATE:	
DSGN: KWW	DRWN: CMM	CHKD:	SHEET NO.: 1/1	SCALE: 1"=20'



LJB Inc.
We think bigger.

LJBinc.com
info@LJBinc.com
(866) 552-3536

PARKING DISTRICT AGREEMENT

This PARKING DISTRICT AGREEMENT ("**Agreement**") is effective as of _____, 2022, ("**Effective Date**"), and is between the **CITY OF CENTERVILLE**, an Ohio municipal corporation, 100 West Spring Valley Road, Centerville, Ohio 45458 (hereinafter the "**City**") and **CENTERVILLE WASHINGTON HISTORY**, an Ohio Non-Profit Corporation, **89 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** (hereinafter "**Property Owner**"). City and the Property Owner are sometimes referred to individually as a "party," and collectively as the "parties." The parties agree as follows:

PREAMBLE

The City is committed to enhancing the Uptown area in alignment with strategies of the 2019 Uptown Action Plan. The purpose of this Agreement is to establish a shared Uptown Parking District to provide additional public parking, reduce traffic congestion, improve pedestrian walkability, and general improvements for the mutual benefit of the City and the Property Owner. The Property Owner acknowledges a Parking Easement is required and in exchange the City will construct and maintain the shared public parking areas in the proposed district.

RECITALS

A. The Property Owner is the owner of the real property located at **89 WEST FRANKLIN STREET, CENTERVILLE, OHIO 45459** and more particularly described on the attached Exhibit A ("Legal Description") and depicted on the map attached as Exhibit B ("Parcel Map"); and

B. The City is developing a public parking district to assist all of the businesses located and/or to be located in the area of Main and Franklin Streets in the City, including the Property Owner's (hereinafter the "Uptown Parking District"), described on the attached Exhibit C; and

C. The City and Property Owner desires to establish the herein Parking District Agreement reflecting terms and conditions upon which visitors and employees to the Uptown Parking District may utilize the Parking Area for parking and access to the businesses as

well as the circumstances under which the general public may also utilize the Parking Area for parking and special events; and

D. The City will require easements for public parking, ingress/egress, and utilities over the property owned by the Property Owners.

ARTICLE 1 DEFINED TERMS

The following capitalized terms in this Agreement have the meanings set forth below.

1.1 Employees mean persons who work in the businesses in the Uptown Parking District.

1.2 Special Event means scheduled events or other gatherings on the Parking Area, which are authorized at the sole discretion of the City.

1.3 Parking Area means the portions of the property on which parking spaces including drive aisles, landscape areas, and the entry driveway are located as depicted on the Site Plan.

1.4 Regular Business Hours means the period between 7:00 AM and 11:00 PM, Monday through Sunday.

1.5 Visitors mean customers, guests, invitees, officials and other persons visiting the businesses in the Uptown Parking District.

ARTICLE 2 PARKING AREA

2.1 Grant of Easements. Subject to the terms and conditions of this Agreement, the Property Owner hereby grants to the City, for the benefit of the Uptown Parking District, and the public a perpetual nonexclusive parking, utilities, and ingress/egress easement ("**Parking Easement**"). Said Parking Easement shall be for the use of business property owners, Employees, and Visitors. The boundaries of said easement align with the boundaries of the Parking Area in Exhibit D ("Site Plan") and as depicted by Exhibit E ("Legal Description of the Parking Area") attached hereto and incorporated herein.

2.2 Use of Parking Area

2.2.1 Types of Vehicles. Use of the parking spaces under this Agreement is limited to the parking of automobiles, motorcycles, and small trucks, such as pickup trucks, and may not be used for staging or storage or for the parking of larger or heavier commercial vehicles, such as buses and delivery trucks.

2.2.1 Limitation on City Liability. Use of the Parking Area, and the exercise of the

easement rights under this Agreement is at the sole risk of the Employees and Visitors of the businesses and in no event will the City have any liability for any damages caused to any Employee or Visitor or the vehicles or personal property of any Employee or Visitor, except for liability arising out of City's negligence, gross negligence or willful misconduct. Property Owner agrees to indemnify and hold the City harmless and free from damages of any kind or nature due to or arising from the use or maintenance of the Parking Area, except damages, if any, due to the fault or negligence of the City, its officials, employees, agents or contractors for any and every reasonable expense incurred as a result of any such claim for damages.

2.2.2 Parking Area to Remain Open. The City and the Property Owner acknowledges and agrees that except with respect to any Special Events or required maintenance, the City will keep the Parking Area open for public parking during Regular Business Hours.

2.2.3 Special Events. Use of the Parking Area for Special Events is solely at the discretion of the City. The City will provide notice to the Property Owner of each intended Special Event use of the Parking Area during Regular Business Hours at least seven (7) days prior to such use.

2.2.4 Clean Up After Special Events. After each Special Event, the City will cause the Parking Area to be cleaned, including the removal of any debris that would interfere with the use of the Parking Area by Employees and Visitors.

ARTICLE 3

CONSTRUCTION, MAINTENANCE, AND ADMINISTRATION

3.1 Maintenance of Parking Area.

3.1.1 Regular Maintenance. The City is responsible for all regular maintenance of the Parking Area. For purposes of this section, regular maintenance of the Parking Area means all regular maintenance required to keep the Parking Area in good condition and repair, including minor repairs and the maintenance of any landscaped areas, repair or replacement of parking signage and lighting fixtures.

3.1.2 Long-Term Maintenance. The parties acknowledge and agree that proper long-term maintenance of the surface of the Parking Area requires that it be seal coated and striped approximately every five (5) years from the Effective Date, and that the surface be completely overlaid every 20 years. The City will cause such long-term maintenance to be performed as periodically needed.

3.1.3 Snow Plowing. The City is responsible for plowing snow from the Parking Area and access drives as necessary for the reasonable use of the Parking Area, as determined by the City.

3.2 Notice of Damage; Third Party Claims. The parties agree to provide prompt notice with respect to any unusual damage to the Parking Area including information regarding who may have caused such damage. Each party also agrees to use commercially

reasonable efforts to pursue any available claims for damage with respect to third parties, including third parties that may have a contractual obligation to either City or Property Owner to pay the costs of repairing such damage. In the event of any such unusual damage, the City agrees to perform any required repairs subject to reimbursement by the Property Owner, less any third-party reimbursement received.

3.3 Utilities. The City shall pay all utilities associated with the Parking Area, including lighting, electric, and water.

3.4 Refuse. The City will cause the rubbish to be removed from the common dumpster enclosures located in the Parking Area. Dumpsters use shall be limited to refuse generated from normal operations of business tenants and Property Owners, and shall not include:

- a. Construction debris
- b. Toxic and/or hazardous materials
- c. Medical waste
- d. Grease
- e. Excess waste related to tenant move-in or move-out

3.5 Right of Entry. The Property Owner hereby grants to the City and its agents, employees and contractors the right to enter onto the Property for the purpose of construction and performing maintenance in the Parking Area.

3.6 Drive Apron Removal. The Property Owner hereby authorizes the City and its agents, employees and contractors to demolish and remove any driveway apron and curbcuts designated for elimination by Exhibit C in conjunction with construction of the Parking Area. The City agrees to demolish and remove any associated driveway at the time of construction.

ARTICLE 4 INSURANCE

4.1 Insurance.

4.1.1 City Insurance. The City shall maintain commercial general liability insurance against claims for injuries to persons or damages to property which may arise due to the City's negligence with respect to its use of the Property. Such coverage shall have a limit of One Million Dollars (\$1,000,000) per Occurrence and shall cover, or be endorsed to cover, the Property Owner as an Additional Insured.

4.1.2 Property Owner Insurance. The Property Owner shall maintain for the duration of the Agreement commercial general liability insurance for claims, damages, and liability arising from the use or maintenance of the Parking Area, except claims, damages, or liability, if any, due to the fault or negligence of the City, its officials, employees, agents or contractors. Such coverage shall have a limit of not less than One Million Dollars (\$1,000,000) per

Occurrence and shall cover, or be endorsed to cover, the City, its officials, employees, and volunteers as an Additional Insureds. The coverage shall be primary and non-contributing as respects the City, its officials, employees, and volunteers.

**ARTICLE 5
AMENDMENTS AND TERMINATION**

5.1 Amendments. No modification or amendment shall be effective unless in written recordable form signed by both parties hereto, their heirs, successors or assigns. This Agreement supersedes any prior written agreement or oral understanding between the parties.

5.2 Termination. The Agreement and all of the provisions, covenants, conditions, restrictions, and obligations may be terminated with the written approval of the parties.

**ARTICLE 6
MISCELLANEOUS**

6.1 Covenants Running with the Land: Prohibition of Fragmentation of Ownership of Easements. The easements and all of the provisions, agreements, covenants, conditions, restrictions and obligations contained in this Agreement are perpetual and shall run with the land and be binding upon City and the Property Owners, and their respective heirs, executors, administrators, successors, assigns, devisees, representatives, and all other persons acquiring any portion of either property, or any interest therein whether by operation of law or any manner whatsoever.

6.2 Notices. All notices or other communications required or permitted under this Agreement must be in writing and must be delivered either by hand (including by courier or reputable overnight delivery service), or deposited in the United States Mail, registered or certified mail, postage prepaid, and addressed as follows:

City:	City of Centerville Attn: City Manager 100 W. Spring Valley Rd. Centerville, OH 45458
-------	--

Property Owner:	CENTERVILLE WASHINGTON HISTORY 89 WEST FRANKLIN STREET CENTERVILLE, OH 45459
-----------------	--

6.3 Binding Effect. All of the limitations, covenants, conditions, easements, and restrictions contained in this Agreement attach to and run with the property and will, except as otherwise set forth herein, benefit or be binding upon the successors and assigns.

6.4 Effect On Third Parties. The rights, privileges, or immunities conferred under this Agreement are for the benefit of the owners of the Parcels and not for any third party.

6.5 Waiver. No waiver of any provision of this Agreement or any breach of this Agreement will be effective unless such waiver is in writing and signed by the waiving party and any such waiver will not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

6.6 Severability. In the event any term, covenant, condition, or provision of this Agreement is held to be invalid, void, or otherwise unenforceable, by any court of competent jurisdiction, such holding will in no way affect the validity of enforceability of any other term, covenant, condition, or provision of this Agreement.

6.7 Captions. Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

6.8 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

6.9 Counterparts. This Agreement may be executed in more than one counterpart, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

6.10 Tax Exemption. The Property Owners agree to cooperate with the City's efforts to apply for an exemption to real property taxes for the area covered by the easement.

6.11 No Joint Venture. Nothing in this Agreement shall be construed to make the parties partners or joint venturers or to render any party liable for the debts or obligations of the other, except as expressly provided in this Agreement.

6.12 Exhibits. All exhibits referred to in this Agreement are attached to this Agreement and incorporated by reference.

6.13 Future Business Expansion. The City is generally supportive of building renovations and expansions that conform to the City's Ordinances, including, but not limited to, the Unified Development Ordinance and Design Review Guidelines. The parties acknowledge the Parking Area and Parking Easement may be amended, subject to Section 5.1 of this Agreement at the discretion and determination of the City, to accommodate expansion of the existing structure, so long as the proposed expansion does not negatively impact the connectivity, access, and/or greatly reduce capacity of the Parking Area or related Utilities.

[Signatures on the following page.]

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this Agreement as of the Effective Date set forth above.

CITY:

CITY OF CENTERVILLE

By: Wayne S. Davis
Its: City Manager

PROPERTY OWNER:

CENTERVILLE WASHINGTON HISTORY,
an Ohio Non-Profit Corporation

By: Edward J. Ross
Name: Edward J. Ross
Title: Board President

Approved as to Form:

Scott A. Liberman
Municipal Attorney

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS:

BE IT REMEMBERED, that on this _____ day of _____, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Wayne S. Davis, who acknowledged that he did sign said instrument as the City Manager on behalf of the City of Centerville and that said instrument was signed as his free act and deed individually, and the free act and deed of said municipality.

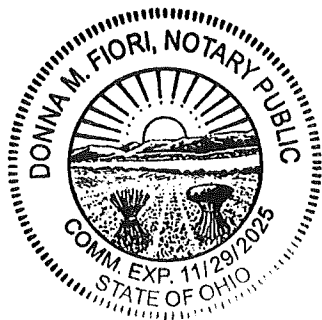
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.

Notary Public

STATE OF OHIO)
COUNTY OF Montgomery)SS:

BE IT REMEMBERED, that on this 29 day of December, 2022, before me, the subscriber, a Notary Public in and for said County and State, personally came Edward J. Ross who acknowledged that he/she did sign said instrument as the Board President on behalf of said company and that said instrument was signed as his/her free act and deed individually, and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.



Donna M. Fiori
Notary Public

Exhibit A

Legal Description of Building Parcel

20005

GENERAL WARRANTY DEED *

R

SUSANNE DEEDS McSHANE, Married (1), of Baltimore County, Maryland
 for valuable consideration paid, grant(s), with general warranty covenants, to CENTERVILLE
 HISTORICAL SOCIETY, an Ohio non-profit corporation, whose tax-mailing address is
 89 West Franklin Street, Centerville, Ohio 45459
 the following REAL PROPERTY: Situated in the County of Montgomery in the State
 of Ohio and in the City of Centerville : (2)

And being an undivided one-third (1/3) interest in Lot
 Numbered Thirty-Two (32) on Robbins' Plat of the Town
 of Centerville, Ohio, subject to all easements and
 restrictions of record and legal highways. The warranty
 shall not include taxes and assessments becoming due
 and payable in December, 1971 and thereafter which
 grantee assumes and agrees to pay.

JOE D. PEGG
 RECORDER

NOV 24 71 0160174 ***1660

NOV 24 10 13 AM '71

MONTGOMERY CO., OHIO
 RECORDED
 FILE

Microfiche #71 357CC9

Prior Instrument Reference: ~~Vol~~ ~~Page~~ of the Deed Records of Montgomery
 County, Ohio.

JOHN L. McSHANE (3) wife (husband) of the
 Grantor releases all rights of dower therein. Witness our hand(s) this 16th day
 of November, 1971.

Signed and acknowledged in the presence of:

[Signature]
 WITNESS

Susanne Deeds McShane
 Susanne Deeds McShane

[Signature]
 WITNESS

John L. McShane
 John L. McShane

Maryland
 State of ~~Ohio~~

County of Baltimore ss.

BE IT REMEMBERED, That on this 16th day of November, 1971, before me,
 the subscriber, a Notary Public in and for said county, personally came,
 SUSANNE DEEDS McSHANE and JOHN L. McSHANE the Grantor(s) in the
 foregoing deed, and acknowledged the signing thereof to be their voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on this day
 and bear aforesaid.

This instrument was prepared by ROBERT N. FARQUHAR, Attorney at Law
 226 Talbott Tower, Dayton, Ohio 45402

1. Name of Grantor(s) and marital status
2. Description of land or interest therein, and encumbrances, reservations, exceptions, taxes and assessments, if any.
3. Delete whichever does not apply.
4. Recession in accordance with Chapter 5301 of the Revised Code of Ohio.

Auditor's and Recorder's Stamps

71574B01

Exhibit B

Parcel Map



Exhibit C

Uptown Parking District



Exhibit D

Site Plan: 89 W. Franklin Street

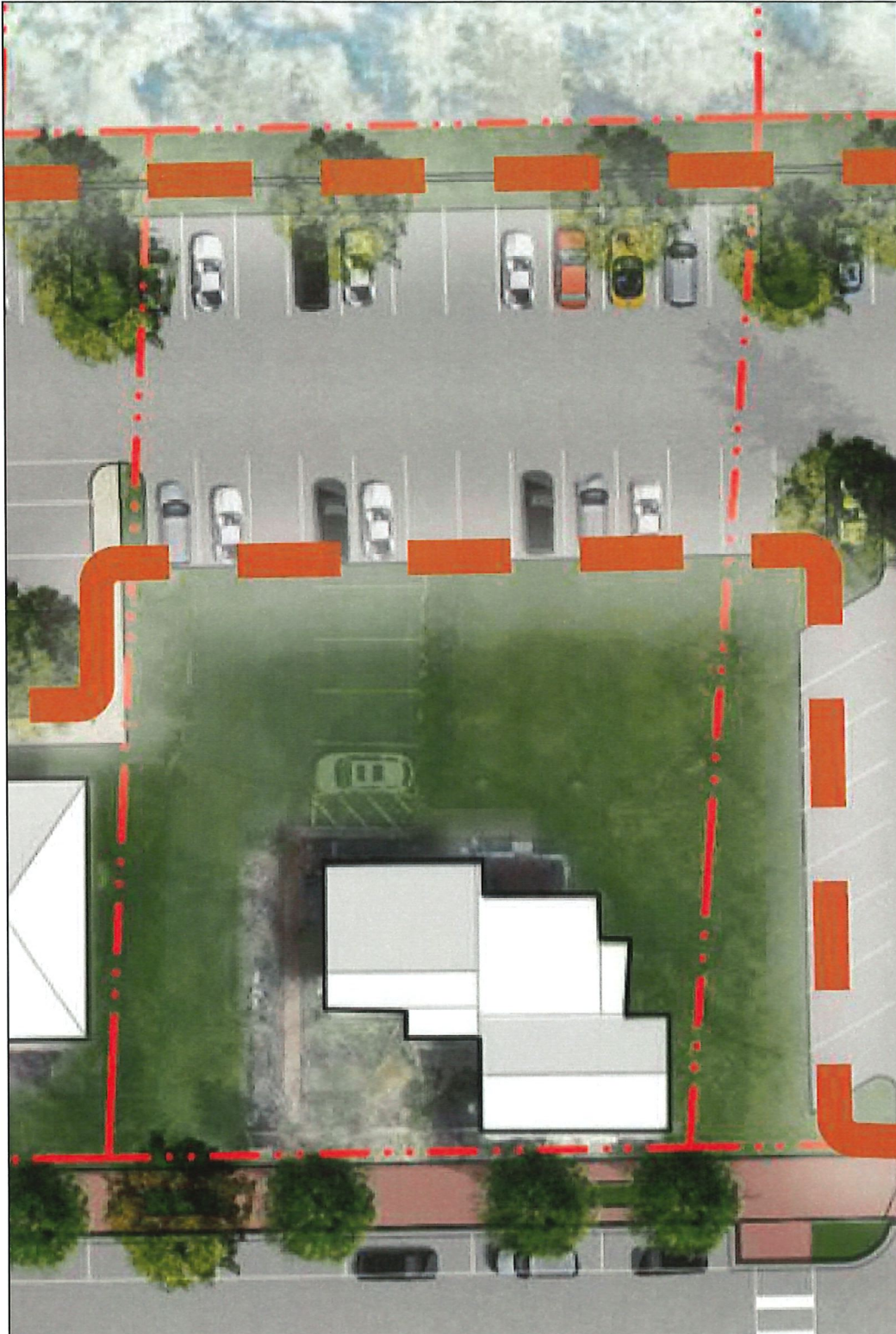
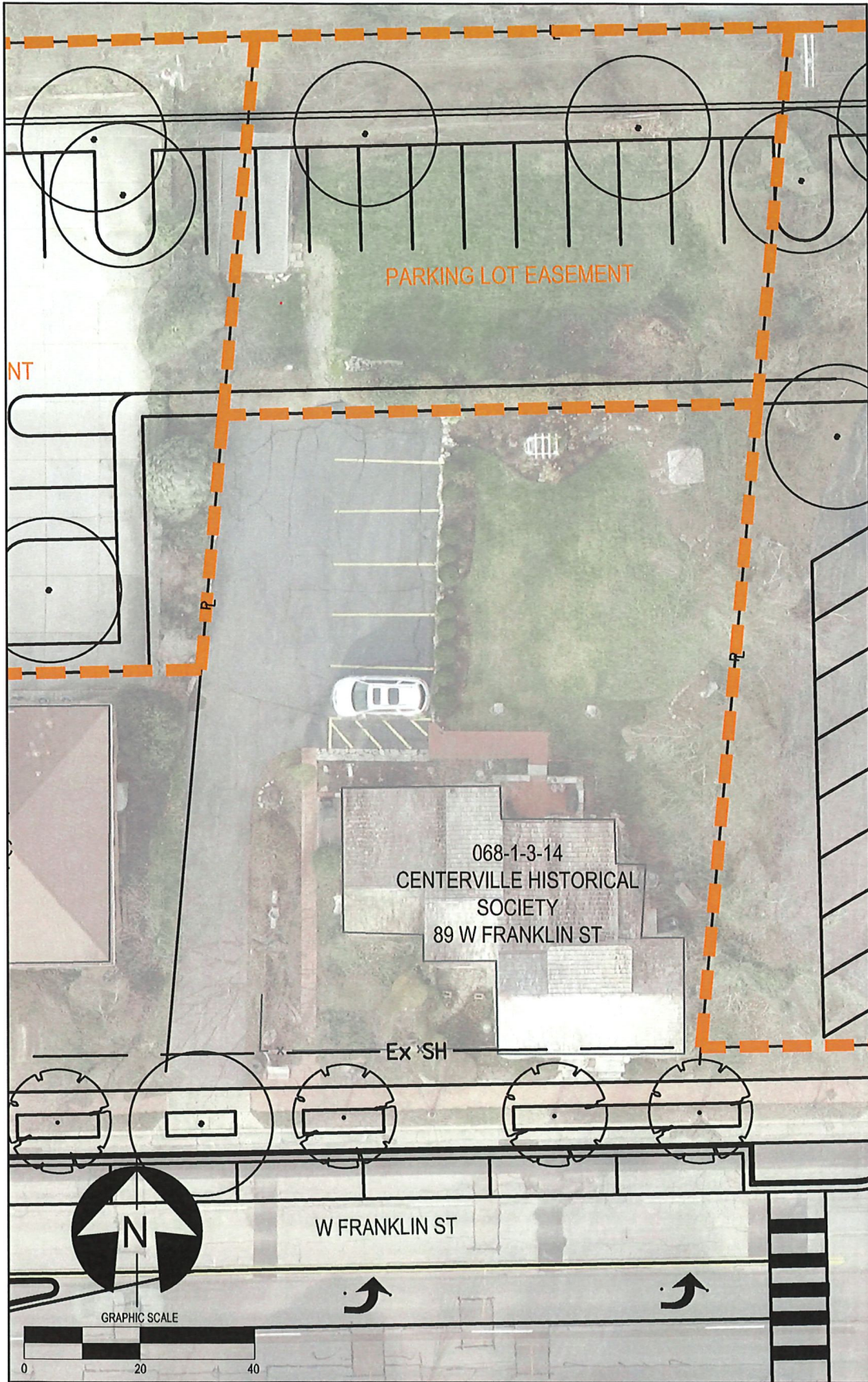



Exhibit E

**Legal Description of the
Parking Area**



PROJECT: UPTOWN IMPROVEMENT PLAN			JOB #: 0120159		 LJB Inc. We think bigger.	LJBinc.com info@LJBinc.com (866) 552-3536
SUBJECT: 068-1-3-14 - PARKING LOT EASEMENT			DATE:			
DSGN: KWW	DRWN: CMM	CHKD:	SHEET NO.: 1/1	SCALE: 1"=20'		