Office of the Mayor

Proclamation

Whereas: the Phi Delta Theta Fraternity was founded on December 26, 1848, at Miami University in Oxford, Ohio, and has grown into a prosperous, international organization in its 164 year existence; and

WHEREAS, the fraternity was founded upon the noble precepts of friendship, sound learning and rectitude; and

WHEREAS, there are 168 chapters and 8 colonies of Phi Delta Theta in 42 states and 5 Canadian provinces; and

WHEREAS, there have been over 241,000 members initiated into Phi Delta Theta; and

WHEREAS, the Fraternity holds its annual Kleberg Emerging Leaders Institute in Oxford, Ohio, to promote the ideas of scholarship, service to others, leadership, personal development, and fraternal values and ethics to its diverse membership.

NOW, THEREFORE, I, Richard A. Keebler, Mayor of the City of Oxford, Ohio, do hereby proclaim the week of August 5th through August 11th, 2012 to be:

'PHI DELTA THETA WEEK'

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Oxford to be affixed this 17th day of July, 2012.

Richard A. Keebler, Mayor

CITY OF OXFORD

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager

Clerk of Council
Originating Department

Council Meeting Of: July 17, 2012

Mary Ann Eaton
Prepared By

Account Code No. #: N/A

Budgeted Amount: N/A

June 27, 2012
Date Prepared

Agenda Title: A Resolution authorizing a temporary abatement of the Noise Ordinance No. 2550, Section 509.09, on Friday, August 17, 2012 from 8:00 P.M. to 12:00 A.M. at Yager Stadium for a Campus Activities Council sponsored concert.

Recommendation: N/A

Discussion: This request is for the Campus Activities Council sponsored concert. Council has approved this request for several years.

Approved By:

	Initial	Date
Department Head:		
City Attorney:		
City Manager:	DAE	7/13/12

RESOLUTION NO.

A RESOLUTION AUTHORIZING A TEMPORARY ABATEMENT OF THE NOISE ORDINANCE NO. 2550, SECTION 509.09, ON FRIDAY, AUGUST 17, 2012, FROM 8:00 P.M. TO 12:00 A.M. AT YAGER STADIUM FOR A CAMPUS ACTIVITIES COUNCIL SPONSORED CONCERT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: The City Manager and Police Chief recommend a temporary abatement of the Noise Ordinance No. 2550, Section 509.09, for a Campus Activities Council sponsored concert on Friday, August 17, 2012, from 8:00 P.M. to 12:00A.M. at Yager Stadium in accordance with the provision in the Noise Ordinance No. 2550, Section 509.11 Exceptions to Noise Restrictions, Section G: "Noises resulting from authorized public activities such as parades, fireworks, sports events, musical productions and other activities which have the approval of the City of Oxford, Ohio."

SECTION 2: Council having reviewed the recommendation and finding this to be a community event hereby authorizes the City Manager to issue a temporary abatement of the Noise Ordinance.

SECTION 3: The City Manager is hereby authorized to approve a temporary abatement of the Noise Ordinance No. 2550 Section 509.09 for a Campus Activities Council sponsored concert on Friday, August 17, 2011, from 8:00 P.M. to 12:00 A.M. at Yager Stadium.

SECTION 4: This resolution shall take effect at the earliest date allowed by law.

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MAYOR

ADOPTED:

ATTEST:

____

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

OFFICE OF OFF-CAMPUS AFFAIRS/ MIAMI TRIBE RELATIONS
513-529-2268

MIAMI UNIVERSITY
1809 • 2009

To: **City Manager for City Council consideration**

From: **Office of Off-Campus Affairs**

Re: **Fall 2012 Noise Abatement Requests**

Date: **June 15, 2012**

Two noise abatement requests are submitted for activities this fall.
These are the same events that have been approved for abatements in the past.

1. WELCOME CONCERT
   Friday, August 17, 2012 8:00 pm – midnight
   Location: Yager Stadium

2011: 8/19/11	8:30 pm – 1 am
2010: 8/20/10	8 pm – 1 am
2009: 8/21/09	8 pm – 12 am
2008:	10 pm – 1 am

2. PARTY ON THE PATIO
   Friday, September 7, 2012 8 pm - midnight
   Location: Shriver Back Patio

2011: 9/ 16/11	9 pm – 1 am
2010: 9/18/10	9 pm – 1 am
2009: 9/18/09	10 pm – 2 pm
2008:	10 pm – 2 am

CITY OF OXFORD
NOISE ABATEMENT APPLICATION

EVENT INFORMATION:

DATE REQUESTED FOR NOISE ABATEMENT : 8/18/12

FROM: 8 a.m. p.m. TO: 12 a.m. p.m.

ACTIVITY/EVENT TO BE UNDERTAKEN: Welcome Back Concert

LOCATION (attach copies of paperwork showing approval to use site): Yager

NUMBER OF PEOPLE EXPECTED TO ATTEND: ~~3~~ 2500

OPEN TO PUBLIC YES NO
ALCOHOL AVAILABLE YES NO

TYPE OF SOUND EQUIPMENT TO BE USED: amplified - band + DJ

SOUND MONITORING PLANS (including person in charge of this process): staff will be present along c MUPD

APPLICANT ORGANIZATION INFORMATION:

NAME OF ORGANIZATION: Campus Act. Council, NSP, SAL, KA

ADDRESS: 3516 Shriver

Is this a registered student organization at Miami University? yes, plus several dept's

INDIVIDUAL INFORMATION (RESPONSIBLE PARTY, MUST BE OVER 18 yrs.):

NAME OF CONTACT PERSON: Katie Wilson

ADDRESS: 3516 Shriver TEL. #: 513 529 2270

What is the contact person's relation to the organization (title, etc.)? Director

ATTACH EXTRA PAGES IF THE SPACE PROVIDED ABOVE IS INSUFFICIENT AND ATTACH ANY SUPPLEMENTAL DOCUMENTATION THAT MAY BE OF RELEVANCE.

I have read and understand the rules, conditions and laws applicable to the waiver of the noise ordinances, and understand that acceptance of them is a condition of approval. I hereby certify that the event/activity, which is the subject of this application will be open to the public and alcohol free.

Applicant's signature Katie Wilson Date: 4/24/12

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Fire
Originating Department

Council Meeting Of: June 15, 2012

John Detherage
Prepared By

Account Code No. #: N/A

Budgeted Amount: N/A

June 7, 2012
Date Prepared

Agenda Title: A Resolution authorizing the on-line auction sale of a 1976 American LaFrance pumper that is surplus to the Fire Department

Recommendation: Adopt the Resolution.

Discussion: This fire engine is 36 years old, has a standard shift transmission and does not meet current safety standards. According to fire department records, its last emergency response was in 2001.

Approved By:

	Initial	Date
Department Head:		
City Attorney:		
City Manager:	DAG	6/15/12

RESOLUTION NO.

A RESOLUTION DECLARING A 1976 MODEL AMERICAN LAFRANCE FIRE ENGINE AS SURPLUS CITY PROPERTY NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE AND AUTHORIZING ITS SALE TO THE HIGHEST BIDDER UTILIZING PENTON EQUIPMENT AUCTION SERVICE OF SEVEN FIELDS, PA, AT NO COST TO THE CITY

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: The City Manager and Fire Chief report that the 1976 LaFrance Fire Engine belonging to the City can no longer be safely used for municipal purposes and should be declared surplus.

SECTION 2: The City Manager and Fire Chief recommend that the fire engine be disposed of by sale utilizing an on-line auction service.

SECTION 3: The City Manager and Fire Chief recommend Penton Equipment Auction Service of Seven Fields, PA. be used to sell the fire engine.

SECTION 4: Council hereby finds and determines that the 1976 LaFrance Fire Engine can no longer be used for municipal purposes and is hereby declared to be surplus. Accordingly, the City Manager or his designee is hereby authorized to dispose of said property through Penton Equipment Auction Service of Seven Fields, PA.

SECTION 5: This resolution shall take effect at the earliest date allowed by law.

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MAYOR

ADOPTED:

ATTEST:

____
CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager: Douglas R. Elliott, Jr.

Police
Originating Department

Council Meeting Of: July 17, 2012

Robert Holzworth
Prepared By

Account Code No. #: N/A

Budgeted Amount: N/A

July 10, 2012
Date Prepared

Agenda Title: Resolution authorizing the Division of Police to donate 42 cell phones to the 911 Cell Phone Bank. The phones are unclaimed found property or the owner indicated he/she no longer wanted the phone.

Recommendation: Adopt the resolution.

Discussion: The 911 Cell Phone Bank is a not-for-profit agency that takes donated cell phones, reconditions ones that are useable, and distributes them free of charge to senior citizens and victims of abuse throughout the country. The phones carry free 911 usage to the user, and the 911 Cell Phone Bank encourages OPD to submit the names of the individuals living within our jurisdiction who we believe are deserving of such a phone. See "Exhibit A" for a list of phones to be donated.

Approved By:

	Initial	Date
Department Head:	[signature]	7.10.2012
City Attorney:		
City Manager:	DRE	7/13/12

RESOLUTION NO.

A RESOLUTION DECLARING 42 UNCLAIMED CELL PHONES NOT NEEDED FOR ANY MUNICIPAL PURPOSE AS SURPLUS PROPERTY AND AUTHORIZING THEIR DONATION TO THE 911 CELL PHONE BANK.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: In accordance with the Memorandum from the Chief of Police, certain cell phones are hereby declared of no evidentiary value and not needed for any municipal purpose, and the City Manager and Chief of Police recommend the cell phones be donated to the 911 Cell Phone Bank as allowed by Oxford Codified Ordinances, Section 127.11 (D)(6). The items are those set forth on Exhibit 'A' attached hereto and incorporated herein.

SECTION 2: Council hereby authorizes the donation of 42 cell phones listed on Exhibit 'A' to the 911 Cell Phone Bank.

SECTION 3: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

MEMO

Exhibit A

To: Chief Robert Holzworth
From: Property Technician Mike O'Leary
Ref: Cell phones to be donated
Date: 7/9/2012

The following (42) cell phones are in the possession of the Oxford Police Department. Some have been turned in as "found property" and have not been claimed. In other cases the cell phones are no longer wanted by the owner or no response received from the last known owner. We recommend that the property items be donated to the 911 Cell Phone Bank to be used for free emergency calls for senior citizens and victims of abuse.

Property #	Make	Model	Serial #
12762-004	Kyocrea	Virgin Mobile	
12762-004	Sprint	Sanyo	
12762-004	Kyocrea	Cricket	
12762-005	Nokia	2630	
12762-005	2 Nokia	6010	
12762-005	Nokia	3587I	
12762-005	Nokia	6102I	
12762-006	Nokia	3588I	
12762-006	Motorola	V60T	
12762-006	Motorola	V170	
12791005	2 cell phones		
12806-001	Cricket		T0823007557
13040-003	Motorola		
14074	Nokia		
14211	HTC	Smartphone	
14265-001	Verizon		

14405	Nokia	
14584	Verizon	LG
14676	Verizon	LG
14790	Blackberry	
14838	Samsung	Sprint
15272	Nextel	
15280	Cell Phone	
15331	HTC	T-Mobile
15334	Verizon	Samsung
15481	Apple	
15571	LG	
15662	Samsung	Sprint
15740	Blackberry	T-Mobile
15748	Belkin	IPOD
15880	Samsung	Verizon
16072	Blackberry	
16113	Sanyo	Sprint
16181	Verizon	LG
16199	Verizon	Droid
16316	Blackberry	
16572	Verizon	Blackberry
16756	IPHONE	
16889	Motorola	
16939	Verizon	LG
16985	Kyocera	
17130	Blackberry	

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager

Clerk of Council
Originating Department

Council Meeting Of: June 19, 2012

Mary Ann Eaton
Prepared By

Account Code No. #: N/A

Budgeted Amount: N/A

June 4, 2012
Date Prepared

Agenda Title: Ordinance To Approve Current Replacement Pages To The Oxford Codified Ordinances.

Recommendation:

Discussion:

The Oxford Codified Ordinances are updated once each year to incorporate all legislation passed by City Council as well as any changes in State laws. This Ordinance is to approve the update.

The update includes legislation adopted through May 15, 2012.

*** Copies of the replacement pages (Exhibit "A") are available at City Hall during normal business hours ***

Approved By:

	Initial	Date
Department Head:		
City Attorney:		
City Manager:	[illegible]	6/15/12

ORDINANCE NO.

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE OXFORD CODIFIED ORDINANCES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: Council has determined that certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution. Various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances. The City has heretofore entered into a contract with Walter H. Drane Co. to prepare and publish revisions which are before Council.

SECTION 2: The Ordinances of the City of Oxford, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2012 Replacement Pages so the Codified Ordinances are hereby approved and adopted.

SECTION 3: The following sections and chapters are hereby added, amended or appealed and respectfully indicated in order to comply with the current State law:

Traffic Code

333.01	Driving or Physical Control While Under the Influence. (Amended)
335.01	Driver's License or Commercial Driver's License Required. (Amended)
335.02	Permitting Operation Without a Valid License. (Amended)
335.05	Wrongful Entrustment of a Motor Vehicle. (Amended)
335.06	Display of License (Amended)
335.07	Driving Under License Suspension or Restriction. (Amended)
335.071	Driving Under OVI Suspension. (Amended)
335.072	Driving Under Financial Responsibility Law Suspension or Cancellation. (Amended)
335.073	Driving Without Complying With License Reinstatement Requirements. (Amended)
335.074	Driving Under License Forfeiture or Child Support Suspension. (Added)
335.12	Stopping After Accident Upon Streets. (Amended)
335.13	Stopping After Accident Upon Property Other Than Street. (Amended)
335.14	Vehicle Accident Resulting in Damage to Realty. (Amended)
337.22	Windshield and Windshield Wipers. (Amended)
351.04	Parking Near Curb; Handicapped Parking. (Amended)
373.02	Riding Upon Seats; Handlebars; Helmets. (Amended)

General Offenses Code

501.02	Classification of Offenses. (Amended)
501.99	Penalties for Misdemeanors. (Amended)
505.001	Animals and Fowl Definitions. (Enacted)
505.01	Dogs and Other Animals Running at Large. (Amended)
505.14	Dangerous Dogs. (Amended)
509.06	Inducing Panic. (Amended)
509.07	Making False Alarms. (Amended)
513.03	Drug Abuse; Controlled Substance Possession. (Amended
517.05	Cheating. (Amended)
525.02	Falsification. (Amended)
529.07	Open Container Prohibited. (Amended)
537.10	Telecommunications Harassment. (Amended)
541.02	Arson. (Amended)

545.02	Determining Property Value in Theft Offense. (Amended)
545.04	Detention of Shoplifters. (Amended)
545.05	Petty Theft. (Amended)
545.07	Insurance Fraud. (Amended)
545.08	Unauthorized Use of Property. (Amended)
545.09	Passing Bad Checks. (Amended)
545.10	Misuse of Credit Cards. (Amended)
545.13	Criminal Simulation. (Amended)
545.14	Tampering With Records. (Amended)
545.15	Securing Writings by Deception. (Amended)
545.17	Defrauding Creditors. (Amended)
545.18	Receiving Stolen Property. (Amended)
549.04	Improperly Handling Firearms in a Motor Vehicle. (Amended)
	Fire Prevention Code
1511.05	Open Burning; Recreational Fires; Portable Outdoor Fireplaces. (Amended)

SECTION 4: The complete text of the Traffic and General Offenses Code sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are attached hereto and incorporated herein by reference as Exhibit A. Any summary publication of this Ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

SECTION 5: This Ordinance shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager

City Council Meeting of: July 17, 2012

Account Code #: 471.750.54340

Budgeted Amount: $50,000

Service Department
Originating Department

Michael B. Dreisbach
Prepared By

July 11, 2012
Date Prepared

Agenda Title: Notice of Actual Costs for Special Assessment Improvements

Recommendation: Approve

Discussion:

On February 7, 2012, the Oxford City Council passed Resolution No. 4663 declaring the necessity to improve portions of certain properties on multiple streets in the City of Oxford. An exhibit with this Resolution identified 36 properties that required improvements to the property's curb, gutter, sidewalk and/or driveway apron in the Right of Way (ROW). An estimate of probable cost was prepared for all property deficiencies with a cost of $101,343.

Since receiving notice of City's intention to move forward with improvements, several property owners elected to have the work done under their own control and at their own cost. Only 12 properties elected to have the City construct the required improvements. Per Ohio Revised Code 729.07, the attached Exhibit "A" details the actual costs incurred by the City for each property electing improvements via special assessment on their property taxes. The actual costs were within two percent of the estimate of probable costs for the improvements.

Upon approval of this Resolution, these costs will be filed with the Clerk of Council for public inspection. The City will also publish a notice for three consecutive weeks in the Oxford Press detailing the parcels involved and the actual costs of the work performed. If an owner objects to the assessment, they must file their objection in writing with the Clerk of Council within two weeks after the expiration of the notice.

The City Council will have the opportunity to review any objection and then consider adopting an Ordinance levying the costs of improvements upon the parcels as detailed in Exhibit "A". The Ordinance must detail the number of annual installments, in this case five (5), with City assessed interest on deferred payments at a rate of 5%. The owner may also pay cash for the assessment within 30 days after passage of the Assessing Ordinance.

Staff recommends Council authorize the Clerk to make said assessment costs available for public inspection and to publish such in the Oxford Press for a period of three consecutive weeks. The Clerk shall then report to Council any objections to the assessments that may be received prior to an assessment authorizing Ordinance.

Approved By:

	Initial	Date
Department Head:	MBD	7/12/12
City Manager:	[illegible]	7/13/12

RESOLUTION NO.

A RESOLUTION DETERMINING THE TOTAL COST OF THE ASSESSMENT BY LOT, AUTHORIZING THE LIST OF ASSESSMENTS BY LOT TO BE FILED WITH THE CLERK OF CITY COUNCIL AND ORDERING THE SAME BE OPENED FOR PUBLIC INSPECTION AND AUTHORIZING THE CLERK OF COUNCIL TO PUBLISH NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION THAT THE LIST OF ASSESSMENTS BY LOT IS AVAILABLE FOR PUBLIC INSPECTION.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION I: Pursuant to Ohio Revised Code 729.07, the City of Oxford Clerk of Council has reported to the Oxford City Council that the final cost of construction and repair of sidewalks, curbs and gutters was $34,520.93.

SECTION II: Pursuant to Ohio Rev. Code 729.07, Oxford City Council authorized the creation of a list of estimated assessments ("Exhibit A"), which includes the total cost of construction, repair or installation to each lot or land abutting such construction, repair or installation.

SECTION III: Pursuant to Ohio Rev. Code 729.07, Council authorizes Exhibit A to be filed with the Clerk of Council and be made available for public inspection.

SECTION IV: Pursuant to Ohio Rev. Code 729.08, Council authorizes the Clerk of Council to publish a notice in the *Oxford Press* for three (3) consecutive weeks stating that Exhibit A is on file with the Clerk of Council and is available for public inspection. The notice shall further state that any person who objects to an assessment listed on Exhibit A must file his objections in writing with the Oxford Clerk of Council within two (2) weeks after the expiration of the notice.

SECTION V: Pursuant to Ohio Rev. Code 729.09, the Clerk of Council shall deliver any written objections to City Council for review and City Council will adopt an ordinance levying upon the lots and lands listed in Exhibit A the final assessment amounts with such changes or corrections as Council deems proper. The ordinance shall state that the assessments are payable over no more than five (5) annual installments, with interest on deferred payments at the rate of 5%. The ordinance shall also state that assessments can be paid in full in cash within 30 days after passage of the ordinance.

SECTION VI: This Resolution shall take effect at the earliest time allowed by law.

____
MAYOR

ADOPTED:

ATTEST:

____
CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

Exhibit "A"

Curb, Gutter, Sidewalk, for Foxfire Drive 2011-2012

Address	Direction	Street Name	Property Owner	Parcel #	Lineal Ft Curb	Square Feet Sidewalk	Square Ft Drive Apron	Estimated Cost	Actual Cost
601	S	Locust	McDonalds Real Estate Co.	H4100104000062	310	25		$9,165.00	$ 9,640.55
330		Foxfire	Young, William Edward & Deborah L	H4100104000061	40			$1,160.00	$ 1,154.00
~~10~~		Day Cir.	Gail J. Young & Douglas A Day Succ Co-Tr	H4100104000060	40			$0.00	
~~9~~		Day Cir.	Gail J. Young & Douglas A Day Succ Co-Tr	H4100104000055	25			$0.00	
~~300~~		Foxfire	Day, Douglas Allen & Virginia	H4100104000054	30	25		$0.00	
~~220~~		Foxfire	Gail J. Young & Douglas A Day Succ Co-Tr	H4100104000067	60		95	$0.00	
210		Foxfire	4-D Investments Inc.	H4100104000068	80	120		$3,160.00	
200		Foxfire	4-D Investments Inc.	H4100104000069	40	160		$2,280.00	
190		Foxfire	TD Limited LLC	H4100104000077	10	60		$710.00	
514	S	College	Dudley, Terry M & Kathy S	H4100104000076	30	20	68	$1,554.00	
520	S	College	Claunch, Jerry & Stahr, Michael L	H4100104000066	21	125	44	$1,836.00	
215-325		Foxfire	Alldair Fox & Hounds LLC Etal	H4100104000053	521			$15,109.00	
335		Foxfire	D & B Family Ltd. Prt.	H4100105000108	58	75	56	$2,655.00	
339		Foxfire	Zipko, David P & Diane B	H4100105000116	188	745	140	$0.00	
								$37,629.00	**$ 10,794.55**

Work to be done by City of Oxford

Curb Ramp- Locust St. (2), Day Circle (2), College Ave. (2)

Catch Basin- 330 Foxfire, 220 Foxfire, 335 Foxfire

Curb, Gutter, Sidewalk, for Tallawanda Road 2012

Address	Direction	Street Name	Property Owner	Parcel #	Lineal Ft Curb	Square Feet Sidewalk	Square Ft Drive Apron	Estimated Cost	Actual Cost
102		Tallawanda	Ohio Alpha Phi Delta Theta	H4100006000173	125			$3,625.00	$ 3,923.60
112		Tallawanda	Kacachos Thomas A Etal	H4100006000158	10	50		$640.00	$ 644.00
114		Tallawanda	Kacachos Thomas A Etal	H4100006000157	30	100		$1,570.00	$ 1,898.50
116		Tallawanda	Kacachos Thomas A Etal	H4100006000156	25	175		$1,950.00	$ 1,919.00
404	E	Withrow	Theta Upsilon Housing Co Inc	H4000006000155	40	150	35	$2,490.00	
210		Tallawanda	Redskin Ltd.	H4100006000154	80	250	50	$4,470.00	
220		Tallawanda	Gamma Upsilon House	H4000006000186	105	325		$5,320.00	
300		Tallawanda	Epsilon Nu of Sigma Nu Corp	H4000006000143	93	400	70	$6,057.00	$ 7,017.80
310		Tallawanda	Sigma Alpha Epsilon Charter House	H4000006000140	41	275	65	$3,634.00	
320		Tallawanda	Phi Kappa Tau Charter House Assn.	H4100006000139	130	225		$5,345.00	
								$35,101.00	**$ 15,402.90**

City of Oxford repairs at Existing Curb Ramps and Catch Basins

Curb, Gutter, Sidewalk, for High Street Rehabilitation Main St. to Poplar St. 2011-2012

Address	Direction	Street Name	Property Owner	Parcel #	Lineal Ft Curb	Square Feet Sidewalk	Square Ft Drive Apron	Estimated Cost	Actual Cost
1	E	High	Masonic Temple	H4000003000085	8	472		$ 3,536.00	
11	E	High	Minnis Rentals LLC	H4100003000240	23	0		$ 667.00	$ 663.55
20	E	High	Sigma Chi Foundation	H4100003000164	11	648		$ 4,855.00	
21	E	High	Uptown Investments LTD	H4100003000088	12	64		$ 796.00	
23	E	High	Oxford Real Estate	H4100003000157	25	170		$ 1,915.00	
26-28	E	High	Redskin LTD & Gracie Holdings LTD	H4100003000231	30	656		$ 5,462.00	
31	E	High	Goldner-High Street East LTD	H4000003000158	0	0		$ -	
32	E	High	Star Bank N/A TR	H4100003000163	0	154		$ 1,078.00	$ 770.00
36	E	High	36 East High Street LLC	H4100003000162	22	784		$ 6,126.00	$ 4,700.00
37	E	High	Uptown Real Estate LLC	H4100003000159	0	48		$ 336.00	
41	E	High	43 East High St. LLC	H4100003000160	5	88		$ 761.00	$ 769.93
43	E	High	43 East High St. LLC	H4000003000161	5	320		$ 2,385.00	$ 1,420.00
								$ -	
City of Oxford repairs at Existing Curb Ramps and Catch Basins					83	124			
								$ 27,917.00	**$ 8,323.48**

New Curb Ramps to be constructed by City of Oxford: N-S Alley between 21 & 23 E. High (2), Midblock Crosswalk (2)

revised 4/10/12

GRAND TOTAl **$100,647.00** $ **34,520.93**

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager

Council Meeting Of: July 17, 2012

Account Code No. #:

Budgeted Amount:

Community Development
Originating Department

Jung-Han Chen
Prepared By:

July 11, 2012
Date Prepared:

Agenda Title: **PC-04-2012 CONDITIONAL USE - 321 W. Spring Street,** to establish a drive-in/drive-through fast food restaurant in a GB (General Business) District, **Allen Ansorg, Applicant, Agent**

Recommendation: Approval with Condition

Discussion:
The Planning Commission held a Public Hearing for this Conditional Use Application to establish a drive-in/drive-through in a GB District.

The Applicant is seeking to reuse a former bank with a drive-through as an ice-cream drive-in/drive-through with minimal changes to the exterior of the building. The Applicant also plans to provide an outdoor seating arrangement throughout the site to provide a family atmosphere and a central location for community members. The Applicant also indicated that the planned business hours are between 11:00 a.m. to 9:30 p.m. to accommodate various community activities. The business will be open only ten months of the year and will be closed during the winter months.

Discussion took place regarding pedestrian safety and vehicular movement within the site, specifically the second drive-through lane that will be closed for vehicle access but used for customer seating. The Planning Commission reviewed the Decision Standards and voted 6-0-0 to recommend APPROVAL to City Council with a condition that a sufficient barrier be provided in front of the second drive-through lane to the satisfaction of the Community Development Director.

Approved By:

Department Head: JHC
City Attorney:
City Manager: DRE 7/13/12

ORDINANCE NO.

ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR A FAST FOOD RESTAURANT WITH A DRIVE-THROUGH IN THE GENERAL BUSINESS DISTRICT AT 321 W. SPRING STREET WITH ONE CONDITION.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: The Planning Commission met pursuant to Oxford Codified Ordinance Section 1147.02 on July 10, 2012 for the purpose of considering the request of Allen Ansorg, Applicant/Agent, for a conditional use permit for a fast food restaurant with a drive-through in the General Business District at 321 W. Spring Street.

SECTION 2: The Planning Commission, after public hearing and discussion, voted to approve a motion recommending approval of the conditional use application for the fast food restaurant with the following condition:

a. A substantial barrier shall be installed in front of the western drive-through lane to block vehicular traffic.

SECTION 3: Council hereby accepts the action of the Planning Commission and accepts the recommendation report submitted by the Planning Commission and incorporates the same herein and further grants the conditional use permit application for a fast food restaurant with a drive-through in the General Business District at 321 W. Spring Street with one condition.

SECTION 4: This Ordinance shall take effect at the earliest time allowed by law.

____
MAYOR

ADOPTED:

ATTEST:

____
CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW(STAFF)

Certification of Action
Oxford Planning Commission
Recommendation to City Council

Report Date	July 17, 2012
Case Number	PC-04-2012
Applicant Information	Allen Ansorg, Applicant, Agent
Requested Action	Conditional Use Permit
Summary of Request	To Establish a Drive-In/Drive-Through Fast Food Restaurant in a GB (General Business) District
Public Hearing Information	On July 10, 2012 a Public Hearing took place at 118 W. High Street. A Public Hearing notice was published in the Oxford Press on May 11, 2012. Courtesy notices were mailed to adjacent property owners on May 17, 2012 and June 20, 2012. The second mailing took place due to having to cancel on short notice the June 12, 2012 Planning Commission meeting.
Commission Action	The Planning Commission voted 6-0-0 recommending approval of the Conditional Use Permit with one condition.
Commission Findings and Conclusions	At the July 10, 2012 Planning Commission meeting, the Commission, after hearing the Applicant and Staff findings, and reviewing the Decision Standards, voted to approve the Conditional Use with one condition that a sufficient barrier be provided in front of the second driveway to the satisfaction of the Director of Community Development.
Exhibits Submitted to the Commission	1. Staff Report Dated June 12, 2012 2. Interoffice Review Transmittal Sheets 3. Property Notifications Map 4. Citizen Review and Comment Form 5. Letter of Agency 6. Conditional Use Permit Application Dated April 26, 2012 7. Site Plan 8. Photographs

City of Oxford
Community Development Department
STAFF REPORT

Planning Commission

Case # PC-04-2012 **Date – June 12, 2012**

APPLICATION

Applicants:	Allen Ansorg
Location:	321 W. Spring Street
Owners	Daren Redpath/EVR Investment LLC
Action Request:	Conditional Use Permit Application to Establish a Drive-In/Drive-Through Fast Food Restaurant in a GB (General Business) District.
Current Use:	Vacant bank with a drive/through
Current Zoning	GB (General Business) District
Surrounding Existing Land Uses:	Vacant commercial site, retail and apartment complex

GENERAL DESCRIPTION

The Applicant is requesting approval of a Conditional Use Permit to establish a drive-in/drive-through restaurant at a current vacant site, formerly used by a bank. The Applicant intends to use only one drive-thru window for servicing purposes. The second lane will be turned into a shelter for sitting or eating. The Applicant also indicated that minimal modifications were needed to accommodate needed equipment.

SURROUNDING NEIGHBORHOOD

The zoning around this site is GB (General Business) District. There is a vacant commercial site to the south and east; retail to the west; an apartment complex to the southwest and a vehicle service/repair shop to the north.

ZONING CODE REGULATIONS

GB General Business District

1143.12(b)(2) Conditional Uses. The following Conditional Uses are subject to review and regulation in accordance with Chapter 1147.

A Retail Services

5. Drive-in and fast-food restaurants.

Conditional Use

The Purpose of Conditional Use regulations are in Section 1147.01(a):

> *"Purpose. Conditional Uses are land uses that are potentially appropriate in many zoning districts but that are likely to have characteristics that could be detrimental to the public health, safety, or general welfare if not located appropriately, operated appropriately, or mitigated with good design."*

§1143.12(b)(2)(5) GB District Conditional Uses:
STAFF FINDINGS: Drive-through restaurant facility is a Conditional Use.

§1147.03 Conditional Use: Use Specific Regulations and Potential Concerns:

(b)(10) Drive-Through Restaurant Facilities

A. Potential Concerns:

1. Design of vehicle management area.
2. Noise from operations (vehicles and loudspeaker).
3. Signs and menu boards.
4. Location and adequacy of dumpsters.

B. Regulations.

1. Drive-through stations shall not be located in a yard adjacent to a residential zoning district.
2. Cue Queue spaces shall not be located in a yard adjacent to a residential zoning district.
3. Drive-up stations shall be setback a minimum of 50 feet from a residential zoning district.

COMPREHENSIVE PLAN

The subject property is located in a corridor enhanced area identified in the 2008 Comprehensive Plan. The development intent for this area is to enhance landscaping, signage, and access along the corridor to improve the local image when entering the City; promote and attract new commercial uses, and enhance connectivity and the design of existing uses through public and private investment.

Relevant Land Use Principles that may be applicable to this request.

3. **Infill development and redevelopment of underutilized sites is a priority**

Objectives: Support the redevelopment of commercial areas along Locust Street

LU 5.1. Focus future efforts on infill development and redevelopment of existing sites and not physical of commercial district.
LU 5.2: Focus future uses on community oriented.
LU 5.3: Enhance the Zoning Code to provide for increased buffering between commercial and residential uses including screening, noise restrictions, lighting restrictions, trash receptacle screening.
LU 5.4 Develop additional pedestrian and bicycle linkages along Locust Street.
LU 5.5 Create architectural and site controls for office, retail and residential uses along Locust Street to guide new development that complements the small

AGENCY COMMENTS

Fire	Returned without comment
Police	No comments returned
Engineering	Returned with comments
Economic Development	Returned with comments

PUBLIC COMMENT FORMS

None received.

DECISION CRITERIA

A copy of the Zoning Code Conditional Use Decision Standards is attached.

STAFF ANALYSIS

This application is to seek to reuse a former bank with a drive-through as an ice-cream drive-in/drive-through with minimal changes to the exterior of the building. The Applicant also plans to provide an outdoor seating arrangement throughout the site to provide a family-atmosphere and a central location for community members.

The Applicant also indicated that the planned business hours are between 11:00 a.m. to 9:30 p.m. to accommodate various community members. The business will be open only ten months of the year and be closed during winter months.

The site has a pedestrian sidewalk along Spring Street and separate vehicular ingress and egress points to provide a managed traffic movement. The site was designed and built to be automobile-oriented. Additional interior cross-walk markings would be ideal for pedestrians to access from the public sidewalk to the building, without competing with automobiles. The Applicant indicated that "highly visible" signage would be added in strategic locations to help protect pedestrians. The Applicant also indicated that additional crosswalks would be added from the shop to the grassy area in the center of the property.

This would seem to be a good reuse plan for the site and type of business to be located in this particular location. The idea of creating outdoor seating areas to be scattered around the site certainly projects additional ambience, specifically to the community that has a large number of community members walking to various places. The attached site plan shows that most of the picnic tables would be located to the rear of the property to allow patrons to sit and enjoy their food.

One concern is a potential waste management issue. When the business becomes successful, and outdoor seating and vehicles increase, the placement/number of trash containers may need addressed.

RECOMMENDATION

Not Applicable

SUBMITTED
BY: Jung-Han Chen
Jung-Han Chen,
Community Development Director

DATE: 6/1/12

ATTACHMENT

(c) Planning Commission Review. The Planning Commission shall base its review of a proposed Conditional Use upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. If the Planning Commission finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

(1) Burden of proof.

A. Planning Commission has no obligation to recommend approval and City Council has no obligation to approve a Conditional Use. This Zoning Code assumes that the uses listed in this section are not appropriate unless an applicant proves that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which it is proposed.

B. Applicants shall prove that potential negative impacts of elements such as location, size and extent of facilities and operations, site design, traffic generation, site access, and potential impact upon public facilities will be adequately mitigated.

(2) General decision standards. All Conditional Uses shall satisfy these General Decision Standards:

A. The proposed use is in fact a Conditional Use in the zoning district in which it is proposed.

B. The use and site will satisfy the general intent of this Zoning Code.

C. The use and site will be compatible with the general intent of the Comprehensive Plan.

D. The size and shape of the site are sufficient for the proposed use.

E. The use will not be hazardous or disturbing to existing or potential future neighboring uses that are permitted in the zoning district.

F. The use will not involve activities, processes, materials, equipment, or conditions of operation that will be detrimental to any person, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, odors, or other emissions.

G. The only accessory uses will be directly related to the operation of the principal use and will not be operated independent of the principal use.

H. The use and site will be adequately served by public facilities and services such as streets, water and sewer, drainage structures, police and fire protection, and refuse disposal, or adequate provisions will be made to provide the same services privately.

I. Development of the site and operation of the use will not require substantial public expenditure for additional infrastructure or services.

J. The site will be designed, constructed, and maintained in a character harmonious in appearance and general character with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area. Structures to be constructed, reconstructed, or altered in a residential zoning district shall have the appearance of residential buildings permitted in the zoning district.

K. The site is designed so that on-site traffic and traffic accessing the site will not inappropriately impact the movement of traffic on adjacent public streets.

L. Proposed construction will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

M. All necessary permits and licenses for the Conditional Use and its operation have been or can be obtained for the use at the proposed location.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/18/2012

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

PC-04-2012 CONDITIONAL USE, 321 W. Spring Street, to establish a drive-in/drive-through fast food restaurant in a GB (General Business) District, **Allen Ansorg, Applicant, Agent**

____X_____ Review _________ Revisions ___________Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **6/8/2012** Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned: w/comments without/comments

Drawings reviewed by: Date: 5/18/12

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/18/2012

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

PC-04-2012 CONDITIONAL USE, 321 W. Spring Street, to establish a drive-in/drive-through fast food restaurant in a GB (General Business) District, **Allen Ansorg, Applicant, Agent**

__X__ Review ______ Revisions ______ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **6/8/2012** Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned: w/comments without/comments

SEE MEMO DATED 5-24-12.

Drawings reviewed by: ______ Date: 5-24-12

RECEIVED
MAY 18 2012
City of Oxford
Engineering Division

CITY OF
OXFORD
HOME OF MIAMI UNIVERSITY

Memo

Service Department
Engineering Division
513/524-5208 fax 513/524-5267

TO: Community Development Department

FROM: Victor Popescu, P.E.
City Engineer

RE: PC-04-2012
321 W. Spring St.; Conditional Use

DATE: May 24, 2012

The following are our comments.

1. This being a commercial establishment (i.e. fast food), a backflow preventer must be part of the proposed establishment.
2. As a fast food establishment, grease will be a concern. A grease trap will be necessary.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/18/2012

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

PC-04-2012 CONDITIONAL USE, 321 W. Spring Street, to establish a drive-in/drive-through fast food restaurant in a GB (General Business) District, **Allen Ansorg, Applicant, Agent**

___X___ Review ________ Revisions ________ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **6/8/2012** Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned: w/comments without/comments

Mr. Ansorg is redeveloping a vacated bank building which had an approved drive through window. As I understand it, the new use will consist of mainly ice cream sales and some food and coffee sales. This would seem to create a fairly low impact use of the drive through facilities. This application seems to be an ideal reuse plan for this site.

Drawings reviewed by: ____________ Date: 6-4-2012

PC-04-2012

Legend

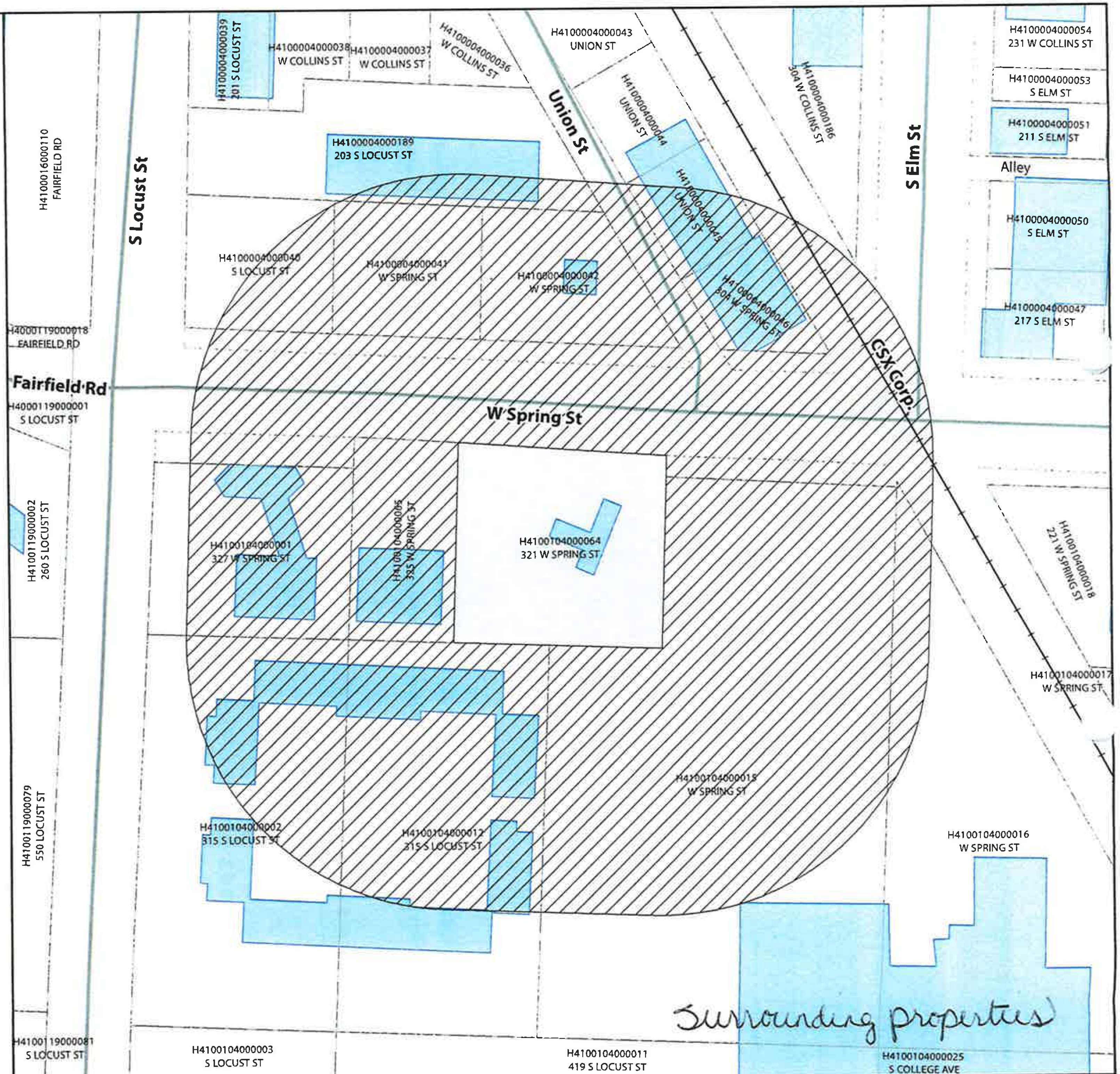
321 West Spring Street
200 Ft. Buffer
Oxford Corporation Limit
Parcel
16.5' Vacated ROW
Building Footprint
Paved Roadway

N

1 inch = 100 feet

CITY OF OXFORD
HOME OF MIAMI UNIVERSITY

The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.



From: Daren Redpath <d_redpath@msn.com>
To: Allen Ansorg <allenansorg@aol.com>
Subject: Permit Letter
Date: Tue, Apr 24, 2012 11:57 am

EVR Investments LLc.
853 S. State Rd. 101
Liberty, Indiana 47353
765-458-7414

Allen Ansorg
Spring Street Treats
321 W. Spring St.
Oxford, Ohio 45056

City Of Oxford
High Street
Oxford, Ohio 45056

Re: Conditional use permit letter of agency

This applicant is permitted by EVR Investments LLC. to apply for a conditional use permit for a drive through at the property located
at 321 W. Spring St., Oxford, Ohio 45056.

Any questions please contact Daren Redpath at 765-458-7414.

Thank you,

Daren Redpath
Managing Member
EVR Investments LLC.

Case No.: PC-04-2012
Date Filed: 4/26/12
6/12/12 mtg 7/17

Conditional Use Permit Application
City of Oxford, Ohio

REQUIRED INFORMATION (print clearly)
Name of Applicant: Allen Ansorg
(Attach a letter of agency if the Applicant is not the property owner)
Mailing Address: 6462 Contreras Rd., Oxford, OH 45056
Email Address allen@springstreettreats.com
Telephone Number(s): mobile: (513) 405-3282 home: (513) 524-3046
Name of Property Owner (if other than Applicant) Daren Redpath
Location of Property: 321 W. Spring St., Oxford, OH 45056

Legal Description: Lot 2685
Zoning District: GB
Total Area: .51 Acres / Square Feet (circle one)
Existing Use Description: Property was vacant for about four years it was formerly a small bank with two drive through lanes
Proposed Use Description: Spring Street Treats - a home town snack shop serving soft serve, hot dogs, soft pretzels and other snacks.

SUBMISSION REQUIREMENTS
The required fee of **$400.00 plus actual postage**, made payable to the City of Oxford, must accompany the application. The entire submission must be prepared in accordance with Chapter 1147, Conditional Uses, of the Zoning Code of the City of Oxford.

Attach thirteen (13) copies of a site plan indicating the following:

1. North arrow
2. Scale
3. Vicinity Map
4. All existing and proposed lot lines within the site
5. Dimensions of all lots and of the entire site and any adjacent rights-of-way
6. Location, height, and use of all proposed and existing structures
7. Location and design of all proposed vehicle management areas
8. Location, size, and type of all proposed signs
9. Location, height, and type of all proposed screening and landscaping
10. Distances to residential zoning districts if within 1,000 feet
11. The use of land and location of structures on adjacent property and across adjacent rights-of-way
12. Elevations of proposed structure, or typical elevations if structures are not yet designed, shall be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use
13. Photographs of the existing use and its surroundings.
14. Other information as required by the Planning Commission

Attach a Narrative Statement describing how the proposed Conditional Use meets the following Decision Standards of the zoning district in which it is to be located:

A. The proposed use is in fact a Conditional Use in the zoning district in which it is proposed.
B. The use and site will satisfy the general intent of this Zoning Code.
C. The use and site will be compatible with the general intent of the Comprehensive Plan.
D. The size and shape of the site are sufficient for the proposed use.
E. The use will not be hazardous or disturbing to existing or potential future neighboring uses that are permitted in the zoning district.

F. The use will not inv e activities, processes, materials, equ., ent, or conditions of operation that will be detrimental to any person, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, odors, or other emissions.
G. The only accessory uses will be directly related to the operation of the principal use and will not be operated independent of the principal use.
H. The use and site will be adequately served by public facilities and services such as streets, water and sewer, drainage structures, police and fire protection, and refuse disposal, or adequate provisions will be made to provide the same services privately.
I. Development of the site and operation of the use will not require substantial public expenditure for additional infrastructure or services.
J. The site will be designed, constructed, and maintained in a character harmonious in appearance and general character with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area. Structures to be constructed, reconstructed, or altered in a residential zoning distribute shall have the appearance of residential buildings permitted in the zoning district.
K. The site is designed so that on-site traffic and traffic accessing the site will not inappropriately impact the movement of traffic on adjacent public streets.
L. Proposed construction will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.
M. All necessary permits and licenses for the Conditional Uses and its operation have been or can be obtained for the use at the proposed location.

On a separate sheet of paper, provide the names and addresses of all adjoining property owners within 200 feet of the site, including those across streets, roads, alleys and highways. ***Property Owner names will not be included in the agenda packet.**

NOTE: The Butler County website (www.butlercountyohio.org/auditor) is very helpful when searching for the mailing address of adjoining property owners. Once the site is up, click on online searches, then click on real estate. It will allow you to search by owner, address or parcel number.

All materials must be delivered to the office of the Community Development Director, City of Oxford, 101 East High Street, Oxford, Ohio 45056. Any questions should be directed to the Community Development Department at (513) 524-5204. The issue will be placed on the next possible agenda.

Incomplete applications will not be processed.

NOTE: Notification and publication requirements must be adhered to. Submit materials 45 days prior to the proposed meeting date. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

Allen Ansorg

Signature of Applicant

Allen Ansorg

Printed Name

Date: 4/23/12

FEE / RECEIPT

$400 Fee plus Postage Paid / Receipt Number: 17575.32

Conditional Use Permit Application Narrative Statement

Submitted on April 26, 2012 by Allen Ansorg for

Spring Street Treats

321 West Spring Street, Oxford, OH 45056

How the proposed Conditional Use meets he following Decision Standards of the zoning district in which it is to be located:

A. ***The proposed use is in fact a Conditional Use in the zoning district in which it is proposed.*** Conditional use applies to 321 W. Spring St. because of the existence of a drive through service window. Spring Street Treats will be a hometown small business that serves soft serve ice cream and other treats for onsite consumption and from our drive through service window. Drive through service is common in the fast food industry and customers expect and will utilize this convenient option. The business location has been vacant for approximately four years and was formerly a bank with two drive through service lanes. Spring Street Treats will only use a single drive through lane that runs directly next to the building. The other extra lane will be converted into a sheltered on premise sitting and eating area.

B. ***The use and site will satisfy the general intent of this Zoning Coda.*** 321 W. Spring St. is located within Oxford's General Business (GB) district and is zoned for restaurant / retail use.

C. ***The use and site will be compatible with the general intent of the Comprehensive Plan.*** The Land Use Chapter of the Comprehensive Plan emphasizes the importance of redeveloping and filling in the vacant and underutilized business sites in Oxford. This has been identified by community member feedback as a priority for the city to aid in its economic growth and overall appearance. The vacant former Wal*Mart property was specifically named as a "weak place" in the city according to the Comprehensive Plan. 321 W. Spring St. has been vacant for about four years and is located right next to the vacant Wal*Mart location. Starting Spring Street Treats in this location will create jobs and increase tax revenue for Oxford, both of which will improve the city's fiscal health, as explained in the Comprehensive Plan.

D. ***The size and shape of the site are sufficient for the proposed use.*** The size and shape of 321 W. Spring St. are perfect for the Spring Street Treat business. There is ample parking available on site and in the immediate vicinity. The grassy areas of the property will have benches and tables scattered throughout it for individuals and groups to enjoy their treats. The property is also tree lined which adds to the appeal and appearance of the area.

E. ***The use will not be hazardous or disturbing to existing or potential future neighboring uses that are permitted in the zoning district.*** Spring Street Treats will not present any hazards to existing or potentially neighboring uses. If concerns arise, I will do my best to mitigate them. There is an apartment complex(Locust South Apartments) neighboring the southern edge of the property. Only a few (I estimate four) of the apartments in the complex have the direct potential to be negatively affected by any possible visual or noise concerns. Multiple mature trees follow the property line between the two properties helping to separate them. These trees help create a visual and sound barrier. Additional barriers (such as trees, bushes or fence) could be added to help further insulate the apartments if needed. The two properties did coexist for many years when 321 W. Spring St. was formerly a bank location. Otherwise, there are not many other neighbors that can be negatively impacted by the business presence. Spring Street Treats is intended to be a benefit to the community. The goal is to bring additional customers to other businesses in the area and provide a fun and safe business to the west side of Oxford. 321 W. Spring St. and the large neighboring former Wal-Mart location have been vacant and unused for many years. Creating Spring Street Treats will bring jobs, tax revenue and an enjoyable experience to Oxford. As part of the General Business District, 321 W. Spring St. is zoned and intended for food service use.

F. ***The use will not involve activities, processes, materials, equipment, or conditions of operation that will be detrimental to any person, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, odors, or other emissions.*** Spring Street Treats will not have or create or operate under any of these conditions. Spring Street Treats is a hometown snack shop offering treats to residents and visitors to Oxford to enjoy in a clean, safe and enjoyable atmosphere. Menu items will include soft serve, hot dogs, side dishes, soft pretzels and Coca-Cola products. A limited selection of unique bulk candy and seasonal retail items will also be available. None of the restaurant equipment used to operate the business will have an open flame, thus reducing the potential for odor, smoke, fumes or personal / property damage due to a possible fire. At a mere 631 square feet, the business is small and efficient. There are exits at the north and south ends of the building. There will be no additional exterior lighting added to the property than currently exists and was in use when the former bank was in operation.

G. ***The only accessory uses will be directly related to the operation of the principal use and will not be operated independent of the principal use.*** Spring Street Treats has no intention of creating any accessory uses for the business location. We will sell delicious treats to the residents of and visitors to Oxford in a clean, safe and welcoming atmosphere. Currently planned business hours are11 AM to 9:30 PM. The business likely will operate just ten months of the year and be closed seasonally during the months of January and February annually. It is a seasonal business, so the number of customers will vary throughout the course of the year. I expect to average about 150 customers a day.

H. ***The use and site will be adequately served by public facilities and services such as streets, water and sewer, drainage structures, police and fire protection, and refuse disposal, or adequate provisions will be made to provide the same services privately.*** Spring Street Treats is accessible directly off of W. Spring St.. There are new, accessible sidewalks in front of the property. City water, sewer and trash services are currently in use. No dumpster will be used. Two or three waste wheelers provided by Rumpke will be placed on the property. Four large drainage structures are strategically located on the site. Oxford Fire Department is caddy-corner to Spring Street Treats less than 100 yards away. I have informed Oxford Police of the new business and have sent my contact information to Perry Gordon, Business Liaison Officer for the Oxford Police.

I. ***Development of the site and operation of the use will not require substantial public expenditure for additional infrastructure or services.*** The existing design of the site will not be changed from its current, original state. I do not foresee development of the site and operation of the use requiring any public expenditure. Improvements have been made and more will be performed to help control vehicular traffic and ensure the safety of visitors. Two crosswalks will be added from the shop to the grassy area in the center of the property. Directional arrows for vehicular traffic will be improved and increased with signage and arrows painted on the roadway to clearly indicate the flow of traffic and require a slow rate of speed on the property. Highly visible signage such as "caution children' and "crosswalk" will be added in strategic locations to help protect pedestrians.

J. ***The site will be designed, constructed and maintained in a character harmonious in appearance and general character with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area. Structures to be constructed, reconstructed, or altered in a residential zoning distribute shall have the appearance of residential buildings permitted in the zoning district.*** The existing building will not be structurally altered from its original and current design. The business location is not in a residential zoned area. No additional structures will be constructed on the site. The facility will be well maintained to be clean, safe and welcoming. The building has already been painted inside and out and has been improved dramatically from its former appearance.

K. ***The site is designed so that on-site traffic and traffic accessing the site will not inappropriately impact the movement of traffic on adjacent public streets.*** On site-traffic flow is appropriate and well designed. Upon entering 321 W. Spring St. vehicular traffic can proceed to the east side of the building to park or the west side of the building to access our drive through service window. These two areas merge slowly to exit the property. All traffic flow is clockwise in one direction. Traffic directional flow will be well marked and easily understandable. The eastbound and westbound roadways in front of the business location are very wide. Eastbound vehicular traffic can turn directly into the business entry drivel safely with excellent pedestrian visibility. Vehicles traveling westbound on W. Spring St. can stop in front of the business location safely without impeding westbound traffic flow due to the wide roadway. Deliveries to Spring Street Treats will be minimal as I intend to use just a few vendors. Pedestrian access to the site is safe. A location will be set up for stroller and bicycle parking.

L. ***Proposed construction will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.*** There will be no external construction at

321 W. Spring St. from its current original design and use. No historic features will be negatively impacted.

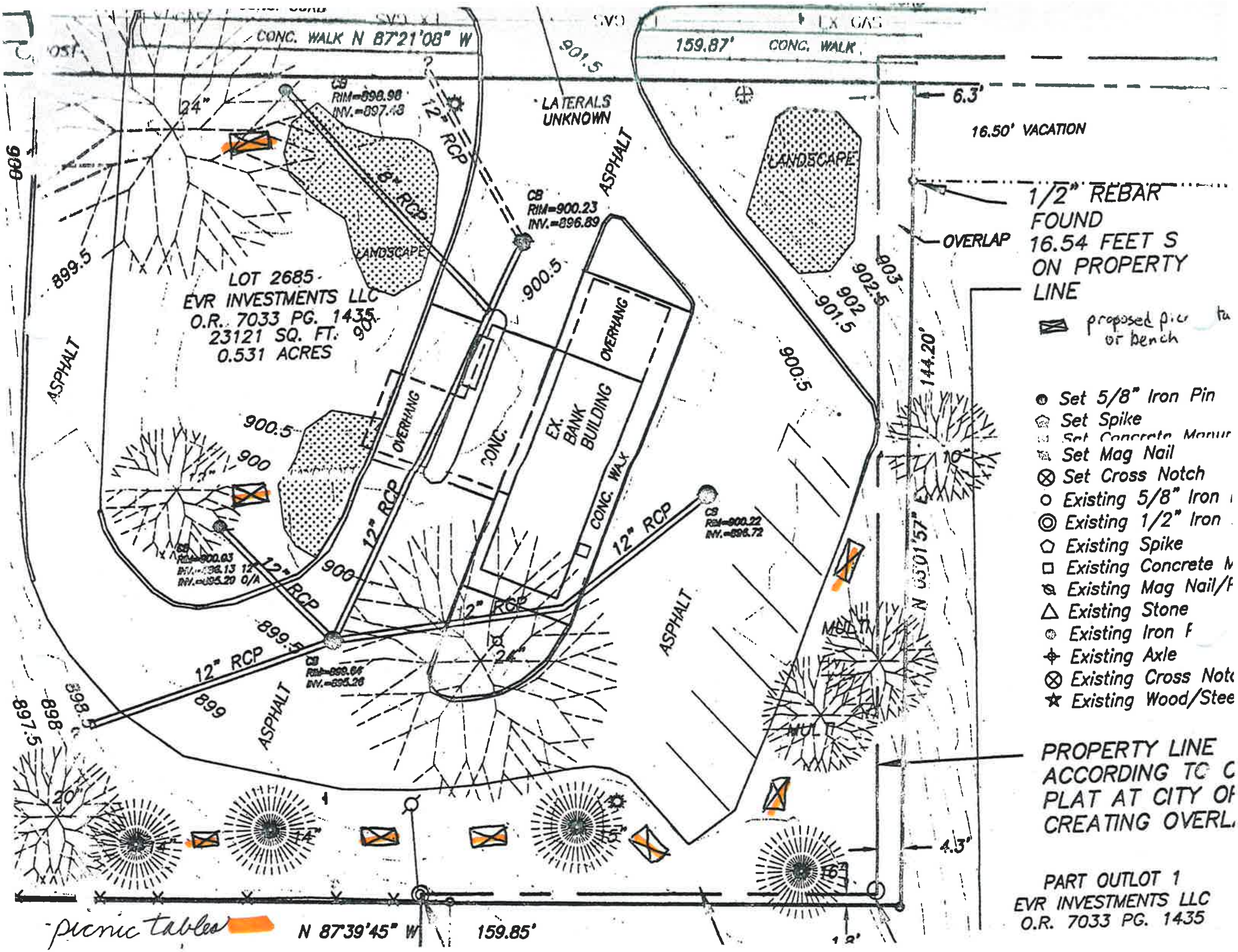
M. ***All necessary permits and licenses for the Conditional Uses and its operation have been or can be obtained for the use of the proposed location.*** Necessary permits and licenses have been or will be obtained as required to properly start and operate the business.

Submitted by:

Allen Ansorg (owner)
Spring Street Treats
312 W. Spring St.
Oxford, OH 45056

Mobile #:405-3282
Home #: 524-3026
Email: allen@springstreettreats.com
Website: www.springstreettreats.com

Home Address:
6462 Contreras Rd.
Oxford, OH 45056



CONC. WALK N 87°21'08" W
159.87'
CONC. WALK
901.5
LATERALS UNKNOWN
6.3'
16.50' VACATION
LANDSCAPE
1/2" REBAR FOUND 16.54 FEET S ON PROPERTY LINE
OVERLAP
proposed picnic table or bench
CB RIM=898.98 INV.=897.48
12" RCP
8" RCP
CB RIM=900.23 INV.=896.89
ASPHALT
LOT 2685
EVR INVESTMENTS LLC
O.R. 7033 PG. 1435
23121 SQ. FT.
0.531 ACRES
899.5
900.5
900
OVERHANG
EX. BANK BUILDING
CONC.
CONC. WALK
903
902.5
902
901.5
144.20'
N 03°01'57" E
CB RIM=900.22 INV.=896.72
CB RIM=898.64 INV.=895.26
899
898.5
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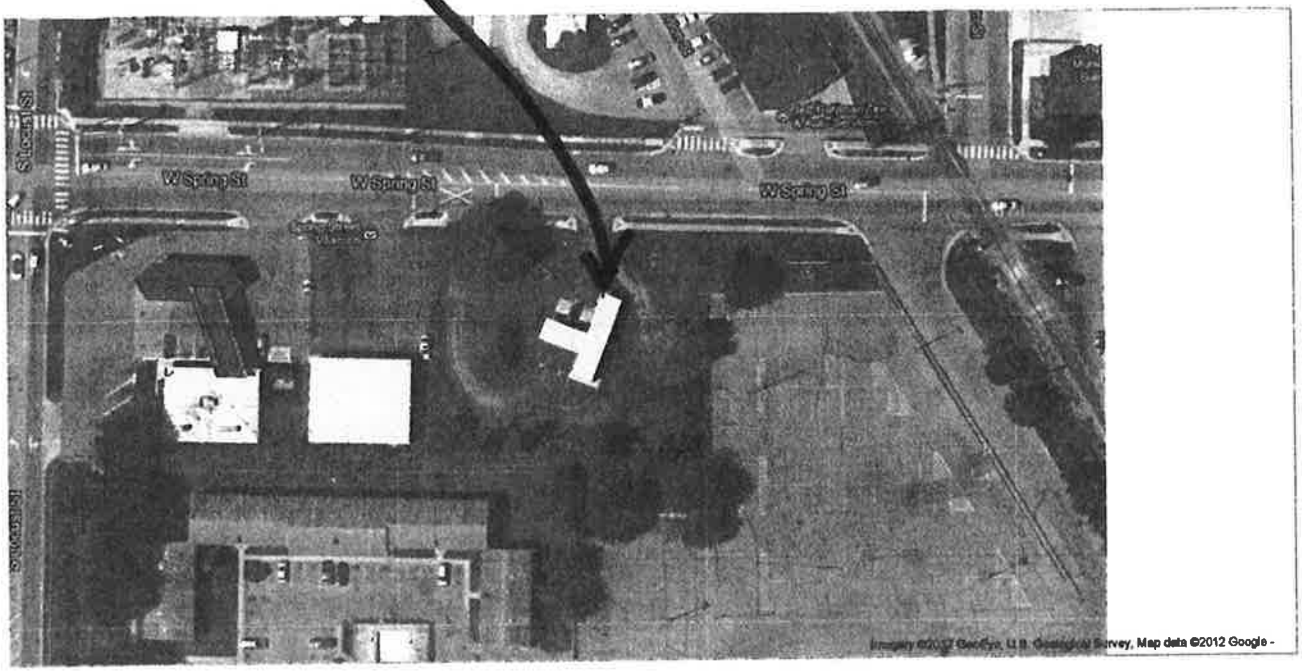
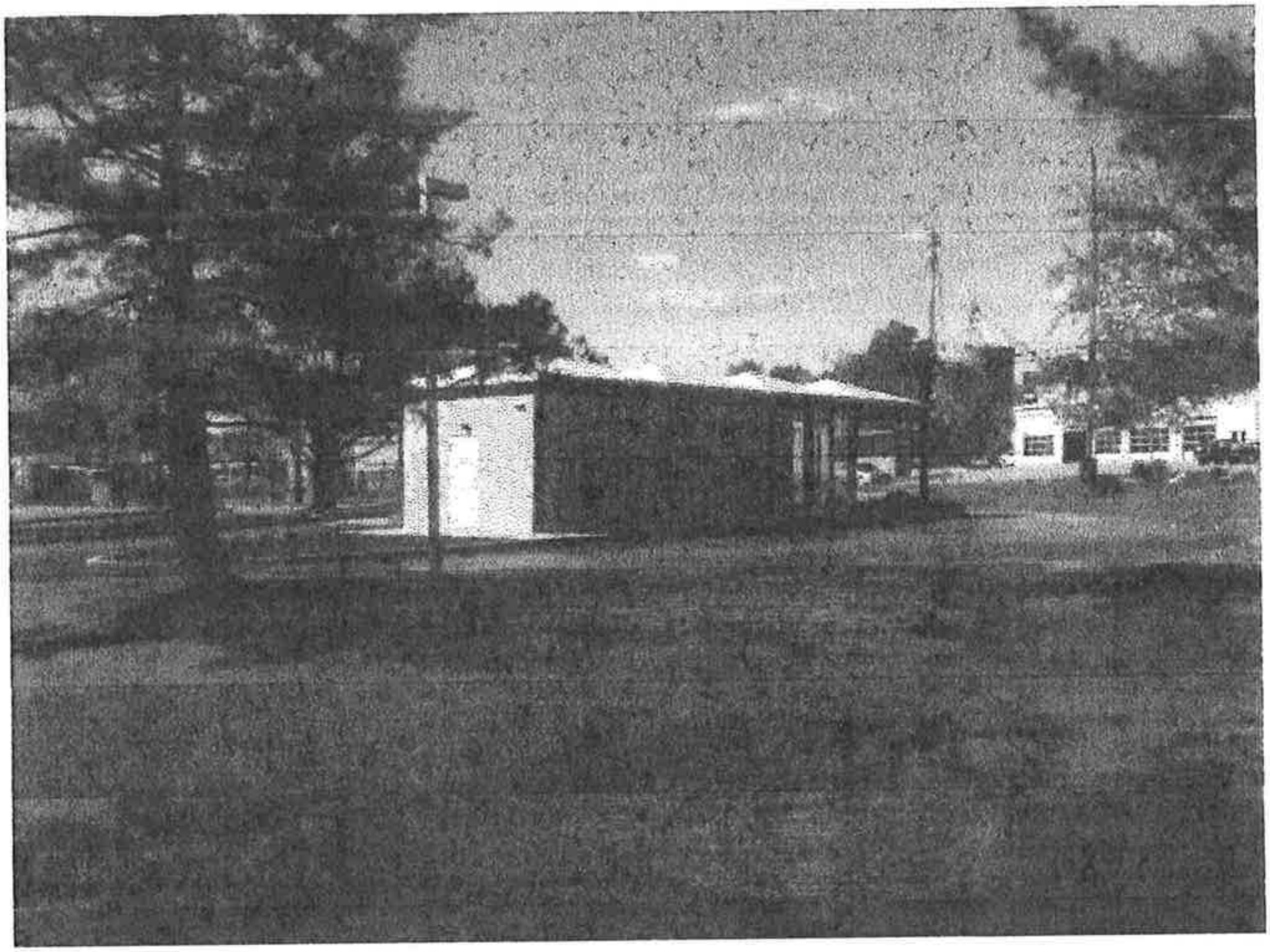
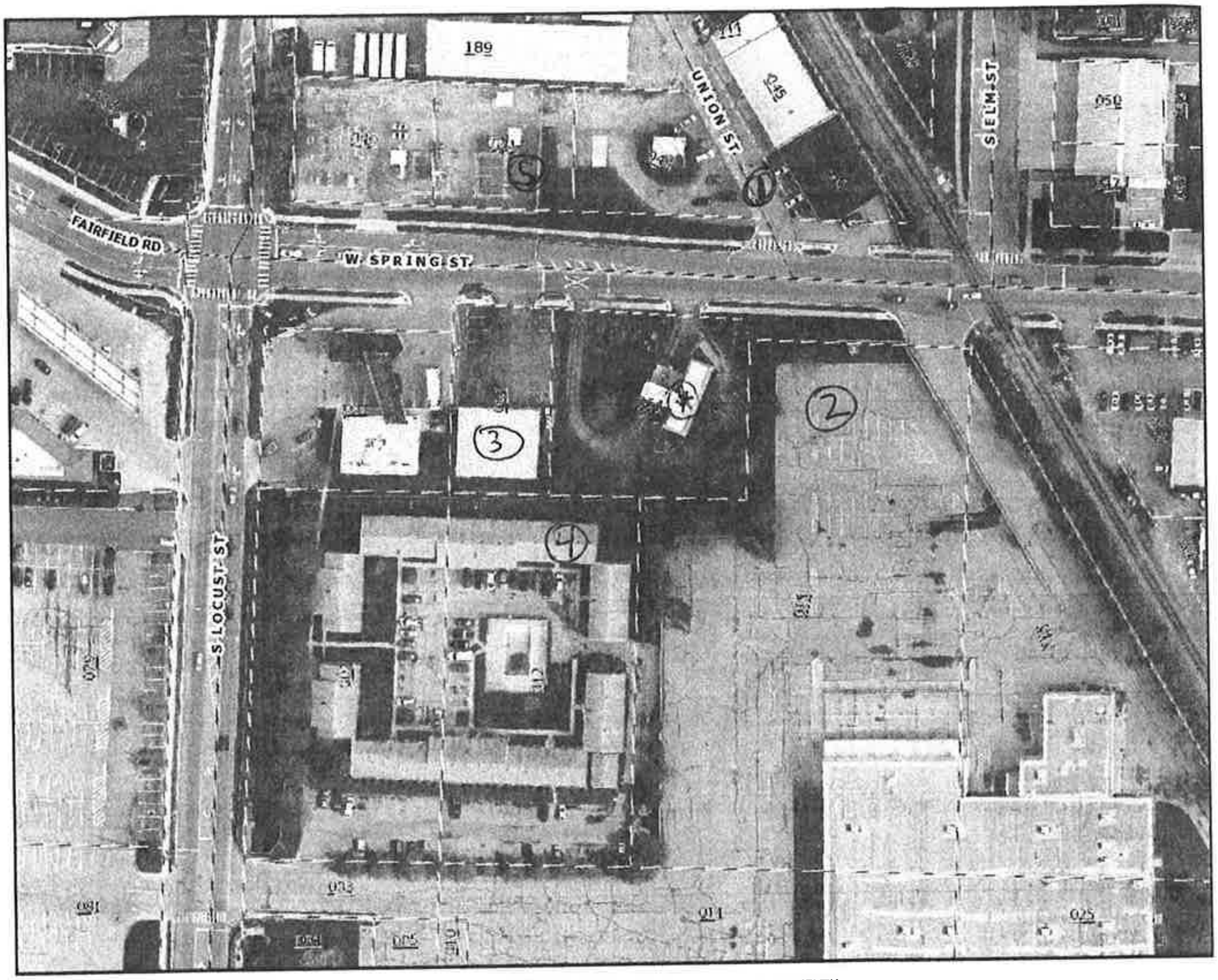
MULTI
24"
20"
10"
PROPERTY LINE ACCORDING TO C PLAT AT CITY OF CREATING OVERL
4.3'
PART OUTLOT 1
EVR INVESTMENTS LLC
O.R. 7033 PG. 1435
picnic tables
N 87°39'45" W
159.85'
Set 5/8" Iron Pin
Set Spike
Set Concrete Monur
Set Mag Nail
Set Cross Notch
Existing 5/8" Iron
Existing 1/2" Iron
Existing Spike
Existing Concrete M
Existing Mag Nail/F
Existing Stone
Existing Iron F
Existing Axle
Existing Cross Notc
Existing Wood/Stee


S Locust St
W Spring St
W Spring St
W Spring St
Imagery ©2012 GeoEye, U.S. Geological Survey, Map data ©2012 Google -





FOR INFORMATION PURPOSE ONLY NOT INTENDED FOR USE AS A SURVEY

Names and addresses of all adjoining property owners within 200 feet of the site.

* = Spring Street Treats, 321 W. Spring St.

(1), (2) & (3) Properties owned by EVR Investments LLC, 853 S. State Rd.101, Liberty, IN 47353

(4) Locust South Apartments, owned by Day Estates LLC, 5273 College Corner Pike, Oxford, OH 45056-2061

(5) owned by Duke Energy Ohio Inc, Property Tax Division, 550 S. Tryon St., PO Box 1321, Charlotte, NC 28202

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager

City Manager
Originating Department

Council Meeting Of: July 17, 2012

Doug Elliott
Prepared By

Account Code No. #: N/A

Budgeted Amount: N/A

July 9, 2012
Date Prepared

Agenda Title: A Resolution declaring support for the Greater Dayton Mayors and Managers Association's proposal for municipal income tax uniformity.

Recommendation: Adopt the Resolution.

Discussion:

Any possible income tax reform must look at the financial impact of lost revenue of Ohio municipalities including Oxford. This is very important given the financial loss that local governments are experiencing with the loss of inheritance tax revenue and reduction in local government funding from the state. Although no legislative bill has been introduced at this time, the House Ways & Means Committee continues to hold hearings regarding Ohio's Municipal Income Tax Code.

The City received revenue neutral recommendations from the Greater Dayton Mayors and Managers Association. The City Manager and Finance Director reviewed the tax uniformity recommendations which include due dates, extensions, estimated payments, withholding, annual reconciliation of returns, 12 day rule, rental property, qualifying wages, taxation of pass-through entities, 2016 expenses, net operating loss carry forwards, statute of limitations, innocent spouse relief, penalty and interest, minimum tax liability, tax on lottery winnings, minimum age, and self employed tax withholding.

Staff recommends that City Council adopt a Resolution approving the recommendations as submitted by the Greater Dayton Mayors and Managers Association. By participating in a unified and proactive effort to address tax uniformity there is a better chance of assuring that any state legislative changes are revenue neutral.

Approved By:

	Initial	Date
Department Head:		
City Manager:	DE	7/13/12

RESOLUTION NO.

A RESOLUTION DECLARING SUPPORT FOR THE GREATER DAYTON MAYORS AND MANAGERS ASSOCIATION'S PROPOSAL FOR MUNICIPAL INCOME TAX UNIFORMITY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: The lack of uniformity in the tax codes of municipalities in the State of Ohio may result in confusion to taxpayers, cost to business and loss of revenue to municipalities.

SECTION 2: The Greater Dayton Mayors and Managers Association has issued a proposal for municipalities in southwestern Ohio to enact a uniform code, a copy of which is attached hereto as Attachment A, "Proposal for Municipal Tax Uniformity".

SECTION 3: The proposal has adopted the extremely important principle of revenue neutrality, the principle upon which any effective solution must be constructed.

SECTION 4: This Resolution will advise the Ohio General Assembly of the City of Oxford's support of this proposal and will urge members of the Ohio General Assembly to adopt such a uniform code.

SECTION 5: Council encourages the Ohio General Assembly to be expeditious in revising Chapter 718 of the Ohio Revised Code in accordance with the proposals stated in Attachment A and to maintain revenue neutrality.

SECTION 6: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW(STAFF)

6-14-12

Attachment A

The Greater Dayton Mayors and Managers Association in collaboration with the Dayton Area Tax Administrators Association, has analyzed areas of non-uniformity in local tax laws related to municipal income tax collections, enforcement, penalties and compliance. The following discussion outlines areas of non-uniformity and proposed ways to bring all southwest Ohio communities into consensus. It is envisioned that these proposed changes, once adopted by southwest Ohio communities, will serve as a model that the state of Ohio Legislature can apply statewide. Note that "City Option" discussions are areas where there needs to be non-uniformity to minimize significant negative revenue impact to municipalities.

I. Due Dates

Current Situation: Currently, there is no uniformity between communities regarding due dates for municipal income tax filings. Communities have adopted different due dates suited to their individual needs.

Proposed Uniformity: Make all municipal return filings consistent with federal due dates. For simplicity of preparation (for the business / preparer) and administration (by each municipality), due dates for tax return filings, estimated tax payments and returns filed under extension should follow the same due dates as the corresponding filing for federal purposes. Current law provides for due dates that may vary from federal dates. Uniform due dates have been suggested for the following:

- Returns filed under extension through the Ohio Business Gateway (business) (ORC 718.051)
- Returns filed under extension with individual cities or TPA's (Third Party Administrators) - (business and individual) (ORC 718.05)
- Tax returns filed through the Ohio Business Gateway (business) (ORC 718.05)
- Returns filed with individual cities or TPA's (business and individual). (ORC 718.05)
- Estimated tax payments for businesses (ORC 718.08)
- Estimated tax payments for individuals (ORC 718.08)
- Withholding tax payments (ORC 718.03) (See separate section)
- Reconciliation of Returns (ORC 718.03) (See separate section)

Impact:
This will have minimal impact on municipalities, and will benefit taxpayers and preparers by providing consistency.

Proposed Regional Ordinance Language:

Each person who engages in business or other activity or whose qualifying wage, commissions, other compensation and other taxable income is subject to the tax imposed by this Chapter, and every resident shall, whether or not a tax be due thereon, make and file a return on or before the corresponding due date for the Federal income tax return, with the Tax Administrator a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the *calendar year, the return shall be due on or before the corresponding due date for the Federal income tax return.*

This proposed language requires that all business net profit and individual tax returns are due by the corresponding due date for the Federal income tax return.

Proposed Regional Ordinance Language:

A. *The Tax Administrator may determine, by Administrative Rule or Ordinance, the frequency by which an employer is required to remit withholding tax to the Municipality. Such withholding may be required on a monthly, quarterly or semi-monthly basis. The Tax Administrator may determine, by Administrative Rule or Ordinance, the threshold by which an employer would be required to remit under each frequency, and which frequencies would apply to the Municipality. Due dates for remittance of withholding tax shall be:*
   a. *Monthly Withholding. When Monthly Withholding is required, each employer shall, on or before the fifteenth day of each month, make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding month.*
   b. *Quarterly Withholding. When Quarterly Withholding is required, each employer shall, on or before the fifteenth day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay the tax withheld during the preceding calendar quarter.*
   c. *Semi-Monthly Withholding. When Semi-Monthly Withholding is required, each employer shall, on or before the fifth business day following the fifteenth and the last day of each month, make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding semi-monthly period.*

This proposed language allows the municipality to determine the withholding frequency and thresholds, but requires uniform dates for those frequencies.

Proposed Regional Ordinance Language:

A. *Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. A copy of each employee W-2 is required. If the total tax withheld from any employee-included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year. The Tax Administrator may require the filing of such reconciliations and employee information by alternate media.*

B. *In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.*

This proposed Ordinance language provides that all Reconciliation of Returns will be due by February 28th of each year for reporting of the previous calendar year, and this section also provides for the mandatory requirement that Form 1099's issued services performed in the Municipality also be remitted by February 28th of each calendar year for reporting of the previous calendar year.

Proposed Ordinance Language for due dates as specified for returns filed through the Ohio Business Gateway, returns filed under extension, and estimated tax payments for businesses and individuals cannot be drafted until statutory changes are made to ORC 718 accordingly.

DUE DATES

Statutory language should be drafted to provide for the following changes in due dates in Ohio Revised Code Section 718:

1. Returns filed through the Ohio Business Gateway. Returns filed by any business entity through the Ohio Business Gateway are required to be due on the same date that the corresponding federal income tax return is due. An electronic copy of the federal return must be sent via electronic format to the municipality on the same day. This can be accomplished by e-mail attachment, or through a portal to be created by the Ohio Business Gateway to accept a pdf copy of the federal return. The Ohio Business Gateway must provide a pdf attachment to be sent by the taxpayer, and transmitted via the Gateway to each municipality. The Ohio Business Gateway will provide this function with all business entity returns filed on and after 1/1/14. This will allow a taxpayer to attach an electronic copy (pdf) of their federal return to the Gateway filing, and this electronic copy (pdf) of the tax return will be transmitted to each municipality.
2. Returns filed under extension. Taxpayers must secure an approved Federal Extension for this section to apply. Each municipality will accept a copy of the federal extension as an attachment to the filing of the city income tax return. The due date for any return filed under extension will be the due date for the corresponding federal income tax return filed under extension. No extension request will be required prior to the filing of the city return which is automatically extended due to the approved federal extension. Where an extension has been secured electronically, a printed copy of the confirmation will be required as an attachment to the city income tax return. Any city return filed beyond the original due date of the city return will be required to have a copy of the federal extension request and/or confirmation as an attachment. Failure to include these with the filing of the return will require the automatic assessment of applicable penalty, interest and late

filing fee charges for failure to timely file the municipal income tax return. An extension of time to file will not extend the due date for applicable payments to be made.

3. Due dates for estimated tax payments for business entities and individuals will follow the same due dates as the corresponding payments for federal purposes. A taxpayer will be required to have 90% of their current year liability or 100% of previous tax year's liability met by January 31st of each year for the preceding calendar year, or by the end of the 13th month for the previous fiscal year in order to avoid applicable charges for underpayment of estimated tax.

II. Extensions

Current Situation: Ohio Revised Code Section 718 requires that an extension of time to file an annual income tax return must be filed with each municipality by the original due date of the tax return. If an individual files an extension of time to file, the extension must be received by 4/15. The return is due to the IRS by 10/15 and additional time is allowed to 11/30 to file the city return.

Proposed Uniformity: Returns filed under extension will follow federal due dates. Currently, there is 45 days allowed beyond the federal due date but this will be eliminated. Extension requests will not have to be filed by the original due date. A copy of the Federal extension needs to be attached to the filing. Payments will still need to be paid by the due date. Extension requests will be an attachment to the return when it is filed under extension. Changes will require legislation to change ORC 718.

Impact:
This will have a negative impact for those municipalities who currently begin their delinquency projects prior to November of each year. Since the municipality will not know which taxpayers have an extension, and which have just failed to file their tax return, sending delinquency letters for failure to file a tax return cannot be sent out until after the extended due date. Sufficient time will be necessary to process all of the returns that are received under extension. Only then will a municipality be able to determine who has failed to file a tax return, and delinquency processes can begin. Because of this delay, and the fact that municipalities have a strict Statute of Limitations under which to pursue either a known balance due or a non-filed tax return, this delay will shorten the amount of time that a city has to pursue delinquency under the Statute of Limitations. It does not make this impossible to pursue, it just creates a shorter window of opportunity under which to perform delinquency work. As an administrative benefit, it lessens the burden of each municipality to process separate extension request forms during peak filing season, allowing more time to focus on incoming tax return filings.

For taxpayers, this is a cost savings (since the request will not have to be filed separately by the original due date) and for preparers, it will save them considerable time during the tax season, as they will not have to prepare extension requests and remit prior to the original due date.

Proposed Ordinance Language for due dates as specified for returns filed under extension cannot be drafted until statutory changes are made to ORC 718 accordingly.

Statutory language should be drafted to provide for the following changes for returns filed under extension in Ohio Revised Code Section 718:

> Returns filed under extension. All tax returns filed, by any method, will be required to adhere to the same provisions. (Section 718.051 of the ORC should be repealed). Taxpayers must secure an approved Federal Extension for this section to apply. Each municipality will accept a copy of the federal extension as an attachment to the filing of the city income tax return. If the return is filed electronically, or via the Ohio Business Gateway, the copy of the extension request must also be included. The Ohio Business Gateway will, by 1/1/2014, provide a method by which a pdf version of the secured extension request or confirmation may be sent to each municipality with the filing of the tax return. A taxpayer sending a return electronically directly to the municipality will be required to provide verification upon request of the tax administrator of the secured extension request, or the tax administrator may provide a method by which the taxpayer will be required to remit the verification with the tax filing. The due date for any return filed under extension will be the due date for the corresponding federal income tax return filed under extension. No extension request will be required prior to the filing of the city return which is automatically extended due to the approved federal extension. Where an extension has been secured electronically, a printed copy of the confirmation will be required as an attachment to the city income tax return. Any city return filed beyond the original due date of the city return will be required to have a copy of the federal extension request and/or confirmation as an attachment. Failure to include these with the filing of the return will require the automatic assessment of applicable penalty, interest and late filing fee charges for failure to timely file the municipal income tax return. An extension of time to file will not extend the due date for applicable payments to be made.

III. Estimated Tax Payments

Current situation: Historically, there have been a few changes to the due dates for estimated tax payments and some cities have elected to leave their dates as previously stated. This creates confusion for taxpayers and preparers who need consistency in estimated payment due dates.

Proposed Uniformity: For business and individual filers, estimated tax payments will be due the same as federal estimated tax payment due dates.

Impact:
This will have minimal impact on municipalities, and will benefit taxpayers and preparers by providing consistency.

Proposed Ordinance Language for due dates as specified for estimated tax payments for businesses and individuals cannot be drafted until statutory changes are made to ORC 718 accordingly.

Statutory language should be drafted to provide for the following changes for estimated tax payments in Ohio Revised Code Section 718:

> Due dates for estimated tax payments for business entities and individuals will follow the same due dates as the corresponding payments for federal purposes. A taxpayer will be required to have 90% of their current year liability or 100% of previous tax year's liability met by January 31st of each year for the preceding calendar year, or by the end of the 13th month for the previous fiscal year in order to avoid applicable charges for underpayment of estimated tax.

IV. Withholding

Current situation: Each city has the ability to determine whether they require monthly, quarterly or semi-monthly withholding payments, or any other frequency that they wish. Cities vary in their threshold (i.e., the minimum amount due before withholding is required) for requiring different frequencies, but this difference is due to cash flow needs of the municipality. More confusing for taxpayers and preparers is the differences in due dates. For example, cities that require a monthly withholding might be due on the 10th, 15th, 20th or last day of the following month. This inconsistency of the due is the biggest concern when it comes to compliance.

Proposed Uniformity:

- All monthly payments will be due by the 15th of the month following the month subject to withholding, quarterly will be due by the 15th of the month following the quarter subject to withholding, and semi monthly will be due within five business days after the 15th and the end of each month.
- City option: Cities will have the option to determine the threshold for withholding frequency. For example, a city can determine to require monthly withholding once the amount withheld exceeds $100 in a month. Another city may determine that all withholding accounts remit on a monthly basis. The due dates, which have been inconsistent in the past, will now be uniform for all cities based on the frequency of withholding.

Impact:
Tax preparers will need to know the frequency and thresholds required for each municipality. This will provide much greater consistency when a preparer files in multiple cities, as due dates are consistent. Currently, municipalities may require monthly filers to pay by the 10th, 15th, 20th, or last day of the month. With this change, as long as the preparer knows the City option, all monthly payments for all cities are due on the same date. For municipalities, this will have slight cash flow implications for the first year with the change in dates, but will be minimal.

Proposed Regional Ordinance Language:

> B. *The Tax Administrator may determine, by Administrative Rule or Ordinance, the frequency by which an employer is required to remit withholding tax to the Municipality. Such withholding may be required on a monthly, quarterly or semi-monthly basis. The*

Tax Administrator may determine, by Administrative Rule or Ordinance, the threshold by which an employer would be required to remit under each frequency, and which frequencies would apply to the Municipality. Due dates for remittance of withholding tax shall be:

d. Monthly Withholding. When Monthly Withholding is required, each employer shall, on or before the fifteenth day of each month, make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding month.

e. Quarterly Withholding. When Quarterly Withholding is required, each employer shall, on or before the fifteenth day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay the tax withheld during the preceding calendar quarter.

f. Semi-Monthly Withholding. When Semi-Monthly Withholding is required, each employer shall, on or before the fifth business day following the fifteenth and the last day of each month, make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding semi-monthly period.

This proposed language allows the municipality to determine the withholding frequency and thresholds, but requires uniform dates for those frequencies.

V. Annual Reconciliation of Returns

Current situation: Cities have consistently used two different due dates for employers to submit an annual Reconciliation of Returns with copies of employee W-2's: either 1/31 or 2/28. Employers are required to have W-2's to their employees no later than 1/31. Additional time to prepare the annual Reconciliation should be provided so that employers have sufficient opportunity to remit a complete annual Reconciliation of Returns to each municipality.

Proposed Uniformity:
Returns will be due 2/28 of each year. If the number of W-2's submitted exceeds 100, the Reconciliation should be filed electronically based on the Federal Annual Reconciliation format. This achieves uniformity and is business friendly.

Impact:
This has no cash flow impact to municipalities, and provides consistency for preparers who now have to comply with either a January 31st or February 28th due date from city to city. For municipalities that input each individual W-2 into their tax system for comparison during the filing season, it will create some difficulty in getting this accomplished.

Proposed Regional Ordinance Language:

C. Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee *from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. A copy of each employee W-2 is required. If the total tax withheld from any employee-included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year. The Tax Administrator may require the filing of such reconciliations and employee information by alternate media.*

D. *In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.*

This proposed Ordinance language provides that all Reconciliation of Returns will be due by February 28th of each year for reporting of the previous calendar year, and this section also provides for the mandatory requirement that Form 1099's issued services performed in the Municipality also be remitted by February 28th of each calendar year for reporting of the previous calendar year.

VI. Twelve Day Rule

Current situation: The 12-day rule as outlined in ORC 718 is uniform. Confusion exists in determining a "day" for purposes of calculating when the 12 days apply. This change will require a legislative change to ORC 718.

Proposed Uniformity:

- Clarify language specifying that employees working twelve (12) days or less in any taxing jurisdiction would not be subject to the tax. The definition of "a day" has been established to prevent any employee from being subject to multiple taxing jurisdictions on the same day.
- Clarify language in defining a "day," which should be where the employee spends the preponderance of their day. Only when the employee has spent the preponderance of their day in a given municipality does that day then count as "day" toward determining the 12 day rule.

Impact:

No matter how many days / hours are required prior to tracking, there will always be a requirement to track. This will, however, eliminate the requirement to withhold and pay on those employees who do not meet the "preponderance of a day" test. For example, the florist who sends an employee to various cities throughout the day, but the driver also arranges flowers, they will only count their day in the location where they spend the preponderance of their day. In most cases, this will be where the shop is located. This will relieve the burden tremendously for those employers who have employees who travel in and out of cities each day to withhold for each location, again based on the "preponderance" test. This will have a negative impact on revenue, as the current law does not define a day, requiring any portion of a day to count as one day. There is no way to calculate a definitive percentage of revenue loss. It is not estimated to be significant.

Proposed Ordinance Language for 12-Day Rule cannot be drafted until statutory changes are made to ORC 718 accordingly.

Statutory language should be drafted to provide for the following changes in the 12-Day Rule in Ohio Revised Code Section 718:

> This section shall not apply when a taxpayer is working in their principal place of employment only. This section shall only apply to taxpayers who are required to work in multiple work sites to perform their job specific duties, and shall not apply for taxpayers whose only travel is for meetings or conferences, unless their specific responsibilities are to administer meetings or conferences. Travel or in transit time between municipalities is not considered when determining preponderance of a day. Statute shall provide that a taxpayer, for municipal income tax purposes, must spend a preponderance of their day in a given municipality to be considered as their taxable situs for that day. For these traveling taxpayers, only one municipality per day shall be considered as their taxable place of employment, based on a preponderance of a day. When days worked inside a municipality exceeds 12 days, the employer shall be responsible for reporting and paying withholding tax on the first 12 days with the payment required for the period where the 13^{th} day occurs. When it is clear that an employer is aware that days worked inside a specific municipality will exceed 12 days, and withholding does not begin until after 12 days is achieved, the employer may be subject to applicable penalty and interest charges for failure to properly withhold and report municipal tax earned inside the municipality.

VII. Rental Property for Individuals

Current situation: Individuals file and report rental property based on where the property is located. Language is needed to clarify how to deal with common expenses related to rental properties that should be allocated between properties.

Proposed Uniformity:
The net profits on rental properties for individuals shall be based on the location of the property. Any common expenses incurred by the individual related to the rental properties will be allocated based upon the gross receipts generated by the properties.

Impact:

This is much easier for the taxpayer and the preparer to understand, and is easier to administer. It is impossible to determine if there is any actual impact on revenue based on this change.

Proposed Ordinance Language for Rental Property for individuals cannot be drafted until statutory changes are made to ORC 718 accordingly.

Statutory language should be drafted to provide for the following changes regarding rental property for individuals in Ohio Revised Code Section 718:

> Common expenses incurred for multiple properties, and reported on a combined basis, shall be apportioned in the same manner related to the gross receipts generated by the subject properties. This common expenses apportionment method shall be in lieu of an actual breakdown of expenses. The municipality retains the right to request and require the property owner to provide, in review, a detail of expenses and allocation between properties of common expenses to ensure accurate apportionment of common expenses.

VIII. Qualifying Wages

Current situation: Qualifying wages as defined in ORC 718 allows for the elimination of Section 125 cafeteria plans from inclusion in qualifying wages. This change will require a legislative change to ORC 718.

Proposed Uniformity:
- Modify O.R.C. 718.03 to eliminate the deduction of IRC 125 (Cafeteria Plans) as an adjustment to "Qualifying wages".
- City option: Municipalities may determine whether or not to tax stock options and non-qualified deferred compensation.

Impact:
Previous changes in state law made exceptions to remove Section 125 from qualifying wages. Without the City Option, the qualifying wages definition is more uniform, including the taxation of Section 125 plans, stock options and nonqualified deferred compensation. The City Option would allow those few cities to continue to exempt stock options from taxation. A preparer needs only to know the few City Options that exist in order to prepare the city return for any given municipality. For municipalities, there is extremely minimal revenue enhancement by Section 125 plans, but revenue neutral on the stock option and nonqualified deferred comp question, as municipalities have already had this option in place.

Proposed Ordinance Language for qualifying wages cannot be drafted until statutory changes are made to ORC 718 accordingly.

Statutory language should be drafted to provide for the following changes in withholding taxes from qualifying wages in Ohio Revised Code Section 718:

718.03 Withholding taxes from qualifying wages.

(A) As used in this section:

(1) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.

(2) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct the following amounts:

~~(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code;~~

~~(ii)~~ *(i)* For purposes of division (B) of this section, any amount included in wages if the amount constitutes payment on account of sickness or accident disability.

(b) Add the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code;

~~(i)~~ *(ii)* Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986;

~~(ii)~~ *(iii)* Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax. Division (A)(2)(b~~)(ii)~~ *(iii)* of this section applies only to those amounts constituting ordinary income.

~~(iii)~~ *(iv)* Any amount not included in wages if the amount is an amount described in section 401(k) or 457 of the Internal Revenue Code. Division (A)(2)(b)(iii) of this section applies only to employee contributions and employee deferrals.

~~(iv)~~ *(v)* Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(c) Deduct any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages and has, by resolution or ordinance, been exempted from taxation by the municipal corporation.

(d) Deduct any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has, by resolution or ordinance, exempted the amount from withholding and tax.

(B) For taxable years beginning after 2003, no municipal corporation shall require any employer or any agent of any employer or any other payer, to withhold tax with respect to any amount other than qualifying wages. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(C) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(D)(1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(E) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

Effective Date: 09-26-2003; 2007 HB119 07-01-2007

IX. Municipal Taxation of Pass-through Entities (Partnerships, S Corporations) "Paid on behalf of partners, members, and owners method"

<u>Current situation</u>: Confusion exists in the treatment of pass-through entities, especially with S Corporations. In order to tax S Corps distributive shares at the shareholder level, each municipality had to take ballot language to their residents to continue taxing S Corporations in this manner. For the remainder, the S Corporation is taxed at the entity level. Any change would have to be made in ORC 718. However, for municipalities that took this issue to the ballot, this language may not be able to be changed. Non-uniformity may have to continue to exist. To provide some consistency in treatment and reporting at the partner, member or owner level to the resident municipality, the proposed changes are as recommended below.

<u>Proposed Uniformity</u>:

- Modify ORC 718 to require that each pass-through entity pay municipal income tax on behalf of its partners, members, and owners ("Qualified owners"). This income will then be reported by the partner, member or owner to the municipal jurisdiction in which such partner, member or owner resides. An example of how this would work is as follows:
  - A partnership located in Dayton will pay the tax as an entity to Dayton, and the individual partners will file in each city that they live in and take a non-refundable credit for tax paid on their behalf. This tax was paid to Dayton, but the partners are allowed to take credit on their resident returns, just as a withholding tax on employees is allowed as a credit on the resident returns. This credit is always limited to the amount of credit allowable by the resident city.
- Repeal the current exemption language (and voter approval) for S-Corporations. If a municipality took ballot language to their residents, and the residents approved taxing S Corporation income at the resident owner level, (2002 – 2004) then their treatment is different than as outlined in ORC 718. A change in local Ordinance will not repeal a change voted in by the residents of a municipality. To provide uniform treatment of S-Corporations at the entity level, a change in ORC 718 and considerable legal research would be necessary.

Impact:
This could have different impacts based on a municipality's business base. Impacts to revenue are difficult to calculate. This does provide ease of preparation, as returns for the entity are filed with the municipality where located.

Proposed Ordinance Language for pass through entities cannot be drafted until statutory changes are made to ORC 718 accordingly, and differences in treatment of S Corporations as voted in by the electorate cannot be change by statute.

Statutory language should be drafted to provide for the following changes regarding pass through entities in Ohio Revised Code Section 718:

> With the passage of legislation, every pass-through entity will be required to pay the tax on income as it is calculated under Adjusted Federal Taxable Income, found in ORC 718.01(A)(1), on behalf of each and all owners, partners, members, on all business performed or other services performed in the municipality. Each owner, partner, member shall be required to file and report all pass-through entity income on their personal income tax return to their municipality of residence, and shall be permitted to use a non-refundable credit for taxes paid by the pass-through entity on behalf of the owners, partners, members, on the portion of their income subject to this payment made on their behalf. Such credit will be limited to the amount of credit allowable by their residence municipality.

X. Unreimbursed Business Expenses (2106)

Current situation: Municipalities allow a deduction for Employee Business expenses, either as 100% of the amount reported on Form 2106, or the amount actually deducted for federal purposes on Schedule A (which is limited to only the amount above the 2% AGI). This is a federal deduction on Schedule A, intended to reduced federally taxable income. It is not available for everyone to take, only those taxpayers who qualify to itemize their deductions. The State does not permit a deduction for employee business expenses. In audits, most municipalities find serious issues with the employee business expenses stated on this form, as they either do not qualify as expenses, or no documentation exists to substantiate the expenses. A change to the treatment of employee business expenses would require legislation to change ORC 718.

Also, the ORC allows municipalities to allow a deduction for Health Savings Accounts (HSAs) and Medical Savings Accounts (MSAs). To date, only one municipality in Ohio has chosen to allow this deduction. For uniformity, these options should be eliminated, and would require legislation to change ORC 718 to implement.

Proposed Uniformity:

- Eliminate the deduction for Federal Form 2106 unreimbursed employee business expenses from offsetting employee wages.

- Eliminate the option of municipalities allowing deductions for Health Savings Accounts (HSAs) and Medical Savings Accounts (MSAs) against income of a sole proprietor.

Impact:
This eliminates a deduction currently allowed for individuals. For preparers, it provides ease of preparation. For municipalities, it provides fewer issues and conflicts with audits, as municipalities find a large number of 2106 Employee Business Expense forms filed with expenses that do not qualify, expenses that cannot be documented, expenses that are fabricated, or expenses that could have been reimbursed by the employer, eliminating them again from deduction on the form. Currently some municipalities limit the 2106 deduction by 2% of AGI (as deducted for federal purposes) and some municipalities allow the full deduction. The State of Ohio does not permit this deduction for State purposes. For the HSA deduction, only one municipality in Ohio currently offers the option to allow the deduction for the HSA deduction, so this would provide uniformity of application with no option.

Proposed Ordinance Language for Employee Business Expenses (Form 2106) cannot be drafted until statutory changes are made to ORC 718 accordingly.

Statutory language should be drafted to provide for the following changes in unreimbursed employee business expenses in Ohio Revised Code Section 718:

ORC 718.01 (E)(2) and (E)(3)
(E)(1) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from withholding and from a tax on income the following:

(a) Compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option; or

(b) Compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

~~(2) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who is an individual to deduct, in computing the taxpayer's municipal income tax liability, an amount equal to the aggregate amount the taxpayer paid in cash during the taxable year to a health savings account of the taxpayer, to the extent the taxpayer is entitled to deduct that amount on internal revenue service form 1040.~~ *Effective with tax returns filed on and after 1/1/2013, no municipality shall allow a deduction for an amount equal to the aggregate amount the taxpayer paid in cash during the taxable year to a health savings account of the taxpayer. Such deduction previously permitted if adopted by Ordinance of the municipality is terminated effective 12/31/2012.*

~~(3) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship to deduct from that net profit the amount that the taxpayer paid during the taxable year for medical care insurance premiums for the taxpayer, the taxpayer's spouse, and dependents as defined in section 5747.01 of the Revised Code. The deduction shall be allowed to the same extent the taxpayer is entitled to deduct the premiums on internal revenue service form 1040. The deduction allowed under this division shall be net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received by the taxpayer during the taxable year.~~ *Effective with tax returns filed on and after 1/1/2013, no municipality shall allow a taxpayer to deduct from net profit the amount that the taxpayer paid during the taxable year for medical care insurance premiums for the taxpayer, the taxpayer's spouse and dependents. Such deduction previously permitted if adopted by Ordinance of the municipality is terminated effective 12/31/2012.*

ORC 718.01(F)

(F) ~~If an individual's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, and against which a like deduction has not been allowed by the municipal corporation, the municipal corporation shall deduct from the taxpayer's taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction by the municipal corporation.~~ *Effective with tax returns filed on and after 1/1/2013, No individual shall be permitted to include a deduction for municipal purposes for deductions reportable on the taxpayer's form 2106 for federal purposes.*

XI. Net Operating Loss Carry-Forward Period

Current situation: Municipalities have the option to allow or not allow a net operating loss (NOL) carry-forward for business net profit income tax returns. In this region, most cities do not allow a net operating loss carry-forward. Across the State, 151 municipalities do not allow a NOL, so to require a municipality to adopt an NOL where one does not exist would be a serious revenue loss for each municipality. Cities have determined, based on the needs of their respective municipalities, what is the appropriate course of action in deciding whether to allow an NOL. This should remain an option for each municipality.

Proposed Uniformity:

- Narrow the categories of time during which a municipality can recognize NOL to zero, one, three, or five year net operating loss carry-forward (NOL)
- City Option: It will be a local discretion as to which of the four categories listed above a municipality may recognize.

Impact:
In Southwest Ohio, there should be no impact from the proposals above, as all offer an NOL in one of the four categories. Statewide, there is one municipality that recognizes two year NOL and one municipality that recognizes four year NOL.

Proposed Regional Ordinance Language:

A. *The Municipality is not required allow a net operating loss carryback or carryforward.*
    1. *The Municipality may, by Administrative Order or Ordinance, permit a 0, 1-, 3- or 5-year net operating loss carryforward.*
    2. *The net operating loss carryforward will be permitted for business entities only; an individual with Schedule losses may not carry such loss forward.*
    3. *The amount of loss to be carried forward shall be calculated using the apportionment formula, and only the apportioned loss shall be permitted to be carried forward. Any business entity return with an incomplete apportionment formula shall have any loss carryforward denied until such time that a complete return is submitted to the Municipality, subject to applicable statute of limitations.*

B. *Losses from federal schedules and other sources reported for federal income tax purposes cannot be used to offset qualifying wages, commissions, other compensation and other taxable income earned or received by residents or nonresidents of the Municipality.*
    1. *If an individual is engaged in two or more taxable and reportable business activities to be included in the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net profits or net operating loss.*
    2. *The offset is limited to:*
        a. *Like or same schedules may offset.*
        b. *Activity must be located within the same municipality or may be in a non-taxing*

jurisdiction.

c. *Schedules must be in the name of the same individual. In the case of rental property jointly owned, only the individual's portion of the schedule shall be considered when offsetting other qualifying schedules.*

This Proposed Regional Ordinance Language provides for a municipality to determine whether or not they will allow a loss carryforward, and restricts the options for the period allowable by Ordinance. It also provides for the proper apportionment of a loss to be carried forward, and provides that failure to provide such proper apportionment will result in the denial of the loss carryforward until such time that the proper apportionment is provided, subject to applicable statute of limitations.

The second section of this Proposed Regional Ordinance Language provides that no loss can offset qualifying wages, commissions, other compensation and other taxable income earned or received by residents or nonresidents of the Municipality, and provides restrictions under which schedules may be used to offset other schedules.

XII. Statute of Limitations

Current situation: When a tax matter is pending either through an administrative appeals process or through a judicial appeals process, the Statute of Limitations for pursuing legal action to collect may expire. In order to allow the taxpayer their right to appeal, and protect the municipality's right to collect after final determinations through the appeals or judicial process, the Statute should be "frozen" during this action, also known as 'tolling.' This change would require legislation to change ORC 718.

Proposed Uniformity:

When a tax matter is in an administrative or judicial appeal, deadlines or statute of limitations by which time a municipality can collect should be frozen or tolled.

Impact:

This is an administrative change that provides cases to move forward through the appeals process without losing the ability to collect because of the statute of limitations.

X

XIII. Alternative Assessment Procedure

Current situation: A Third Party Tax Administrator (in this region, Vandalia and Hamilton both collect tax for other municipalities) is required to pursue legal action on behalf of its member cities in each municipality's court system. This is very inefficient and time consuming process, and disincentivizes municipalities to regionalize its tax administration through collaborations and share service agreements. By contrast, the State of Ohio can currently file all actions in Columbus, even when the action is against a taxpayer in another part of the State.

Proposed Uniformity:

- Provide to third party administrators the same or similar elective assessment and collection procedure that state income tax administrators follow.

Impact:

This proposal should be revenue neutral. This provides an alternate method for third party administrators which may or may not be implemented, but would result in the ability to establish a procedure to file cases in one jurisdiction rather than multiple jurisdictions. For example:

  - o The City of Vandalia is a third party administrator. They could elect to follow this different alternative language so that they could file statutory liens in one court instead of multiple jurisdictions, where their city customers are located. This allows them to not have to travel from jurisdiction to jurisdiction to file legal matters. This language provides an option for third party administrators, but is not required.

XIV. Innocent Spouse Relief

Current situation: When a joint income tax return is filed, each spouse has equal responsibility to pay the debt and each can be pursued for collection of the debt. In the case of divorce or death, a surviving spouse may be left with a joint debt that was based on the other spouse's income. This provision would allow for the return to be "separated", and the surviving spouse would be relieved of responsibility for the other spouse's debt. Many municipalities in this region already administratively apply such a principle, but language would ensure this protection.

Proposed Uniformity:

- To provide in chapter 718 "innocent spouse relief", using language which is the same as the law for state income tax innocent spouse relief.
- This would allow the separation of a joint return in the case of either death or divorce when the innocent party may not have actual liability for tax, but there is an outstanding balance related to the other party.

Impact:

Revenue impact is minimal to municipalities, but provides relief for a spouse who may, through divorce or death, been left responsibility for a liability based on income they did not earn.

Proposed Ordinance Language for Innocent Spouse Relief cannot be drafted until statutory changes are made to ORC 718 accordingly, as ORC 718 specifically prohibits a municipality from exempting income from taxation, and a tax return filed jointly provides that both taxpayers can be held individually responsible for the liability on such return.

Statutory language should be drafted to provide for the following changes regarding injured spouse relief in Ohio Revised Code Section 718:

Injured Spouse Relief:

Where a joint municipal income tax return has been filed establishing a liability, and due to the death or divorce of one party to this tax return filing the remaining spouse is wholly responsible for any outstanding liability, a taxpayer may request that the jointly filed municipal income tax return be amended as two separate tax filings, separating all income and credits as previously reported on the return. This request shall be in writing, and shall state with specificity why the remaining spouse should be considered to be an injured spouse for purposes of this section. (A similar claim under Internal Revenue Code Section 6105 would be required as substantiation of this claim.) Such request must be made within ninety (90) days (or a timeframe determined to be reasonable by the tax administrator) after the death or divorce, and the taxpayer must provide documentation to support. The statute of limitations as provided for in this Section for the collection of an unpaid liability shall be suspended through the duration of this process (beginning with the taxpayer notification in writing to the tax administrator), and duly documented, and begin again with the date of the amended return for purposes of collection of any unpaid liability on behalf of the remaining spouse. Estimated tax payments that may have been included with the original filing shall be credited against all outstanding liability for both spouses, allocated proportionally.

XV. Penalty & Interest

Current situation: Each municipality can determine penalty, interest and late filing penalty rates. These rates vary not only throughout the region, but across the State.

Proposed Uniformity:

- Standardize uniform penalty and interest charges to be utilized by municipalities for the late payment of outstanding local individual and business taxes.
- The interest rate may be tied to an index to allow for consistent rates to be charged and the penalties will be punitive enough to provide the incentive to file and pay timely. An option may be provided for waiver of penalty under extenuating circumstances that can be documented. An example uniform P & I provision might look like the following:
    - Interest: On any outstanding tax due (including employee withholding, balance due on net profit income tax return for business, balance due on individual income tax return, underpayment of estimated tax due) = Federal short term rate plus 3%, to be updated annually (effective 1/1 of each year) but published by each municipality no later than November 30th for the next calendar year. (The Federal short term rate is the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, and updated annually.)
    - Penalty: For failure to pay employee withholding tax due or to underpay withholding tax due, the penalty is 50% of the tax remaining unpaid after the due date. Employee withholding tax is to be held in trust by an employer. This penalty shall be punitive in nature, as the funds do not belong to the employer.

- Penalty: For failure to pay the balance due on an income tax return filing for a business or individual, and for underpayment of estimated tax due, the penalty is 25% of the tax remaining unpaid after the due date.
- Late filing penalty: A late filing penalty shall apply to any filing which is received after the due date, regardless of whether or not a liability is shown. The penalty is $25.00 per month for each month that the filing is not remitted, not to exceed $300.00 for each failure.

Impact:
Provides consistency in application of penalty and interest rates throughout the region, provides the ability for tax preparers to calculate penalty and interest on returns filed after the due date, no calculable impact to revenue.

Proposed Ordinance Language for penalty and interest rates, including late filing penalties would appear as outlined above, and the Tax Administrator would be granted authority, upon good cause shown, to make abatement of all or part of the penalty and interest assessed.

Proposed additions to 718 regarding penalty and interest are as shown above.

XVI. Other Proposed Regional Ordinance Language Items

Raise the minimum final tax liability amount due and refund amount to a consistent regional amount of $5.00.

Proposed Regional Ordinance Language:

A. *Payments with Returns. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:*
   1. *Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section ________; and*
   2. *Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section _______; and*
   3. *Credit to the extent allowed by Section __________ for tax paid to another municipality.*

   Subject to the limitations contained in Section ______ of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code may have such overpayment applied against subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars ($5.00) shall be collected or refunded.

X **Cities may require electronic funds transfer of withholding payments.**

A. *The Tax Administrator may determine, by Administrative Rule or Ordinance, that withholding payment remittance be required by electronic funds transfer, or other electronic method.*

All municipalities will tax lottery / gambling / games of chance, etc.

1. *On all income derived from anywhere from prizes, awards, gaming, wagering, lotteries, gambling, or schemes of chance by a resident, and on all income derived from prizes, awards, gaming, wagering, lotteries, gambling, or schemes of chance by a nonresident when such income is won or received from sources within the Municipality.*

Minimum Age to pay tax: Age 16.

Exclusions from municipal taxation:

1. *Personal earnings of all persons under sixteen (16) years of age.*

X **Municipal Taxation on covenants not to compete and cancellation of indebtedness.**

1. *On covenants not to compete and on cancellation of indebtedness to the extent includible on the taxpayer's federal return.*

Self Employment (SE) Tax.

Self employment tax (SE Tax) is a Social Security and Medicare tax primarily for individuals who work for them selves. Small business owners pay this tax into the Social Security system to provide with retirement benefits, survivor benefits and Medicare benefits.

½ Self Employment tax is allowed as a deduction from the Adjusted Gross Income on the federal return. As AGI is the basis for State Return this deduction is part of various allowable expenses.

<u>Current Situation</u>

Prior to 2004 some cities in the South West Ohio Region allowed this as an allowable deduction from the reported income of Schedule C for City Income tax

<u>Proposed Uniformity</u>

Allow ½ Self Employment tax to be deducted from the City portion of income per Schedule SE.

Statutory language should be drafted to provide for the following changes to allow an option to allow ½ SE tax deduction in Ohio Revised Code Section 718:

> ½ SE Tax Deduction:
> For purposes of determining reportable and taxable Schedule C net profit, a municipality may choose to allow, by Ordinance, a deduction for ½ Self Employment Tax Deduction, as taken as an adjustment to federal taxable income from Form 1040, however, nothing shall require a municipality to allow such deduction.

<u>Impact</u>

This will impact revenue.

CITY OF OXFORD
STAFF SUMMARY REPORT

Report to the City Manager

Clerk of Council
Originating Department

Council Meeting Of: July 17, 2012

Mary Ann Eaton
Prepared By

Account Code No. #: N/A

Budgeted Amount: N/A

June 27, 2012
Date Prepared

Agenda Title: A Resolution authorizing a temporary abatement of the Noise Ordinance No. 2550, Section 509.09, on Friday, September 7, 2012, from 8:00 p.m. to 12:00 a.m. on the patio at the Shriver Center on Miami's campus for the annual party on the patio sponsored by Miami Entertainment.

Recommendation: N/A

Discussion: This request is for the Miami Entertainment sponsored party. Council has approved this request for several years.

Approved By:

	Initial	Date
Department Head:		
City Attorney:		
City Manager:	DRE	7/12/12

RESOLUTION NO.

A RESOLUTION AUTHORIZING A TEMPORARY ABATEMENT OF THE NOISE ORDINANCE NO. 2550, SECTION 509.09, ON FRIDAY, SEPTEMBER 7, 2012, FROM 8:00 P.M. TO 12:00 A.M. ON THE PATIO AT THE SHRIVER CENTER ON MIAMI'S CAMPUS FOR THE ANNUAL PARTY ON THE PATIO SPONSORED BY MIAMI ENTERTAINMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: The City Manager and Police Chief recommend a temporary abatement of the Noise Ordinance No. 2550, Section 509.09, for a Miami Entertainment sponsored party on Friday, September 7, 2012 from 8:00 P.M. to 12:00 A.M. on the patio at the Shriver Center on Miami's campus in accordance with the provision in the Noise Ordinance No. 2550, Section 509.11 Exceptions to Noise Restrictions, Section G: "Noises resulting from authorized public activities such as parades, fireworks, sports events, musical productions and other activities which have the approval of the City of Oxford, Ohio."

SECTION 2: Council having reviewed the recommendation and finding this to be a community event hereby authorizes the City Manager to issue a temporary abatement of the Noise Ordinance.

SECTION 3: The City Manager is hereby authorized to approve a temporary abatement of the Noise Ordinance No. 2550 Section 509.09 for the 17th annual party on the patio sponsored by Miami Entertainment from 8:00 P.M. to 12:00 A.M. on the patio at the Shriver Center on Miami's campus.

SECTION 4: This resolution shall take effect at the earliest date allowed by law.

____
MAYOR

ADOPTED:

ATTEST:

____
CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

MIAMI UNIVERSITY
1809 • 2009

OFFICE OF OFF-CAMPUS AFFAIRS/ MIAMI TRIBE RELATIONS
513-529-2268

To: **City Manager for City Council consideration**

From: **Office of Off-Campus Affairs**

Re: **Fall 2012 Noise Abatement Requests**

Date: **June 15, 2012**

Two noise abatement requests are submitted for activities this fall.
These are the same events that have been approved for abatements in the past.

1. WELCOME CONCERT
   Friday, August 18, 2012 8:00 pm – midnight
   Location: Yager Stadium

   2011: 8/19/11 8:30 pm – 1 am
   2010: 8/20/10 8 pm – 1 am
   2009: 8/21/09 8 pm – 12 am
   2008: 10 pm – 1 am

2. PARTY ON THE PATIO
   Friday, September 7, 2012 8 pm - midnight
   Location: Shriver Back Patio

   2011: 9/ 16/11 9 pm – 1 am
   2010: 9/18/10 9 pm – 1 am
   2009: 9/18/09 10 pm – 2 pm
   2008: 10 pm – 2 am

CITY OF OXFORD
NOISE ABATEMENT APPLICATION

EVENT INFORMATION:

DATE REQUESTED FOR NOISE ABATEMENT : September 7, 2012

FROM: 8:00 a.m. p.m. TO: 10:00 a.m. p.m.

ACTIVITY/EVENT TO BE UNDERTAKEN:
Annual Party on the Patio Concert

LOCATION (attach copies of paperwork showing approval to use site):
Shriver Center Back Patio

NUMBER OF PEOPLE EXPECTED TO ATTEND: 1500

OPEN TO PUBLIC	YES	NO
ALCOHOL AVAILABLE	YES	NO

TYPE OF SOUND EQUIPMENT TO BE USED:
Professional Sound Equipment

SOUND MONITORING PLANS (including person in charge of this process):
Sound monitors make sure sound doesn't travel past area

APPLICANT ORGANIZATION INFORMATION:

NAME OF ORGANIZATION: Miami Entertainment

ADDRESS: 365 Shriver Center

Is this a registered student organization at Miami University? Yes

INDIVIDUAL INFORMATION (RESPONSIBLE PARTY, MUST BE OVER 18 yrs.):

NAME OF CONTACT PERSON: JS Bragg

ADDRESS: 356 Shriver Center TEL. #: 513.529.7127

What is the contact person's relation to the organization (title, etc.)?
Advisor

ATTACH EXTRA PAGES IF THE SPACE PROVIDED ABOVE IS INSUFFICIENT AND ATTACH ANY SUPPLEMENTAL DOCUMENTATION THAT MAY BE OF RELEVANCE.

I have read and understand the rules, conditions and laws applicable to the waiver of the noise ordinances, and understand that acceptance of them is a condition of approval. I hereby certify that the event/activity, which is the subject of this application will be open to the public and alcohol free.

Applicant's signature ____________ Date: 6/7/12