



Agenda

Oxford City Council

Court House

TUESDAY, DECEMBER 2, 2008

EXECUTIVE SESSION

7:15 P.M.

1. Roll Call. Prudence Z. Dana, Mayor; Ken Bogard, Vice-Mayor; Doug Ross; Kate Currie; Alysia Fischer; Richard Keebler; Greig Rutherford

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: (1) Comments on items not on the Agenda, and Consent Agenda items, will be heard under Public Comments – and (2) Comments on all Resolutions and Ordinances will be heard during Council consideration of said item. Please wait until you are recognized by the Mayor, proceed to the podium, state your name and address so that your comments may be properly recorded and limit your remarks to a period of five minutes or less.

REGULAR MEETING

7:30 P.M.

PLEDGE OF ALLEGIANCE

2. Approval of Agenda.

This facility is wheelchair accessible. If you plan to attend this meeting and you have a disability that requires special arrangements, please notify the City Manager's office 48 hours in advance so that reasonable accommodations can be made.

3. Public Participation.

A. Presentation- Share-Fest - Carol Michael

B. Public Comments

The purpose of the Public Comments Section is for members of the Public to speak to the City Council on any subject not scheduled on the Agenda, except Consent Agenda items. City Council values your comments, and Council rules limit public comments to five minutes for each person. Presentations are not to be in the form of public debate, personal attacks on Council, City staff or other members of the public and Council shall not act except to direct the City Manager to take action or schedule the matter for discussion at a later date.

4. Consent Agenda.

A. Minutes of the November 18, 2008 City Council Meeting. (Mary Ann Eaton, Deputy Clerk of Council)



11/18/08 Council Minutes

B. Report regarding the November 11, 2008 Planning Commission Meeting. (Jung-Han Chen, Community Development Director)



Planning Commission Report

5. Resolutions.

A. None.

6. Ordinances. - Ordinances are adopted using a two-step procedure. First reading introduces the Ordinance and provides an opportunity for public input on the subject as well as allowing Council to request more information as needed. Second reading is to provide Council with the opportunity to consider new information and to deliberate.

A. First Reading.

1. An Ordinance Amending Ordinance No. 2990. Supplemental Budget Ordinance No. 6 To Make Supplemental Appropriations For Fiscal Year 2008. (Joe Newlin, Finance Director)



Staff Report/Ordinance

2. An Ordinance Approving A Conditional Use Permit For Residential Land Use In The Basement Of A Proposed Mixed Use Building In The Uptown Zoning District At 18 South Poplar Street. (Jung-Han Chen, Community Development Director)



Staff Report/Ordinance

B. Second Reading.

1. An Ordinance Accepting The Planning Commission's Recommendation To Deny A Zoning Map Amendment For Property Located At 22 North College Avenue, Oxford,

Ohio Rezoning The Property From RO (Office Residential) District To UP (Uptown) District. (Jung-Han Chen, Community Development Director)



Staff Report/Ordinance

2. An Ordinance Repealing Zoning Code Section 1139, Variances, And Adopting New Section 1139, Variances. Jung-Han Chen, Community Development Director) (Tabled).



Staff Report/Ordinance

3. An Ordinance Repealing Oxford Code Of Ordinances Section 351.06 And Adopting New Oxford Code Of Ordinances Section 351.06; Titled "Selling, Washing, Or Repairing Vehicle Upon Roadway Or On Private Property Open To Public Travel". (Steve Schwein, Police Chief) (Tabled).



Staff Report/Ordinance

4. An Ordinance Repealing Oxford Code Of Ordinances Section 351.13 And Adopting New Oxford Code Of Ordinances Section 351.13; Titled "Parking In Excess Of 72 Hours Prohibited". (Steve Schwein, Police Chief) (Tabled).



Staff Report/Ordinance

7. Announcements and Communications. The comments expressed by individual members of Council or City staff during the ‘Announcements’ portion of a City Council meeting do not necessarily reflect the views of the City of Oxford, The Oxford City Council, or the City staff.

A. Announcements. 1. Remarks from City Council and City staff.

B. Future Meetings (Note: Meetings will be held at the Court House unless otherwise indicated.)

WED - Dec 3 Historic and Architectural Preservation Commission Meeting 7:30 p.m.

THUR - Dec 4 Finance Commission Meeting 5:30 p.m. Municipal Building 2nd Floor Conference Room

TUES - Dec 9 Records Commission Meeting 5:30 p.m. Municipal Building 2nd Floor Conference Room

TUES - Dec 9 Planning Commission Meeting 7:30 p.m.

THUR - Dec 11 Recreation and Tri Board Joint Meeting 12:00 p.m. LCNB 2nd Floor Community Room

THUR - Dec 11 Police Advisory Board 7:00 p.m. Senior Citizens Center

MON - Dec 15 Housing Advisory Commission 7:00 p.m. Municipal Building 2nd Floor Conference Room

TUES - Dec 16 City Council Meeting 7:30 p.m.

WED - Dec 17 Environmental Commission Meeting 7:00 p.m. Municipal Building Second Floor Conference Room

WED - Dec 17 Board of Zoning Appeals Meeting 7:30 p.m.

FRI - Dec 19 Community Improvement Corporation Meeting 12:00 p.m. LCNB 2nd Floor Community Room

WED - Dec 24 Civil Service Commission Meeting 7:00 p.m.

THUR - Dec 25 Holiday - City Office Closed

FRI - Dec 26 Holiday - City Offices Closed

THUR - Jan 1 Holiday - City Offices Closed

TUES - Jan 6 City Council Meeting 7:30 p.m.

WED - Jan 7 Historic and Architectural Preservation Commission Meeting 7:30 p.m.

TUES - Jan 13 Planning Commission Meeting 7:30 p.m.

THUR - Jan 15 Police Advisory Board Meeting 7:00 p.m. Senior Citizens Center

MON - Jan 19 Housing Advisory Board Meeting 7:00 p.m. Municipal Building 2nd Floor Conference Room

TUES - Jan 20 City Council Meeting 7:30 p.m.

8. Adjourn

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Finance
Originating Department

Council Meeting Of: 12/02/08

Joe Newlin
Prepared By

Account Code No. #: see below

Budgeted Amount: _____

11/20/08
Date Prepared

Agenda Title: 2008 SUPPLEMENTAL BUDGET #6

Recommendation: Approve

Discussion:

Supplements to the 2008 Budget

Storm Water Utility Fund

Reinstate appropriation 13,839.00

Submitted a reduction in supplemental #5 erroneously, need to reinstate appropriation.

Transfer to Storm Water Fund 13,839.00

Transfer needed from the General Fund to cover the fund balance available for appropriation next year.

General Fund

Transfer to Storm Water Fund 13,839.00

Transfer needed to cover the fund balance available for appropriation next year.

Approved By:

Department Head:
City Manager:

Initial Date

[Signature]
11/20/08

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 2990. SUPPLEMENTAL BUDGET ORDINANCE NUMBER 6 TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008.

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

SECTION 1: Additional appropriations are needed for the current fiscal year and monies are available for appropriation in those funds, and changes to estimated revenues;

SECTION 2: The following increase/(decrease)in estimated revenues be made:

STORM WATER FUND 351	13,839.00
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SECTION 3: The following increase/(decrease)in appropriations from unencumbered balances be made:

GENERAL FUND 110	13,839.00
STORM WATER FUND 351	13,839.00

SECTION 4: The following transfers be executed:

Transfer from:	
GENERAL FUND 110	13,839.00

Transfer to:	
STORM WATER FUND 351	13,839.00

SECTION 5: In all other respects, Ordinance No. 2990 shall remain in full force and effect.

SECTION 6: This ordinance shall take effect immediately upon its adoption.

MAYOR

ADOPTED: _____

ATTEST:

DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)

**CITY OF OXFORD
STAFF SUMMARY REPORT**

Report to the City Manager

Community Development Department
Originating Department

Council Meeting Of: December 2, 2008

Jung-Han Chen

Account Code No. #:

Prepared By

Budgeted Amount:

November 17, 2008

Date Prepared

Agenda Title:	PC-25-2008 Conditional Use Application to Permit Residential Dwellings in the Basement of a Proposed Mixed-Use Building, Kathy Albrecht, Applicant
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Recommendation:	Approval
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Discussion:

This application is to seek a Conditional Use Permit to allow residential dwellings in the basement of a proposed mixed-use building. The Planning Commission held a public hearing on November 11, 2008 to consider this request. The Commission discussed at length the use of a basement for dwelling purposes and the safety and maintenance aspects of this application, specifically regarding the window wells. At the end, the Commission voted 5-2-0 to recommend approval of this application to permit residential dwellings in the basement, subject to the follow conditions:

1. A variance must be obtained from the BZA waiving the loading space requirement for non-residential use.
2. That, a clear trash collection facility must be shown prior to the permit being granted and that the ground floor window wells shall remain free from obstructions and trash.
3. That, approval from the HAPC is required for the exterior appearance.
4. That, a detailed landscaping plan shall be provided prior to a construction permit being issued.

Approved By:	Department Head:	Initial	Date
	City Attorney:	<u>JHC</u>	<u>11/21/08</u>
	City Manager:		

ORDINANCE NO.

ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR RESIDENTIAL LAND USE IN THE BASEMENT OF A PROPOSED MIXED USE BUILDING IN THE UPTOWN ZONING DISTRICT AT 18 SOUTH POPLAR STREET.

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 1129.12 on November 11, 2008 for the purpose of considering case number PC-25-2008 the request of Uptown Real Estate LLC, Applicant, for a conditional use permit for residential land use in the basement of a proposed mixed use building in the Uptown Zoning District at 18 South Poplar Street.

SECTION 2: The Planning Commission, after a public hearing and discussion, voted and approved a motion recommending approval of the conditional use application for residential land use in the basement of a proposed mixed use building in the Uptown Zoning District at 18 South Poplar Street with the following condition:

- a. A variance must be obtained from the BZA waiving the loading space requirement for non-residential use.
- b. A refuse collection facility must be shown prior to the building permit being issued and the ground floor window wells shall remain free from obstructions and refuse.
- c. Approval from the HAPC is required for the exterior design.
- d. A detailed landscaping plan shall be provided prior to a construction permit being issued.

SECTION 3: Council having considered the decision standards in Oxford Codified Ordinance Section 1147.02 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 residential land use in the basement of a proposed mixed use building in the Uptown Zoning District with conditions at 18 South Poplar Street.

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

MAYOR

ADOPTED: _____

ATTEST:

DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

Certification of Action Oxford Planning Commission Recommendation to City Council

<u>Report Date</u>	December 2, 2008
<u>Case Number</u>	PC-25-2008
<u>Applicant Information</u>	Kathy Albrecht, Applicant
<u>Requested Action</u>	Conditional Use
<u>Summary of Request</u>	To allow for residential dwellings in the basement of a mixed-use building.
<u>Public Hearing Information</u>	On November 11, 2008 a public hearing was held at 118 West High Street. A legal notice of the hearing was published in the Oxford Press on October 10, 2008.
<u>Commission Action</u>	The Planning Commission voted 5-2-0 to recommend to City Council <i>APPROVAL</i> of the Conditional Use with conditions.
<u>Commission Findings and Conclusions</u>	At the November 11, 2008 meeting, the Planning Commission approved the Conditional Use with the following conditions: 1. A variance must be obtained from the BZA waiving the loading space requirement for non-residential use. 2. That, a clear trash collection facility must be shown prior to the permit being granted and that the ground floor window wells shall remain free from obstructions and trash. 3. That, approval from the HAPC is required for the exterior appearance. 4. A detailed landscaping plan shall be provided prior to a construction permit to be issued.
<u>Exhibits Submitted to the Commission</u>	1. Staff Report dated November 11, 2008 2. Interoffice Review Transmittal Sheets from Fire, Engineering, Police & Economic Development 3. Conditional Use Permit Application 4. Legal Description 5. Site Plan, Vicinity Map 6. Street Elevation 7. Floor Plans of the Basement, First Floor, Second and Third Floors 8. Photographs

City of Oxford
Community Development Department
STAFF REPORT

Planning Commission

Case # PC-25-2008

Date – November 11, 2008

APPLICATION

Applicant:	Kathy Albrecht
Location:	18 S. Poplar Street
Owner:	Uptown Real Estate LLC.
Action Request:	Conditional Use Application to permit residential dwellings in the basement of a mixed-use building
Current Use:	Vacant lot
Surrounding Existing Land Uses:	Multi-family building, religion center, food service/bar

DESCRIPTION

The Applicant seeks a Conditional Use Permit to establish a residential use in the basement of a proposed mixed-use building. The proposed structure would be a (6) dwelling unit, three stories high from the street level. Two basement units would be two-bedroom units. There will also be commercial space on the first floor and 3-bedroom units on the second and third floors. The subject property is located on Poplar St, across from the Municipal Building and St. Mary's Parish Center. The proposed building would cover the entire lot, excluding the vacated right-of-way.

The lot itself is approximately 3,653 sq. ft. in size. The size of the two-bedroom dwelling units in the basement is over 1,000 sq. ft. The three-bedroom dwelling units on the upper floors are approximately 1,260 sq. ft. There will be some landscaping showing on the submitted site plan in front of the proposed building.

SURROUNDING NEIGHBORHOOD

The municipal zoning in the vicinity of this site is "UP" Uptown District.

ZONING CODE REGULATIONS

Conditional Use

The purpose of Conditional Use regulations is outlined in Section 1147.02(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."

Section 1143.10(b)(2)(C)(1) Conditional Use in the UP District:

Staff Finding: Any combination of dwelling types as defined in Section 1159.05(8) A through E, on the first floor or basement are specifically listed as a Conditional Use in the UP District.

Section 1143.10(C)(1)(B) Uptown District Site Development Regulations: Minimum lot area per dwelling unit allows a certain number of dwelling types based on the lot area. For each two-bedroom dwelling, there shall be a minimum of 500 sq. ft., whereas there shall be a minimum of 600 sq. ft. of lot size for each three-bedroom dwelling.

Staff Finding: Based on the required lot area for a two and three-bedroom dwelling unit, a lot of approximately 3,600 sq. ft of area would allow for the arrangement of 2 two-bedroom and 4 three-bedroom dwelling units.

Section 1143.10(c)(3)(B) (1) Gross Floor Area Ratio: The Maximum permitted gross floor area ratio of a structure at or above grade in the Uptown District shall be three (Lot area X 3= total bldg. sq. ft.).

Staff Finding: Based on this formula, the maximum gross floor area shall not exceed 10,959 sq. ft. The proposed building at or above grade is approximately 8,788 sq. ft.

Section 1143.10(c)(3)(B)(1)(b) Residential space shall provide a maximum ratio of 2:1 of the lot area.

Staff Finding: *The total allowable residential floor area shall not exceed 7,306 sq. ft. The proposed residential structure will have a total of 7,154 sq. ft. of floor area that is within the allowable residential square footage.*

Section 1143.10(c)(B)(1)(C) Minimum Floor area per dwelling unit: 1,000 sq. ft. floor area for 2-bedroom dwelling unit, 1,200 sq. ft. for 3-bedroom dwelling unit.

Staff Finding: Based on the submittal, the proposed dwelling units for a 3-bedroom dwelling is over 1,200 square feet; the proposed 2-bedroom dwelling is over 1,000 sq. ft.

Section 1147.03 Use Specific Regulations & Potential Concerns.

Staff Finding: This section does not contain any language pertaining to utilizing the first floor as a dwelling unit in the Uptown District.

Section 1149.05(e)(2)(A)(1) Loading Spaces: One loading space shall be required for all non-residential and for residential uses with greater than three dwelling units.

Staff Finding: The proposed site development does not show any provision for a loading space for non-residential use.

Section 1141.04(j) (2) A trash collection facility shall include a large container such as dumpster or a small container such as a garbage can..... No trash collection facility shall be stored in the front yard and shall conform to side and rear yard pavement setbacks of the applicable zoning district.

Staff Finding: There were no provisions made on the submittal indicating a trash collection facility for non-residential/residential use. The proposed building would cover the entire site and would leave no area for a trash collection facility.

COMPREHENSIVE PLAN

The Housing Chapter and the Uptown Subarea of the 1998 Comprehensive Plan prescribes the development focus of this general area.

3. Improve Rental Housing

Rental housing should be improved, ensuring quality living environments that are not overcrowded, do not generate excessive noise and trash, and provide positive contributions to the Oxford community. New housing alternatives would provide a market-oriented improvement by generating competition, which should reduce costs and improve living conditions citywide due to enhanced competition among landlords. Equally important is the increase in renter participation in monitoring the quality of their neighborhoods through a partnership with the City.

Housing Strategies

A. Improving and expanding code enforcement.

See Housing, Objective I, Strategy C and Urban Design, Objective I, Strategy C.

B. Facilitating new housing alternatives.

New residential development that is intended to serve the student housing market should be considered and should include small-scale commercial activities that will support the local population. The City could facilitate private investment by marketing such areas to potential developers, facilitating infrastructure improvements and providing an appropriate zoning density incentive. One example is the Brown Road neighborhood which has begun to develop as an alternative location for students due to its close proximity to the University.

Implementation: Planning Department, Engineering Department, City Manager and City Council

Timeframe: Mid Term

C. Increasing student involvement in neighborhood stabilization.

One proven strategy in stabilizing neighborhoods is gaining involvement by stakeholders. The City should recruit and organize student groups into a neighborhood watch program that would focus on issues of safety and security, housing maintenance and waste management. Neighborhood cleanup campaigns would be beneficial as well, perhaps scheduled on a quarterly basis. The groups would monitor specific blocks and report problems to a City official who would coordinate the program and handle enforcement follow-up activities.

See Housing, Objective I, Strategy C and University and Community, Objective 2, Strategy C.

Implementation: Planning Department, Service Department and Miami University

Timeframe: Mid Term

D. Investigating a Density Transfer Program.

In general, population densities should be reduced in the Mile Square, with the exception of High Street. The City should investigate the potential of creating a program that permits the transfer of density from one area of the City to areas of Oxford where higher densities are appropriate (receiving zones) based on the Land Use Element. Under the program, the City would acquire densities from potential homeowners (by purchasing the value of occupants) and hold those in a bank, to be purchased by future builders with projects in specific locations. As an example, one benefit of such a program would be to provide a market-oriented means of reducing population density where desired. Examples of density transfer programs can be seen in Boulder, Colorado and Montgomery County, Maryland.

Implementation: Planning Department, Planning Commission and City Council

Timeframe: Mid Term

5. Uptown Subarea

A. Concerns

Uptown is the City's historic downtown and its central business district. However, several factors have come together to create a single-use business district in Uptown, which is strongly geared towards the Miami University student body. Diversifying the business base in Uptown would strengthen it as a business district and would meet the needs of a larger market – the greater Oxford community. From a functional standpoint, reducing or eliminating most truck traffic would provide a far more pleasant and safe environment. Likewise, improving the availability of off- and on-street parking in Uptown would improve accessibility for drivers.

B. Strategies

1. Encouraging higher density new construction where appropriate to provide new space for businesses. Higher density new construction should be encouraged where appropriate to provide new space for businesses. Uptown itself cannot grow horizontally without affecting adjacent residential

neighborhoods. New construction should be consistent with Uptown's historic physical character (e.g. building height, setback, design, fenestration, materials, etc.).

2. Focusing new development, reinvestment and redevelopment on primarily mixed uses, combining ground floor retail with upper story offices and housing.
3. Encouraging where feasible, retail activity on sidewalks, especially outdoor seating areas for restaurants.
4. Providing technical assistance and coordination through a small business advocate (e.g. City, chamber or other) to strengthen local businesses and improve survival rates among new start-ups. Such an advocate could be a City economic development coordinator or be staffed at the Chamber of Commerce. Another option would be the establishment of a Main Street program based on the *National Trust for Historic Preservation* model.
5. Considering the establishment of an Uptown Business Improvement District (BID) to provide enhanced services that would strengthen the district.
See Urban Design and Economic Development elements.

COMMENT

Citizen Comments: No public comments have been submitted for this project.

Agency Comments: Police Department, Fire Department and Engineering had no comments
Economic Development Director provided comments and is included in the agenda.

DECISION CRITERIA

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

ANALYSIS

The current site is a vacant lot. It is encouraging to see a redevelopment effort being proposed to build a mixed-use building. However, several issues that need addressed for this Conditional Use application to be conforming to the current UP regulations are:

1. There is no trash collection facility shown on the site plan.
2. There is no provision for a loading space for the proposed development.

Additionally, the site is located within the Uptown Historic District; a review by the HACP on the design appearance is required. Furthermore, a detailed landscaping plan shall be provided for the vacated right-of-way.

RECOMMENDATION

Several conditions need to be met should the Planning Commission makes a positive recommendation to the requested conditional use application.

1. That, a clear trash collection facility must be shown prior to the permit being granted.
2. That, approval from the HAPC is required for exterior appearance compatibility with the surrounding properties.
3. A detailed landscaping plan shall be provided prior to a construction permit to be issued.

SUBMITTED

BY:


Jung-Han Chen, Director
Community Development Department

DATE: November 11, 2008

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 negatively affect 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: 10/10/2008

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-25-2008

Description:

PC-25-2008 **CONDITIONAL USE, 18 S. Poplar Street, mixed use building, to permit commercial on first floor, residential in the basement and second and third floors, Uptown Real Estate LLC, Owner, Applicant**

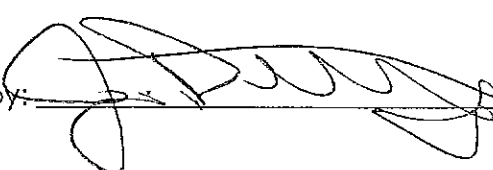
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **11/4/2008** 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: 

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/10/2008

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

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Case #: PC-25-2008

Description:

PC-25-2008 **CONDITIONAL USE**, 18 S. Poplar Street, mixed use building, to permit commercial on first floor, residential in the basement and second and third floors, **Uptown Real Estate LLC, Owner, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **11/4/2008** 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: _____

A. Johnson 10-30-08

Drawings reviewed by: _____

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/10/2008

To: Fire Department Engineering Division Police Department Economic Development

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 X Review Revisions Other

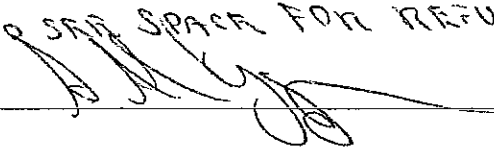
Comments or status update requested by: Lynn Taylor

Please return no later than: **11/4/2008** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

PROVIDING THE FIRST FLOOR REMAINS COMMERCIAL,
THE ECONOMIC DEVELOPMENT DEPARTMENT HAS NO COMMENT
CONCERNING THE USE OF THE BASEMENT AS RESIDENTIAL.
I WOULD LIKE TO SEE SPACE FOR REFUSE CONTAINERS.

Drawings reviewed by: 

Case No.: DC-25-08
Date Filed: 9/26/08

Conditional Use Permit Application
City of Oxford, Ohio

REQUIRED INFORMATION (print clearly)

Name of Applicant: Uptown Real Estate LLC
(Attach a letter of agency if the applicant is not the property owner.)
Mailing Address: 4600 Mason Montgomery Road, Mason OH 45040
Telephone Number(s): (513) 923-5452
Location of Property: 18 S. Poplar Street, Oxford OH
Legal Description: Lot #3635
Zoning District: Uptown
Total Area: 3,653 Acres Square Feet (circle one)
Existing Use: Vacant
Proposed Use: Multi-use: Commercial 1st Floor; Residential - Basement, 2nd & 3rd Floors

SUBMISSION REQUIREMENTS

The required fee of **\$400.00**, 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 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 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 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.

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.

NOTE: 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.

Kathy Albrecht
Signature of Applicant
For: Uptown Real Estate LLC

Kathy Albrecht
Printed Name

Date: 7/25/09.

FEE / RECEIPT

\$400 Fee Paid / Receipt Number: 14141

KENNETH R. BOWERMAN, ARCHITECT, INC.

September 25, 2008

City of Oxford
101 East High Street
Oxford, Ohio 45056-1887

Re: Conditional Use Permit Application
18 S. Poplar Street

To Whom It May Concern:

Accompanying this letter please find copies of the required documents for submission for a conditional use permit request to allow Residential use in the basement of the proposed building at 18 S. Poplar Street, Oxford, Ohio. Documents attached are Site Plan, proposed front elevation and floor plans for the building, photographs of the existing site, legal description of the site and a list of the names and addresses of all land owners within 200 feet.

For your review and as required the following is a description of use and site:

1. The Owner and applicant is Uptown Real Estate LLC, 4600 Mason Montgomery Road, Mason, Ohio 45040; phone number (513) 923-5452.
2. The applicant is the Owner.
3. The subject property is 18 S. Poplar St., Lot #3635, legal description attached.
4. The existing site is a vacant parcel located between a residential multi-family building and a restaurant.
5. The site in question lies entirely within the Uptown District
6. The proposed use of the site is a multi-use building consisting of residential units for rent on the 2nd and 3rd floors and basement of the building with vacant "shell" space for commercial use on the first floor. We would expect the tenant for the commercial space to be a service type use such as offices, insurance company, travel agent or similar and not a high traffic retail store as may be found on High Street.
7. The proposed uses are consistent with the Comprehensive Plan and provide a good transition from the intensity of the retail areas and the pure residential neighborhoods. The building has been designed to fit in and complement the surrounding buildings and character of the area. There will be no operation at this location that will provide any nuisances nor will the building and its tenants have any negative impact on the adjacent properties.
8. The proposed building has been designed specifically to fit this area with its appearance and use and is therefore more appropriate here than say a pure retail or residential neighborhood.
9. The proposed use will clean up a vacant lot, fulfill the objectives of the Comprehensive Plan and provide for additional space for service oriented type business for the downtown area.
10. There are no stated potential concerns for a residential use in this area in fact residential uses are a permitted use but only on the second floor and above.
11. A list of the names and addresses of all land owners within 200 feet of the site is attached.
12. Additional information will be provided as required and needed.

As requested on the application for Conditional Use Permit, the following is a statement describing how the proposed Conditional Use meets the Decision Standards of the Uptown Zoning district:

- A. In accordance with section 1143.10 (b) (2) (C) of the City of Oxford Zoning Code; residential uses are permitted on the first floor or basement subject to review and regulation.

- B. The use on this site will satisfy the intent of the zoning code in all respects. The uses as shown are permitted within the district and the only request is to allow a portion of the residential use to be located in the basement. The total area of the residential use proposed is within the maximum allowable area in accordance with the Code (2 x lot area)
- C. The use and development of the site are compatible with the intent of the Comprehensive Plan by maintaining the first floor professional and/or personal service or retail service space, providing additional residential units, and providing a smooth transition between districts and neighborhoods.
- D. The size and shape of the site as shown is sufficient for the proposed uses. There are no variances required for setbacks, encroachment into the vacated right of way or square footage allowances.
- E. Given the low intensity of use and the proposed nature of the tenants, there will be no hazardous or disturbing use to the neighbors; we are in fact providing an additional buffer to the differing uses.
- F. The proposed residential use and the professional type proposed tenant in the commercial space will involve no activity that will be detrimental due to the excessive production of traffic, noise, smoke, fumes, glare, odors, or other emissions.
- G. All accessory uses will be directly for the use and benefit of the permitted uses and not be independent of the principal use.
- H. There are adequate services available for the proposed uses.
- I. The development of the site will not require substantial public expenditure for infrastructure or services.
- J. As shown in the site plan, floor plans and more importantly the front elevation for the proposed building, the facility shown is most sympathetic to the surrounding buildings and character of the area and neighborhood. The building has the appearance of an existing downtown area building with the commercial first floor with the cut stone detailing and the upper floors of the building finished with traditional brick in shape, size and color.
- K. There is no proposed on-site traffic and therefore no impact.
- L. There will be no loss or destruction of any features of major importance.
- M. The permits necessary for the construction of the building as proposed can and will be secured upon approval of the conditional use

In summary, we believe this request to be one that is easily approvable for many factors in addition to those stated above. The building as shown is totally within all of the allowable as provided in the zoning code, the use is compatible with the surrounding area and provides a smooth transition of uses and the areas are within the allowable per Zoning. We are not requesting additional residential area, only to be allowed to put some of the residential use in the lower level. By using the lower level for the proposed residential use we can eliminate any encroachment into the right-of-way and/or the request for an allowable fourth floor.

Given the above information in addition to the drawings provided, we would respectfully request a favorable decision on our request for a Conditional Use Permit.

Respectfully Submitted,



Kenneth R. Bowerman,
Architect
For: Uptown Real Estate LLC

Legal Description
0.084 acres

Situated in the City of Oxford, Butler County, Ohio, being part of Inlot 37 and Inlot 38 of said City of Oxford, being part of the lands of Redskin, LTD. as recorded in deed book 6354 page 592 of the Butler County Recorder's Office and being more particularly described as follows:

Commencing at the northeast corner of said Inlot 37;

thence with the east line of said Inlot 38 S 2°18'10" W for 27.07 feet to a point, said point being the True Point of Beginning;

thence on a new division line through said Inlot 37 N 87°27'09" W for 68.55 feet cross notch set;

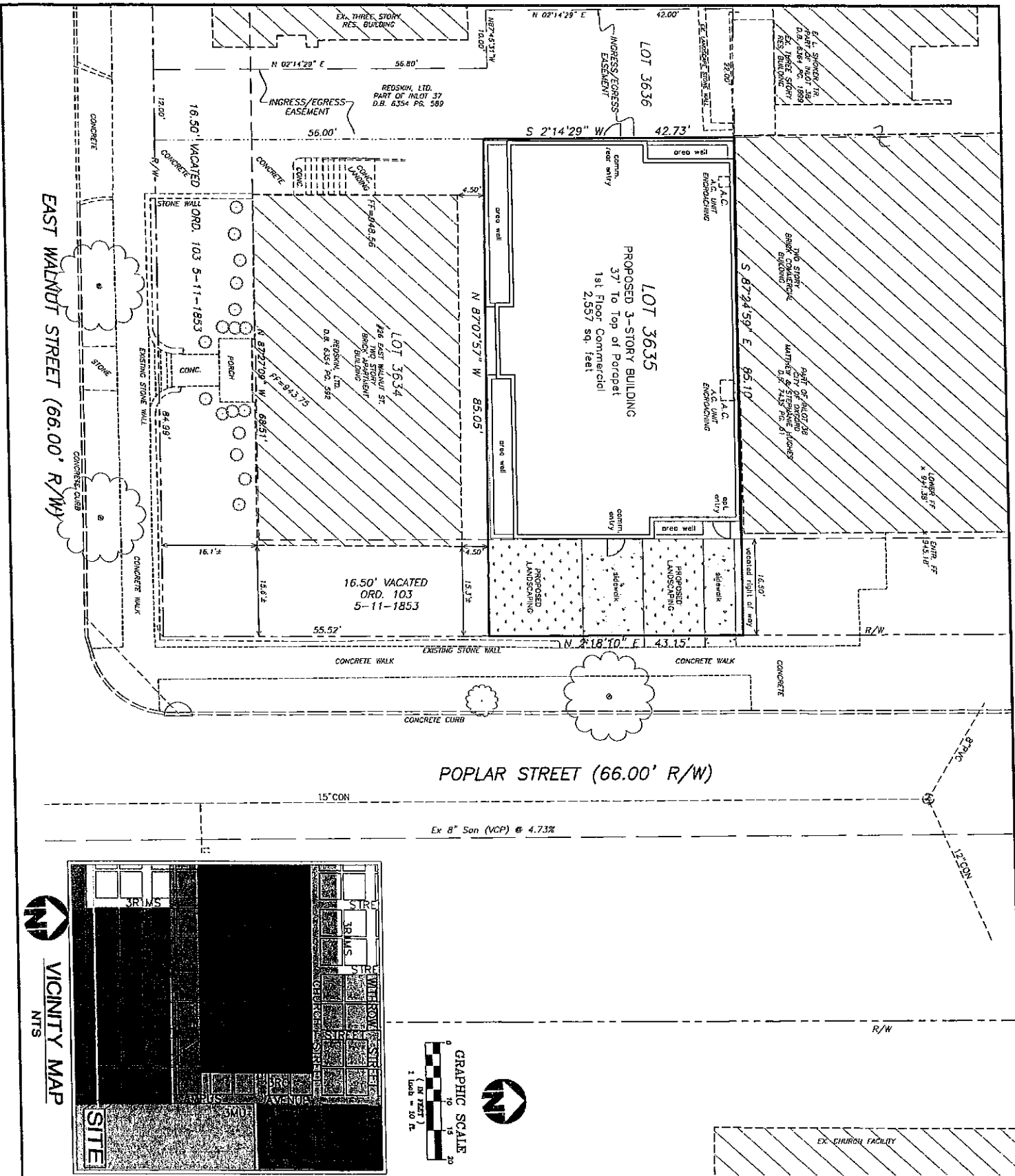
thence N 2°14'29" E for 42.73 feet to a point;

thence S 87°24'59" E for 85.10 feet to a 5/8" rebar found, said point being on the west right of way of Poplar Street;

thence with said west right of way of Poplar Street S 2°18'10" W for 43.15 feet to a 5/8" rebar found;

thence N 87°07'57" W for 16.50 feet to the True Point of Beginning, containing 0.084 acres of land more or less and being subject to all legal highways, easements, restrictions and agreements of record.

Prepared by:
DDS Surveying, Inc.
August 8, 2005
Job # 25076



bayer becker

www.bayerbecker.com
 316 S. College Avenue
 Oxford, OH 45056 - 513.529.4270

#18 SOUTH POPLAR STREET

LOT # 3635

CITY OF OXFORD
 BUTLER COUNTY, OHIO
 FOR MIAMI PROPERTIES

SITE PLAN

Item	Revision Description	Date	Drawn	Chk

1 OF 1

GRAPHIC SCALE

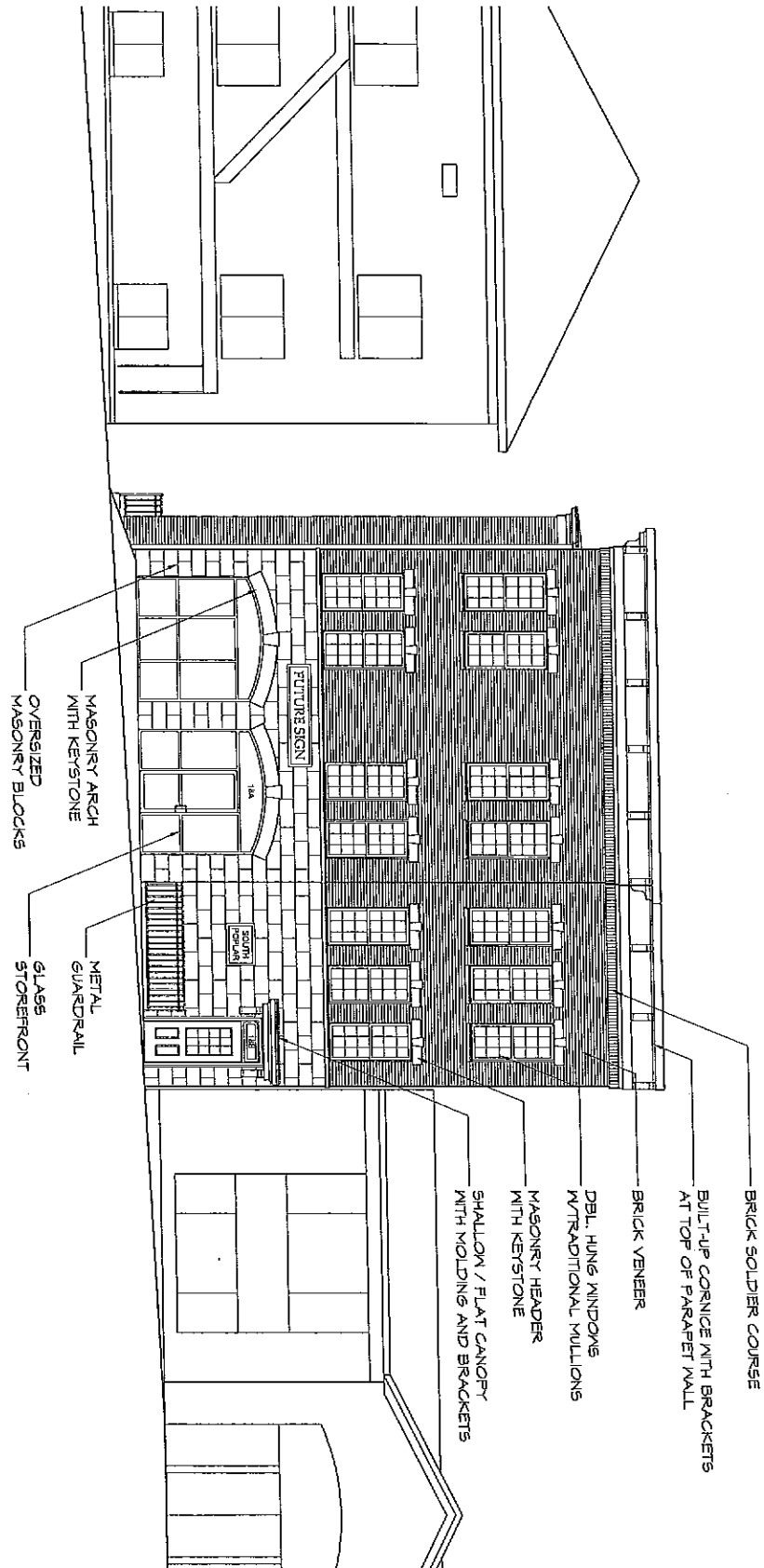
0 10 20 30 40 50 60 70 80 90 100

1 inch = 10 ft

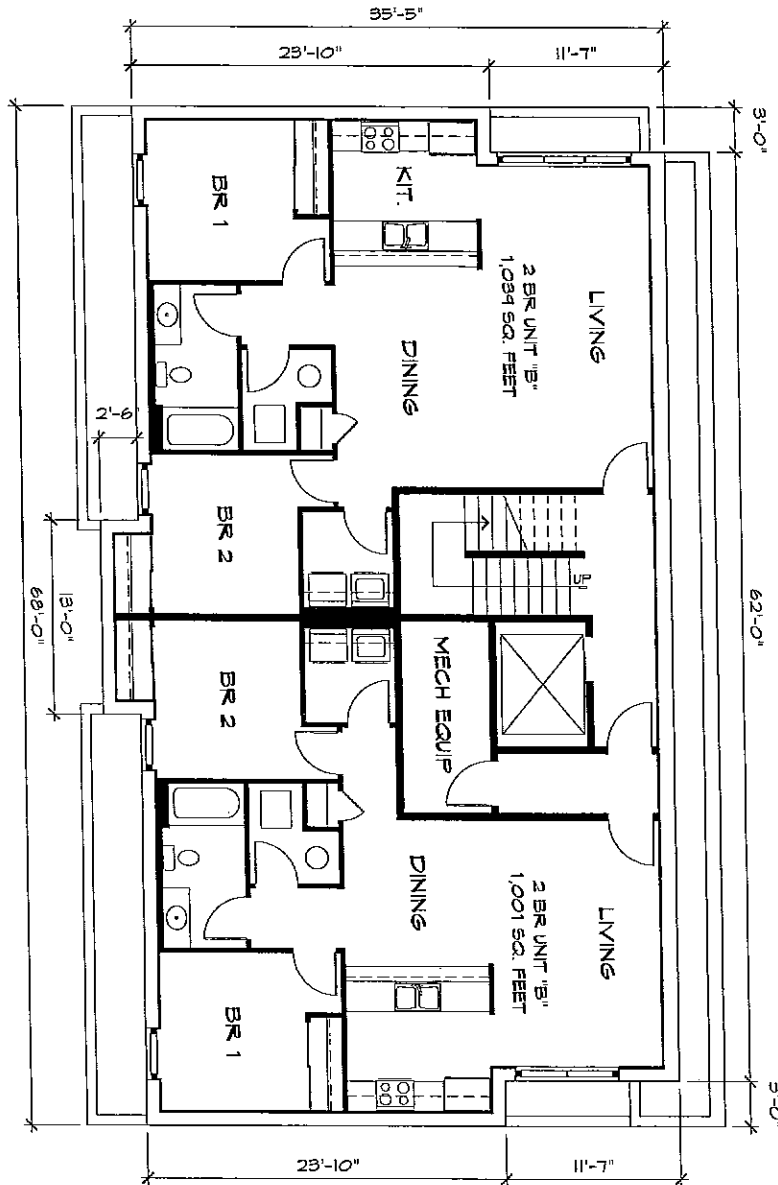
VICINITY MAP

NTS

SOUTH POPLAR STREET ELEVATION



	SHEET NO.	18 South Poplar Street Oxford, Ohio		KENNETH R. BOWERMAN ARCHITECT, INC.		REVISED	
	JOB NO.	070805		8050 HOSBROOK ROAD, SUITE 108			
	DRAWN	DEM		CINCINNATI, OHIO 45236			
	SCALE	1/8" = 1'-0"		(513) 761-6776			
	DATE	1/14/08		761-2322 (fax)			
		Miami Properties					



BASEMENT FLOOR PLAN
 GROSS SQ. FOOTAGE - 2,371 SF. THIS FLOOR -
 2,040 SF - RESIDENTIAL
 331 SF MECH SPACE

2

SHEET NO.

JOB NO.
0710808
DRAWN
DEM
SCALE
1/8" = 1'-0"
DATE
09/24/08

18 South Poplar Street
Oxford, Ohio

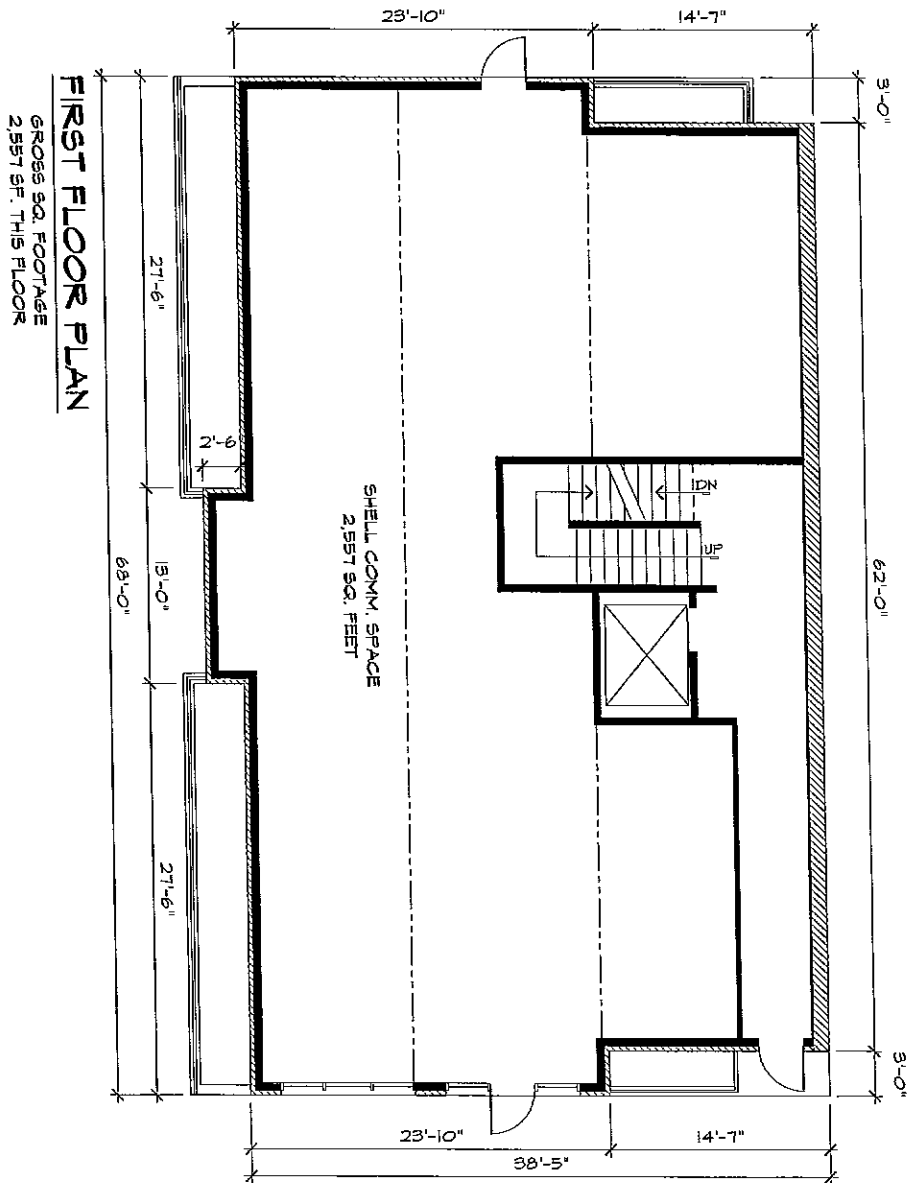
Miami Properties

KENNETH R. BOWERMAN

ARCHITECT, INC.

REVISED

8050 HOSBROOK ROAD, SUITE 105
CINCINNATI, OHIO 45236
(513) 781-8778 781-2322 (fax)



3

JOB NO.
070605
DRAWN
DEM
SCALE
1/8" = 1'-0"
DATE
09/24/06

18 South Poplar Street
Oxford, Ohio

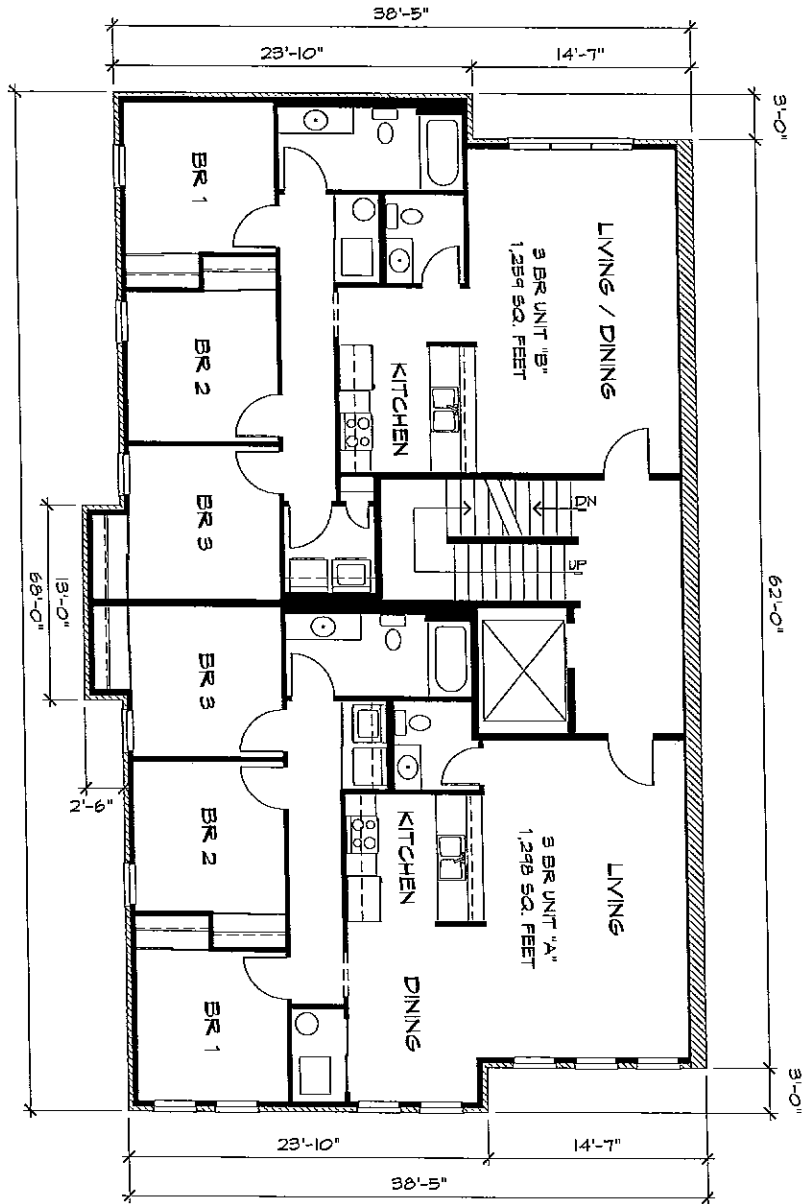
Miami Properties

KENNETH R. BOWERMAN
ARCHITECT, INC.

8050 HOSBROOK ROAD, SUITE 105
CINCINNATI, OHIO 45236
(513) 761-6778 761-2322 (fax)

REVISED

SECOND & THIRD FLOOR PLAN
 GROSS SQ. FOOTAGE
 2,357 SF. PER FLOOR



4

SHEET NO.
 JOB NO.
 070606
 DRAWN
 DEM
 SCALE
 1/8" = 1'-0"
 DATE
 04/24/06

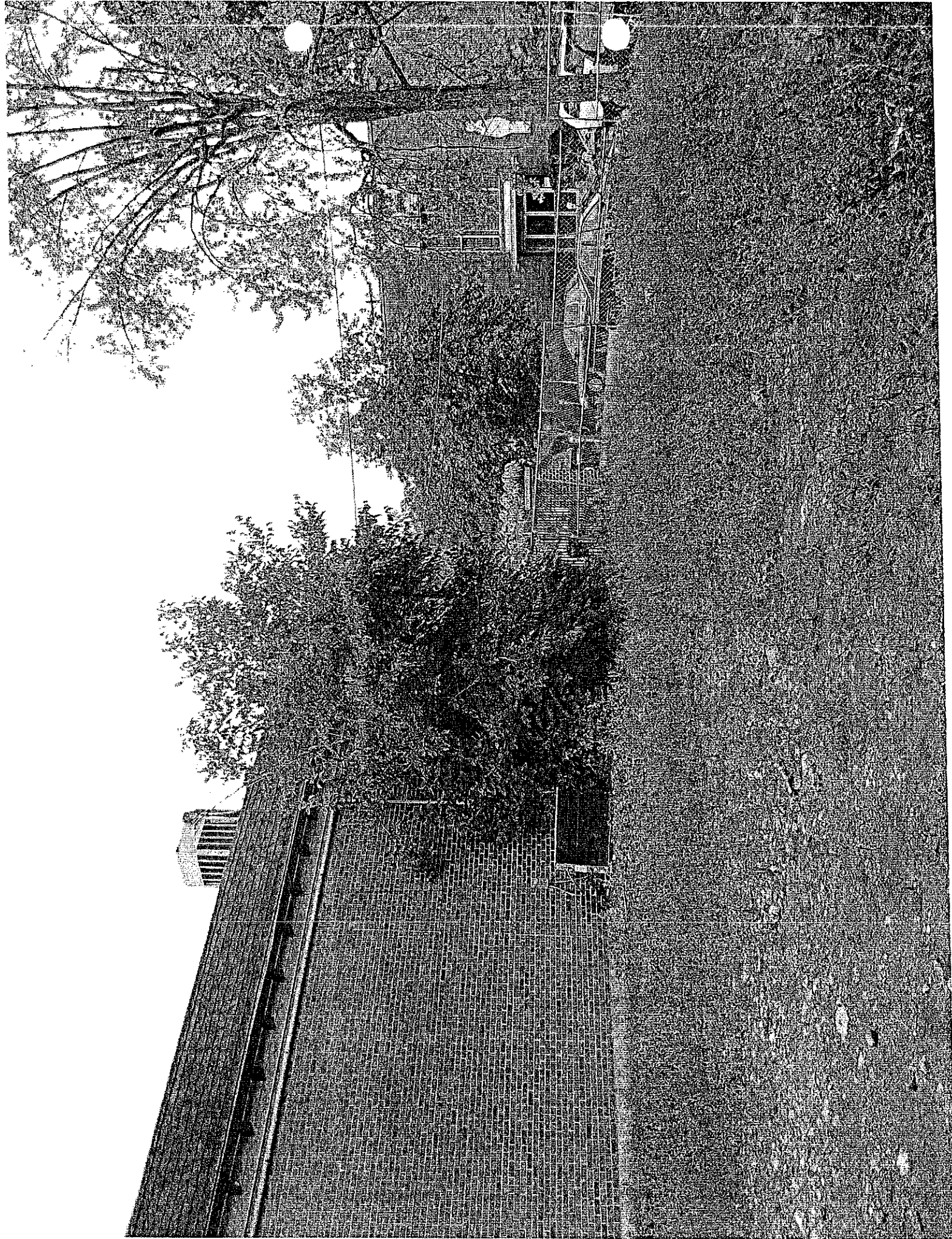
18 South Poplar Street
 Oxford, Ohio

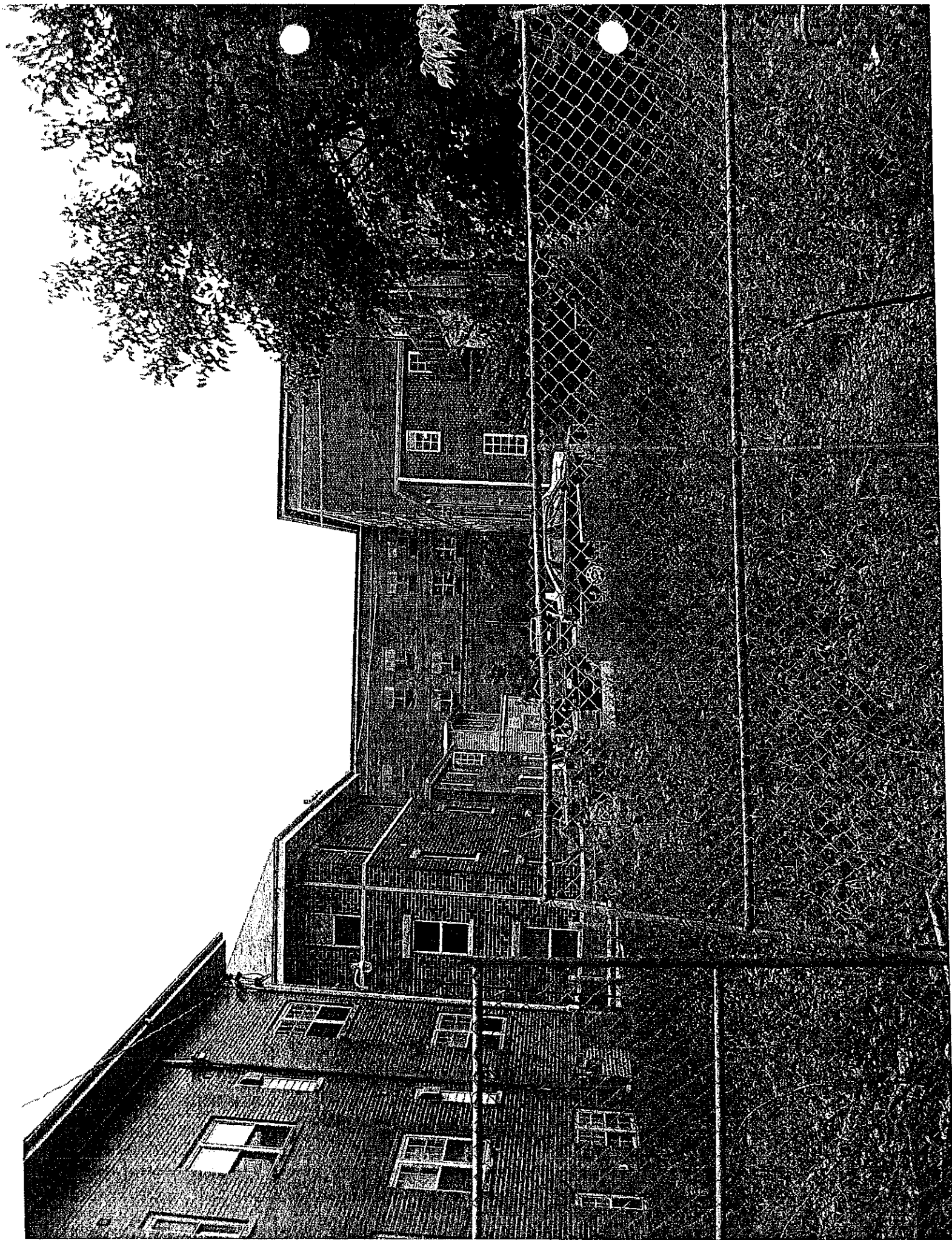
Miami Properties

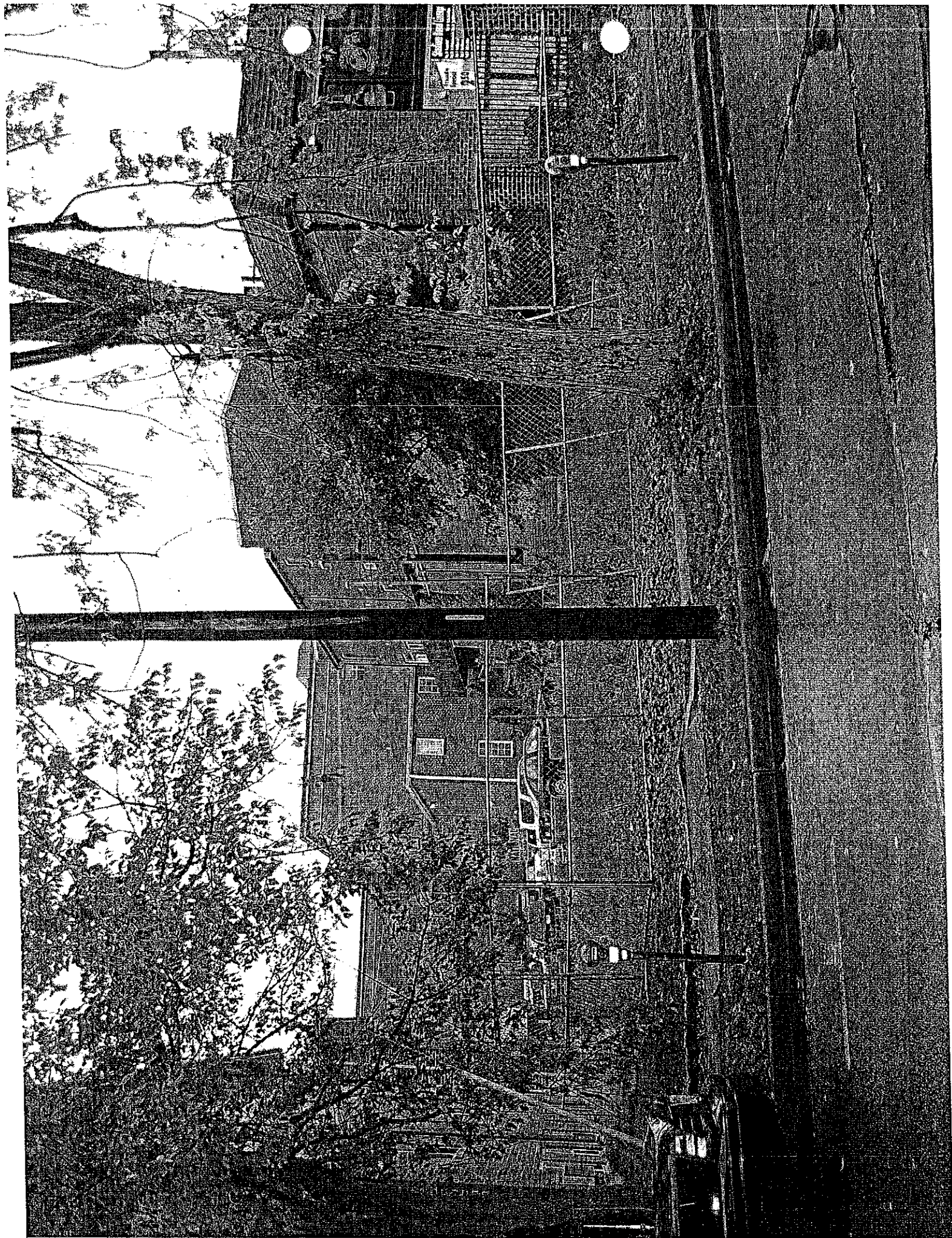
KENNETH R. BOWERMAN
 ARCHITECT, INC.

6050 HICKSBROCK ROAD, SUITE 106
 CINCINNATI, OHIO 45236
 (513) 791-6776 781-2322 (fax)

REVISED







A regular meeting of the Oxford City Council was called to order by Mayor Prue Dana on Tuesday, November 18, 2008 at 7:30 p.m. Those members present were Ken Bogard, Alysia Fischer, Kate Currie, Doug Ross, Richard Keebler and Greig Rutherford.

Staff members present: Mr. Doug Elliott, City Manager; Mr. Mike Dreisbach, Service Director; Mr. Steve Schwein, Police Chief; Mr Joe Newlin, Finance Director; Mr. Jung-Han Chen, Community Development Director; Ms. Gail Brahier, Parks and Recreation Director; Mr. Alan Kyger, Economic Development Director; Ms. Donna Heck, Human Resources Director; Mr. Steve McHugh, Law Director and Ms. Mary Ann Eaton, Deputy Clerk of Council.

ADJOURN TO EXECUTIVE SESSION

Ms. Fischer moved to adjourn to Executive Session at 7:00 p.m. in accordance with Ohio Revised Code Section 121.22 (G) for the purpose of discussing (1) Appointments to Boards and Commissions and compensation of public employees. Mr. Keebler seconded. The motion passed by the following roll call:

AYE: Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Fischer, Ms. Currie, Mr. Keebler,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

RETURN FROM EXECUTIVE SESSION

Ms. Fischer moved to return from Executive Session at 7:28 p.m. Mr. Rutherford seconded. The motion passed by the following roll call:

AYE: Ms. Currie, Mr. Keebler, Ms. Fischer, Mr. Bogard, Mr. Rutherford, Mr. Ross,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

PLEDGE OF ALLEGIANCE

Mayor Dana requested the Pledge of Allegiance.

APPROVAL OF AGENDA

Ms. Currie moved to approve the agenda. Ms. Fischer seconded. The motion passed 7-0-0.

PUBLIC PARTICIPATION

PROCLAMATION **'HUMAN RIGHTS AND SOCIAL JUSTICE DAYS'**

Mayor Dana read the Proclamation and advised she would present it tomorrow at an event on Miami's campus.

PRESENTATION **CAMPUS CREST** **DEVELOPMENT, LLC**

Mr. Joel Bartis, Real Estate Manager, Campus Crest Development, thanked Mayor Dana and Council for the opportunity to present a development proposal. Mr. Bartis provided a detailed PowerPoint presentation with regard to a proposed student housing development on a 20 acre site located in Butler County adjacent to Miami University. At the end of the presentation Mr. Bartis inquired if Council would place him on a future agenda for consideration of annexation into the City of Oxford at which point they could move forward with the rezoning process to build the 'Grove at Oxford' to house 504 students.

Mayor Dana advised the issue would be addressed at the end of the meeting and thanked Mr. Bartis for the presentation.

APPOINTMENTS TO **BOARDS AND COMMISSIONS**

Mr. Keebler moved to reappoint Council members to their current committees for a one year term and to appoint Mr. Bogard as an alternate to the Senior Citizens Board of Trustees. Ms. Fischer seconded. The motion passed 7-0-0.

PUBLIC COMMENTS

Ms. Connie Elliott 118 Homestead, advised the Smoky and Tornado project had its ten month anniversary and she had just delivered the 24th Disaster Kit to a family who had no smoke alarms.

Mayor Dana thanked Ms. Elliott for her efforts.

Mr. Thad Boggs, 109 Ardmore Drive, Secretary, Off Campus Affairs, advised before Election Day the Student Senate passed a Resolution in support of the Talawanda School District levy. Mr. Boggs noted last Wednesday the third annual lighting tour took place where students identified locations in the mile square where street lights were out and areas that were under lit. Mr. Boggs advised data from this tour would be compiled and sent to Mr. Dreisbach.

Mr. Boggs congratulated Ms. Elliott for her efforts noting the Smoky and Tornado project was great for the community. Mr. Boggs advised a walk about assessment survey would be sent to students living off campus. Mr. Boggs offered to answer any questions.

Mayor Dana thanked Mr. Boggs and those involved for completing the lighting walk about noting this safety project was very important to Council.

Mr. Ross inquired if Mr. Boggs personally felt it was responsible for Miami University under graduate students to vote on local issues. Mr. Boggs advised he felt it was responsible if someone took the time to educate themselves on the merits either for or against an issue and met the residency requirements to register to vote.

CONSENT AGENDA

Ms. Fischer noted she would like SCRC meeting minutes on consent agendas.

MINUTES

Minutes of the November 4, 2008 City Council Work Session. (Mary Ann Eaton, Deputy Clerk of Council)

REPORTS

Report regarding the November 5, 2008 Historic and Architectural Preservation Commission Meeting. (Jung-Han Chen, Community Development Director)

RESOLUTIONS

RESOLUTION **CDBG 2009**

A Resolution No. 4394 authorizing the City Manager to submit to Butler County the following eligible projects (s) designated as the City's portion of the 2009 Community Development Block Grant (CDBG) program. (Mike Dreisbach, Service Director)

RESOLUTION **AGREEMENT WITH** **RAWDON MYERS, INC.**

A Resolution No. 4395 authorizing the City Manager to enter into an agreement with Rawdon Myers, Inc. for control improvements to the Water Treatment Plant at a cost of \$138,000.00 plus an 8.7% contingency in the amount of \$12,000.00 for a total amount not to exceed \$150,000.00. (Mike Dreisbach, Service Director)

Mr. Bogard moved to approve the consent agenda. Ms. Currie seconded. The motion passed 7-0-0.

RESOLUTIONS

RESOLUTION **ENGINEERING STUDIES**

A Resolution No. 4396 authorizing the Engineering Division of the City of Oxford to perform traffic engineering studies on state and/or federal routes within the City, and to authorize the City Manager to petition the director of the Ohio Department of Transportation for changes to said speed limits within the corporate limits of Oxford as dictated by the engineering studies. (Mike Dreisbach, Service Director)

Mr. Dreisbach summarized the staff report on page 26 of the agenda. Mr. Dreisbach noted design work needed to be done for US-27 South improvements and it was important to establish the proper speed limit.

Mr. Keebler noted he felt it would be appropriate for the results of the study to come to Council for review prior to being submitted to the State and the proposed Resolution did not provide for that.

Mr. Bogard advised it was not required to come before Council.

Mr. Rutherford inquired if the State would disregard Council's preference regarding a particular speed limit and only base their decision on the engineering study. Mr. Dreisbach advised the State would follow the engineering study which was defensible. Mr. Dreisbach noted the engineering study would have a cover letter attached which addressed local nuances that may not be reflected in the study.

Mr. Elliott advised the information would be shared with Council prior to it being sent to the State.

Mr. Bogard moved to adopt Resolution No. 4396. Mr. Keebler seconded. The Resolution was adopted by the following roll call:

AYE: Ms. Fischer, Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Currie,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

ORDINANCES
FIRST READING

ORDINANCE
DENY ZONING MAP
AMENDMENT

An Ordinance Accepting The Planning Commission's Recommendation To Deny A Zoning Map Amendment For Property Located At 22 North College Avenue, Oxford, Ohio Rezoning The Property From RO (Office Residential) District to UP (Uptown) District. (Jung-Han Chen, Community Development Director) **(Tabled)**

Mr. Keebler moved to remove the proposed Ordinance from the table. Ms. Fischer seconded. The motion passed 7-0-0.

Mr. Chen summarized the staff report on page 28 of the agenda and noted the applicant wanted the use to be a conforming use. Mr. Chen noted the Planning Commission recommended denial of the request since it did not meet the decision standards as listed on page 45 of the agenda.

Ms. Fischer noted it was clear that the decision standards were not met and the Planning Commission voted unanimously to recommend denial.

Mr. Keebler concurred with Ms. Fischer noting although the current use would become conforming it would substantially change the nature of what could be put on the site in the future. Mr. Keebler advised the set-backs would change as well as the height requirements and type of business which could operate there.

Mr. Rutherford noted there was an entire line of properties on the west side of College Avenue that were nonconforming and immediately adjacent to the Uptown District and fit the Uptown designation. Mr. Rutherford discussed Decision Standards A., C., and E. on page 45 of the agenda and felt the application did meet those standards.

Ms. Fischer noted the Planning Commission discussed this issue and did not want to 'spot zone'. Mr. Fischer noted a goal of the Planning Commission was to revisit the zoning map based on the Comprehensive Plan and deal with entire strips of property at the same time.

Mr. Rutherford noted his feeling this would not be spot zoning since the property was contiguous to the Uptown District. Mr. Rutherford noted his feeling the property owner was trying to remedy the situation.

Mr. Chen noted the zoning map needed to be looked at in its entirety.

Mr. McHugh advised the applicant should provide relevant and credible evidence as to why the property should be rezoned during the public hearing and they had not done that.

Mr. Keebler read a letter from the applicant on page 29 of the agenda dated October 30, 2008 requesting the first reading of their case, PC-21-2008 be postponed until tonight so they were prepared to answer questions and defend their case. The applicant was not present.

Mr. Bogard advised the Planning Commission would look at the entire zoning map in 2009 and Council was not debating conforming and nonconforming uses this evening.

ORDINANCES
SECOND READING

ORDINANCE
NEW SECTION 303.08

An Ordinance No. 3028 Repealing Oxford Code Of Ordinances Section 303.08 And Adopting New Oxford Code Of Ordinances Section 303.08; Titled "Impounding And Booting Of Vehicles; Redemption". (Steve Schwein, Police Chief)

Chief Schwein offered to answer any questions noting sections 17 and 18 were added as shown on page 48 of the agenda.

Mr. Bogard moved to adopt Ordinance No. 3028. Ms. Currie seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Currie, Ms. Fischer,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

ORDINANCE
NEW SECTION 311.05

An Ordinance No. 3029 Amending Oxford Code Of Ordinances Chapter 311, Street Obstructions And Special Uses, To Add New Section 311.05, Storage Units. (Steve Schwein, Police Chief)

Chief Schwein advised the proposed Ordinance would prohibit portable storage units to be placed in the public right-of-way without a permit.

Ms. Fischer inquired if there were regulations regarding the placement of portable storage units in yards and Mr. Chen advised not at this time although staff was looking at bringing this issue to the Planning Commission.

Ms. Currie moved to adopt Ordinance No. 3029. Ms. Fischer seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Currie, Ms. Fischer, Mr. Keebler,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

ORDINANCE
NEW SECTION 351.06

An Ordinance Repealing Oxford Code Of Ordinances Section 351.06 And Adopting New Oxford Code Of Ordinances Section 351.06; Titled "Selling, Washing, Or Repairing Vehicle Upon Roadway Or On Private Property Open To Public Travel". (Steve Schwein, Police Chief)

Chief Schwein advised the proposed modification to the Ordinance would prohibit 'pop-up' car lots within the City.

Mr. Ross inquired if people could place a car for sale in a commercial lot with written permission and Chief Schwein advised yes, for 72 hours.

Mr. Rutherford inquired if written permission was needed to have a for sale sign in a vehicle parked in a local retailers parking lot and Mr. McHugh advised that was not the intent. Mr. Rutherford advised he felt the proposed language needed to be corrected as it was in direct conflict with the zoning code vehicle management section.

Mr. Keebler noted if enforced properly the proposed Ordinance would prohibit anyone from parking a vehicle at any establishment with a for sale sign displayed in it. Mr. Keebler suggested adding a short time frame such as no more than 4 hours for parking such vehicles.

Mr. McHugh suggested alternate language in Section I (b) on page 54 of the agenda as follows: 'No person shall park upon private property open to public travel any vehicle displayed for sale for the primary purpose of advertising for sale, unless written permission by the private property owner is posted on the vehicle.'

Chief Schwein advised the officers would use subjectivity and objectivity when writing tickets for the violation.

Mr. Bogard moved to table the proposed Ordinance until December 2, 2008 for clarification of the language. Mr. Rutherford seconded. The motion passed 7-0-0.

ORDINANCE
NEW SECTION 351.13

An Ordinance Repealing Oxford Code Of Ordinances Section 351.13 And Adopting New Oxford Code Of Ordinances Section 351.13; Titled "Parking In Excess Of 72 Hours Prohibited". (Steve Schwein, Police Chief)

Chief Schwein advised the proposed Ordinance was a companion to Section 351.06 and if Council passed it the time table would be built into the Ordinance that was just tabled.

Ms. Fischer suggested tabling the proposed Ordinance and adopting it with its companion Ordinance.

Mr. Keebler and Ms. Currie noted they felt the proposed Ordinance could stand alone.

Mr. Rutherford noted concern that 72 hours was not long enough.

Chief Schwein noted the proposed Ordinance would prohibit anyone from leaving a vehicle in the former Wal-Mart lot for more than 72 hours.

Mr. Rutherford noted concern with mixed use properties where residential and commercial parking areas were shared.

Mr. Rutherford moved to table the proposed Ordinance until December 2, 2008 for clarification of the language. Ms. Fischer seconded. The motion passed by the following roll call:

AYE: Ms. Currie, Ms. Fischer, Mr. Ross, Mr. Rutherford (4)

NAY: Mr. Bogard, Mr. Keebler, Ms. Dana (3)

ABS: None (0)

ORDINANCE
PRELIMINARY SUBDIVISION

An Ordinance No. 3030 Approving The Planning Commission's Recommendation For Preliminary Approval Of The Campus Commons Subdivision With Conditions. (Jung-Han Chen, Community Development Director)

Mr. Chen advised this was a Preliminary Subdivision which he felt was a good project as it would provide connectivity and infrastructure improvements to this area. Mr. Chen noted the applicant was in attendance to answer any questions.

Mr. Michael Stegman, Attorney for the Applicant offered to answer any questions.

Ms. Currie noted her feeling the conditions laid out by the Planning Commission made this a very positive project.

Ms. Fischer, Mr. Bogard and Mayor Dana noted they were pleased to see condition 7 which required the project to be completed in three phases.

Ms. Fischer moved to adopt Ordinance No. 3030. Mr. Keebler seconded. The Ordinance was adopted by the following roll call:

AYE: Ms. Currie, Ms. Fischer, Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

ORDINANCE
ZONING MAP
AMENDMENT

An Ordinance No. 3031 Accepting The Planning Commission's Recommendation And Granting A Zoning Map Amendment For Property Located At 5445 College Corner Pike, Oxford, Ohio And Rezoning The Property From R3 (Multi-Family Residential) District To GB (General Business) District. (Jung-Han Chen, Community Development Director)

Mr. Chen advised this was a zoning change request for the Family Resource Center which met the Decision Standard to conform more closely with the Comprehensive Plan since this was in a commercial corridor along US-27 North.

Ms. Diane Ruther-Vierling, Family Resource Center, advised she would answer any questions Council may have.

Mr. Ross inquired if this was 'spot-zoning' and Ms. Fischer noted it was correcting previous 'spot-zoning'. Mr. Ross advised he was all for the project.

Mr. Rutherford referred to the previous request for re-zoning and noted he felt property owners were being treated inconsistently.

Mr. Bogard noted this was a General Business area and the request would make the property more conforming.

Mr. Keebler advised the Comprehensive Plan specifically addressed the US-27 North corridor as being a commercial corridor and the Planning Commission felt rezoning would align the property with what the Comprehensive Plan called for.

Ms. Currie moved to adopt Ordinance No. 3031. Ms. Fischer seconded. The Ordinance was adopted by the following roll call:

AYE: Ms. Fischer, Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Currie,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

ORDINANCE **NEW SECTION 1139**

An Ordinance Repealing Zoning Code Section 1139, Variances, And Adopting New Section 1139, Variances. (Jung-Han Chen, Community Development Director) **(Tabled)**

Mr. Bogard moved to remove the proposed Ordinance from the table. Ms. Currie seconded. The motion passed 7-0-0.

Mr. Chen advised Mr. McHugh had revised the proposed Ordinance based on Council's discussion on October 21, 2008.

Mr. Rutherford referred to page 130 of the agenda item D. and suggested the language read as follows 'Whether the variance would adversely affect the delivery of governmental services and/or public utilities' and Mr. McHugh advised the language reflected the decision standards established in the Ohio Supreme Court Case *Duncan v. Village of Middlefield*. Mr. Rutherford expressed concern with item E. on page 130 of the agenda inquiring how it was possible to know if the property owner had knowledge of the zoning restrictions. Mr. McHugh advised it was the applicant's responsibility to present evidence as to why they were entitled to a variance. Mr. McHugh noted item H. gave the Board of Zoning Appeals some flexibility. Mr. Rutherford noted concern with a capricious decision being made due to the vagueness of the proposed language.

Ms. Fischer noted she understood the proposed language was defensible in the State of Ohio and noted her feeling it was not the only language that would be defensible. Ms. Fischer noted her feeling the proposed language would make the Board of Zoning Appeals job harder.

Mr. Keebler agreed with Ms. Fischer and advised he could not support the proposed Ordinance. Mr. Keebler noted concern with item A. and E. on page 130 of the agenda.

Ms. Currie suggested tabling the proposed Ordinance or voting it down.

Mr. Elliott suggested Council adopt the proposed Ordinance in the event the City was challenged.

Mr. McHugh addressed the decision standards based on the Duncan case.

Mr. Elliott offered to provide additional information to Council for their consideration.

Mr. Bogard noted the importance of education which the Board of Zoning Appeals went through to avoid making arbitrary or capricious decisions.

Ms. Fischer noted the proposed Ordinance was based on a legal decision written for lawyers and Council would be asking lay people to use it as a tool. Ms. Fischer inquired if the decision standards could be further clarified. Mr. McHugh advised the Board of Zoning Appeals was familiar with the standards and anticipated Council would approve them as an effort to provide a better format for decision making. Mr. McHugh recommended Council approve the proposed Ordinance and noted staff would be available to answer questions from the BZA.

Mayor Dana advised she would like to see the proposed Ordinance adopted and noted Council could have training session if they wished.

Mr. Rutherford advised clarification of each standard could be crafted and offered to work with Mr. Elliott to do so.

Mr. Rutherford moved to table the proposed Ordinance until December 2, 2008. Ms. Fischer seconded. The motion passed by the following roll call:

AYE: Mr. Rutherford, Mr. Ross, Mr. Keebler, Ms. Fischer, Ms. Currie (5)

NAY: Mr. Bogard, Ms. Dana (2)

ABS: None (0)

ORDINANCE
SUPPLEMENTAL BUDGET

An Ordinance No. 3032 Amending Ordinance No. 2990. Supplemental Budget Ordinance Number 5 To Make Supplemental Appropriations For Fiscal Year 2008. (Joe Newlin, Finance Director)

Mr. Newlin summarized the staff report on pages 133 and 134 of the agenda.

Ms. Connie Elliott, requested clarification of the proposed Ordinance and Mayor Dana advised she would speak to Ms. Elliott after the meeting.

Mr. Bogard moved to adopt Ordinance No. 3032. Ms. Fischer seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Currie, Ms. Fischer, Mr. Keebler,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

ORDINANCE
2009 BUDGET

An Ordinance No. 3033 To Make Appropriations For Current Expenses And Other Expenditures Of The City Of Oxford, State Of Ohio, During The Fiscal Year Ending December 31, 2009. (Joe Newlin, Finance Director)

Mr. Newlin noted the changes as shown on the staff report on pages 138 and 139 of the agenda.

Mr. Bogard moved to adopt Ordinance No. 3033. Mr. Rutherford seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Rutherford, Mr. Bogard, Ms. Currie, Ms. Fischer, Mr. Keebler, Mr. Ross,
Ms. Dana (7)

NAY: None (0)

ABS: None (0)

ORDINANCE
2009 FEES

An Ordinance No. 3034 Adopting Fees And Charges For Fiscal Year 2009. (Joe Newlin, Finance Director)

Mr. Newlin advised changes were made from the first reading based on Council's discussion at the last meeting. Mr. Newlin advised Department Heads were in attendance to answer any questions.

Mr. Keebler referred to page 161 of the agenda – Miscellaneous Copies and inquired why the City did not charge for the first 20 pages. Mr. McHugh advised this was a common practice in municipalities to avoid generating an invoice. Mr. Newlin advised most municipalities charged .05 per page.

Mr. Keebler moved to amend the fee to .05 per copy after the first 20. Ms. Fischer seconded. The motion passed 7-0-0.

Ms. Fischer requested clarification of the impound and towing fees noting Chief Schwein had sent an email regarding the issue.

Chief Schwein advised this was an escalating fee designed as an incentive to not have a vehicle towed a second and third time by the Police Department.

Ms. Fischer requested clarification of the fee for the Alcohol Offense Diversion Program as listed on page 154 of the agenda which Chief Schwein addressed. Ms. Fischer noted concern that some people did not have access to \$900.00 needed to participate in the program.

Mr. Rutherford referred to page 159 of the agenda and inquired if the City even provided Blueprints. Mr. Dreisbach noted this was an antiquated fee and he was not opposed to striking it.

Mr. Rutherford moved to strike the fee for Blueprints. Ms. Fischer seconded. The motion passed 7-0-0.

Mr. Ross referred to page 161 of the agenda and moved to change the Street Banner installation and removal fee from \$75.00 to \$100.00. Ms. Fischer seconded. The motion failed 1-6-0 with Mr. Rutherford, Mr. Bogard, Ms. Fischer, Ms. Currie, Mr. Keebler and Ms. Dana voting nay.

Mayor Dana referred to page 159 of the agenda and requested clarification of the fee for one-time additional pickup permit stickers for large refuse items. Mr. Dreisbach advised residential users could put large items out without a sticker and commercial users needed to purchase the sticker to have large items picked up by Rumpke by contract.

Mr. Dreisbach encouraged input from Council regarding the refuse contract as it would be going out for bid in 2009.

Ms. Currie moved to adopt Ordinance No. 3034 as amended. Ms. Fischer seconded. The Ordinance was adopted by the following roll call:

AYE: Mr. Bogard, Ms. Currie, Mr. Keebler, Mr. Rutherford, Ms. Dana (5)

NAY: Ms. Fischer, Mr. Ross (2)

ABS: None (0)

ORDINANCE
2009 SALARIES

An Ordinance No. 3035 Establishing Salaries And Certain Benefits For Salaries And Hourly Full-Time And Part-Time Employees Within The Service Of The City Of Oxford, Ohio Paid From January 1, 2009 Through December 31, 2009. (Donna Heck, Human Resources Director)

Ms. Heck advised she went over the changes to the Salary Ordinance at the last meeting as well as during the Personnel Improvement Plan Work Session and offered to answer any additional questions.

Mr. Bogard moved to adopt Ordinance No. 3035. Ms. Fischer seconded. The Ordinance was adopted by the following roll call:

AYE: Ms. Fischer, Mr. Keebler, Mr. Ross, Mr. Rutherford, Mr. Bogard, Ms. Dana (6)

NAY: None (0)

ABS: None (0)

ANNOUNCEMENTS

Mayor Dana requested comments regarding the Campus Crest proposal.

Mr. Ross inquired what Zero-scaping was which Mr. Bartis addressed. Mr. Ross noted he did not feel the proposal would preserve open space or protect the area's rural character as the PowerPoint presentation depicted. Mr. Ross advised students would drive to campus and the 504 cars would not remain on the proposed Campus Crest property. Mr. Ross noted his feeling the citizens of Oxford did not want another student rental complex and especially not at the proposed location.

Ms. Fischer noted the community did not want or need another large student housing complex. Ms. Fischer noted her feeling the University staff would disagree that the Community Assistants employed by Campus Crest would be the equivalent of Resident Advisors.

Ms. Fischer referred to the Land Use Principles section of the presentation and noted professors already lived in the Mile Square. Ms. Fischer noted bringing up the death of three students in a house fire in 2005 was unnecessary and in poor taste as the community was deeply affected by it and Mr. Bartis had a lot of other good information to share.

Mr. Keebler noted his feeling the presentation contained a lot of assumptions such as the elimination of 504 cars in the Mile Square. Mr. Keebler advised there were numerous student housing complexes in town with vacancies and many single family homes in the Mile Square that were vacant. Mr. Keebler noted annexation would not mean it would be easier to obtain rezoning. Mr. Keebler advised Council did not decide who could apply for annexation. Mr. Keebler advised his feeling the proposal did not meet the City's Comprehensive Plan or the Township's Comprehensive Plan for this area.

Mr. Bogard advised his feeling it was wishful thinking that 504 students would be recruited from the Mile Square and University area to live at the proposed Campus Crest. Mr. Bogard agreed with Mr. Keebler that the proposal did not fit the Township's Comprehensive Plan. Mr. Bogard agreed that 504 cars would not be eliminated from the Mile Square as a result of the proposed development.

Ms. Currie noted experience had demonstrated that moving students did not remove cars from the Mile Square. Ms. Currie noted having been involved with the Comprehensive Plan update and understanding the citizen's motivation it was clear that they did not want anymore large student housing complexes and especially not along the proposed corridor. Ms. Currie noted Campus Crest was welcome to apply for annexation although she did not feel they would get support for a student housing complex.

Mr. Rutherford referred to the Comprehensive Plan Key Directions and advised his feeling the proposal would not preserve the small town character or enhance the Mile Square to preserve the traditional character of Oxford. Mr. Rutherford noted the proposal would not give priority to infill and redevelopment since it was new development. Mr. Rutherford advised the proposal would not conserve agricultural lands and natural areas. Mr. Rutherford noted his feeling the proposal may relocate some jobs and services in the community but not create new jobs and services. Mr. Rutherford advised installing a sidewalk did not provide a variety of transportation options. Mr. Rutherford noted the proposal would not constitute the City cooperating with neighboring jurisdictions. Mr. Rutherford noted his feeling Council and the Comprehensive Plan had taken the position of looking inward at the City to see how it could grow within its boundaries.

Ms. Dana echoed the comments of Council members and advised Mr. Bartis that the proposal was not something there was public support for. Mayor Dana reiterated that there was an over abundance of housing and that redevelopment within the City was a priority. Mayor Dana noted the Campus Crest development looked very nice however it was not a direction Council wanted to pursue at this time. Mayor Dana thanked Mr. Bartis for the presentation.

Mr. Elliott thanked Council for adopting the budget noting he appreciated it very much as the New Year approached. Mr. Elliott noted repairs to the Municipal parking lot would take place beginning Monday, November 24, 2008. Mr. Elliott noted staff was moving forward with filling the Assistant Fire Chief position. Mr. Elliott noted he and Mr. Kyger met with 4 Leaf Development to discuss the development agreement at Southpointe.

Mr. Newlin advised the City received \$72,000 from the county for the City's resurfacing program.

Mr. Kyger noted the CIC and Miami Heritage Tech Park submitted a Job Ready Site grant application which was not awarded although it scored very high at the State level and would be resubmitted. Mr. Kyger noted a meeting was scheduled to discuss the application. Mr. Kyger noted a meeting was scheduled the same day with the Ohio Super Computer Commission to discuss locations for Ohio's computer network. Mr. Kyger noted occupants moved into Bella Place today and updated Council on other development within the City. Mr. Kyger asked Council to consider directing the Planning Commission to address the issue of trash container placement as a result of buildings being built lot line to lot line.

Mr. Ross requested clarification with regard to a new road at Southpointe which Mr. Elliott addressed.

Mr. Rutherford noted duties of the Environmental Commission were to make recommendations to Council on environmental policies and to make recommendations to the Planning Commission. Mr. Rutherford advised the Environmental Commission would like Council to give them charge to study the issue of conservation zoning districts and provide Butler County with comparisons and discuss with the county ways to enhance conservation zoning districts.

Mr. Rutherford moved on behalf of the Environmental Commission that the Environmental Commission study Conservation Zoning Districts (Cluster Developments) and how they could be enhanced in the City of Oxford in conjunction with the county's rural zoning and look at ways to provide incentives for Cluster Development as a method of conserving land. Mr. Keebler seconded.

Ms. Fischer suggested having one or two members of the Planning Commission work with the Environmental Commission on this effort. Mr. Bogard agreed.

Mr. Chen advised the Planning Commission should be the initiating body with regard to this matter as the Environmental Commission did not have staff with knowledge of land use issues to provide recommendations to the Planning Commission.

Mr. Keebler withdrew his second.

Mr. Rutherford encouraged Council to read the Environmental Commission Ordinance prior to the next meeting and discuss the issue again.

Mr. Bogard thanked all of those who assisted and acknowledged his wife's injury on Veterans Day. Mr. Bogard inquired if the City had a kilowatt per hour tax and Mr. Elliott advised no and that he would provide Mr. Bogard with additional information on the issue. Mr. Bogard inquired if the City qualified for funds from the Neighborhood Stabilization Program and Mr. Chen advised he was attending a meeting in December regarding the issue.

Ms. Fischer thanked Chief Detherage for the Monthly Report which was in Council's Friday Packet noting she was interested in statistics regarding alcohol related EMS runs. Ms. Fischer noted that Mr. Rutherford offered to assist with revised language for Zoning Code Section 1139, Variances, and stated once Mr. Rutherford was no longer on Council he may stand before the Board of Zoning Appeals and probably should not assist with the language.

Mr. Keebler noted he was happy to see Bella Place finished and the work scheduled to repair the parking lot and sidewalks in that area.

Mayor Dana thanked Ms. Brahier for coordinating the Veterans Day event. Mayor Dana thanked Mr. Bogard for chairing the November 4th Council meeting. Mayor Dana congratulated Kathy Dale on the birth of her baby girl on November 4th. Mayor Dana advised Council received a letter from Mr. Cagwin thanking Council for their support of Issue 16. Mayor Dana advised Council would receive a report from the Parking and Alternative Transportation Board next month. Mayor Dana encouraged Council members to provide their calendar for 2009 so a Council retreat could be scheduled.

ADJOURN

Mr. Bogard moved to adjourn at 10:40 p.m. Ms. Fischer seconded. The motion passed 7-0-0.

CITY OF OXFORD STAFF SUMMARY REPORT

Report to the City Manager

Council Meeting Of: December 2, 2008

Account Code No. #:

Budgeted Amount:

Community Development
Originating Department

Jung-Han Chen
Prepared By

November 20, 2008
Date Prepared

Agenda Title:	Planning Commission Meeting Report – November 11, 2008
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Recommendation:	N/A
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DISCUSSION:

Public Hearing

Items Related to Zoning:

PC-25-2008 *CONDITIONAL USE -18 S. Poplar Street, mixed use building, to permit commercial on first floor, residential in the basement and second and third floors, Uptown Real Estate, LLC, Owner, Applicant*

The Applicant requested a Conditional Use permit to allow residential dwelling units in the basement of a mixed-use building. Staff noted that the lot size, dwelling size limitations, and Floor Area Ratio were all met. Staff also reported that items needing addressed was the placement of trash containers and the loading space requirement.

The Planning Commission noted their concern with this application; density issues Uptown, trash accumulating in the window wells and possible safety issues with the window wells. The Planning Commission placed as a condition that the Applicant assure window wells would remain free from obstructions and trash.

The Planning Commission voted 5-2-0 to recommend **APPROVAL** to City Council with the following conditions:

1. A variance must be obtained from the BZA waiving the loading space requirement for non-residential use.
2. That, a clear trash collection facility must be shown prior to the permit being granted and that the ground floor window wells shall remain free from obstructions and trash.
3. That, approval from the HAPC is required for the exterior appearance.
4. A detailed landscaping plan shall be provided prior to a construction permit to be issued.

Other Business:

The Planning Commission discussed their goals for 2009:

1. Review General Business Regulations – possibly the idea of GB1, GB2, and GB3 Districts.
2. Subdivision Regulations – the Planning Commission Chairman asked the Commission to turn in any ideas for discussion at a work session to be scheduled in January.
3. Review of the zoning map and the incorporation of the Comprehensive Plan.
4. Portable storage units – Mr. Brewer asked staff to get input from other cities on their handling of this issue. Ms. Fischer asked if this issue could be solved before the end of the academic year.
5. Overlay of the R1 and R2 Districts, to discourage student rentals. Idea – limit number of unrelated residents from four to two; review Mile Square owner-occupied housing.
6. Look at adequacy of utilities versus managing growth.

The next Planning Commission meeting is scheduled for December 9, 2008.

Approved By:

Department Head:
City Attorney:
City Manager:

Initial	Date
<i>JHC</i>	<i>11/20/08</i>

**CITY OF OXFORD
STAFF SUMMARY REPORT**

Report to the City Manager

Community Development Department
Originating Department

Council Meeting Of: November 4, 2008

Jung-Han Chen

Account Code No. #:

Prepared By

Budgeted Amount:

October 27, 2008

Date Prepared

Agenda Title:	PC-21-2008 Zoning Map Amendment, 22 N. College Avenue, from RO (Office Residential) District to UP (Uptown) District, Melissa Friede, Applicant/Owner
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Recommendation:	Denial
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Discussion:

The Applicant requested a Zoning Map Amendment to change 0.231 acres located on the southwest corner of College Avenue and Church Street from "RO" Office Residential District to "UP" Uptown District. The Applicant indicated that they do not intend to change the property, as it will continue to be used as a restaurant. Staff presented that the proposed map amendment would have no impact to this property by including it into the "UP" Uptown District, but would actually make the property more conforming by permitting the restaurant use "by right" as opposed to a nonconforming use in "RO" Office Residential District. Should the property ownership change under the current zoning, the property may continue to be used as a restaurant or any permitted use in the "RO" District.

The Planning Commission deliberated why the "RO" district was formed and the purpose of step down zoning. Discussion also focused around the rationale of the boundary for the "UP" District. The Commission inquired the Applicant if they could provide any other reasons for this request. Only one of four Decision Standards for a Map Amendment is necessary. The Planning Commission voted 7-0 to recommend **DENIAL** of the request to City Council on the basis that none of the Decision Standards were met to approve the request.

Approved By:	Department Head:	Initial	Date
	City Attorney:	JHC	10/27/08
	City Manager:		

October 30, 2008

To Whom It May Concern;

I am writing to request that the first reading of our case, PC-21-2008—Zoning Map Amendment, RO District to UP District be postponed until the Tuesday, November 18, 2008 City Council Meeting.

We would like more time to review the decision standards for this case so that we are prepared to answer questions and defend our case.

Thank you very much.

Sincerely,

Missy Friede

Applicant, 22 N. College Avenue

ORDINANCE NO.

AN ORDINANCE ACCEPTING THE PLANNING COMMISSION'S RECOMMENDATION TO DENY A ZONING MAP AMENDMENT FOR PROPERTY LOCATED AT 22 NORTH COLLEGE AVENUE, OXFORD, OHIO REZONING THE PROPERTY FROM RO (OFFICE RESIDENTIAL) DISTRICT TO UP (UPTOWN) DISTRICT.

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

SECTION 1: Council finds in accordance with Section 1125.01 of the Codified Ordinances of the City of Oxford, the Oxford Planning Commission held a public hearing on October 14, 2008 on the applicant, Melissa Friede's application for a Zoning Map Amendment for property located at 22 North College Avenue, Oxford, Ohio rezoning the property from RO (Office Residential) District to UP (Uptown) District.

SECTION 2: The Oxford Planning Commission, after due deliberation, recommended to deny the proposed Zoning Map Amendment, and found that the proposed rezoning request was not in keeping with the intended characteristics of the general vicinity of the property and was not the most appropriate use of the property in question.

SECTION 3: The Planning Commission found the request did not meet the Decision Standards of the Oxford Codified Ordinances and the Oxford Comprehensive Plan

SECTION 4: Council hereby accepts the report of the Oxford Planning Commission, and after due deliberation, denies the proposed Zoning Map Amendment rezoning 22 North College Avenue Oxford, Ohio to UP (Uptown) District.

SECTION 5: Council hereby denies the rezoning request for the property as requested by the applicant, finding that the Decision Standards were not met.

SECTION 6: This Ordinance shall take effect at the earliest time allowed by law.

MAYOR

ADOPTED:

ATTEST:

DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: RICHARD KEEBLER

PREPARED BY: LAW (STAFF)

**Certification of Action
Oxford Planning Commission
Recommendation to City Council**

<u>Report Date</u>	November 4, 2008
<u>Case Number</u>	PC-21-2008
<u>Applicant Information</u>	Melissa Friede, Applicant/Owner
<u>Requested Action</u>	Zoning Map Amendment
<u>Summary of Request</u>	To allow for the rezoning of property located at 22 N. College Avenue from RO (Office Residential) District to UP (Uptown) District.
<u>Public Hearing Information</u>	On October 14, 2008 a public hearing was held at 118 West High Street. A legal notice of the hearing was published in the Oxford Press on September 12, 2008.
<u>Commission Action</u>	The Planning Commission voted 7-0-0 to recommend to City Council DENIAL of this zoning request.
<u>Commission Findings and Conclusions</u>	At the October 14, 2008 meeting, the Planning Commission denied the zoning map amendment on the basis that none of the Decision Standards were met.
<u>Exhibits Submitted to the Commission</u>	1. Staff Report dated September 12, 2008 2. Interoffice Review Transmittal Sheets from Fire, Engineering, Police & Economic Development 3. Tax Map Plat 4. Property Location Map 5. Proposed Map Amendment 6. Plat of Survey 7. Legal Description 8. Zoning Map Amendment Application

City of Oxford
Community Development Department
STAFF REPORT

Planning Commission

Case # PC-21-2008

Date – October 14, 2008

APPLICATION

Applicant:	Missy Friede
Location:	22 N. College Avenue
Owner:	Missy & Steve Friede
Action Request:	Zoning Map Amendment from "RO" to "UP"
Current Use:	Nonconforming Restaurant
Current Zoning	"RO" Office Residential District
Surrounding Existing Land Uses:	Mix of Commercial, Single-Family and Multi-Family

GENERAL DESCRIPTION

The subject property is 0.231 acres located on the southwest corner of College Avenue and Church Street. The applicant has indicated that they have no intentions of changing the property and it will continue to be used as a restaurant. The structure is listed on the National Historic Registry and is located in the Uptown Historic District.

SITE HISTORY

BZA 01-1980:	Request to use the Carriage House as offices for the Jim Alexander family business and to continue its use as a part-time residence. Request was granted September 25, 1980.
1987:	Added to the National Historic Registry.
HAPC ADM-03-2003:	Request to install fence in the Historic District. Request was approved administratively.
HAPC 21-2004:	Request to replace window and door. Request approved.
BZA 08-2007:	Modification to the property of a nonconforming use, requesting variances to 1137.06(a), 1143.09(c)(4)A.1., and 1143.09(c)(4)A.2, allowing for the creation of a conforming lot and the continuation of an existing nonconforming use. Request approved.
PC-ADM-05-2007:	Lot Split administratively approved after BZA decision.

SURROUNDING NEIGHBORHOOD

North:	"RO" Office Residential – Single-family rentals.
South:	"RO" Office Residential – 2 apartment complexes and First Merchant's Bank.
East:	"RO" Office Residential & "R2MS" Single & Two-Family Residential - Mix of residential, primarily single-family rentals.
West:	"UP" Uptown District – Commercial businesses and offices.

AGENCY COMMENTS

Requests for agency review were sent to the Police, Engineering, Fire Departments and Economic Development. The following comments were returned:

Police Department: Comments returned with no comments on this request.
Engineering: Comments returned with no comments on this request.
Fire: Comments returned with no comments on this request.
Econ. Dev. Dept.: Comments returned with no comments on this request.

ZONING CODE REGULATIONS

Any previously approved plans remain with the property if the Zone Map Amendment is approved. There will be no impact to this property by including it into the "UP" Uptown District but will actually make the property more conforming by permitting the restaurant use "by right" as opposed to non-conforming in "RO" Office Residential District. Should the property ownership change under the current zoning, the property may continue to be used as a restaurant or any permitted use in the "RO" District.

PUBLIC COMMENT FORMS

No comments have been received to date.

STAFF ANALYSIS

Upon entering and leaving the Uptown area, one would think this property and those on west side of N. College to the Church Street intersection are already included in the district because it is a thriving business. However, there are no other properties west of Church Street that is currently zoned "UP". This property, including those to the west, up to the alley, is part of the Uptown Historic District.

RECOMMENDATION

Not applicable.

DECISION STANDARDS

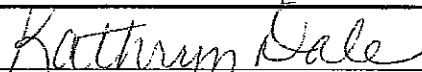
(c) Planning Commission and Council Review. The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall also consider the Planning Commission recommendation. If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

- (1) Decision standards. A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls.

Map Amendments

- A. There is an error on the Official Zoning Map or in the delineations between districts thereon.
- B. The proposed amendment will make the map conform more closely with the Comprehensive Plan.
- C. There has been a substantial change in area conditions that necessitates the amendment.
- D. There is a legitimate need for additional land area in the zoning district that will be expanded.

SUBMITTED BY:



Kathryn A. Dale, AICP

City Planner

Community Development Department

DATE: September 12, 2008

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/8/08

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-21-2008

Description:

PC-21-2008 **ZONING MAP AMENDMENT, 22 N. College Avenue, from RO (Office Residential) to UP (Uptown) District, Melissa Friede, Applicant, Owner**

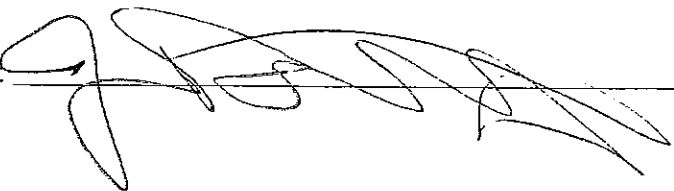
 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **10/6/2008** 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: 

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/8/08

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-21-2008

Description:

PC-21-2008 **ZONING MAP AMENDMENT, 22 N. College Avenue, from RO (Office Residential) to UP (Uptown) District, Melissa Friede, Applicant, Owner**

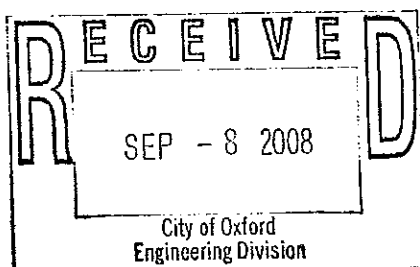
☒ Review ☐ Revisions ☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **10/6/2008** 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: *A. Popescu* 9-17-08



City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/8/08

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-21-2008

Description:

PC-21-2008 **ZONING MAP AMENDMENT, 22 N. College Avenue, from RO (Office Residential) to UP (Uptown) District, Melissa Friede, Applicant, Owner**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **10/6/2008** 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: _____

S. Selwa

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 9/8/08

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

Case #: PC-21-2008

Description:

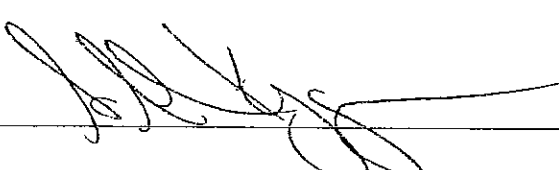
PC-21-2008 **ZONING MAP AMENDMENT**, 22 N. College Avenue, from RO (Office Residential) to UP (Uptown) District, **Melissa Friede, Applicant, Owner**

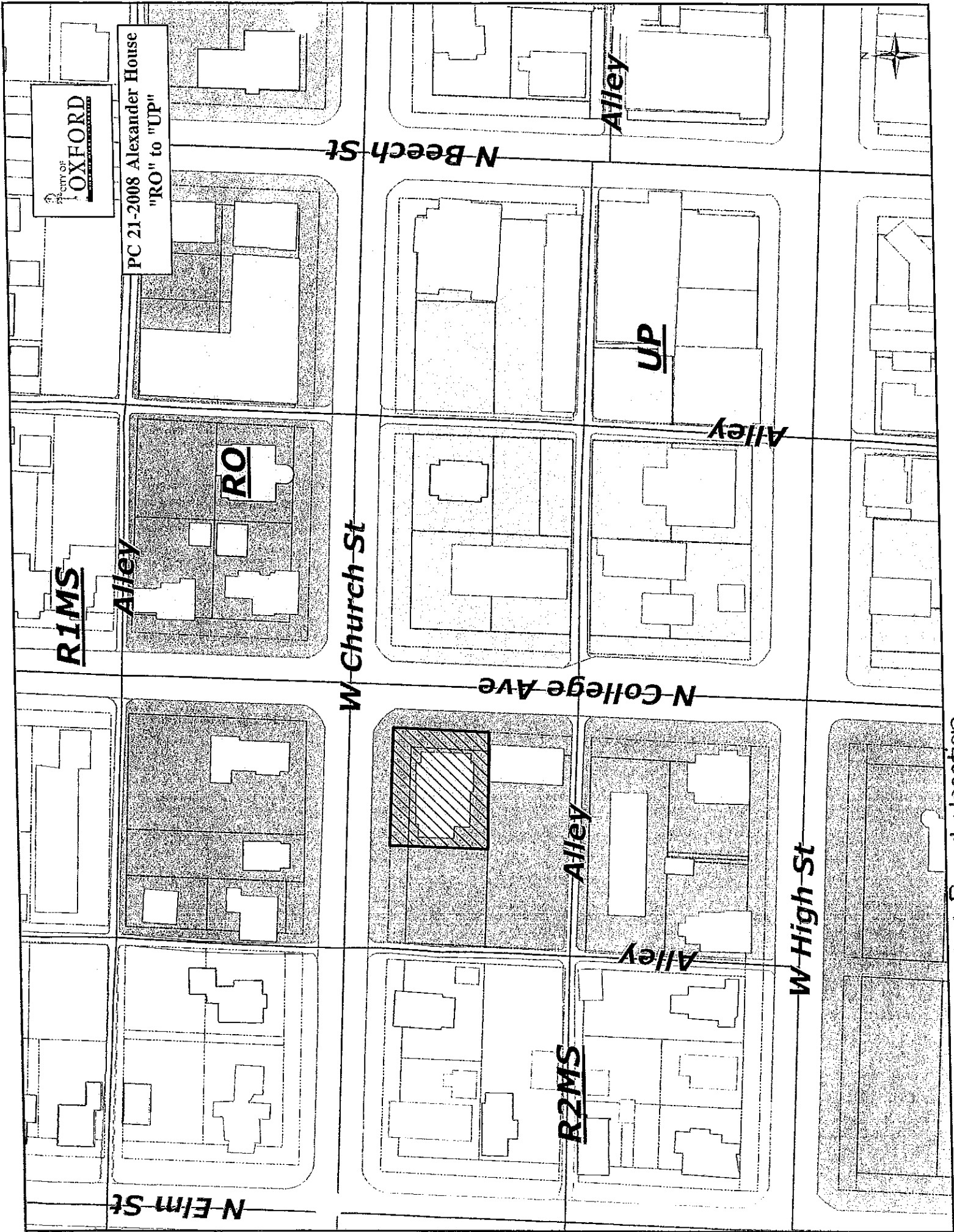
☒ Review ☐ Revisions ☐ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **10/6/2008** 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: 



CITY OF
OXFORD
OHIO

PC 21-2008 Alexander House
"RO" to "UP"

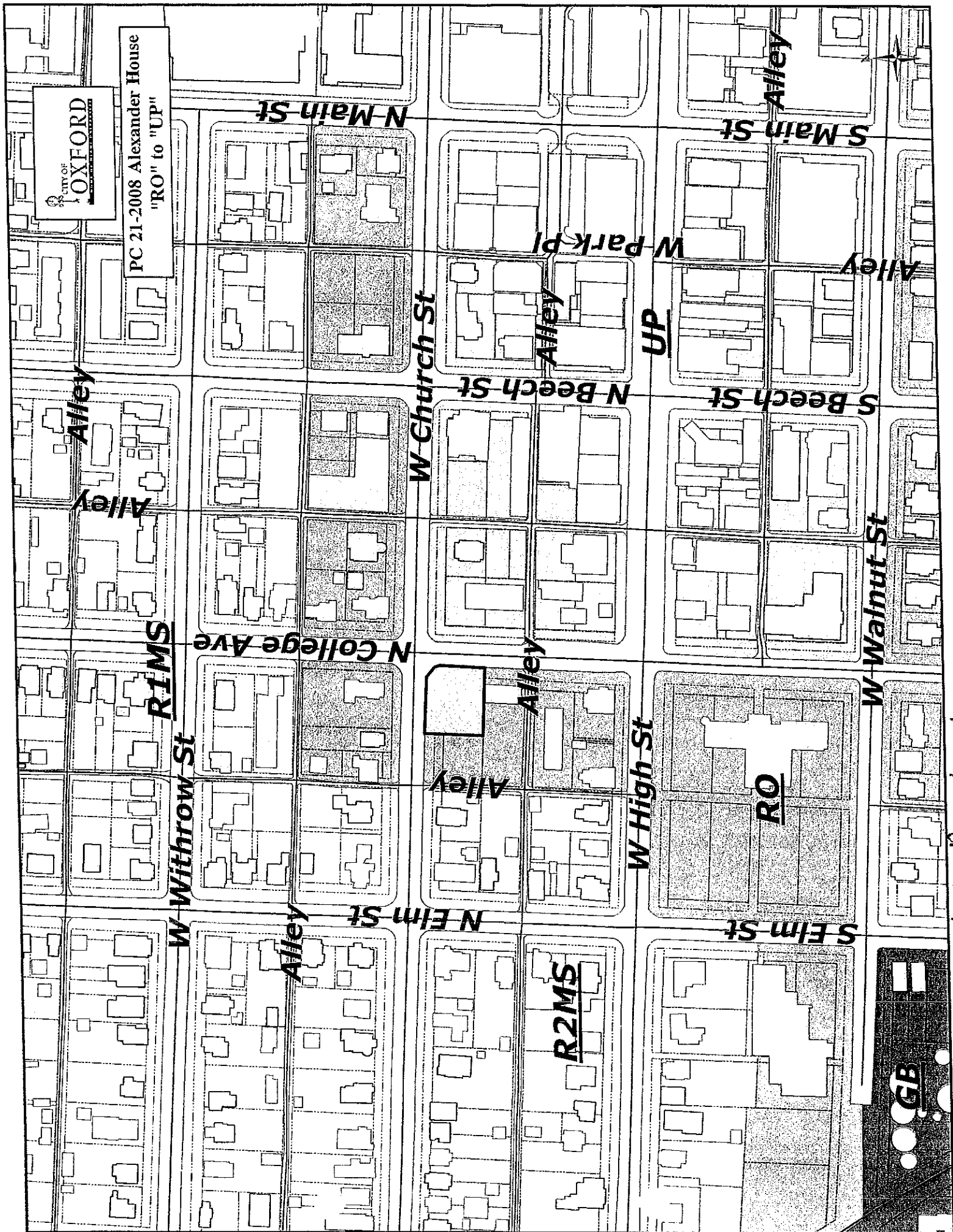
R1MS

RO

UP

R2MS

Subject Property location



APPROVED BY THE OXFORD PLANNING COMMISSION
THIS DAY OF

UTILITY NOTES

ALL UNDERGROUND UTILITIES
TO BE FIELD VERIFIED BEFORE
CONSTRUCTION.

EXISTING GAS, UGE, AND UGT TO
BE RELOCATED TO THE PROPOSED
UTILITY EASEMENT PRIOR TO ANY
CONSTRUCTION ON TRACT A.

DEEP REFERENCES

D.B.	6491	PG.	586-589
D.B.	1438	PG.	215
D.B.	5390	PG.	874
D.B.	8479	PG.	45
D.B.	6331	PG.	2357
D.B.	6783	PG.	2304
D.B.	1747	PG.	615
D.B.	817	PG.	83
D.B.	7131	PG.	888
D.B.	1781	PG.	621
D.B.	1440	PG.	678
D.B.	1801	PG.	247
D.B.	7228	PG.	742
D.B.	1771	PG.	298
D.B.	1753	PG.	709

SURVEY REFERENCES

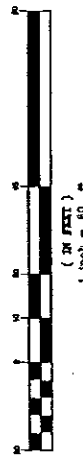
D.B. N PG. 364
D.B. 1777 PG. 298

~~TRACT A LOT COVERAGE~~
TRACT B 5,000 SQ. FT.
CONCRETE 592 SQ. FT.
GRAVEL 268 SQ. FT.
~~TOTAL COVERAGE~~
2,388 SQ. FT. X 100 = 47.76 %
5,000 SQ. FT.

TRACT B LOT COVERAGE		
TRACT B 10.047 SQ. FT.		
EX. BUILDING 2.278 SQ. FT.		
PORCHES 1.081 SQ. FT.		
PATIO 212 SQ. FT.		
WALKS 718 SQ. FT.		
WALLS AND STEPS 120 SQ. FT.		
TOTAL COVERAGE		
4,410 SQ. FT.	$\times 100 =$	43.89 %
10,047 SQ. FT.		
BUILDING COVERAGE		
EX. BUILDING 2.278 SQ. FT.		
PORCHES 1.081 SQ. FT.		
3,359 SQ. FT.	$\times 100 =$	33.43 %
10,047 SQ. FT.		
FRONT YARD = 2.897 SQ. FT.		
(FROM E/W TO PORCH AND CELLAR DOOR)		
WALK, ARCADE IN FRONT YARD = 874 SQ. FT.		
574 SQ. FT.	$\times 100 =$	14.81 %
3,875 SQ. FT.		

[illegible]

GRAPHIC SCALE



I HEREBY CERTIFY THAT ALL MEASUREMENTS AND MONUMENTS SET AND/OR FOUND AS SHOWN, CURVE DISTANCES ARE MEASURED ON THE ARC. ALL WORK PERFORMED IN ACCORDANCE WITH THE "MINIMUM STANDARDS FOR BOUNDARY SURVEYS IN THE STATE OF OHIO."

DAVID DOUGLAS SMITH PROFESSIONAL SURVEYOR NO. 7121

DAVID DOUGLAS SMITH, P.S.
 P.O. BOX 160
 GUTHRIE 1875 4608
 (410) 634-4779
 1-800-368-1111 ext. 101
 SURVEYING, INC.



THIS PLAY MADE PURSUANT
TO SECTION 5713 OF THE
OHIO REVISED CODE.

BOOK 0330

DATE _____

22 N. COLLEGE AVE.
LOT 176
CITY OF OXFORD,
BUTLER COUNTY, OHIO

[illegible]

10T SP/IT

1

**DDS****SURVEYING, INC.****DAVID DOUGLAS SMITH, P .S.****REGISTERED LAND SURVEYOR****OHIO - INDIANA - KENTUCKY****WEST VIRGINIA - NEW YORK - VERMONT****DDS SURVEYING, INC.****P.O. BOX 150****OXFORD, OHIO 45056****OFFICE (513) 523-4270****FAX (513) 523-4270****E-MAIL DDS4111@AOL.COM****Legal Description**

0.231 acres

Situated in the City of Oxford, Butler County, Ohio, being part of Lot 176 of the said City of Oxford and being of the lands of Steven G. Friede and Melissa B. Friede, as recorded in volume 6491 pages 586 through 590 of the Butler County Recorder's Office and being more particularly described as follows:

Commencing at a 5/8" rebar found at the southwest corner of said Lot 176 of the City of Oxford, said point being on the east right-of-way of a 16.50 foot alley;

thence with the south line of said Lot 176 S 87°25'07" E for 60.60 feet to a 5/8" rebar set, said point being the **True Point of Beginning**;

thence on a new division line through said Lot 176 N 02°02'18" E for 82.51 feet to a 5/8" rebar set, said point being on the north line of said Lot 176 and on the south right-of-way of Church Street;

thence with the south right-of-way of Church Street S 87°25'11" E for 121.77 feet to a 5/8" rebar set, said point also being on the west right-of-way of College Avenue;

thence with the east line of said Lot 176 and with the west right-of-way of College Avenue S 02°02'43" W for 82.51 feet to an iron fence corner post;

thence leaving the west right-of-way of College Avenue, with the south line of said Lot 176 N 87°25'07" W for 121.76 feet to the **True Point of Beginning**, containing 0.231 acres more or less, and being subject to all legal highways, easements, restrictions and agreements of record.

Prepared by:
DDS Surveying, Inc.
October 19, 2007
Job # 27048

Kathryn A Dale 2/15/08
Kathryn A Dale
City Planner
Title
Notes:

VOLUME 51 PAGE 29
BUTLER COUNTY ENGINEER
LAND SURVEYS
RECORD OF

Case No.: PC-21-08
Date filed: 7/28/08
10/14/08 mtg

Zoning Map Amendment Application
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Applicant: Melissa B. Friede
(Attach a letter of agency if the applicant is not the property owner.)
Mailing Address: 118 Hilltop Rd
Oxford OH 45056
Telephone Number(s): 513 255 093
Location of Property: 22 N College Avenue
(Indicate address if there is an existing structure or subdivision name and lot number if subdivided.)
Legal Description: lot 174 - 441600050001771 176 ENT & S 1642 x W 16
Total Area: 0.231 Acres / Square Feet (circle one)
Existing Use of Property: Non-conforming use - Restaurant
Current Zoning: RO
Proposed Zone(s): Uptown
Proposed Use: Conforming / Permitted Use Restaurant

SUBMISSION REQUIREMENTS

Please submit a vicinity map, at a scale and a metes and bounds description of the property, the statement described below and the required fee of \$150.00, made payable to the City of Oxford. The entire submission must be prepared in accordance with Chapter 1135, Zoning Code Amendments, of the City of Oxford Zoning Code.

On a separate sheet of paper, provide the names and addresses of all adjoining property owners within 200 feet of every parcel proposed to be rezoning, including those across streets, roads, alleys and highways.

Attach a statement which responds to the following questions:

- 1) What is the relationship of the proposed zone change to the City of Oxford's Comprehensive Plan?
- 2) How will the zone change affect the neighborhood in which the property is located? Briefly describe any impacts of the change as proposed.
- 3) How will the zone change affect public facilities such as sewer and water service, drainage, schools and roads, if applicable?
- 4) What mitigating actions might be suggested to offset problems resulting from adverse impacts on private property and public facilities (e.g., landscape screening, drainage improvements, changes in traffic signalization, provision of additional turn lanes).
- 5) Why is the current zoning classification of the property no longer appropriate?

All materials and application fee must be delivered to the office of the Planning Director, Municipal Building, 101 East High Street, Oxford, Ohio 45056. **Incomplete applications will not be processed.** Any questions should be directed to the Planning Department at (513) 524-5204. The issue will be placed on the next possible agenda.

NOTE: Notification and publication requirements must be adhered to. Submit materials 45 days prior to the proposed meeting date.

SIGNATURE OF APPLICANT: [Signature] Date: 7/7/08

PRINTED NAME: Melissa B. Friede

FEE / RECEIPT
\$150 Fee Paid / Receipt Number: 14015

Submission Requirements:

Zoning Map Amendment Application

- 1) .The relationship to the proposed zone change to the City of Oxford's Comprehensive Plan is cooperative. The zone change would make the existing property use conforming rather than "non-conforming" or a use not permitted in the existing RO zone. Essentially the zoning line would continue to the other side of College Avenue rather than stop in the middle of the road.
- 2) The zone change would not affect the neighborhood in which the property is located. The business will remain the same; therefore, there should be no impact on the existing neighborhood.
- 3) Public facilities will not be affected as there are proposed changes to the use.
- 4) Not applicable: see #3.
- 5) The current zoning classification of the property is no longer appropriate because of the comprehensive plan. In the RO classification the use is not permitted and non-conforming. Changing the zoning allows the property to become conforming.

(c) Planning Commission and Council Review. The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall also consider the Planning Commission recommendation.

If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

- (1) Decision standards. A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls.

Text Amendments

- A. The proposed amendment will make the Code conform more closely with the Comprehensive Plan.
- B. The proposed amendment will improve the public health, safety, and general welfare of Oxford.
- C. The proposed amendment will clarify the intent of the Code.
- D. The proposed amendment will better implement the intent of the Code.
- E. The proposed amendment will improve enforcement of the Code.

Map Amendments

- A. There is an error on the Official Zoning Map or in the delineations between districts thereon.
- B. ~~The proposed amendment will make the map conform more closely with the Comprehensive Plan.~~
- C. There has been a substantial change in area conditions that necessitates the amendment.
- D. There is a legitimate need for additional land area in the zoning district that will be expanded.

- (d) Action by Planning Commission and Council.

- (1) The Planning Commission shall recommend to Council approval, approval with modifications, or denial of an application as presented and shall clearly state the findings upon which its recommendation is based.
- (2) Council shall base its decision on the recommendation of Planning Commission and the decision standards of this section.

- (e) Implementation of Amendment.

- (1) The Zoning Administrator shall implement all Code amendments approved by Council when the ordinance approving the amendment becomes effective, regardless of when the amendment appears in the Zoning Code text or on the Zoning Map.
- (2) Zoning Code amendments do not expire.
(Ord. 2782. Passed 5-20-03.)

11-14-03

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager

Community Development Department
Originating Department

Council Meeting Of: November 18, 2008

Jung-Han Chen

Account Code No. #:

Prepared By

Budgeted Amount:

November 11, 2008

Date Prepared

Agenda Title:	An Ordinance Repealing Zoning Code Section 1139, variances, And Adopting New Section 1139, Variances.
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Recommendation:	Approval
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Discussion:

City Council went through the first reading of the proposed amendment to the Oxford Zoning Code, Section 1139, Variances and directed the Law Director to make some changes for further consideration.

The draft language reflects the discussion City Council had during the October 21, 2008 meeting.

Approved By:	Department Head:	Initial	Date
	City Attorney:		
	City Manager:		

**CITY OF OXFORD
STAFF SUMMARY REPORT**

Report to the City Manager

Community Development Department
Originating Department

Council Meeting Of: October 21, 2008

Jung-Han Chen
Prepared By

Account Code No. #:

Budgeted Amount:

October 10, 2008
Date Prepared

Agenda Title: PC-15-2008	PC-20-2008 ZONING CODE TEXT AMENDMENT – Chapter 1139 Variances
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Recommendation: Approval

Discussion:

On July 9, 2008 the BZA underwent training to sustain and improve their effectiveness, productivity and to assure legally defensible deliberation and decision making process, and to become more familiar with evolving tools and techniques. The consultant of this training program also reviewed practices that commonly lead to litigation and demonstrated what not to do at a public hearing.

As a result of the training session, it was discovered that the decision standards used by the BZA have no legal grounds or support. The primary change to this Chapter reflects the decision standards established in the Ohio Supreme Court case *Duncan v. Village of Middlefield*.

Because the BZA is a quasi-judicial board and not a legislative body, a portion of their meetings are considered as adjudication hearing instead of a public hearing like the Planning Commission and Council meetings. What this means is that the BZA may only hear testimony that is relevant to the case and by a person who has a substantial right or will be directly affected (impacted) in a manner that is different from the effect of the general public.

The Planning Commission held a public hearing at a Special Meeting held September 30, 2008 to review the proposed changes. The Commission voted 7-0-0 to recommend approval subject to certain modifications.

Approved By:	Department Head:	Initial	Date	
	City Attorney:	<u>JHC</u>	<u>10/13/08</u>	
	City Manager:	<u>[Signature]</u>	<u>10/13/08</u>	

ORDINANCE NO.

ORDINANCE REPEALING ZONING CODE SECTION 1139, VARIANCES, AND ADOPTING NEW SECTION 1139, VARIANCES.

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

SECTION I: Council hereby finds that the City of Oxford Planning Commission held a public hearing on September 30, 2008 and that following the public hearing did deliberate and as a result of that deliberation, the Planning Commission recommended repealing Oxford Codified Ordinance Section 1139, Variances, and adopting new Section 1139, Variances.

SECTION II: Council hereby repeals Section 1139 of the Oxford Code of Ordinances and adopts new Section 1139 as follows:

1139.01 GENERAL.

(a) Purpose. A variance permits variation from the strict interpretation of this Code so that no specific provision prevents development of a specific site that would otherwise not be possible and that would satisfy the general intent of the Code. Use variances are prohibited.

(b) Variance Requirement. Each variance shall be granted according to the provisions of this chapter.

(c) Effect of Variance.

- (1) A variance shall be valid only for the specific use, site, location, and provision for which it is granted and changes to the use and site that change the facts upon which it was granted shall be strictly interpreted.
- (2) A variance does not expire, but becomes invalid if the use, site, or location is changed in some way that changes the facts upon which it was granted.
- (3) An action or construction that is undertaken following the granting of a variance does not create a nonconformity. A variance actually changes the specific provisions of the Code as they pertain to a specific use, site, and location. (Ord. 2782. Passed 5-20-03.)

1139.02 PROCEDURE.

(a) Application. An application for a variance shall be filed with the Zoning Administrator. An application shall be complete prior to being scheduled for an ~~public~~ **adjudication** hearing. An application will be ~~considered complete~~ **placed on the agenda** only if the Zoning Administrator is satisfied that all of the materials required by this chapter are included and are sufficient in their content to satisfy the intent of the application requirements. **The Board will not hear any appeal on an application the Board deems incomplete.**

- (1) Contents of application for variance. Eight complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement. If any information is submitted in color or on non-standard paper, more copies may be required.
 - A. Application Fee.
 - B. Description of Use and Site.

~~A written, detailed description shall include the following information.~~

~~A separate response is required for each subsection.~~

~~A. C.~~ The name, mailing address, and telephone number of the applicant and the property owner.

~~B. D.~~ If the applicant is not the owner, a statement from the owner that the applicant is entitled to apply on his or her behalf (Letter of Agency).

~~C. E.~~ A legal description of the site, including all separate lots.

~~D. F.~~ A description of the existing uses of the site.

~~E. G.~~ The zoning district in which the site is located.

~~F. H.~~ A description of the existing and proposed use.

1. A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles.
2. The hours of operation.

~~G. I.~~ The nature and magnitude of the requested variance.

~~H. J.~~ The Code section from which the variance is requested.

~~I. K.~~ A separate narrative statement that explains how the proposed variance satisfies each of the Decision Standards required to grant ~~area~~ a variance.

~~J. L.~~ A list of the names and mailing addresses of all landowners within 200 feet of the perimeter of the site.

~~K.~~ ~~Such other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.~~

- (2) Site Plan. A scaled site plan shall include the following information in detail. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.

A. North arrow.

B. Scale.

C. Vicinity map.

D. All existing and proposed lot lines within the site.

E. Dimensions of all lots and of the entire site and any adjacent rights- of-way.

F. Location, height, and use of all proposed and existing structures.

G. Location and design of all proposed vehicle management areas.

H. Location, size, and type of all proposed signs.

I. Location, height, and type of all proposed screening and landscaping.

J. Distances to residential zoning districts if within 1,000 feet.

K. The use of land and location of structures on adjacent property and across adjacent rights-of-way.

L. An indication of the regulation from which the variance is requested.

M. Other information as required by the Board of Zoning Appeals.

- (3) Elevations. Elevations of proposed structures, or typical elevations if structures are not yet designed, may 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.

- (4) Other. Photographs of the existing use and its surroundings **and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.**
- (b) Reapplication.
- (1) No application for a variance that is substantially similar to an application that has been denied **or granted**, wholly or in part, **or revoked**, shall be submitted to the BZA for a decision. The Zoning Administrator shall determine if a similar application differs enough to be considered a different application and not subject to this section. The Zoning Administrator may consider factors such as the nature or size of a proposal, changes in the development or traffic patterns of the area, or newly discovered evidence pertinent to a decision on a previous application.
- (2) An applicant may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals **as stipulated in this Chapter and Section 1129.09 of the Planning and Zoning Code.**
- (c) Board of Zoning Appeals Review. The Board of Zoning Appeals shall base its review of a variance application upon the complete application, upon any staff report, and upon any relevant and credible public **testimony and evidence** presented during the ~~public~~ adjudication hearing. If the Board of Zoning Appeals 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. ~~An applicant shall be required to provide all information necessary to prove that an application satisfies the Decision Standards.~~ **The applicant shall be required to present by preponderance of reliable, probative and substantial testimony and evidence that supports the applicants request for a variance.**
- (2) Decision standards. ~~All variances shall satisfy the Decision Standards of this section. Variances and nonconformities on other land, sites, or structures shall not be considered grounds for a variance. Variances shall be granted only upon a determination that practical difficulties exist with respect to the property in question that would render strict application of the Planning and Zoning Code unreasonable. This determination shall be made without regard to the existence of variances and nonconformities on other land, sites, or structures not presently under consideration.~~

Deleted: inequitable

In determining whether practical difficulties exist sufficient to warrant a variance, the Board shall consider and weigh the following factors:

- ~~A. The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and~~
- ~~B. Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application; and~~
- ~~C. The conditions upon which the application is based are not the result of actions of the applicant; and~~

~~D. The variance would not confer a special privilege to the applicant but would relieve a hardship; and~~

~~E. The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and~~

~~F. The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and~~

~~G. The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.~~

A. ~~Variances shall be granted only upon a determination that practical difficulties exist with respect to the property in question that would render strict application of the Planning and Zoning Code inequitable.~~

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~~A. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;~~

Deleted: B

~~B. Whether the variance is substantial (i.e. it is the minimum requested variance necessary to relieve the alleged practical difficulties);~~

Deleted: C

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~~C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;~~

Deleted: D

~~D. Whether the variance would adversely affect the delivery of governmental services (eg. water, sewer, garbage);~~

Deleted: E

Deleted: E

~~E. Whether the property owner purchased the property with knowledge of the zoning restriction;~~

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Deleted: F

~~F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;~~

Deleted: G

~~G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.~~

Deleted: H

~~H. Any other relevant factor.~~

Deleted: I

(d) Action by Board of Zoning Appeals.

(1) The Board of Zoning Appeals shall grant, grant with conditions, or deny a variance application as presented and shall clearly state the findings upon which its decision is based.

(2) The Board of Zoning Appeals shall base its decision only upon the Decision Standards in this Chapter. In its decision, the Board of Zoning Appeals may waive or modify dimensional regulations of the Zoning Code, or impose more strict regulations and any additional conditions, guarantees, and safeguards it deems necessary to satisfy the purposes of this Zoning Code.

(e) Issuance of Permits.

(1) The Zoning Administrator shall issue permits to permit the action for which a variance was sought after the Board of Zoning Appeals grants a variance. Construction permits shall not be issued unless the plans substantially conform to those upon which a variance was granted. Any

action that exceeds a granted variance shall constitute a violation of the Zoning Code. (Ord. 2782. Passed 5-20-03.)

- (2) **No order of the Board permitting erection or alteration of a building or the use of a building or premises shall be valid for a period longer than six (6) months, and upon the expiration of such period shall automatically be deemed revoked, unless a building permit for such erection or alterations is obtained and the work is started within such period, or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Board.**

(f) **Appeal of Board of Zoning Appeals Decision.**

- (1) **Appeals to the decision of the Board of Zoning Appeals shall be made to the Court of Common Pleas of Butler County.**

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

MAYOR

ADOPTED: _____

ATTEST:

DEPUTY 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 October 21, 2008

Case Number PC-20-2008

Applicant Information City of Oxford

Requested Action Zoning Code Text Amendment

Summary of Request Zoning Code Text Amendments to Chapter 1139 Variances

**Public Hearing
Information** At the September 30, 2008 Special Planning Commission meeting, a public hearing was held at 118 West High Street. A legal notice of the hearing was published in the Oxford Press on August 8, 2008.

Commission Action The Planning Commission voted 7-0-0 to recommend City Council approve this zoning code text amendment with modifications highlighted.

**Commission Findings
and Conclusions** After a public hearing and discussion, the Planning Commission voted to recommend approval of the zoning code text amendment with modifications.

**Exhibits Submitted to
the Commission** 1. Proposed language with marked modifications.
2. Zoning Code Text Amendment Application dated July 25, 2008.

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Police

Originating Department

Council Meeting Of: October 21, 2008

Account Code No. #: Not Applicable

Steve Schwein

Prepared By

Budgeted Amount: Not Applicable

September 25, 2008

Date Prepared

Agenda Title: An Ordinance repealing Oxford City Code 351.06 and enacting new Ordinance 351.06 titled, "351.06 Selling, Washing, or Repairing vehicle upon roadway or on private property open to public travel"

Recommendation: Repeal the present ordinance and enact the new ordinance and change section (a) by inserting the words, "or private property open to public travel, unless written permission by the private property owner is posted on the vehicle" after the word "roadway" and before the word "any."

Discussion: The Division of Police has recommended this change to OCC 351.06 based on public complaints of "pop-up" used car lots on privately owned parking lots about the city. Such lots are often used without the permission of the property owner and vehicles are often left on these lots for extended periods of time.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

SDS 10/08

DS 10/21/08

ORDINANCE NO. _____

AN ORDINANCE REPEALING OXFORD CODE OF ORDINANCES SECTION 351.06 AND ADOPTING NEW OXFORD CODE OF ORDINANCES SECTION 351.06; TITLED "SELLING, WASHING, OR REPAIRING VEHICLE UPON ROADWAY OR ON PRIVATE PROPERTY OPEN TO PUBLIC TRAVEL".

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

SECTION I: Council hereby repeals Section 351.06 Entitled "Selling, Washing, Or Repairing Vehicle Upon Roadway" and new Section 351.06 entitled "Selling, Washing, Or Repairing Vehicle Upon Roadway Or On Private Property Open To Public Travel" is hereby adopted as follows (language to be adopted is in italics):

**351.06 SELLING, WASHING, OR REPAIRING VEHICLE UPON ROADWAY
OR ON PRIVATE PROPERTY OPEN TO PUBLIC TRAVEL**

(a) No person shall park upon a roadway any vehicle displayed for sale, or operate or park on any roadway any vehicle for the primary purpose of displaying advertising.

(b) No owner or operator shall park a vehicle displayed for sale or a vehicle displayed for the primary purpose of advertising upon private property open to public travel and fail to remain personally on the same premises as the parked vehicle without first obtaining written permission from the private property owner and without displaying said written permission on the vehicle. For the purposes of this section, if an above-described vehicle is parked upon the premises of a vacant, or abandoned business or building, or upon the premises of a business outside of the normal operating hours of that business, and if, after reasonable observation of the immediate area surrounding the vehicle its owner or operator is not observed, it shall be presumed that the owner or operator of the vehicle has failed to remain on the premises.

(c) Upon any roadway no person shall repair, wash, polish or clean any vehicle, or park any vehicle for the purpose of so doing. This section shall not be construed to prohibit the making of such necessary emergency repairs as will permit a vehicle to proceed.

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

MAYOR

ADOPTED:

ATTEST:

DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA
PREPARED BY: LAW (STAFF)

CITY OF OXFORD

STAFF SUMMARY REPORT

Report to the City Manager: Douglas Elliott, Jr.

Police

Originating Department

Council Meeting Of: October 21, 2008

Account Code No. #: Not Applicable

Steve Schwein

Prepared By

Budgeted Amount: Not Applicable

September 25, 2008
Date Prepared

Agenda Title: An Ordinance repealing Oxford City Code 351.13 and enacting new Ordinance 351.13 titled, Parking in Excess of 72 hours prohibited.

Recommendation: Repeal the present ordinance and enact the new ordinance and change section (b) to read "(b) No person shall park or store a vehicle, nor allow any one else to park or store a vehicle upon private property open to public travel within the City for a period longer than seventy-two (72) consecutive hours. This section does not apply to bona fide auto repair shops when such vehicle is there for repair, storage facilities, or businesses using such vehicles in the conduct of commerce."

Discussion: The Division of Police has recommended this change to OCC 351.13 based on public complaints of "pop-up" used car lots on privately owned parking lots about the city. Such lots are often used without the permission of the property owner and vehicles are often left on these lots for extended periods of time. This change would also prohibit longer term storage of vehicles, trucks, and buses within the City.

Approved By:

Department Head:

City Attorney:

City Manager:

Initial Date

SDS 11/01/08

[Signature] 10/31/08

ORDINANCE NO. ____

AN ORDINANCE REPEALING OXFORD CODE OF ORDINANCES SECTION 351.13 AND ADOPTING NEW OXFORD CODE OF ORDINANCES SECTION 351.13; TITLED "PARKING IN EXCESS OF 72 HOURS PROHIBITED".

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

SECTION I: Council hereby repeals Section 351.13 Entitled "Parking In Excess Of 72 Hours Prohibited" and new Section 351.13 Entitled "Parking In Excess Of 72 Hours Prohibited" is hereby adopted as follows (language to be repealed is stricken through and language to be adopted is in italics):

351.13 PARKING IN EXCESS OF 72 HOURS PROHIBITED.

(a) No person shall park a vehicle upon a roadway within the City for a period longer than seventy-two (72) consecutive hours

(b) ~~Whoever violates any provision of this section shall pay a fine of fifty dollars (\$50.00). Failure to pay within thirty (30) days is a minor misdemeanor and a warrant shall be issued for arrest of the violator.~~

(b) *No owner or operator shall park a vehicle for more than seventy-two (72) consecutive hours upon private property open to public travel and fail to personally remain on the same premises as the parked vehicle. For the purposes of this section, if a vehicle is parked upon the premises of a vacant or abandoned business or building, or upon the premises of a business outside of the normal operating hours of that business, and if, after reasonable observation of the immediate area surrounding the vehicle its owner or operator is not observed, it shall be presumed that the owner or operator of the vehicle has failed to remain on the premises.*

This section shall not prohibit the parking of a vehicle for more than seventy-two (72) hours on the premises of a bona fide auto service or repair business entity with whom an owner or operator of the vehicle has contracted to service or repair the vehicle, or upon the premises of a bona fide facility primarily established for long-term parking and/or vehicle storage via paid permit or license, provided that said vehicle is not displayed for sale or is a vehicle displayed for the primary purpose of advertising, and is in compliance with all other laws and ordinances.

This section shall not apply to the premises of a business entity lawfully engaged in the primary business of selling vehicles.

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

MAYOR

ADOPTED:

ATTEST:

DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: PRUE DANA

PREPARED BY: LAW (STAFF)