





Graphics Commission Application

757 Carolyn Avenue, Columbus, Ohio 43224
Phone: 614-645-7433 • www.bzs.columbus.gov

OFFICE USE ONLY

Application Number: GC15-032 Date Received: 9 SEP. 2015
Application Accepted by: [Signature] Fee: \$1900
Commission/Civic:
Existing Zoning:
Comments:

TYPE(S) OF ACTION REQUESTED (Check all that apply):

- [X] Variance [ ] Graphics Plan [X] Special Permit [ ] Miscellaneous Graphic

Indicate what the proposal is and list applicable code sections. State what it is you are requesting.
Variance - C.C. 3372.606 - advertising mural

Special Permit - C.C. 3382.06 - off premises graphic

LOCATION

Certified Address: 1976 North High Street City: Columbus, Ohio Zip: 43201

Parcel Number (only one required): 010-026573

APPLICANT

Applicant Name: Acme Geegaw LLC Phone Number: 221-4255 Ext.:

Address: 37 West Broad Street, Suite 460 City/State: Columbus, Ohio Zip: 43215

Email Address: dhodge@smithandhale.com Fax Number: 221-4409

PROPERTY OWNER(S) [ ] Check here if listing additional property owners on a separate page

Name: Epic Realty of Ohio I LLC Phone Number: Ext.:

Address: 52 East 15th Avenue City/State: Columbus, Ohio Zip: 43201

Email Address: Fax Number:

ATTORNEY / AGENT (Check one): [X] Attorney [ ] Agent

Name: David Hodge Phone Number: 221-4255 Ext.:

Address: 37 West Broad Street, Suite 460 City/State: Columbus, Ohio Zip: 43215

Email Address: dhodge@smithandhale.com Fax Number: 221-4409

SIGNATURES (All signatures must be provided and signed in blue ink)

APPLICANT SIGNATURE Acme Geegaw LLC By: [Signature]

PROPERTY OWNER SIGNATURE Epic Realty of Ohio I LLC By: [Signature]

ATTORNEY / AGENT SIGNATURE [Signature]

PLEASE NOTE: Incomplete information will result in the rejection of this submittal.
Applications must be submitted by appointment. Call 614-645-4522 to schedule.
Please make checks payable to the Columbus City Treasurer



Graphics Commission Application

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AFFIDAVIT

STATE OF OHIO
COUNTY OF FRANKLIN

Being first duly cautioned and sworn (1) NAME David Hodge
of (1) MAILING ADDRESS 37 West Broad Street, Suite 460, Columbus, Ohio 43215

deposes and states that (he/she) is the applicant, agent, or duly authorized attorney for same and the following is a list of the
name(s) and mailing address(es) of all the owners of record of the property located at
(2) per CERTIFIED ADDRESS FOR PROPERTY 1976 North High Street, Columbus, Ohio 43201

for which application for a rezoning, variance, special permit or graphics plan was filed with the Department of Building and
Zoning Services, on (3)
(THIS LINE TO BE FILLED OUT BY CITY STAFF)

SUBJECT PROPERTY OWNERS NAME (4) Epic Realty of Ohio I LLC
AND MAILING ADDRESS 52 East 15th Avenue
Columbus, Ohio 43201

APPLICANT'S NAME AND PHONE # Acme Geegaw LLC
(same as listed on front application) 221-4255

AREA COMMISSION OR CIVIC GROUP (5) University Area Commission
AREA COMMISSION ZONING CHAIR c/o Susan Keeny
OR CONTACT PERSON AND ADDRESS 358 King Avenue
Columbus, Ohio 43201

and that the following is a list of the names and complete mailing addresses, including zip codes, as shown on the County
Auditor's Current Tax List or the County Treasurer's Mailing List, of all the owners of record of property within 125
feet of the exterior boundaries of the property for which the application was filed, and all of the owners of any property within 125
feet of the applicant's or owner's property in the event the applicant or the property owner owns the property contiguous to the subject
property:

Table with 3 columns: (6) PROPERTY OWNER NAME, (6a) PROPERTY ADDRESS, (6b) PROPERTY OWNER MAILING ADDRESS. Row 1: Please see attached list.

(7) Check here if listing additional property owners on a separate page.

(8) SIGNATURE OF AFFIANT David Hodge

Sworn to before me and signed in my presence this 9th day of September, in the year 2020

(8) SIGNATURE OF NOTARY PUBLIC Natalie C Timmons

My Commission Expires 9/4/2020
Notary Seal Here
Natalie C. Timmons
Notary Public, State of Ohio
My Commission Expires 09-04-2020



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Please make checks payable to the Columbus City Treasurer



## CITY OF COLUMBUS GRAPHICS COMMISSION

IN RE: JULY 2015 GRAPHICS COMMISSION APPLICATION  
1976 NORTH HIGH STREET

ACME GEEGAW LLC  
Applicant

APPLICANT'S HEARING BRIEF

The applicant, Acme Geegaw LLC, has applied for a hearing before the Columbus Graphics Commission requesting the grant of a Variance to allow an off-premise graphic within the Urban Commercial Overlay and a Special Permit for the installation of an off-premise advertising mural.

Variance

The Columbus Graphics Commission must grant the applicant the requested variance, to do otherwise would be arbitrary, unreasonable, and inconsistent with the Columbus City Code and Ohio case law precedent. The Ohio Supreme Court, in determining the applicable standard for cases involving variances has stated, “[t]he standard for granting a variance which relates solely to area requirements should be a lesser standard than that applied to variances which relate to use. An applicant for an area variance need not establish unnecessary hardship; it is sufficient that the applicant show practical difficulties.” Kisil v. Sandusky, (1984), 12 Ohio St.3d 30.

The Ohio Supreme Court in Duncan v. Middlefield (1986), 23 Ohio St.3d 83, held, the *spirit* rather than the *strict letter* of the zoning ordinance should be observed so that *substantial justice is done*. It can safely be said that a property owner encounters ‘practical difficulties’ whenever an area zoning requirement unreasonably deprives him of a permitted use of his property. The key to this standard is whether the zoning requirement, as applied to the property owner in question, is *reasonable*.

“The factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of his property include, but are not limited to: (1) whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; (2) whether the variance is substantial; (3) 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; (4) whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage); (5) whether the property owner purchased the property with knowledge of the zoning restriction; (6) whether the property owner’s predicament can be obviated through some method other than a variance; and (7) whether the spirit and intent behind the zoning

requirement would be observed and substantial justice done by granting the variance.”  
Id. at 215.

Each of these standards is stated hereafter in italics, with application of this specific signage request addressing each standard thereafter.

- 1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance*

This standard applies to an example where lot size, etc. would prevent an otherwise permitted use of the property, and does not apply in this instance.

- 2. Whether the variance is substantial.*

No. The requested variance is not substantial. The section of the Columbus City Code from which the applicant is requesting a variance, provides in relevant part, “...the following types of signs shall not be permitted: off-premise signs, billboards, signs with flashing lights or bare bulbs, co-op signs, rotating signs, monopole signs, automatic changeable copy signs, projecting signs and roof-mounted signs.” The applicant is requesting an off-premises sign. The signage requested is an advertising mural, comparable to the signage that is very popular in the Columbus downtown area and at Easton Town Center, and currently exists on campus of The Ohio State University which is located across the street from the subject property. To lump this advertising mural type of signage in to the category with billboards, signs with flashing lights, rotating signs and automatic changeable copy signs would be unreasonable and the strict application of this section of the Columbus City Code would lead to an unjust result for the property owner and this applicant.

In addition, there is other comparable signage in the area, such as an advertising mural located on the wall of Raising Cane’s on 1816 North High Street and on several other walls close in proximity to the proposed site (see Exhibits A, B, C, D, E, F, G, H, and I.) In addition, there are banners located nearby the intersection of North High Street and East Woodruff Avenue, approximately a block away from the proposed site (see Exhibits J and K.) In the same way, there is banner signage nearby the South Campus Gateway, both at Eddie George’s and World of Beer (see Exhibits L, M, and N.) Moreover, several nearby storefronts display banners, including Barnes and Noble, Radio Shack, UniversiTEES, and Buckeye Donuts (see Exhibits O, P, Q, and R.) Similarly, there are pole banners located throughout the vicinity of the site, on North High Street (Exhibit S) and on campus (Exhibit T). Moreover, there are benches that display banner advertisements approximately two blocks away (see Exhibit U) and at the corner of North High Street and East 9<sup>th</sup> Avenue (see Exhibit V.) Also, there is other signage that does not comply with the C.C. 3372.606 requirement in the area, such as a roof-mounted billboard along High Street (see Exhibits W and X.) and signage with flashing lights (see Exhibit Y.) Further, this same type of advertising mural signage for Honda currently exists in the area of The Ohio State University at Ohio Stadium (see Exhibits Z.)

3. *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.*

No. The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment upon the grant of the variance. As previously mentioned, this type of advertising mural is currently located on Ohio State University's campus across the street, and signage not in strict compliance with C.C. 3372.606 is also located nearby on privately held property. This property is located in the area of The Ohio State University and its amenities, and is consistent with and supportive of the character of the neighborhood. Most importantly, this same type of advertising mural signage currently exists in the area.

4. *Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage)*

No. There would be no impact whatsoever on the delivery of governmental services.

5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*

No. The development and ownership of this property predates the adoption and implementation of the Urban Commercial Overlay and C.C. 3372.606, which is the section of the Columbus City Code that would prevent the proposed signage.

6. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance.*

No.

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

Yes. The spirit and intent of the Columbus City Code and of the Urban Commercial Overlay will be observed and substantial justice will be done by granting the variance. The intent of the Urban Commercial Overlay is stated in C.C. 3372.601 as follows:

The purpose of the Urban Commercial Overlay (UCO) is to regulate development in specifically designated areas in order to protect, re-establish and retain the unique architectural and aesthetic characteristics of older urban commercial corridors. Such corridors are typically characterized by pedestrian-oriented architecture, building setbacks ranging from zero (0) to ten (10) feet, rear parking lots, commercial land uses, a street system that incorporates alleys and lot sizes smaller than one-half (1/2) acre.

The provisions of the UCO are intended to encourage pedestrian-oriented development featuring retail display windows, reduced building setbacks, rear parking lots, and other pedestrian-oriented site design elements.

The proposed advertising mural will enhance the aesthetic characteristics of such an area. The spirit and intent of 3372.606 is to prevent signage that many consider to be offensive and that detract aesthetically from the neighborhood. The type of signage that this section seeks to regulate are billboards, signs with flashing lights, rotating signs, monopole signs and automatic changeable copy signs, among others. This is not the type of signage that was intended to be prohibited by the Urban Commercial Overlay. This advertising mural type of signage is found in other appropriate urban Columbus areas such as downtown, Easton Town Center, and, like the subject property, on North High Street and around the campus of The Ohio State University. In other urban areas, this approved signage medium has been deemed to improve the aesthetic and to be consistent with the Columbus City Code.

The key to the “practical difficulties” test is “whether the area zoning requirement, as applied to the property owner in question, is *reasonable*.” *Id.* (Emphasis added). It is also important to note that according to the Ohio Supreme Court, “no single factor controls” of the seven practical difficulty standards. *Id.*

It is abundantly evident that this variance request meets, even exceeds, the factors to be considered and weighed in a variance request. Six of the seven factors weigh in favor of a finding that this request meets the practical difficulties test and that the variance should be granted. The only factor that the variance request arguably does not meet is factor 1, simply because it does not apply to this particular circumstance. Application of the standards enunciated by the Ohio Supreme Court in the Duncan v. Middlefield case to this applicant’s variance request mandate that it be granted.

Columbus City Code Section 3382.05 – Variance, provides separate standards to be met by an applicant in a request for a variance from the Graphics Code, this section provides:

“The graphics commission shall have the power, upon application, to grant a variance from one (1) or more provisions of this Graphics Code. No variance shall be granted unless the commission finds that a hardship exists, based upon physical conditions which:

1. Are due to exceptional shallowness, shape, topographic conditions or other extraordinary situations peculiar to the premises itself; or
2. Differentiate the premises from other premises in the same zoning district and the general vicinity; or
3. Prevent a reasonable return in service, use or income compared to other conforming premises in the same district; and

4. Where the result of granting the variance will not be injurious to neighboring properties and will not be contrary to the public interest or to the intent and purpose of this Graphics Code.”

As with the *Duncan* standards above, each of these are restated and addressed hereafter.

1. *Are due to exceptional shallowness, shape, topographic conditions or other extraordinary situations peculiar to the premises itself.*

This property is located along North High Street, south of its intersection with East 18<sup>th</sup> Avenue, in the area of The Ohio State University. The building is oriented to North High Street. In addition, there is other comparable signage in the area, including a visible advertising mural on the wall of Raising Cane’s and numerous advertising murals for Honda at Ohio Stadium. Furthermore, there is a roof-mounted billboard south of this property on North High Street. The proposed signage will not detract from, but rather will enhance the aesthetic of this urban neighborhood.

2. *Differentiate the premises from other premises in the same zoning district and the general vicinity.*

The advertising mural is on the south side of the building and therefore primarily visible to motorists and pedestrians travelling north along North High Street. The buildings in the general vicinity include major institutional uses, restaurants and bars, entertainment venues, shops, and multi-story residential towers. This property has a zoning of C-4.

3. *Prevent a reasonable return in service, use or income compared to other conforming premises in the same district.*

To not permit this applicant to provide this appropriate signage in an area where there is other comparable signage, and where there is other signage not in compliance with C.C. Section 3372.606 would be unreasonable and arbitrary.

4. *Where the result of granting the variance will not be injurious to neighboring properties and will not be contrary to the public interest or to the intent and purpose of this Graphics Code.*

The grant of this variance will not be injurious to neighboring properties and will not be contrary to the public interest or intent and purpose of the Graphics Code.

This type of signage is appropriate urban signage, more so due to the unique characteristics of this property, the location of the building on the property, and the location of the wall on the building. The question that must be asked is, is this signage reasonable in light of the surrounding circumstances? The surrounding circumstances here are that there is signage in the immediate area that does not conform to this section of the Columbus City Code and this advertising mural concept already exists in the

immediate area, on North High Street, and on and around campus of The Ohio State University.

The applicant's signage proposal meets the *Duncan* standards as enunciated by the Ohio Supreme Court in Duncan v. Middlefield. The proposal meets the standards of Columbus City Code Section 3382.05. Signage that is contrary to Section 3372.06 currently exists on properties that are nearby the subject property. This same type of advertising mural currently exists within the campus of The Ohio State University, which is nearby this property. Furthermore, this advertising mural signage is not the specific type of signage sought to be prohibited by Section 3372.606.

The applicant respectfully requests the grant of the requested variance. A decision by the Graphics Commission denying this request will be contrary to C.C. Section 3382.05, and the Ohio Supreme Court's decision in Duncan v. Middlefield, and thereby unconstitutional, illegal, unreasonable, and unsupported by the preponderance of substantial, reliable, and probative evidence.

### **Special Permit**

The applicant meets the special permit requirements of C.C. 3382.06 – Special permit, therefore the Graphics Commission must grant the requested special permit to permit the installation of an off-premises graphic. To do otherwise would be unconstitutional, illegal, unreasonable, and unsupported by the preponderance of substantial, reliable, and probative evidence. A special permit<sup>1</sup> “designates a species of administrative permission which allows a property owner to put his property to a use which the regulations expressly permit under conditions specified in the zoning regulations.” Nunamaker v. Board of Zoning Appeals of Jerusalem Twp. (1982), 2 Ohio St.3d 115, 116. “[T]he authorization of such a use in the ordinance means that a community cannot arbitrarily deny a property owner's conditional use application simply because the use is no longer considered desirable.” Kabatek v. City of North Royalton City Council (1998 WL 6952 (Ohio Ct. App. 8<sup>th</sup> Dist. Cuyahoga County 1998)). “In issuing a conditional zoning certificate, a board of zoning appeals is governed by whatever terms and conditions are imposed by the ordinance.” Gillispie v. Stow (1989), 65 Ohio App.3d 601.

Columbus City Code Section 3382.06 provides that the Graphics Commission may grant special permits: (1) where it is shown that the special permit can be granted without substantial detriment to the public good; (2) without substantial impairment of the general purpose and intent of the zoning district in which the use is proposed to be located; and (3) without significant incompatibility with the general character of the neighborhood.

The grant of this special permit will not cause any detriment to the public good. This property is located in the urban area of The Ohio State University. There are comparable building advertising mural signs visible from the subject property, on North High Street, and within the campus area of The Ohio State University. Furthermore, there is a roof-mounted billboard by this property, on North High Street to the south. The applicant

<sup>1</sup> “Conditional use” and “Special exception” are frequently used to express this same concept.

further expressly incorporates all of the rationale used in the variance justification section as further justification for the grant of the special permit. This signage will cause no detriment to the general purpose and intent of the zoning district. It is an appropriate sign in an appropriate location. The applicant meets the special permit requirements of C.C. 3382.06 – Special permit; therefore the Graphics Commission must grant the requested special permit to permit the installation of an off-premises graphic. To do otherwise would be unconstitutional, illegal, unreasonable, and unsupported by the preponderance of substantial, reliable, and probative evidence.

### **Conclusion**

There are countless advertising murals, banners, and other advertising signage in the vicinity of this property that conflict with the Columbus City Code more than our proposal. Furthermore, there is a roof-mounted billboard nearby on North High Street, just south of the property, which does not comply with the C.C. 3372.606 requirement. What we propose will be aesthetically pleasing, artistic, and relevant to the college-aged group populating the area. Case law precedent supports the grant of this request and the Columbus City Code supports the grant of this request, the applicant therefore respectfully requests that the Graphics Commission approve this request.

Respectfully submitted,



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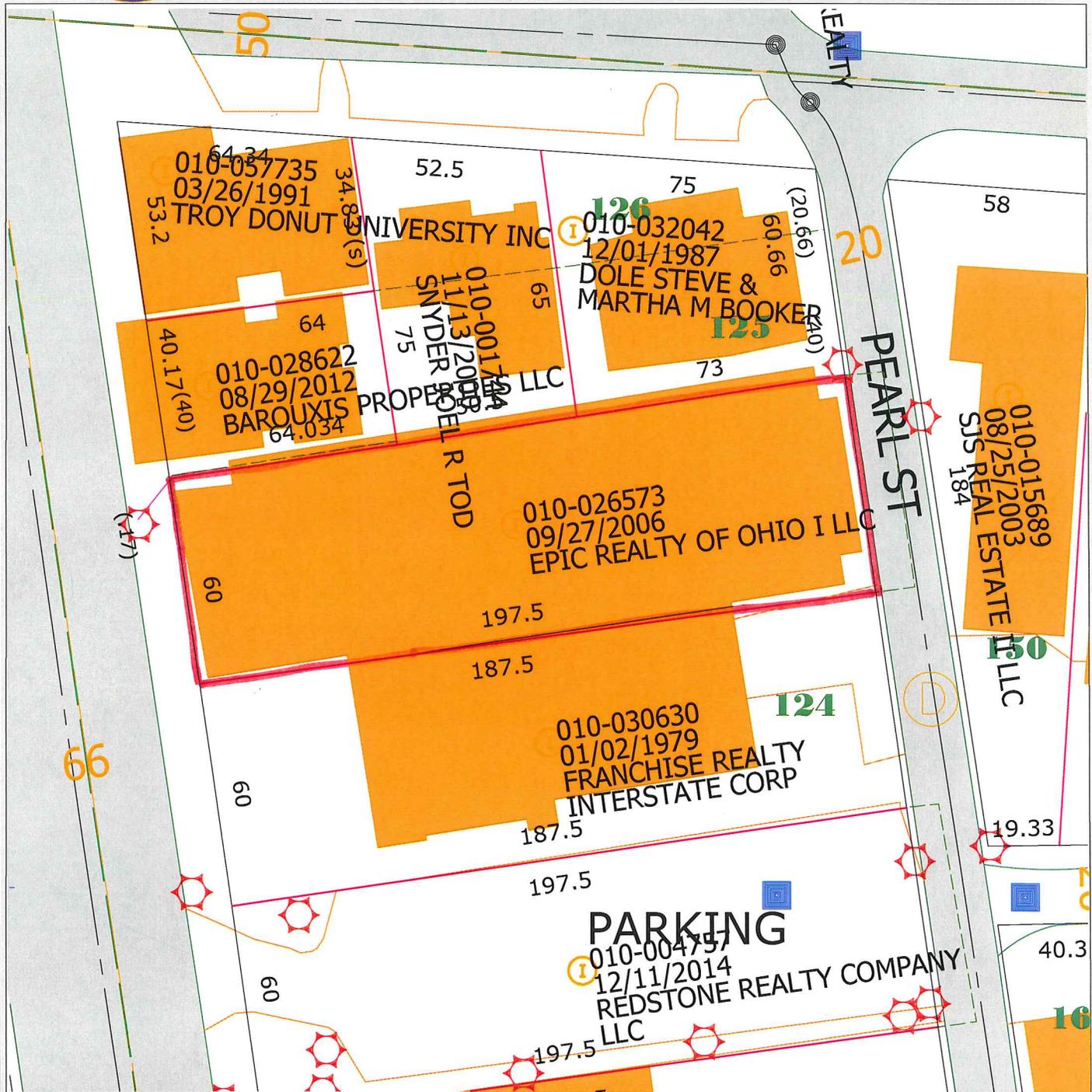
David Hodge  
Smith & Hale LLC  
37 W. Broad St, Suite 460  
Columbus, OH 43215  
(614) 221-4255 phone  
(614) 221-4409 fax  
[dhodge@smithandhale.com](mailto:dhodge@smithandhale.com)



# CLARENCE E MINGO II FRANKLIN COUNTY AUDITOR

MAP ID: dlh

DATE: 2/4/15



Disclaimer

Scale = 40



This map is prepared for the real property inventory within this county. It is compiled from recorded deeds, survey plats, and other public records and data. Users of this map are notified that the public primary information sources should be consulted for verification of the information contained on this map. The county and the mapping companies assume no legal responsibilities for the information contained on this map. Please notify the Franklin County GIS Division of any discrepancies.



GC15-032

1976 NORTH HIGH STREET

EXHIBIT

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1976 NORTH HIGH STREET

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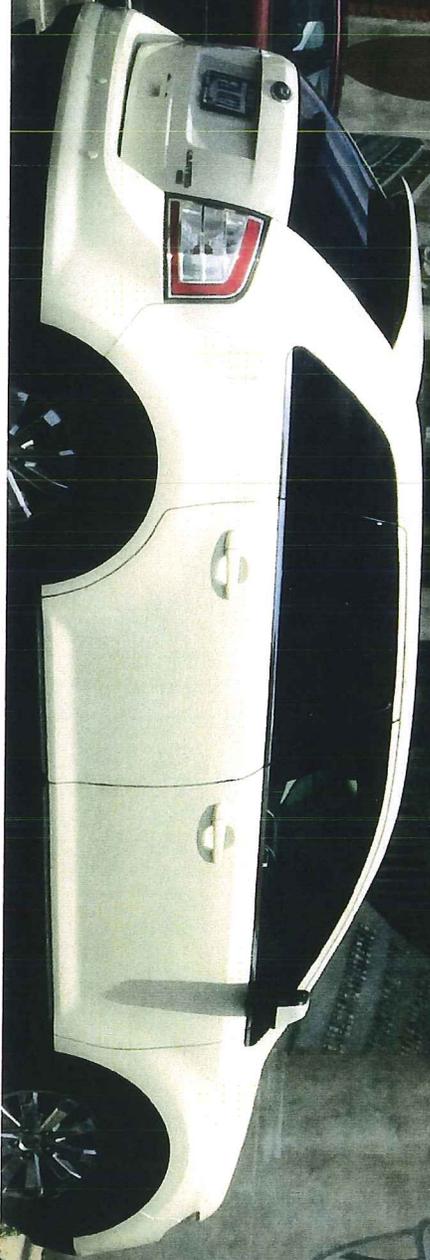


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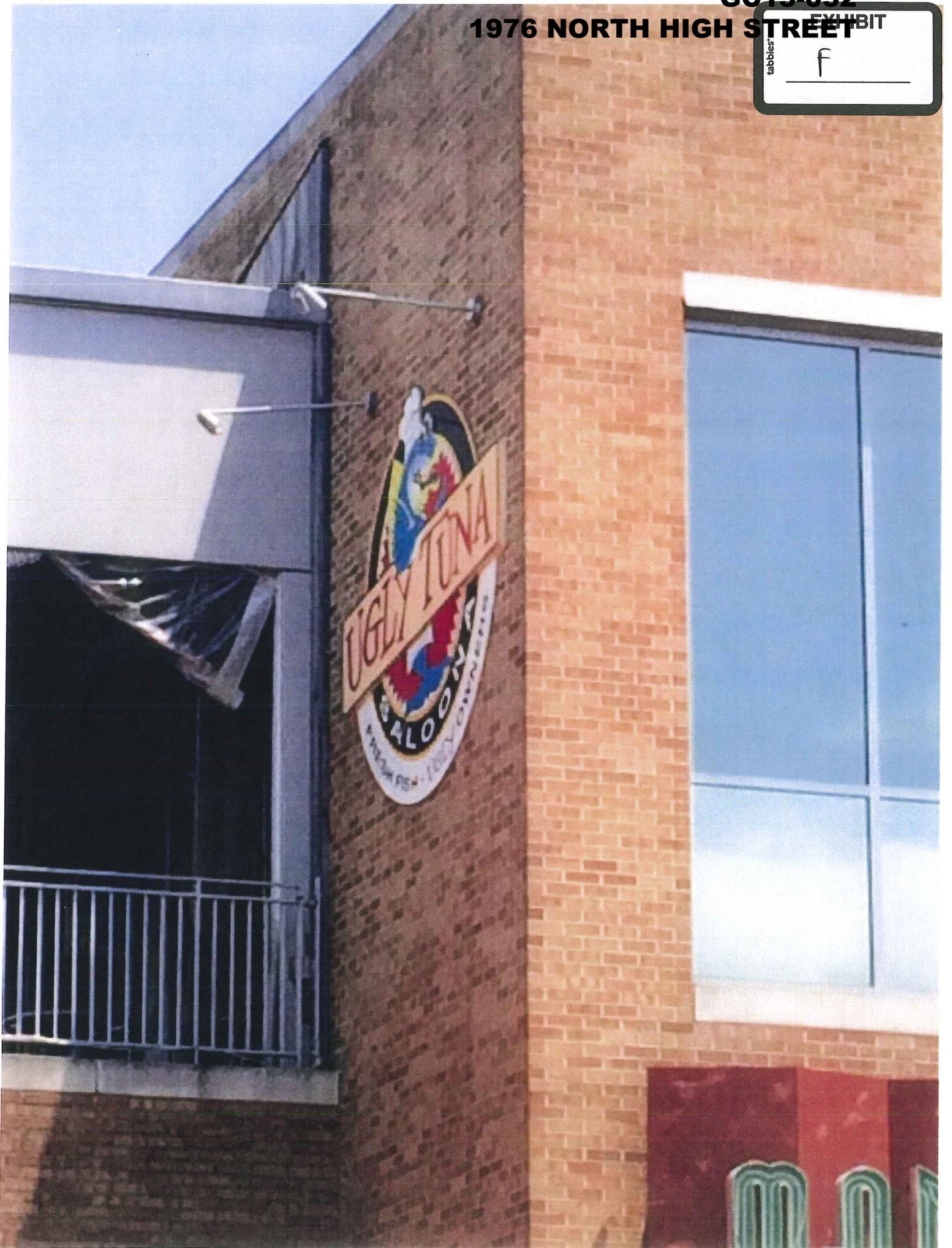
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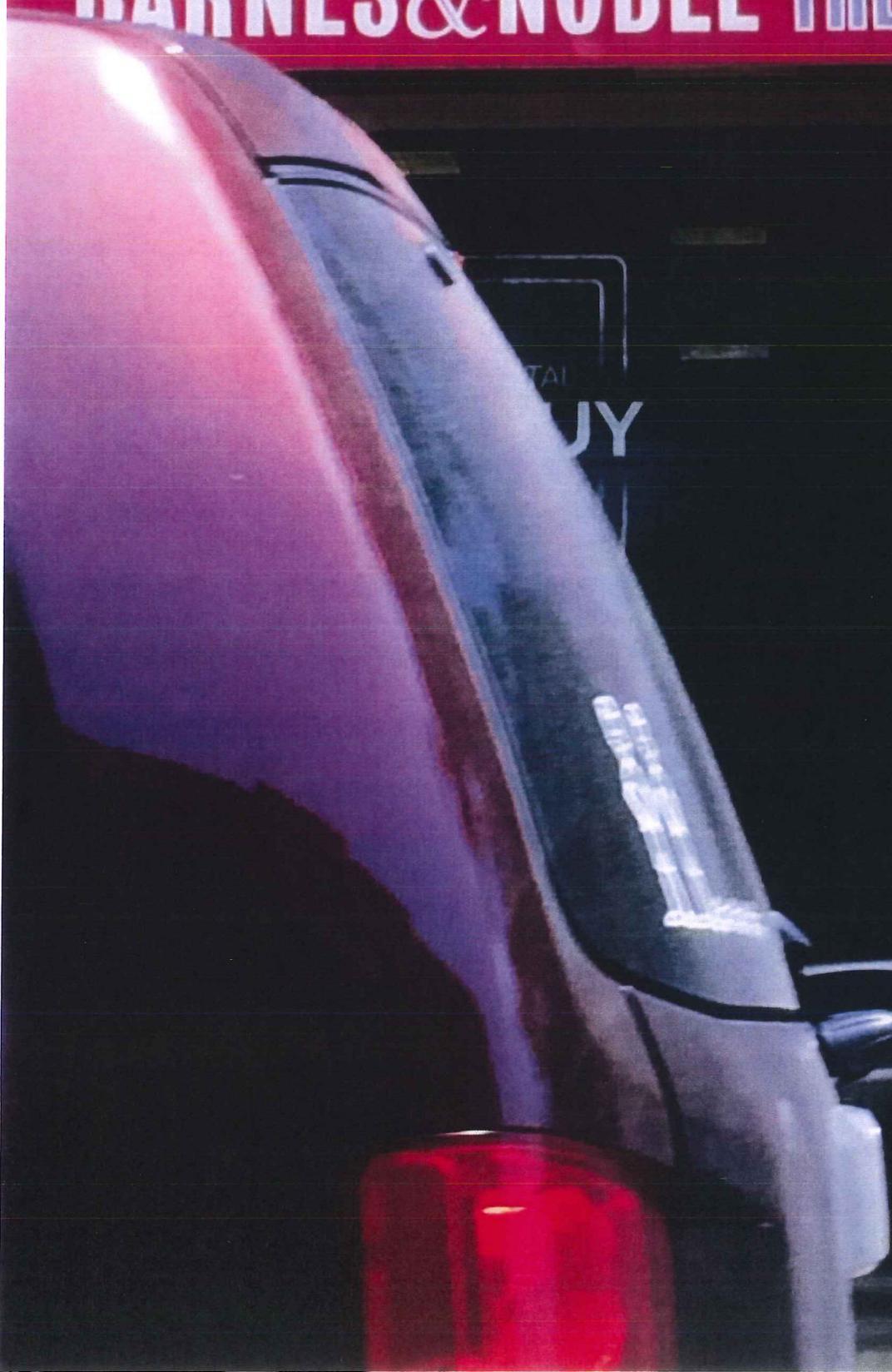
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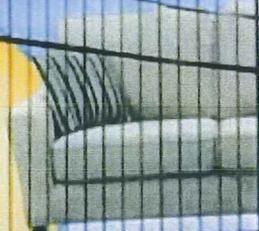
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Graphics Commission Application

757 Carolyn Avenue, Columbus, Ohio 43224
Phone: 614-645-7433 • www.bzs.columbus.gov

PROJECT DISCLOSURE STATEMENT

Parties having a 5% or more interest in the project that is the subject of this application.

THIS PAGE MUST BE FILLED OUT COMPLETELY AND NOTARIZED. Do not indicate 'NONE' in the space provided.

APPLICATION # \_\_\_\_\_

STATE OF OHIO
COUNTY OF FRANKLIN

David Hodge

Being first duly cautioned and sworn (NAME) \_\_\_\_\_
of (COMPLETE ADDRESS) 37 West Broad Street, Suite 460, Columbus, Ohio 43215

deposes and states that (he/she) is the APPLICANT, AGENT, OR DULY AUTHORIZED ATTORNEY FOR SAME and the following
is a list of all persons, other partnerships, corporations or entities having a 5% or more interest in the project which is the subject of
this application and their mailing addresses:

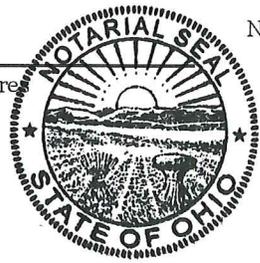
Table with 2 columns: NAME, COMPLETE MAILING ADDRESS. Rows include Acme Geegaw LLC, Epic Realty of Ohio I LLC, and several blank rows.

SIGNATURE OF AFFIANT [Handwritten Signature]

Sworn to before me and signed in my presence this 9th day of September, in the year 2015

SIGNATURE OF NOTARY PUBLIC [Handwritten Signature]

My Commission Expires 9/4/2020



Natalie C. Timmons
Notary Public, State of Ohio
My Commission Expires 09-04-2020

PLEASE NOTE: Incomplete information will result in the rejection of this submittal.
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Please make checks payable to the Columbus City Treasurer