



# COUNCIL VARIANCE APPLICATION

City of Columbus, Ohio • Department of Building & Zoning Services  
757 Carolyn Avenue, Columbus, Ohio 43224 • Phone: 614-645-7433 • [www.columbus.gov](http://www.columbus.gov)

OFFICE USE ONLY

Application Number: CV11-009 11315-00000-00176  
Date Received: 7/4/11  
Application Accepted By: S. Pine Fee: \$1600  
Comments: Assigned to Shannon Pine, 645-2208, spine@columbus.gov

### LOCATION AND ZONING REQUEST:

Certified Address (for Zoning Purposes) 3163 East Main St. Zip 43213

Is this property currently being annexed into the City of Columbus  Yes  No

If the site is pending annexation, Applicant must show documentation of County Commissioner's adoption of the annexation petition.

Parcel Number for Certified Address: Franklin County: 010088751

Check here if listing additional parcel numbers on a separate page.

Current Zoning District(s): C4

Recognized Civic Association or Area Commission: James Rd. Neighborhood Association

Proposed use or reason for Council Variance request: Drive-Thru

Acreage: 0.110

**APPLICANT:** Name Azeb Hussein  
Address 1071 Ross Rd. City/State Columbus Zip 43227  
Phone # 614-209-9079 ax # \_\_\_\_\_ Email: tandmmarket@gmail.com

**PROPERTY OWNER(S):** Name Progeny Partnership  
Address 275 North Ardmore Dr. City/State Columbus Zip 43209  
Phone # 614- Fax # \_\_\_\_\_ Email: \_\_\_\_\_

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

### ATTORNEY / AGENT

Attorney  Agent

Name \_\_\_\_\_  
Address \_\_\_\_\_ City/State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone # \_\_\_\_\_ Fax # \_\_\_\_\_ Email: \_\_\_\_\_

### SIGNATURES (ALL SIGNATURES MUST BE SIGNED IN BLUE INK)

APPLICANT SIGNATURE Azeb Hussein

PROPERTY OWNER SIGNATURE \_\_\_\_\_

ATTORNEY / AGENT SIGNATURE Sue Holstein

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that the City staff review of this application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me/my firm/etc. may delay the review of this application.

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



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### STATEMENT OF HARDSHIP

Chapter 3307 of the Columbus Zoning Code  
Section 3307.10 Variances by City Council

- A. Permit a variance in the yard, height, or parking requirements of any district only in conjunction with a change in zoning or a use variance and only where there are unusual and practical difficulties or unusual hardships in the carrying out of the zoning district provisions due to an irregular shape of lot, topography, or other conditions, providing such variance will not seriously affect any adjoining property or the general welfare.
- B. Permit a use of the property not permitted by the Zoning District established on the property if such use will not adversely affect the surrounding property or surrounding neighborhood and if Council is satisfied that the granting of such variance will alleviate some hardship or difficulty which warrants a variance from the Comprehensive Plan.

Before authorizing any variance from the Zoning Code in a specific case, City Council shall first determine that such variance will not impair an adequate supply of light and air to the adjacent property, unreasonably increase the congestion of Public Streets, increase the danger of fires, endanger the public safety, unreasonably diminish or impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus.

In granting a variance pursuant to this section, Council may impose such requirements and conditions regarding the location, character, duration, and other features of the variance proposal as Council deems necessary to carry out the intent and purpose of this Zoning Code and to otherwise safeguard the public safety and welfare.

**I have read the foregoing and believe my application for relief from the requirements of the Zoning Code contains the necessary hardship, will not adversely affect surrounding property owners and will comply with the variance requested as detailed below:**

\_\_\_\_\_  
 See Attached.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature of Applicant Azeb Hussein Date 3/16/2011

**STATEMENT OF HARDSHIP – COUNCIL VARIANCE REQUEST**  
**APPLICATION # CV11-009**

The Applicant seeks to obtain a council use variance and certain traffic and design variances to permit it to operate a drive-through market and beverage store at an existing building located at 3163 East Main Street. The subject property is zoned C-4; the requested use requires C-5 zoning.

The subject property is located approximately four parcels east of James Road 1 (two parcels west of Ashburton Road), on the south side of East Main Street. The East Main Street corridor features heavy highway oriented commercial uses along both the north and south sides and falls within the Eastmoor Community Commercial Overlay district.

The business for which this variance is sought will sell beverages, beer, wine, and snack foods to customers in a drive-through format. The drive through is a part of an adjoining market, which is a permitted use in the C-4 district and for no variance is sought. Inside sales are conducted at the market. The overwhelming majority of sales at the drive-through portion will be to customers in their automobiles.

Access to the property is provided by a curb cut on East Main Street and from an alley that runs east-west behind (south of) the property between James Road and Ashburton Road. Customers will enter the drive-through from the alley, go north through the building, and exit onto East Main Street. Signage will direct exiting traffic to make a right turn only for egress. As a result, no stacking of traffic or congestion will occur on or into East Main Street. The applicant has discussed this traffic flow pattern with the Division of Traffic Engineering, which has indicated its approval, subject to obtaining a variance from the stacking requirements of 3312.11. The variance is necessitated by the tight configuration of the property. However the impact of that variance will be mitigated if not totally eliminated by the proposed traffic pattern which will put any stacked traffic in the rear (south) of the building, toward and onto a very lightly used alley.

The desired use is consistent with past uses of the property as well as those in the immediate vicinity. Adjacent uses include a tool rental store, tire store, beauty salon, barber shop, gas station, motel, and funeral home. Because the applicant is a tenant and cannot make physical changes to the property, the applicant desires to maintain it in accordance with the Overlay requirements.

The applicant's business relies on spontaneous purchase decisions by existing traffic and is not considered a "destination" business. Thus the requested use will not add to the congestion of public streets or result in changes or increases in traffic patterns. In addition the variance will not result in an impairment of the supply of light and air to neighboring properties, increase the danger of fires, endanger the public safety, unreasonably diminish or impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus, or otherwise adversely affect the surrounding properties or neighborhoods. There will be no discernible vibration, emissions of smoke, dust or other particulates, odors, glare, light, or heat from the business. Allowing the variance will provide a positive economic impact by providing employment and preventing empty buildings which contribute to blight.

The applicant notes that in the recent past similar use variances have been granted for drive-throughs in C-4 districts along the East Main Street and East Livingston Avenue corridors. Thus denial of the variance would work a material hardship on the Applicant and deprive the Applicant of rights enjoyed by other similarly situated landowners.



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## AFFIDAVIT

(See next page for instructions)

APPLICATION # CV11-009

STATE OF OHIO \_\_\_\_\_  
COUNTY OF FRANKLIN \_\_\_\_\_

Being first duly cautioned and sworn (1) NAME Azeb Hussein  
of (1) MAILING ADDRESS 1071 Ross Rd, Columbus, Ohio 43227

deposed 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 ZONING PURPOSES 3163 East Main St.  
for which the application for a rezoning, variance, special permit or graphics plan was filed with the Department of Building and Zoning Services, on (3) 4/4/11

(THIS LINE TO BE FILLED OUT BY CITY STAFF)

SUBJECT PROPERTY OWNERS NAME  
AND MAILING ADDRESS

(4) Progeny Partnership  
275 North Ardmore Dr.  
Columbus, Ohio 43209

APPLICANT'S NAME AND PHONE #  
(same as listed on front of application)

Azeb Hussein  
614 - 209 9079

AREA COMMISSION OR CIVIC GROUP  
AREA COMMISSION ZONING CHAIR OR  
CONTACT PERSON AND ADDRESS

(5) Shelly Miller  
975 South James Rd.  
Columbus, Ohio 43227

and that the attached document (6) 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(7)

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

SIGNATURE OF AFFIANT

(8) Azeb Hussein

Subscribed to me in my presence and before me this 24<sup>th</sup> day of March, in the year 2011

SIGNATURE OF NOTARY PUBLIC

(8) Dawn Mason

My Commission Expires:

10/15/2011



DAWN MASON  
Notary Public, State of Ohio  
My Commission Expires  
October 15, 2011

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**Please make all checks payable to the Columbus City Treasurer**

C11-009

**BAFANA INC.**

C/o Bosee Godaanaa  
3163 E. Main street  
Columbus, OH 43213

**PROGENY PARTNERSHIP**

C/O Sue Holstein  
275 N. Ardmore Dr.  
Columbus, OH 43209

**James Rd. neighborhood Asso.**

C/o Shelly Miller  
979 S. James Rd.  
Columbus, OH 43227

SURROUNDING PROPERTY OWNERS

**Wilson Sally J**

3153 E Main Street  
C/o Sally J Wilson  
9907 W Munro Lake Dr  
Levering, MI 49755

**Chu Fu Ih**

3180 E Main Street  
C/o Chu Fu Ih  
459 Forestwood Dr.  
Gahanna, OH 43230

**Ric Properties Ltd.**

3207 E Main Street  
C/o RIC properties Ltd.  
Po Box 460069  
Escondido, CA 92046

**Arnold David**

760 Ashburton Rd.  
Columbus, OH 43227

**Krusarvoski Rumjana**

3167 E Main Street  
C/o Krusarvoski Rumjiana  
7909 Headwater Dr.  
Blacklick, OH 43004

**Moore Terry**

754 S James Rd.  
C/o Terry M Moore  
4833 Greengate Dr.  
Groveport, OH

**Hixon David E**

758 Ashburton Rd  
Wells Fargo Real Estate  
Mac X2302-04D, 1 Home Campus  
Des Moines, IA 50328

**Porter Gary L**

765 Ashburton Rd.  
C/o First American RE Tax SEV  
2500 Westfield Dr. STE 102  
Elgin IL 60124

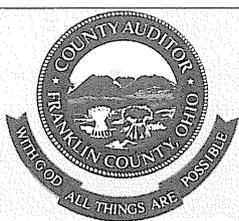
**Nilson Sally Et Al**

Ashburton Rd.  
C/o sally J Willson  
275 N Ardmore Rd  
Columbus, OH 43209

**Moore Mary P**

3143 E Main Street  
C/o Mary P Moore  
4833 Greengate Dr.  
Groveport, OH 43125

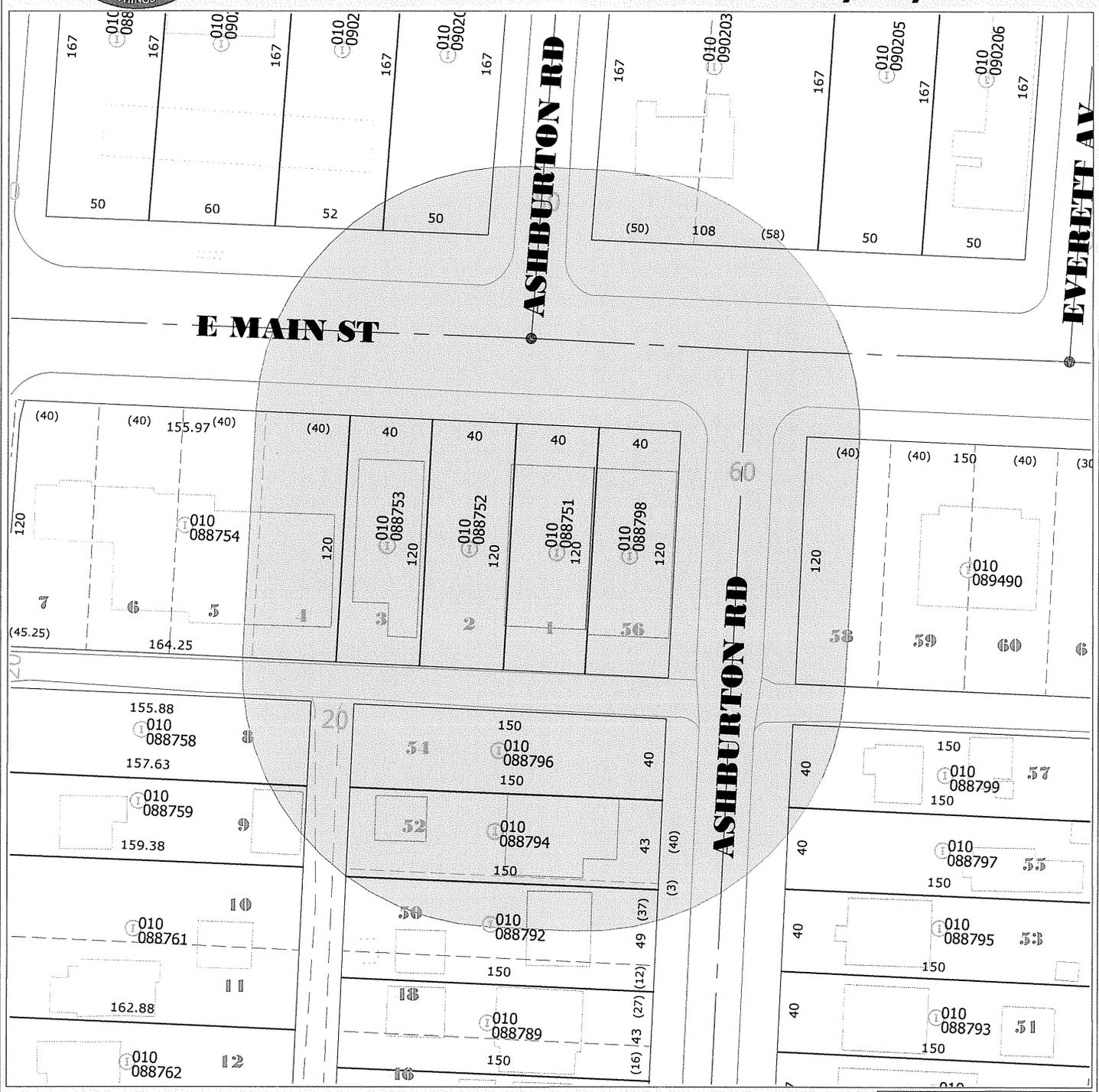
CV11-009



# CLARENCE E MINGO II FRANKLIN COUNTY AUDITOR

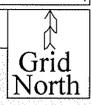
MAP ID: M

DATE: 2/10/11



Disclaimer

Scale = 71'



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.



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## 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 # CV11-009

STATE OF OHIO  
COUNTY OF FRANKLIN

Being first duly cautioned and sworn [NAME] Azeb Hussein

Of [COMPLETE ADDRESS] 1071 ROSS Rd. Columbus, Ohio 43227  
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 in the following formats

- Name of business or individual
- Business or individual's address
- Address of corporate headquarters
- City, State, Zip
- Number of Columbus based employees
- Contact name and number

|   |   |
|---|---|
| 1. <u>Azeb Hussein</u><br><u>Bafana Inc.</u><br><u>1071 ROSS Rd.</u><br><u>Columbus, Ohio 43227</u> | 2. <u>Sue Holestein</u><br><u>Progeny Partnership</u><br><u>275 N. Ardmore Dr.</u><br><u>Columbus, Ohio 43209</u> |
| 3. <u>3 Full-time employees</u><br><u>2 Part-time employees</u>                                     | 4.  |

Check here if listing additional parties on a separate page.

SIGNATURE OF AFFIANT Azeb HUSSEIN

Subscribed to me in my presence and before me this 24<sup>th</sup> day of March, in the year 2011

SIGNATURE OF NOTARY PUBLIC Dawn Mason

My Commission Expires: 10/15/2011



DAWN MASON  
Notary Public, State of Ohio  
My Commission Expires  
October 15, 2011

This Project Disclosure Statement expires six months after date of notarization.

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Please make all checks payable to the Columbus City Treasurer

CITY OF COLUMBUS, OH  
HISTORY ADDRESS INQUIRY - ALL APPLICATIONS

ADDRESS 3163 E MAIN ST

ADDRESS 3163 E MAIN ST

INTERSECTION  
PARCEL NO 010-088750  
HIST-DIST

HIST-PROP  
CENSUS 2770  
BLOCK 110

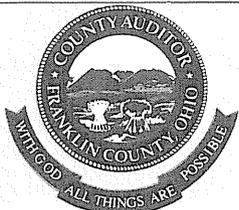
ZIP CODE  
SUB-DIV  
LOT NO

43213 0  
CALDWELL  
1

|             |                   |                |              |   |       |        |
|-------------|-------------------|----------------|--------------|---|-------|--------|
| PERMIT ID   | 04503             | RES/COMM       | # OF UNITS   | 0 | VALUE | 0      |
| CREATE DATE | 12-26-78          | NEW/RPLC/ALTER | CONT. LIC. # |   |       |        |
| PERMIT TYPE | H                 | C-40 CODE      | OBBC         |   |       |        |
| DESCRIPTION |                   |                |              |   |       |        |
| PERMIT ID   | 50720             | RES/COMM       | # OF UNITS   | 0 | VALUE | 0      |
| CREATE DATE | 06-25-76          | NEW/RPLC/ALTER | CONT. LIC. # |   |       |        |
| PERMIT TYPE | S                 | C-40 CODE      | OBBC         |   |       |        |
| DESCRIPTION |                   |                |              |   |       |        |
| PERMIT ID   | 5409              | RES/COMM       | # OF UNITS   | 0 | VALUE | 0      |
| CREATE DATE | 06-26-73          | NEW/RPLC/ALTER | CONT. LIC. # |   |       |        |
| PERMIT TYPE | E                 | C-40 CODE      | OBBC         |   |       |        |
| DESCRIPTION |                   |                |              |   |       |        |
| PERMIT ID   | 26644             | RES/COMM       | # OF UNITS   | 0 | VALUE | 15,000 |
| CREATE DATE | 08-31-55          | NEW/RPLC/ALTER | CONT. LIC. # |   |       |        |
| PERMIT TYPE | B                 | C-40 CODE      | OBBC         |   |       |        |
| DESCRIPTION | 1 STY CB STORE RM |                |              |   |       |        |

|           |          |           |          |
|-----------|----------|-----------|----------|
| DATE      | 03-31-98 | DATE      | 05-28-86 |
| REQ. TYPE | O        | REQ. TYPE | V        |
| REQ. #    | Z9803514 | REQ. #    | 4132     |
| STATUS    |          | STATUS    |          |

CW11-009



# CLARENCE E MINGO II FRANKLIN COUNTY AUDITOR

MAP ID: S                      DATE: 6/2/10



Disclaimer

Scale = 100



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1-27-10/2010

CV11-009



# PRE-APPLICATION REVIEW WORKSHEET

THIS PAGES WILL BE COMPLETED AT THE PRE-APPLICATION REVIEW MEETING BY CITY STAFF

- Address or location of the site 3163 E Main St.
- Annexation status In Columbus
- Current development on the property Vacant automotive repair
- Current zoning and legal use of the property  
(Attach computer record if applicable) Drive-thru
- Proposed use of the site 0.11
- Zoning Districts, Variances or Special Permit requested C-4
- Total acreage of the site
- Site location -  
Attach and identify here the types of maps referenced (Zoning Map / GIS Map)
- Special development review standards:  
Flood plain N/A  
Airport Environs Overlay N/A  
Historic Districts (HRC, Architectural Review, Listed Property) N/A
- Traffic Standards Code (Right of Way, TIS, other) Dan Biedschmidt 645-1694  
Parkland (land, easements, bike paths, other) N/A  
Zoning Clearance (Site plan review) Commercial site-plan review for  
Other variances (645-8637) - Schedule Appt.
- Review of Public Notice Affidavit requirements N/A
- Adopted Area Plan or Development Policies  
Recommendation / Other
- Preliminary Review of Limitation text or planned district text standards
- Area Commission or other Community Group Call Michael Puckett
- Proposed Hearing Date Jun 29 - July 1st 2010
- Cut-off Date for the Proposed Hearing Date
- Items to be completed or revised before submittal

Requested Variances: Use - 3356.03 C-4 Permitted Uses  
3312.11 Drive-up Stacking Space Requirement - 4 stacking  
spaces 3372.705 Building design standards F + G  
minimally 6/4/10

Comments (Applicant) \_\_\_\_\_  
 Comments (City) \_\_\_\_\_

Staff met with Harold + Nash on 5/28/10 regarding this proposed application  
 and applicant received a copy of this pre-application worksheet.  
 City Staff Representative Shannon J. Rupp Date 5/28/10

Note: This Pre-Application Review is preliminary, based upon the information presented. This document is a tool to allow staff to become acquainted with the proposal and to identify issues relevant to the application. Additional information may be necessary after City Staff formally reviews your request.



S JAMES RD

RTON RD

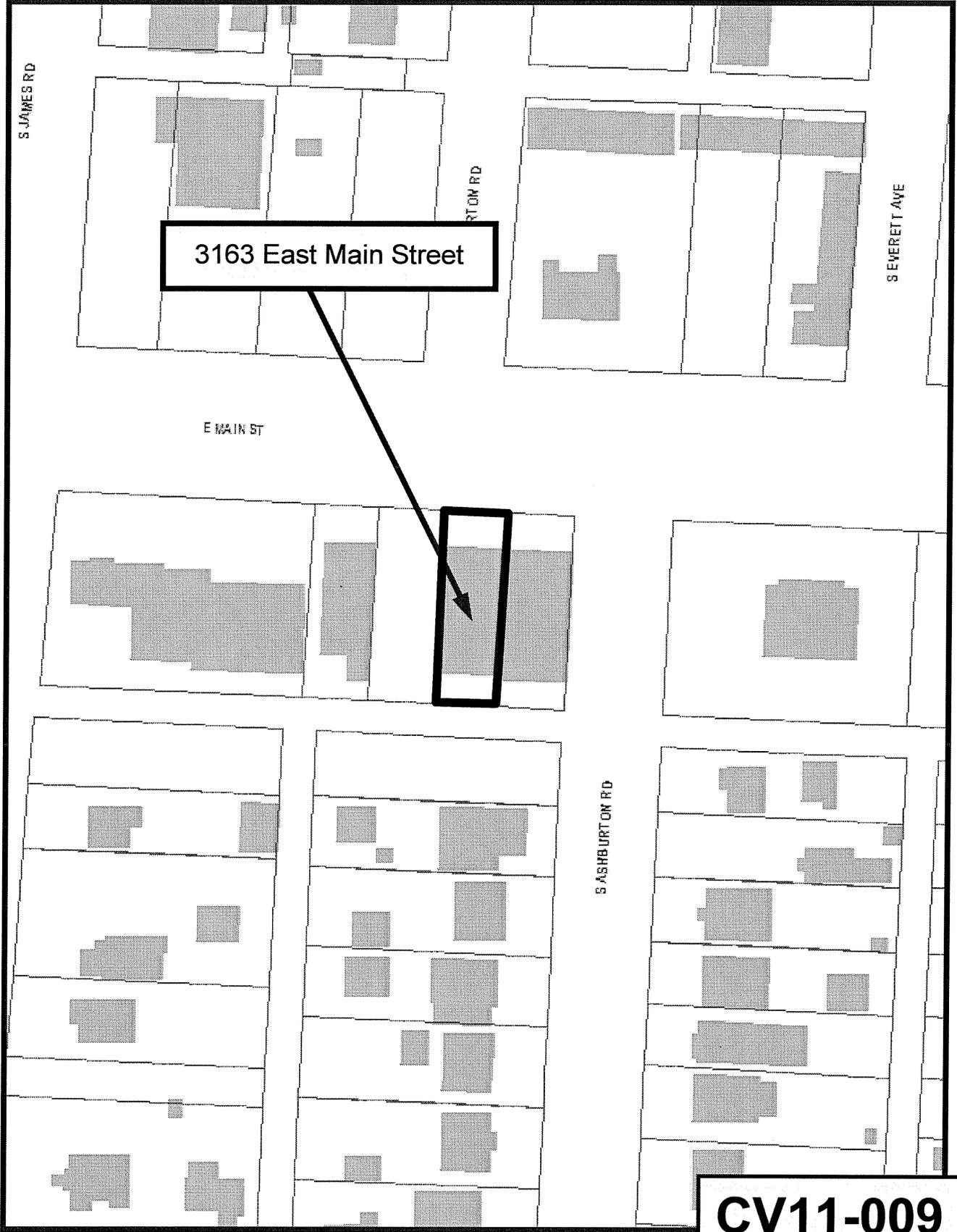
SEWERETT AVE

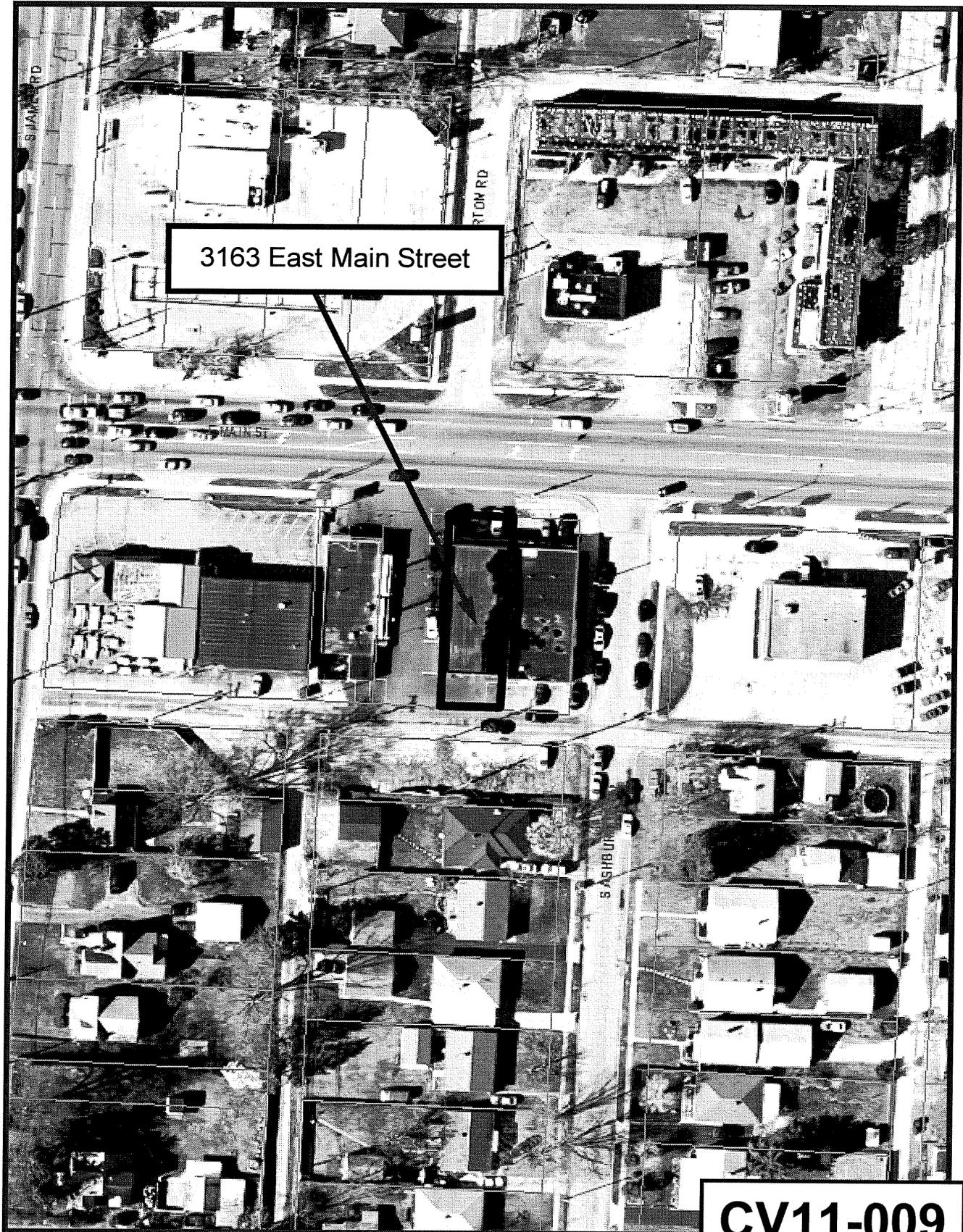
3163 East Main Street

E MAIN ST

S ASHBURTON RD

CV11-009





3163 East Main Street

CV11-009