ORDINANCE NO. 06-20

AN ORDINANCE APPROVING A REZONING OF THREE PARCELS CONSISTING OF A TOTAL 9.89 ACRES FROM A-1 (AGRICULTURAL DISTRICT) TO B-4 (GENERAL BUSINESS DISTRICT), WITH USE LIMITATIONS AS PROPOSED BY THE APPLICANT FOR THE PROPERTY LOCATED ON THE EAST SIDE OF US 23 SOUTH OF CHESHIRE ROAD AND NORTH OF PEACHBLOW ROAD AT 4277 COLUMBUS PIKE. (TRUE BELIEVERS)

WHEREAS, the Planning Commission at its meeting of January 18, 2006 recommended approval of a Rezoning of three parcels consisting of a total 9.89 acres from A-1 (Agricultural District) to B-4 (General Business District), with use limitations as proposed by the applicant for the property located on the east side of US 23 south of Cheshire Road and north of Peachblow Road at 4277 Columbus Pike (PC 05-082), and

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That the Rezoning of three parcels consisting of a total 9.89 acres from A-1 (Agricultural District) to B-4 (General Business District), with use limitations as proposed by the applicant attached hereto Delaware South Zoning Text Development Standards for the property located on the east side of US 23 south of Cheshire Road and north of Peachblow Road at 4277 Columbus Pike, be the same and is hereby confirmed, approved, and accepted.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION: YEAS 6 NAYS 0 ABSTAIN 0

PASSED: March 13, 2006 YEAS 6 NAYS 0 ABSTAIN 0

ATTEST: Cindy Denison
CITY CLERK

Windell W. Fuller
MAYOR

Planning *and* Community Development
CITY OF DELAWARE, OHIO

PLANNING COMMISSION / STAFF REPORT

CASE NUMBER: PC 05-082 & PC 06-015
REQUEST: Rezoning and Pre-Annexation Agreement
PROJECT: Believer's Assembly Property
MEETING DATE: January 18, 2006

APPLICANT/OWNERS

J. Jeffrey McNealey	Believer's Assembly
41 S. High Street	4277 Columbus Pike
Columbus, OH 43215	Delaware, OH 43015

REQUEST

PC 06-015: Approval of a proposed pre-annexation agreement.

PC 05-082: Approval of rezoning of three parcels consisting of a total 9.89 acres from A-1 (Agricultural District) to B-4 (General Business District), with use limitations.

PROPERTY LOCATION & DESCRIPTION

The properties are located on the east side of US 23 south of Cheshire Road and north of Peachblow Road at 4277 Columbus Pike. The surrounding zoning is A-1 (Agricultural District) to the north (Severence property), B-4 (General Business District) to the south (Lee property), a mix of R-2 (Single-family Residential District) with a Planned Residential Development (PRD) District Overlay (Tanglewood) and PO/I (Planned Office/Institutional) to the east (future Grady Hospital site), and township zoning to the west (Circle L Motel and Frazier Farms property).

BACKGROUND

The property is in the process of being annexed to the City. The western property is currently used as a church while the two eastern properties are vacant. A pre-annexation agreement has been submitted by the applicant and is before the Commission for review.

STAFF ANALYSIS

- **LAND USE:** The Comprehensive Plan recommends a Mixed-Use land use pattern for these properties and the surrounding area. The proposed zoning district of B-4 (General Business District) is consistent with the Comprehensive Plan land use designation. A planned mixed-use district is not proposed with this application nor is one required. A copy of the applicable Zoning Code text is included with this packet. Upon annexation to the City and at the time of development, the applicant proposes to demolish the existing church for commercial and office uses on the site. A mix of office and commercial uses satisfies the intent of the Comprehensive Plan Mixed-Use land use pattern especially when put in the surrounding context of a large retail development, car dealership, housing, office, and hospital uses.

- **DENSITY/INTENSITY:** Future development in the area proposes commercial and office, especially medical, uses surrounding these properties. The applicant, through the zoning text, is requiring the proposed development to be compatible with the proposed development on the Grady, Ro/Lee, and Evans properties.

- **ZONING TEXT:** Zoning text has been provided by the applicant which matches that approved for the Grady, Ro/Lee, and Evans properties and limits the uses allowed on the property. As a note, the uses listed in the text are those being excluded (prohibited). All other uses in the B-4 zoning district are permitted or conditionally permitted as specified in the Zoning Code. By requiring four-sided architecture with natural materials on all sides, the proposed architectural standards are more restrictive than that required by code. Although Staff is supportive of the proposed text, it does state the minimum lot size will be 1.5 acres. Code requires a minimum 3 acre lot size in this district. This must be revised to be consistent with code, as was the recent Sturges preliminary subdivision plat in a similar manner for the same reason. Otherwise the zoning text is generally more restrictive than the Zoning Code, especially in terms of setbacks. A copy of the zoning text is included as an exhibit to the pre-annexation agreement.

- **COMMUNITY IMPACT ASSESSMENT:** The applicant has provided a community impact assessment (CIA) with this rezoning request. Staff has reviewed the assessment and finds the City can provide adequate public services to the property. The resulting office and commercial development will have a positive fiscal impact on the City and the Olentangy Local School District. A copy of the CIA is attached to this packet.

- **PRE-ANNEXATION AGREEMENT:** A pre-annexation agreement has been submitted and is currently under review by City Staff. The latest version of revisions is included with this packet. Overall, Staff is supportive of the agreement as it closely resembles that approved for the Grady, Ro/Lee, and Evans properties. It specifies the points discussed in this report. Additionally, the applicant has agreed to participate in the funding of major infrastructure improvements in the area, specifically Glenn Road, and will construct Ro Lane along the property frontage. Staff does recommend the decision deadline for the type of financial contribution to Glenn Road (page 6) be extended from January 15, 2006 to 30 days following City Council approval of the pre-annexation agreement.

STAFF RECOMMENDATION – PC 06-015 PRE-ANNEXATION AGREEMENT

Staff recommends approval of the pre-annexation agreement of the three parcels consisting of a total 9.89 acres for the properties located at 4277 US Route 23 South, with the following conditions that:

1. The decision deadline for the type of financial contribution to Glenn Road (page 6) be extended from January 15, 2006 to 30 days following City Council approval of the pre-annexation agreement.
2. The pre-annexation agreement in its present form is approved and authorized with changes approved by the City Manager therein not inconsistent with this approval and not substantially adverse to the City.

STAFF RECOMMENDATION – PC 05-082 REZONING

Staff recommends approval of rezoning the three parcels consisting of a total 9.89 acres from township Farm Residential to B-4 (General Business District), with use and text limitations as proposed by the applicant, for the properties located at 4277 US Route 23 South, with the following condition that:

1. The zoning text related to minimum lot size be revised to meet code or the zoning designation be revised to a Planned Mixed Use (PMU) District Overlay with detailed text and plans to follow at the time of development plan submittal.

CONCLUSIONS

- The proposed Zoning District is consistent with the Comprehensive Plan land use recommendation.
- The proposed zoning text, as modified by condition of approval, is generally more restrictive than the Zoning Code.
- The pre-annexation agreement, as proposed by the applicant, requires participation in the funding of Glenn Road.

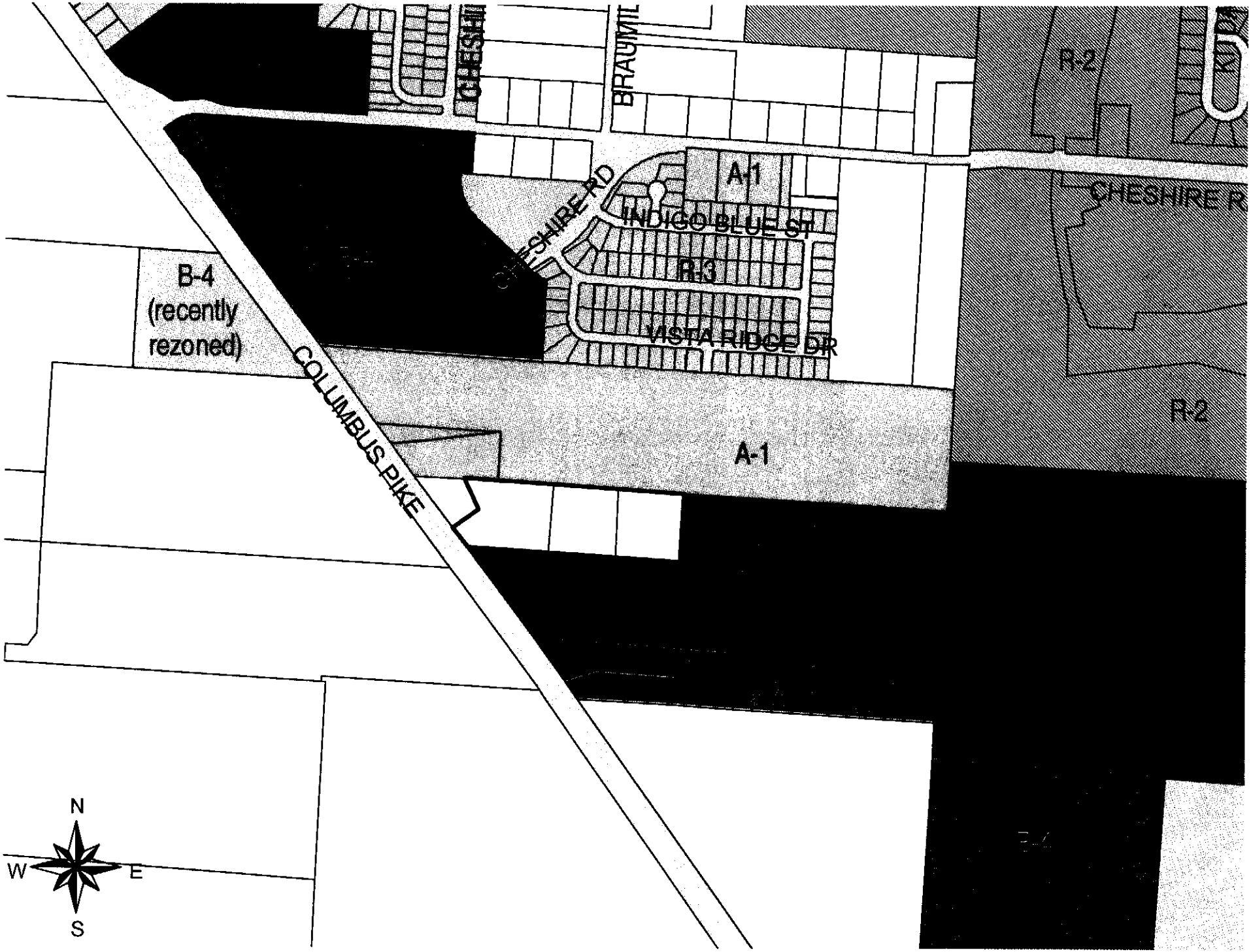
COMMISSION NOTES:

MOTION: _____ *1st* _____ *2nd* *approved* *denied* *tabled*_____

CONDITIONS/MISCELLANEOUS:


CHAPMAN RD
CHESHIRE CROSSING
BRAUMILLER RD
KITTARY DR
CHESHIRE RD
CHESHIRE RD
INDIGO BLUE ST
CHERRY LEAF RD
VISTA RIDGE DR
COLUMBUS PIKE
CHESHIRE RD
WINTER
PEACHBLOW RD
N
W
E
S


VISTA RIDGE DR
COLUMBUS PIKE
N
W
E
S

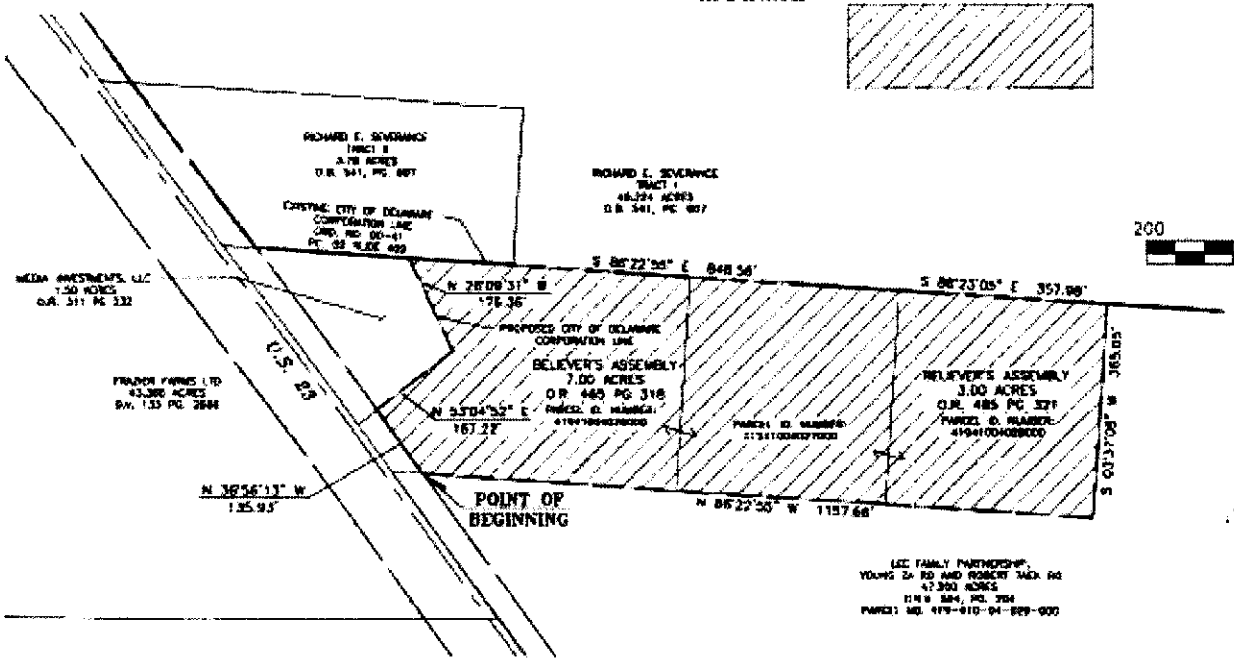

R-2
A-1
INDIGO BLUE ST
R-3
VISTA RIDGE DR
B-4
(recently
rezoned)
COLUMBUS PIKE
A-1
R-2
N
W
E
S

LEGEND:

Existing City of Delaware Corporation Line

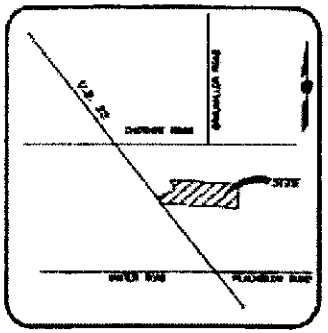
Proposed City of Delaware Corporation Line

Area to be Annexed



200 0 200 400

SCALE IN FEET



VICINITY MAP
(NOT TO SCALE)

County Engineer
Delaware Co., Ohio
I hereby certify the within to be a true copy of the original on file in the Map Department
CHRIS E. BAUSERMAN, County Engineer
By _____ Title

PROPOSED ANNEXATION OF

9.89 ACRES

FROM LIBERTY TOWNSHIP

TO THE CITY OF DELAWARE

Situate in

STATE OF OHIO, COUNTY OF DELAWARE, TOWNSHIP OF LIBERTY

FARM LOT 29

SECTION 6, TOWNSHIP 4, RANGE 19

UNITED STATES MILITARY DISTRICT

SCALE: 1 INCH = 200 FEET

RDZ JOB NUMBER 7589 DATE: 08/05

GENERAL NOTES:

1. This exhibit was prepared from recent distributions obtained from the Delaware County Recorder's Office and is intended to represent territory to be annexed to the City of Delaware and is not intended for the transfer of real property.

3. This exhibit is prepared to be used as an expedited type 2 annexation with a total perimeter of 5018.76 feet, a length of contiguity of 1208.54 feet, and is thirty eight (38) percent contiguous with the existing City of Delaware Corporation Line.

3. The proposed annexation does not create any islands that would be automatically annexed by the existing annexation line once the section of land that would remain is sold township.

BASIS OF BEARINGS:

The bearings in the above description are based on the grid bearing of North 86°22'56" West, for the centerline of Chambers Road, as established by a network of GPS observations performed in December, 2003.

CERTIFICATION

This plat was compiled from existing Delaware County records as obtained from the Delaware County Recorder's Office. This plat is intended for only the purposes necessary to the annexation to the City of Delaware.

Robert L. Clay 12/19/05
ROBERT L. CLAY Date:
Professional Surveyor No. S-8121

STATE OF OHIO
ROBERT L CLAY
S-8121
REGISTERED
PROFESSIONAL SURVEYOR

PREPARED BY:
R.D.Zande & Associates

1500 LAKE SHORE DRIVE
SUITE 150
COLUMBUS, OHIO 43204
(614) 486-4383 1-800-366-4783
FAX (614) 486-4387

COPYRIGHT © 2005 R.D. ZANDE & ASSOCIATES, INC.

ALL RIGHTS RESERVED. NO PORTION THEREOF, INCLUDING THIS FILE, MAY BE REPRODUCED OR USED IN ANY MANNER WHATSOEVER WITHOUT THE EXPRESS WRITTEN PERMISSION OF R.D. ZANDE & ASSOCIATES, INC. ANY UNAUTHORIZED USE WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW.

DELAWARE SOUTH ZONING TEXT
Development Standards

Delaware South Area
10 Acres - Zoning Case 05-00 __
November 8, 2005

Proposed Zoning: B-4

Parcel Descriptions (the "Property"):

Tax Parcel No.	Acreage
41941004026000	4.00 acres
41941004027000	3.00 acres
41941004028000	3.00 acres

A. Uses:

1) All B-4 permitted, conditional, and accessory uses described in the City of Delaware Zoning Code Section 1143.02 shall be allowed, **excluding** only the following uses (except where noted), as numbered in the Code:

1143.02(c) Retail and Services:

(1) Retail Development with a minimum gross floor area of 100,000 square feet or greater
(6) Funeral Home and related facilities
(7) Veterinary Office (no outside run or kennel)
(8) Veterinary Hospital (with or without kennel)
(9) Kennel, boarding stables
(10) Taxidermy shop
(11) Self-service storage

1143.02(d) Automotive and Transportation:

(2) Automotive Repair Garage (except as a part of a new car Automotive Sales dealership)
(3) Used Automobile Sales (except as a part of a new car Automotive Sales dealership)
(6) Car Wash (except as a part of an Automotive Service Station)
(7) Parking lots and garages, except as accessory uses to an otherwise permitted use on the same parcel.
(8) Truck, farm and recreational vehicles -- sales and storage

EXHIBIT C

1143.02(e) Outdoor Display Storage:

(1) Outdoor Display
(2) Outdoor Storage

1143.02(f) Community Facilities:

(10) Public safety and service facility
(11) Public utility substation or distribution facility

1143.02(g) Recreation and Entertainment:

(1) Outdoor recreation and amusement
(3) Golf Courses and Country Clubs
(4) Drive-in theater

B. Density:

The minimum lot size shall be no less than 1.5 acre and there shall be no more than a total of 5 lots.

C. Setbacks and Height:

All development shall meet all the requirements of the base zoning, including the following standards:

1) Setbacks, which shall be measured from existing and planned road rights of way, shall be established as follows:

   a) US 23: 80' Building setback and 50' parking setback from the existing (September 1, 2004) US 23 right of way.

   b) Ro Lane: 80' building setback and 25' parking setback

   c) Side and rear yards: 30' setback for buildings and 10' for pavement; provided that for the internal adjacent lot lines, the pavement setback shall be 0' to encourage shared parking and access.

2) Height: Buildings shall be a maximum of 45' in height; Accessory buildings shall be limited to one story and 20' in height.

D. Access, Parking, Loading and Other Traffic Related Standards and Commitments:

1) Ro Lane shall have a right-of-way of 64'-0 minimum.

2) Sidewalks five feet in width shall be constructed within the rights of way on both sides of all public streets, with the exception of US 23 where no sidewalks are required; however, an eight-foot bike path shall be constructed outside of the right-of-way on the east side of US 23, within a 20'-0 public access easement, and to Delaware design specifications.

3) The existing curb cut to US 23 shall be modified to allow RiRo access, and is subject to the review, approval of the ODOT District 6 engineer and City Engineer. Two curb cuts to Ro Lane shall be permitted subject to the approval of the City Engineer upon presentation of a traffic engineering report showing no interference with Ro Lane traffic flows.

4) At all locations, spacing and offsets of curb cuts shall be subject to the approval of the City Engineer.

E. Architectural Standards:

1) All buildings shall be required to have a similar theme incorporating four-sided architecture, i.e. all facades treated equally. It is recognized that buildings will have service and loading areas. While these areas may not have the same degree of detail and finish as the other building façades, the building materials required in this section shall apply.

2) Buildings shall use natural materials such as stone, cultured stone, wood, brick and engineered siding products (including cementitious and other engineered siding products, but not vinyl or aluminum siding) (collectively "Natural Materials"). Man-made products such as stucco, EIFS, and Dryvit products shall also be permitted, but in no case shall a building be totally comprised of man-made products. Other materials may be used for windows, doors and limited accents. No concrete or split face block shall be permitted. Natural Materials must be incorporated on the first floor of every façade.

3) Color palette shall consist of earth tones. Additional colors may be used as accents but may not be high gloss or high chroma colors.

4) Aluminum and/or vinyl may be incorporated into the buildings for trim and details only such as: soffits, gutters, downspouts, shutters etc.

5) Single story buildings shall be required to have a pitched roof. Minimum roof slopes shall be 6:12. Roof materials shall be asphalt shingles, cedar shakes, slate or synthetic slate or metal standing seam. Shingles to be a minimum, medium weight, dimensional or dimensional look shingles.

6) Flat roofs shall be permitted on buildings of two stories or greater. However, all roof-top mechanical equipment shall be completely screened in an enclosure that is compatible with the architecture and theme established for the building.

7) All ground mounted mechanical equipment shall be completely screened by a wall, fence, hedge or other appropriate screening method to the full height of such equipment.

8) Accessory buildings, enclosures, and any other structure that is appurtenant to any building on a lot shall be of similar design and materials.

9) Canopies and support columns associated with a building entry or business function must adhere to the same architectural design and material standards as presented herein.

10) Building fronts shall orient themselves to the public street whenever possible.

F. Landscaping, Tree Preservation, and Screening Standards:

1) All landscaping shall comply with Chapter 1166 of the City of Delaware Zoning Code; provided, however, that any trees removed as a part of construction of Ro Lane or any of the roads within the Property shall not have to be replaced.

2) Reasonable and good faith efforts will be made to preserve healthy existing trees within drainage course areas. Selective clearing of wooded areas is permitted, consistent with the requirements of the City of Delaware Zoning Code. Additionally, standard tree preservation techniques will be utilized to protect trees during all phases of construction.

3) Street trees shall be required along all public streets within the tree lawns. Street trees shall be a minimum of 1¾" caliper, planted 40' on center, and shall be one consistent deciduous species per street.

4) All parking areas shall be screened from the public right-of-way at a height of 3'. Screening may be accomplished through the use of earth mounds, evergreen hedges, walls or fencing. Screening shall maintain 75% year-round opacity.

5) All buildings shall provide landscaping along the foundation and/or entry.

6) Loading and service areas must be screened from view of a public street or adjoining parcel/property.

G. Lighting:

1) External lighting shall be cutoff type (down lighting) or decorative fixtures, and shall provide no light spillage to off-site parcels. However, buildings and landscaping at entry location may be up-lit or down-lit, provided that landscaping lighting does not spill over into the public right-of-way or adjoining parcels.

2) All lights shall be arranged to reflect light away from adjacent streets or property. Direct or indirect glare into the eyes of motorists or pedestrians shall be avoided.

3) All external outdoor lighting fixtures within a lot/parcel shall be from the same or similar manufacturer's type to insure compatibility.

4) Parking lot lighting standards shall not exceed 20' in height, including base.

5) No colored or flashing lights shall be used to light the exterior of buildings.

H. Graphics and Signage:

1) All signage and graphics shall conform to Chapter 1165 of the City of Delaware Zoning Code.

2) Each commercial lot may have one ground sign per street frontage. Sign shall be mounted on a masonry base and be landscaped. Sign may not exceed 8' in height. Maximum sign area shall not exceed 30 square feet per face. The maximum number of tenants listed per sign shall be six.

3) No signs shall be painted directly on the surface of any building, wall, or fence. No wall murals shall be allowed.

4) No flashing, traveling, animated, or intermittently illuminated signs shall be used. No co-op signs, rotating signs, trailer type signs, tethered balloons, roof signs, banners or pennants shall be permitted.

5) Signage may be illuminated internally or externally. External light sources shall be directed toward the sign and shall not cause visibility problems for motorists or adjacent property owners.

CITY OF DELAWARE, OHIO
PLANNING AND COMMUNITY DEVELOPMENT

REZONING APPLICATION

PC _____

41941004026000
41941004027000
I/we wish to change the zoning of lot number(s) 41941004028000 comprising the 9.89 acres that are located at (street address) 4277 US 23 North, Delaware, OH 43015 from (present zoning) Farm Residential (Twp.) to (proposed zoning) General Business B-4.

NOTE: Please attach a legal description for each proposed zoning district.

For the Planning Commission public hearing plus for the City Council public hearing, the Applicant shall post a sign conforming to the following:

1. **A sign shall be posted on all road frontages of all parcels in the area proposed to be rezoned in a location visible from an adjacent street.**
2. **Each sign shall be at least three (3) feet by three (3) feet with letters not less than six (6) inches in height notifying the public of the date, time and location of the upcoming hearing.**
3. **Each sign shall be posted continuously for at least ten (10) days prior to the date of the required public hearing.**
4. **The sign shall be removed within five (5) business days of the decision of City Council.**

Why this zoning change should be approved: To allow for office and commercial development and provide for community facilities and services in accordance with the Delaware Comprehensive Plan.

Applicant Name: J. Jeffrey McNealey

Applicant Address: 41 S. High Street, Columbus, OH 43215

Contact Person: J. Jeffrey McNealey Phone: 614-227-2074

E-mail: jmcnealey@porterwright.com Fax: 614-227-2100

Property Owner Name: Believer's Assembly by: Robert D. Shackelford

Property Owner Address: 4277 Columbus Pike, Delaware, OH 43015

Contact Person: J. Jeffrey McNealey Phone: 614-227-2074

E-mail: jmcnealey@porterwright.com Fax: 614-227-2100

The undersigned does hereby verify the truth and correctness of all facts and information presented with this application and authorizes field inspections by City Staff.

Cynthia L. Karnes
Witness

Owner or Agent Signature

Witness

J. Jeffrey McNealey
Owner or Agent Printed Name

Sworn to before me and subscribed in my presence this 4 day of November, 2005

Notary Public

MICHAEL E. HEINTZ
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

FEE: $250 for a single-family lot ... $500 plus $100 per acre for all other development

FEE: $ _____ RECEIVED BY: _____ DATE: _____

RECEIVED NOV 29 2005

06-005 and PC 06-006 per the staff recommendations and comments as presented. (7 in favor and 0 opposed) MOTION APPROVED

REGULAR BUSINESS

1. **Application PC 06-004 – Villages at Lehner Woods Concept Plan Review:** A request by Dominion Homes, Inc. for a Concept Plan Review of 234 condominium units and 23 single-family lots on 59.4± acres for the amended Villages at Lehner Woods proposal located just south of Schellinger Boulevard (located south of existing Phase II of the Villages at Lehner Woods).

2. **Application PC 05-032 – United Smokes of America Retail Final Development Plan:** A request by Tim Kildow for Final Development Plan approval for the retail development proposed on the parcel located east of Liberty Street and north of London Road, just west of Washington Street (Extended).
   Motion: Ebersole/Vonada moved to approve PC 05-032 with all staff recommendations. (6 in favor and 1 opposed [Morrision]) MOTION APPROVED

3. **Application PC 05-081 – Landings at Glenross Condominiums Final Development Plan:** A request by Mid-Ohio Development Corporation, representing Tanglewood Investment Company LLC for a Final Development Plan for 80 condominium units on 11-009± acres located on the south side of Cheshire Road, directly across from Tara Glen Drive.
   Motion: Ebersole/Morrison moved to approve PC 05-081 with all staff recommendations. (7 in favor and 0 opposed) MOTION APPROVED

4. **Application PC 05-065 – Byers Toyota Preliminary Development Plan:** A request by Byers Realty, representing George E. Melvin and Barbara C. Melvin for Preliminary Development Plan approval of a proposed automobile dealership and service station to be located on the NW corner of US Route 23 and Cheshire Road (Future Extended).
   Motion: Long/Morrison moved to approve PC 05-065 the Preliminary Development Plan and would adopt the staff recommendations also add further recommendation that the stone on the building be beige and that the developer consider additional fence/gateway design on the corner of Cheshire and US 23. (5 in favor and 2 opposed [Vonada and Ebersole]) MOTION APPROVED

5. **Application PC 05-082 - Believer's Assembly Rezoning:** A request by Jeffrey McNealy, representing the Believer's Assembly for a rezoning of three parcels consisting of a total 10± acres from township Farm Residential to B-4 (General Business District) located at 4277 Columbus Pike, which is the east side of US Route 23, south of Cheshire Road and north of Peachblow Road.
   Motion: Long/VanGundy moved to approve PC 05-082 as presented by the applicant that would be a rezoning to B-4 with the text limitations, not to include the staff recommendations that there would be a Planned Mixed Use Overlay. (7 in favor and 0 opposed) MOTION APPROVED

6. **Application PC 06-015 – Believer's Assembly Pre-annexation Agreement:** A request by Jeffrey McNealy, representing the Believer's Assembly for a pre-annexation agreement for three parcels consisting of a total 10± acres located at 4277 Columbus Pike, which is the east side of US Route 23, south of Cheshire Road and north of Peachblow Road.
   Motion: Ebersole/Vonada moved to approve PC 06-015 with all staff recommendations including striking any information regarding the supporting of the application will be changed to the Barrows/McNamara Pre-annexation verbiage as well as removing the TIF information in the