



PICKREL, SCHAEFFER AND EBELING

A LEGAL PROFESSIONAL ASSOCIATION

2700 STRATACACHE TOWER
40 NORTH MAIN STREET
DAYTON, OHIO 45423-2700
937/223-1130
FACSIMILE 937/223-0339

WWW.PSELAW.COM

TROY OFFICE

305 PUBLIC SQUARE, SOUTHEAST
SECOND FLOOR, SUITE 1, OFFICE C
TROY, OH 45373

L. MICHAEL BLY
JOHN E. CLOUGH²
KRISTINA E. CURRY
JACOB N. FRIZADO
DEZTANY J. JOHNSON
JAMES W. KELLEHER
GERALD L. MCDONALD¹
MARCELLA T. MCHENRY
DAVID H. MONTGOMERY
JON M. ROSEMEYER
KAYLEE R. PRICE
MICHAEL W. SANDNER
ALAN B. SCHAEFFER
JEFFREY S. SENNEY
MATTHEW D. STOKELY³
KATRINA L. WAHL

gmcdonald@pselaw.com

June 10, 2024

Ellen Snyder, Zoning and GIS Manager
City of Clayton Development Department
P.O. Box 280
Clayton, OH 45315

**Re: Rezoning Application for Parcels in South-East Portion of Wenger /
Hoke Rd**

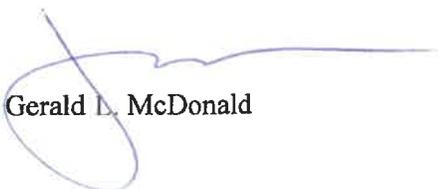
Dear Ms. Snyder:

Enclosed please find the City of Clayton Planning Commission Application, \$500 check for filing fee, copy of the current deeds, a proposed re-zoning description (which includes the reasons for the proposed zoning change, a statement of the desirability of the proposed use to the neighborhood, and a statement of the relationship of the proposed use to adjacent property and land use), list of the names and mailing addresses of all property owners within 300 feet, and image/aerial showing the applicable parcels.

We respectfully request that you place us on the next applicable Planning Commission meeting for initial review and consideration. Please direct any correspondence or communication regarding this matter to the undersigned.

Sincerely,

PICKREL SCHAEFFER & EBELING CO., LPA


Gerald L. McDonald

GLM/lap

Enc.

Trust In Us. For Life.®

1QV5381



DEVELOPMENT DEPARTMENT
PO Box 280
Clayton, OH 45315
P:(937) 836-3500 F:(937) 836-6773

PC Case# _____	Date Received: _____
Reviewed By: _____	PC Meeting Date: _____
Council Meeting Date: _____	Date of Legal Publication: _____
Fee: \$ _____	<input type="checkbox"/> Cash <input type="checkbox"/> Credit Card <input type="checkbox"/> Check # _____

Planning Commission Application

Applicant: Gerald L. McDonald Phone Number: 937 223-1130

Mailing Address: 40 N. Main Street, Suite 2700, Dayton Ohio 45423

Applying for:

- Subdivision
- Zoning District Change
- Commercial Bldg. Architecture & Landscaping Review
- Subdivision/Planned Development Modification
- Minor Subdivision - Lot Split & Replat

Property Address: 4970 Wenger Rd; 7870 Hoke Rd,

Parcel ID#: M60031090030; M60031090034; M60031090060 Acreage: 2.04; 0.993; 2.04

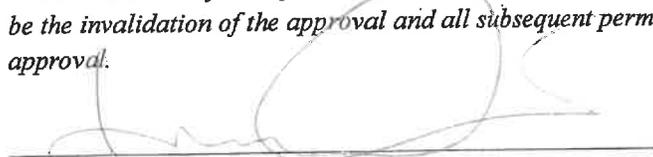
Subdivision: _____ Lot#: _____

Current Zoning District: R-Residential If Applicable, Proposed Zoning District: CMX

Located in Flood Hazard: No Sewer: Septic Water: Well

I hereby authorize and grant to the City of Clayton Officials and employees, members of the Planning Commission and City Council the right to come onto the above described property for the purpose of inspecting and evaluating the premises regarding this application. I further release said Board members, and City employees and officials from any and all liability during said inspection and related matters.

I swear that the above information and attached exhibits, to my knowledge, are true and correct. I understand that if the information on this application is not correct or complete, the result may be the invalidation of the approval and all subsequent permits issued in conjunction with this approval.



Applicant's Signature

6/10/21

Date



DEVELOPMENT DEPARTMENT
PO Box 280
Clayton, OH 45315
P:(937) 836-3500 F:(937) 836-6773

Re: Parcel Id No: M60- 03109-0030

Affidavit

State of Ohio; County of Montgomery

I (We) Walt Kern, the authorized representative of BLK94 Holdings, LLC after being first duly sworn, depose and say:

1. That I (We) are the owner(s) of the above described real estate;
2. That I (We) have read and examined the application and are familiar with its contents; and
3. That I (We) have no objections to, and consent to such request as set forth in the application.

Walter R Kern, Managing Partner

Property Owner(s) Signature(s)

3506 Walking Horse Ln. Sevierville, TN, 37876

Mailing Address

(308) 249-2555

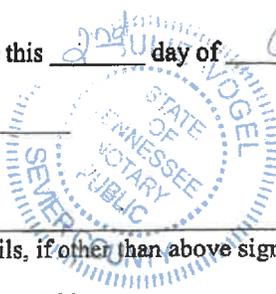
Phone Number

Subscribed and sworn to be before me this 22nd day of April 2024

Jared Vogel

Notary Public Signature

Gerald L. McDonald



Name (Person to be contacted for details, if other than above signatory)

40 N. Main St., Suite 2700, Dayton, Ohio 45423

Mailing Address

(937) 223-1130

Phone Number

City of Clayton Receipt by Receipt Line

Receipt No: 2024-1112
Received From: Gerald McDonald
Received For: 40 N Main St.
Reference:

Page: 1
Date: 07/10/2024
Amount: \$500.00

Line #	Line Description	Line Date	GL Account Number	Account Number	Project	Quantity	Unit Price	Amount
1	40 N Main St.	07/10/2024	101-0000-40623	00000-001		1	0.0000	\$500.00

Tender Type
Check

Tender Amount
\$500.00

Total Amount: \$500.00
Tendered Amount: \$500.00
Change Amount: \$0.00
Credit Memo: \$0.00

LIST OF PROPERTIES

Property One

Owner(s) BLK94 Holdings, LLC
Property Address: 4970 Wenger Road, Clayton, OH 45315
Parcel ID#: M60 03109 0030
Acreage: 2.04
Current Zoning District: R – Other Residential
Proposed Zoning District: CMX
Located in Flood Hazard: No
Sewer: Septic
Water: Well

Property Two*

Owner(s) Terry and Bonita Kipling
Property Address: 4940 Wenger Road, Clayton, OH 45315
Parcel ID#: M60 03109 0060
Acreage: 2.04
Current Zoning District: R -- Other Residential
Proposed Zoning District: CMX
Located in Flood Hazard: No
Sewer: Septic
Water: Well

Property Three*

Owner(s) Terry and Bonita Kipling
Property Address: 7870 Hoke Road, Clayton, OH 45315
Parcel ID#: M60 03109 0034
Acreage: 0.993
Current Zoning District: R – Other Residential
Proposed Zoning District: CMX
Located in Flood Hazard: No
Sewer: Septic
Water: Well

*Property Two and Three have been combined into a 3.0313 acre parcel but not yet listed as such with the auditor.

Proposed Re-Zoning Description

The applicant, Gerald L. McDonald, Esq. on behalf of the following property owners; BLK94 Holdings LLC, Terry and Bonita Kipling, David L. Cox, and Russell D. Gerhart, is requesting to rezone the following properties from R-Residential to CMX- Commercial Mixed-Use:

Property 1: 4970 Wenger Road, being Parcel No. M60 03109 0030, (BLK94 Holdings LLC)

Property 2: 7970 Hoke Rd being Parcel No. M60 03109 0060, (Terry and Bonita Kipling)

Property 3: 4940 Wenger Road being Parcel No. M60 03109 0034, (Terry and Bonita Kipling)

All property owners have agreed to be included in this application for re-zoning.

The properties are located in the southeastern quadrant of the Hoke Road and Wenger Road intersection. This proposed rezoning is aligned with the City of Clayton's vision for development and consistent with the City's long term development plans as set forth in the City's Future Land Use Regulating Plan. Further, the proposed re-zoning and use of the land is generally in harmony with the scale, bulk, coverage, density, and character of the area of the neighborhood in which it is located. With a CMX zoned property just south on Hoke Rad and another East on Wenger. The property is located near the City of Englewood property to the South which is zoned commercial

There is no current development project planned with this rezoning. The owners' intention at this time is to continue to use the property as residential use. The planned reconstruction of Hoke Road including the roundabout served as a catalyst for the owners to consider future land use and value for their property. After meeting with City staff, it was determined that zoning to CMX would be the best option to the attract growth opportunities that a solely residential zoning use could not attract. It was also generally determined that such a change will contribute positively to the economic growth and vitality of the area.

The conversion of the properties to mixed commercial use will create opportunities for new businesses, job creation, and economic growth for the adjacent land and surrounding properties. It will provide an area for commercial development with Clayton in an area where commercial development makes sense.

- Summary
- Property Description**
- Tax Summary
- Land
- Payments List
- Levy Distribution
- New Levies
- Special Assessments
- Permits
- Value History
- Rental Registration
- Sketch
- Sales
- Tax Detail
- Pay Taxes
- Property Photos
- GIS Parcel Map

PARID: M60 03109 0030
 PARCEL LOCATION: 4970 WENGER RD
 NBHD CODE: 56000000 1 of 1
[Return to Search Results](#)
 Tax Year: 2023 ▾

- Accounts
- Printable Summary
- Printable Version
- Reports

[Click here to view neighborhood map](#)

Owner

Name
 BLK94 HOLDINGS LLC

Mailing

Name
 BLK94 HOLDINGS LLC

Mailing Address
 3506 WALKING HORSE LN

City, State, Zip
 SEVIERVILLE, TN 37876

Maps

Legal

Legal Description
 TOD TO GENE LEROY KERN JR ETAL 4
 5-5-28

Land Use Description
 R - RESIDENTIAL, 0-9.999 AC
 Acres
 2.04

Deed
 Tax District Name
 CLAYTON/NORTHMONT CSD

Sales

Date	Sale Price	Deed Reference	Seller	Buyer
31-AUG-06		CF/T-06-081083	KERN GENE L + BETTY L	KERN BETTY L
15-SEP-06		200600087161	KERN BETTY L	KERN BETTY L
09-APR-19		201900017454	KERN BETTY L	KERN JR GENE LEROY ET AL 4
12-APR-19		201900018220	KERN JR GENE LEROY ET AL 4	BLK94 HOLDINGS LLC

Values

	35%	100%
Land	13,270	37,910
Improvements	0	0
CAUV	0	0
Total	13,270	37,910

Current Year Special Assessments

41100-MCD/AP MCD/AQUIFER PRES SUBD \$1.00

Current Year Rollback Summary

Non Business Credit -\$76.26
 Owner Occupancy Credit \$0.00
 Homestead \$0.00
 Reduction Factor -\$784.06

Tax Summary

Year	Prior Year	2009 Year Payment	1st Half	Tax With Payments	2nd Half	2nd Half Payments	Total Currently Due
2023	\$0.00	\$0.00	\$391.65	-\$391.65	\$390.65	\$0.00	\$390.65

PROPERTY ONE



Sorry, no sketch available
for this record

Type: Deeds
Kind: DEED
Recorded: 4/12/2019 11:53:15 AM
Fee Amt: \$60.00 Page 1 of 6
Montgomery County, OH
Brandon C. McClain Recorder

File# 2019-00018220

TRANSFER
11:49am APRIL 12, 2019
KARL L. KEITH, COUNTY AUDITOR
Conv/Tran #: 05836 \$.00

6

GENERAL WARRANTY DEED

GENE LEROY KERN, JR., unmarried, WALTER ROBERT KERN, married, JANET LOUISE NEWCOMB, married, and JOANNE RENEE HOLTZ, married, for valuable consideration paid, grant, with general warranty covenants, to **BLK94 HOLDINGS LLC**, an Ohio limited liability company, whose tax mailing address is 3506 Walking Horse Lane, Sevierville, TN 37876, the following real property situated in the City of Clayton, County of Montgomery and State of Ohio, as more particularly described on the attached EXHIBIT A, made a part hereof and incorporated herein by reference.

Address: 4970 Wenger Road
Clayton, Ohio 45315

Montgomery County Parcel No. M60 03109 0030

DM

Executed this 22 day of March, 2019.


GENE LEROY KERN, JR.

STATE OF Ohio)
COUNTY OF Montgomery) SS:

on the 22 day of March, 2019, by **GENE LEROY KERN, JR.** The foregoing instrument was acknowledged before me



CODY ABNER
Notary Public, State of Ohio
My Commission Expires
February 12, 2023


Notary Public

This instrument was prepared without the benefit of title exam by:

Ann D. Jennings, Esq.
Frost Brown Todd LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, OH 45202
(513) 651-6800

Executed this 22 day of March, 2019, by WALTER ROBERT KERN and BELINDA A. KERN, his wife, who hereby releases her right and expectancy of dower in said premises.

Walter Robert Kern
WALTER ROBERT KERN

Belinda A. Kern
BELINDA A. KERN

STATE OF Ohio)
COUNTY OF Montgomery) SS:

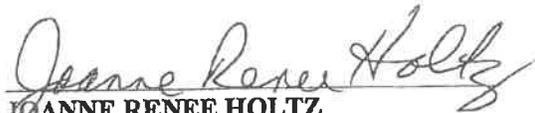
on the 22 day of March, 2019, by WALTER ROBERT KERN and BELINDA A. KERN. The foregoing instrument was acknowledged before me

Cody Abner
Notary Public



CODY ABNER
Notary Public, State of Ohio
My Commission Expires
February 12, 2023

Executed this 22 day of March, 2019, by JOANNE RENEE HOLTZ and PETER HOLTZ, her husband, who hereby releases his right and expectancy of dower in said premises.


JOANNE RENEE HOLTZ


PETER HOLTZ

STATE OF Ohio)
COUNTY OF Montgomery) SS:

on the 22 day of March, 2019, The foregoing instrument was acknowledged before me by JOANNE RENEE HOLTZ and PETER HOLTZ.



CODY ABNER
Notary Public, State of Ohio
My Commission Expires
February 12, 2023


Notary Public

0141147.0716838 4812-6949-1593v1

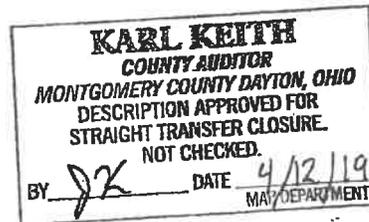
EXHIBIT A

Situate in the Northwest quarter of Section 28, Town 5, Range 5 East, City of Clayton, County of Montgomery and State of Ohio, and being a part of the 4 acre tract as described in Deed Book 1419, Page 256 of the Montgomery County Records. Bounded and described as follows:

Beginning at the northwest corner of said 4 acre tract, said point being the northwest corner of Section 28, said beginning point being also the point of intersection of the center line of the Hoke Road and the Wenger Road. Thence north 88 degrees 30 minutes east with the center line of the Wenger Road and with the North line of said 4 acre tract, for a distance of 234.5 feet to a point. Thence South 2 degrees 15 minutes east parallel to the west line of said 4 acre tract, for a distance of 378.0 feet to a point in the east line thereof. Thence south 88 degrees 30 minutes west parallel with the south line of said 4 acre tract, for a distance of 234.5 feet to the west line thereof, said point being in the center line of the Hoke Road. Thence North 2 degrees 15 minutes West with the West line of said 4 acre tract and with the center line of the Hoke Road, for a distance of 378.0 feet to the place of beginning. Containing 2.044 acres more or less, subject to all legal highways, and subject to rights of easement to Dayton Power and Light Company in Deed Book 1307, Page 138 of the Deed Records of Montgomery County, Ohio.

Address: 4970 Wenger Road
Clayton, Ohio 45315

Parcel No.: M60 03109 0030



0141147.0716838 4831-6636-5833v1

Summary

PARID: M60 03109 0060
 PARCEL LOCATION: 4840 WENGER RD

NBHD CODE: 56000000

1 of 1

[Return to Search Results](#)
 Tax Year: 2023 ▾

Property Description

Tax Summary

Land

Payments List

Levy Distribution

New Levies

Special Assessments

Permits

Value History

Rental Registration

Sketch

Sales

Tax Detail

Pay Taxes

Property Photos

GIS Parcel Map

[Click here to view neighborhood map](#)

- Actions
- Printable Summary
- Printable Version

Reports

Owner

Name
 KIPLING TERRY AND BONITA

Mailing

Name
 KIPLING TERRY AND BONITA
 Mailing Address
 7870 HOKE RDG
 City, State, Zip
 CLAYTON, OH 45315

Maps

Legal

Legal Description
 5-5-28

Land Use Description
 Acres
 Deed
 Tax District Name

DELETE COMB W 34
 R - OTHER RESIDENTIAL

CLAYTON/NORTHMONT CSD

Sales

Date	Sale Price	Deed Reference	Seller	Buyer
10-FEB-14	\$45,000	201400006966	YOUNG PAUL AND	KIPLING TERRY AND

Registered Rental Property

Registered: YES

Values

	35%	100%
Land	0	0
Improvements	0	0
CAUV	0	0
Total	0	0

Current Year Rollback Summary

Non Business Credit	\$0.00
Owner Occupancy Credit	\$0.00
Homestead	\$0.00
Reduction Factor	\$0.00

Tax Summary

Year	Prior Year	Prior Year Payments	1st Half	1st Half Payments	2nd Half	2nd Half Payments	Total Currently Due
2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

DO NOT ASK TLO



Sorry, no sketch available
for this record

Type: Deeds
Kind: DEED
Recorded: 2/10/2014 8:55:27 AM
Fee Amt: \$36.00 Page 1 of 3
Montgomery County, OH
Willis E. Blackshear Recorder

TRANSFER
08:27am FEBRUARY 10, 2014
KARL L. KEITH, COUNTY AUDITOR
Conv/Tran #: 01838 \$135.00

File# 2014-00006966

GENERAL WARRANTY DEED 3
(Survivorship)

3
ML0-31-9-60

KNOW ALL MEN BY THESE PRESENTS, that Paul Young, unmarried and Thelma Young, unmarried, for valuable consideration paid, grant(s) with general warranty covenants to Terry Kipling and Bonita Kipling, husband and wife, for their joint lives, with remainder to the survivor of them, whose tax mailing address is ~~4900 W. Wanger Road~~ Clayton, Ohio 45315, the real property described on Exhibit "A" attached hereto. 7870 Hoke Road.

Prior Deed Reference: Microfiche Number 91-296-C08

This conveyance is subject to all legal highways and easements, all restrictions, conditions and covenants of record, all zoning restrictions, and all taxes and assessments not yet payable.

THE GRANTORS HEREIN ACKNOWLEDGE THAT THIS DEED IS GIVEN IN LIEU OF THE TERMS AND CONDITIONS PERTAINING TO THE ABOVE DESCRIBED REAL ESTATE AS CONTAINED IN THE DECREE FILED IN ~~Montgomery~~ COURT OF DOMESTIC RELATIONS CASE NUMBER 06DR306 AND THAT THE GRANTOR(S) WILL NOT ASSERT ANY CLAIMS TO THE ABOVE DESCRIBED REAL ESTATE DUE TO ANY VIOLATION OF THE TERMS AND CONDITIONS OF THE DECREE.

*MIAMI COUNTY

Executed this X 17 day of January 2014.

X Thelma Young
Thelma Young

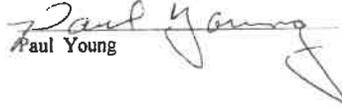
STATE OF SOUTH CAROLINA }
COUNTY OF X Greenville } SS:

The foregoing instrument was acknowledged before me this X 17 day of January 2014, by Thelma Young.

Timothy H. Farr, Notary Public for SC
My commission expires: 4/13/16

Timothy H. Farr
Notary Public

Executed this 31st day of January 2014.


Paul Young

STATE OF OHIO }
 } SS:
COUNTY OF MONTGOMERY }

The foregoing instrument was acknowledged before me this 31st day of January 2014, by Paul Young.


Notary Public

This Instrument Prepared By:
James E. Hedrick, Attorney-at-Law
HEDRICK & JORDAN CO., LPA
100 E. Third Street, Suite 500
Dayton, Ohio 45402



JACOB C. DOTSON, Notary Public
In and for the State of Ohio
My Commission Expires May 17, 2017

EXHIBIT "A"

Situate in the City of Clayton, County of Montgomery and State of Ohio, in the Northwest quarter of Section 28, Town 5 Range 5, East, being a part of a 45 acre tract conveyed to George D. Crooks and Rosella Crooks, his wife, as recorded in Deed Book 661, Page 193, of the records of said county: being more particularly bounded and described as follows:

Beginning at an iron pin in the North line of said Section and center of the Wenger Road, bearing North 88 degrees 30 minutes East a distance of 234.5 feet from the Northwest corner of said Section and center of Hoke Road; said beginning point is the Northeast corner of a 4 acre tract described in Deed Book 1419, Page 256 of the Records of said county;

thence with the East line of said 4 acre tract, and parallel with the West line of said Section, South 2 degrees 15 minutes East a distance of 742 feet to an iron pin at the Southeast corner of said 4 acre tract;

thence with a line parallel with the North line of said Section, North 88 degrees 30 minutes East a distance of 119.75 feet to an iron pin;

thence with a line parallel with the West line of said Section, North 2 degrees 15 minutes West a distance of 742 feet to an iron pin in the North line of said Section and center of the Wenger Road;

thence with the North line of said Section and center of Wenger Road, South 88 degrees 30 minutes West a distance of 119.75 feet to the place of beginning, containing 2.04 acres, more or less.

Parcel Number: M6D-03109-0060

*Kipling
2013-2003*

Box

RETURN TO:
CELITY LAWYERS TITLE AGENCY LLC
100 E. THIRD ST. #400
DAYTON, OH 45402

KARL KEITH	
COUNTY AUDITOR	
MONTGOMERY COUNTY DAYTON, OHIO	
DESCRIPTION APPROVED FOR	
STRAIGHT TRANSFER CLOSURE	
NOT CHECKED	
BY: <i>MSP</i>	DATE: <i>3/5/14</i>
<i>AWD 4/13/14</i>	MAP DEPARTMENT

(2013-2003.PFD/2013-2003/14)

PARID: M60 03109 0034
PARCEL LOCATION: 7870 HOKE RD

NBHD CODE: 56000000

[Click here to view neighborhood map](#)

Owner

Name
KIPLING TERRY D AND BONITA J

Mailing

Name KIPLING TERRY D AND BONITA J
Mailing Address 7870 HOKE RD
City, State, Zip CLAYTON, OH 45315 9725

Legal

Legal Description 5-5-28
31-9-60
Land Use Description R - SINGLE FAMILY, O-9.999 AC
Acres 3.0313
Deed
Tax District Name CLAYTON/NORTHMONT CSD

Sales

Date	Sale Price	Deed Reference	Seller	Buyer
04-SEP-98	\$106,900			
11-OCT-22		202200063988	KIPLING TERRY D AND	KIPLING TERRY D AND

Values

	35%	100%
Land	28,480	81,370
Improvements	76,290	217,970
CAUV	0	0
Total	104,770	299,340

Building

Exterior Wall Material ALUMINUM/VINYL

PROPERTY TREE

3/11/2024, 8:55 AM

OFP - 11:OFP OPEN FRAME PORCH	24
UNF BSMT/1S MAS/1S MAS - 50/20/20:UNFIN BSMT/1SMAS MASONRY/1SMAS MASONRY	1271
WDK - 31:WDDCK WOOD DECKS	540

DEED
id: DEE
Recorded: 10/12/2022 at 10:47:54 AM
Amt \$50.00 Page 1 of 4
Montgomery County, OH
Ronald C. McClain Recorder
2022-00063988

NO TRANSFER
09:31:47 10/11/2022
Reg ID: Receipt 13148 Cashier RD
Montgomery County Auditor
Karl L. Keith
CORV # D18284 \$0.00

4
GENERAL WARRANTY DEED

(See Ohio Revised Code Section 5302.05) *M60 03109 0034 N.S.*

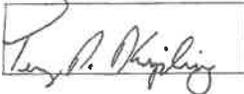
The Grantors, **TERRY KIPLING and BONITA KIPLING**, husband and wife, of Montgomery County, Ohio, for valuable consideration paid, hereby grant, with general warranty covenants, all right, title, and interest to **TERRY KIPLING and BONITA KIPLING**, husband and wife, for their joint lives, remainder to the survivor of them, whose tax-mailing address is 7870 Hoke Road, Clayton, Ohio 45315 the following real property located at **7870 Hoke Road, Clayton, Ohio 45315**, which is further described as follows:

SEE EXHIBIT A (attached hereto)

NOTE: The Grantors, **TERRY KIPLING and BONITA KIPLING**, husband and wife, are one and the same people as the Grantees, **TERRY KIPLING and BONITA KIPLING**, herein, and the Grantors attach their signatures, below, with all releases of dower necessary for the full and complete conveyance of the above-described real property.

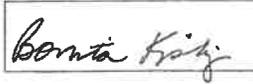
Witness Grantors' hands this 14 day of September, 2022.

Grantor:



TERRY KIPLING

Grantor:



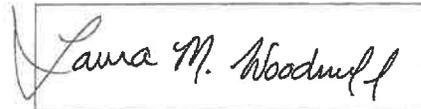
BONITA KIPLING

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was sworn and acknowledged before me on this 14th day of September, 2022 by Terry Kipling and Bonita Kipling, the Grantors identified herein.



LAURA M. WOODRUFF
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.



NOTARY PUBLIC

My commission expires: no expiration



LUIS G. RIANCHO, PS

LUIS G. RIANCHO & ASSOCIATES, INC.

SURVEYING

GPS SERVICES
HIGHWAY & CONSTRUCTION STAKING
BOUNDARY & TOPOGRAPHIC SURVEYS

140 W. WENGER ROAD
ENGLEWOOD, OHIO
45322-2727

TEL (937) 836-1585
FAX (937) 836-9974
Email: lgriancho@woh.rr.com

D22040-1

August 16, 2022

Description of Parcel Containing 3.0313 Acres

Hoke Road & Wenger Road

City of Clayton, Montgomery County, Ohio *M60 03109 0034 M.S.*

Located in the northwest quarter Section 28, Town 5, Range 5 E, City of Clayton, County of Montgomery, State of Ohio and being all of a 0.993 acre tract of land conveyed to Terry D. & Bonita J. Kipling by deed recorded in D.M.F. 98-602A04 (Parcel Id M60 03109 0034) and all of a 2.04 acre tract of land conveyed to Terry & Bonita Kipling by deed recorded in Instrument Record Deed-14-06966 (Parcel Id M60 03109 0060) and being more particularly described as follows:

Commencing at a Mag Nail reset at the northwest corner of said Section 28 per location referenced in Montgomery County, Ohio Engineer's section corner notes "SC-0197 A" at the centerline intersection of Wenger Road (Right-of-Way Varies) with Hoke Road (Right-of-Way Varies), witness a 1" iron pipe found bearing South 17° 49' 08" East at 0.56 feet;

thence in a southerly direction with the west line of the northwest quarter of said Section 28 and centerline of said Hoke Road, South zero degrees nineteen minutes nine seconds (00° 19' 09") West for five hundred fifty-seven and 00/100 (557.00) feet to a Mag Nail set at the southwest corner of a 0.96 acre (41,975.5 S.F.) tract of land conveyed to Russell D. Gebhart by deed recorded in D.M.F. 95-396C12 and the TRUE POINT OF BEGINNING;

thence in an easterly direction with the south line of said 0.96 acre Gebhart land, South eighty-eight degrees fifty-five minutes six seconds (88° 55' 06") East, passing an iron pin set at 16.50 feet, for a total distance of two hundred thirty-three and 60/100 (233.60) feet to an iron pin set at the southeast corner of said 0.96 acre Gebhart land;

thence in a northerly direction with the east line of said 0.96 acre Gebhart land and with the

Continued on Page 2

D22040-1
Desc. of 3.0313 Acre Parcel
Hoke Road & Wenger Road
City of Clayton

-2-

08/16/2022

east line of a 2.044 acre tract of land conveyed to BLK94 Holdings, LLC by deed recorded in Instrument Record Deed-19-018220, North zero degrees twenty-three minutes twenty-four seconds (00° 23' 24") East, passing a 1/2" iron pin found at 178.53 feet, for a total distance of five hundred fifty-six and 99/100 (556.99) feet to a Mag Nail set in the north line of said northwest quarter of Section 28 and centerline of said Wenger Road, reference an iron pin set 20.00 feet southerly from said Mag Nail on line last described;

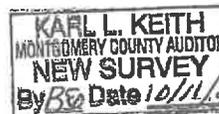
thence in an easterly with the north line of said northwest quarter of Section 28 and centerline of said Wenger Road, South eighty-eight degrees fifty-five minutes six seconds (88° 55' 06") East for one hundred nineteen and 70/100 (119.70) feet to a Mag Nail set at the northwest corner of a 2.049 acre tract of land conveyed to David L. Cox by deed recorded in Instrument Record Deed-03-124502;

thence in a southerly direction with the west line of said 2.049 acre Cox land, South zero degrees twenty-three minutes twenty-four seconds (00° 23' 24") West, passing an iron pin set at 20.00 feet, for a total distance of seven hundred forty-two and 24/100 (742.24) feet to a 3/4" iron pipe found at the southwest corner of said 2.049 acre Cox land in the north line of a 15.460 acre tract of land conveyed to City of Englewood, Ohio by deed recorded in D.M.F. 89-126A12;

thence in a westerly direction with the north line of said 15.460 acre City of Englewood, Ohio land and with the north line of a 0.9284 acre tract of land conveyed to Joseph Henry Furer & Sierra Furer by deed recorded in Instrument Record Deed-19-067513, North eighty-eight degrees fifty-two minutes thirty-eight seconds (88° 52' 38") West, passing a 3/4" iron pin found at 100.24 feet at the northwest corner of said City of Englewood land and the northeast corner of said Furer land, also passing an iron pin set at 119.70 feet, for a total distance of three hundred fifty-three and 07/100 (353.07) feet to a Mag Nail set in the west line of said northwest quarter of Section 28 and centerline of said Hoke Road, reference an iron pin set 16.50 feet easterly from said Mag Nail on line last described;

thence in a northerly direction with the west line of said northwest quarter of Section 28 and centerline of said Hoke Road, North zero degrees nineteen minutes nine seconds (00° 19' 09") East for one hundred eighty-five and 00/100 (185.00) feet returning to the **TRUE POINT OF BEGINNING**, containing 3.0313 acres more or less and subject to all legal highways, easements, restrictions and agreements of record, according to a survey of said premises by Luis G. Riancho, Registered Surveyor, State of Ohio #5287, dated August 2022.

Continued on Page 3



D22040-1
Desc. of 3.0313 Acre Parcel
Hoke Road & Wenger Road
City of Clayton

-3-

08/16/2022

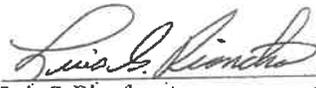
Note: Of the above described 3.0313 acre tract of land, 0.1251 acres lie in the rights-of-way of Hoke Road and Wenger Road, leaving a net of 2.9062 acres.

Note: Basis of bearing: South eighty-eight degrees fifty-five minutes six seconds (88° 55' 06") East for the north line of the northwest quarter of Section 28 and centerline of Wenger Road from GPS observations utilizing ODOT VRS, State Plane Coordinate System, NAD'83 (2011), Ohio South Zone (Geoid'12).

Note: All deeds referenced are recorded in the Deed Records of Montgomery County, Ohio and all plats referenced are recorded in the Plat Records of Montgomery County, Ohio.

Note: All iron pins set are #5 rebars, capped and stamped "LGR & ASSOC ENGLEWOOD, OHIO".

Note: A Plat of Survey is recorded with the Montgomery County Engineer's Office Record of Land Surveys Volume 2022, Page 0305.



Luis G. Riancho
Registered Surveyor
State of Ohio #5287
Date 8/19/2022



DATE APPROVED 8/22/2022

ZONING DEPARTMENT
MUNICIPALITY OF CLAYTON

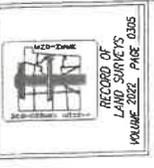
PAUL W. GRUNER, P.E., P.S.
MONTGOMERY COUNTY ENGINEER
APPROVED FOR POINT OF BEGINNING,
ACREAGE AND CLOSURE ONLY
DATE 8/23/2022 FILE NO. 2022-0305

BY Wage B W

List of Property Owners w/in 300 feet of subject site:

M57 00721 0004	Mailing Address: 8150 Hoke Road, Clayton OH 45315	DEETER DANNY K ET AL 4
M60 03102 0021 and M60 03102 0020	Mailing Address: 8150 Hoke Road, Clayton OH 45315	DEETER NURSERIES INC
M60 03102 0080	Mailing Address: 108 E. 26 th Street S, Big Stone Gap, VA 24219	SEYMOUR JERRY W
M60 03102 0085	Mailing Address: 5057 Wenger Rd. Clayton, OH 45315	SIPPLE JASON P
M60 03109 0030	Mailing Address: 3506 Walking Horse Ln. Sevierville, TN, 37876	BLK94 HOLDINGS LLC
M60 03109 0031	Mailing Address: 7890 Hoke Rd. Clayton, OH 45315	GEBHART RUSSELL D
M60 03109 0034 and M60 03109 0000	Mailing Address: 7870 Hoke Rd. Clayton, OH 45315	KIPLING TERRY D AND
M60 03109 0036	Mailing Address: 4902 W Wenger Rd. Clayton, OH 45315	VALLIE KENNETH A AND
M60 03109 0057	Mailing Address: 4922 W Wenger Rd. Clayton, OH 45315	COX DAVID L
M60 03109 0062	Mailing Address: 4864 Wenger Rd. Clayton, OH 45315	AARON ELVIRA AND
M60 03201 0011	Mailing Address: 5044 Wenger Rd. Clayton, OH 45315	BALSBAUGH KAREN G

M60 03201 0074	Mailing Address: 7897 Hoke Rd. Clayton, OH 45315	BOWERS RICHARD AND THERESA
M60 03201 0077	Mailing Address: 7873 Hoke Rd. Clayton, OH 45315	LONG BRADLEY A
M60 03201 0128	Mailing Address: 7885 Hoke Rd. Clayton, OH 45315	LOVE VIKKI M
M57 00714 0008	Mailing Address: 333 W National Rd. Englewood, OH 45322	CITY OF ENGLEWOOD

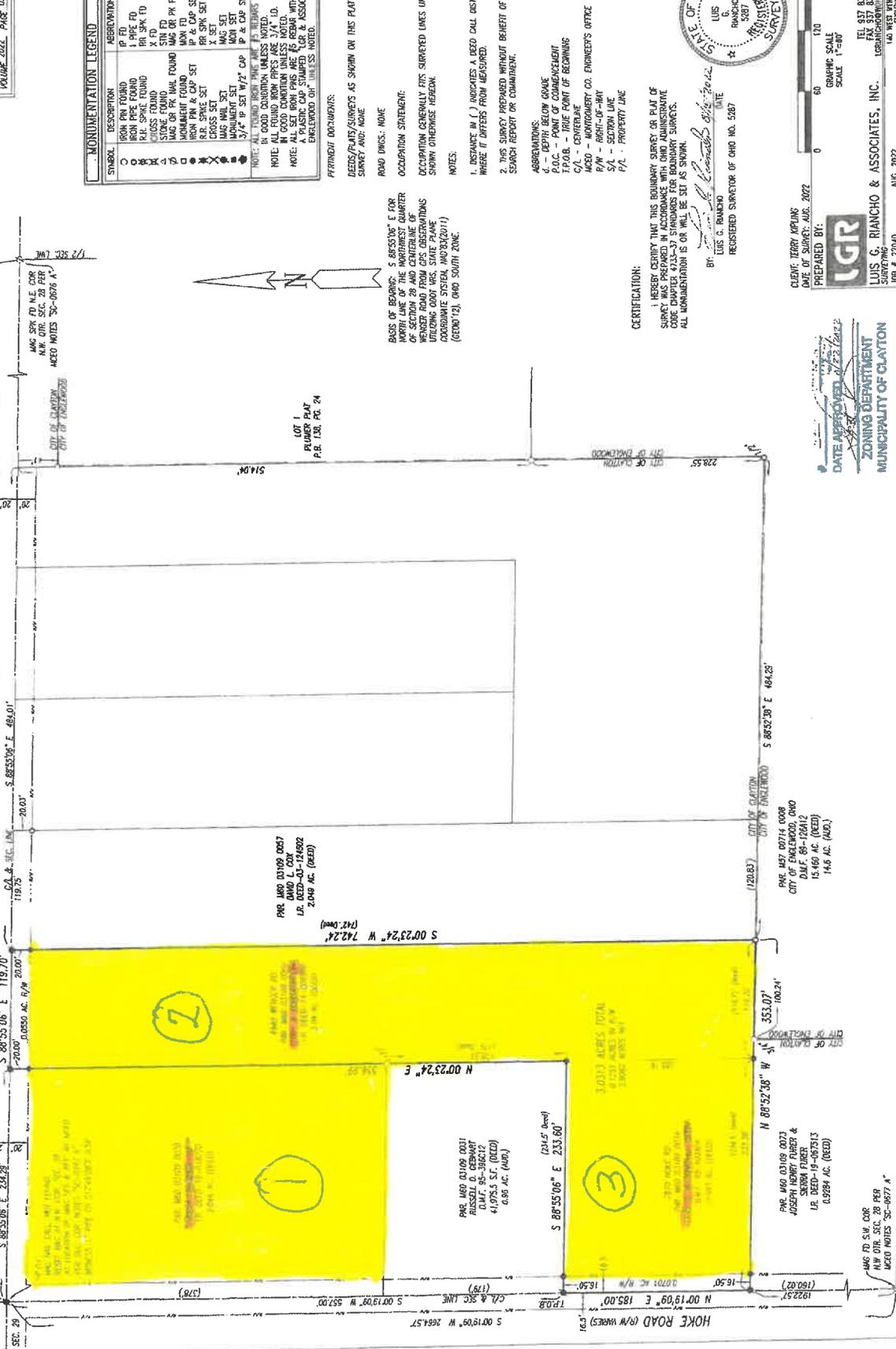


PLAT OF SURVEY
SECTION 28, TOWN 5, RANGE 5 E
CITY OF CLAYTON
MONTGOMERY COUNTY, OHIO
3.0313 ACRES TOTAL SURVEY

WENGER ROAD (R/W MARKS)
C/A & SEC. LNK
118.25' (DEED)
119.70' (DEED)
S 88°55'06" E 236.28' (R)
S 88°55'06" E 236.28' (R)

SEC. 21
S 88°55'06" E 236.28' (R)
S 88°55'06" E 236.28' (R)
S 88°55'06" E 236.28' (R)
S 88°55'06" E 236.28' (R)

SEC. 20
S 88°55'06" E 236.28' (R)
S 88°55'06" E 236.28' (R)
S 88°55'06" E 236.28' (R)
S 88°55'06" E 236.28' (R)



SYMBOL	DESCRIPTION	ABBREVIATION
○	IRON PIN FOUND	I.P.F.
●	IRON PIN FOUND	I.P.F.
⊗	R.R. SPIKE FOUND	R.R.S.F.
⊙	R.R. SPIKE FOUND	R.R.S.F.
⊕	CROSS FOUND	C.F.
⊖	STONE FOUND	S.F.
⊗	MONUMENT FOUND	M.F.
⊙	MONUMENT FOUND	M.F.
⊕	IRON PIN & CAP SET	I.P. & C.S.
⊖	R.R. SPIKE SET	R.R.S.S.
⊗	CROSS SET	C.S.
⊙	MONUMENT SET	M.S.
⊕	MONUMENT SET	M.S.
⊖	3/4" IP SET W/2" CAP	3/4" I.P. & C.S.
⊗	3/4" IP SET W/2" CAP	3/4" I.P. & C.S.

NOTE: ALL FOUND IRON PINS ARE IN REPAIRS IN GOOD CONDITION UNLESS NOTED.
NOTE: ALL FOUND R.R. SPIKES ARE IN REPAIR UNLESS NOTED.
NOTE: ALL SET IRON PINS ARE IN REPAIR WITH A PLASTIC CAP STAMPED 'LGR & ASSOC.' ENGRAVED ON UNLESS NOTED.

PERMITS DOCUMENTS:
DEEDS/PLATS/SURVEYS AS SHOWN ON THIS PLAT OF SURVEY AND: NONE
ROAD DIMS: NONE
OCCUPATION STATEMENT:
OCCUPATION GENERALLY FITS SURVEYED LINES UNLESS SHOWN OTHERWISE HEREON.

NOTES:
1. BECAUSE I, I DISCOVER A DEED CALL DISTANCE WHERE IT DIFFERS FROM MEASURED.
2. THIS SURVEY PREPARED WITHOUT BENEFIT OF A TITLE SEARCH REPORT OR COMMENT.

AGREEMENTS:
d = DEPTH BELOW GRADE
P.O.C. = POINT OF COMMENCEMENT
T.P.O.B. = TRUE POINT OF BEGINNING
C/A = CENTERLINE
M.C.S. = MONTGOMERY CO. ENGINEER'S OFFICE
R/W = RIGHT-OF-WAY
P.L. = PROPERTY LINE

CERTIFICATION:
I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY OR PLAT OF SURVEY WAS PREPARED IN ACCORDANCE WITH OHIO ADMINISTRATIVE CODE CHAPTER 150.01 AND ALL NECESSARY SURVEYS, ALL NECESSARY DOCUMENTS AND ALL NECESSARY LITIGATION HAS BEEN COMPLETED AND WILL BE SET AS SHOWN.

BY: *Luis G. Biancho*
LUIS G. BIANCHO
REGISTERED SURVEYOR OF OHIO NO. 5287

DATE: _____
REGISTERED SURVEYOR OF OHIO NO. 5287

CLEVELAND, OHIO
DATE OF SURVEY: AUG. 2022
PREPARED BY:
LGR

TEL 877-836-1555
TEL 317-836-1574
FAX 317-836-1574
LGR SURVEYING
140 WEST PARKWAY, SUITE 100
CLAYTON, OHIO 45317-2779

DATE APPROVED: *[Signature]*
ZONING DEPARTMENT
MUNICIPALITY OF CLAYTON



LOT 1
PLUMBER PLAT
P.B. 130, P.C. 24

LOT 2
PLUMBER PLAT
P.B. 130, P.C. 24

LOT 3
PLUMBER PLAT
P.B. 130, P.C. 24

PAR. 160 03109 0031
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0032
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0033
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 167 00714 0008
D.M.F. 89-72812
15,160 AC. (DEED)
14.6 AC. (A.D.)

PAR. 167 00714 0009
D.M.F. 89-72812
15,160 AC. (DEED)
14.6 AC. (A.D.)

PAR. 167 00714 0010
D.M.F. 89-72812
15,160 AC. (DEED)
14.6 AC. (A.D.)

PAR. 160 03109 0073
D.M.F. 85-386212
41,975.5 SF. (0.95)
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PAR. 160 03109 0074
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PAR. 160 03109 0075
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PAR. 160 03109 0155
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0.86 AC. (A.D.)

PAR. 160 03109 0156
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0157
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0158
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0159
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0160
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0161
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

PAR. 160 03109 0162
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)

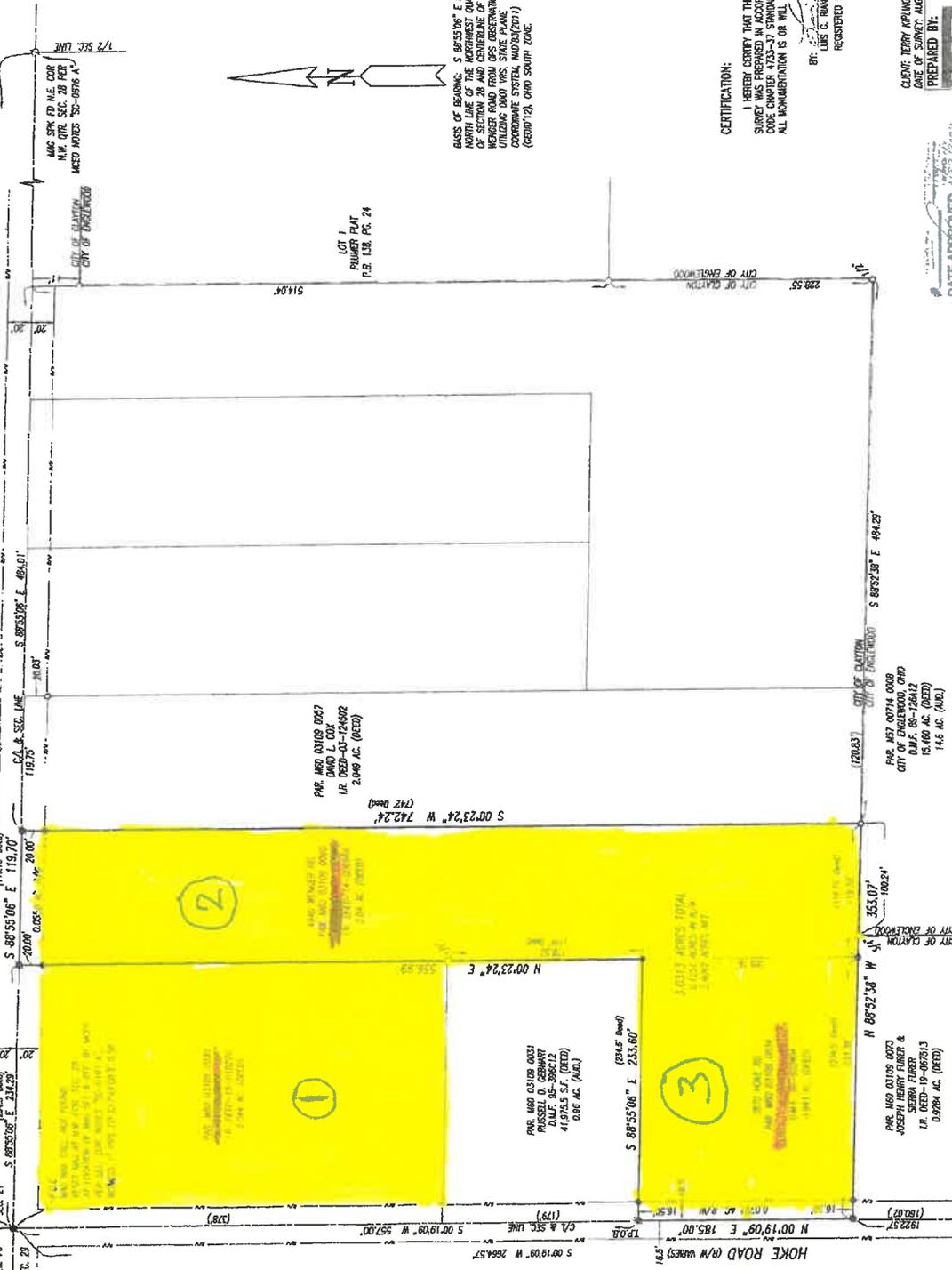
PAR. 160 03109 0163
D.M.F. 85-386212
41,975.5 SF. (0.95)
0.86 AC. (A.D.)



PLAT OF SURVEY
SECTION 28, TOWN 5, RANGE 5 E
MONTGOMERY COUNTY, OHIO
3.0313 ACRES TOTAL SURVEY

WENGER ROAD (R/W WAIVER)

HOKE ROAD (R/W WAIVER)



SYMBOL	DESCRIPTION	ABBREVIATION
○	IRON PIN FOUND	IP FD
●	IRON PIPE FOUND	IRP FD
⊕	IRON SPIKE FOUND	IR SPM FD
⊗	CROSS FOUND	X FD
⊙	STONE FOUND	STN FD
⊚	MONUMENT FOUND	MON FD
⊛	IRON PIN & CAP SET	IRP & CAP SET
⊜	CROSS SET	CRS SET
⊝	WAGO NAIL SET	WAG NAIL SET
⊞	MONUMENT SET	MON SET
⊠	3/4" P. SET W/2" CAP	3/4" P. & CAP SET
⊡	MONUMENT	MON

NOTE: ALL FOUND IRON PINS ARE 3/4" I.D.
NOTE: ALL SET IRON PINS ARE 1/2" REMAIN WITH
A 1/2" I.D. SET IRON PIN & ASSOC
EMBEDDED OR, UNLESS NOTED.

PERMIT DOCUMENTS:
DEEDS/PLATS/SURVEYS AS SHOWN ON THIS PLAT OF SURVEY AND, NONE.

ROAD DWS: NONE

OCCUPATION STATEMENT:
OCCUPATION GENERALLY FITS SURVEYED LINES UNLESS SHOWN OTHERWISE HEREON.

NOTES:
1. DISTANCE IN () INDICATES A GATED CALL DISTANCE WHERE IT DIFFERS FROM MEASURED.
2. THIS SURVEY PREPARED WITHOUT BENEFIT OF A TITLE SEARCH REPORT OR COMMENTARY.

ABBREVIATIONS:
D.C. - DEPTH BELOW GRADE
P.O.C. - POINT OF COMMENCEMENT
P.T. - POINT OF TANGENCY
C/L - CENTERLINE
M.E.O. - MONTGOMERY CO. ENGINEER'S OFFICE
R/W - RIGHT-OF-WAY
S/L - SECTION LINE
P/L - PROPERTY LINE



CERTIFICATION:
I, LUIS G. RIANCHO, REGISTERED SURVEYOR OF OHIO NO. 5287, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY OR PLAT OF SURVEY WAS PREPARED IN ACCORDANCE WITH OHIO ADMINISTRATIVE CODE CHAPTER 4733-37 STANDARDS FOR BOUNDARY SURVEYS. ALL MONUMENTATION IS OR WILL BE SET AS SHOWN.

BY: Luis G. Riancho
REGISTERED SURVEYOR OF OHIO NO. 5287

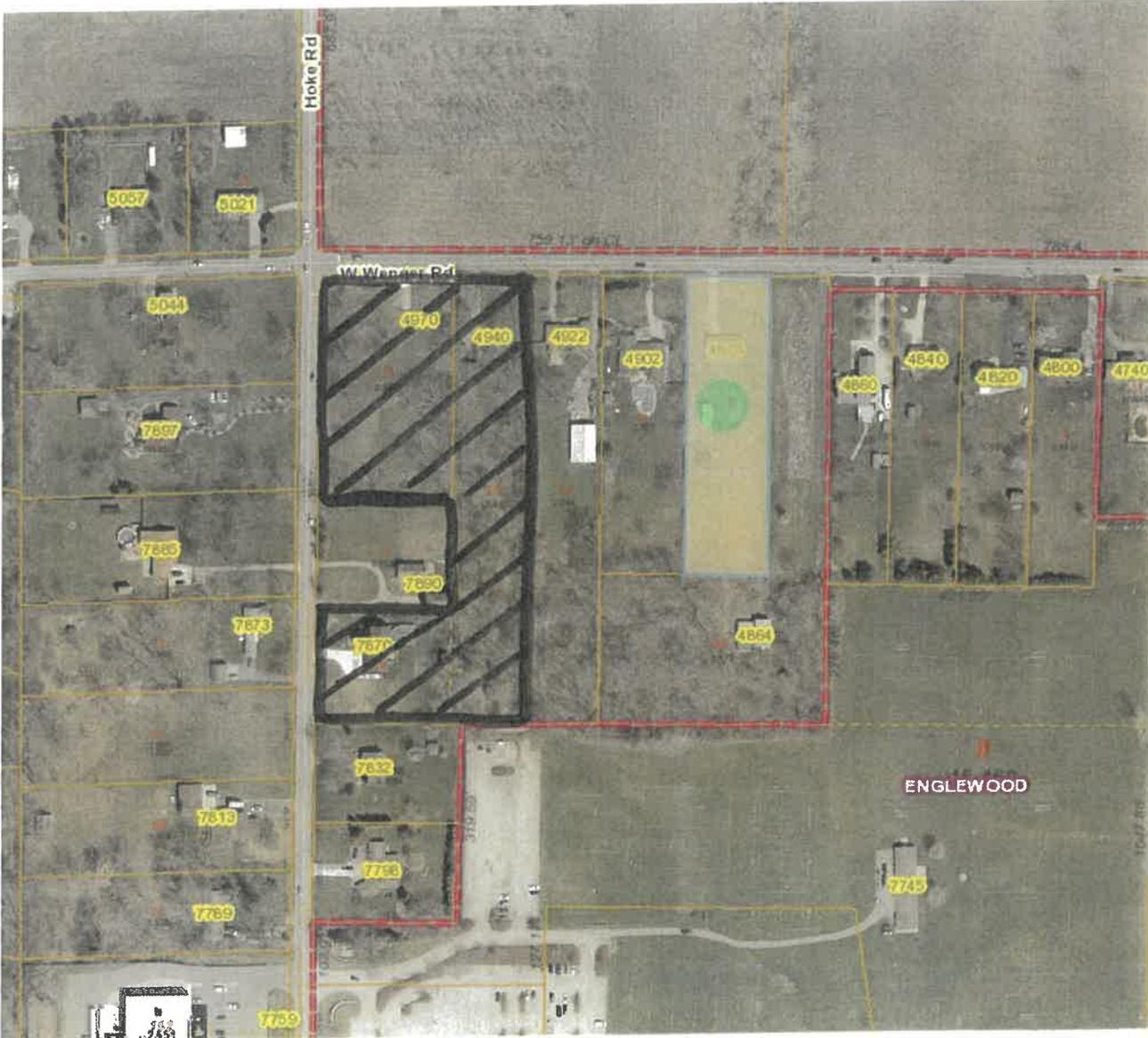
CLIENT: TERRY WELING
DATE OF SURVEY: AUG. 2022
GRAPHIC SCALE
1" = 50'

DATE APPROVED: [Signature]
ZONING DEPARTMENT
MUNICIPALITY OF CLAYTON

LUIS G. RIANCHO & ASSOCIATES, INC.
SURVEYING
405 E. ZION RD.
SPRINGFIELD, OHIO 45502-2009
TEL: 513 658-1585
FAX: 513 658-0974
LENA@LGRS.COM
LGRS.COM

PLOT DATE: 08-12-2022

AERIAL OF PROPERTY FOR REZONING REQUEST





DEVELOPMENT DEPARTMENT
PO Box 280
Clayton, OH 45315
P:(937) 836-3500 F:(937) 836-6773

Re: Parcel Id No: M60- 03109-0030

Affidavit

State of Ohio; County of Montgomery

I (We) Walt Kern, the authorized representative of BLK94 Holdings, LLC after being first duly sworn, depose and say:

1. That I (We) are the owner(s) of the above described real estate;
2. That I (We) have read and examined the application and are familiar with its contents; and
3. That I (We) have no objections to, and consent to such request as set forth in the application.

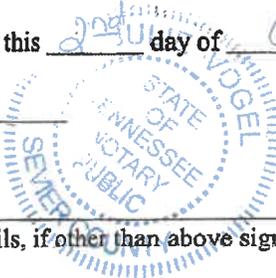
Walter R Kern, Managing Partner
Property Owner(s) Signature(s)

3506 Walking Horse Ln. Sevierville, TN, 37876
Mailing Address

(308) 249-2555
Phone Number

Subscribed and sworn to be before me this 22nd day of April 2024

Jared Vogel
Notary Public Signature
Gerald L. McDonald



Name (Person to be contacted for details, if other than above signatory)
40 N. Main St., Suite 2700, Dayton, Ohio 45423
Mailing Address

(937) 223-1130
Phone Number

PUBLIC MEETING NOTICE

Notice is hereby given that the City of Clayton Planning Commission will hold a public hearing on Monday, August 26, 2024, at 7:00 p.m. The Planning Commission will hear *a request to rezone the properties at M60 03109 0030 and M60 03109 0034 from RSD to CMX*. The request was made by Gerald L. McDonald (applicant). The Clayton Planning Commission will vote at the hearing to make a recommendation to Clayton City Council for their final action.

The application and plans may be reviewed at the Clayton Government Center, 6996 Taywood Road, during regular business hours or online at <https://www.clayton.oh.us/375/Planning-Commission-Agenda>.

The meeting is open to the public. If you are unable to attend in person you can submit a letter that will be forwarded to the Planning Commission for consideration.

Development Department
City of Clayton
Ph. (937) 836-3500