

BRUNSWICK CITY PLANNING & ZONING COMMITTEE

Agenda JULY 14, 2025 6:10 PM

1. Discussion Items
 - (a) **ORD. NO. 62-2025** - An ordinance rezoning the 5.1207± acre parcel of real property located at 2736 Center Road/1423 W. 130th Street and presently identified as PPN 017-03Z-01-001 from the R-R Rural Residential District to the GW-C Gateway Commercial District. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
2. General Discussion
3. Adjournment

PROPOSED LEGISLATION



DATE: 7/14/2025

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 62-2025** - An ordinance rezoning the 5.1207± acre parcel of real property located at 2736 Center Road/1423 W. 130th Street and presently identified as PPN 017-03Z-01-001 from the R-R Rural Residential District to the GW-C Gateway Commercial District. - **1st Reading** (To be brought from Planning & Zoning Committee, Administration/Grant Aungst

BACKGROUND: The Planning Commission held a public hearing on June 19, 2025 and recommended approval to City Council to rezone a 5.1207-acre parcel located at 2736 Center Road/1423 W. 130th Street in the R-R Rural Residential District to the GW-C Gateway Commercial District.

PURPOSE AND EXPLANATION: The annexation of the property located at 2736 Center Road/1423 W. 130th Street in Hinckley Township was accepted by City Council on June 9, 2025, Ordinance No. 45-2025. Pursuant to Section 6.02(c)(6) of the City Charter, City Council approval of the rezoning is required.

IMPLEMENTATION SCHEDULE: First reading on July 14, 2025.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	No

Suspension of Rules No

If emergency or suspension of the rules, why the request?
Recommend approval.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 62-2025

BY: Mr. Delsanter, Mr. Lambert, and Mr. Kuczma

AN ORDINANCE REZONING THE 5.1207± ACRE PARCEL OF REAL PROPERTY LOCATED AT 2736 CENTER ROAD/1423 W. 130TH STREET AND PRESENTLY IDENTIFIED AS PPN 017-03Z-01-001 FROM THE R-R RURAL RESIDENTIAL DISTRICT TO THE GW-C GATEWAY COMMERCIAL DISTRICT.

WHEREAS: Upon application of the property owner to rezone the 5.1207± acre parcel of real property located at 2736 Center Road/1423 W. 13th Street and further identified as PPN 017-03Z-01-001 (the "Property") from the R-R Rural Residential District to the GW-C Gateway Commercial District, on June 19, 2025, the Planning Commission held a public hearing on the requested rezoning; and

WHEREAS: On June 19, 2025, the Planning Commission voted to recommend approval to City Council of the proposed rezoning of the Property from the R-R Rural Residential District to the GW-C Gateway Commercial District.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That upon application of the property owner, the 5.1207± acre parcel of real property located at 2736 Center Road/1423 W. 13th Street and further identified as PPN 017-03Z-01-001 is hereby rezoned from the R-R Rural Residential District to the GW-C Gateway Commercial District.

SECTION 2: Upon the effective date of this Ordinance, the City Engineer shall cause the Official Zoning Map of the City of Brunswick to be revised to reflect such rezoning.

SECTION 3: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____

2nd Reading _____

3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura, CMC

CITY OF BRUNSWICK

MAYOR
RON FALCONI

COUNCIL
MICHAEL J. ABELLA, JR
JOSEPH P. DELSANTER
NICHOLAS HANEK
KEITH A. KUCZMA
BRANDON LAMBERT
KRISTY PIPER
TIM SMITH

CITY MANAGER / SAFETY DIRECTOR
CARL S. DEFOREST

June 20, 2025

Tom Lunt
Discount Drug Mart
211 Commerce Drive
Medina, Ohio 44256

RE: Discount Drug Mart rezoning
3739 Center Road, Brunswick Ohio.

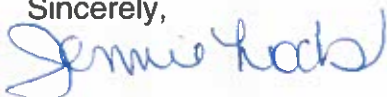
Dear Mr. Lunt:

The Brunswick City Planning Commission, at their meeting on June 19, 2025, voted to **recommend approval** to City Council for a map amendment to rezone the subject property, located at 3739 Center Road, Brunswick, to the GW-C Gateway Commercial District.

Pursuant to Section 6.02(c)(6) of the City Charter, three readings of the proposed legislation are required by City Council; the ordinance will become effective thirty (30) days after the third reading. The first reading on the proposed map amendment is scheduled for City Council's meeting on Monday July 14, 2025. Please contact Laura Timura, Clerk of Council, at (330) 558-6845 regarding City Council meeting time.

If you have any questions, please contact me at (330) 558-6830.

Sincerely,



Jennie Lods,
Planning & Zoning Coordinator

c: City Council
Carl Deforest, City Manager
Dennis Nevar, Law Director
Jenny Zoldak, City Engineer
James Urankar, C.B.O.



4095 CENTER ROAD - BRUNSWICK, OHIO 44212

CITY HALL PHONE: (330) 225-9144 - FAX: (330) 273-8023 - POLICE & FIRE PHONE: (330) 225-9111 - FAX: (330) 225-6002
<http://www.brunswick.oh.us>

CITY OF BRUNSWICK, OHIO
RESOLUTION NO. 45-2025

BY: Committee-of-the-Whole

AN EMERGENCY RESOLUTION ACCEPTING THE PETITION FOR ANNEXATION OF A 5.1207± ACRE PROPERTY IDENTIFIED AS PPN 017-03C-01-015 LOCATED ON CENTER ROAD KNOWN AS BEING PART OF HINCKLEY TOWNSHIP TO THE CITY OF BRUNSWICK, MEDINA COUNTY, OHIO.

- WHEREAS: On May 9, 2023, the Medina County Commissioners adopted Resolution No. 23-0372, as attached hereto as Exhibit "A", approving the Petition for Regular Annexation on Application of Owner of 5.1207± acres of land (017-03C-01-015) known as being part of Hinckley Township to the City of Brunswick, Medina County, Ohio;
- WHEREAS: Pursuant to Ohio Revised Code Section 709.04, the legislative authority of the City of Brunswick must accept or reject the petition for annexation at the next regular session after the expiration of sixty (60) days of the date of filing the certified transcript of all orders of the board of county commissioners, the petition, map and all other papers on file relating to the annexation proceedings with the clerk of the municipal corporation, which occurred on April 7, 2025; and
- WHEREAS: The Clerk of the municipal corporation is required to lay the transcript and the accompanying map or plat and petition before the legislative authority.
- WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY RESOLVES:
- SECTION 1: That the Petition for Regular Annexation on Application of Owner of 5.1207± acres of land (017-03C-01-015) known as being part of Hinckley Township is hereby accepted.
- SECTION 2: That the Clerk is hereby authorized and ordered to make three (3) copies containing the petition, the map or plat accompanying the petition, a transcript of the proceedings of the board of county commissioners, and all resolutions and ordinances in relation to the annexation, with a certificate to each copy that it is correct. Each certificate shall be signed by the Clerk in her official capacity and shall be authenticated by the seal of the municipal corporation, if applicable.
- SECTION 3: That the Clerk is hereby authorized and ordered to forthwith deliver one such copy of this Resolution to the Medina County Auditor, one such copy to the Medina County Recorder, and one such copy to the Ohio Secretary of State.
- SECTION 4: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, welfare, and safety and for the additional reason to comply with the time requirements of Ohio Revised Code Section 709.04. Therefore, the same shall be in full force and effect from

and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading June 9, 2025

RULES SUSPENDED:

AYES 7

NAYS 0

ADOPTED: June 9, 2025

AYES 7

NAYS 0

ATTEST:

Laura Timura
Clerk of Council
Laura E. Timura, CMC

THE CITY OF BRUNSWICK
PROPOSED LEGISLATION



DATE: 6/9/2025
TO: Vice Mayor Nicholas Hanek and Members of City Council
FROM: Carl S. DeForest, City Manager
Dennis Nevar
COPY: Mayor Ron Falconi

LEGISLATION: **RES. NO. 45-2025** - An emergency resolution accepting the petition for annexation of a 5.1207± acre property identified as PPN 017-03C-01-015 located on Center Road known as being part of Hinckley Township to the City of Brunswick, Medina County, Ohio. - **1st Reading** (To be brought from Committee-of-the-Whole, *Administration/Dennis Nevar*)

BACKGROUND: On May 9, 2023, the Medina County Commissioners adopted Resolution No. 23-0372, approving the Petition for Regular Annexation on Application of Owner of 5.1207± acres of land (017-03C-01-015) known as being part of Hinckley Township to the City of Brunswick, Medina County, Ohio.

PURPOSE AND EXPLANATION: Pursuant to Ohio Revised Code Section 709.04, the legislative authority of the City of Brunswick must accept or reject the petition for annexation at the next regular session after the expiration of sixty (60) days of the date of filing the certified transcript of all orders of the board of county commissioners, the petition, map and all other papers on file relating to the annexation proceedings with the clerk of the municipal corporation, which occurred on April 7, 2025.

IMPLEMENTATION SCHEDULE: One reading, emergency with suspension of the rules.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	Yes
Two Readings	No
Three Readings	No
Emergency	Yes
Suspension of Rules	Yes

If emergency or suspension of the rules, why the request?

That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, welfare, and safety and for the additional reason to comply with the time requirements of Ohio Revised Code Section 709.04. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

**ADDITIONAL
INFORMATION:**

REGULAR MEETING – TUESDAY, MAY 9, 2023

The Board of County Commissioners of Medina County, Ohio, met in regular session on this date with the following members present:

Stephen D. Hambley Aaron M. Harrison Colleen M. Swedyk

Mr. Hambley offered the following resolution and moved the adoption of same, which was duly seconded by Mr. Harrison.

RESOLUTION NO. 23-0372

GRANTING THE PETITION OF WEST 130th Route 303 LLC FOR THE ANNEXATION OF REAL PROPERTY KNOWN AS MEDINA COUNTY PERMANENT PARCEL NUMBER 017-03C-01-015, CONSISTING OF 5.1207 ACRES FROM HINCKLEY TOWNSHIP TO THE CITY OF BRUNSWICK

WHEREAS, on the 2nd day of February, 2023, West 130th Route 303 LLC, an Ohio Limited Liability company, the owner of real property known as Medina County Permanent Parcel No. 017-03C-01-015, consisting of 5.1207 acres, located in Hinckley Township, filed a petition, pursuant to section 709.02 of the Ohio Revised Code ("Revised Code"), with the Board of Commissioners of Medina County for the annexation of said property from Hinckley Township to the City of Brunswick; and

WHEREAS, the Board of County Commissioners of Medina County (herein referred to as "Board") held a hearing on said annexation on April 11, 2023; and

WHEREAS, section 709.033(A) of the Revised Code requires the Board to enter upon its journal a resolution granting the annexation if the Board finds by a preponderance of the substantial, reliable, and probative evidence on the whole record, that each of the conditions set forth in section 709.033(A)(1) through (6) of the Revised Code are met; and

WHEREAS, section 709.033(B) of the Revised Code requires the Board to enter upon its journal a resolution granting or denying the petition for annexation within thirty days after the hearing provided for in section 709.032 of the Revised Code, and to include in the resolution specific findings of fact as to whether each of the conditions listed in divisions (A)(1) to (6) of section 709.033 of the Revised Code has been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Medina County, Ohio, that the Board makes the following findings of fact as to whether the conditions set forth in divisions (A)(1) to (6) of section 709.033 of the Revised Code have been met, and based on those findings determines whether the annexation is or is not granted:

FINDINGS OF FACT

- 1. 709.033(A)(1) – Whether the petition meets all the requirements set forth in, and was filed in the manner provided in, section 709.02 of the Revised Code:
 - a. Petition Signed by Majority of Owners under section 709.02(C)(1) of the Revised Code:

Section 709.02 of the Revised Code requires that a petition for annexation be signed by a majority of owners of real estate in the territory proposed for annexation, no more than one hundred eighty days before the date the petition is filed. The petition in this case was filed on February 1, 2023. It requests to annex a single parcel containing 5.1207 acres of

The Assistant Clerk of the Board of County Commissioners of Medina County, Ohio does hereby certify that the foregoing is a true and correct copy of the resolution adopted and correct copy of the resolution adopted by said Board on 5/9/23

Ryan A. Hollister

REGULAR MEETING – TUESDAY, MAY 9, 2023
RESOLUTION 23-0372 (Con't)

land from the Township of Hinckley to the City of Brunswick. The owner of the property is identified in the petition as West 130th Route 303 LLC, an Ohio Limited Liability Company, and the petition was signed by Thomas Lunt, who identifies himself as "Director of Real Estate." There being only one parcel of land to be annexed, the petition is signed by 100% of the owners, and the signature of the person who purports to have authority to sign on behalf of the owner is dated January 31, 2023, one day before the petition was filed. The petition on its face meets the requirements of section 709.02(C)(1) of the Revised Code.

Section 709.02 of the Revised Code requires, where an owner is not a natural person (i.e., corporation, partnership, business trust, etc., see last paragraph of section 709.02 and section 709.031 of the Revised Code) the petition "shall be signed by a person who is authorized to sign for that entity." (Section 709.02 of the Revised Code.) Section 709.31(C) of the Revised Code authorizes a township from which territory is to be annexed to request reasonable proof of the authority of a person who signed the petition on behalf of a "person other than a natural being." The Hinckley Township Board of Trustees made such a request on March 16, 2023, when the Township's Attorney, Alfred E. Schrader, filed with this Board a *Motion for Verification of Certain Signatures*, pursuant to section 709.031(C) of the Revised Code. When such a request is made, section 709.031(C) requires the agent for the petitioners to "present to the board of county commissioners at the hearing . . . sufficient evidence by affidavit or testimony to establish that the owner is a person other than a natural being . . . and that the owner authorized the person whose signature is on the petition to sign the petition of its behalf."

The agent for the petitioner, Attorney Daniel P. Calvin, called Thomas Lunt, the individual who signed the petition on behalf of the owner, as the petitioner's first witness. Mr. Lunt testified that he is the vice president of real estate operations for Discount Drug Mart, Inc., and he is responsible for the administration of every aspect of real estate for Discount Drug Mart, including but not limited to sales, acquisitions, property management, lease administration, construction, new stores, and remodels. Mr. Lunt also testified that Drug Mart established the LLC that owns the property through another Drug Mart real estate holding entity known as the Isomer Group. Mr. Lunt also testified that at the time he signed the petition for annexation he had authority to sign the petition, as the director of real estate for Drug Mart. (Transcript p. 24).

Attorney Calvin also presented an affidavit of Donald Boodjeh, who Mr. Lunt identified as the CEO of Drug Mart. (Exhibit P-2). This affidavit confirms the testimony of Mr. Lunt, identifying the Isomer Group as a wholly owned subsidiary of Discount Drug Mart, Inc. and West 130th Route 303, LLC as a wholly owned subsidiary of Isomer Group, Inc. Mr. Boodjeh's affidavit indicates that Thomas Lunt had authority to sign the annexation petition on behalf of West 130th Route 303, LLC.

Upon cross examination Attorney Schrader, counsel for the Hinckley Township Board of Trustees, asked Mr. Lunt whether a corporate resolution exists to give Mr. Lunt authority to sign the annexation petition, and Mr. Lunt acknowledged that there is no such corporate resolution. In further cross examination Attorney Schrader inquired about the

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corporate structure of Discount Drug Mart, Inc., but Mr. Lunt was not able to speak authoritatively regarding that structure or whether there was a need for corporate board approval of the filing of an annexation petition. (Transcript pp. 31 and 37-39).

Other than the testimony and affidavit described above, no additional evidence was presented to support or call into question Mr. Lunt's authority to sign the annexation petition on behalf of West 130th Route 303, LLC. The Board is called upon to determine, by a preponderance of the evidence whether the elements of Section 309.02 of the Revised Code have been met, and based on the evidence presented this Board finds that the petitioner has established by a preponderance of the evidence that the owner of the property is a person other than a natural person, i.e., West 130th Route 303, LLC, which is a wholly owned subsidiary of Isomer Group, Inc., which is a wholly owned subsidiary of Discount Drug Mart, Inc., and those subsidiaries are used by Discount Drug Mart, Inc. to manage real estate development and transactions. This Board also finds that the petitioner has established by a preponderance of the evidence that Mr. Lunt did have authority to sign the petition for annexation.

Counsel for the Hinckley Township Board of Trustees acknowledged the reasonableness of this conclusion in his closing argument when he stated, "They [petitioners] are the ones that are supposed to prove the six issues . . . The first four we stipulate to, they did them right." (Transcript p. 209, l. 1-6). The petition's compliance with section 709.02 of the Revised Code is the first of the four issues to which Attorney Schrader stipulated. As such, Attorney Schrader's stipulation on the first four elements was sufficient to eliminate any uncertainty arising from the evidence submitted by the petitioner on this point. This Board finds that the requirement set forth in division (C)(1) of section 709.02 has been met.

- b. *Petition contains an accurate legal description of the perimeter and an accurate map of the territory proposed for annexation as required by section 709.02(C)(2) of the Revised Code.*

The record before this Board indicates that both a written description of the property to be annexed and a plat map showing the dimensions and location of the property to be annexed were included with the petition (see hearing Exhibit MC-1). The petition was immediately forwarded to the County Engineer's Tax Map Office to review the accuracy of the description and plat map (see hearing Exhibit MC-2), and the Tax Map office responded on February 2, 2023 that the plat and legal description are accurate (see hearing Exhibit MC-3). No evidence was presented to contradict this determination. Therefore, this Board finds that the petition contains an accurate legal description and an accurate map of the territory proposed for annexation in compliance with section 709.02(C)(2) of the Revised Code.

- c. *Petition contains the name of a person to act as agent for the petitioners as required by section 709.02(C)(3) of the Revised Code.*

The petition clearly appoints Attorney Daniel P. Calvin as agent for the petitioner, and no evidence was presented to contradict this designation. Therefore, this Board finds

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that the petition complies with the requirement of section 709.03(C)(3) of the Revised Code.

- d. List of all tracts, lots, or parcels in territory to be annexed and all tracts, lots or parcels located adjacent to that territory or directly across the street, including names and addresses of owners filed with the clerk of the board as required by section 709.02(D) of the Revised Code.*

A list of the properties to be annexed and adjacent properties, including the information described above, was filed by the agent for the petitioner at the time of filing the original petition. However, section 709.02(D) of the Revised Code indicates this list is not considered to be part of the annexation petition, and any errors on the list do not affect the validity of the petition. Nevertheless, this Board finds the petitioner has complied with section 709.02(D) of the Revised Code.

This Board finds, based on a preponderance of the substantial, reliable, and probative evidence on the whole record, that all the requirements set forth in divisions (C) and (D) of section 709.02 of the Revised Code have been met, fulfilling the condition of division (A)(1) of section 709.033 of the Revised Code.

2. **709.033(A)(2)** – *Whether the persons who signed the petition are owners of real estate located in the territory proposed to be annexed in the petition, and, as of the time the petition was filed with the board of county commissioners, the number of valid signatures on the petition constituted a majority of the owners of real estate in that territory:*

This condition has clearly been attained. There is only one property proposed to be annexed, and since the evidence discussed above established that Mr. Lunt was duly authorized to sign the petition on behalf of the owner, the petition was signed by 100% of the owners of the property to be annexed. Therefore, this Board finds, based on a preponderance of the substantial, reliable, and probative evidence on the whole record, that the persons who signed the petition are owners of real estate located in the territory proposed to be annexed in the petition, and, as of the time the petition was filed with the board of county commissioners, the number of valid signatures on the petition constituted a majority of the owners of real estate in that territory, fulfilling the condition of division (A)(2) of section 709.033 of the Revised Code.

3. **709.033(A)(3)** – *Whether the municipal corporation to which the territory is proposed to be annexed has complied with division (D) of section 709.03 of the Revised Code:*

Division (D) of section 709.03 of the Revised Code requires the legislative authority of the municipal corporation to which annexation is proposed to adopt, by ordinance or resolution, a statement indicating what services the municipal corporation will provide to the territory to be annexed upon annexation, and the ordinance or resolution is required to be filed with the board of county commissioners at least twenty days before the date of the hearing. City of Brunswick Resolution 8-2023, adopted by the Council of the City of Brunswick on March 13, 2023 sets forth the services the City of Brunswick will provide to the annexed property upon annexation. The Clerk of the Board of Commissioners of Medina

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County identified Exhibit M-9 as an accurate copy of Resolution 8-2023 that was received by the Commissioners' Office by email on March 14, 2023, and by regular mail on March 20, 2023, both of which dates were more than twenty days before the date of the hearing in this matter, which was scheduled for and took place on April 11, 2023.

This Board finds, based on a preponderance of the substantial, reliable, and probative evidence on the whole record, that the legislative authority of the municipal corporation to which annexation is proposed, in this case the Council of the City of Brunswick, adopted Resolution Number 8-2023 setting forth the services the City of Brunswick will provide to the property proposed to be annexed upon annexation, and Resolution Number 8-2023 was filed with the Board of Commissioner of Medina County more than twenty days before the date of the hearing, fulfilling the condition of division (A)(3) of section 709.033 of the Revised Code.

4. 709.033(A)(4) – Whether the territory proposed to be annexed is unreasonably large:

The evidence does not in our view support a finding that the annexation of this 5.1207 acres would have a significant impact on the Township or the City. Hinckley Township contains all of its original allocation of land, and the property to be annexed is very small by comparison. The Township's loss of tax revenue on this property is offset by the shift of responsibility for the property to the City, and it appears the City is well able to provide the necessary services to the property.

This Board finds that the property proposed to be annexed is relatively small, and that common sense would dictate that it would be unreasonable to find otherwise. The Board also finds that counsel for the Hinckley Township Board of Trustees acknowledged as much when he stated, "They [petitioners] are the ones that are supposed to prove the six issues . . . The first four we stipulate to . . ." (Transcript p. 209). No party even attempted to argue that the property to be annexed is unreasonably large, and the evidence does not support such a finding.

Therefore, this Board finds, based on a preponderance of the substantial, reliable, and probative evidence on the whole record, that the property to be annexed is not unreasonably large, fulfilling the condition of division (A)(4) of section 709.033 of the Revised Code.

5. 709.033(A)(5) – Whether, on balance, the general good of the territory proposed to be annexed will be served, and the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be annexed and the surrounding area, if the annexation petition is granted.

Much of the evidence presented at the hearing addressed the conditions set forth in section 709.033(A)(5) of the Revised Code, whether the "general good" of the territory to be annexed will be served, and whether the benefits to the annexed property and "surrounding area" outweigh the detriments to the annexed property and "surrounding area." These two issues are addressed separately in the following discussions.

a. Whether, on balance, the general good of the territory proposed to be annexed will be served:

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Thomas Lunt, the property manager for Discount Drug Mart, testified that the general good of the property would be served by the annexation because the owner would be able to more economically and efficiently develop the property as part of the City. Mr. Lunt testified that based on his experience working with Hinckley Township and the City of Brunswick, it would be "easier to work with [the City of Brunswick] throughout the development process, especially the building department." (Transcript page 29, line 16.)

The Hinckley Township Trustees' attorney, Mr. Schrader, cross examined Mr. Lunt on these points, and Mr. Lunt further explained the owner experienced some difficulty obtaining a 50% tax abatement from Hinckley Township. The decision to seek annexation was made after the Board of Township Trustees voted to deny the 50% tax abatement. (Transcript p. 33). Mr. Lunt's testimony also established that the tax abatement available to the owner from the City of Brunswick is 100% for a period of fifteen years, and that the combination of the Hinckley Township's denial of the 50% tax abatement and the ready availability of a 100% tax abatement from Brunswick City is the primary reason the owner had determined it would more advantageous for the development of this property to pursue annexation. (See Transcript pp. 51-53).

Petitioner also presented the testimony of Paul Barnett, the Service Director of the City of Brunswick, who testified as to the quality of services available in the City of Brunswick, and the manner in which those services would be provided to the property to be annexed. He suggested one advantage of working with the City is that the building department functions are carried out by a City Department whereas in a Township the function is carried out by the Medina County Building Department. Mr. Barnett suggested the local control of the various property development functions in the City would make the property development more cohesive and efficient under the City's jurisdiction. (Transcript p. 51-52).

The Hinckley Township Board of Trustees presented the testimony of Hinckley Police Chief David Centner, Brunswick Hills Township Police Chief Tim Sopkovich, and Hinckley Township Fire Chief Jestin Grossenbaugh to address the quality of safety services provided by Hinckley Township and the potential for errors in dispatching along the boundary line between Hinckley Township and the City of Brunswick. This Board finds that both communities have presented a strong case for the quality of their safety services, but that evidence presented does not enable us to say that the property would be better served by either remaining in Hinckley Township or being annexed to the City of Brunswick.

The Development of this property by the installation of a Drug Mart store will occur whether the property is or is not annexed, and it is most likely that both communities' safety forces would respond to an emergency at this location without regard to whether it is or is not annexed, because it is located on the boundary of the communities. This Board finds the evidence of potential confusion in dispatching safety forces to the annexed property is not compelling.

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The primary factor that remains in determining whether the general good of the territory proposed to be annexed will be served is the financial benefit to the property owner, which is the availability of the 100% tax abatement from the City of Brunswick. We find this benefit to be significant. Hinckley Township Trustee Melissa Augustine confirmed in her testimony that the Board of Trustees of Hinckley Township denied a 50% tax abatement on the property in June of 2022, and did not act to reconsider its action until one week before the hearing.

There is nothing in the statute to preclude a property owner from considering a purely economic benefit in initiating an annexation petition under this section, and this Board also affords presumptive weight to the property owner's determination that the general good of the property will be served. We do not see that the general good of the property can be in any way distinguished from the financial benefit to the owners of the property. The weight of the financial benefit of the 100% tax abatement tips the scales in a manner that outweighs the evidence in the record of supposed detriments to the property upon annexation.

This Board finds, based on a preponderance of the substantial, reliable, and probative evidence on the whole record, that, on balance, the good of the property proposed to be annexed will be served upon annexation.

- b. *Whether the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be annexed and the surrounding area, if the annexation petition is granted:*

This Board concluded above that the relative benefit to the property to be annexed clearly outweighed any detriments. The additional element introduced in this part of division (A)(5) of section 709.033 of the Revised Code calls for the Board to evaluate whether the benefit to the surrounding area outweighs the detriments to the surrounding area. For purposes of this analysis, the surrounding area is defined by division (A)(5) of section 709.033 of the Revised Code as the territory in the unincorporated area of Hinckley Township located one-half mile or less from the territory to be annexed.

There is very little evidence in the record to guide us in determining the benefits and detriments to the surrounding area that would result from the annexation. There seems to be a consensus that the presence of a new Discount Drug Mart on the property to be annexed will be a benefit to the surrounding area, but the Drug Mart will be built at that location in either event. Therefore, this benefit does not weigh in favor or against annexation.

The Hinckley Township Board of Trustees' Attorney attempted to elicit testimony regarding detriments to the surrounding area from Chief Centner, Chief Grossenbaugh and Zoning Inspector Tom Wilson. The only detriment identified in their testimony is the loss of tax revenue from the annexed property. This Board finds that any loss in tax revenue to the Township is offset by the City of Brunswick taking on all responsibility for providing services to the annexed property.

The benefits and detriments to the surrounding area result from locating a Discount Drug Mart on the property, which will take place whether the property is or is not annexed.

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RESOLUTION 23-0372 (Con't)

This Board finds that these detriments and benefits of locating a Discount Drug Mart on the property do not weigh in favor or against annexation. The overall benefits and detriments to the surrounding area appear to be in balance. The primary factor that remains in this analysis is the financial benefit to the property owner, the 100% tax abatement available from the City upon Annexation, which tips the scale in favor of annexation.

This Board finds, based on a preponderance of the substantial, reliable, and probative evidence on the whole record, that, on balance, the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be annexed and the surrounding area, if the annexation petition is granted, and that all conditions of division (A)(5) of section 709.033 have been met.

6. **709.033(A)(6)** – *Whether any street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or, if a street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway.*

The centerline of W. 130th Street is the dividing line between the Township of Hinckley and the City of Brunswick, and the entire northbound lane of W. 130th Street is now within Hinckley Township. Upon annexation, the northbound lane of W. 130th Street west of the property to be annexed will become part of the City of Brunswick, but to the north and south of that segment the northbound lane will remain in Hinckley Township. This is a segmentation of that portion of the road, but it is not entirely clear to this Board that this is the type of division or segmentation contemplated by the statute. Nevertheless, Hinckley Township has asserted that this is the type of segmentation contemplated by the statute, and the Township argues that this segmentation creates a “road maintenance problem,” though the nature of that problem is not entirely clear.

While it appears there could be a maintenance problem on the small stretch of W. 130th Street adjacent to the annexed property, Hinckley Township is not responsible for road maintenance in that area to begin with. The petitioner presented an existing agreement between the City of Brunswick and the County of Medina, marked as Exhibit P-13, and titled, *Maintenance Agreement Between Medina County and the City of Brunswick for Boundary Roads.* City Service Director Paul Barnett identified the agreement and testified that the *Maintenance Agreement* makes the County responsible for the maintenance of the full width of W. 130th Street in the area where the segmentation would be created, and the County will continue to have the same responsibility after the annexation takes place.

The eastbound lane of SR 303 from the Brunswick City line to the eastern edge of the property to be annexed is not as significant. The eastbound lane of SR 303 in front of the property to be annexed, from the middle of the intersection of W. 130th Street to the eastern boundary of the property will become part of the City of Brunswick. The City's responsibility for that portion of SR 303 will be continuous from the current boundary of the city, so there is not the same type of segmentation. The boundary between Hinckley Township and the City of Brunswick does not shift back and forth in the eastbound lane of SR 303. Mr. Barnett testified that the Ohio Department of Transportation (ODOT) is now responsible for the

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maintenance of SR 303 in Hinckley Township, and when the property is annexed, the segment of SR 303 fronting the property will not change Hinckley Township's responsibilities. The segment of SR 303 in front of the annexed property would become the responsibility of the City upon annexation. Therefore, it does not appear to this Board that the extension of the City boundary to include the eastbound lane of SR 303 would create a maintenance problem.

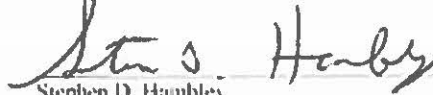
All things taken together, it appears to this Board that any road maintenance problems resulting from the segmentation of W. 130th Street are addressed and resolved by the Maintenance Agreement between the City of Brunswick and the County of Medina, and we further find that there is no maintenance problem created on SR 303 because Brunswick City's boundary and responsibility for the maintenance of SR 303 will extend from the existing boundary in a straight line without interruption.

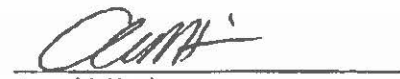
Therefore, this Board finds, based on a preponderance of the substantial, reliable, and probative evidence on the whole record, that although there is a segmentation of W. 130th street by this annexation, that the City of Brunswick has, through its existing agreement with the County of Medina adequately provided for the maintenance of 130th Street, and that the condition of division (A)(6) of section 709.033 has been met.


WHEREFORE, based upon a preponderance of the substantial, reliable, and probative evidence on the whole record, this Board hereby determines that each the conditions set forth in divisions (A)(1) to (6) of section 709.033 of the Revised Code have been met, and the Petition for the annexation of real property known as Medina County Permanent Parcel No. 017-03C-01-015, consisting of 5.1207 acres, is hereby granted.

The Clerk of this Board is hereby authorized and directed to send a certified copy of this resolution to the agent for the petitioners, the clerk of the legislative authority of the City of Brunswick, and the Fiscal Officer of the Township of Hinckley.

Voting AYE thereon:


Stephen D. Hambley


Aaron M. Harrison


Colleen M. Swedyk

Adopted: May 9, 2023

**Petition for Annexation
To the City of Brunswick
of 5.1207 acres, more or less
In the Township of Hinckley
(Regular Petition – O.R.C. §709.02)**

The undersigned ("Petitioner"), being the sole owner of the real property known as Medina County Permanent Parcel Number 017-03C-01-015, which parcel consists of 5.1207 acres as more fully described in Exhibit A attached hereto and made a part hereof ("Property") hereby petitions, pursuant to Ohio Revised Code Section 709.02, for the annexation of the Property to the City of Brunswick, Medina County, Ohio.

In support of its petition, Petitioner states as follows:

1. The legal description of the perimeter of the Property is attached hereto as Exhibit A and made a part hereof.
2. A plat map of the Property is attached hereto as Exhibit B and made a part hereof. The Property is adjacent to the City of Brunswick.
3. The undersigned Petitioner is the sole owner, as defined in ORC Section 709.02(E), of all of the land in the area proposed to be annexed.
4. A list of all tracts, lots, or parcels in the territory proposed for annexation, and all tracts, lots, or parcels located adjacent to that territory or directly across the road from it is attached hereto as Exhibit C and made a part hereof.
5. Daniel P. Calvin, Attorney, of 4996 Foote Road, Medina, Ohio 44256, is hereby appointed agent for Petitioner with full power and authority to do any and all things necessary in connection with the filing, review and approval of this petition.

[Signatures appear on following page.]

REC'D MEDINA COUNTY CO
FEB 1 2023 PM 2:24

 **COPY**

[Signature Page to Petition for Annexation]

Petitioner:

West 130th Route 303 LLC,
An Ohio limited liability company

By: TL - CB
Name: Thomas Lunt
Title: Director of Real Estate

Date: JAN. 31st, 2023

Acceptance of Appointment

The undersigned, named herein agent for Petitioner, hereby acknowledges and accepts the appointment of agent for said Petitioner.

DPC
Daniel P. Calvin

**Exhibit A
Legal Description**

See attached.



LEWIS LAND PROFESSIONALS

INC.

Civil Engineering & Land Surveying



Legal Description for
Combination Parcel
5.1207 Acres
Project 22-282

Situated in the Township of Hinckley, County of Medina, State of Ohio, and known as being part of Lot 60 of said Township of Hinckley, also known as being all of the lands conveyed to Isomer Group, Inc. on November 7, 2022 in Document No. 2022OR023163 of the Medina County Recorder's records and being further bounded and described as follows:

COMMENCING at a 1" iron pin (capped "Medina Co.") in monument box found at the centerline intersection of Center Road (S.R. 303)-width varies and W. 130th Street (C.H. 17)-width varies, as shown on the ODOT Highway Plan MED-030-(6.67)(9.41), said point also being the northwesterly corner of said Lot 60; thence, **South 00°30'28" East**, along the centerline of said W. 130th St., also being the westerly line of said Lot 60, a distance of **60.81 feet** to a point; thence, **North 89°29'32" East**, a distance of **40.00 feet** to a 5/8" iron pin (capped "Gutoskey 7567") found, said point being the **TRUE PLACE OF BEGINNING** for the following described parcel;

thence, **North 53°10'09" East**, along the southerly right-of-way line of said Center Rd. as shown on the said ODOT Highway Plan, a distance of **18.57 feet** to a 5/8" iron pin (capped "Gutoskey 7567") found;

thence, **North 89°17'32" East**, continuing along the southerly right-of-way line of said Center Rd. as shown on the said ODOT Highway Plan, a distance of **432.14 feet** to a 5/8" iron pin (capped "Gutoskey 7567") found;

thence, **South 00°30'28" East**, along the westerly line of Sublot 1 of the Village at Hinckley Oaks as recorded in Instrument No. 2022PL000014 of the Medina County Recorder's records, passing over a 1" iron pipe found at 483.87 feet, a distance of **485.00 feet** to a point (witnessed by said 1" iron pipe found North 00°30'28" West, 1.13');

thence, **South 89°17'32" West**, along a northerly line of said Sublot 1 of said Village at Hinckley Oaks, passing over a magnetic nail set at 457.10 feet, a distance of **487.10 feet** to a magnetic nail found;

thence, **North 00°30'28" West**, along the centerline of said W. 130th St., passing over a 1" iron pin (capped "Medina Co.") in monument box found at 35.00 feet, a distance of **135.00 feet** to a magnetic nail found;

thence, **North 89°29'32" East**, along a southerly right-of-way line of said W. 130th St. as shown on the said ODOT Highway Plan, a distance of **30.00 feet** to a 5/8" pin (capped "D.F. Sheehy") found;

thence, **North 02°40'20" East**, along the easterly right-of-way line of said W. 130th St. as shown on the said ODOT Highway Plan, a distance of **180.28 feet** to a 5/8" pin (capped "Gutoskey 7567") found;

thence, **North 00°30'28" West**, continuing along the easterly right-of-way line of said W. 130th St., as shown on the said ODOT Highway Plan, a distance of **159.19 feet** to the **PLACE OF BEGINNING**, containing **5.1207 acres** of land (0.0929 acres in right of way), more or less, as surveyed by Louis J. Giffels, Registered Surveyor No. 7790 in November 2022, for and on behalf of Lewis Land Professionals, Inc.

The **BASIS OF BEARING** for this description is Grid North of the NAD83 (2011), Ohio State Plane Coordinate System, North Zone, as established by GPS observations.

**Exhibit B
Annexation Plat**

See attached.

**PLAT OF REGULAR ANNEXATION OF 5.1207 ACRES
FROM THE TOWNSHIP OF HINCKLEY TO THE CITY OF BRUNSWICK**

*Situated in the Township of Hinckley, County of Medina, State of Ohio,
and known as being part of Lot 60 of said Township of Hinckley*

LEWIS LAND PROFESSIONALS, INC. CIVIL ENGINEERS, SURVEYORS

ACCEPTANCE

We, the undersigned representatives of the owners of the land embraced within this annexation plat, hereby acknowledge this plat and annexation to be our free act and deed. We certify that there are no delinquent taxes or assessments against the lands embraced within this plat.

WEST 1.30TH ROUTE 303 LLC - OWNER REPRESENTATIVE

PRINT NAME

STATE OF OHIO
MEDINA COUNTY

BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE ABOVE NAMED _____ WHO ACKNOWLEDGED THE MAKING OF THE FOREGOING INSTRUMENT AND THE SIGNING OF THIS PLAT TO BE THEIR FREE ACT AND DEED IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL AT _____ THIS _____ DAY OF _____, 2023.

NOTARY PUBLIC

PER OHIO REVISED CODE 709.02



LOCATION MAP
NOT TO SCALE

**TOTAL AREA TO
BE ANNEXED
=5.1207 ACRES**

APPROVALS

This Annexation Plat was duly accepted by the Brunswick City Council at its regular meeting held on the _____ day of _____, 2023 by Ordinance No. _____.

President

Deputy Clerk of Council

Approved this _____ day of _____, 2023, by the Medina County Commissioners.

Commissioner

Commissioner

Commissioner

Approved for transfer this _____ day of _____, 2023, by the

Medina County Tax Map Office.

Tax Map Draftsman: _____

Received for transfer this _____ day of _____, 2023, by the

Medina County Auditor's Office.

County Auditor: _____

Received and Recorded this _____ day of _____, 2023, by the Medina County Recorder's Office and is recorded by Plat Document No. _____.

Recorder: _____

SURVEYOR'S CERTIFICATION

I hereby certify that I have surveyed the land on this plat, that the plat is a correct representation of the land surveyed, that the survey balances and closes, that all dimensional and geographic details are correct, and that the measurements shown thereon exist or shall be set at all lot corners and rodless returns.

Louis J. Giffis

Date: 01/08/2023

Reg. Ohio Surveyor No. PS-97730

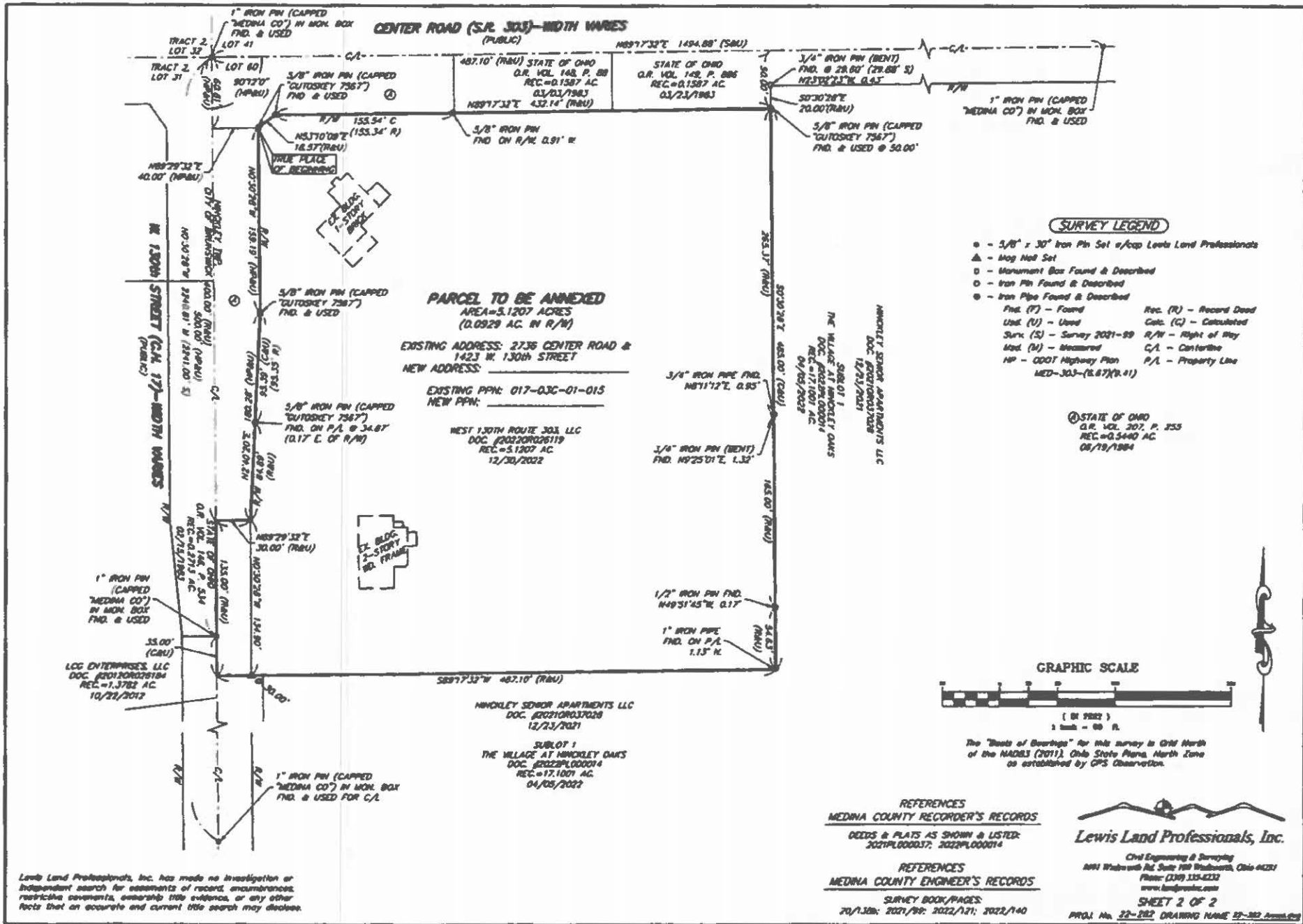


Lewis Land Professionals, Inc.

*Civil Engineering & Surveying
8891 Whitworth Rd. Suite 100 Whitworth, Ohio 44221
Phone: (330) 333-4232
www.landprosinc.com*

SHEET 1 OF 2

PROJ. No. 22-362 DRAWING NAME 22-362 Annexation



PARCEL TO BE ANNEXED
 AREA=3.1207 ACRES
 (0.0929 AC. IN R/W)

EXISTING ADDRESS: 2736 CENTER ROAD &
 1423 W. 130TH STREET
 NEW ADDRESS: _____

EXISTING PPN: 017-03C-01-015
 NEW PPN: _____

WEST 130TH ROUTE 303, LLC
 DOC. #20220802119
 REC.=5.1207 AC.
 12/30/2022

HINCKLEY SENIOR APARTMENTS LLC
 DOC. #202108037028
 12/23/2021

SUBLOT 1
 THE VILLAGE AT HINCKLEY OAKS
 DOC. #20220802014
 REC.=17.1001 AC.
 04/05/2022

SURVEY LEGEND

- - 5/8" x 30" Iron Pin Set w/Asop Levels Land Professionals
 - ▲ - Mag Nail Set
 - - Monument Box Found & Described
 - - Iron Pin Found & Described
 - ⊙ - Iron Pipe Found & Described
- Fnd. (F) - Found Rec. (R) - Record Deed
 Used. (U) - Used Calc. (C) - Calculated
 Surv. (S) - Survey 2021-22 R/W - Right of Way
 Meas. (M) - Measured C/L - Centerline
 HP - ODOT Highway Plan P/L - Property Line
 MED-303-(1.67)(0.41)

STATE OF OHIO
 O.R. VOL. 207, P. 253
 REC.=0.5440 AC.
 08/19/1984

GRAPHIC SCALE



The "Bonds of Bearings" for this survey is Grid North of the NAD83 (2011) Ohio State Plane, North Zone as established by GPS Observation.

REFERENCES
 MEDINA COUNTY RECORDER'S RECORDS

DEEDS & PLATS AS SHOWN & LISTED:
 2021PL000037; 2022PL000014

REFERENCES
 MEDINA COUNTY ENGINEER'S RECORDS

SURVEY BOOK/PAGES:
 70/130B; 2021/89; 2022/121; 2022/140

Lewis Land Professionals, Inc.

Civil Engineering & Surveying
 8881 Walnut Hill Rd., Suite 100, Wadsworth, Ohio 44281
 Phone: (330) 335-4232
 www.lewislandpros.com

SHEET 2 OF 2
 PROJ. No. 22-282 DRAWING NAME 22-282 Annex 02

Lewis Land Professionals, Inc. has made no investigation or independent search for easements of record, encroachments, restrictive covenants, easements, title evidence or any other facts that an accurate and current title search may disclose.

Exhibit C
Property and Adjacent Tracts

Parcel Number	Name	Mailing Address
017-03C-01-015	West 130th Route 303 LLC	211 Commerce Drive Medina, OH 44256
017-03C-02-043	Hinckley Senior Apartments, LLC	2211 Medina Road, Suite 100 Medina, OH 44256
003-18D-06-073	Ronald and Rachel Ferrari	828 Center Road Hinckley, OH 44233
003-18D-06-062	LCG Enterprises, LLC	2786 Center Road Hinckley, OH 44233
017-03A-31-006	Aldi, Inc.	P.O. Box 460049, Dept. 501 Houston, TX 77056
003-18B-47-058	Sabatine BK Development, LLC	5700 Sixth Avenue, Tax Dep 212 Altoona, PA 16602

4880-4227-5138, v. 1

CITY OF BRUNSWICK, OHIO
RESOLUTION NUMBER 8-2023

BY: Committee-of-the-Whole

AN EMERGENCY RESOLUTION DECLARING THE INTENTION OF THE CITY OF BRUNSWICK TO PROVIDE MUNICIPAL SERVICES TO A 5.1207 ACRE PARCEL OF LAND (PPN 017-03C-01-015) ON CENTER ROAD.

WHEREAS: The City of Brunswick has been notified that a Petition for Regular Annexation on Application of Owners (the "Petition") was presented to the Medina County Commissioners requesting a parcel of land be annexed from Hinckley Township to the City of Brunswick, and

WHEREAS: The City of Brunswick does not object to this Petition.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY RESOLVES:

SECTION 1: The Council for the City of Brunswick hereby declares that, should the Medina County Commissioners grant the annexation of 5.1207 acres of land on Center Road (PPN 017-03C-01-015), the City of Brunswick will provide police protection, fire prevention/suppression, EMS service, and any and all other services rendered to residents of the City of Brunswick. Additionally, the City of Brunswick will support any application to the Cleveland Division of Water for connection to the water system for the provision of water services to the property and to the Medina County Sanitary Engineer for connection to the sanitary sewer system, subject to payment of any and all applicable costs and fees.

SECTION 2: That the Council of the City of Brunswick hereby urges the County to undertake a careful and deliberate study of all matters presented in the Petition for Regular Annexation on Application of Owners, as attached hereto as Exhibit "A", and to approve the proposed annexation of such property to the City of Brunswick.

SECTION 3: This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety, welfare, and providing for the usual daily operation of a municipality, and for the further reason that the approved legislation must be filed with the Medina County Commissioners' Office twenty (20) days before the April 11, 2023 hearing date. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading February 13, 2023

2nd Reading February 27, 2023

3rd Reading March 13, 2023

ADOPTED: March 13, 2023

AYES 6

NAYS 0

ATTEST: Laura Timura
Clerk of Council
Laura E. Timura

THE CITY OF BRUNSWICK
PROPOSED LEGISLATION



DATE: 2/13/2023

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Nicholas Hanek

COPY: Mayor Ron Falconi

LEGISLATION: **RES. NO. 8-2023** - An emergency resolution declaring the intention of the City of Brunswick to provide municipal services to a 5.1207 acre parcel of land (PPN 017-03C-01-015) on Center Road - **1st Reading** (To be brought from Committee-of-the-Whole, *Administration/Ken Fisher*)

BACKGROUND: The City of Brunswick has been notified that a Petition for Regular Annexation on Application of Owners (the "Petition") was presented to the Medina County Commissioners requesting a parcel of land be annexed from Hinckley Township to the City of Brunswick.

PURPOSE AND EXPLANATION: The approved legislation must be filed with the Medina County Commissioners' Office by March 22, 2023.

IMPLEMENTATION SCHEDULE: Emergency, three readings

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	Yes
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Emergency, three readings.