



ORDINANCE O-40-2022

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEW ALBANY BY AMENDING THE ZONING MAP TO REZONE 32.6+/- ACRES OF LAND GENERALLY LOCATED AT THE SOUTHWEST AND SOUTHEAST CORNERS OF NEW ALBANY CONDIT ROAD AND CENTRAL COLLEGE ROAD, FROM RESIDENTIAL ESTATE DISTRICT (R-1) TO INFILL PLANNED UNIT DEVELOPMENT (I-PUD) FOR AN AREA TO BE KNOWN AS THE "HAMLET AT SUGAR RUN ZONING DISTRICT" AS REQUESTED BY NONA MASTER DEVELOPMENT LLC, ATTN: YAROMIR STEINER AND BRYAN STONE C/O AARON UNDERHILL, ESQ.

WHEREAS, council of the City of New Albany has determined that it is necessary to rezone certain property located in the city to promote orderly growth and development of lands; and

WHEREAS, the Rocky Fork – Blacklick Accord, New Albany Planning Commission and council on separate occasions have held public hearings and received public input into the amendment of the zoning ordinance; and

WHEREAS, pursuant to the application by Nona Master Development LLC, Attn: Yaromir Steiner and Bryan Stone c/o Aaron Underhill, Esq., the Rocky Fork – Blacklick Accord and Planning Commission have reviewed the proposed ordinance amendment and recommended its approval.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Council hereby amends the Zoning Ordinance Map of the City of New Albany to change the zoning classification of the following described site:

- A. A 32.6+/- acre site within Franklin County, generally located at the southwest and southeast corners of New Albany Condit Road and Central College Road from its current zoning of Residential Estate (R-1) to Infill Planned Unit Development (I-PUD).
- B. The zoning district text and boundary map are hereby attached and marked Exhibit A.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

Section 3. Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/04/2022
Introduced: 11/15/2022
Revised: 11/23/2022 – exhibit A
Adopted:
Effective:

Exhibit A – O-40-2022

This document is 228 pages. Please go to this link on our website
<https://newalbanyohio.org/wp-content/uploads/2022/11/O-40-2022-Hamlet-at-Sugar-Run-Zoning-District-EXHIBIT-A-UPDATED.pdf>

or call Clerk of Council Jennifer Mason for copy.

Clerk Mason: 614-939-2244



ORDINANCE O-41-2022

AN ORDINANCE TO AMEND CHAPTER 1113 OF THE PLANNING AND ZONING CODE OF THE CITY OF NEW ALBANY, OHIO'S CODIFIED ORDINANCES AS REQUESTED BY THE CITY OF NEW ALBANY

WHEREAS, it has been found that the Codified Ordinances of the City of New Albany, Chapter 1113 needs to be amended to allow for building and structure conditions to be taken into consideration by the Architectural Review Board in addition to site specific conditions when evaluating a waiver request; and

WHEREAS, an amendment is necessary in order to ensure orderly growth; and

WHEREAS, the Architectural Review Board and Planning Commission have held public hearings on separate occasions and received public input into the amendments and recommended approval of the proposed amendment to the codified ordinance.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Portions of Codified Ordinance Chapter 1113 be amended as set forth in Exhibit A, which depicts these amendments in colored ink.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 3. Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/21/2022
Introduced: 12/06/2022
Revised:
Adopted:
Effective:

CHAPTER 1113 APPEALS, VARIANCES AND WAIVERS¹

1113.01 APPEALS.

- (a) **Taking of Appeals.** Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance by a staff member may be taken by any person aggrieved including a tenant, or by a governmental officer, department, board, or bureau, unless otherwise specified in this chapter. Such appeal shall be taken within twenty (20) days after the date of the decision, by filing with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof.
- (b) **Imminent Peril.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Manager's designee certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him, that by reason of facts stated in the application a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may, on due cause shown, be granted by the Board of Zoning Appeals, after notice to the City Manager's designee or by judicial proceedings.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.02 NATURE OF VARIANCE AND WAIVER.

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development standards of the Zoning Ordinance unreasonable and, therefore, procedures for variances and waivers from development standards are provided to allow the flexibility necessary to adapt to changed or unusual conditions, both foreseen and unforeseen, under circumstances which do not ordinarily involve a change of the primary use of the land or structure permitted.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.03 APPLICATION FOR VARIANCES AND APPEALS.

Any person owning or having an interest in property, may file an application to obtain a variance or appeal from the decision of the City Manager's designee.

The application of a variance or an appeal shall be made on such forms as prescribed by staff and shall contain the following information:

- (a) Name, address and phone number of the applicant.
- (b) Legal description of property as recorded in Franklin County Recorder's office.
- (c) Each application for a variance or appeal shall refer to the specific provisions of this Ordinance which apply.

¹Cross reference(s)—Board of Zoning Appeals - see CHTR. 10.03 et seq.;
Appeals from zoning decisions - see ORC 713.11, Ch. 2506

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- (d) The names and addresses of all property owners within two hundred (200) feet, contiguous to, and directly across the street from the property, as appearing on the Franklin County Auditor's current tax list.
 - (e) A narrative statement explaining the following:
 - (1) The use for which variance or appeal is sought.
 - (2) Details of the variance or appeal that is applied for and the grounds on which it is claimed that the variance or appeal should be granted, as the case may be.
 - (3) The specific reasons why the variance or appeal is justified according to this chapter.
 - (4) Such other information regarding the application for appeal as may be pertinent or required for appropriate action by the Board of Zoning Appeals.
 - (f) A plot plan drawn to an appropriate scale showing the following:
 - (1) The boundaries and dimensions of the lot.
 - (2) The nature of the special conditions or circumstances giving rise to the application for approval.
 - (3) The size and location of existing and proposed structures.
 - (4) The proposed use of all parts of the lots and structures, including accesses, walks, off-street parking and loading spaces, and landscaping.
 - (5) The relationship of the requested variance to the development standards.
 - (6) The use of land and location of structures on adjacent property.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.04 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1109.99. Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.05 PUBLIC HEARINGS AND NOTICE.

- (a) Public Hearing. The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after receipt of an application for an appeal or variance from staff.
- (b) Notice. Before conducting the required public hearing, notice of the hearing shall be given in one or more newspapers of general circulation in the Municipality at least seven (7) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.

Written notice of the required public hearing shall be mailed by first class mail, at least ten (10) days before the day of the hearing to owners of property within two hundred (200) feet from, contiguous to, and directly across the street from the property being considered.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.06 ACTION BY THE BOARD OF ZONING APPEALS.

Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall only approve a variance or approve a variance with supplementary conditions if the following findings are made:

- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.
- (b) That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
- (c) That the special conditions and circumstances do not result from the action of the applicant.
- (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
- (e) That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.
- (f) Certified copy of the Board's decision shall be transmitted to the applicant, or appellant, and a copy shall be filed with the Community Development Department.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.07 CERTIFICATE OF ZONING COMPLIANCE.

A certificate of zoning compliance may be issued only within the period of one year from the date of final approval by the Board of Zoning Appeals.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.08 ACTION BY BOARD OF ZONING APPEALS.

Within thirty (30) days after the public hearing pursuant to Section 1113.05 or within thirty (30) days of the application if a hearing is not held, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 1113.04, or disapprove the request for appeal or variance. If the application is approved, or approved with supplementary conditions, the Board of Zoning Appeals shall make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure. If the request for appeal or variance is denied, the applicant may seek relief through the Court of Common Pleas. A written copy of the Board's decision and findings will be provided to the applicant.

(Ord. O-08-2011. Passed 5-17-11.)

1113.09 WAIVERS.

Where specifically defined within the Zoning Ordinance, deviations from certain development standards are subject to the waiver process. A waiver to the standards may be approved by the Architectural Review Board (ARB) upon the request of an applicant as part of a certificate of appropriateness application. In considering a request for a waiver, the ARB shall conduct a public meeting in conjunction with the certificate of appropriateness.

(Ord. O-08-2011. Passed 5-17-11.)

1113.10 APPLICATION FOR WAIVER.

An applicant who wishes to have a requirement of the Zoning Ordinance waived must apply to the ARB through city staff for said waiver in conjunction with a certificate of appropriateness application that will be reviewed by the Architectural Review Board. The applicant must indicate the nature of the waiver sought and provide a statement explaining why the waiver should be granted. Any drawings or other materials needed to support the application, as determined by city staff, shall be submitted with the waiver request.

(Ord. O-08-2011. Passed 5-17-11.)

1113.11 ACTION BY THE ARCHITECTURAL REVIEW BOARD.

Within thirty (30) days after the public meeting, the ARB shall either approve, approve with supplementary conditions, or disapprove the request for a waiver. The ARB shall only approve a waiver or approve a waiver with supplementary conditions if the ARB finds that the waiver, if granted, would:

- (a) Provide an appropriate design or pattern of development considering the context in which the development is proposed and the purpose of the particular standard. In evaluating the context as it is used in the criteria, the ARB may consider the relationship of the proposed development with adjacent structures, the immediate neighborhood setting, or a broader vicinity to determine if the waiver is warranted;
- (b) Substantially meet the intent of the standard that the applicant is attempting to seek a waiver from, and fit within the goals of the Village Center Strategic Plan, Land Use Strategic Plan and the Design Guidelines and Requirements;
- (c) Be necessary for reasons of fairness due to unusual building, structure, or site - specific condition~~se~~constraints; and
- (d) Not detrimentally affect the public health, safety or general welfare.

(Ord. O-08-2011. Passed 5-17-11.)



ORDINANCE O-42-2022

AN ORDINANCE TO ACCEPT WATER LINE, SANITARY SEWER, STREET AND STORM SEWER IMPROVEMENTS AND APPURTENANCES THERETO FOR NEW ALBANY COUNTRY CLUB SECTION 30, AS REQUESTED BY THE NEW ALBANY COMPANY

WHEREAS, in accordance with New Albany Ordinance 77-91; and pursuant to written certification by the city engineer that the improvements and appurtenances thereto for New Albany Country Club Section 30, have been completed to the standards set by Codified Ordinance 1187; and

WHEREAS, a 2-year maintenance bond in the amount of \$171,755, and an engineering inspection fee deposit in the amount of \$3,006, and a 5-year settlement bond of \$118,976 will be provided by the applicant prior to the second reading.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The improvements and appurtenances thereto for are hereby accepted.

Section 2. It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 3. Pursuant to Article VI, Section 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/23/2022

Introduced: 12/06/2022

Revised:

Adopted:

Effective:



ORDINANCE O-43-2022

AN ORDINANCE TO EXECUTE A SECOND AMENDMENT TO A CONSERVATION EASEMENT GENERALLY LOCATED ON THE GOOGLE PROPERTY TO REMOVE CERTAIN UTILITY CROSSING AREAS WITHIN THE CONSERVATION AREA, AS REQUESTED BY MBJ HOLDINGS LLC, MONTAUK INNOVATIONS LLC AND AEP OHIO TRANSMISSION COMPANY INC

WHEREAS, MBJ and the city are the original parties to a certain Conservation Easement Agreement dated November 26, 2018, as amended by the First Amendment to Conservation Easement Agreement dated as of October 13, 2020; and

WHEREAS, the purpose of the original easement was to preserve a watercourse and adjacent areas to maintain such area in its natural condition and to further enable the Conservation Easement Area as stream preservation credits applicable to future permits to be obtained by MBJ from the U.S. Army Corps of Engineers and/or the Ohio Environmental Protection Agency; and

WHEREAS, MBJ conveyed to Montauk a portion of the Property subject to the Conservation Easement Agreement; and

WHEREAS, MBJ conveyed to AEP a portion of the Property subject to the Conservation Easement Agreement; and

WHEREAS, MBJ, the city, Montauk and AEP now desire to amend the Conservation Easement Agreement to correct a scrivener's error with respect to the number of linear feet of stream removed for the utility crossing described in Section 4 of the First Amendment; and

WHEREAS, the parties desire to further amend the Conservation Easement Agreement to allow for the construction, installation, operation, maintenance, repair, removal, and replacement of certain utility crossings within limited and defined portions of the real property that is burdened by the Conservation Easement Agreement, as more specifically identified within Exhibit A; and

WHEREAS, council is satisfied that there is good cause for such amendment and that it will not be detrimental to the general interests and shall be approved.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The conservation easement generally located south of Ganton Parkway Road and west of Beech Road, as identified as instrument number 201811270025106, is hereby amended in accordance with Exhibit A.

Section 2. It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 3. Pursuant to Article 6.07(B) of the New Albany Charter, ~~this ordinance shall~~ become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/23/2022

Introduced: 12/06/2022

Revised:

Adopted:

Effective:

SECOND AMENDMENT TO
CONSERVATION EASEMENT AGREEMENT

This Second Amendment to Conservation Easement Agreement (this “Amendment”) is made to be effective on the last date of signature below (the “Effective Date”), by and between **MBJ Holdings, LLC**, a Delaware limited liability company (“MBJ”), the **City of New Albany, Ohio**, an Ohio municipal corporation (the “City”), **Montauk Innovations LLC**, a Delaware limited liability company (“Montauk”), and **AEP Ohio Transmission Company, Inc.**, an Ohio corporation (“AEP”).

RECITALS:

WHEREAS, MBJ and the City are the original parties to that certain Conservation Easement Agreement dated as of November 26, 2018, which is of record with the Office of the Recorder of Licking County, Ohio (the “Recorder’s Office”) as Instrument Number 201811270025106 (the “Original Conservation Easement”), as amended by that certain First Amendment to Conservation Easement Agreement dated as of October 13, 2020, which is of record with the Recorder’s Office as Instrument Number 202010160027510 (the “First Amendment”) and together with the Original Conservation Easement, the “Conservation Easement Agreement”);

WHEREAS, pursuant to that certain Limited Warranty Deed filed of record with the Recorder’s Office as Instrument Number 201812130026436, MBJ conveyed to Montauk a portion of the Property subject to the Conservation Easement Agreement;

WHEREAS, pursuant to that certain Limited Warranty Deed filed of record with the Recorder’s Office as Instrument Number 201904220007371, MBJ conveyed to AEP a portion of the Property subject to the Conservation Easement Agreement;

WHEREAS, MBJ, the City, Montauk and AEP now desire to amend the Conservation Easement Agreement to correct a scrivener’s error with respect to the number of linear feet of stream removed for the utility crossing described in Section 4 of the First Amendment;

WHEREAS, the parties desire to further amend the Conservation Easement Agreement in order to allow for the construction, installation, operation, maintenance, repair, removal, and replacement of certain utility crossings within limited and defined portions of the real property that is burdened by the Conservation Easement Agreement, as more specifically identified herein; and

WHEREAS, Montauk and AEP are the only owners of real property proposed to be removed from the Conservation Easement Agreement.

NOW THEREFORE, in consideration of the promises and covenants detailed in the Conservation Easement Agreement and as described below, the sufficiency of which is hereby acknowledged, MBJ, the City, Montauk and AEP agree as follows:

AGREEMENT:

1. **Defined Terms.** All capitalized terms which are used but not defined herein shall have the meanings given to them in the Conservation Easement Agreement.

2. **Correction of First Amendment.** The second sentence of Section 4 of the First Amendment is hereby deleted in its entirety and replaced with the following: "The area being removed and released from the Conservation Easement constitutes a Crossing, contains 58.84 linear feet of stream, and is identified in Attachment #2, which is attached hereto and incorporated herein by reference."

3. **Partial Removal and Release for Utility Crossing.** AEP, Montauk and the City hereby agree to remove and release from the Conservation Easement limited portions of the real property that was previously defined as being part of the Conservation Easement Area in order to allow for the construction, installation, operation, maintenance, repair and replacement of utility lines, including, but not limited to, water, storm drainage, sanitary sewer, electric, gas, fiber optics, telephone, cable and/or other communication lines. The areas being removed and released from the Conservation Easement each constitute a Crossing, collectively contain 314 linear feet of stream, and are identified in Attachment #1, which is attached hereto and incorporated herein by reference. The removal and release of the real property contemplated hereunder is being completed in accordance with Section 2 of the Original Conservation Easement Agreement.

4. **No Other Amendments.** Except as modified in this Amendment, the terms and conditions of the Conservation Easement Agreement remain in full force and effect.

[Remainder of the page left intentionally blank; Signature pages to follow.]

IN WITNESS WHEREOF, MBJ has caused this Amendment to be executed as of the date set forth below.

MBJ:

MBJ HOLDINGS, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me on this ____ day of _____, 2022, by _____, the _____ of MBJ Holdings, LLC, a Delaware limited liability company, on behalf of the limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, the City has caused this Amendment to be executed as of the date set forth below.

THE CITY:

CITY OF NEW ALBANY, OHIO,
an Ohio municipal corporation

By: _____

Print Name: _____

Its: _____

Date: _____

Approved as to Form:

Benjamin Albrecht, City Law Director

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me on this ____ day of _____, 2022, by _____, the _____ of the City of New Albany, Ohio, an Ohio municipal corporation, on behalf of the municipal corporation. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, Montauk has caused this Amendment to be executed as of the date set forth below.

MONTAUK:

MONTAUK INNOVATIONS LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF _____
COUNTY OF _____, ss.

The foregoing instrument was acknowledged before me on this ____ day of _____, 2022, by _____, the _____ of Montauk Innovations LLC, a Delaware limited liability company, on behalf of the limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, AEP has caused this Amendment to be executed as of the date set forth below.

AEP:

**AEP OHIO TRANSMISSION COMPANY,
INC.,** an Ohio corporation

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me on this ____ day of _____, 2022, by _____, the _____ of AEP Ohio Transmission Company, Inc., an Ohio corporation, on behalf of the corporation. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

Instrument prepared by:
MBJ Holdings, LLC
8000 Walton Parkway, Suite 120
New Albany, Ohio 43054
(614) 939-8000



Ernst, Meckwart, Hamilton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
6600 New Albany Road, Columbus, OH 43254
Phone: 614.775.4300 Toll Free: 888.775.3448
emht.com

EASEMENT VACATION

SECTION 16, TOWNSHIP 2, RANGE 15
UNITED STATES MILITARY DISTRICT
CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: February 23, 2022

Scale: 1" = 100'

Job No: 2021-10679

Sheet No: 1 of 1

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N78°57'21"E	75.20'
L2	N78°57'21"E	205.74'
L3	S18°47'12"W	59.65'
L4	S81°32'08"W	202.81'
L5	N18°51'03"E	53.30'



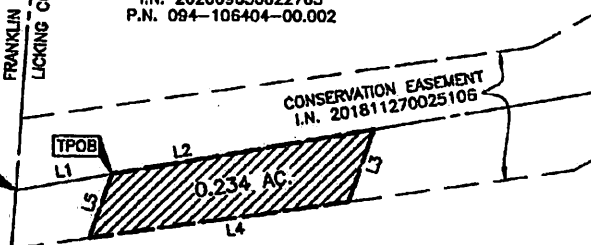
AEP OHIO TRANSMISSION
COMPANY INC
18.334 AC. (DEED)
I.N. 202010150159713 (F)
P.N. 222-005062-00

FRANKLIN COUNTY
LICKING COUNTY

QTR. TWP. 4
TWP. 2, RNC. 16

QTR. TWP. 4
TWP. 2, RNC. 15

AEP OHIO TRANSMISSION
COMPANY INC.
23.946 AC. (DEED)
I.N. 202009030022765
P.N. 094-106404-00.002



MONTAUK INNOVATIONS LLC
219.255 AC. (DEED)
I.N. 201812130026436
P.N. 094-106896-00.000



By Heather L. King Date 2/23/22
Heather L. King
Professional Surveyor No. 8307
hking@emht.com

Attachment #1

**EASEMENT VACATION
0.234 ACRE**

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 16, Township 2, Range 15, United States Military District, being part of that Conservation Easement of record in Instrument Number 201811270025106, being on, over, and across that being on, over, and across that 219.255 acre tract conveyed to Montauk Innovations LLC by deed of record in Instrument Number 201812130026436, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, in the line common to Franklin and Licking Counties, at the northwest corner of said 219.255 acre tract, at the southwest corner of that 23.946 acre tract conveyed to AEP Ohio Transmission Company Inc. by deed of record in Instrument Number 202009030022765, in the westerly line of said Easement;

Thence North 79° 57' 21" East, with the line common to said 219.255 and 23.946 acre tracts, across said Easement, a distance of 75.20 feet to the TRUE POINT OF BEGINNING;

Thence North 79° 57' 21" East, continuing with said common line, across said Easement, a distance of 205.74 feet to a point;

Thence across said 219.255 acre tract, the following courses and distances:

South 18° 47' 12" West, across said Easement, a distance of 59.65 feet to a point in the southerly line of Easement;

South 81° 32' 08" West, with said southerly Easement line, a distance of 202.81 feet to a point; and

North 18° 51' 03" East, a distance of 53.30 feet to the TRUE POINT OF BEGINNING, containing 0.234 acre, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King
Heather L. King
Professional Surveyor No. 8307

2/23/22
Date

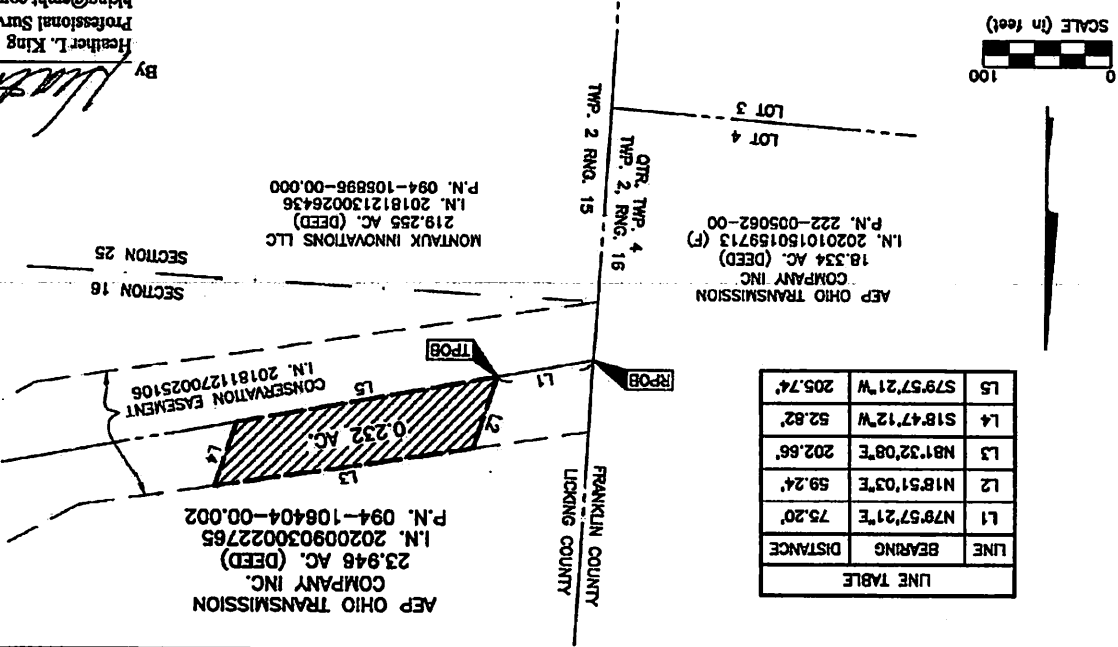
HLK: nmd
0_234 ac 20210579-VS-ESMT-VACT-01

CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

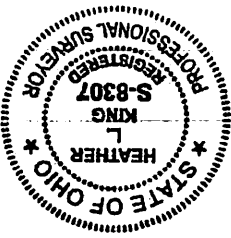
FRANK, MACHWY, HANBOKEN & THOM, INC.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43234
Phone: 614/775-5500 Toll Free: 888/775-5648
enr@frank.com

Sheet No: 1 of 1

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N78°57'21"E	75.20'
L2	N18°51'03"E	59.24'
L3	N81°32'08"E	202.66'
L4	S18°47'12"W	52.82'
L5	S79°57'21"W	205.74'



By Heather L. King
Professional Surveyor No. 8307
bldg@cmh.com
Date 2/23



**EASEMENT VACATION
0.232 ACRE**

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 16, Township 2, Range 15, United States Military District, being part of that Conservation Easement of record in Instrument Number 201811270025106, being on, over, and across that 23.946 acre tract conveyed to AEP Ohio Transmission Company Inc. by deed of record in Instrument Number 202009030022765, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, in the line common to Franklin and Licking Counties, at the southwest corner of said 23.946 acre tract, the northwest corner of that 219.255 acre tract conveyed to Montauk Innovations LLC by deed of record in Instrument Number 201812130026436, in the westerly line of said Easement;

Thence North 79° 57' 21" East, with the line common to said 23.946 and 219.255 acre tracts, across said Easement, a distance of 75.20 feet to the TRUE POINT OF BEGINNING;

Thence across said 23.946 acre tract, the following course and distances:

North 18° 51' 03" East, across said Easement, a distance of 59.24 feet to a point in the northerly line of said Easement;

North 81° 32' 08" East, with said northerly Easement line, a distance of 202.66 feet to a point; and

South 18° 47' 12" West, across said Easement, a distance of 52.82 feet to a point in the line common to said 23.946 and 219.255 acre tracts;

Thence South 79° 57' 21" West, with said common line, across said Easement, a distance of 205.74 feet to the TRUE POINT OF BEGINNING, containing 0.232 acre, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King

Heather L. King
Professional Surveyor No. 8307

2/23/22
Date

HLK: nmd
0_232 ac 20210579-VS-ESMT-VACT-02



Evans, Machwart, Hamilton & Tibbitts, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43254
Phone: 614.775.4500 Toll Free: 888.775.3648
emht.com

EASEMENT VACATION

SECTION 16, TOWNSHIP 2, RANGE 15
UNITED STATES MILITARY DISTRICT

CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: February 23, 2022

Scale: 1" = 100'

Job No: 2021-0579

Sheet No: 1 of 1

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N29°21'34"W	46.28'
L2	N81°32'08"E	11.95'
L3	N61°28'39"E	88.84'
L4	S29°21'34"E	75.77'
L5	S79°57'21"W	105.86'

AEP OHIO TRANSMISSION
COMPANY INC.
23.948 AC. (DEED)
I.N. 202009030022765
P.N. 094-106404-00.002

COI NEW ALBANY CMH7, LLC
98.840 AC. (DEED)
I.N. 202105270015888
P.N. 094-106404-00.004

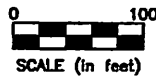
N79°57'21"E 416.07'
CONSERVATION EASEMENT
I.N. 201811270025106

SECTION 16
SECTION 25

MONTAUK INNOVATIONS LLC
219.255 AC. (DEED)
I.N. 201812130026436
P.N. 094-106896-00.000



By Heather L. King 2/23/22
Heather L. King
Professional Surveyor No. 8307
hking@emht.com
Date



**EASEMENT VACATION
0.136 ACRE**

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 16, Township 2, Range 15, United States Military District, being part of that Conservation Easement of record in Instrument Number 201811270025106, being on, over, and across that 23.946 acre tract conveyed to AEP Ohio Transmission Company Inc. by deed of record in Instrument Number 202009030022765, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, in the line common to Franklin and Licking Counties, at the southwest corner of said 23.946 acre tract, the northwest corner of that 219.255 acre tract conveyed to Montauk Innovations LLC by deed of record in Instrument Number 201812130026436, in the westerly line of said Easement;

Thence North 79° 57' 21" East, with the line common to said 23.946 and 219.255 acre tracts, across said Easement, a distance of 416.07 feet to the TRUE POINT OF BEGINNING;

Thence across said 23.946 acre tract, the following courses and distances:

North 29° 21' 34" West, across said Easement, a distance of 59.24 feet to a point in the northerly line of said Easement;

North 81° 32' 08" East, with said northerly Easement line, a distance of 11.95 feet to a point;


North 61° 28' 39" East, with said northerly Easement line, a distance of 202.66 feet to a point; and

Thence South 29° 21' 34" East, across said Easement, a distance of 75.77 feet to a point in the line common to said 23.946 and 219.255 acre tracts;

Thence South 79° 57' 21" West, with said common line, a distance of 105.96 feet to the TRUE POINT OF BEGINNING, containing 0.136 acre, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

 2/23/22
Heather L. King Date
Professional Surveyor No. 8307

HLK: nmd
0.136 ac 20210579-VS-ESMT-VACT-03



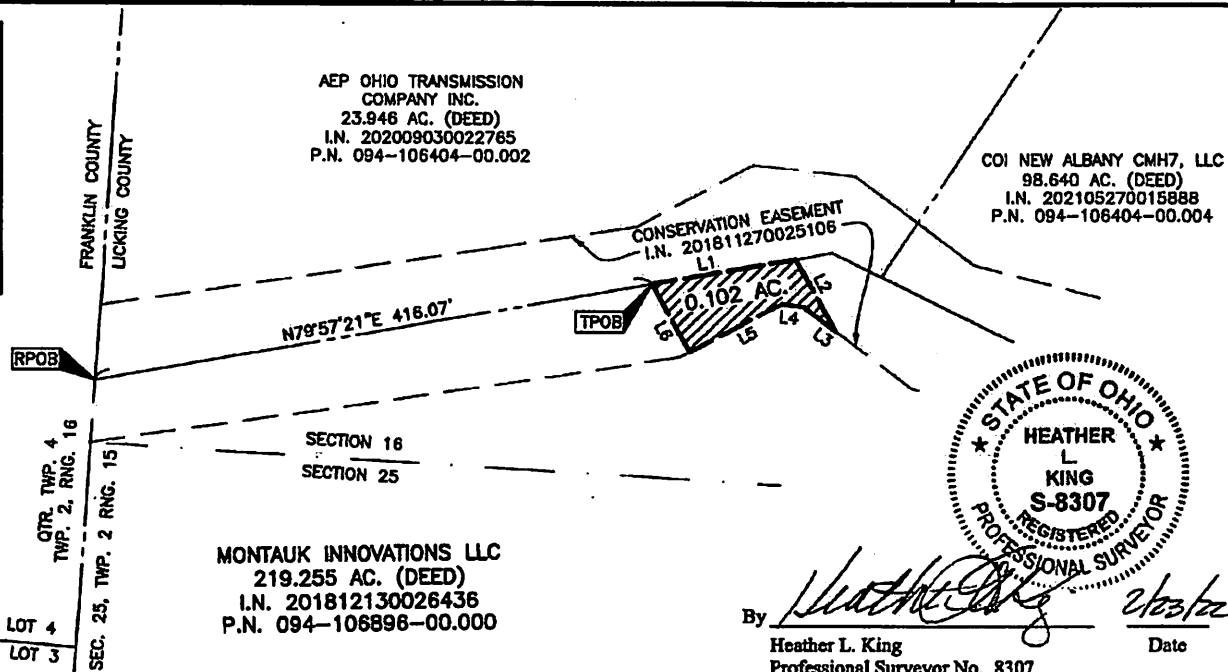
Evans, Mechwart, Hornblower & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
6600 New Albany Road, Columbus, OH 43054
Phone: 614-775-4500 Toll Free: 888-773-3643
emht.com

EASEMENT VACATION

SECTION 16, TOWNSHIP 2, RANGE 15
UNITED STATES MILITARY DISTRICT
CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: February 23, 2022
Scale: 1" = 100'
Job No: 2021-0579
Sheet No: 1 of 1

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N79°57'21"E	105.96'
L2	S29°21'34"E	60.70'
L3	N52°51'54"W	30.11'
L4	N83°19'02"W	15.66'
L5	S61°28'39"W	75.34'
L6	N29°21'34"W	57.83'



**EASEMENT VACATION
0.102 ACRE**

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 16, Township 2, Range 15, United States Military District, being part of that Conservation Easement of record in Instrument Number 201811270025106, being on, over, and across that being on, over, and across that 219.255 acre tract conveyed to Montauk Innovations LLC by deed of record in Instrument Number 201812130026436, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, in the line common to Franklin and Licking Counties, at the northwest corner of said 219.255 acre tract, at the southwest corner of that 23.946 acre tract conveyed to AEP Ohio Transmission Company Inc. by deed of record in Instrument Number 202009030022765, in the westerly line of said Easement;

Thence North 79° 57' 21" East, with the line common to said 219.255 and 23.946 acre tracts, across said Easement, a distance of 416.07 feet to the TRUE POINT OF BEGINNING;

Thence North 79° 57' 21" East, continuing with said common line, across said Easement, a distance of 105.96 feet to a point;

Thence South 29° 21' 34" East, across said 219.255 acre tract, across said Easement, a distance of 60.70 feet to a point in the southerly line of said Easement;

Thence continuing across said 219.255 acre tract, with said southerly Easement line, the following courses and distances:

North 52° 51' 54" West, a distance of 30.11 feet to a point;


North 83° 19' 02" West, a distance of 15.66 feet to a point; and

South 61° 28' 39" West, a distance of 75.34 feet to a point;

Thence North 29° 21' 34" West, across said 219.255 acre tract, across said Easement, a distance of 57.83 feet to the TRUE POINT OF BEGINNING, containing 0.102 acre, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.


Heather L. King
Professional Surveyor No. 8307


Date

HLK: nmd
0_102 ac 20210579-VS-ESMT-VACT-04



ORDINANCE O-44-2022

AN ORDINANCE TO AMEND A CONSERVATION EASEMENT GENERALLY LOCATED SOUTH OF INNOVATION CAMPUS WAY AND WEST OF MINK STREET TO ALLOW ELECTRIC UTILITY FACILITIES TO BE BUILT WITHIN THE AREA, AS REQUESTED BY MBJ HOLDINGS LLC. AND SCANNELL PROPERTIES #538 LLC

WHEREAS, MBJ and the city are the original parties to a certain Conservation Easement Agreement dated September 18, 2018; and

WHEREAS, the purpose of the original easement is to preserve and protect the overall ecological integrity of the real property that it encompasses; and

WHEREAS, MBJ conveyed to Scannell a portion of the Property subject to the Conservation Easement Agreement; and

WHEREAS, MBJ, the city and Scannell now desire to amend the Conservation Easement Agreement to allow for the construction, installation, operation, maintenance, repair, removal and replacement of a certain utility crossing within a limited and defined portion of the real property that is burdened by the Conservation Easement Agreement, as more specifically defined in Exhibit A; and

WHEREAS, this Amendment is being completed in accordance with the modification of Level Three Isolated Wetlands Permit issued by the Ohio Environmental Protection Agency and by permit modification issued by the U.S. Army Corps of Engineers; and

WHEREAS, council is satisfied that there is good cause for such amendment and that it will not be detrimental to the general interests and shall be approved.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The conservation easement generally located south of Innovation Campus Way and west of Mink Street, as identified as instrument number 201809170019393, is hereby amended in accordance with Exhibit A.

Section 2. It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in

meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 3. Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/23/2022

Introduced: 12/06/2022

Revised:

Adopted:

Effective:

**FIRST AMENDMENT TO
CONSERVATION EASEMENT AGREEMENT**

This First Amendment to Conservation Easement Agreement (this “Amendment”) is made to be effective on the last date of signature below (the “Effective Date”), by and between **MBJ HOLDINGS, LLC**, a Delaware limited liability company having its address at 8000 Walton Parkway, Suite 120, New Albany, Ohio 43054 (“MBJ”), **THE CITY OF NEW ALBANY, OHIO**, an Ohio municipal corporation having its address at 99 W. Main Street, New Albany, Ohio 43054 (the “City”), and **SCANNELL PROPERTIES #538 LLC**, an Indiana limited liability company having its address at 9885 Innovation Campus Way, New Albany, Ohio 43054 (“Scannell”).

RECITALS:

WHEREAS, MBJ and the City are the original parties to that certain Conservation Easement Agreement dated as of September 11, 2018, which is of record with the Office of the Recorder of Licking County, Ohio (the “Recorder’s Office”) as Instrument Number 201809170019393 (the “Conservation Easement Agreement”);

WHEREAS, pursuant to that certain Limited Warranty Deed filed of record with the Recorder’s Office as Instrument Number 202108040023453, MBJ conveyed to Scannell a portion of the Property subject to the Conservation Easement Agreement;

WHEREAS, MBJ, the City and Scannell now desire to amend the Conservation Easement Agreement in order to allow for the construction, installation, operation, maintenance, repair, removal and replacement of a certain utility crossing within a limited and defined portion of the real property that is burdened by the Conservation Easement Agreement, as more specifically defined herein;

WHEREAS, Scannell is the only owner of real property proposed to be removed from the Conservation Easement Agreement; and

WHEREAS, this Amendment is being completed in accordance with the Modification of Level Three Isolated Wetlands Permit No. DSW401154756 issued by the Ohio Environmental

Protection Agency on June 24, 2022 and by the Department of the Army Permit Modification No. LRH-2015-384-MUS issued by the U.S. Army Corps of Engineers on May 13, 2022.

NOW THEREFORE, in consideration of the mutual promises and covenants detailed in the Conservation Easement Agreement and as described below, the sufficiency of which is hereby acknowledged, MBJ, the City and Scannell agree as follows:

AGREEMENT:

1. **Defined Terms:** All capitalized terms which are used but not defined herein shall have the meanings given to them in the Conservation Easement Agreement.

2. **Partial Removal and Release for Utility Crossing:** MBJ, the City and Scannell hereby agree to remove and release from the Conservation Easement a limited portion of the real property that was previously defined as being part of the Conservation Easement Area in order to allow for the construction, installation, operation, maintenance, repair and replacement of electric utility lines. The area being removed and released from the Conservation Easement is more particularly described and depicted in Attachment #1, which is attached hereto and incorporated herein by reference.

3. **No Other Amendments:** Except as modified in this Amendment, the terms and conditions of the Conservation Easement Agreement remain in full force and effect.

[Remainder of this page intentionally left blank; Signature pages to follow]

IN WITNESS WHEREOF, MBJ has caused this Amendment to be executed as of the date set forth below.

MBJ:

MBJ HOLDINGS, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, the _____ of **MBJ HOLDINGS, LLC**, a Delaware limited liability company, on behalf of the limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, the City has caused this Amendment to be executed as of the date set forth below.

THE CITY:

THE CITY OF NEW ALBANY, OHIO,
an Ohio municipal corporation

By: _____

Print Name: _____

Title: _____

Date: _____

Approved as to Form:

Benjamin Albrecht, City Law Director

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, the _____ of **The City of New Albany, Ohio**, an Ohio municipal corporation, on behalf of said municipal corporation. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, Scannell has caused this Amendment to be executed as of the date set forth below.

Scannell:

SCANNELL PROPERTIES #538 LLC,
an Indiana limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF _____
COUNTY OF _____, ss.

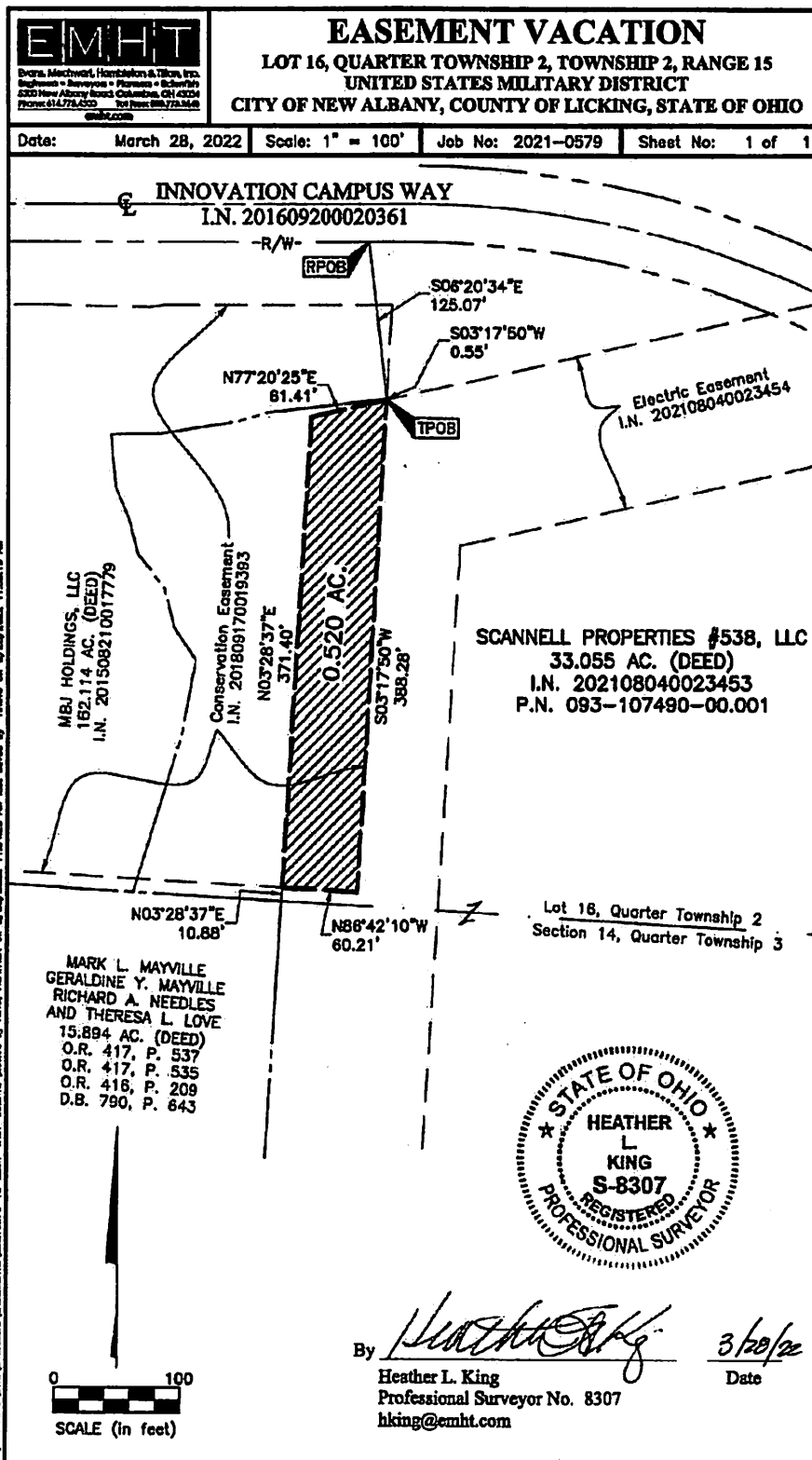
The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, the _____ of **SCANNELL PROPERTIES #538 LLC**, an Indiana limited liability company, on behalf of the limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

This instrument prepared by:
The New Albany Company LLC
8000 Walton Parkway, Suite 120
New Albany, Ohio 43054
(614) 939-8000

Attachment #1



**EASEMENT VACATION
0.520 ACRE**

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Lot 16, Quarter Township 2, Township 2, Range 15, United States Military District, being part of that Electric Easement of record in Instrument Number 202108040023454, being on, over, and across that 33.055 acre tract conveyed to Scannell Properties #538, LLC by deed of record in Instrument Number 202108040023453, (all references are to the records of the Recorder's Office, Licking County, Ohio) being more particularly described as follows:

Beginning, for reference, in the southerly right-of-way line of Innovation Campus Way, as dedicated in Instrument Number 201609200020361, at the common northerly corner of said 33.055 acre tract and the remainder of that 162.114 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 201508210017779;

Thence South 06° 20' 34" East, with the line common to said 33.055 acre tract and the remainder of said 162.114 acre tract, a distance of 125.07 feet to a point in the easterly line of that Conservation Easement of record in Instrument Number 201809170019393;

Thence South 03° 17' 50" West, across said 33.055 acre tract, with the easterly line of said Conservation Easement, a distance of 0.55 feet to the intersection of the northerly line of said Electric Easement with the easterly line of said Conservation Easement, the TRUE POINT OF BEGINNING;

Thence continuing across said 33.055 acre tract, the following courses and distances:

South 03° 17' 50" West, with the easterly line of said Conservation Easement, across said Electric Easement, a distance of 388.28 feet to a point;

North 86° 42' 10" West, with the southerly line of said Conservation Easement, across said Electric Easement, a distance of 60.21 feet to a point in the westerly line of said Electric Easement;

North 03° 28' 37" East, with the westerly line of said Electric Easement, across said Conservation Easement, a distance of 371.40 feet to a point; and

North 77° 20' 25" East, with a northerly line of said Electric Easement, across said Conservation Easement, a distance of 61.41 feet to the TRUE POINT OF BEGINNING, containing 0.520 acre, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.


Heather L. King
Professional Surveyor No. 8307

3/28/22

Date



ORDINANCE O-45-2022

APPROPRIATION AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NEW ALBANY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2022

WHEREAS, it is necessary to increase and/or transfer expenditure appropriations within multiple funds to ensure expenditures do not exceed appropriations;

WHEREAS, it is necessary to reduce certain expenditure appropriations in multiple funds at year end to ensure that funds are not over appropriated; and

WHEREAS, it is the city's intention to stay in compliance with all Ohio Revised Code budgetary requirements; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Council hereby authorizes the following amendments to appropriations for the year ended December 31, 2022:

Fund	Department	Category	Increase/ (Decrease)
101 - General	Police	Operating & Contractual Services	(330,000)
203 - Permissive Tax	N/A	Transfers & Other Financing Uses	100,000
221 - Economic Development - NAECA	N/A	Transfers & Other Financing Uses	(202,270)
222 - Economic Development - NACA	N/A	Transfers & Other Financing Uses	(447,988)
230 - Wentworth Crossing TIF	General Administration	Operating & Contractual Services	20,000
232 - Enclave TIF	General Administration	Operating & Contractual Services	4,000
233 - Saunton TIF	General Administration	Operating & Contractual Services	8,300
234 - Richmond Square TIF	General Administration	Operating & Contractual Services	12,600
235 - Tidewater TIF	General Administration	Operating & Contractual Services	24,600
236 - Ealy Crossing TIF	General Administration	Operating & Contractual Services	22,200
237 - Upper Clarenton TIF	General Administration	Operating & Contractual Services	37,300
239 - Straits Farm TIF	General Administration	Operating & Contractual Services	17,924
240 - Oxford TIF	General Administration	Operating & Contractual Services	(6,025)
240 - Oxford TIF	N/A	Transfers & Other Financing Uses	(3,370)
241 - Schleppi Residential TIF	General Administration	Operating & Contractual Services	(2,485)
241 - Schleppi Residential TIF	N/A	Transfers & Other Financing Uses	(63,904)
250 - Blacklick TIF	General Administration	Operating & Contractual Services	106,725
250 - Blacklick TIF	N/A	Transfers & Other Financing Uses	469,278

252 - Village Center TIF	General Administration	Operating & Contractual Services	92,894
254 - Oak Grove II TIF	General Administration	Operating & Contractual Services	5,100
254 - Oak Grove II TIF	N/A	Capital	(6,000,000)
255 - Schleppi Commercial TIF	General Administration	Operating & Contractual Services	15,001
258 - Windsor TIF	N/A	Capital	5,000,000
258 - Windsor TIF	N/A	Capital	(2,500,000)
259 - Village Center II TIF	General Administration	Operating & Contractual Services	221,902
281 - Healthy New Albany	Land & Building Maintenance	Operating & Contractual Services	41,000
281 - Healthy New Albany	General Administration	Operating & Contractual Services	1,000
299 - Severance Liability Fund	General Administration	Personal Services	50,000
301 - Debt Service	N/A	Debt Service	(857,010)
401 - Capital Improvement	N/A	Capital	(5,572,000)
417 - Oak Grove II Infrastructure Fund	Finance	Operating & Contractual Services	10,000
422 - Economic Development Capital	N/A	Capital	7,700,000
422 - Economic Development Capital	N/A	Capital	10,400,000
Total Appropriation Amendments			\$ 8,374,772

Section 2. Council hereby authorizes the finance director to make transfers as needed between appropriation line items of funds in order to bring expenditures in line with appropriation line items and restore appropriations reduced within this ordinance if necessary to bring expenditures in line with appropriation line items.

Section 3. Council hereby authorizes the finance director to increase appropriations as needed up to \$100,000 in order to accommodate unforeseen expenditures and ensure amounts are within appropriations.

Section 4. Council hereby authorizes the finance director to adjust appropriations within the following funds in accordance with actual receipts received in 2022 to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2022:

Fund
223 - Oak Grove Economic Opportunity Zone
224 - Central College Economic Opportunity Zone
225 - Oak Grove II Economic Opportunity Zone
226 - Blacklick Economic Opportunity Zone
239 - Straits Farm TIF
240 - Oxford TIF
241 - Schleppi Residential TIF
259 - Village Center II TIF
280 - Hotel Excise Tax

Section 5. Council hereby authorizes the finance director to reduce appropriations within any fund to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2022 so long as compliance with ORC 5705.40 and ORC 5705.41 is maintained.

Section 6. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that

all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 7. Pursuant to Article VI, Section 6.07(A) of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin Albrecht
Law Director

Legislation dates:

Prepared: 11/28/2022

Introduced: 12/06/2022

Revised:

Adopted:

Effective:



RESOLUTION R-39-2022

A RESOLUTION DECLARING INTENT TO APPROPRIATE PROPERTY AND EASEMENTS FOR THE PUBLIC PURPOSE OF MAKING, REPAIRING, IMPROVING, OR CONSTRUCTING MINK STREET AS EXTENDED TO JOIN WITH INTERSECTING ROADS WHICH ARE AND SHALL BE OPEN TO THE PUBLIC WITHOUT CHARGE

WHEREAS, the City of New Albany has the authority and power under the constitution, statutes, and laws of the State of Ohio, and the additional authority of the city under its charter to construct and repair roads and make road and street improvements, acquire necessary real property and interests therein, including temporary and permanent right-of-way and appurtenances thereto, and enter into agreements with other political subdivisions for the exercise of any and all powers, performance of any function or rendering of any service necessary to improve, construct, repair and maintain street and road improvements and their appurtenances; and

WHEREAS, Intel Corporation is in the process of constructing a \$20 billion+ chip manufacturing project in New Albany on property between Clover Valley Road NW on the west, Mink Street NW on the east, and abutting and south of Green Chapel Road; and

WHEREAS, the city has determined that improving, making and repairing portions of Mink Street as extended at the intersections and certain access points to join with improved and existing intersecting roads, all of which are and shall be open to the public, without charge, (the "Mink Street Project") is necessary and essential and will contribute to the promotion of the health, safety, public convenience and welfare of the people and City of New Albany and the traveling public.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Council considers it necessary and declares its intention to appropriate, for the public purpose of improving, making and repairing roads, which shall be open to the public, without charge, the fee simple interests and permanent and temporary easements in and to the real property and interests therein identified and described in the attached Exhibit A for the construction, repair and improvement of Mink Street as extended at the intersections and certain access points to join with improved and existing roadways.

Section 2. The city manager is authorized and directed to cause written notice of the passage of this Resolutions to be given to the owner(s) of, person(s) in possession of, or person having and interest of record in the property sought to be appropriated, or to the authorized agent of the owner or such other persons. The notice shall be served and returned according to law.

Section 3. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. Pursuant to Article VI, Section 6.07(A) of the charter of the City of New Albany, and Ohio Revised Code Section 719.05, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/17/2022
Introduced: 12/06/2022
Revised:
Adopted:
Effective:

RESOLUTION R-39-2022

EXHIBIT A

This resolution of intent to appropriate includes the acquisition of real property and property interests from multiple property owners and properties. Each property owner, legal descriptions and depictions of the owner's real property intended to be appropriated and the owner's interest therein intended to be appropriated is identified, described, and depicted in the detailed Exhibit A which, due to its volume is on file and available from the City of New Albany Clerk's office and is not attached hereto in its entirety.



RESOLUTION R-40-2022

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A COMMUNITY REINVESTMENT AREA AGREEMENT AND A DEVELOPMENT AGREEMENT WITH COI NEW ALBANY TECH PARK LAND, LLC AND MAKING RELATED AUTHORIZATIONS

WHEREAS, the Council for the City of New Albany, Ohio (the "City") by its Resolution No. R-17-09 adopted March 3, 2009 (the "Original CRA Legislation"), created the Oak Grove II Community Reinvestment Area (the "Original Area"), and by its Resolutions No. R-41-10 adopted July 6, 2010, No. R-72-10 adopted November 16, 2010, No. R-53-2012 adopted October 2, 2012, No. R-26-2013 adopted August 6, 2013, No. R-72-2014 adopted September 16, 2014, and R-49-2015 adopted November 17, 2015, No. R-45-2016 adopted November 1, 2016, No. R-02-17 adopted February 7, 2017, No. R-17-18 adopted July 17, 2018, No. R-41-18 adopted November 6, 2018, No. R-05-2019 adopted February 19, 2019, No. R-37-2019 adopted August 6, 2019, No. R-15-2021 adopted April 6, 2021, No. R-46-21 adopted September 21, 2021, No. R-09-2022 adopted February 1, 2022, and No. R-18-2022 adopted May 3, 2022 (together the "CRA Expansion Legislation" and collectively with the Original CRA Legislation the "CRA Legislation"), amended the designation of the Original Area to include the area known as the "Johnstown Monroe Area", "Johnstown Monroe Annex", "Licking Heights Annex", "Cobbs Road Annex", "Harrison Road Area", "Innovation Campus Area", "Innovation Campus Way Extension", "Beech Road South", "Babbitt Road", "Central College Road Area", "Jug Street North", "Jug Street South", "Innovation District East", "Innovation District East Expansion", and "Mink Street and Green Chapel Road Expansion", respectively, and certain other parcels within the City (collectively, with the Original Area, the "Area"), and designated that entire Area the Oak Grove II Community Reinvestment Area; and

WHEREAS, the Director of Development of the State of Ohio has determined that the Area contains the characteristics set forth in R.C. Section 3735.66 and confirmed the Area as a "Community Reinvestment Area"; and

WHEREAS, COI New Albany Tech Park Land, LLC (the "Company") has submitted to the City the application attached to the Community Reinvestment Area Agreement (the "CRA Agreement") referred to in Section 1 of this Resolution (the "Agreement Application") and has remitted with the Agreement Application the required State application fee to be forwarded to the Ohio Department of Development with a copy of the final, executed CRA Agreement; and

WHEREAS, the City's Housing Officer designated under Ohio Revised Code Section 3735.65 has reviewed the Application and has recommended the same to this Council on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities in the CRA and to improve the economic climate of the City; and

WHEREAS, the City, having appropriate authority, desires to provide certain property tax incentives to encourage the development of the Project (as defined in the CRA Agreement and the Development Agreement, both referenced herein); and

WHEREAS, the Boards of Education of both the Johnstown-Monroe Local School District and the Career and Technology Education Centers of Licking County have each waived their rights to receive notice under Section 5709.83 of the Revised Code in accordance with their respective compensation agreements entered into with the city of New Albany; and

WHEREAS, to further support and facilitate the Project the City desires to enter into a Development Agreement with the Company addressing the provision of water and sewer services to the Project and other public improvements.

NOW, THEREFORE, BE IT RESOLVED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Community Reinvestment Area Agreement. The CRA Agreement for the Project, by and between the City and the Company, in the form presently on file with the Clerk of the Council which provides for a 100% CRA exemption for 15-years for each building in the proposed Project, is hereby approved and authorized with any changes therein and amendments thereto not inconsistent with this Resolution and not substantially adverse to this City which shall be approved by the city manager. The city manager, for and in the name of this City, is hereby authorized to execute that CRA Agreement and approve the character of any changes or amendments thereto as not inconsistent with this Resolution and not substantially adverse to this City that are approved by the city manager; which approval shall be conclusively evidenced by the city manager's execution of that CRA Agreement.

Section 2. Development Agreement. The Development Agreement in support of the Project, by and between the City and the Company, in the form presently on file with the Clerk of the Council, is hereby approved and authorized with any changes therein and amendments thereto not inconsistent with this Resolution and not substantially adverse to this City and which shall be approved by the city manager. The city manager, for and in the name of this City, is hereby authorized to execute that Development Agreement and approve the character of any changes and any amendments thereto as not inconsistent with this Resolution and not substantially adverse to the City, which approval shall be conclusively evidenced by the city manager's execution of that Development Agreement.

Section 3. Further Authorizations. This Council hereby further authorizes and directs the city manager, the director of law, the director of finance, the community development director, the clerk of council, or any such other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions (including by not limited to making application and preliminary arrangements for financing that is then subject to formal approval by this Council) as may be appropriate to implement this Resolution and the transactions referenced or contemplated in this Resolution, the Community Reinvestment Area Agreement, and the Development Agreement authorized and approved in this Resolution.

Section 4. Compliance with the Law. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. Effective Date. Pursuant to Article 6.07(A) of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/23/2022

Introduced: 12/06/2022

Revised:

Adopted:

Effective: