

Council Variance Application

DEPARTMENT OF BUILDING
AND ZONING SERVICES

111 N Front Street, Columbus, Ohio 43215
Phone: 614-645-4522 • ZoningInfo@columbus.gov • www.columbus.gov/bzs

OFFICE USE ONLY

Application Number: CV24-171 Date Received: 12/12/2024
Application Accepted by: JR Fee: \$2000
Assigned Planner: Joe Rose; 614-645-3526; jmrose@columbus.gov

LOCATION AND ZONING REQUEST:

Existing Address or Zoning Number: 323 Stewart Ave, Columbus, OH Zip: 43206

Is this application being annexed into the City of Columbus? YES NO (select one)
If the site is currently pending annexation, the Applicant must show documentation of County Commissioner's adoption of the annexation petition.

Parcel Number for Address or Zoning Number: 010-208793-00

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

Current Zoning District(s): R-2F Acreage: 0.122

Neighborhood Group: Columbus South Side Area Commission

Proposed Use or reason for request: Parcel Split

(Elaborate in Statement of Hardship)

APPLICANT:

Applicant Name: Daley Stewart LLC, Mark Atkins, SM Phone Number: 6144543579 Ext.: _____

Address: 765 Parsons Ave City/State: Columbus, OH Zip: 43206

Email Address: mark@reafco.com

PROPERTY OWNER(S): Check here if listing additional property owners on a separate page

Name: Daley Stewart LLC, Mark Atkins, SM Phone Number: 6144543579 Ext.: _____

Address: 765 Parsons Ave City/State: Columbus, OH Zip: 43206

Email Address: mark@reafco.com

ATTORNEY / AGENT: (Check one if applicable) Attorney Agent

Name: Michael R. Neiman Phone Number: 6144543579 Ext.: _____

Address: 580 S. High Street, Suite 120 City/State: Columbus, OH Zip: 43215

Email Address: mike@neiman-law.com

SIGNATURES:

APPLICANT SIGNATURE Markus Atkins

PROPERTY OWNER SIGNATURE Markus Atkins

ATTORNEY / AGENT SIGNATURE M-R

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

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STATEMENT OF HARDSHIP

Columbus City Code Section 3307.10 - Variances by City Council.

City council may grant the following zoning variances:

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

Before authorizing any variance from the Zoning Code in a specific case, city council shall first determine that such variance will not impair an adequate supply of light and air to the adjacent property, unreasonably increase the congestion of public streets, increase the danger of fires, endanger the public safety, unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

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

The following factors shall be used in determining whether the applicant has encountered practical difficulties in the use of the property. Respond to the following statements:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance.

Yes No

Property in question is a corner parcel with two buildings located on the lot. There is still use without the requested variance, but the beneficial use is greater with the variance.

2. Whether the variance is substantial.

Yes No

Variance does not change nature of the use of the property. Variance request is for a lot-split.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

Yes No

No change to character of neighborhood.

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4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse service).
 Yes No

Variance would have no effect on delivery of governmental service.

5. Whether the property owner purchased the property with knowledge of the zoning restriction.
 Yes No

Property owner was aware of parcel zoning when property owner purchased the lot.

6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
 Yes No

Property owner wishes to split the lots to allow buildings and property to be owned separately.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
 Yes No

Spirit and intent behind zoning requirement would be observed, substantial justice would occur by granting the variance.

List all sections of Code to be varied and explain your reasoning as to why this request should be granted.

NOTE: It is the applicant's responsibility to identify all variances required for the project. If any necessary variances are not included, a new application (and applicable fees) will be required.

I have read the foregoing and believe my application for relief from the requirements of the Zoning Code contains the necessary hardship, will not adversely affect surrounding property owners, and will comply with the variance(s) requested as detailed below (use separate page if needed or desired):

Statement of Hardship attached to this application, which identifies all variances required for this Property.

Signature of Applicant Jan Driel, agent Date 12/11

STATEMENT OF HARDSHIP
323 Stewart Ave, Columbus, Ohio 43215

1. Parcel A (the 3-unit)

- a. **3332.037 - R-2F Residential District:** The applicant requests that a use variance be granted to confirm the existing 3-unit within an R2F residential district. The 3-unit is an existing structure that requires this variance to conform to the zoning code. No material changes are being made to the 3-unit, and this request is being made in connection with a lot split. This requested variance will not have a negative impact on the property or surrounding area as the 3-unit will continue to operate in the same manner as it has done previously.
- b. **3332.05 – Area District Lot Width Requirements:** The applicant requests that a variance be granted to allow for reduced development standards regarding the lot width requirements. The lot width requirement for Parcel A under the Code is 50 feet. The lot width of Parcel A following the lot split is 31.25'. The width is not changing with the lot split. Only the length is changing. The respective lengths are 60.21' for Parcel A and 110.04' for Parcel B. The applicant cannot meet the required 50 feet lot width for Parcel A as the total lot width of the current lot to be split is only 31.25 feet. This requested variance will not have a negative impact on the property or surrounding area as the 3-unit will continue to operate in the same manner as it has done previously.
- c. **3332.14 – R-2F Area District Requirements:** The applicant requests that a variance be granted to allow for reduced development standards regarding the required area district requirements. Under the Code, Parcel A is required to have no less than 6,000 square feet of area. The proposed lot split will result in Parcel A having an area of 1,881.457 square feet. The applicant cannot meet the requirement of 6,000 square feet for this lot split as that would require taking additional land away from Parcel B, which is also below the minimum requirements in regard to area district requirements. This requested variance will not have a negative impact on the property or surrounding area as the 3-unit will continue to operate in the same manner as it has done previously.
- d. **3332.18(D) – Basis of Computing Area:** The applicant has determined that a variance under Section 3332.18(D) is required as the dwelling occupies approximately 70.03% of the lot area for Parcel A, which is above the allowable threshold of 50%.
- e. **3332.26(F) – Minimum Side Yard Permitted:** The applicant requests that a variance be granted to allow for reduced development standards regarding the requirement that a three story structure have a minimum side yard no less than 1/6th of the height of the building. The 3-unit is an existing structure that is currently 32 feet tall, requiring a minimum side yard of 5.33 feet. The Applicant contends a variance is not required. These are both existing buildings and this requested

variance will not have a negative impact on the property or surrounding area as the 3-unit will continue to operate in the same manner as it has done previously.

- f. **3332.27 – Rear Yard:** The applicant requests that a variance be granted to permit the rear yard of Parcel A to be 14.39%, which is less than 25 percent of the total lot area as required under the Code. The rear yard for Parcel A as existing is currently 4.98% of the total lot area and cannot be increased without demolishing part of the 3-unit. No extension of the 3-unit is being made to reduce the rear yard. This requested variance will not have a negative impact on the property or surrounding area as the 3-unit will continue to operate in the same manner as it has done previously.
- g. **3321.05(B)(2) Vision Triangle.** The applicant seeks a variance from the clear vision triangle at the northeast corner of Parcel A.
- h. **3312.49 – Parking:** The applicant requests that a variance be granted to allow for reduced development standards regarding the amount of required vehicle parking. The code requires that Parcel A, as a 3-unit, provide 1.5 parking spaces for vehicles per unit.
 - i. **Vehicle:** Currently, there are 0 parking spaces in the rear of Parcel A with no bicycle parking. The applicant is unable to add additional parking as there is no room for additional parking spots located on the Parcel. The 3-unit's use is not being expanded, so it will continue to operate in the same manner in which it is currently operating in the event the variance is granted. As such, this requested variance will not have a negative impact on the property or surrounding area as the 3-unit will continue to operate in the same manner as it has done previously.

2. Parcel B (the 2-unit)

- a. **3332.037 - R-2F Residential District:** The applicant requests that a use variance be granted to confirm the existing 2-unit within an R2F residential district. The 3-unit is an existing structure that requires this variance to conform to the zoning code. No material changes are being made to the 2-unit, and this request is being made in connection with a lot split. This requested variance will not have a negative impact on the property or surrounding area as the 2-unit will continue to operate in the same manner as it has done previously.
- b. **3332.05 – Area District Lot Width Requirements:** The applicant requests that a variance be granted to allow for reduced development standards regarding the lot width requirements. The lot width requirement for Parcel B under the Code is 50 feet. The lot width of Parcel B following the lot split is 31.27'. The width is not changing with the lot split. Only the length is changing. The respective lengths are 60.21' for Parcel A and 110.04' for Parcel B. The applicant cannot meet the required 50 feet lot width for Parcel A as the total lot width of the current lot to be split is only 31.27 feet. This requested variance will not have a negative impact on

the property or surrounding area as the 3-unit will continue to operate in the same manner as it has done previously.

- c. **3332.14 – R-2F Area District Requirements:** The applicant requests that a variance be granted to allow for reduced development standards regarding the required area district requirements. Under the Code, Parcel B is required to have no less than 6,000 square feet of area (3,000 square feet per dwelling unit). The proposed lot split will result in Parcel A having an area of 3,438.554 square feet (per 3332.18(C) a depth of only three times the width may apply). The applicant cannot meet the requirement of 6,000 square feet for this lot split as that would require taking additional land away from Parcel A, which is also below the minimum requirements in regard to area district requirements. This requested variance will not have a negative impact on the property or surrounding area as the duplex will continue to operate in the same manner as it has done previously.
- d. **3332.26(C) – Minimum Side Yard Permitted:** The applicant requests that a variance be granted to allow for reduced development standards regarding the requirement that the side yard be no less than 5 feet. The applicant requests a variance to allow for a side yard of 2.6 feet to the North and 3.0' to the South (note: that the side yard to the North is the currently existing lot line). The duplex is an existing structure with current side yard's that cannot be moved. The applicant requests this variance because the building on Parcel B cannot be moved to meet this requirement. This is an existing building and this requested variance will not have a negative impact on the property or surrounding area as the duplex will continue to operate in the same manner as it has done previously.
- e. **3312.49 – Parking:** The applicant requests that a variance be granted to allow for reduced development standards regarding the amount of required vehicle parking, from 4 required parking spaces to 0 parking spaces. The code requires that Parcel B, as an 2-unit, provide 2 parking spaces for vehicles per unit.
 - i. **Vehicle:** Currently, there are 0 parking spaces in the rear of Parcel B. The applicant is unable to add additional parking as there is no room for additional parking spots located on the Parcel. The duplex's use is not being expanded, so it will continue to operate in the same manner in which it is currently operating in the event the variance is granted. As such, this requested variance will not have a negative impact on the property or surrounding area as the duplex will continue to operate in the same manner as it has done previously.

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AFFIDAVIT

STATE OF OHIO
COUNTY OF FRANKLIN

Being first duly cautioned and sworn (1) NAME Mark Atkins
of (1) MAILING ADDRESS 765 Parsons Ave, Columbus, OH 43206

deposes and states that they are the applicant, agent, or duly authorized attorney for same and the following is a list of the name(s) and mailing address(es) of all the owners of record of the property located at

(2) per PROPERTY ADDRESS or ZONING NUMBER 323 Stewart Ave., Columbus, OH

for which application for a rezoning, variance, special permit or graphics plan was filed with the Department of Building and Zoning Services

SUBJECT PROPERTY OWNER'S NAME
AND MAILING ADDRESS

(3) Daley Stewart LLC
765 Parsons Ave
Columbus, OH 43206

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

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

Mark Atkins
6144543579

NEIGHBORHOOD GROUP
ZONING CHAIR OR CONTACT PERSON
AND EMAIL ADDRESS

(4) Columbus South Side Area Commission
Katherine Cull
6146455220

and that the attached document (5) is a list of the names and complete mailing addresses, including zip codes, as shown on the County Auditor's Current Tax List or the County Treasurer's Mailing List, of all the owners of record of property within 125 feet of the exterior boundaries of the property for which the application was filed, and all of the owners of any property within 125 feet of the applicant's or owner's property in the event the applicant or the property owner owns the property contiguous to the subject property.

SIGNATURE OF AFFIANT Mark Atkins

Sworn to before me and signed in my presence this 11th day of December, in the year 2024

[Signature]

Notary Seal Here

(6) SIGNATURE OF NOTARY PUBLIC

N/A
My Commission Expires

MICHAEL R. NEIMAN
NOTARY PUBLIC, STATE OF OHIO
My Commission Does Not Expire
Section 147.03 O.R.C.

This Affidavit expires six (6) months after date of notarization.

APPLICANT

PROPERTY OWNER

ATTORNEY

Daley Stewart LLC
765 Parsons Ave
Columbus, OH 43206

Daley Stewart LLC
765 Parsons Ave
Columbus, OH 43206

Michael R. Neiman
580 S. High Street, Suite 120
Columbus, OH 43215

AREA COMMISSION

CV24-171

Columbus South Side Area Commission

Zoning Chair: Kathy Green
458 E. Whittier Street
Columbus, OH 43206

**SURROUNDING PROPERTY
OWNERS**

Christine M. Plank
307 Stewart Ave,
Columbus, OH 43206

**Mark H. Greiner; and
Cynthia A. Greiner**
326 Deshler Ave.,
Columbus, OH 43206

Mark Aaron Simpson
315 Stewart Ave,
Columbus, OH 43206

**Robert Kastan; and
Lori Kastan**
319 Stewart Ave.,
Columbus, OH 43206

Judith Politi
1077-1079 S. Bruck St,
Columbus, OH 43206

**Teresa S. Jump; and
Jeffrey S. Jump**
308-310 E. Deshler Ave.,
Columbus, OH 43206

**Joshua Leegaard; and
Shannon Mitchell**
337 E. Stewart Ave.,
Columbus, OH 43206

Jane H. Sanders
304 E. Deshler Ave.,
Columbus, OH 43206

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PROJECT DISCLOSURE STATEMENT

APPLICATION #: CV24-171

Parties having a 5% or more interest in the project that is the subject of this application.

THIS PAGE MUST BE FILLED OUT COMPLETELY AND NOTARIZED. Do not indicate 'NONE' in the space provided.

STATE OF OHIO
COUNTY OF FRANKLIN

Being first duly cautioned and sworn (NAME) Mark Atkins
of (COMPLETE ADDRESS) 765 Parsons Ave, Columbus, OH 43206
deposes and states that they are the APPLICANT, AGENT, OR DULY AUTHORIZED ATTORNEY FOR SAME and the following is a list of all persons, other partnerships, corporations or entities having a 5% or more interest in the project which is the subject of this application in the following format:

For Example: Name of Business or individual
 Contact name and number
 Business or individual's address; City, State, Zip Code
 Number of Columbus-based employees

| | |
|--|-----------|
| <p>1. Daley Stewart LLC Mark Atkins, 614-454-3579 765 Parsons Ave Columbus, OH 43206 1 Columbus Based Employee</p> | <p>2.</p> |
| <p>3.</p> | <p>4.</p> |

Check here if listing additional parties on a separate page.

SIGNATURE OF AFFIANT Mark Atkins

Sworn to before me and signed in my presence this 11th day of December, in the year 2024

Michael R. Neiman
SIGNATURE OF NOTARY PUBLIC

N/A
My Commission Expires

Notary Seal Here

MICHAEL R. NEIMAN
NOTARY PUBLIC, STATE OF OHIO
My Commission Does Not Expire
Section 147.03 O.R.C.

This Project Disclosure Statement expires six (6) months after date of notarization.

Legal Description

Situated in the City of Columbus, County of Franklin, and State of Ohio:

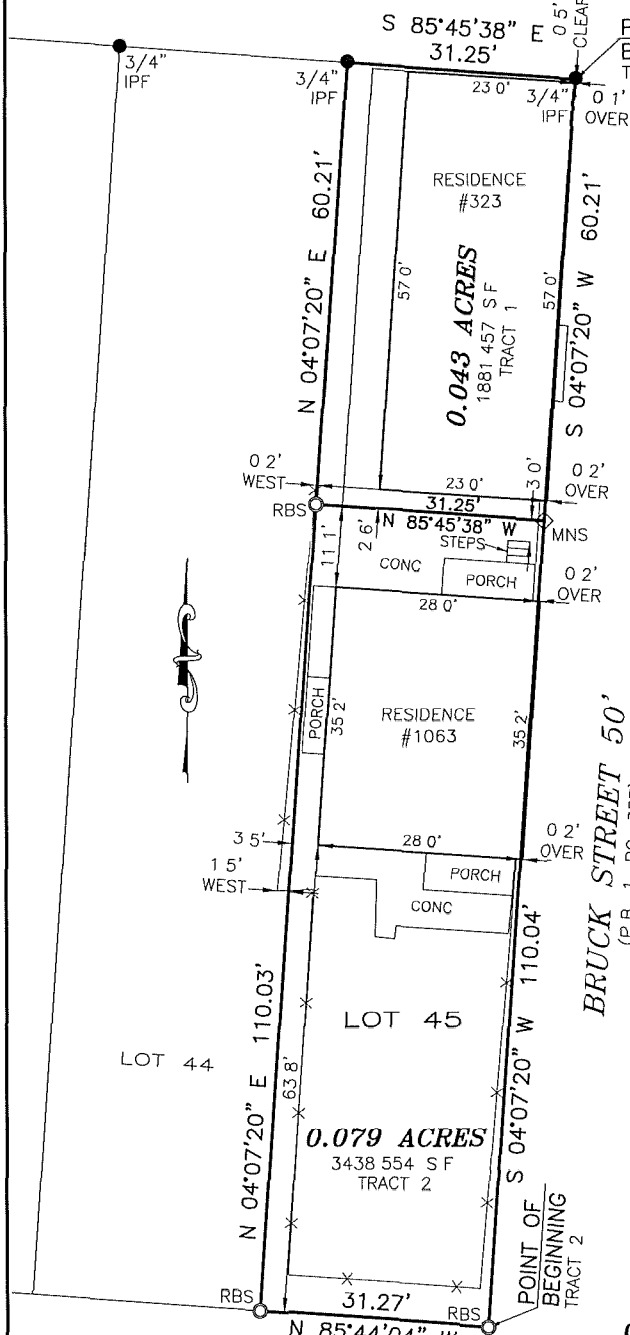
Being Lot Number 45 of CHRISTIAN AND LOUIS SIEBERT'S CITY PARK ADDITION of Out-Lots Nos. 2, 3, 12, 13, 14 and 15 and In-Lots Nos. 114 and 115 of Deshlers and Thurman's Addition of In-lots and Out-lots of Columbus, Ohio being part of Half-Section 29, Township 5, Range 22, Refugee Lands, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book Four (4), page 22, Recorder's Office, Franklin County, Ohio.

Together with an easement in, upon, across and through a strip of land five (5) feet in width and one hundred two and 30/100ths feet (102.30) in length for the purpose of continuing, maintaining and replacement of the porch, eave overhang, storm drain tile, ingress and egress, for so long as the present residential structure shall exist on Lot 45. Said easement being more particularly described as follows: Beginning at the southwest corner of Lot 44, (the Southwest corner of Lot 45), thence westerly along the south property line of Lot 44 a distance of five (5) feet to a point, thence northerly and parallel with the east property line of Lot 44 a distance of one hundred two and 30/100ths (102.30) to a point, thence easterly and parallel with the south property Line of Lot 44 to a point in the east property line of Lot 44, thence southerly along the east property line of Lot 44 (west property line of Lot 45) to the place of beginning.

Parcel No.: 010-208793-00

Prior Instrument Reference: 202307130069501

EAST STEWART AVENUE 60'
(F.K.A EAST GERMANIA STREET, P B 1, PG 357)



POINT OF BEGINNING TRACT 1

BASIS OF BEARINGS:

THE BEARINGS ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83 (CORS) SAID BEARINGS ORIGINATED FROM A FIELD TRAVERSE WHICH WAS REFERENCED TO SAID COORDINATE SYSTEM BY GPS OBSERVATIONS AND OBSERVATIONS OF SELECTED STATIONS IN THE OHIO DEPARTMENT OF TRANSPORTATION REAL-TIME-NETWORK THE PORTION OF THE SOUTHERLY LINE OF STEWART AVENUE, HAVING A BEARING OF SOUTH 85°45'38" EAST AND MONUMENTED AS SHOWN HEREON, IS DESIGNATED THE "BASIS OF BEARING" FOR THIS PLAT

FLOOD NOTE:

THE SUBJECT PROPERTY LIES IN ZONE X (AREA DETERMINED TO BE OUTSIDE THE 500 YEAR FLOODPLAIN), AS DETERMINED BY GRAPHIC INTERPOLATION FROM THE FLOOD INSURANCE RATE MAP NUMBER 39049C0328K, WITH AN EFFECTIVE DATE OF 6/17/2008, PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY

ENCROACHMENT NOTE:

RESIDENCE #323 AND #1063 ENCR OACH INTO TO RIGHT-OF-WAY OF BRUCK STREET, AS SHOWN HEREON

NOTE:

THIS SURVEY DOES NOT REPRESENT ANY EASEMENTS THAT MAY AFFECT THIS TRACT AND DOES NOT REPRESENT ANY UNDERGROUND UTILITIES THAT MAY AFFECT THIS TRACT ALL REBAR SET ARE 5/8" DIA 30" LONG, W/ RED PLASTIC CAP STAMPED "LANDMARK SURVEY"

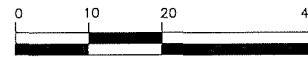
DEED REFERENCE:

DAILY STEWART LLC
I.N. 202307130069501
P.I.D. 010-208793

LEGEND

- IPF IRON PIN FOUND
- RBF REBAR FOUND
- RBS REBAR SET
- ◇ MNS MAG NAIL SET
- X— EXISTING FENCE LINE

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft

**SURVEY OF
0.043 ACRES & 0.079 ACRES**

LYING IN
LOT 45
CITY PARK ADDITION
PLAT BOOK 4, PAGE 288
HALF SECTION 29, TOWNSHIP 22, RANGE 22
REFUGEE LANDS
PLAT BOOK 4, PAGE 288
CITY OF COLUMBUS, COUNTY OF FRANKLIN
STATE OF OHIO

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED FROM AN ON THE GROUND SURVEY IN NOVEMBER OF 2024 MADE UNDER MY SUPERVISION AND THAT IT AND THE INFORMATION, COURSES AND DISTANCES AS SHOWN ARE CORRECT TO THE BEST OF MY KNOWLEDGE

PRELIMINARY

DRAWN BY DJH

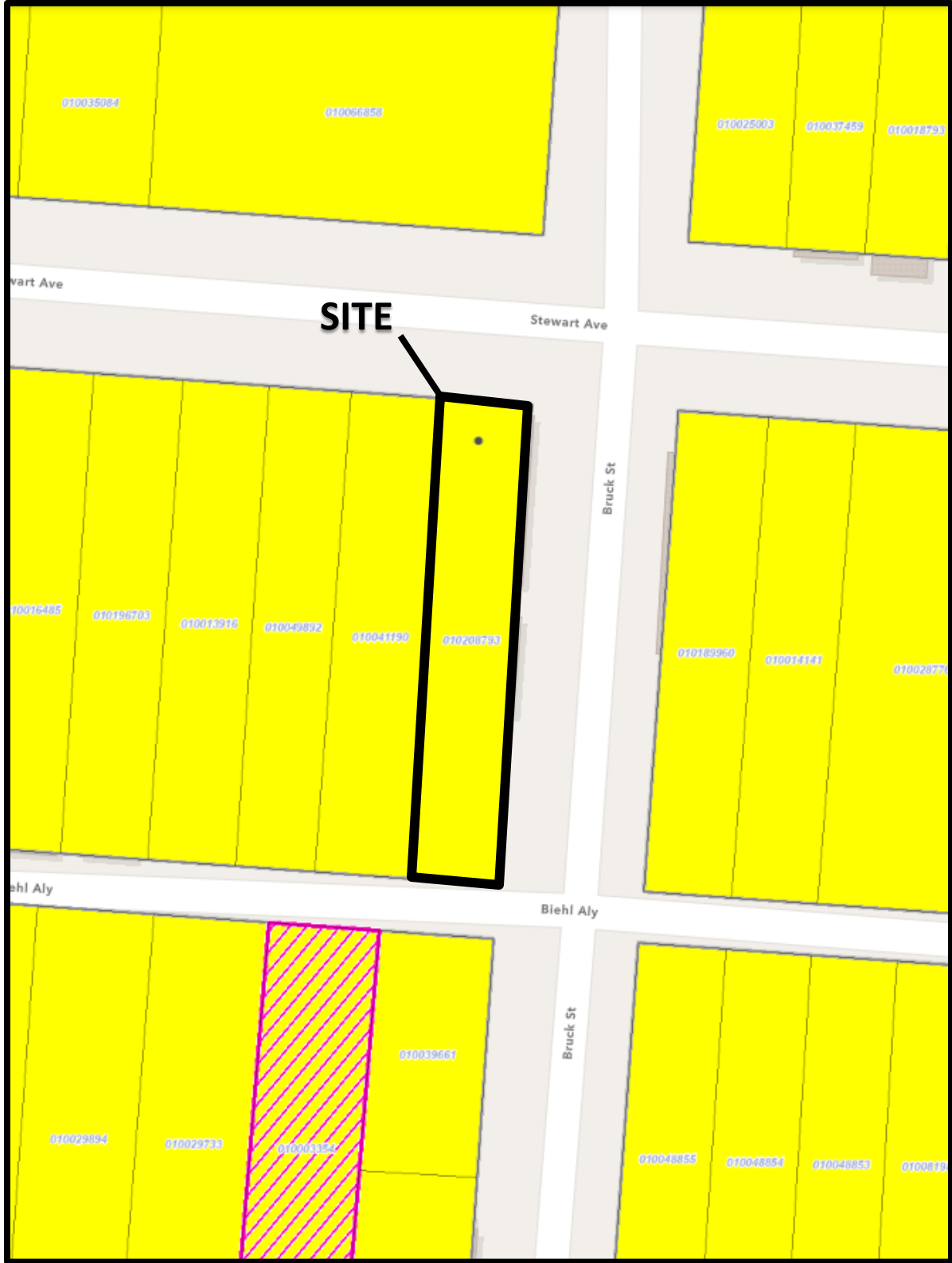
SCOTT D GRUNDEI, P S
REGISTERED SURVEYOR NO 8047

DATE

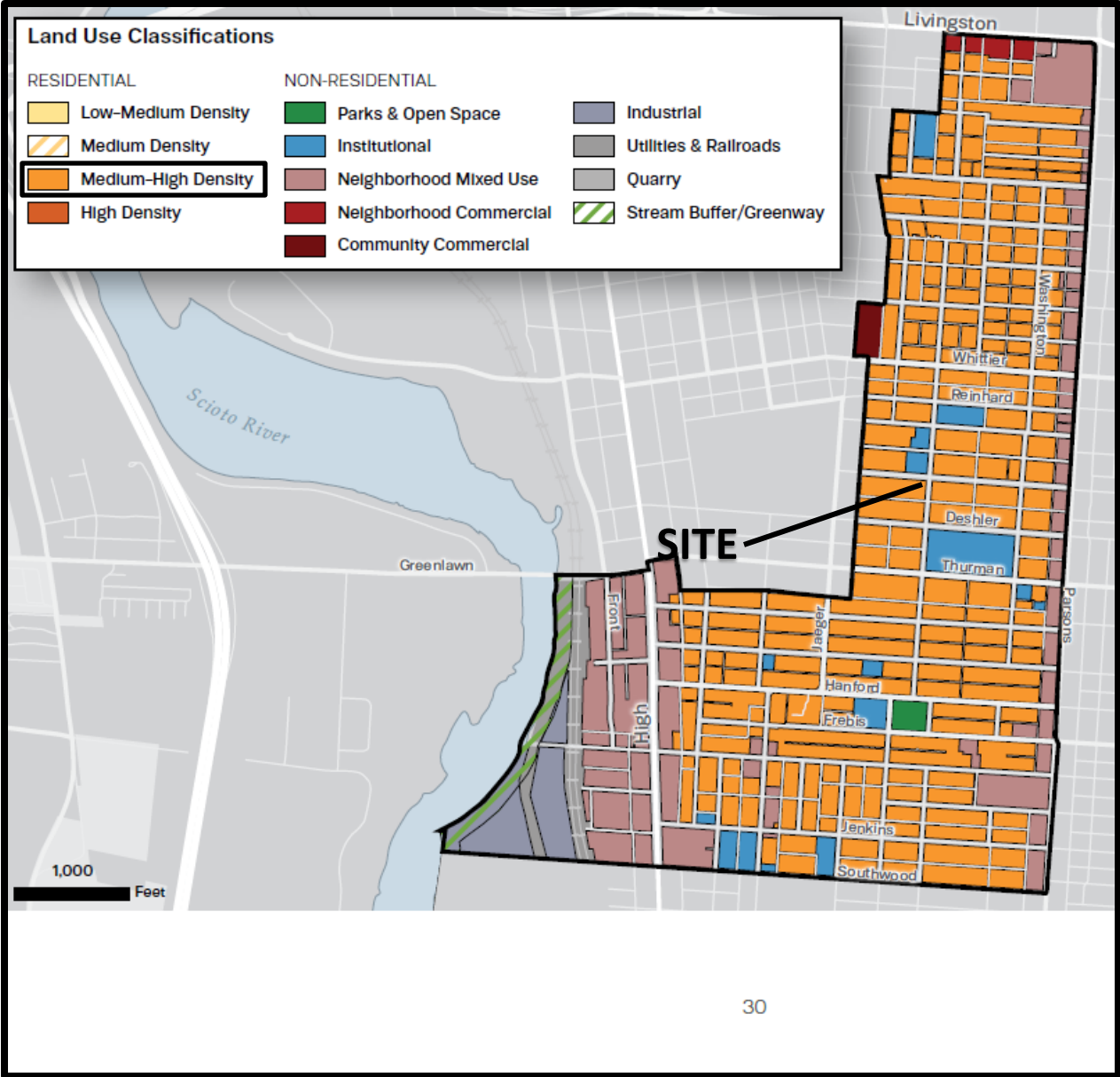


690 LAKEVIEW PLAZA BLVD SUITE A
WORTHINGTON OH 43085
PHONE (614) 485-9000
WWW.LANDMARKSURVEY.COM

DATE 12/3/24 FILE NO SLF24-JB184-SPL



CV24-171
323 Stewart Ave.
Approximately 0.12 acres



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