

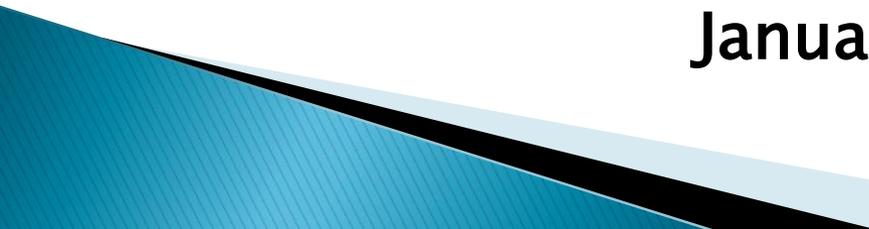
Appeal of Board of Zoning Appeals decision to approve a proposed multi-family residential development at 4900 Hunt Road (Plan 3)

**Tim Lomison
Karen Lomison
9490 Wynnecrest Drive**

**Jean Staubach
9495 Wynnecrest Drive**

Representing Barwyn Acres Residents

January 10, 2013



Topics of Discussion

Intro

Code Conflicts

- 1159 D-1 Downtown Commercial District
- 1982 Master Plan
- 2005 Concept Redevelopment Plan
- 1133 Board of Zoning Appeals
- 2003 Master Plan

Additional Site Logistics



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Additional Site Logistics



1133.05 ORDERS.

(a) In exercising the above mentioned powers, the Board of Zoning Appeals may, **in conformity with the provisions of the Zoning Code,** reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals, the Board shall, before making any finding in a specific case, first determine that the proposed change will not constitute change in the Zoning District Map and will not impair an adequate supply of light and air to adjacent property, nor increase the congestion in public streets, nor increase the public danger of fire and safety, nor materially diminish or impair established property values within the surrounding area, nor in any other respect impair the public health, safety, comfort, morals, and welfare of the City, nor go against the intent of the Master Plan of the City. Every change granted or denied by the Board shall be accompanied by a written finding of fact, specifying the reason for granting or denying the variation.

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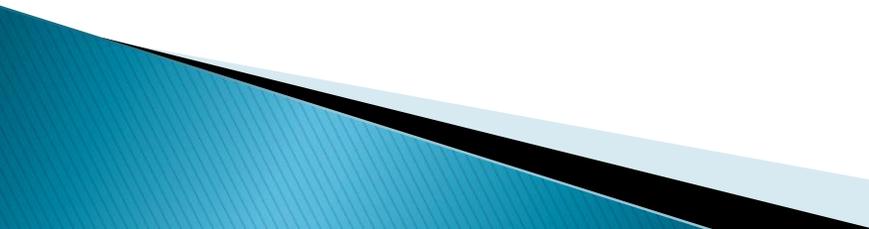
Code Conflicts

- **1159 D-1 Downtown Commercial District**
- 1982 Master Plan
- 2005 Concept Redevelopment Plan
- 1133 Board of Zoning Appeals
- 2003 Master Plan

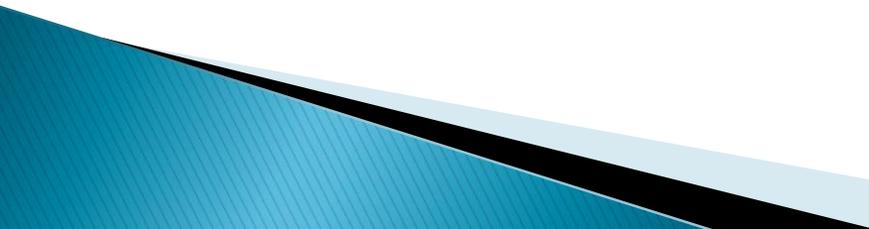
Additional Site Logistics



1159.01 Purpose

- The purpose of the D-1 Downtown Commercial District is to:
- (a) Create a central town center core for the City of Blue Ash;
 - (b) Meet the need for professional services, specialty shops, residential, public, and civic uses;
 - (c) Encourage the maintenance and redevelopment of properties within the **vision established in the Master Plan for the Development of Downtown Blue Ash (1982) and supplemented by the Blue Ash Town Center – Concept Redevelopment Plan (2006);**
 - (d) Create pedestrian-oriented development through the integration of a mixture of uses; and to
 - (e) Ensure neighborhood compatibility with surrounding neighborhoods.
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Sampling of Code Violations

1159.05 Site Development Requirements

(b) Setbacks

- (1) **All buildings with frontage on Kenwood Road, Cooper Road, or on Hunt Road between Kenwood Road and Cooper Road shall be built to the back of the public sidewalk.** Exceptions may be made to allow room for outdoor dining areas, landscaped entries, pedestrian plazas, enhanced customer entrances, and similar pedestrian amenities.

1159.06 General Design Requirements

(e) Building Design

- (1) The design of all new construction and additions shall be approved by the Downtown Design Review Committee and shall be designed to meet the intent of the following provisions:

- A. All buildings shall have four “front” elevations.**

1159.06 GENERAL DESIGN REQUIREMENTS

(c) Landscaping.

- (1) **The site shall be landscaped in accordance with the Landscape Standards in Chapter 1188 and a separate plan shall be submitted detailing each of the landscape elements of the site.**

Sampling of Code Violations

1159.07 Parking, Loading, and Access Requirements

(f) **All parking areas and walkways shall be illuminated so as to produce a minimum illumination of 1.0 footcandle within such areas.** All exterior lighting shall be erected so as to minimize light onto adjacent single-family residential areas and no exterior lighting shall exceed 10 footcandles. All lighting shall be served with underground cable and underground served poles. **Pole lighting shall be compatible with the City street lights,** with a pole height of 24 feet (in addition to the possibility of a two-foot City approved concrete base).

1159.07 PARKING, LOADING AND ACCESS REQUIREMENTS

(j) Parking Structures

Above-ground parking structures shall comply with the following standards:

(2) All parking structures should be located in the rear of the building to the maximum extent feasible.

(3) Parking structures shall be visually similar in character and scale to the adjacent buildings and shall have architecturally articulated facades designed to screen the view of parked cars.

(4) Vehicle entries to off-street parking structures shall be integrated into the placement and design of adjacent building or oriented away from the primary street frontage

Sampling of Code Violations

1159.08 Signs

(b) The size, type, height, and number of signs shall be regulated by Section 1181.05

1159.05 Site Development Requirements

(d) Lot Area/Density

(4) There is no maximum residential density in this district **provided the residential uses meet the setback, height, and other site design requirements.**

1159.02 Conformity with Plans

(a) Unless otherwise permitted herein, **all development in the D-1 District shall be consistent with the** plan approved by Council as set forth in the “Master Plan for the Development of Downtown Blue Ash,” dated November 18, 1982, and adopted by Ordinance 82-101, and the **supplemental Blue Ash Town Center - Concept Redevelopment Plan dated December 2005, and adopted by Ordinance 2006-20.** The Downtown Design Review Committee shall review all plans for new construction and building additions and ensure proper conformity in its approvals.

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Additional Site Logistics



Excerpt from 1982 Master Plan

Another structure within this development will consist of a one-story building of approximately 25,000 sq. ft. to be located directly south of the Sycamore Board of Education Building and the Sycamore Library. This structure will be located in such a manner as to not create a visual intrusion into the single-family neighborhood to the east. A 50 foot buffer area will be mounded and heavily landscaped. (See Exhibits 19 and 20)

BLOCK A (SOUTH)

The block consists of all properties along Lewis Avenue south of Hunt Road and along the east side of Kenwood between Hunt Road and Cross County Highway. This block is proposed for major renovation of existing structures along Kenwood Road and construction of several new office and retail buildings along Lewis Avenue. Highlights of Block A (South) include:

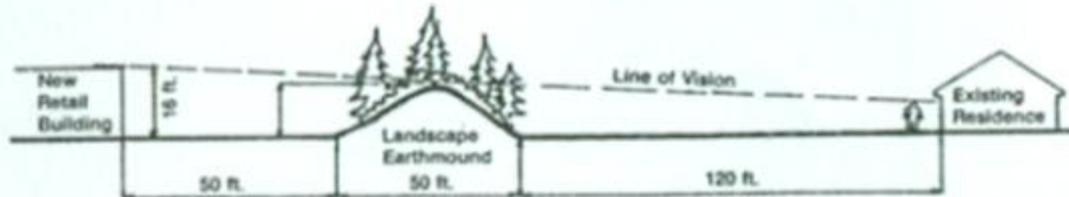


Exhibit 20

Profile

Excerpt from 1982 Master Plan

Objective: **fostering harmony between the buildings and their particular sites and neighboring structures**



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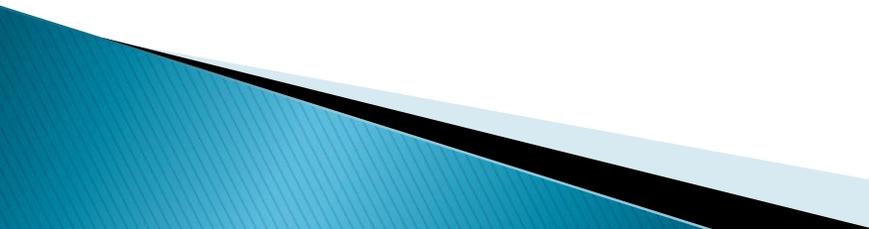
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Excerpt from 2005 Concept Redevelopment Plan

Thriftway Site

The redevelopment plan envisions residential development for this property. The exact time for redevelopment will be determined at a later time when the property will be ready to be considered for a new type of land use. The plan however, wants to make a **strong recommendation towards the development of quality in-fill housing at a density of 14-18 units/acre.** The design and layout should strive for a compact building form combining **open space amenity** and project identity. Several types of housing can be considered such as townhouses and flats with building heights at 3-4 floors. Parking will be provided in garages integrated with the units or in a single garage structure, with additional surface parking areas. There should be 2 parking spaces provided for each unit because the area does not have a public transit system.



Excerpt from 2005 Concept Redevelopment Plan

The core of the downtown should serve as a development node and should be defined by high-intensity land use development (starting at the average **.50 floor area ratio**, compared with the existing .33), mixed-use commercial and residential uses, buildings up to four stories high, defined business district parking areas (surface parking, one level below grade garages, and parking structures), a pedestrian amenity system with high connectivity to create a lively, safe, and attractive walking environment.



Excerpt from Notes from BZA Meeting regarding Plan 1

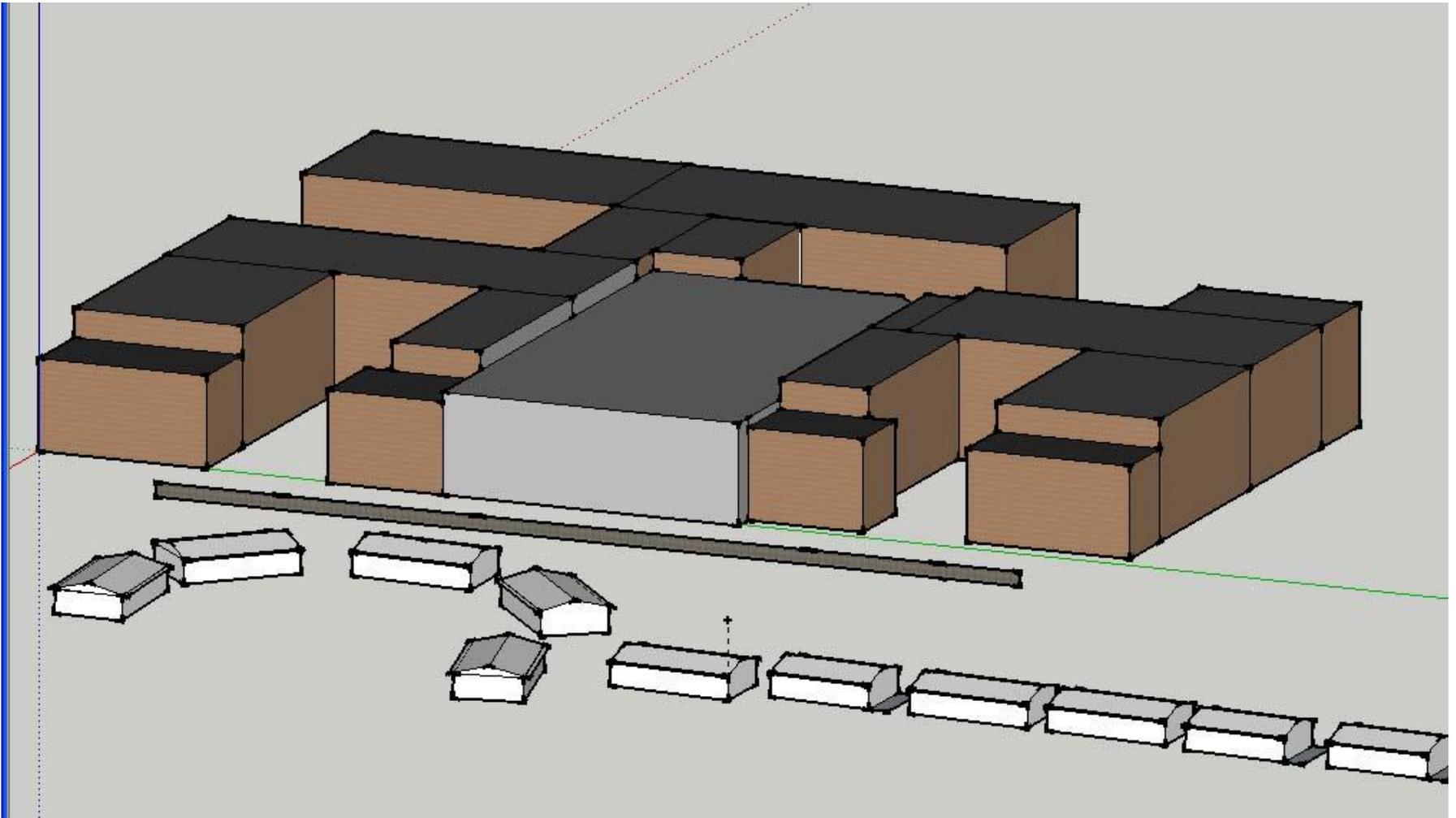
Mr. Sirkin read a statement in the Comprehensive Plan that highlights the need to protect the quality of the residential areas over all other policies. He agreed that the project impairs light and air and agreed with all of the other issues highlighted in the appeal. He stated that the project is too high and too close to multiple residences to satisfy the intent of the Comprehensive Plan, which is not supported by the BZA decision criteria in 1133.05.

Ms Brook agreed that the project is attractive, but agreed with Mr. Sirkin.

Mr. Kirby agreed and added that the setback should not have been waived because the development does not satisfy the “existing building” provision in the Code. He thinks that the DDRC stretched the waiver provision of the Code too far, which means that those items that were waived do not comply with the Code, which then results in the requirement for a maximum density.

Mr. Collett said that the project does not satisfy all of the applicable Code requirements and that the density more than doubles the intended density per the Master Plan. He does not believe that the setback should have been waived and that the parking is in both the front and side yards. The concern that the existing commercial building could be visibly blocked is not sufficient grounds to support the setback waiver. The Master Plan does not support such a waiver.

Size of Proposed Complex Compared to Barwyn Acres Neighborhood



Renderings completed by Tom Kloecker
(Tom has 38 years of experience developing computational geometry
and graphics methods for the automotive and aerospace industries)

Excerpt from 2005 Concept Redevelopment Plan

These projects should reflect the Plan's principles and should adhere to its vision. In addition, these projects should reflect the inputs received from the stakeholders during the charrettes. The criteria to be used in selecting and in supporting such projects are as follows:

- Be consistent with the Concept Redevelopment Plan
 - Make the greatest impact possible in expediting the implementation of the plan, in creating positive spin-off effects, such as increased visibility, and increased quality in development and character.
 - Project leverages public financing commitments.
 - Project is cost effective.
 - **Project has broad community support.**
- 

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Additional Site Logistics



1133.04 Powers

- (a) The powers of the Board of Zoning Appeals are to interpret the Zoning Code as follows:
- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an inspector in the enforcement of the Zoning Code
 - (2) To interpret the provisions of the Zoning Code in such a way as to carry out the intent and purpose of the Master Plan** including, but not limited to, determining zoning lines where the street layout on the ground varies from the street layout as shown on the Zoning District Map.
- 

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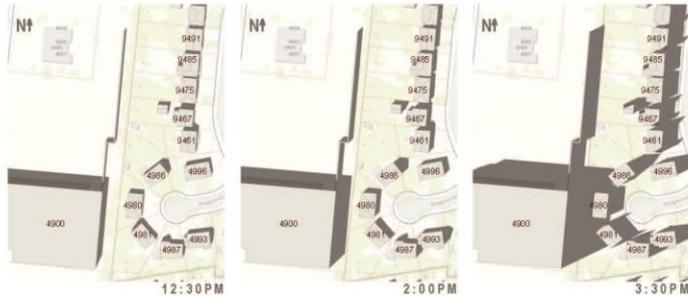
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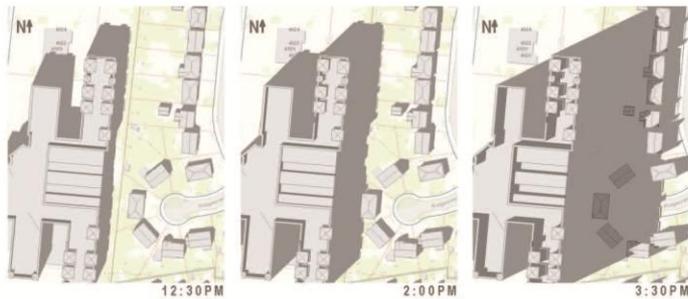
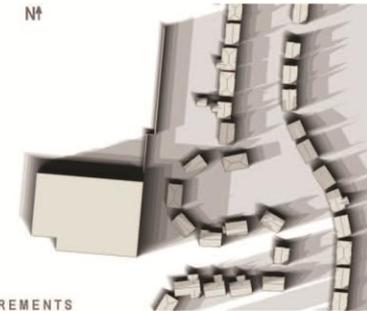
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Wynnecrest Shading Study

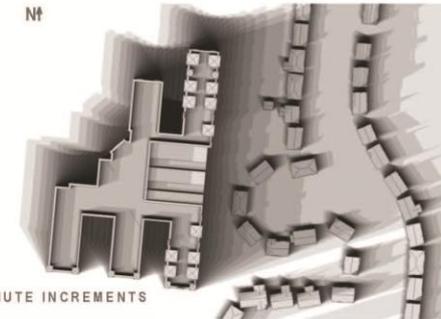
An Analysis of the Effects of the Proposed Development *Blue Ash Station* on the Residences of Wynnecrest Drive, Blue Ash, OH
 Prepared By: Renee Martin, M. Arch; Rebecca Wood



CURRENT SHADING RANGE
 NOVEMBER 21 9AM-5PM, 30-MINUTE INCREMENTS



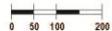
PROPOSED SHADING RANGE
 NOVEMBER 21 9AM-5PM, 30-MINUTE INCREMENTS
 LOSS OF 2 HOURS SUNLIGHT



PLAN SHADING DIAGRAMS NOVEMBER 21

WYNNECREST SHADING STUDY

AN ANALYSIS OF THE EFFECTS OF THE PROPOSED DEVELOPMENT *BLUE ASH STATION* ON THE RESIDENCES OF WYNNECREST DRIVE, BLUE ASH, OH



04.11.2012
 PREPARED BY: RENEE MARTIN, M.ARCH; REBECCA WOOD

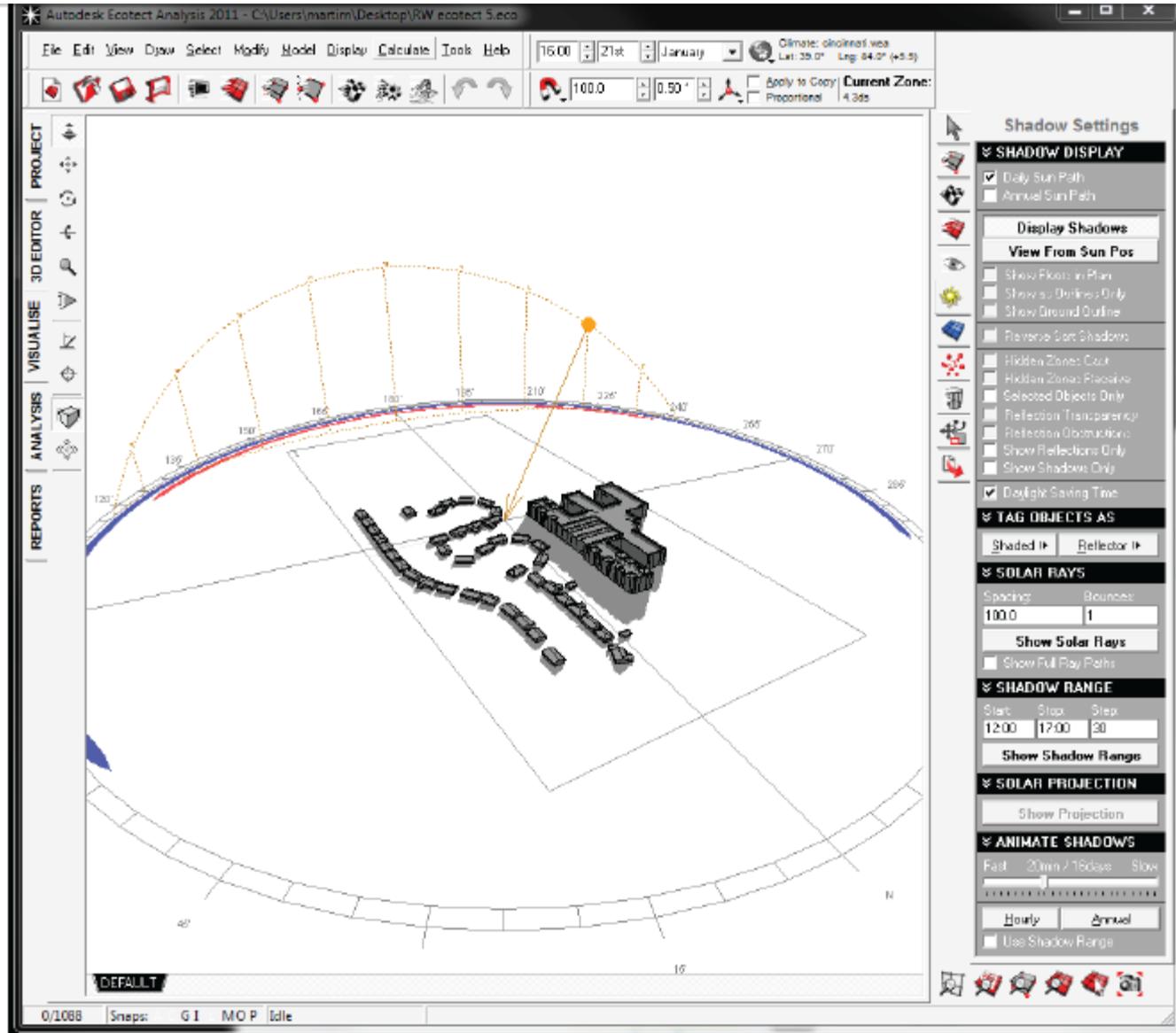
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This shading study was modeled in Rhinoceros and analyzed in Ecotect, using location and weather data from Lunken Airport. The digital model was created from an 11"x17" copy of the Hills Properties proposal drawings. The Rhinoceros model and local weather data were imported to Ecotect, which produced an interactive solar projection for the given hours and dates









Sunlight Coming Through Current Tree "Buffer"



Current Thriftway building
(Hills' structure will be
more than 2 times as tall!)

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Additional Site Logistics



2003 Master Plan

Land Use Policies

The quality of the residential areas of the City should be maintained, protected, and improved as the primary policy of the City. All other land use policies and plans should recognize this residential policy as a primary interest of the community.



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4920 Hunt Road is composed of 2 separate plats

www.hamiltoncountyauditor.org/realestateii/ROVER30.ASP

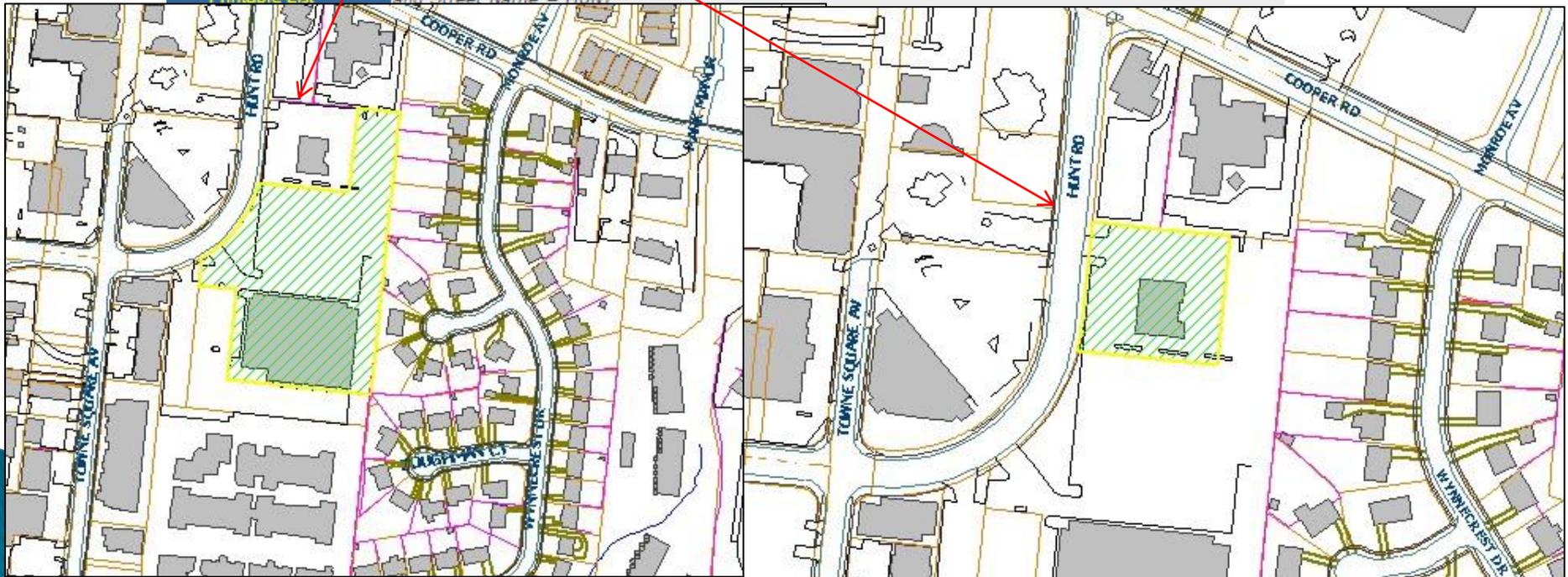
 **Dusty Rhodes, Hamilton County Auditor**

Search By Street Address... Page 1 of 1

Search By
Parcel ID
Owner
Street Address
[- Printable List](#)

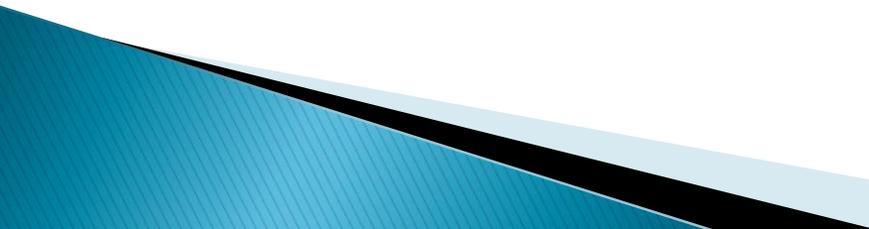
Parcel ID	Address	Current Owner	Sale Date	Sale Price
612-0040-0668-00	4920 HUNT RD	BLUE ASH STATION LTD		
612-0040-0694-00	4920 HUNT RD	BLUE ASH STATION LTD		

Search performed on 1/5/2013 6:54:22 PM with Street Number >= 4920 and Street Name = HUNT



1123.05 Minimum Requirements

In interpreting and applying the provisions of this Zoning Code, they shall be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. **It is not intended by this Zoning Code to interfere with or abrogate or annul any easements**, covenants or other agreements between parties, except that if this Zoning Code imposes a greater restriction, the Zoning Code shall control.



PRIVATE SANITARY SEWER EASEMENT

HAMILTON COUNTY, OHIO, DOES NOT ACCEPT ANY PRIVATE SANITARY SEWER EASEMENTS LOCATED WITHIN THE BOUNDARY OF THIS PLAT AND HAMILTON COUNTY, OHIO IS NOT OBLIGATED TO MAINTAIN OR REPAIR ANY SANITARY SEWER LATERALS WHICH EXIST, OR MAY BE INSTALLED IN THE FUTURE, WITHIN ANY LOT DESIGNATED ON THIS PLAT. THE EASEMENT AREA ON EACH LOT AND ALL IMPROVEMENTS IN SAID LOT IS FOR THE BENEFIT OF THE LOT BEING SERVED AND SHALL BE MAINTAINED CONTINUOUSLY BY THE OWNER FOR SAID LOT.

NO STRUCTURE OF ANY KIND WHICH CAN INTERFERE WITH ACCESS TO SAID PRIVATE SEWER SHALL BE PLACED IN OR UPON A PERMANENT PRIVATE SEWER EASEMENT, EXCEPTING ITEMS SUCH AS RECREATIONAL SURFACES, PAVED AREAS FOR PARKING LOTS, DRIVEWAYS, OR OTHER SURFACES USED FOR INGRESS AND EGRESS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING, OR OTHER SIMILAR ITEMS, BEING NATURAL OR ARTIFICIAL.

RESTRICTION ON RETENTION BASIN, STORM AND/OR SANITARY SEWER EASEMENTS

NO STRUCTURE OF ANY KIND WHICH CAN INTERFERE WITH ACCESS TO SAID PUBLIC SEWER SHALL BE PLACED IN OR UPON A PERMANENT SEWER EASEMENTS, EXCEPTING ITEMS SUCH AS RECREATIONAL SURFACES, PAVED AREAS FOR PARKING LOTS, DRIVEWAYS, OR OTHER SURFACES USED FOR INGRESS AND EGRESS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING, OR OTHER SIMILAR ITEMS, BEING NATURAL OR ARTIFICIAL.

ANY OF THE AFORESAID SURFACES, PAVED AREAS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING OR OTHER SIMILAR ITEMS WHICH MAY BE PLACED UPON SUCH SAID PERMANENT EASEMENT SHALL BE SO PLACED AT THE SOLE EXPENSE OF THE PROPERTY OWNER, AND THE GRANTEE OR ASSIGNS OF ANY PERMANENT EASEMENT HENCEFORTH SHALL NOT BE RESPONSIBLE TO ANY PRESENT OWNERS OF THE PROPERTY, NOR TO THEIR HEIRS, EXECUTORS, ADMINISTRATORS OR ASSIGNS, FOR THE CONDITION, DAMAGE TO, OR REPLACEMENT OF ANY SUCH AFORESAID ITEMS, OR ANY OTHER ITEMS PLACED UPON THE EASEMENT, RESULTING FROM THE EXISTENCE OR USE OF SAID PERMANENT SEWER EASEMENT BY THE GRANTEE OR ASSIGNS.

ANY OF THE AFORESAID SURFACES, PAVED AREAS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING OR OTHER SIMILAR ITEMS WHICH MAY BE PLACED UPON THE RETENTION BASIN WITHIN LOT 14 SHALL BE PLACED IN SUCH A MANNER SO AS NOT TO DAMAGE, WEAKEN, OR INTERFERE WITH THE OPERATION OF THE UNDERGROUND BASIN.

ANY STRUCTURE CONSTRUCTED ON SAID PROPERTY IN WHICH SAID PERMANENT SEWER EASEMENT EXISTS SHALL BE KEPT NOT LESS THAN THREE (3) FEET OUTSIDE THE PERMANENT SEWER EASEMENT LINE NEAREST THE SITE OF THE PROPOSED STRUCTURE.

ANY DEVIATION FROM THE RESTRICTIONS SHALL BE PETITIONED BY WRITTEN REQUEST TO THE GRANTEE OR THEIR ASSIGNS. EACH SUCH REQUEST SHALL BE CONSIDERED ON AN INDIVIDUAL BASIS WITH APPROVAL NOT BEING UNREASONABLY WITHHELD.

THE OWNER OF LOT 7 WILL BE RESPONSIBLE FOR THE MAINTENANCE, OPERATION, AND REPAIR OF THE PRIVATE SANITARY SEWER AND BUILDING LATERAL TO THE POINT OF CONNECTION WITH THE PUBLIC SEWER. LOT 7 SHALL HAVE THE RIGHT AND RESPONSIBILITY TO OPERATE AND MAINTAIN THE STORM SEWER SERVING LOT 7 ACROSS LOT 4.

UTILITY EASEMENT

ALL UTILITY EASEMENTS INDICATED SHALL BE GRANTED TO CINCINNATI GAS AND ELECTRIC AND WARNER AMEX COMMUNICATIONS BY THE OWNER/DEVELOPER TO CONSTRUCT, RECONSTRUCT, OPERATE, MAINTAIN REPAIR, REPLACE AND REMOVE, DUCTS, CONDUITS, PIPES, CABLES, MANHOLES, PULL BOXES, SURFACE MOUNTED TRANSFORMERS, TERMINAL INSTALLATIONS AND ALL NECESSARY AND INCIDENTAL WIRES, CABLES, ANCHORS, GROUNDING SYSTEMS, COUNTERPOISES, FIXTURES AND EQUIPMENT FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICAL ENERGY AND FOR TELECOMMUNICATION PURPOSES UNDERGROUND, WITH RIGHT FROM TIME TO TIME TO ADD TO THE NUMBER OF WIRES, CABLES AND OTHER INCIDENTAL FIXTURES.

INGRESS AND EGRESS (NON-EXCLUSIVE)

THE OWNER OF LOT NO. 4 THEIR SUCCESSORS OR ASSIGNS, GRANTS TO THE CITY OF BLUE ASH, OR ITS SUCCESSORS OR ASSIGNS, A PERPETUAL NON-DEFINED RIGHT OF ENTRY AND/OR INGRESS AND EGRESS AGREEMENT, OVER, THROUGH AND ACROSS SAID LOT NO. 4, FOR THE PURPOSE OF MAINTENANCE, REPAIR, UPKEEP OR IMPROVEMENTS TO THE STORM SEWER RETENTION BASIN, AND ALL PUBLIC UTILITY FACILITIES WITHIN LOT NO. 4.

IN ADDITION, PEDESTRIAN AND VEHICULAR ACCESS TO AND FROM PARCEL 509, BOOK 612, PAGE 40, TO HUNT ROAD SHALL BE MAINTAINED ON LOT 4 AT ALL TIMES.

THE OWNER OF LOT 6, THEIR SUCCESSORS OR ASSIGNS, GRANTS TO THE OWNERS, THEIR SUCCESSORS OR ASSIGNS, OF PT. LOTS 113, 114 & LOTS 115 & 116, BLAIR AND LEHIS SUBDIVISION AND THE OWNER OF LOT NO. 5 OF THIS RE PLAT, THEIR SUCCESSORS OR ASSIGNS, A PERMANENT NON-DEFINED RIGHT OF ENTRY AND/OR INGRESS AND EGRESS OVER, THROUGH AND ACROSS SAID LOT NO. 6.

DRIVENAYS

NO PART OF ANY DRIVEWAY OR DRIVEWAY APPROACH WITHIN THE ROAD RIGHT-OF-WAY SHALL BE INSTALLED CLOSER THAN FIVE FEET (5') FROM ANY INLET OR FIRE HYDRANT. ALL PROPOSED CURB CUTS MUST BE APPROVED BY THE CITY OF BLUE ASH.

SERVICE CHARGES, ETC.

THE OWNER OF ALL PROPERTIES SHOWN ON THIS RECORD PLAT SHALL BE SUBJECT TO ALL APPLICABLE SEWER SERVICE CHARGES, ASSESSMENTS, TAP-IN CHARGES OR FEES WHICH HAVE BEEN OR MAY BE ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS, OR THE CITY OF BLUE ASH.

FOR REFERENCE PURPOSES, SEE PLAT BOOK 261, PGS 10-11.

Restrictions on Building Over Sewers

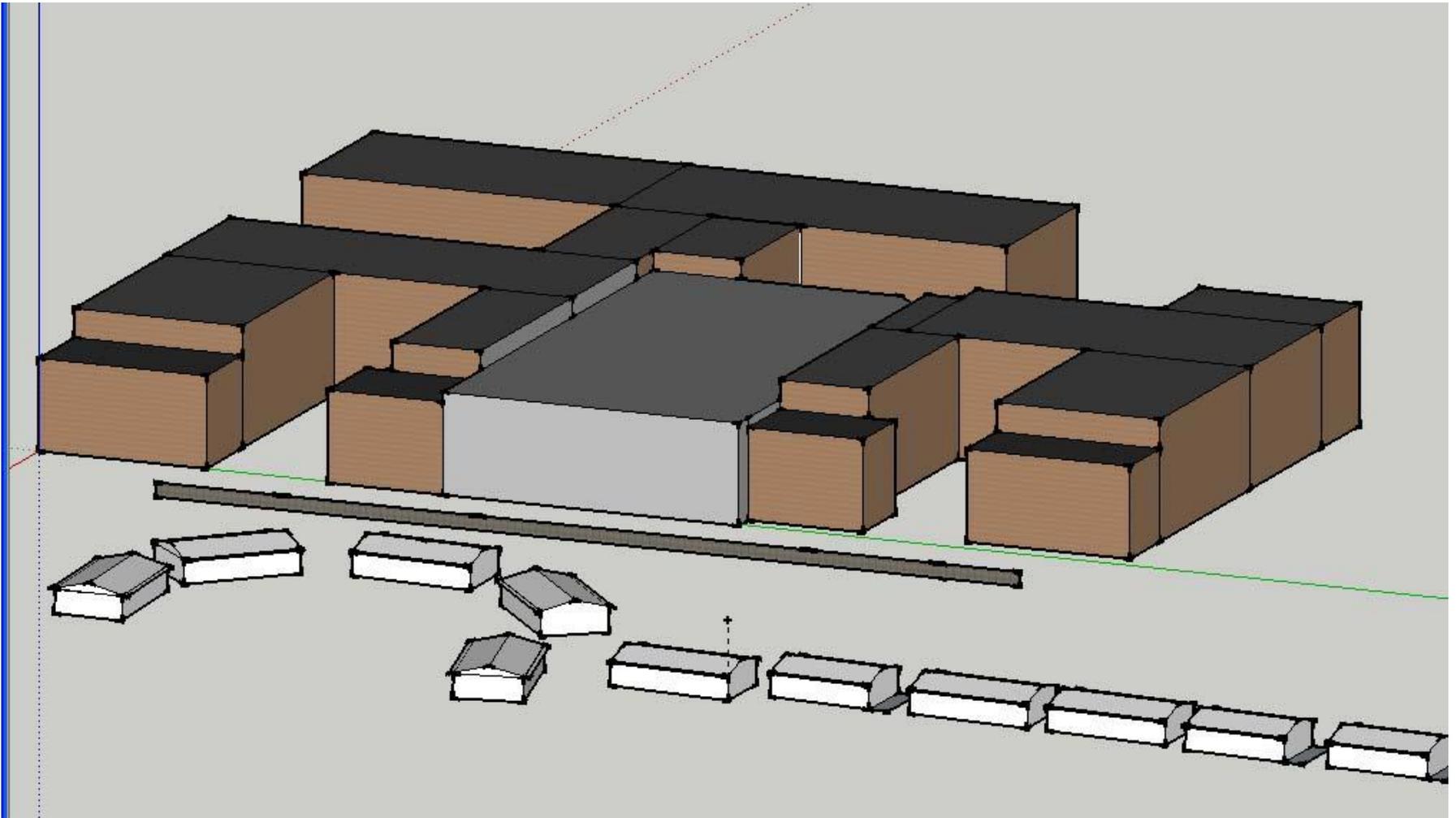
Hamilton County Planning and Development Stormwater Drainage System, Section ST 206

Public Storm sewers shall not be located under any building.

MSD Rules and Regulations, Section 206 “Construction of Structures Over Sewers”

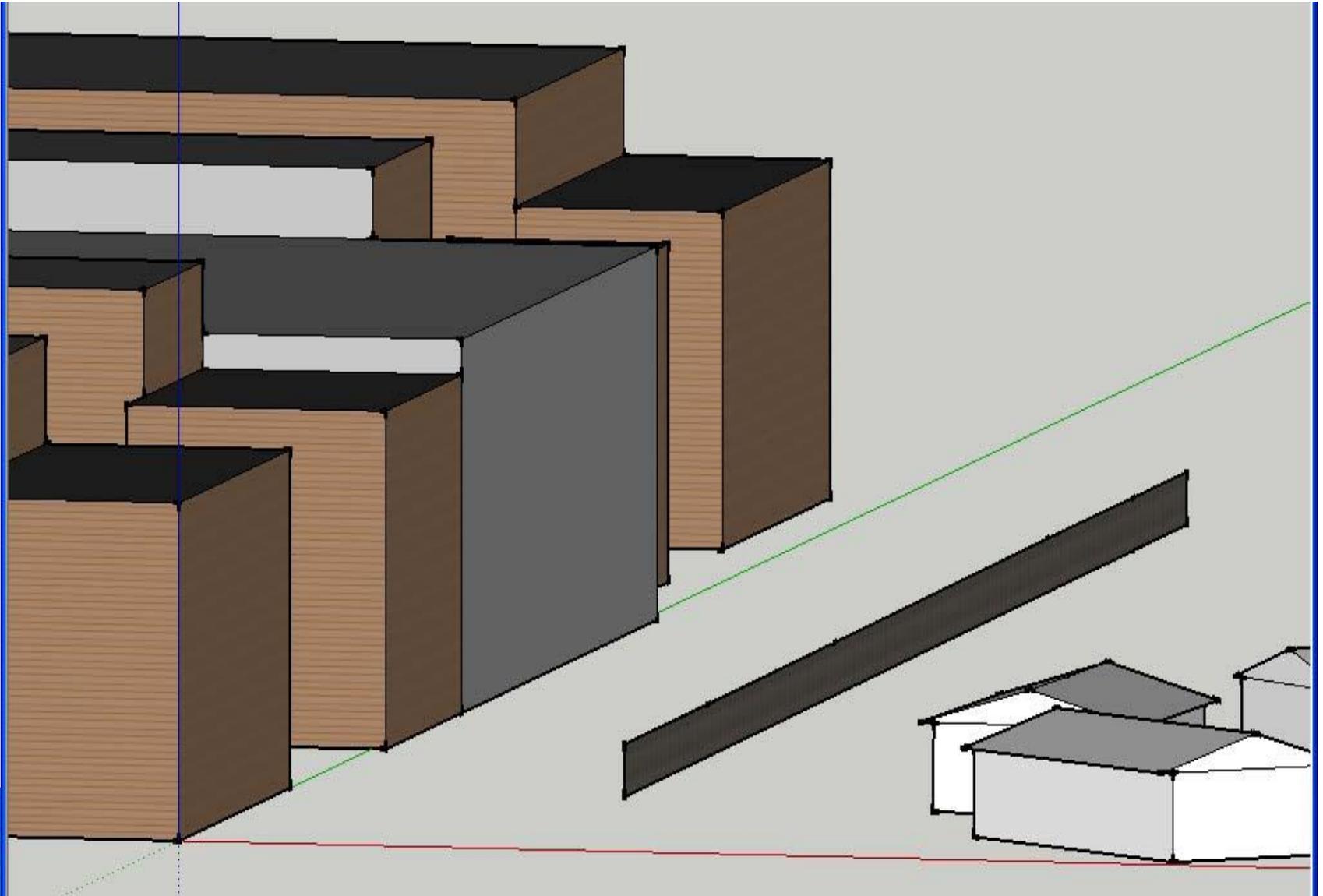
MSD will permit no structure of any kind which can interfere with access to a public sewer or exert loading upon a public sewer to be placed in or upon a permanent sewer easement, excepting items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress or egress, plants, trees, shrubbery, fences, landscaping or other similar items, being natural or artificial.

Size of Proposed Complex Compared to Barwyn Acres Neighborhood



Renderings completed by Tom Kloecker
(Tom has 38 years of experience developing computational geometry
and graphics methods for the automotive and aerospace industries)

Size of Proposed Complex Compared to Barwyn Acres Neighborhood



Thank You

