



CITY OF KETTERING

DONALD E. PATTERSON, MAYOR • ROBERT SCOTT, VICE MAYOR
BRUCE E. DUKE • TONY KLEPACZ • BILL LAUTAR • AMY SCHRIMPF • JOSEPH D. WANAMAKER

KETTERING COUNCIL AGENDA

July 11, 2017

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:00 P.M. **WORKSHOP** Kettering Room
7:30 P.M. **REGULAR MEETING** Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

APPROVAL OF MINUTES

June 27, 2017- Council Meeting & Workshop Minutes

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSION

Appointment	Kettering Arts Council- David Laton (Term ending 12-31-19)
Award Presentation	American Heart Association Mission: Lifeline EMS Gold Plus Award
Proclamation	Parks & Recreation Month
Presentation	PR&CA Community Survey

PUBLIC HEARINGS

PUBLIC COMMENT ON LEGISLATION

(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

RESOLUTIONS

1. Authorizing the City Manager to enter into a cost sharing agreement with the Board of Education of the Kettering City School District for a Youth and Family Community Resource Coordinator.
2. Authorizing the purchase of real property commonly known as 1020 Imperial Boulevard.
3. Authorizing the City Manager to enter into an agreement to sell the property known as 2350 South Dixie Drive.
4. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for the purchase of switching equipment for the City's voice and data network.
5. Authorizing the City Manager to use competitive bargaining and negotiated quotes or an approved cooperative purchasing program to purchase a LeeBoy Asphalt Paver.
6. To make supplemental appropriations for current expenses and other expenditures of the City of Kettering, State of Ohio, during the fiscal year ending December 31, 2017.

ORDINANCES IN FIRST READING

7. To reclassify the Development Pattern District for 2400 East Dorothy Lane from NC-Neighborhood Center to N-Neighborhood (Planning Commission Case 17-013).

CERTIFICATIONS AND PETITIONS

Certification- Planning Commission recommends approval of P.C. 17-020- Request for vacation of public right-of-way at the SW corner of Wilmington Pike and Cloverfield Avenue. A public hearing on this request will be held on Tuesday, July 25, 2017 at the Kettering City Council meeting.

MANAGER’S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

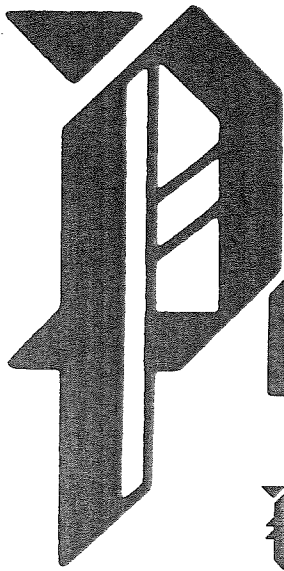
Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering wishes to make certain that all citizens have the opportunity to actively participate in their local government. If you have a disability and require accommodations to participate in a Council meeting, please contact the Clerk of Council at 296-2416 so that reasonable modifications can be made.

KETTERING CITY CALENDAR
2017

July 10	7:00 p.m.	Board of Zoning Appeals
July 11	4:00 p.m. 6:00 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
July 17	7:00 p.m.	Planning Commission
July 18	5:00 p.m.	Kettering Arts Council
July 19	8:00 a.m.	Volunteer Advisory Council
July 24	7:00 p.m.	Board of Zoning Appeals
July 25	6:00 p.m. 7:30 p.m. 8:00 p.m.	Council Workshop City Council Meeting Sister Cities
August 7	7:00 p.m.	Planning Commission
August 8	4:00 p.m. 6:00 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
August 14	7:00 p.m.	Board of Zoning Appeals
August 15	5:00 p.m.	Kettering Arts Council
August 16	8:00 a.m.	Volunteer Advisory Council



Office of the Mayor

Proclamation

Whereas:

Parks and recreation programs are an integral part of communities throughout this country, including the City of Kettering; and

WHEREAS: *Our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and*

WHEREAS: *Parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and*

WHEREAS: *Parks and recreation programs increase a community's economic prosperity through increased property values, the attraction and retention of businesses, and crime reduction; and*

WHEREAS: *Parks and recreation areas are fundamental to the environment well-being of our community; and*

WHEREAS: *Our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and*

WHEREAS: *The U.S. House of Representatives has designated July as Parks and Recreation Month; and*

WHEREAS: *The City of Kettering recognizes the benefits derived from parks and recreation resources.*

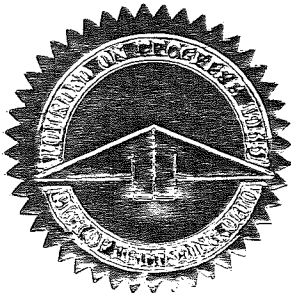
NOW, THEREFORE, I, Donald E. Patterson, Mayor of the City of Kettering, Ohio, do hereby proclaim

July 2017

to be

PARKS AND RECREATION MONTH

in the City of Kettering, Ohio, and urge all citizens to become involved in the fine leisure programs, facilities, and open space areas available to them during this exciting summer season.



IN WITNESS WHEREOF, *I have hereunto set my hand and caused the Seal of the City of Kettering, Ohio, to be affixed this 11th day of July in the Year of our Lord, Two Thousand and Seventeen.*

DONALD E. PATTERSON
Mayor of the City of Kettering, Ohio

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO A
COST SHARING AGREEMENT WITH THE BOARD OF
EDUCATION OF THE KETTERING CITY SCHOOL DISTRICT
FOR A YOUTH AND FAMILY COMMUNITY RESOURCE
COORDINATOR**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized, on behalf of the City of Kettering, to enter into a cost sharing agreement with the Board of Education of the Kettering City School District for a Youth and Family Community Resource Coordinator. The City Manager is further authorized to enter into any amendments that, in the City Manager's opinion, are beneficial to the interests of the City.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$60,000.00
Amount Budgeted: \$0
Acct. No. 1050-72550

(Requested by: City Manager's Office)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE PURCHASE OF REAL PROPERTY
COMMONLY KNOWN AS 1020 IMPERIAL BOULEVARD**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to purchase the real property commonly known as 1020 Imperial Boulevard, Kettering, Ohio, for a purchase price not to exceed \$70,000.00, excluding typical transaction costs. The City Manager is further authorized to take all necessary and proper action to acquire said property.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$70,000.00
Amount Budgeted: \$70,000.00
Acct. No.: 8020-77750

(Requested by: Planning and Development Department)

REAL ESTATE PURCHASE AGREEMENT

This agreement to purchase real estate ("Agreement") is entered into by and between the City of Kettering ("City" or "Buyer" or "Purchaser"), a municipal corporation organized under the laws of the State of Ohio, whose mailing address is 3600 Shroyer Road, Kettering, Ohio 45429, and Bryon J. Dobbs ("Seller") whose mailing address is 5812 Arlmont Cir., Dayton, OH 45440.

In consideration of the following promises, covenants, terms and conditions, the parties agree as follows:

1. PREMISES

The Seller agrees to sell and the City agrees to purchase and pay for, on the terms and conditions hereinafter set forth, the real property and appurtenances commonly known as 1020 Imperial Boulevard, Kettering, Ohio 45419 (the "Property"). This Agreement shall be exclusive and Seller shall not enter into any other agreements for sale of the Property.

2. PURCHASE PRICE

The total purchase price of the Property to be paid to the Seller by the City shall be \$70,000.00 (the "Purchase Price"). Except as specified otherwise in this Agreement, the Purchase Price shall be paid by cash, check, or wire transfer upon delivery of the deed at closing.

3. DEED

At the closing, the Seller shall deliver to the a General Warranty Deed acceptable to the City, recordable in Montgomery County, Ohio, conveying marketable fee simple title to the Property, including all rights appurtenant to the Property, subject only to legal highways, zoning and building ordinances, restrictions and easements of record and taxes and assessments which may be a lien as of the date of the closing but not yet due and payable. Except as provided for in the previous sentence, the promises to convey to the City title to the Property free and clear of any liens or other encumbrances. The Seller represents that Seller holds clear, marketable title to the property.

4. TITLE/ENVIRONMENTAL SURVEY

After execution of this Agreement the City, at its expense, may order a title examination and an environmental survey/study of the Property. If the title examination reveals any defects in the Seller's title and one or more of the defects are not satisfactory to the City, then the City may elect to cancel and terminate this Agreement without penalty, or cause the title defect to be cured and subtract the cost and expense of curing the title defect from the Purchase Price. If the results of the environmental survey/study are not satisfactory to the City, then the City may elect to cancel and terminate this Agreement without penalty, or cause any environmental problem or defect revealed by the survey/study to be corrected, removed, and cured and then subtract the City's cost and expense of such correction, removal, and curing from the Purchase Price.

5. REAL ESTATE COMMISSIONS

Each party hereby warrants to the other that no real estate commission will be due with respect to this transaction. This warranty shall survive the closing.

6. REAL ESTATE TAXES

The Seller shall pay all taxes and assessments through the installment thereof (June 30 or December 31) immediately preceding the closing, and the next installment shall be prorated at the closing based on the number of days which have elapsed since the preceding June 30 or December 31, as the case may be. If an installment which the Seller is obligated to pay is not in fact paid or payable as of the date of the closing, the amount thereof shall be paid to the City or credited to the Purchase Price, at the City's option.

7. POSSESSION

- A. Possession of the Property shall be given to the City at closing.
- B. At the time the Seller turns possession of the Property over to the City: (i.) all personal property, including, but not limited to, trash, garbage, and debris, must be removed from the Property by Seller; and (ii.) Seller shall ensure the Property is in broom clean condition. Anything left at the Property on the day of closing shall be deemed to have been abandoned by the Seller.
- C. Seller warrants that the Property is vacant. The Property shall remain free and clear of any tenants or parties in possession. Seller warrants to Purchaser that no tenant(s) shall occupy or have the right to occupy or use the Property. Seller shall indemnify the City from any claims of tenant(s) of the Property and from all costs incurred by the by the City as a result of a breach of this warranty by Seller.
- D. After Seller signs this Agreement no alterations shall be made to the Property. All keys and door openers to the Property shall be delivered to the City at closing.
- E. Seller shall be responsible for all utility (i.e. electricity, gas, water, sewer, cable TV, etc.) costs incurred through and including the day the Seller releases possession of the Property to the City. Seller shall arrange for utility shut off the earlier of the date the Seller no longer resides on the Property, or the date of turning possession of the Property over to the City.
- F. All obligations, duties, and promises of Seller and Buyer set forth in this section 7 shall survive the closing.

8. RISK OF LOSS

The risk of loss, from fire or other casualty, shall be upon the Seller from the date hereof until the date of closing. In the case of substantial damage to the Property prior to the closing date,

the City shall have the option of either (a) accepting any insurance proceeds payable to the Seller on account of such damage and also purchasing the Property pursuant to this Agreement, or (b) terminating this Agreement.

9. INSPECTIONS

The City shall have a right, during the pendency of this Agreement, of limited possession of the property for purposes of surveying and inspection by its agents or representatives, such testing and surveying to be at the City's expense.

10. CLOSING

The closing of this transaction shall be held at a date, hour and place in Montgomery County, Ohio, mutually agreeable to the parties. The closing will occur on or before August 31, 2017, unless the time needed to cure any defect(s) pursuant to paragraph 4 require an extension in which case the closing date may be extended for up to 90 days. Purchaser shall pay all recording fees. Costs or fees not specifically covered by this Agreement shall be borne in the same manner as is customary in Montgomery County, Ohio in connection with the sale of real estate of the type covered by this Agreement.

11. BINDING EFFECT/CHOICE OF LAW/COUNTERPARTS

A. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective executors and/or administrators, heirs, successors and assigns. This Agreement shall be effective as of the date it is signed by the last party to sign below.

B. Both parties acknowledge that they had the opportunity to be represented by legal counsel or were represented by legal counsel during the negotiation and execution of this Agreement.

C. This Agreement shall be governed by Ohio law without giving effect to conflict of law provisions which would result in the application of any law other than Ohio law. All litigation arising out of this Agreement shall be brought and resolved in a court of competent jurisdiction located in Montgomery County, Ohio.


D. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document. Any party may execute any counterpart of this document by facsimile or other written or electronic confirmation from such party of execution of such counterpart by such party. Any such facsimile or other written or electronic confirmation from such party of the execution of a counterpart hereof shall be fully effective as an original counterpart hereof.

12. CITY COUNCIL APPROVAL

This Agreement shall be deemed void ab initio if the purchase of the Property is not approved by the City Council of the City of Kettering prior to the date of closing.

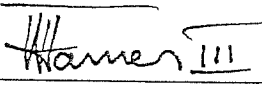
IN WITNESS WHEREOF, the parties, by their duly authorized representatives, agree to the foregoing promises, terms and conditions, after reading and understanding same.

BUYER:
THE CITY OF KETTERING, OHIO


By 
Mark W. Schwieterman
City Manager

Date: 6/21, 2017

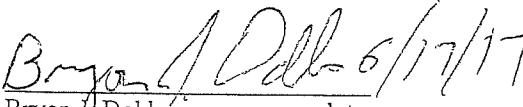
APPROVED AS TO FORM:


Theodore A. Hamer III
Law Director

FUNDS CERTIFIED BY:


Nancy Gregory, Finance Director

SELLER:


Bryon J. Dobbs date

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT TO SELL THE PROPERTY KNOWN AS 2350
SOUTH DIXIE DRIVE**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Council hereby approves the sale of the property known as 2350 South Dixie Drive, former Kettering Fire Station 31, for the gross sale price of \$80,000.00 to Octagon Holdings, LLC. The City Manager is authorized to sign any necessary agreements and instruments for this transaction, including any amendments thereto, that the City Manager deems necessary and in the interest of the City.

Section 2. The Property is hereby declared as surplus property and no longer required for municipal purposes effective as of the date of closing.

Section 3. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by: City Manager's Office)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR THE PURCHASE OF SWITCHING EQUIPMENT FOR THE
CITY'S VOICE AND DATA NETWORK**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through use of competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more agreements for switching equipment for the City's voice and data network. The City Manager is further authorized to enter into any amendments to the contract(s) that, in the City Manager's opinion, are beneficial to the interests of the City.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$28,000.00
Amount Budgeted: \$28,000.00
Acct. No.: 4400-72220
(Requested by: Administrative Systems Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES OR AN APPROVED
COOPERATIVE PURCHASING PROGRAM TO PURCHASE A
LEEBOY ASPHALT PAVER**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to use competitive bargaining and negotiated quotes or an approved cooperative purchasing program to contract for the purchase of a LeeBoy Asphalt Paver. The City Manager is further authorized to enter into any amendments to the contract(s) that, in the City Manager's opinion, are beneficial to the interests of the City.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$155,000.00
Amount Budgeted: \$0.00
Acct. No.: 2000-77740
(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR
CURRENT EXPENSES AND OTHER EXPENDITURES OF
THE CITY OF KETTERING, STATE OF OHIO, DURING
THE FISCAL YEAR ENDING DECEMBER 31, 2017

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. To provide for the current expenses and other expenditures of the City of Kettering during the fiscal year ending December 31, 2017, the following supplemental sums are set aside and appropriated:

A. From the General Fund:

ECONOMIC DEVELOPMENT	
Operating Expenses	\$ 134,310.00
 OTHER COST CENTER	
	\$ 60,000.00

Section 2. The Director of Finance is authorized to adjust appropriations within any fund or department as long as the adjustments made do not exceed the total appropriation authorized within that fund or department.

Section 3. The Clerk of Council is authorized and directed to forward a copy of this Resolution to the Montgomery County Auditor.

Section 4. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III
Law Director

(Requested by: Finance Department)

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

**TO RECLASSIFY THE DEVELOPMENT PATTERN DISTRICT FOR
2400 EAST DOROTHY LANE FROM NC-NEIGHBORHOOD CENTER
TO N-NEIGHBORHOOD (PLANNING COMMISSION CASE 17-013)**

WHEREAS, on June 5, 2017, after publication and issuance of notice as required by the zoning regulations of this City, a public hearing was conducted by the City of Kettering Planning Commission concerning an application to reclassify the Development Pattern District for 2400 East Dorothy Lane from NC-Neighborhood Center to N-Neighborhood; and

WHEREAS, a vote was taken by the Planning Commission on June 5, 2017 to recommend approval of the proposed reclassification; and

WHEREAS, on June 27, 2017, after publication and issuance of notice as required by the zoning regulations of this City, this City Council held a public hearing with evidence presented by the Planning and Development Department along with the recommendation of the Planning Commission to approve the application, and all parties were afforded the opportunity to be heard and present evidence in support of their positions;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, Ohio, that:

Section 1. This Council has considered the report and recommendation of the Planning Commission and the criteria set forth in Sections 1153.12.9, Consistency, through 1153.12.15, Other Factors, of Chapter 1153 of the Zoning Code along with the evidence presented at the public hearing and finds that the application for reclassification should be approved. Therefore 2400 East Dorothy Lane is reclassified from NC-Neighborhood Center to N-Neighborhood Development Pattern District.

Section 2. As appropriate and necessary, the Official Development Pattern District Map of the City of Kettering, Ohio is hereby revised and amended to reflect the Development Pattern District reclassification referred to in Section 1 above; and Section 1133.03 of the Kettering Codified Ordinances, which adopts the Official Development Pattern District Map by reference, is hereby reenacted effective as of the first effective date of this Ordinance so as to include the map revision in the Zoning Code. The Director of the Planning and Development Department is directed to make such appropriate revisions on the Official Development Pattern District Map of the City.

Section 3. This ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. LAVENDER
Clerk of Council

THEODORE A. HAMER, III
Law Director

(Requested by: Planning and Development Department)



CITY OF KETTERING
Planning and Development Department

CERTIFICATION

DATE: June 27, 2017
TO: Mayor and Council, City of Kettering
FROM: Planning Commission
SUBJECT: Request for Vacation of Public Right-of-Way at the SW Corner of Wilmington Pike and Cloverfield Avenue (PC-17-020)

Planning Commission hereby certifies that a public hearing was held at a Special Meeting on June 26, 2017 with a decision reached at that meeting concerning a request to vacate a very small amount of public right-of-way located near the SW corner of Wilmington Pike and Cloverfield Avenue.

Planning Commission hereby submits its recommendation to Council that the requested public right-of-way be vacated.

Vote of the Planning Commission

The motion recommending approval was passed by a unanimous vote of 4:0, with one member having an excused absence.

Reason for Request

This case involves the vacation of a small amount of un-needed public right-of-way along the front lot line of the commercial property at 3717 Wilmington Pike, which is occupied as Dance Dimensions.

Planner's Notes

The City of Kettering has negotiated the dedication of land that is part of the property owned by Lois Ulrich located at 3717 Wilmington Pike. The proposed r.o.w. vacation would accompany the proposed dedication, accommodating the sidewalk/streetscape enhancement project along the east side of Wilmington Pike. As part of this effort, a small amount of public right-of-way will need to be vacated to allow the construction of a retaining wall on the east side of this commercial property. This vacation would place the entire retaining wall (which will be built in front of the commercial building on this corner lot) to be entirely on private property. While the wall will be constructed by the City as part of the improvement project, the wall will hereinafter be maintained by the property owner.

Respectfully submitted,

KETTERING PLANNING COMMISSION

By: Ronald L. Hundt, Zoning Administrator
Planning and Development Department