

**STATEMENT OF HARDSHIP
1160 STEELWOOD AVENUE
CV01-054(A)**

This Statement is submitted in support of Applicant's request to amend an existing council variance ordinance (Ordinance 0172-02, CV01-054), regarding property used by the Ohio State University as an athletic practice facility. Applicant requests an amendment of that ordinance, due to two provisions which need modified due to NCAA rules and regulations imposed upon the University's Athletic Department.

The subject property is the location of a 63,000 sq. ft. warehouse/office facility, located in the M-2, Manufacturing District. The original 2002 council variance permitted a partial conversion of the warehouse to an athletic practice facility for the University, while maintaining a portion of the warehouse for use by a manufacturing tenant. A copy of the prior ordinance, with its use-specific conditions and stipulations, is attached hereto for reference.

The nature of the uses for the property remains unchanged through this request. There is one provision of the existing ordinance, however, which requires the facilities to be for private use of the University only. Use of the facility by the general public is specifically prohibited by the conditions of the ordinance.

The facilities must legally be open to the public for rental, in order to comply with certain NCAA rules. If the facility is not open to the public, it will be deemed to be providing preferential treatment to prospective student athletes "with a benefit or preferential treatment that is not available to the general public." The facility will also be considered to be operating as a "local sports club" by the University coaching staff, if not open to the public. A copy of a January 23, 2007 memo citing interpretations of the applicable rules and regulations is attached for Staff and Council's review and consideration of this request.

Due to the fact that this legal distinction has been brought to the Athletic Department's attention with regard to this specific practice facility at 1160 Steelwood Avenue, an amendment to the existing ordinance is justified and should be deemed a substantial hardship for the Applicant, as the problem cannot be obviated by any other means than to remove the private-use condition of the previously-approved council variance ordinance.

The uses permitted at the subject practice facility have operated without incident since 2002, approximately five (5) years, and no substantial changes or negative impacts will occur by granting the University relief from the private-use restriction now in place. Surrounding property owners will not be harmed by the granting of this request, nor will the delivery of governmental services be interrupted or impaired. In fact, Applicant expects little-to-no adverse effects related to this request.

For the reasons stated above, Applicant respectfully requests the conditions of approval which are cited in Ordinance No. 0172-02 be revised as follows (the existing conditions are included below, verbatim, with Applicant's proposed amendments as noted):

[From Ordinance 0172-02]:

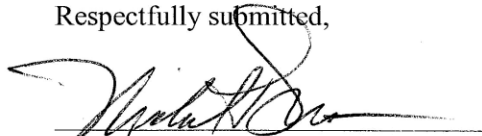
Section 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for a university athletic team practice facility and/or those uses permitted in the M-2, Manufacturing District.

Section 3. That this ordinance is further conditioned on the following:

- a. A minimum of 68 parking spaces shall be provided on site, which includes existing parking spaces and 18 new on-site parking spaces.
- b. A bicycle rack shall be provided on-site.
- c. The university athletic team practice facility shall be under the supervision, control and direction of the university at all times.
- ~~d. The university athletic team practice facility shall not be open to the public for commercial athletic training/exercise purposes.~~
- ~~e. No public and/or intercollegiate athletic competitions shall be held at the university athletic team practice facility.~~
- d. The university athletic team practice facility shall be made available to the general public for rental and use of the facility and certain equipment located within the facility, subject to the renters' agreement to and compliance with any rental fees, insurance requirements, limitations regarding group size and/or use of the areas and/or equipment within the facility, all of which may be imposed by the University and disclosed in writing to all prospective renters. Any agreement by the University to rent the facilities to the general public will be subject to the above restrictions and limitations, as well as availability of the facility on dates and times requested by the prospective renter. This availability of the facility for use by the general public shall not preclude the University from restricting admittance of the general public during times of athletic team practices, for purposes of spectating or viewing such practices, so as not to disturb the athletic teams' scheduled and structured practice regimens.**

Due to the potential ramifications for the University with regard to their desire and need to maintain compliance with all NCAA rules and regulations by which they are governed, Applicant respectfully requests processing and approval of this amendment as expeditiously as possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael T. Shannon", is written over a horizontal line.

Michael T. Shannon, Esq.

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Columbus, Ohio 43215

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Counsel for Applicant & Owner



PROJECT DISCLOSURE STATEMENT

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

APPLICATION # CV01-054A

Being first duly cautioned and sworn (NAME) Michael T. Shannon, Esq.
of (COMPLETE ADDRESS) 500 S. Front St., Suite 1200, Columbus, Ohio 43215

deposes and states that (he/she) is 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 formats

- Name of business or individual
- Business of individual's address
- Address of corporate headquarters
- City, State, Zip
- Number of Columbus based employees
- Contact name and number

Ohio State Univ., Dept. of Athletics Attn: Michelle Willis (614) 292-7572 410 Woody Hayes Drive Columbus, Ohio 43210	
High Street Investment Co. 1798 Frebis Avenue Columbus, Ohio 43206 Contact: Michael T. Shannon, Esq. (614) 229-4506	

Columbus-Based Employees: -0-

If applicable, check here if listing additional parties on a separate page (required)

SIGNATURE OF AFFIANT *Michael T. Shannon*
 Subscribed to me in my presence and before me this 21st day
 of February, in the year 2007
 SIGNATURE OF NOTARY PUBLIC *Rita Martin*
 My Commission Expires: _____



RITA J. MARTIN
Notary Public, State of Ohio
My Commission Expires 11-02-10