

STATEMENT IN SUPPORT
OF COUNCIL VARIANCE
2199 Wilson Road

This Statement is submitted in support of a Council Variance Application, to permit a model home sales facility in the M, Manufacturing District. The anticipated use for this property is not specifically prohibited in a commercial or manufacturing district; however, neither is it specifically permitted. As a result of Applicant's pre-filing review with Zoning Clearance Staff, Applicant requests a variance to permit this use not defined within the current Zoning Code, and to establish appropriate parameters for same.

The subject property ("Site") is located at 2199 Wilson Road, at its intersection with Arlingate Lane, immediately east of I-270. The Site is zoned LM, Limited Manufacturing (Ordinance No.: 1235-00; Z00-013). It was rezoned in 2000 as part of a larger development, anticipated predominately for a mattress manufacturing and sales operation (Mattress Mart). This 3.924±-acre tract sits immediately south of the Mattress Mart facility, and is currently vacant.

As stated above, the current zoning permits all commercial and manufacturing uses, with a small contingent of prohibited uses. Although the anticipated use described below is not prohibited by the current zoning, it is not a use contemplated in the current Zoning Code.

TK Constructors ("Applicant"), is a custom home builder which markets its homes in Ohio, Indiana and Kentucky. The majority of Applicant's custom homes are built on individual homeowner lots, as opposed to the creation of complete subdivisions. For that reason, they are unable to market their homes via models located within newly-constructed subdivisions, as is common for single-family homes in Central Ohio. Obtaining a variance to specifically permit this use which is generally unprecedented within the City will assist Applicant in properly obtaining necessary zoning clearance and building permits.

The development proposed for the subject Site is a model home complex/sales facility. The Site will consist of an office, with customer parking lot, and four (4) model homes. As illustrated on the site plan submitted, landscaping, lighting, fencing and sidewalks will be incorporated into the site layout. The model homes will be fully operational, with all utilities (water, electricity and gas) connected.

Although the homes will be fully functional single-family homes, they are not classified as residential dwellings, because at no time will they be occupied for residential living purposes. They are commercial in nature, as they are solely for the marketing and sale of Applicant's products. Further, they will be equipped with ADA-accessible handicap ramps and restrooms for customers visiting the Site, as well as an onsite customer parking lot.

Variations Requested:

As permitted under C.C.C. §3307.10 (Variations by City Council), variations to development standards may be granted in connection with a use variance. The following variations are necessary to facilitate Applicant's proposed use of its property:

- (1) Variance to **C.C.C. §3363.01 (M, Manufacturing District)**, to allow a use of the property not readily permitted through this Section.
- (2) Variance to **C.C.C. §3342.28 (Minimum Number of Parking Spaces Required)**. A commercial use of the subject property generates a minimum of 48 parking spaces by §3342.28. Applicant proposes 19 parking spaces to service the site. The site is expected to generate very minimal traffic, and does not require the amount of customer parking required by the Code's commercial calculation methods. It is because the four (4) model homes are considered commercial sales facilities that their collective square footages are included in the parking calculations, resulting in an amount of parking well over what is necessary for the use. For this reason, Applicant requests this variance to permit 19 spaces,

which will be more than adequate for a model home center featuring 4 homes.

(3) Variance to **C.C.C. §3390.04 (Temporary Use Permit Required)**.

As discussed above, the proposed use is unique to Columbus, and not provided for in the Zoning Code. This variance is requested as a variance to the most similar permitted use found in the Code. Section 3390.04 permits certain temporary uses be granted by the Administrator, for a period not to exceed one year. Such uses contemplated in that Section include residential homes within a subdivision to be used as model homes (i.e., a commercial use not otherwise permitted in a residential district), until such time as they are sold and occupied residentially. In this regard, §3390.04 permits the same scenario that Applicant proposes; a residential dwelling to be used commercially, in a zoning district that does not permit such use, however, the provisions of this Section are too specific to apply in this case. Applicant's proposed model homes will not be located in a residential district, nor a subdivision, and would not appropriately be limited to use for only one year. Again, however, the temporary use provisions are most similarly related to this case, and therefore a variance is requested to permit such use of a residential structure, but under slightly different circumstances.

Standard of Review/Approval:

Consistent with C.C.C. §3307.10 (Variances by City Council), consideration of the following factors is necessary and appropriate in Council's review of this request:

(a) **Unusual and practical difficulties exist in the carrying out of the applicable zoning district provisions.**

Unusual and practical difficulties do exist in carrying out the applicable zoning district provisions, because the use contemplated for this Site is not defined or in any way referenced within the City's Zoning Code. It is evident that the use is commercial in nature, and therefore appropriately permitted under the Site's current Limitation Text. However, due to the uniqueness of this use to Columbus's commercial market, a use variance is appropriate to more properly establish the proposed use as permitted.

(b) **Approving this use not permitted by the zoning district established on the property will not adversely affect the surrounding property or surrounding neighborhood, and will alleviate a hardship or difficulty which warrants a variance.**

The Site will be located within a commercial/manufacturing area, near the interstate and away from residential neighborhoods. Further, a hardship does exist for the Applicant in that, regardless of the Site's current zoning, the anticipated use is not expressly permitted under any zoning district, and therefore not expressly permitted on any property within the City.

As further contemplated by §3307.10, this 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 areas, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city." Applicant will establish through this filing that the anticipated use is appropriate in a manufacturing district, where commercial uses are also permitted. The traffic generated from the use will be minimal, and in no way adverse for any of the foregoing reasons.

Further, the approval of this use will be limited in scope, to permit only a commercial use of the homes. At no time after Applicants use of the structures cease, will they be permitted to be used as residential dwellings.

Additional Condition for Approval:

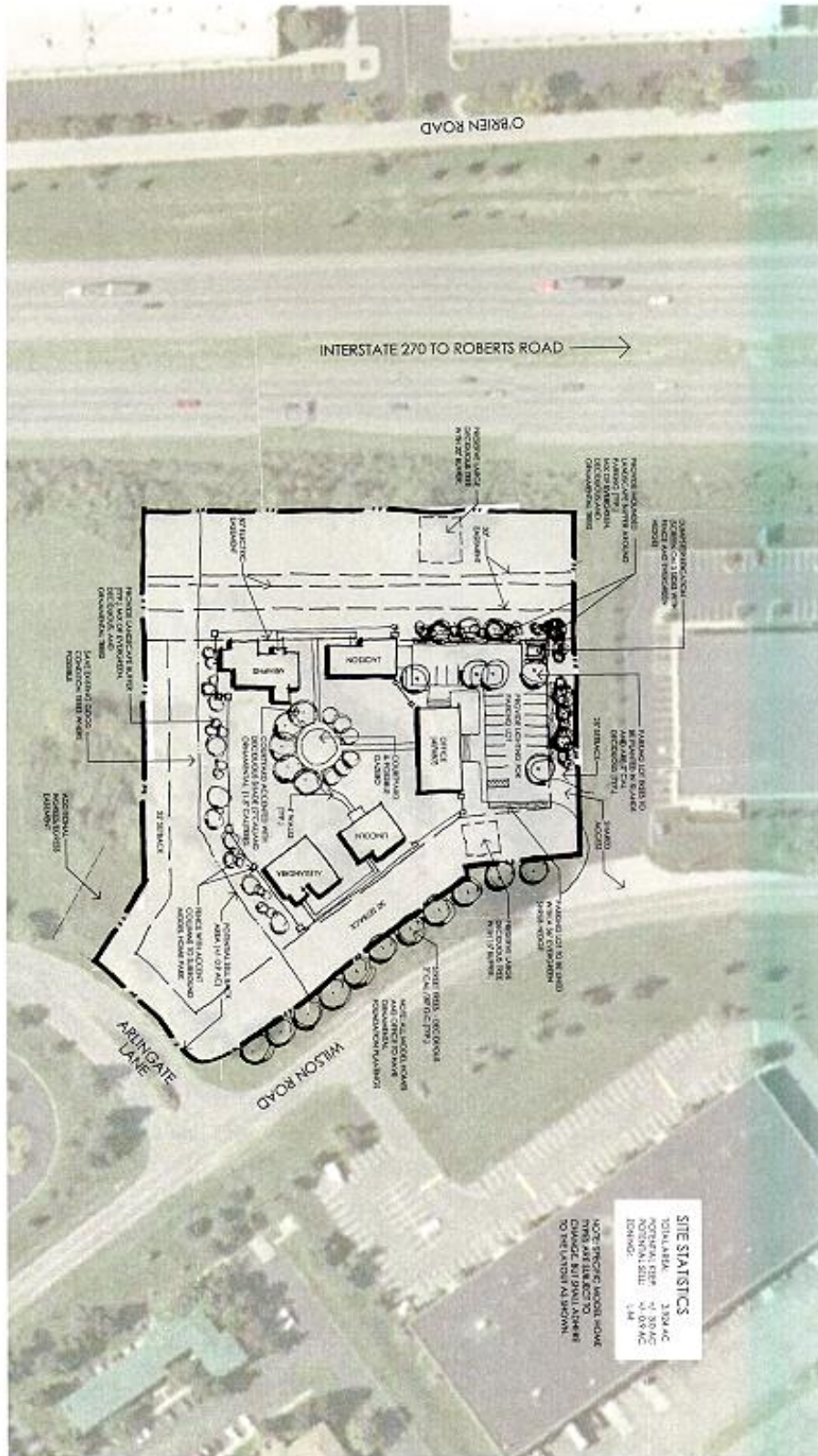
In insure the limited, commercial nature of the proposed use, Applicant commits to demolition of the commercial model home structures upon termination of their use for home sales purposes. Said demolition will occur within one (1) year of the termination of Applicant's use.

In light of the foregoing information, Applicant respectfully requests approval of this council variance, to permit an appropriate land use which simply is not contemplated under the Zoning Code. Applicant contends that, upon review of the submitted site plan, it is evident that the proposed land use is appropriate and complimentary for the subject Site and surrounding area.

Respectfully submitted,



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Counsel for Applicant



SITE STATISTICS

TOTAL AREA	2.30 AC
POTENTIAL SITE	1.30 AC
POTENTIAL SELL	1.00 AC
DEVELOP	1.00

NOTE: SPECIFIC MODEL HOME TYPES ARE SUBJECT TO MARKET DEMAND AND SHALL BE DETERMINED AT A LATER DATE.

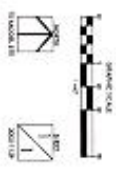
TK CONSTRUCTORS
 E.M.H.H.T.

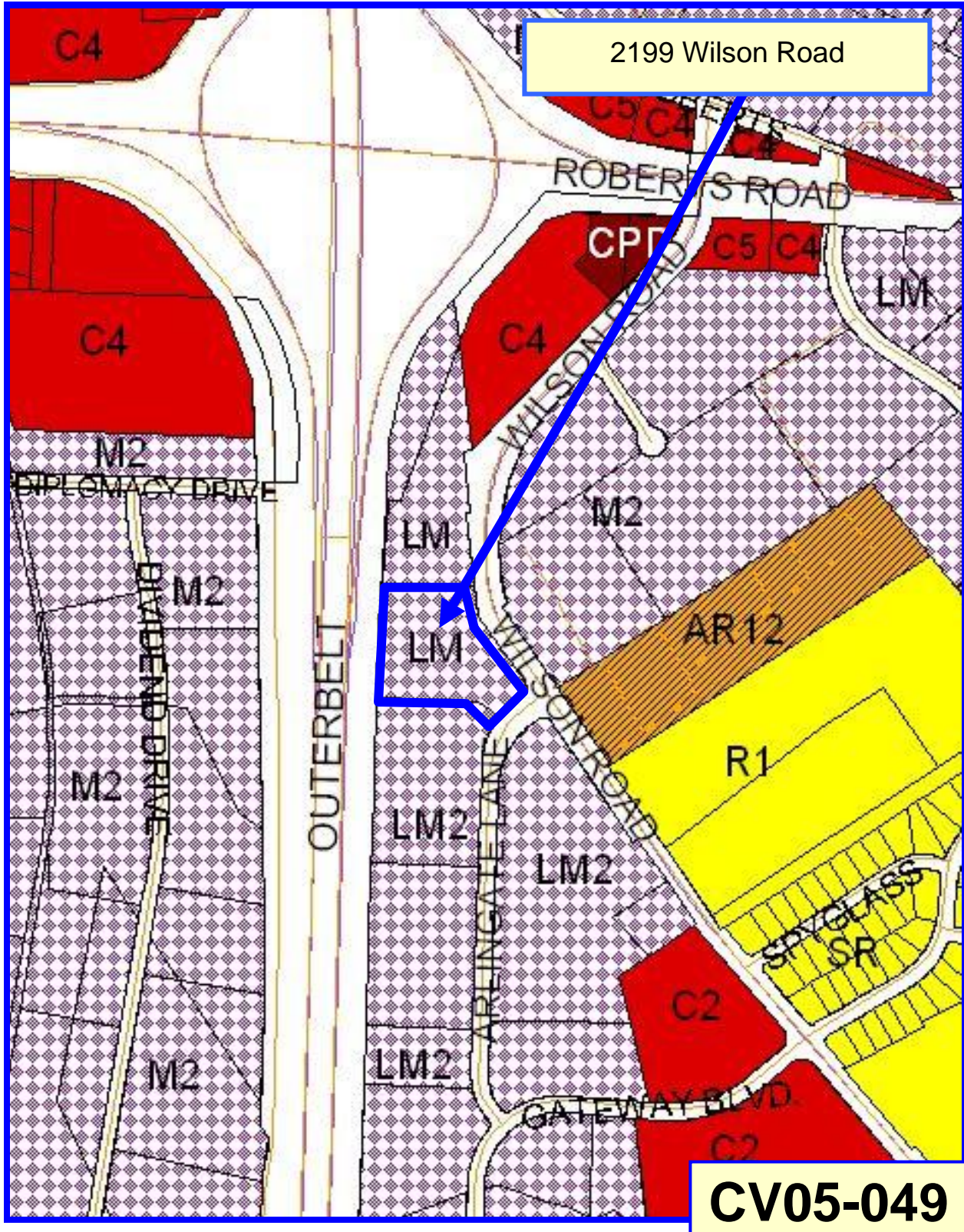
CONCEPT PLAN FOR:
WILSON ROAD MODEL HOME SITE
 CITY OF COLUMBUS, FRANKLIN COUNTY

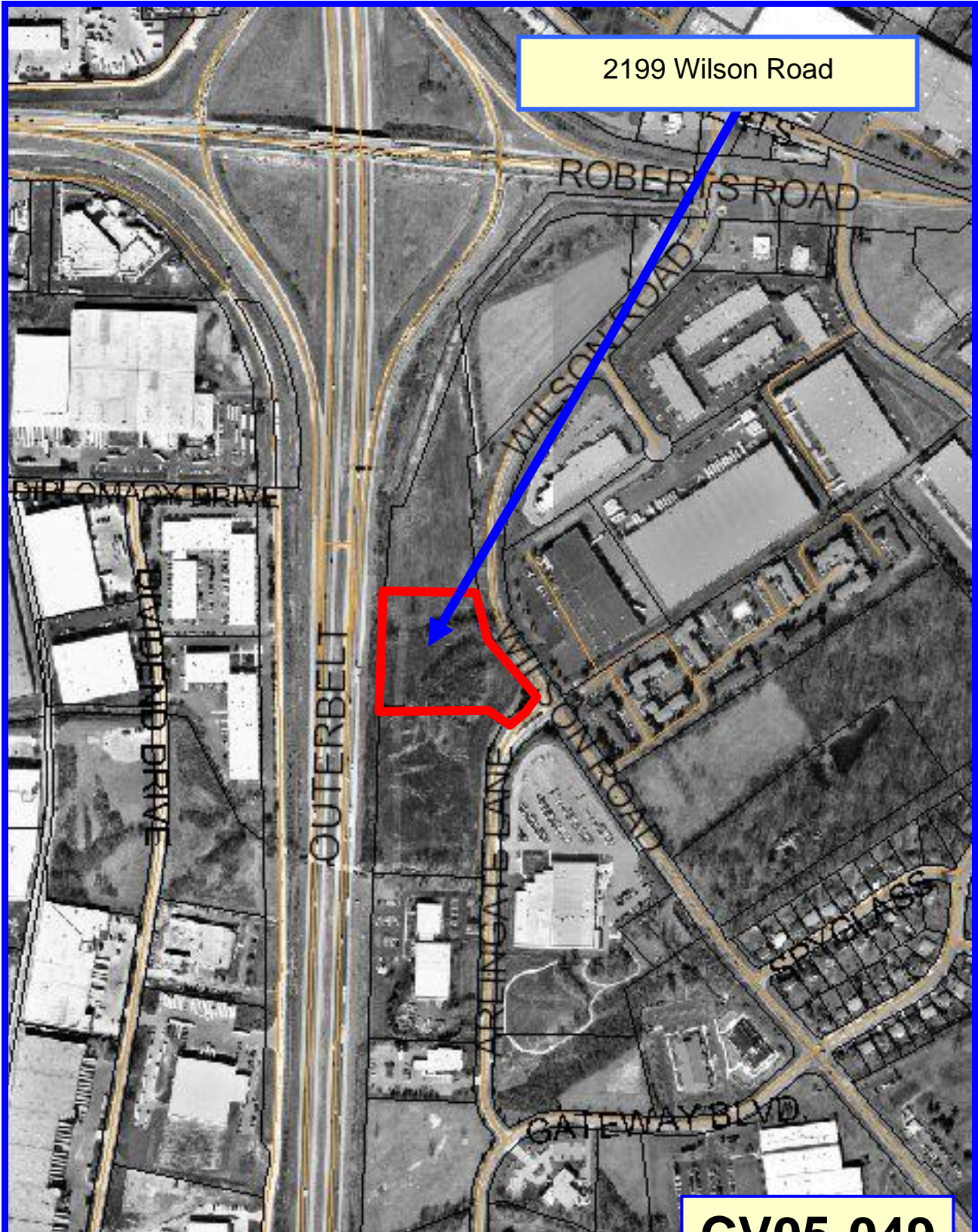
DATE: NOVEMBER 29, 2005

CV05-049 Final Received 11/22/05 by Shannon Fine

Michael R. Skane 11/22/05







2199 Wilson Road

CV05-049

City of Columbus | Department of Development | Building Services Division | 757 Carolyn Avenue, Columbus, Ohio 43224

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 # CV05-049

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 format:

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

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

1. TK Constructors 2401 N. Executive Park Drive Yorktown, IN 47396 Columbus-Based Employees: Contact: Michael Shannon, Esq. (614) 228-5511	2. L. Jack Ruscilli Ruscilli Construction Co. 2041 Arlingate Lane Columbus, OH 43228
3.	4.

SIGNATURE OF AFFIANT

Michael T. Shannon

Subscribed to me in my presence and before me this 19 day of September, in the year 2005

SIGNATURE OF NOTARY PUBLIC

Rita Martin

My Commission Expires:

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

Notary Seal Here



RITA MARTIN
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 09-24-05