

ORDINANCE NO. 52-15

**AN ORDINANCE APPROVING THE RECOMMENDATION OF THE
COMMUNITY REINVESTMENT AREA NEGOTIATING
COMMITTEE WITH REGARD TO THE COMMUNITY
REINVESTMENT AREA TAX INCENTIVE APPLICATION FOR
ASHLAND COMMONS, LLC**

WHEREAS, a Community Reinvestment Area Tax Incentive Application has been submitted to the City of Ashland by Ashland Commons, LLC; and

WHEREAS, the Community Reinvestment Area Negotiating Committee (The Committee) met on June 4, 2015 and reviewed said Application; and

WHEREAS, the Committee felt that the creation of new businesses in the City were one of the primary objectives of the Community Reinvestment Area and by offering this tax incentive, the economic viability of the project would be enhanced and encourage growth; and

WHEREAS, the Application involves the removal of buildings and development of property located at 762-A US RT 250, Ashland, Ohio 44805; Parcel ID P43-196-0-0002-00, Ashland, Ohio; and

WHEREAS, Ashland Commons, LLC will demolish the existing, vacant Carter Lumber buildings, construct and build a new fifty-two thousand seven hundred sixty square foot (52,760 SF) shopping center which will allow for eighteen (18) new high-end stores which will include a combination of restaurants, clothing, and other national and regional retailers; and

WHEREAS, Ashland Commons, LLC shall create within a time period not exceeding 12 months after the commencement of the construction of the aforesaid multi-tenant retail shopping center, the equivalent of two hundred seventy (270) new permanent job opportunities: eighteen (18) retailers employing an average of fifteen (15) employees each (5 full-time permanent and 10 part-time permanent) at the US RT 250 site.

WHEREAS, these new employees are estimated to result in approximately nine million ninety thousand dollars (\$9,090,000) in new payroll on an annual basis; and

WHEREAS, based on the application and information provided by Ashland Commons, LLC the Committee unanimously voted to recommend to Council to provide to the Ashland Commons, LLC reductions in real property tax of fifty percent (50%) for ten (10) years for the proposed new construction of sixteen million thirty-eight thousand dollars (\$16,038,000) noted in the Application; and

WHEREAS, the City provided the Ashland City Schools Board of Education and the Ashland County-West Holmes Career Center Joint Vocational School District notice of the Application prior to formal action as required within Ohio Revised Code Section 5709.83; and

WHEREAS, time is of the essence and this Council wishes to proceed with approval of the recommendation for the fifty percent (50%) tax reduction for the ten (10) years for the construction of the real property set forth above; and

WHEREAS, this Council must consider such recommendations and either approve or disapprove them; now therefore,

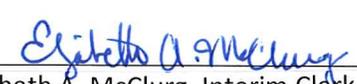
BE IT ORDAINED by the Council of the City of Ashland, State of Ohio, 5 members thereto concurring:

Section 1. That based upon the recommendations of the Community Reinvestment Area Negotiation Committee, duly adopted at the meeting of June 4, 2015, the Community Reinvestment Application of Ashland Commons, LLC for certain tax incentives is hereby approved.

Section 2. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: July 7, 2015


Stephen L. Stuart, President of Council

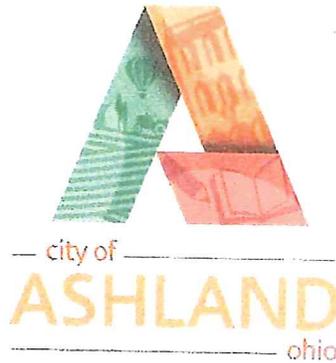
Attest: 
Elizabeth A. McClurg, Interim Clerk of Council

Approved: 
Glen P. Stewart, Mayor

Approved as to form & correctness:

Date: July 7, 2015


Richard P. Wolfe, Director of Law



COMMUNITY REINVESTMENT AREA AGREEMENT

This agreement made and entered into by and between the City of Ashland, Ohio, an Ohio municipality, with its main offices located at 206 Claremont Avenue, Ashland, Ohio, 44805, hereinafter referred to as "The City of Ashland" and Ashland Commons, LLC an Ohio Limited Liability Company with its main offices located at 9380 Montgomery Road, Suite 202, Cincinnati, Ohio 45242, hereinafter referred to as "Ashland Commons", an Ohio Limited Liability Company with its future retail shopping center located at 762-A US RT 250, Ashland, Ohio 44805 WITNESSETH;

WHEREAS, the City of Ashland has encouraged the development of real property and the acquisition of personal property located in the area designated as a Community Reinvestment Area; and

WHEREAS, Ashland Commons is desirous of constructing a new (52,760 SF) fifty-two thousand seven hundred sixty square foot shopping center which will allow for 18 new high-end stores (hereinafter referred to as the "PROJECT") within the boundaries of the aforementioned Community Reinvestment Area, provided that the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the City Council of Ashland, Ohio by amended Ordinance No. 21-10 adopted on May 18, 2010 with corresponding Ordinance No. 17-15 adopted on April 7, 2015, designated the area as a "Community Reinvestment Area" pursuant Chapter 3735 of the Ohio Revised Code; and

WHEREAS, effective June 9, 2015, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance No. 17-15 contained the characteristics set forth in Section 3735.66 of the Ohio Revised Code and confirmed said area as a Community Reinvestment Area under said Chapter 3735; and

WHEREAS, the City of Ashland having the appropriate authority for the stated type of project, is desirous of providing Ashland Commons with incentives available for the development of the PROJECT in said Community Reinvestment Area under Chapter 3735 of the Ohio Revised Code; and

WHEREAS, Ashland Commons has submitted a proposed application (herein attached as Exhibit A) to the City of Ashland (hereinafter referred to as "APPLICATION"); and

WHEREAS, Ashland Commons has remitted the required state application fee of \$750.00 made payable to the Ohio Development Services Agency with the application to be forwarded to said department with a copy of the final agreement and the local application fee of \$750.00 made payable to the Ashland Area Council for Economic Development; and

WHEREAS, the City of Ashland has investigated the application of Ashland Commons and has recommended the same to the Council of the City of Ashland on the basis that Ashland Commons is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Community Reinvestment Area and improve the economic climate of the City of Ashland; and

WHEREAS, the project site as proposed by Ashland Commons is located in the Ashland City School District and the Ashland County-West Holmes Career Center JVSD and the Board of Education of the Ashland City Schools has been notified in accordance with Section 5709.83 and been given a copy of the APPLICATION; and

WHEREAS, pursuant to Section 3735.67(A) of the Ohio Revised Code and in conformance with the format required under Section 3735.671(B) of the Ohio Revised Code, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Ashland Commons shall demolish the existing, vacant Carter Lumber buildings, construct and build a (52,760 SF) fifty-two thousand seven hundred sixty square foot building consisting of a (6,400 SF) six thousand four hundred square foot restaurant, a (5,460 SF) five thousand four hundred sixty square foot outparcel 2, and a (40,900 SF) forty thousand nine hundred square foot multi-tenant retail center. Outparcel 2 and the shopping center will include a combination of restaurants, clothing, and other national and regional retailers. Said building is located at 762-A US RT 250, Ashland, Ohio 44805 and is identified as Parcel ID I250150001902. Ashland Commons purchased an 8 acre parcel which will be annexed into the City of Ashland in 2015. A new Parcel ID of P43-196-0-0002-00 will be designated by the Auditor's revised records and will fall within the fourth ward of Ashland, Ohio.

The PROJECT will involve the demolition of existing buildings and the construction of a new multi-tenant retail shopping center in an area that is continuing to show growth as the properties are annexed into the City of Ashland.

The PROJECT will involve a total investment by Ashland Commons of \$16,038,000 (sixteen million thirty-eight thousand) dollars, at the US RT 250 site. Included in this investment are \$1,025,000 (one million twenty-five thousand) dollars for the acquisition of the land and the existing buildings; \$5,313,000 (five million three hundred thirteen thousand) dollars for the new construction; \$1,700,000 (one million seven hundred thousand) dollars for tenant improvements to the new buildings; and \$8,000,000 (eight million) dollars for tenant inventory.

The PROJECT will begin on August 20, 2015 and all acquisition, demolition, and construction will be completed by March 20, 2016.

2. Ashland Commons, LLC shall create within a time period not exceeding 12 months after the commencement of the construction of the aforesaid multi-tenant retail shopping center, the equivalent of 270 new permanent job opportunities: 18 retailers employing an average of 15 employees each (5 full-time permanent and 10 part-time permanent) at the US RT 250 site.

Ashland Commons's schedule for hiring is as follows: each tenant will hire within a year (typically within 90 days of the construction completion). The tenants will create approximately 270 jobs in 2016. The job creation period begins in March 2016.

Ashland Commons currently has 0 employees, at the PROJECT site.

This increase in the number of employees will result in approximately \$9,090,000 (nine million ninety thousand) dollars of additional annual payroll for the tenants of Ashland Commons. The following is an itemization by the types of new jobs created: full-time permanent \$4,050,000, full-time temporary \$0, part-time permanent \$5,040,000, and part-time temporary \$0.

3. Ashland Commons shall provide to the proper Tax Incentive Review Council (TIRC) any information reasonably required by the Council to evaluate the property owner's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the Council.
4. Ashland Commons shall give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

5. Ashland Commons shall maintain memberships in both the Ashland Area Chamber of Commerce and the Ashland Area Council for Economic Development.
6. The City of Ashland hereby grants Ashland Commons a tax exemption for real property improvements made to the PROJECT site pursuant to Section 3735.67 of the Ohio Revised Code and shall be in the following amounts:

<u>Year of Tax Exemption</u>	<u>Tax Exemption Amount</u>
1	50%
2	50%
3	50%
4	50%
5	50%
6	50%
7	50%
8	50%
9	50%
10	50%

Each identified project improvement will receive a ten (10) year exemption period. The exemption commences the first year for which the Real Property exemption would first be taxable were that property not exempted from taxation. No exemption shall commence after January 1, 2016 nor extend beyond December 31, 2026.

Ashland Commons must file the appropriate tax forms with the County Auditor to effect and maintain the exemptions covered in the agreement.

7. Ashland Commons shall pay an annual fee equal to the greater of one percent of the dollar value of incentives offered under the agreement or five hundred dollars: provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars.

The fee shall be made payable to the City of Ashland once per year for each year the agreement is effective on the days and in the following forum (certified check). The fee is to be paid to the City Finance Director and made out to the City of Ashland. This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with section 3735.671(D) of the revised code and by the tax incentive review council created under section 3735.671(D) of the revised code exclusively for the purposes of performing the duties prescribed under that section.

8. Ashland Commons shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If Ashland Commons fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded

beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

9. The City of Ashland shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
10. If for any reason the Community Reinvestment Area designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or the City of Ashland revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless Ashland Commons materially fails to fulfill its obligations under this agreement and the City of Ashland terminates or modifies the exemptions from taxation granted under this agreement.
11. If Ashland Commons materially fails to fulfill its obligations under this agreement, or if the City of Ashland determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Ashland may terminate or modify the exemptions from taxation granted under this agreement and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement.
12. Ashland Commons hereby certifies that at the time this agreement is executed, Ashland Commons does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Ashland Commons is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, or, if such delinquent taxes are owed, Ashland Commons currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Ashland Commons. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.
13. Ashland Commons affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.
14. Ashland Commons, LLC and the City of Ashland acknowledge that this agreement must be approved by formal action of the legislative authority of the City of Ashland as a

condition for the agreement to take effect. This agreement takes effect upon such approval.

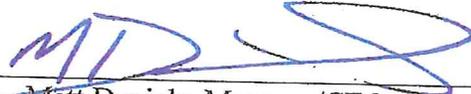
15. The City of Ashland has developed a policy to ensure recipients of Community Reinvestment Area tax benefits practice non-discriminating hiring in its operations. By executing this agreement, Ashland Commons, LLC is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.
16. Exemptions from taxation granted under this agreement shall be revoked if it is determined that Ashland Commons, any successor property owner, or any related member (as those terms are defined in Section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.
17. Ashland Commons affirmatively covenants that it has made no false statements to the State or local political subdivisions in the process of obtaining approval of the Community Reinvestment Area incentives. If any representative of Ashland Commons has knowingly made a false statement to the State or local political subdivision to obtain the Community Reinvestment Area incentives, Ashland Commons shall be required to immediately return all benefits received under the Community Reinvestment Area Agreement pursuant Section 9.66(C)(2) of the Ohio Revised Code and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to Section 9.66(C)(1) of the Ohio Revised Code. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Section 2921.13(D)(1) of the Ohio Revised Code, which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.
18. This agreement is not transferrable or assignable without the express, written approval of the City of Ashland.

IN WITNESS WHEREOF, the City of Ashland, Ohio, by Glen P. Stewart, its Mayor, and pursuant to Ordinance/Resolution No. _____ has caused this instrument to be executed on this day of July 7, 2015 and Ashland Commons, LLC by matt Daniels its Manager/CEO, has caused this instrument to be executed on this day of July 7, 2015.

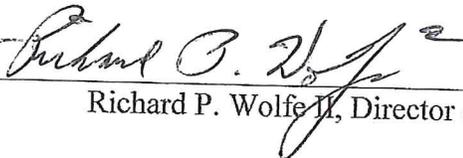
City of Ashland

By 
Glen P. Stewart, Mayor

Ashland Commons, LLC

By 
Matt Daniels, Manager/CEO

Approved as to form:

By 
Richard P. Wolfe II, Director of Law