

ORDINANCE NO. 26-16

AN ORDINANCE APPROVING THE RECOMMENDATION OF THE COMMUNITY REINVESTMENT AREA NEGOTIATING COMMITTEE WITH REGARD TO THE COMMUNITY REINVESTMENT AREA TAX INCENTIVE APPLICATION FOR D&F INVESTMENTS, INC.

WHEREAS, a Community Reinvestment Area Tax Incentive Application has been submitted to the City of Ashland by D&F Investments, Inc.; and

WHEREAS, the Community Reinvestment Area Negotiating Committee (The Committee) met on February 24, 2016 and reviewed said Application; and

WHEREAS, the Committee felt that the creation of new businesses in the City as 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 new construction and development of the property located at 1677 Claremont Avenue, Ashland, Ohio 44805; Parcel ID P44-077-0-0082-00 Ashland, Ohio; and

WHEREAS, D&F Investments, Inc. will construct a new (10,000 SF) ten thousand square foot building consisting of an office, customer waiting area, and (7) seven bays for a tire and auto center (Quick Lane Tire & Auto Center); and

WHEREAS, D&F Investments, Inc. (Quick Lane Tire & Auto Center) shall hire within a time period not exceeding 12 months after the commencement of the construction of the aforesaid building, the equivalent of (8-10) eight to ten permanent positions at the Claremont Avenue site.

WHEREAS, the increase of (8-10) eight to ten employees is estimated to result in approximately three hundred thousand dollars (\$300,000) in new payroll on an annual basis; and

WHEREAS, based on the application and information provided by D&F Investments, Inc the Committee unanimously voted to recommend to Council to provide to D&F Investments, Inc reductions in real property tax of fifty percent (50%) for ten (10) years for the proposed new construction of one million four hundred forty thousand dollars (\$1,440,000) 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 ten (10) years for new construction as set forth above; and

WHEREAS, this Council must consider such recommendation and either approve or disapprove it, 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 February 24, 2016, the Community Reinvestment Application of D&F Investments, Inc. for a tax incentive reduction of fifty percent (50%) for the ten (10) year period following the construction as described above 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: March 19th, 2016

Ruth G. Detrow
Ruth G. Detrow, President of Council

Attest: Jody M. Toms
Jody M. Toms, Clerk of Council

Approved: Glen P. Stewart
Glen P. Stewart, Mayor

Approved as to form & correctness:

Richard P. Wolfe
Richard P. Wolfe, Director of Law

Date: March 19th, 2016

The City of Ashland
PROPOSED LEGISLATION
Ordinance – Community Reinvestment Area Agreement (D&F Investments)

DATE: March 9, 2016

TO: Honorable Mayor Glen P. Stewart & City Council

FROM: Shane Kremser, P.E., City Engineer

LEGISLATION SUMMARY: This Ordinance approves the granting of a Community Reinvestment Area (CRA) tax exemption and authorizes the Mayor to sign the CRA Agreement.

LEGISLATIVE HISTORY: None

LEGISLATIVE PURPOSE: The existing building located at 1677 Claremont Avenue use to be a Ponderosa in years past and most recently was rehabilitated as the former Goodfellows Pizzeria and Pub. Since Goodfellows was closed several years ago, the building has fallen into a state of disrepair and as such has become a nuisance to the surrounding properties. The previous owner of the property was based out of California and had failed to provide proper upkeep of the property on several occasions. The intent of the CRA tax exemption is to provide incentives for owners/developers to invest in real property improvements within the community. This particular improvement will repurpose the property by razing the existing structure and constructing a new 10,000 SF building to be used as the Quick Lane Tire & Auto Center. The CRA tax incentive process requires that a Negotiating Committee consider the level of abatement and make a recommendation to the legislative authority. The Negotiating Committee met on February 2, 2016 and is recommending a 50% tax incentive on the real property improvements increased valuation for a term of ten (10) years.

FISCAL IMPACT: Property tax exemption

DIRECTOR'S RECOMMENDATION: After reviewing with the Mayor, it is recommended that this Ordinance be passed so that the Agreement can be executed and real property improvements can be constructed in accordance with the CRA Agreement.



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 D&F Investments, Inc. an Ohio Corporation with its main offices located at 1641 Claremont Avenue, Ashland, Ohio 44805, hereinafter referred to as "D&F Investments", an Ohio Corporation with its future tire and auto center located at 1677 Claremont Avenue, 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, D&F Investments is desirous of constructing a new (10,000 SF) ten thousand square foot tire and auto center (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 D&F Investments with incentives available for the development of the

PROJECT in said Community Reinvestment Area under Chapter 3735 of the Ohio Revised Code; and

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

WHEREAS, D&F Investments 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 D&F Investments and has recommended the same to the Council of the City of Ashland on the basis that D&F Investments 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 D&F Investments 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. D&F Investments shall demolish the existing, vacant Ponderosa building and construct a (10,000 SF) ten thousand square foot building consisting of office space, customer waiting area, and 7 bays for a tire and auto center (Quick Lane Tire & Auto Center). Said building is located at 1677 Claremont Avenue, Ashland, Ohio 44805 and is identified as Parcel ID P44-077-0-0082-00 as designated by the Auditor's revised records and will fall within the first ward of Ashland, Ohio.

The PROJECT will involve the demolition of an existing building and the construction of a service tire and auto center in an area of the city that is showing signs of revitalization.

The PROJECT will involve a total investment by D&F Investments of \$1,440,000 (one million four hundred forty thousand) dollars at the Claremont Avenue site. Included in this investment are \$310,000 (three hundred ten thousand) dollars for the acquisition of the land and the existing building; \$1,000,000 (one million) dollars for the new

construction; \$100,000 (one hundred thousand) dollars for machinery and equipment; and \$30,000 (thirty thousand) dollars for inventory.

The PROJECT will begin in March 2016 and all acquisition, demolition, and construction will be completed by December 31, 2016.

2. D&F Investments, Inc. shall create within a time period not exceeding 12 months after the commencement of the construction of the aforesaid tire and auto center, the equivalent of 8 to 10 new full-time permanent jobs at the Claremont site.

D&F Investments currently has 0 employees, at the PROJECT site.

This increase in the number of employees will result in approximately \$300,000 (three hundred thousand) dollars of additional annual payroll for Quick Lane Tire & Auto Center.

3. D&F Investments 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. D&F Investments 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. D&F Investments 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 D&F Investments 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, 2017 nor extend beyond December 31, 2027.

D&F Investments must file the appropriate tax forms with the County Auditor to effect and maintain the exemptions covered in the agreement.

7. D&F Investments 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. D&F Investments 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 D&F Investments 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 D&F Investments 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 D&F Investments 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. D&F Investments hereby certifies that at the time this agreement is executed, D&F Investments 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, D&F Investments 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 D&F Investments. 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. D&F Investments 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. D&F Investments, Inc. 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, D&F Investments, Inc. 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 D&F Investments, 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. D&F Investments affirmatively covenant 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 D&F Investments has knowingly made a false statement to the State or local political subdivision to obtain the Community Reinvestment Area incentives, D&F Investments 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 March 15, 2016 and D&F Investments, Inc. by Scott D. Donley its President, has caused this instrument to be executed on this day of March 15, 2016.

City of Ashland

By _____
Glen P. Stewart, Mayor

D&F Investments, Inc.

By _____
Scott D. Donley, President

Approved as to form:

By _____
Richard P. Wolfe II, Director of Law