



CITY OF PATASKALA BOARD OF ZONING APPEALS

City Hall, Council Chambers
621 West Broad Street
Pataskala, Ohio 43062

STAFF REPORT

July 8, 2019

Conditional Use Application CU-19-003

Applicant:	Ahmad Alghazzawi
Owner:	Tolson Enterprises
Location:	470 E. Broad Street, Pataskala, OH 43062
Acreage:	5.44-acres
Zoning:	GB – General Business
Request:	Requesting approval of a conditional use pursuant to Section 1215.04 of the Pataskala Code for a Tobacco Store (NAICS Code: 453991) which is a Conditional Use in the GB – General Business District pursuant to Section 1249.04(19) of the Pataskala Code.

Description of the Request:

The applicant is seeking a conditional use to allow for the property at 470 E. Broad Street to be operated as a Tobacco Store in the GB – General Business district pursuant to Section 1249.04(19).

Staff Summary:

The property at 470 East Broad Street is a 1,200-square foot storefront in the Kroger shopping center that was constructed in 2001. It is one (1) of twenty (20) leased retail areas of varying size in this development. The building itself is set back approximately 400-feet from East Broad Street and has access to the large paved asphalt parking lot that is shared by all businesses in the complex.

The Applicant is requesting a Conditional Use to allow the property to be used for a Tobacco Store selling tobacco products such as cigars, as well as E-cigarettes. The Applicant is not proposing any exterior alterations to the building, except a sign, as it is part of the overall shopping center. The proposed use as a Tobacco Store falls under the North American Industry Classification System (NAICS) code 453991, which is defined as: “Establishments primarily engaged in retailing cigarettes, cigars, tobacco, pipes, and other smokers supplies”. The proposed use is a Conditional Use in the GB – General Business district pursuant to Section 1249.04(19) of the Pataskala Code.

Per the Applicant’s Narrative Statement: they believe it will be harmonious with and in accordance with the general objections of the Code. There is already an existing Tobacco Store (“Vapor Station”) inside the shopping complex. No activities will be hazardous or disturbing to existing or future neighboring uses. The storefront is in an existing strip mall with access to an established parking lot.

Staff Review:

The following summary does not constitute recommendations but merely conclusions and suggestions from the Staff Review, the full text of which follows the summary.

Planning and Zoning Staff:

The Future Land Use map designates this property as Retail; therefore, the proposed use is in line with the City of Pataskala Comprehensive Plan (2006).

The Applicant had initially applied for a Sign Permit (#19-245), however it was discovered that there was no Certificate of Compliance that had been issued for the proposed use. Zoning Permits cannot be issued until there is a valid Certificate of Compliance, and as the proposed use is a Conditional Use in the GB – General Business District, a Certificate of Compliance could not be issued until the Applicant had their Conditional Use approved by the BZA. The Sign must be in compliance with Section 1295 of the Pataskala Code, which will be reviewed once the Applicant has had their Conditional Use and Certificate of Compliance approved.

Pursuant to Section 1291.16(Commercial)(1) of the Pataskala Code; food, departmental, general floor merchandise, hardware, drugs, and similar retail sales shall have 1 parking space for each 200 square feet of gross floor area. The store is 1,200-square feet, so it would require 6 parking spaces. As the shopping center is served by a large shared parking lot with over 400 available parking spaces, Staff believes this use will have ample parking available.

Staff has no other concerns with the proposed Conditional Use.

Other Departments and Agencies

No other comments were received.

Surrounding Area:

Direction	Zoning	Land Use
North	R-M – Multi-Family Residential	Condos
East	GB – General Business	Misc. Commerical
South	B-1 – Business District (Harrison Twp.) R-7 – Village Single-Family Residential	Misc. Commercial Single-Family Homes
West	GB – General Business	Misc. Commercial

Conditional Use Requirements:

According to Section 1215.04 of the Pataskala Code, the Board of Zoning appeals shall consider whether the conditional use at the proposed location:

1. *Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the application.*
2. *Will be harmonious with and in accordance with the general objectives or with any specific objective of the City comprehensive plan and/or this Code.*
3. *Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
4. *Will not be hazardous or disturbing to existing or future neighboring uses.*
5. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
7. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
8. *Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.*
9. *Will not result in destruction, loss or damage of a natural, scenic, or historic feature of major importance.*

Furthermore, Section 1215.05 allows other factors to be considered, when determining if a conditional use is appropriate. In Staff's opinion the following factors from Section 1215.05 are applicable to Conditional Use Application CU-19-003:

- None

Department and Agency Review

- Zoning Inspector – No comments.
- Public Service – No comments.
- City Engineer – No comments.
- Licking County Health Department– No comments.
- Police Department – No comments
- West Licking Joint Fire District – No comments.
- Licking Heights School District – No comments.

Conditions:

Should the Board choose to approve the applicant's request, the following conditions may be considered:

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department within one (1) year of the date of approval.

Resolution:

For your convenience, the following resolution may be considered by the Board of Zoning Appeals when making a motion:

"I move to approve a conditional use pursuant to Section 1249.04(19) of the Pataskala Code for application CU-19-003 ("with the following conditions" if conditions are to be placed on the approval)."



CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

621 West Broad Street, Suite 2A
Pataskala, Ohio 43062

CONDITIONAL USE APPLICATION

(Pataskala Codified Ordinances Chapter 1215)

Property Information	
Address:	470 E. Broad St
Parcel Number:	064-068322-00.005
Zoning:	GB
Acres:	5.44
Water Supply:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site
Wastewater Treatment:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site

Staff Use
Application Number:
CU-19-003
Fee:
\$300.00
Filing Date:
6.6.19
Hearing Date:
7.8.19
Receipt Number:
21006

Applicant Information		
Name:	Ahmad Alhazzawi	
Address:	2482 Hilliard Park Blvd	
City:	Hilliard	State: OH Zip: 43026
Phone:	614 806 1858	Email: Alhazzawi80@gmail.com

Documents
<input checked="" type="checkbox"/> Application
<input checked="" type="checkbox"/> Fee
<input type="checkbox"/> Narrative <i>email</i>
<input checked="" type="checkbox"/> Site Plan
<input checked="" type="checkbox"/> Deed
<input type="checkbox"/> Area Map

Property Owner Information		
Name:	Tolson Enterprises	
Address:	6591 W. Central Ave., Suite 100	
City:	Toledo	State: OH Zip: 43617
Phone:	419-843-6245	Email: edull@tolsonent.com

Conditional Use Information
Request (Include Section of Code):
1249.04(17) Conditional use pursuant to 1215
Describe the Project:
1200 1,200 SQFT store, selling tobacco products, vape pods, and jewel kits, cigars

Documents to Submit

Conditional Use Application: Submit 1 copy of the conditional use application.

Narrative Statement: Submit 1 copy of a narrative statement explaining the following:

- The reason the conditional use has been requested.
- The specific reasons why the conditional use is appropriate as it pertains to Section 1215.04 of the Pataskala Code:
 1. *Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on this application.*
 2. *Will be harmonious with and in accordance with the general objectives, or with any specific objective of the City comprehensive plan and/or this Code.*
 3. *Will be designed, constructed, operated and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
 4. *Will not be hazardous or disturbing to existing or future neighboring uses.*
 5. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
 6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
 7. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but not limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
 8. *Will have vehicular approaches to the property which shall be so designed as to not create interference with traffic on surrounding public thoroughfares.*
 9. *Will not result in destruction, loss, or damage of a natural, scenic, or historical feature of major importance.*
- Specific standards for conditional uses can be found in Section 1215.05 of the Pataskala Code.
- Wireless Telecommunication Facilities must also meet the requirements outlined in Section 1293.06(B) of the Pataskala Code.

Site Plan: Submit 1 copy (unless otherwise directed by staff) of a site plan to scale of the subject property indicating the following:

- All property lines and dimensions
- Location and dimensions of all existing and proposed buildings and structures.
- Setbacks from property lines for all existing and proposed buildings, structures and additions
- Easements and rights-of-way
- Driveways
- Floodplain areas
- Location of existing wells and septic/aerator systems.
- Any other information deemed necessary for the conditional use request

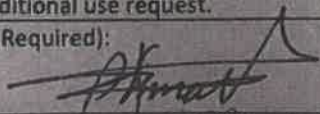
Deed: Provide a copy of the deed for the property with any deed restrictions. Deeds can be obtained from the Licking County Recorder's website here: <https://apps.lcounty.com/recorder/paxworld/>

Area Map: Submit 1 copy of an area map showing the property and the surrounding area. Area maps can be obtained from the Licking County Auditor's website here: <https://www.lickingcountyohio.us/>

Signatures

I certify the facts, statements and information provided on and attached to this application are true and correct to the best of my knowledge. Also, I authorize City of Pataskala staff to conduct site visits and photograph the property as necessary as it pertains to this conditional use request.

Applicant (Required):



Date:

6/4/19

Property Owner: (Required): *Manager of Facilities Maintenance*

Christina Dull

Date:

6/6/19

Narrative Statement Answers:

1. Yes
2. Yes, there is similar shop in the strip mall
3. Not making any changes only adding a business sign at store front
4. Yes, it will not be hazardous or disturbing
5. All services are set up with city utilities
6. It will not
7. It will not
8. It's in an existing strip mall with an established parking lot
9. It will not

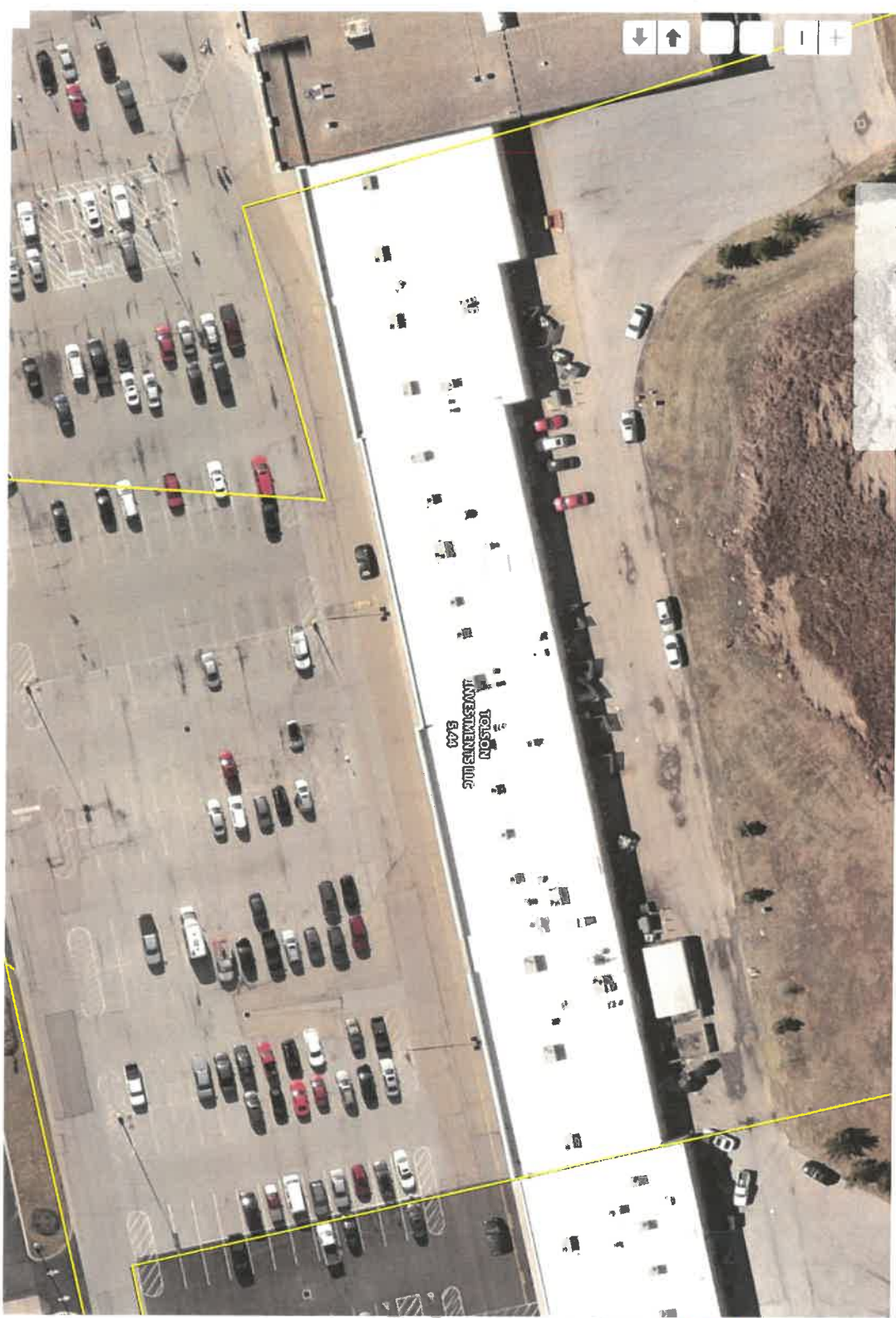
Thank you .

Michael L. Smith, Auditor
Olivia C. Parkinson, Treasurer

Taxes Due July 17th

- BOR
- CAUV
- Dog License
- Downloads
- Forms
- GIS
- Homestead
- Taxes
- Other

- BOR
- Card
- CAUV
- Documents
- Land
- Map
- Parcel
- Pictometry
- Sketch
- Street View
- Structures
- Taxes
- Transfers
- Values



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Trouble Searching?



064-068322-00-005
TOLSON INVESTMENTS
LLC
390 E BROAD ST
PATASKALA, OH 43062

Acres: 5.44
5.413 AC LOT 18 PT
Land: \$947,900
Improv: \$2,052,100
Total: \$3,000,000
Sale Date: 06/20/2012
Amount: \$0
Conveyance: 99999
Valid Sale: No
Homestead: No
Owner Occ: No
Foreclosure: No
Certified Delq: No
On Contract: No
Bankruptcy: No
Tax Lien: No

DESCRIPTION APPROVED
WILLIAM C. LOZIER
LICKING COUNTY ENGINEER
APPROVED BY
6/6/12 AJL

201206210013787
Pg: 3 \$36.00 T20120015867
06/21/2012 3:12PM NEBRADY COYL
Bryan A. Long
Licking County Recorder

0114PA01100000002210

TRANSFERRED
Date June 20 2012
M. OK S. J. BF
Licking County Auditor
SEC. 319.202 COMPLIED WITH
MICHAEL L. SMITH, AUDITOR
BY BF exg

GENERAL WARRANTY DEED
(Statutory Form)
Rev. Code Sec. 5302.05

Harvey A. Tolson, a married man, of Lucas County, State of Ohio for valuable consideration paid, grant(s), with general warranty covenants, to Tolson Investments, LLC, an Ohio limited liability company, whose tax-mailing address is 6591 W. Central Avenue, Suite 100, Toledo, Ohio 43617 the following real property:

See "Exhibit A" attached hereto and made a part hereof.

Subject to zoning ordinances, easements, restrictions of record and taxes due and payable.

Tax Parcel No. 64-068322-00.005
Prior Instrument Reference: 200409270034894

Constance L. Tolson, wife of the grantor, releases all rights of dower therein.

Executed this 12th day of January, 2012.

Harvey A. Tolson
Harvey A. Tolson

Constance L. Tolson
Constance L. Tolson

STATE OF OHIO)
) ss:
COUNTY OF LUCAS)

The foregoing instrument was acknowledged before me this 12th day of January, 2012, by Harvey A. Tolson and Constance L. Tolson, husband and wife.

Cheryl K. Slotterbeck
Notary Public

This Instrument Prepared By and
After Recording Return To:
Brenda A. Ray, Esq.
Brady, Coyle Schmidt
4052 Holland-Sylvania Road
Toledo, OH 43623



CHERYL K. SLOTTERBECK
Attorney at Law
Notary Public - State of Ohio
My Commission has no expiration date
Section 147.03 O.R.C.

EXHIBIT A

5.443 Acres

Situated in the State of Ohio, County of Licking, City of Pataskala, lying in Lot Numbers 17 and 18, Quarter Township 3, Township 1, Range 14, United States Military Lands, and being part of the remainder of a 10.597 acre tract and all of a 1.504 acre tract conveyed to Pataskala-Toledo Associates, Ltd, an Ohio limited liability company (Pataskala-Toledo Associates, Limited) by deeds of record in Instrument Numbers 200002230005668 and 200006260020286, respectively, (all references refer to the records of the Recorder's Office, Licking County, Ohio) and more particularly bounded and described as follows:

Beginning, for reference, at a magnetic nail set at the intersection of the line common to Lot Numbers 17 and 18 and the centerline of East Broad Street (State Route 16), of record in the plat of "HARRISON SQUARE," a plat of record in Plat Book 16, Pages 263-265, also being the southwesterly corner of a 0.626 acre tract conveyed to the Board of Licking County Commissioners by deed of record in Official Record 162, Page 374;

thence North 00° 48' 52" East, a distance of 187.36 feet, with the line common to said Lot Numbers 17 and 18 and said 0.626 acre tract, and partially with the easterly line of a 7.665 acre tract conveyed to The Kroger Company by deed of record in Instrument Number 200002230005671, to an iron pin set at the northwesterly corner of said 0.626 acre tract and a southwesterly corner of said 10.597 acre tract, being the TRUE POINT OF BEGINNING;

thence North 00° 48' 52" East, a distance of 235.09 feet, continuing with the line common to said Lot Numbers 17 and 18 and said 10.597 and 7.665 acre tracts, to a magnetic nail set at the southeasterly corner of said 1.504 acre tract;

thence South 74° 46' 33" West, a distance of 140.97 feet, with the line common to said 1.504 acre tract and the remainder of said 7.665 acre tract, to a magnetic nail set;

thence North 15° 13' 27" West, a distance of 344.00 feet, with the westerly line of said 1.504 acre tract, and partially with the easterly lines of the remainders of said 7.665 acre tract and a 3.374 acre tract conveyed to The Kroger Company by deed of record in Instrument Number 200002230005671, to an iron pin set at the common corner of said 1.504 acre tract and the remainder of said 3.374 acre tract, being in the southerly line of a 6.237 acre tract conveyed to Olympus Homes, Inc. by deed of record in Instrument Number 200209300036270;

thence North 74° 46' 33" East, a distance of 239.86 feet, with the line common to said 6.237 and 1.504 acre tracts, to an iron pin set at the common corner of said 6.237, 1.504 and 3.448 acre tracts and a 4.147 acre tract conveyed to D.B.M. Enterprises, Inc. by deeds of record in Instrument Numbers 200306130026639, 200306130026640, and 199810210039946, being in the line common to said Lot Numbers 17 and 18;

thence South 89° 24' 09" East, a distance of 221.49 feet, with the line common to said 10.597 and 4.147 acre tracts, to an iron pin set;

thence South 15° 13' 29" East, a distance of 423.62 feet, across said 10.597 acre tract, to a magnetic nail set,

thence North 74° 46' 34" East, a distance of 133.39 feet, continuing across said 10.597 acre tract, to a magnetic nail set;

thence South 15° 19' 02" East, a distance of 197.18 feet, partially across said 10.597 acre tract and partially with the westerly line of a 1.012 acre tract conveyed to The Park National Bank by deed of record in Instrument Number 200108070028546, passing an iron pin set at 25.00 feet at the northwesterly corner of said 1.012 acre tract, to an iron pin set at the southwesterly corner of said 1.012 acre tract and in the northerly right-of-way line of said East Broad Street (State Route 16);

thence South 77° 22' 45" West, a distance of 81.99 feet, with the northerly right-of-way line of said East Broad Street (State Route 16), to an iron pin set at the southeasterly corner of a 1.004 acre tract conveyed to System Capital Real Property Corporation, a Delaware corporation by deed of record in Instrument Number 200106200021982;

thence with the perimeter of said 1.004 acre tract the following courses and distances:

North 15° 13' 26" West, a distance of 168.46 feet, to an iron pin set;

South 74° 46' 34" West, a distance of 234.04 feet, to an iron pin set at a point of curvature;

with the arc of said curve to the left, having a central angle of 89° 55' 04", a radius of 25.00 feet, an arc length of 39.23 feet, an a chord which bears South 29° 48' 40" West, a distance of 35.33 feet, to an iron pin set at a point of tangency;

South 15° 13' 26" East, a distance of 129.68 feet, to an iron pin set at a point of curvature;

with the arc of a curve to the left, having a central angle of 22° 48' 32", a radius of 50.00 feet, an arc length of 19.90 feet, and a chord which bears South 26° 13' 20" East, a distance of 19.77 feet, to an iron pin set at the southwesterly corner of said 1.004 acre tract and in the northerly right-of-way line of said East Broad Street (State Route 16);

thence South 72° 29' 06" West, a distance of 48.69 feet, with the northerly line of said East Broad Street (State Route 16), to an iron pin set in the easterly line of said 0.626 acre tract;

thence North 17° 32' 52" West, a distance of 119.97 feet, with a line common to said 0.626 and 10.597 acre tracts, to an iron pin set;

thence South 72° 29' 08" West, a distance of 120.07 feet, continuing with a line common to said 0.626 and 10.597 acre tracts, to the TRUE POINT OF BEGINNING, containing 5.443 acres, more or less, of which 3.939 acres, lying in Lot Number 17, is from said 10.597 acre tract and 1.504 acres, lying in Lot Number 18, is from said 1.504 acre tract.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

Bearings are based on the centerline of East Broad Street (State Route 16) being South 74° 46' 34" West, as shown on the plat of "HARRISON SQUARE," a plat of record in Plat Book 16, Pages 263-265.

Michael L. Smith, Auditor
Olivia C. Parkinson, Treasurer

Taxes Due July 17th

- BOR
- CAUV
- Dog License
- Downloads
- Forms
- GIS
- Homestead
- Taxes
- Other

- BOR
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064-068322-00,005
TOLSON INVESTMENTS
LLC
390 E BROAD ST
PATASKALA, OH 43062

Acres: 5.44
\$443 AC LOT 18 PT

Land: \$947,900
Improv: \$2,052,100
Total: \$3,000,000

Sale Date: 06/20/2012
Amount: \$0

Conveyance: 99999
Valid Sale: No

Homestead: No
Owner Occ: No

Foreclosure: No
Certified Delq: No
On Contract: No
Bankruptcy: No
Tax Lien: No