



CITY COMMISSION MEETING AGENDA

CITY COMMISSION

DAYTON, OHIO

JULY 6, 2016

6:00 P.M.

I. AGENDA SCHEDULE

Please register to speak on items 9, 11 and 13 with the Clerk of the Commission.
(Sign-up sheets at entrance of Commission Chambers.)

1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager's Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager's Recommendations
11. Public Hearing: **(See Section V)**
12. Discussion Item: N/A
13. Comments by Citizens - Please register to speak with the Clerk of Commission - (Non - Calendar items) sign-up sheets at entrance of Commission Chambers
14. Comments by City Manager
15. Comments by City Commission
16. Work Session: N/A
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

A. Purchase Orders, Agreements and Contracts:

(All contracts are valid until delivery is complete or through December 31st of the current year).

1. Purchase Order:

CENTRAL SERVICES

A1. The Daedalus Group (professional leadership development services as needed through 12-31-16)

-Dept. of Central Services/Purchasing.

\$15,520.00

2. **OpenGov, Inc. – Service Agreement** – for the purpose of maintaining a web-based financial data portal, Dayton Open Data – Office of Management & Budget. **\$49,000.00**

IV. LEGISLATION:

Ordinance – First Reading:

3. **No. 31501-16** Amending, Enacting and Repealing Various Sections of Chapter 137 of the Revised Code of General Ordinances Relating to Solicitation.

V. PLANNING ACTION

A. PUBLIC HEARING:

4. To establish a HD-3 Designation for the Fidelity Building at 211 South Main Street (City Lot #253). The underlying zoning designation, CBD, will not change. – **Case No. Z-005-2016.**

VI. MISCELLANEOUS:

ORDINANCE NO. 31502-16

RESOLUTION NO. 6199-16

IMPROVEMENT RESOLUTION NO. 3598-16

INFORMAL RESOLUTION NO. 925-16



City Manager's Report

1

From 5530 - CS/Purchasing

Date July 6, 2016

Expense Type Purchase Order

Total Amount \$15,520.00

Supplier, Vendor, Company, Individual

Name See Below

Address See Below

Fund Source(s)	Fund Code(s)	Fund Amount(s)
See below	See below	See below

Includes Revenue to the City Yes No **Affirmative Action Program** Yes No N/A

Description

Central Services

(A1) P1600999 – THE DAEDALUS GROUP, PEYTON, CO

- Professional leadership development services, as needed through 12/31/2016.
- These services are required to enhance leadership and strengthen team skills, primarily at the IT Division (~30 participants) and in other key positions in the department (~10 participants) at the rate of \$358/participant. Development program will be delivered on-site in four 4-hour sessions.
- The "Energize2Lead" leadership skill development program is proprietary, therefore this order was negotiated.
- The Daedalus Group is recommended as the sole source of this proprietary program and based upon proven past performance.
- The Department of Central Services recommends approval of this order.

Fiscal Year	Fund Source(s)	Fund Code(s)	Fund Amount(s)
2016	In-Service Training	10000-5560-1156-65	\$15,520.00

Signatures/Approval

Division

Department

City Manager

Approved by City Commission

Clerk

Date



City Manager's Report

2

From 2720 - Management & Budget

Date July 6, 2016

Expense Type Service Agreement

Total Amount \$49,000

Supplier, Vendor, Company, Individual

Name OpenGov Inc.
Address 955 Charter Street
Redwood City, CA 94063

Fund Source(s)	Fund Code(s)	Fund Amount(s)
General Fund	10000-2720-1159-51	\$24,500 (2016)
General Fund	10000-2720-1159-51	\$24,500 (2017)

Includes Revenue to the City Yes No Affirmative Action Program Yes No N/A

Description

City Commission approval is requested for a two-year renewal of an agreement with OpenGov, Inc. for the purpose of maintaining a web-based financial data portal for the City of Dayton which we have termed, Dayton Open Data. OpenGov, a technology firm that specializes in web-based financial transparency software for governments, has a proven track record serving over 1,000 organizations with its business intelligence and financial transparency platform. OpenGov provides a solution that offers internal reporting capabilities combined with intuitive web-based accessibility for the public.

OpenGov continues to innovate by expanding its services beyond financial reporting to providing comparison data across their government clients (OpenGov clients), as well as functionality to share related information including financial planning information (OpenGov Intelligence).

OMB recommends approval based on the excellent customer service we have received, but more importantly, the financial transparency that our residents and community partners deserve.

The contract amount of \$24,500 is the annual fee for software and related services. The Office of Management and Budget is requesting \$24,500 for services in 2016, along with additional approval for another \$24,500 for services in 2017.

The Department of Law reviewed and approved the agreement as to form and correctness. A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division _____

Barbara LaPonier

Department _____

David Christie

City Manager _____

Clerk _____

Date _____

Updated 06/2016

1st Reading

J.

31501-16

By.....

No.....

AN ORDINANCE

Amending, Enacting and Repealing Various Sections of Chapter 137 of the Revised Code of General Ordinances Relating to Solicitation.

WHEREAS, Aggressive distribution obstructs pedestrian and vehicular traffic, intimidates pedestrians and motorists, infringes upon the rights of unwilling participants, and results in the loss of access to and enjoyment of public places; and,

WHEREAS, The City of Dayton has an interest in protecting the public safety and welfare against fraudulent distribution activities; and,

WHEREAS, Distribution in the right-of-way leads to interference with the flow of vehicular traffic and raises traffic safety and congestion concerns thereby denying the free flow of pedestrian and vehicular traffic on streets and sidewalks, hindering tourism and business and otherwise detrimentally impacting the quality of urban life; and,

WHEREAS, The City of Dayton has an interest in ensuring the public's privacy, safety and welfare while using an Automated Teller Machine; and,

WHEREAS, Public safety requires the imposition of reasonable manner and place restrictions on distribution, while respecting the constitutional right of free speech for all citizens; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That Sections 137.16 and 137.18 of the Revised Code of General Ordinances be, and hereby are, amended to read as follows:

Section 137.16. Place of soliciting.

(A) No person shall solicit another person in any of the following places:

- (1) In any public transportation vehicle or facility;
- (2) In or at any sports stadium owned or operated by a political subdivision;
- (3) In or at any hall or theater owned or operated by a political subdivision;
- (4) In or at the Dayton Aviation Heritage National Historical Park;
- (5) In or at the Dayton Cultural Center; or

(6) On private property, after an owner, lessee, resident, or agent thereof has given notice to the solicitor that he or she is not permitted to solicit on that property.

(B) Whoever violates this section is guilty of soliciting in a prohibited place, a misdemeanor of the fourth degree.

(C) For the purpose of this section, the term "solicit" means "the spoken, written, or printed word or such other acts or bodily gestures as are conducted in furtherance of the purposes of immediately obtaining money or any other item of value."

Section 137.18. False or Misleading Distribution.

(A) No person who is engaging in or attempting to engage in distribution shall knowingly make a false or misleading statement or representation with purpose to defraud or knowing that the person is facilitating a fraud.

(B) Whoever violates this section is guilty of false or misleading distribution, a misdemeanor of the fourth degree.

(C) For the purpose of this section, the term "distribution" means "an exchange or an attempt to exchange a physical item between two or more individuals."

(D) All other words and phrases used in this section shall have the same meanings as defined in Chapter 2913 of the Ohio Revised Code.

Section 2. That Sections 137.15, 137.17 and 137.19 of the Revised Code of General Ordinances be, and hereby are, enacted to read as follows:

Section 137.15. Distribution in a Right-of-Way.

(A) No person shall engage in distribution with the occupant of a vehicle in a right-of-way unless such vehicle is lawfully stopped, standing, or parked in compliance with Chapter 4511 of the Revised Code and Title VII of the Revised Code of General Ordinances.

(B) No person who is within a right-of-way shall engage in distribution with the occupant of a vehicle stopped in a right-of-way in obedience to a traffic control signal. However, a person may engage in distribution with the occupant of a vehicle in a right-of-way so long as he or she remains on the surrounding sidewalks or unpaved shoulders and not in or on the right-of-way itself, including any medians or traffic islands within the right-of-way.

(C) Whoever violates this section is guilty of distribution in a right-of-way, a misdemeanor of the fourth degree.

(D) For the purpose of this section, the term “distribution” means “an exchange or an attempt to exchange a physical item between two or more individuals.”

(E) For the purpose of this section, the terms “stop,” “stand,” and “park” shall have the same meanings as defined in Section 70.01 of the Revised Code of General Ordinances.

(F) All other words and phrases used in this section shall have the same meanings as defined in Section 4511.01 of the Ohio Revised Code.

Section 137.17. Aggressive Distribution.

(A) No person shall engage or attempt to engage in distribution in the following manners:

- (1) By knowingly touching or grabbing another person without that person’s consent.
- (2) By knowingly following another person and continuing to engage or attempt to engage in distribution with that person after that person has made an affirmative communication that he or she is unwilling or unable to engage in distribution.
- (3) By knowingly approaching within three feet of another person and continuing to engage or attempt to engage in distribution with that person after he or she has made an affirmative communication that he or she is unwilling or unable to engage in distribution.

(B) Whoever violates this section is guilty of aggressive distribution, a misdemeanor of the fourth degree.

(C) For the purpose of this section, the term “distribution” means “an exchange or an attempt to exchange a physical item between two or more individuals.”

Section 137.19. ATM Privacy.

(A) No person shall knowingly approach within three feet of any person who is actively using an automated teller machine without that person’s consent.

(B) Whoever violates this section is guilty of invasion of ATM privacy, a misdemeanor of the fourth degree.

Section 3. That existing Sections 137.14, 137.15, 137.16, 137.17, 137.18, 137.19 and 137.20 of the Revised Code of General Ordinances are hereby repealed.

PASSED BY THE COMMISSION....., 2016

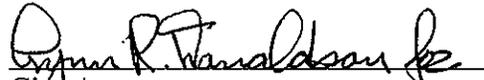
SIGNED BY THE MAYOR....., 2016

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:



City Attorney

MEMORANDUM



June 30, 2016

TO: Shelley Dickstein
City Manager

FROM: Barbara J. Doseck
City Attorney

SUBJECT: Proposed New and Revised Ordinances to Address
Distribution, Solicitation, and ATM Privacy

On April 7, 2015, the Montgomery County Public Defender's Office filed a motion to dismiss a number of panhandling charges in a pending Dayton Municipal Court case, arguing that the City of Dayton's panhandling ordinances are unconstitutional. Since that time, the public defender's office has filed additional constitutional challenges in other Dayton Municipal Court panhandling cases. Both the City and the defense have filed multiple memoranda in these cases and an oral argument was held on November 10, 2015. Despite these efforts, the Law Department has determined that much of the existing regulatory scheme governing panhandling, found in R.C.G.O. 137.14 through 137.20, is likely to be unconstitutional under the new landscape of First Amendment law following the June 2015 United States Supreme Court decision in *Reed v. Town of Gilbert, Arizona*.

In light of this dramatic shift in the way panhandling ordinances are analyzed by the courts, the Law Department proposes replacing, amending, or repealing the existing regulations. In their place, the Law Department recommends the enactment of the attached proposed ordinances. These ordinances focus upon the activity of distribution rather than upon the speech of solicitation. By shifting this focus, the regulations will receive a more favorable analysis in court, which should allow them to pass constitutional muster.

The Law Department believes that the attached proposed ordinances will further the City's interest in protecting the safety and welfare of pedestrians and motorists on our City's streets, sidewalks, and public spaces, while protecting the speech rights of those engaged in distribution.

If you have any questions, or require additional information, please contact Troy Daniels at x4416, Ebony Wreh at x4413 or Joshua Shaw at 4412.

cc: J. Parlette
T. Clements



June 3, 2016

TO: Members of the City Commission

FROM: Greg Scott, President
City Plan Board

greg scott/ams

*P. H. - July 6, 2016
6:00 p.m.
CASE: Z-005-2016*

**SUBJECT: Transmittal of Report for City Plan Board Case Z-005-2016
Establish a HD-3 Designation for the Fidelity Building at 211 S.
Main Street**

Applicant: Mr. Karim Haber
Fidelity Development Group, LLC
3982 Powell Road
Powell, OH 43065

Description: Establish a HD-3 Designation for the Fidelity Building at 211 South Main Street (City Lot #253). The underlying zoning designation, CBD, will not change.

Plan Board Action: Date: May 10, 2016 Decision: Recommended Approval

- Attachments:**
1. City Plan Board Minute Record
 2. Plan Board Case Report
 3. Correspondence Received
 4. Copy of Ordinance

If you have any questions, please contact Ann Schenking at 333-3699.

GS/ams

- c: Ms. Shelley Dickstein
Mr. Joe Parlette
Ms. Tammi Clements
Mr. Aaron Sorrell
Mr. Brian Inderrieden
Mr. Carl Daugherty
Ms. Ann Schenking
Applicant
Case File



MEMORANDUM

May 25, 2016

TO: Rashella Lavender, Clerk of Commission
Office of the City Commission

FROM: Ann Schenking, Secretary *AS*
City Plan Board

SUBJECT: Advertise Public Hearing for City Plan Board Case Z-005-2016
Establish a HD-3 Designation for the Fidelity Building at 211 S.
Main Street

Applicant: Mr. Karim Haber
Fidelity Development Group, LLC
3982 Powell Road
Powell, OH 43065

Description: Establish a HD-3 Designation for the Fidelity Building at 211 South Main Street (City Lot #253). The underlying zoning designation, CBD, will not change.

Board Action: Date: May 10, 2016 Decision: Recommended Approval

Request: The Clerk is authorized by the R.C.G.O. to set the public hearing and provide the appropriate notice. **It is requested that the Public Hearing be scheduled for Wednesday, July 6, 2016, at 6:00 P.M.**

Advertising: Advertise Public Hearing on **Friday, June 3, 2016**
Advertise in a newspaper of general circulation and mail a notice to mailing list when the notice is published.

Attachments: Legal Notice
Mailing List

If you have any questions, please contact me at 333-3699. Thank you.

c: Case File, w/ attachment



**City of Dayton
Office of the City Commission
City Hall • 101 West Third Street
Dayton, Ohio 45402
(937) 333-3636**

Legal Notice

Notice is hereby given that the Dayton City Commission will hold a Public Hearing on Wednesday, July 6, 2016, at 6:00 P.M., or as soon thereafter as the hearing can begin, in the City Commission Chambers on the Second Floor of City Hall, 101 West Third Street, Dayton, Ohio on the following:

Official Zoning Map Amendment

Case: Z-005-2016

Establish a HD-3 Historic District Designation for the Fidelity Building at 211 South Main Street (City Lot #253). The Historic District designation will only apply to the Fidelity Building. The underlying zoning designation, CBD Central Business District, will not change.

The proposed Official Zoning Map Amendment is available for public inspection in the Office of the City Commission and with the Secretary to the City Plan Board. Please direct inquiries on this subject to Tony Kroeger in the Department of Planning and Community Development, (937) 333-3673 or tony.kroeger@daytonohio.gov.

By order of the City Commission of the City of Dayton, Ohio.

RASHELLA LAVENDER, CLERK
OFFICE OF THE CITY COMMISSION



City of Dayton

City Plan Board

Minute Record

May 10, 2016

5. Z-005-2016 – Zoning Map Amendment Public Hearing – Apply a HD-3 designation to the Fidelity Building at 211 S. Main St. (City Lot #253). The underlying zoning designation, CBD, will not change.

Applicant: Mr. Karim Haber
Fidelity Development Group, LLC
3982 Powell Road
Powell, OH 43065

Priority Board: Downtown

Neighborhood Planning District: Downtown

Decision: Recommended Approval

Staff Comments

Tony Kroeger presented the staff report. He explained how the determinations and findings necessary to approve the case can be made and said staff recommended approval.

The building owner is seeking to establish a HD-3 designation for the Fidelity Building at 211 S. Main Street (City Lot #253). The underlying zoning designation, CBD, will not change. The HD-3 Designation requires verification of eligibility from the Landmark Commission. At the April 28, 2016 Landmarks Commission meeting, the eligibility was approved. Ohio Historic Inventory forms and correspondence from the State Historic Preservation Office also support the HD-3 designation.

Of particular note are the following points:

- “The Fidelity Building is significant for its association with the history of commercial development in Dayton.”
- “The building is significant also for its association with the history of health and medical practice in Dayton.”
- “The building largely retains its major exterior features typical of the Neo-Classical styles of its construction. The interior of the building retains its structural grid, even as newer partitions have been constructed to accommodate later businesses, and modern finishes, such as carpets and dropped ceilings cover original materials and finishes.”

Approval of the historic designation will recognize the significance of the property, protect it from demolition without a public hearing, and potentially allow for a greater range of financing options for its redevelopment.

Public Comments

The Greater Downtown Priority Land Use Board submitted a letter in support of the HD-3 designation.

Board Discussion

The Plan Board discussed the case.

Board Action

A motion was made by Ms. Pendergast, seconded by Mr. Wright and carried to recommend City Commission approval of Case Z-005-2016 based on the Plan Board’s ability to make the determinations specified in R.C.G.O. Section 150.125.7 (A) 1 through 8, as outlined in the staff report.

Ms. Beverly Pendergast	Yes	Mr. Jeff Payne	Yes
Mr. David Bohardt	Absent	Mr. Matt Sauer	Yes
Mr. Richard Wright	Yes	Mr. Greg Scott	Yes
Ms. Geraldine Pegues	Yes		

Minutes approved by the City Plan Board on June 14, 2016.

Ann Schenking, Secretary
City Plan Board

May 10, 2016

**CITY PLAN BOARD REPORT
CASE: Z-005-2016**

Zoning Map Amendment application to apply an HD-3 designation to the Fidelity Building at 211 S. Main St. (City Lot #253). The underlying zoning designation, CBD, will not change.

BACKGROUND

Applicant/Property Owner: Fidelity Development Group LLC
c/o Karim Haber
3982 Powell Road
Powell, OH 43065

Priority Board: Downtown **Neighborhood:** Downtown

Board Authority:
R.C.G.O. §150.125.1 – §150.125.11 City Plan Board actions for amendments to the Official Zoning Map

Applicable Plans and Policies:
CitiPlan 20/20 (1999)
CitiPlan 20/20 Downtown Component (1999)
Greater Downtown Dayton Plan (2010)

Agencies and Groups Contacted:
Property Owners within 250 feet
Downtown Land Use Board
Downtown Dayton Partnership

CURRENT CONDITIONS

Existing Land Use: A vacant former office building.

Surrounding Land Use and Zoning:

North: Land Use: Parking, garage and surface
Zoning: CBD
South: Land Use: Unused surface parking lot
Zoning: CBD
East: Land Use: Dayton Convention Center
Zoning: CBD
West: Land Use: Dayton Chess Club
Zoning: CBD

AUTHORITY

150.125.1 Authority for Amendments

The regulations imposed and the districts created under this Zoning Code may be amended from time to time by ordinance duly enacted by the City Commission. No such amendment shall be adopted except in accordance with the procedure specified in sub-sections 150.125.2 to 150.125.11, inclusive, of this Zoning Code. (Ord. 30515-05, passed 12-28-05)

STAFF ANALYSIS

Case Background:

The applicant/property owner seeks an HD-3 (historic designation) overlay for the building located at 211 South Main Street. The underlying zoning designation, CBD, would not change. The Zoning Code describes the HD-3 designation as follows:

150.345.2 Designation of Historic District.

The Landmarks Commission shall recommend to the City Plan Board the adoption or modification of a historic district overlay on all eligible areas in accordance with Section 150.125, Amendments. The boundaries of each such district shall be indicated on the official zoning map.

[...]

(C) The HD-3 Historic Designation Overlay (HD-3) is an overlay district for properties that have been determined by the Landmarks Commission, in accordance with sub-section 150.345.4 (C), be historically significant and by doing so, has determined that the loss of these properties is an irreversible act worthy of review. These properties collectively are called the Dayton Register of Historic Landmark Properties. (Ord. 30515-05, passed 12-28-05)

The HD-3 Designation requires verification of eligibility from the Landmarks Commission. At the April 28, 2016 Landmarks Commission meeting, the eligibility was approved.

Building History:

Staff notes the following references to support the HD-3 Designation:

- The Ohio Historic Inventory form (attached)
- Correspondence from the State Historic Preservation Office (letter attached)
- Approval from the Landmarks Commission (decision attached)

Of particular note are the following points:

- “The Fidelity Building is significant for its association with the history of commercial development in Dayton.”
- “The building is significant also for its association with the history of health and medical practice in Dayton.”

- “The building largely retains its major exterior features typical of the Neo-Classical styles of its construction. The interior of the building retains its structural grid, even as newer partitions have been constructed to accommodate later businesses, and modern finishes, such as carpets and dropped ceilings cover original materials and finishes.”

Based on these factors, as well as the required standards listed below and the finding of eligibility of the Landmarks Commission, staff recommends approval of the proposed zoning map amendment.

Approval of the historic designation will recognize the significance of the property, protect it from demolition without a public hearing, and potentially allow for a greater range of financing options.

REVIEW OF FINDINGS

R.C.G.O. §150.125.7 Amendments to Change Zoning Districts or Zoning Classification of Properties

- 1. The change in classification would be consistent with the Comprehensive Plan of the City or other plans and policies.**

The proposed change is supported by the adopted plans and polices. Specifically:

The Greater Downtown Dayton Plan:

- “Reinvigorate the **downtown core** by reducing the downtown office vacancy, increasing vibrancy, expanding amenities, and encouraging investment and redevelopment.”
- “**Right-size downtown’s office market** in part by redeveloping current office space to more productive uses, such as housing, and in part with aggressive, coordinated recruitment and retention efforts.”
- Housing section: “Explore the use of **other funding sources**, such as tax credits.”

CitiPlan Urban Design Component:

- “Target underused, conventionally obsolete, and vacant historic structures in the core for adaptive uses within the context of a preservation strategy.”
- “Aggressively market the use of historic tax credits and facade easements as equity financing opportunities.”

- 2. The change in classification would be consistent with the intent and purpose of this Zoning Code.**

This change is consistent with the zoning code which says the following:

150.345.1 Purposes.

The public interest calls for the preservation and protection of significant historical, architectural and archeological resources from Dayton's and America's histories that lie within our city. Buildings and places that tell us of the presence of our forebears add meaning and livability to our city as do handsome residential areas and orderly business districts. To accomplish this, it is necessary to provide a method whereby, with careful consideration for the rights of private property and only after thorough analysis of the objectives to be achieved, certain public controls are required for changes made to meaningful buildings or neighborhoods.

Therefore, historic overlay districts (HD-1, HD-2, HD-3) and their regulations are established in order to achieve these purposes:

(A) To promote and protect the health, safety, and general welfare of the public through the enhancement of property values, economic development, neighborhood stability, and the protection of property rights of all citizens.

(B) To preserve and enhance the varied architectural styles reflecting the distinct phases of the City of Dayton's history.

(C) To preserve, restore, reconstruct, renovate and/or rehabilitate historically or architecturally significant or contributing historic buildings, structures, sites and objects (hereafter referred to as "property" or "properties") in districts that possess integrity of location, design, setting, materials, workmanship, feeling, and association.

(D) To develop and maintain appropriate settings and environments for the properties and districts described in Section 150.345, Historic Overlay Districts.

(E) To this end, this Section authorizes the adoption of overlay historic districts and creates a Landmarks Commission, a Secretary to the Landmarks Commission and an Historic Preservation Officer to review and approve architectural modifications that affect the historic quality of such properties and districts.

This request meets the intent and purpose because it will ensure protection of a historically important asset and allowing for more funding sources for redevelopment.

- 3. The proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions.**

The amendment reflects a number of emerging conditions, including:

- The underutilized status of the building
- Steady demand for downtown housing, which this building could offer if redeveloped in that manner.

- 4. The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.**

A historically designated building, used commercially or residentially, is compatible with uses permitted in the CBD.

5. **The uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards.**

There should be no problems in these terms.

6. **Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.**

Adequate utilities exist, or the necessary investment will be made to get them there.

7. **The amount of vacant land with the same zoning classification as proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, if any, make a substantial part of such vacant land unavailable for development.**

Since this is an overlay designation on a unique property, this standard is not applicable.

8. **The proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.**

There does not appear to be an error in the application of the Zoning Code as applied to the subject property, only changing conditions.

ALTERNATIVES

1. Recommend approval of the Zoning Map Amendment application and establish an HD-3 designation at 211 South Main Street based on R.C.G.O. §150.125.7(1- 8).
2. Recommend denial of the Zoning Map Amendment application to establish an HD-3 designation at 211 South Main Street on the board's inability to make the findings under R.C.G.O. §150.125.7(1- 8).

FUTURE ACTIONS

If the Plan Board recommends approval for the proposed zoning map amendments, the request will be forwarded on to the City Commission for public hearing.

Staff Report Prepared by:
Tony Kroeger

Staff Report Reviewed by:
Brian Inderrieden

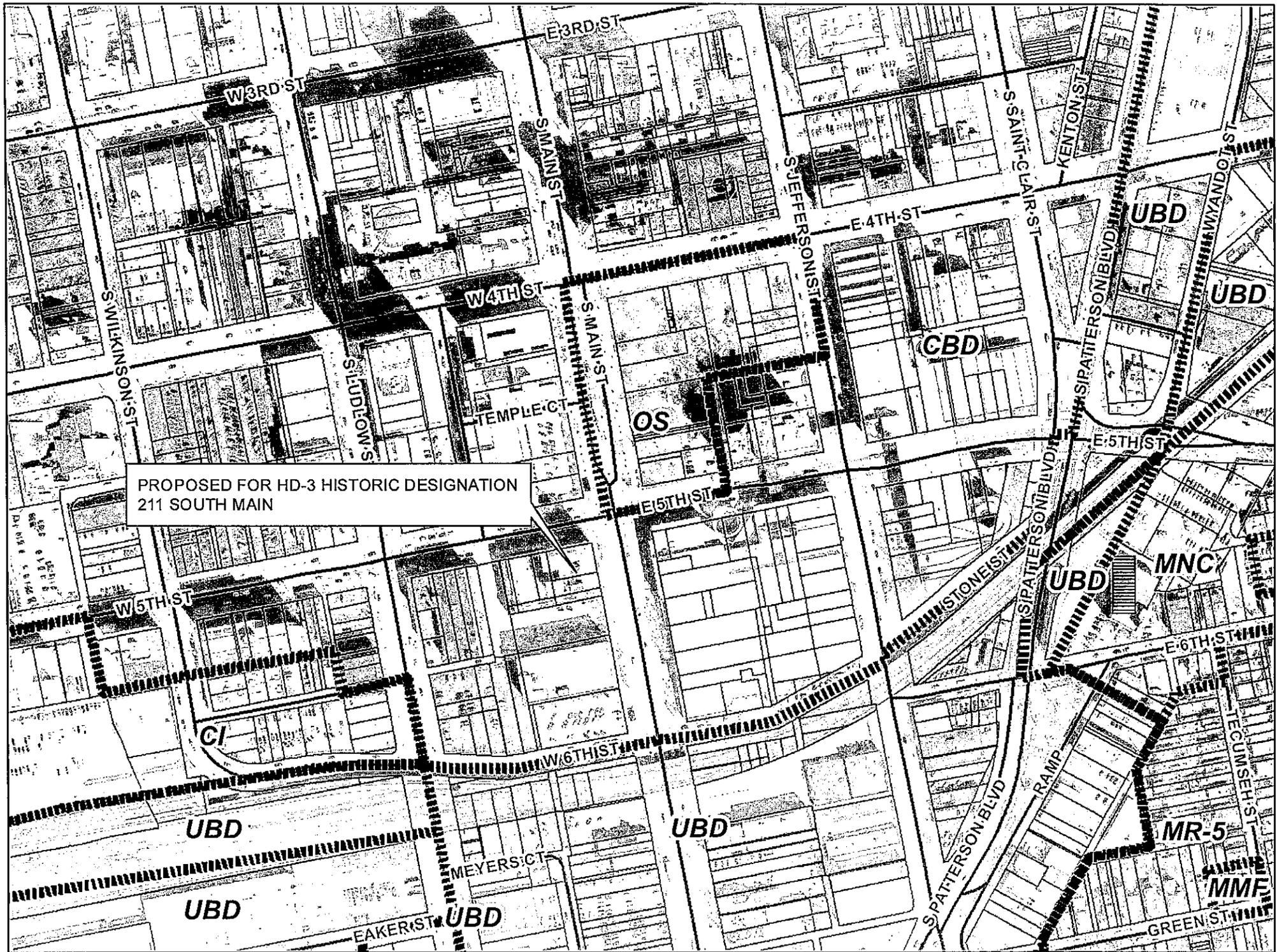




Figure 1: Historic Photograph of Fidelity Building, Dayton, Ohio, taken in 1926 (Source: Dayton Metro Library)



State Historic Preservation Office

National Register of Historic Places Preliminary Questionnaire Individual Property Form

This questionnaire is designed to help us help you determine whether a property is likely to qualify for nomination in the National Register of Historic Places. **Please note that this form provides preliminary evaluation and does not constitute a National Register nomination.** To nominate archaeological sites in the National Register, contact the Archaeology Survey and Data Manager at the State Historic Preservation Office, (614) 298-2000. For all other properties, complete steps 1-7, and then return this form to the State Historic Preservation Office. To submit information regarding a potential historic district, please complete the National Register of Historic Places Preliminary Questionnaire Historic District Form.

Step 1: Answer These Questions

Is your property at least 50 years old?

Yes No

Does it still have historical integrity (important aspects of its original appearance and character)?

Yes No

Is it significant in local, state, or national history?

Yes No

If your answer to one or more of the above questions is no, the property is unlikely to be eligible for listing on the National Register of Historic Places, and you do not need to fill out the rest of this form.

If you answered yes to all three questions, go to Step 2.

Step 2: Tell Us About The Property

1. In what county is it located?

Montgomery

2. What is the property's address?

Street Address: 211 South Main Street

City Dayton State Ohio Zip Code 45042

3. What is the name and address of the owner?

Fidelity Investments, LLC

Street Address 3892 Powell Road #202

City Powell State Ohio Zip Code 43065

4. If you're not the owner, have you been in contact with the owner?

No

5. Briefly describe the structure(s).

The Fidelity Building at 211 S. Main Street is a twelve story commercial retail/office building of concrete and steel construction and finished with a stone clad façade eight bays wide and six bays deep. The building has a rectangular footprint from the first two stories while the floors above are roughly C-shaped in plan. The building comprises and original rectangular structure facing Main and Fifth streets, a seamlessly designed addition making for the C-shape of the upper stories, and a three story rectangular addition is attached to the south façade of the building.

The Fidelity Building and its first addition are designed in a matching in a Neo-Classical style, while the three story addition is constructed in an Art Deco style. The building is constructed on a marble base. Entrances to the building are located in the corner bays along both street-facing elevations. Additional entrances to the building and the lower floor retail facilities are located in a central bay of the South Main Street façade, with a newer metal canopy bringing focus to it. Topped with a prominent entablature, the first two floors of the building reads as the baser of the building, over which the third floor, also topped with an entablature, and the upper floors are built. The word "Fidelity" and the date "1873" are etched under the first floor entablature along the South Main Street façade. Large display windows – some replacement – mark the first story of the elevation, with double mullion windows with stone sills typifying the openings on the upper floors. The building is topped with an entablature above the eleventh floor. The twelfth floor comprises a recessed penthouse located on a flat terrace. The rear and side

facades are unadorned, with similar double mullioned windows as the street facing elevations.

The three story addition to the south façade is a modest, single bay building with a storefront entrance extending the front façade with three metal frame windows – a larger central one flanked on either side with narrow windows penetrating each of the upper story facades. The addition is clad with limestone marked by geometric patterns. Stepped patterns on the stonework and the parapet are elements of the Art Deco style.

6. Draw the floor plan.

See addendum for typical floor plans

Second Floor or Typical Upper Floor

See addendum for typical floor plans

First Floor

Step 3: Pick One Reason Why the Property Should Be Listed on the National Register – A, B, C, or D. Answer the Questions In That Box, Then Go On to Step 4

A property can be listed on the National Register of Historic Places for one of four reasons or criteria. Of the following criteria – A, B, C, or D – which one best describes the property? Complete the questions inside one of the boxes (A, B, C, or D) then go on to Step 4.

Criterion

A

The property is associated with events that have made a significant contribution to the broad patterns of our history.

Example: A building that played an important role in the history of transportation in your community.

What was its original function?

The first two stories of the building housed the offices of the Fidelity Building Association. The building was designed to house doctors' and dentists' offices, and supporting medical services such as a medical library, meeting rooms, and pharmacy.

How is its history associated with major historical developments in the community?

The Fidelity Building was constructed in 1919 at a time of rapid population growth of an industrializing Dayton. It provided residents of Dayton a high-

Who built the property?

The Fidelity Building Association of Dayton constructed the building.

quality, centralized, one-stop location to consult with physicians, dentists, and medical specialists from 1919 to about 1980. The building was expanded in 1929, nearly doubling the area available to medical practitioners – at a time of rapid growth of the population of Dayton. The building retained high occupancy, serving the community through the Great Depression. It remained a significant medical facility during the 1950s and 1960s, at time when suburban growth in the Interstate 75 corridor was causing a commercial and population drain to the city. As larger health care facilities were constructed in the outskirts of the city, the Fidelity Building was rehabilitated for office and other commercial space during the 1980s. A few doctors remained tenants until the early 1990s. The building was vacated in December, 2008 due to a flood threat, and has not been occupied since then.

How did the pattern of events associated with the property contribute to the development of the community?

The Fidelity Building is significant for its association with the history of commercial development in Dayton. It is a culminating achievement of the Fidelity Building Association. Founded as a modest building loan and savings association in 1873, the business had grown rapidly to become one of the pre-eminent businesses of its type in Dayton. The Fidelity Building Association occupied the first two stories of the building from its opening in 1919 until about 1949, serving over 10,000 account holders in the Dayton area. The building is significant also for its association with the history of health and medical practice in Dayton. The building provided a state-of-the-art medical facility in Dayton, with its upper floors occupied by about 50 offices for doctors and other medical practitioners. A pharmacy, where patients could purchase prescribed medicines was located at the third floor level. Facilities geared toward the tenants included a medical library (moved from the Dayton Metro Library to this location in 1919), a lecture room, community room and lockers.

Go to Step 4

Go to Step 4

Step 4: Tell Us About The Property's History

1. How many structures are there on the property? When, to the best of your knowledge, was each one built?

The property comprises of one original building and two additions. The original building was constructed in 1919. The first addition was constructed in 1929. The second addition was constructed in about 1929-1930.

2. What changes have been made to the building(s), and, if you know, when did they occur? (examples: additions, new windows, siding, roof, etc.)

Alterations to the building include newer display windows and entrance doors along the first floor facades, and interior finishing materials and partitions to accommodate new business offices. These alterations were carried out during the period 1984-1985.

3. What are the names of the original and subsequent people or business(es) that occupied the property? Include the dates when they occupied the property, if you know.

From 1919 to about 1949, the Fidelity Building Association occupied the first two floors of the building. The tenant occupying the upper floors were doctors and medical practitioners from 1919 to the early 1980s. After about 1985, other tenants, notably the local WROU-FM radio station, occupied the building along with other businesses. The building is commonly known as the Fidelity Medical Building because of its long-term association with medical practitioners serving the Dayton area.

4. If the property represents the work of an architect, builder, designer, or artist, whose work is it?

The building was designed by prolific Dayton architects Peters, Herman and Brown in 1918-1919. A major addition to the building was constructed in 1928-1929 and designed by the firm of Herman and Brown. A second addition, three story addition was constructed in about 1929-1930.

5. Where have you found historical information about this property? (examples: city or county records, newspaper articles, books, etc.)

City of Dayton records; *Ohio Historic Inventory form for the Fidelity Medical Building (1978, revised 1983)*;

Montgomery County Real Estate data available at mcrealestate.org; *Williams' City Directory* of Dayton (various years); *Polk Directory* of Dayton (various years); *Sanborn Fire Insurance Maps* for Dayton available from the OPLIN website; Newspaper articles available from the Local History Department of the Dayton Metro Library; *The Story of An Institution Founded on the Practice of Thrift*, Fidelity Building Association, Dayton Ohio (1923); "The Fidelity Medical Building," *Buildings and Building Management*, Volume XXII, Number 22, October 30, 1922, pp. 19-23.

those along the South main Street façade. This may have been a historic alteration carried out when the 1929 addition was constructed.

5. Does the property retain the major features of its design and function such as the basic shape, room arrangements, and window and door openings?

The building largely retains its major exterior features typical of the Neo-Classical styles of its construction. The interior of the building retains its structural grid, even as newer partitions have been constructed to accommodate later businesses, and modern finishes, such as carpets and dropped ceilings cover original materials and finishes.

Step 5: Answer These Questions About the Property's Condition

1. Is the property on its original site?
Yes.

2. What are the important features of its setting? Are they intact?

Fidelity Building is located in the downtown commercial district of Dayton. The grid-iron pattern of streets retain their historic layout. The setting is marked by later construction, particularly in the Dayton Convention Centre block located to the east of the building. Historic features of the setting that retain good integrity include the buildings of the Terracotta Historic District located to the west of the building, at the intersection of Fifth and Ludlow streets. The setting retains its commercial character and use pattern even as it is marked by buildings that have been constructed after the mid-twentieth century.

3. What major historic materials does the property retain? (examples: wood siding, slate shingles, decorative trim)

The building retains its exterior historic materials including its limestone cladding, cornices, entablatures and decorative stonework. It retains its shape and form and, as evaluated by comparing it with historic images, its historic style and character.

4. Have any major historic materials been removed or covered with asbestos, aluminum, or vinyl siding?

Windows and openings at the first floor level have been replaced. Arched windows along the Fifth Street façade second floor level have been replaced with rectangular fixed windows, similar in character with

Step 6: Take These Photos

Enclose the following photos of the property as it looks today. Please label the photographs. Recent color snapshots are fine.

Outside

- Front
- Sides
- Back

Inside

- Pictures of the main rooms or public spaces, such as the Hall, Living Room, Dining Room, Lobby, Ballroom, Auditorium, Classroom, and any distinctive or significant architectural features, such as fireplaces, woodwork, stairways and door or window surrounds.

Old Photographs

- If you have photographs that show how this property looked at an earlier time, sending photocopies may help us better advise you on its National Register eligibility. Please do not send original historic photos.

Additional photos may help us better help you. If the property has any of the following features, or other features you think are interesting, consider sending photos of them, as well:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Front Door and Door Frame | <input type="checkbox"/> Ornamental Plaster |
| <input checked="" type="checkbox"/> Window and Window Frame | <input type="checkbox"/> Old Lighting Fixtures |
| <input checked="" type="checkbox"/> Ornamental Details | <input type="checkbox"/> Vintage Equipment |
| <input type="checkbox"/> Cornerstone | <input type="checkbox"/> Tower, Steeple, Dome |
| <input type="checkbox"/> Stained Glass | <input checked="" type="checkbox"/> Old or New Alterations |
| <input type="checkbox"/> Barns, Stables, Outbuildings | <input type="checkbox"/> Staircases |
| <input type="checkbox"/> Iron, Wire, or Wooden Fences | <input type="checkbox"/> Mantels |
| <input type="checkbox"/> Gardens, Terraces, Setting | <input type="checkbox"/> Fine Woodwork |

Step 7: Send Us Your Completed Questionnaire

Please do not put questionnaire in folder or binder

State Historic Preservation Office
800 E. 17th Avenue
Columbus, OH 43211-2474

After looking over your questionnaire, we'll contact you to let you know whether the property appears to be eligible for nomination to the National Register or not. **If the property appears to qualify, the next step would be the completion of the National Register of Historic Places nomination form.** Please give us the address at which you'd like to be contacted.

Name Samiran Chanchani

Address HistoryWorks, LLC, PO Box 8378

City West Chester State OH Zip Code 45069

Phone (513) 2658493 FAX (____) _____

E-Mail Address: historyw@historyworks.us



March 2, 2016

Dr. Samiran Chanchani
History Works, LLC
P.O. Box 8378
West Chester, OH 45069

Re: The Fidelity Building, 211 S. Main Street, Dayton, Montgomery County

Dear Dr. Chanchani:

Thank you for submitting the additional information that was requested for the above-mentioned property. A committee of staff from the Inventory and Registration Department and other program areas of the State Historic Preservation Office have reviewed it and the property appears to qualify for nomination to the National Register of Historic Places. The property will likely be nominated under Criterion A: properties associated with a broad pattern of history, for its role in Dayton's commercial development and also for its significance to the medical profession in the city.

The National Register nomination will require additional information to further document and support the significance of the property and evaluate it within the local historic context. The nomination will describe not only the uses of the building throughout its history, but how and why those uses were important in the larger story of the community in which it is located. The nomination should relate changes to the building itself to changing economic, demographic, architectural, transportation, professional, or any other contexts within which the property functioned.

If you wish to pursue the National Register nomination, the next step is to conduct the research and write the nomination. You can now access online our guidance on completing the National Register nomination form and accompanying documentation at www.ohiohistory.org/nrpacket.

The building's owner may wish to pursue Pipeline Initiative grant funds to offset the cost of paying a third party consultant to complete the nomination. These grants have a rolling application window and are in the amount of \$4,000 for an individual building nomination. For more information, please refer to this link: https://development.ohio.gov/files/redev/OHPTC_Pipeline_Overview20141009.pdf or contact me via phone or email.

If you have any questions, please call me at 614/298-2000 or email me at lbrownell@ohiohistory.org. We look forward to working with you as the nomination proceeds. Thank you for your interest in historic preservation and the National Register of Historic Places program.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Brownell", written over a horizontal line.

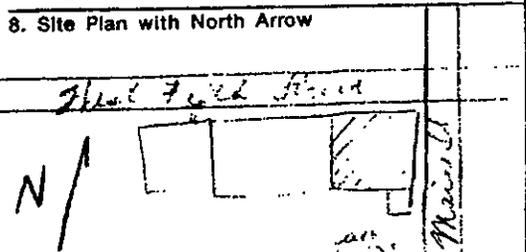
Lisa Brownell
Historic Preservation Tax Credit Application Coordinator
State Historic Preservation Office

OHIO HISTORIC INVENTORY

1. No. 11401-00253E <i>Dry 1208-C1</i>	4. Present Name(s) Fidelity Medical Building
2. County Montgomery	5. Other Name(s)
3. Location of Negatives Regional Office 5HA	

6. Specific Location
211 South Main Street

7. City or Town If Rural, Township & Vicinity
Dayton



9. Coordinates Dayton North
Lat. _____ Long. _____

U.T.M. Reference

1	6	7	4	0	6	1	0	4	4	0	4	2	8	0
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

Zone Easting Northing
 10. Site Structure
 Building Object

11. On National Register? Yes No
 12. Is it Eligible? Yes No

13. Part of Estab. Hist. Dist.? Yes No
 14. District Potent'? Yes No

15. Name of Established District

16. Thematic Category
D

17. Date(s) or Period
c. 1920's

18. Style or Design
Stylized Neo-classic

19. Architect or Engineer

20. Contractor or Builder

21. Original Use, if apparent
offices (medical)

22. Present Use
offices (medical)

23. Ownership Public Private

24. Owner's Name & Address.
If known

25. Open to Public? Yes No

26. Local Contact Person or Organization
Montgomery County Historical Soc.

27. Other Surveys in Which Included

28. No. of Stories 11+2penth

29. Basement? Yes No

30. Foundation Material
concrete

31. Wall Construction
steel

32. Roof Type & Material
flat

33. No. of Bays Front 8 Side 6

34. Wall Treatment
ashlar-limestone

35. Plan Shape square

36. Changes (Explain in #42) Addition Altered Moved

37. Condition Interior _____ Exterior excellent

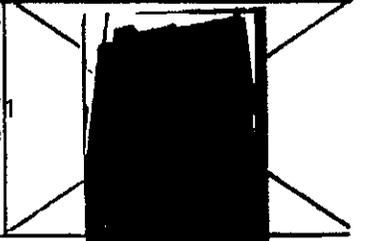
38. Preservation Underway? Yes No

39. Endangered? By What? Yes No

40. Visible from Public Road? Yes No

41. Distance from and Frontage on Road
105' across and 16' back

42. Further Description of Important Features Marble base, Main double entrance left bay w/metal canopy; smaller entrance rt. bay; 2-story pilasters between bays; lg. rect. windows w/paneled metal spandrels between (new windows); loop windows next to entrances. Classical entablature above w/festoon panels, "1929", "Fidelity", "1873" in frieze. 3rd story double mullion 3/1 w/stone panels between & entablature above; 4-10th stories plain double mullion windows w/stone lugsills in ashlar curtain wall; stone cornice above. 11th floor like 3rd w/dentiled entablature; paneled parapet w/ pedestals; 2-story service penthouse above.



43. History and Significance
Part of growing Dayton in the 1920's; no-nonsense style.

44. Description of Environment and Outbuildings
Building attached left built about the same time; 3-story art deco ; same stone & windows.

45. Sources of Information	46. Prepared by M.A. Weighofer
	47. Organization Regional Office 5HA
	48. Date 3/78
	49. Revision Date(s)

**City of Dayton
Landmark Commission**

City Hall
P.O. Box 22
Dayton, Ohio 45401
(937) 333-2005

4/29/2016

Decision

Case #123-2016 211 South Main Street - N/A

Applicant: Fidelity Develop. Group. LLC
3982 Powell Road
Powell OH 43065

Owner: Fidelity Develop Group. LLC
3982 Powell Road
Powell OH 43065

The Landmarks Commission made the following decision on April 28, 2016

Summary Description:

Request to establish building as a local landmark with HD-3 overlay

Summary Decision:

Approved

Landmarks Commission Action:

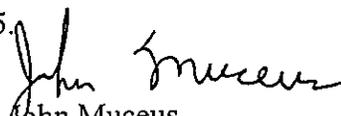
Approved as submitted

Comments:

If you have any questions, please contact me at (937) 333-2005.

CC:

Rachel Bankowitz


John Muceus

Secretary to the Landmarks Commission



DOWNTOWN PRIORITY LAND USE BOARD

May 10, 2016

City of Dayton
Department of Planning and Community Development
City Plan Board
101 West Third Street
Dayton, Ohio 45402

Re: City Plan Board Case Z-005-2016 (Fidelity Building Historic Designation)

Dear Board Members:

The Greater Downtown Priority Land Use Board met on April 18, 2016 to review and discuss **City Plan Board Case Z-005-2016**, a zoning map amendment application to apply an HD-3 designation at 211 South Main Street, known as the Fidelity Building.

In light of the recently completed National Register Questionnaire and correspondence received from the State Historic Preservation Office stating the buildings significance, it appears that the property can qualify for the historic designation. The board supports efforts that could facilitate the redevelopment of the building.

The Priority Land Use Board supports the proposed HD-3 designation.

Thank you for the opportunity to provide feedback on this matter.

Respectfully,

Steve Seboldt, Vice Chairperson
Greater Downtown Priority Land Use Board

BOARD OF COUNTY COMMISSIONERS
451 W THIRD ST
DAYTON OH 45422

DRIVER RILEY D AND SHARON L A
18 W FIFTH ST
DAYTON OH 45402

FREEDOM FUND LLC
2468 DORM DR
TWIN FALLS ID 83301

TODD LEMASTER
9290 SHEEHAN RD
DAYTON OH 45458

SPARE A DOLLAR LLC
204 S LUDLOW ST 201
DAYTON OH 45402

DAYTON BD OF EDUCATION
115 S LUDLOW ST
DAYTON OH 45402

DENEAL J FELDMAN
80 MEAD ST
DAYTON OH 45402 2303

SPAGHETTI WAREHOUSE OHIO
P.O. BOX 2170
KELLER TX 76244 2170

MONTEREY HOLDINGS LLC
5890 SAWMILL RD STE 120
DUBLIN OH 43017

FIDELITY INVESTMENT GROUP LLC
3982 POWELL RD #202
POWELL, OH 43065

Ann Schenking, Secretary
Plan Board
101 West Third St.
P.O. Box 22
Dayton, OH 45401

Z-005-2016

H & N INVESTMENTS LLC
5111 GARDEN SPRINGS BLVD
DAYTON OH 45429

FIDELITY DEVELOPMENT GROUP LLC
211 S MAIN ST
DAYTON OH 45402

GRANITE HOLDINGS LTD
8694 SHEAR DR
POWELL OH 43065

SCHANTZ THOMAS G
825 FAR HILLS AVE
DAYTON OH 45419

Scott Murphy
Downtown Dayton Partnership
Key Bank Tower
10 W. Second St., Suite 611
Dayton, OH 45402

Rashella Lavender, Clerk
Office of the City Commission
101 West Third St.
P.O. Box 22
Dayton, OH 45401

By

No

AN ORDINANCE

Amending the Official Zoning Map to Establish a HD-3
Historic Overlay District, at 211 South Main Street.

WHEREAS, An application has been made to establish a HD-3 Historic Overlay District, at 211 South Main Street for the Fidelity Building; and,

WHEREAS, The applicant requested that a HD-3 Historic Overlay District be established for the Fidelity Building in recognition of its association with the history of commercial development in the City of Dayton; and,

WHEREAS, The underlying zoning for 211 South Main Street shall remain CBD Central Business District; and,

WHEREAS, The City Plan Board at its May 10, 2016, meeting recommended approval of the HD-3 Historic Overlay District, Case Z-005-2016; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. In accordance with the recommendation of the City Plan Board, as made in Case Z-005-2016, a HD-3 Historic Overlay District is established for the Fidelity Building at 211 South Main Street. The City Lot Number that comprises this zoning map amendment is 253. The underlying zoning for 211 South Main Street shall remain CBD Central Business District. The City's official zoning map shall be redrawn to include and show the HD-3 Historic Overlay District.

Passed by the Commission, 2016

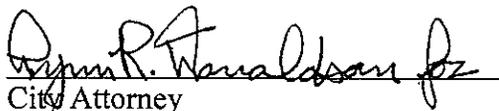
Signed by the Mayor, 2016

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:



City Attorney