

BEFORE THE CITY OF BEXLEY, OHIO BOARD OF ZONING AND PLANNING
2242 E. MAIN STREET, BEXLEY, OHIO 43209

*****SUBPOENA*****

IN RE: 2200 E. MAIN STREET

CASE NO: BZAP-23-23

TO: Carpenter Marty Transportation, Inc. c/o Kyle J. Stroh, Statutory Agent (Name)
33 E. Schrock Road (Address)
Westerville, Ohio 43081 (City-State-Zip)

YOU ARE HEREBY COMMANDED TO:

- ☒ ATTEND AND GIVE TESTIMONY AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.
- ☒ ATTEND AND PRODUCE (DOCUMENTS) (TANGIBLE THINGS) AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.
- ☐ PRODUCE AND PERMIT INSPECTION AND COPYING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY DESIGNATED DOCUMENTS AND ELECTONICALLY STORED INFORMATION THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.
- ☐ PRODUCE AND PERMIT INSPECTION AND COPYING, TESTING OR SAMPLING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY TANGIBLE THINGS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.
- ☐ PERMIT ENTRY UPON THE FOLLOWING DESCRIBED LAND OR OTHER PROPERTY, FOR THE PURPOSES DESCRIBED IN CIV. R. 34(A)(3), ON THE DATE AND AT THE TIME SPECIFIED BELOW. *DESCRIPTION OF LAND OR OTHER PREMISES:* _____

DAY: Thursday DATE: November 30, 2023 TIME: 6:00 p.m.

PLACE: 2242 E. Main Street, Bexley, Ohio 43209

DESCRIPTION OF TESTIMONY AND ITEMS TO BE PRODUCED: See Subpoena Exhibit A attached.

STATE OF OHIO

County of Franklin, ss

THIS SUBPOENA IS ISSUED PURSUANT TO RULE 45 (A)(2) OF THE OHIO RULES OF CIVIL PROCEDURE.

Witness my hand and seal this 21st day of November, 2023.

By: 
Bryan S. Hunt (0095519)
3300 Riverside Drive – Suite 125
Upper Arlington, Ohio 43221-1765
Telephone: (614) 928-9107
Facsimile: (614) 737-9857

NOTE: READ ALL INFORMATION ON THE REVERSE
SIDE OF THIS SUBPOENA

CIVIL RULE 45 (C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.

(2) (a) A person commanded to produce and permit inspection and copying of designated books, papers, documents, or tangible things, or inspection of premises, need not appear in person at the place of production or inspection unless commanded to attend and give testimony at a deposition, hearing, or trial.

(b) Subject to division (D)(2) of this rule, a person commanded to produce and permit inspection and copying may, within fourteen days after service of the subpoena or before the time specified for compliance if such time is less than fourteen days after service, serve upon the party or attorney designated in the subpoena written objections to production. If objection is made, the party serving the subpoena shall not be entitled to production except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena, upon notice to the person commanded to produce, may move at any time for an order to compel the production. An order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the production commanded.

(3) On timely motion, the court from which the subpoena was issued shall quash or modify the subpoena, or order appearance or production only under specified conditions, if the subpoena does any of the following:

(a) fails to allow reasonable time to comply;

(b) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies;

(c) requires disclosure of a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial as described by Civil Rule 26(B)(4), if the fact or opinion does not describe specific events or occurrences in dispute and results from study by that expert that was not made at the request of any party;

(d) subjects a person to undue burden.

(4) Before filing a motion pursuant to division (C)(3)(d) of this rule, a person resisting discovery under this rule shall attempt to resolve any claim of undue burden through discussions with the issuing attorney. A motion filed pursuant to division (C)(3)(d) of this rule shall be supported by an affidavit of the subpoenaed person or a certificate of that person's attorney of the efforts made to resolve any claim of undue burden.

(5) If a motion is made under division (C)(3)(c) or (C)(3)(d) of this rule, the court shall quash or modify the subpoena unless the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated.

CIVIL RULE 45 (D) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall, at the person's option, produce them as they are kept in the usual course of business or organized and labeled to correspond with the categories in the subpoena. A person producing documents pursuant to a subpoena for them shall permit their inspection and copying by all parties present at the time and place set in the subpoena for inspection and copying.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials under Civil Rule 26(B)(3) or (4), the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

CIVIL RULE 45(E) SANCTIONS.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issue. A subpoenaed person or that person's attorney frivolously resisting discovery under this rule may be required by the court to pay reasonable expenses, including reasonable attorney's fees, of the party seeking the discovery. The court from which a subpoena was issued may impose upon a party or attorney in breach of duty imposed by division (c)(1) of this rule an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fees.

****RETURN OF SERVICE****

The undersigned hereby certifies that the attached Subpoena was served upon Carpenter Marty

Transportation, Inc. by hand delivery on November 29, 2021.



Bryan S. Hunt (0095519)

SUBPOENA EXHIBIT A

DESCRIPTION OF TESTIMONY

The recipient of the subpoena to which this Exhibit is attached is instructed to designate one or more officers, directors, agents, or other persons that have knowledge and are qualified to attend and testify to any and all analysis, studies, reports, findings, opinions, and conclusions completed or issued by Carpenter Marty Transportation, Inc. that relate to the Project.

DESCRIPTION OF ITEMS TO PRODUCE

The recipient of the subpoena to which this Exhibit is attached is instructed and directed to produce the following documents and records as noted in the subpoena:

- All documents and communications that relate to the Project.

For the purposes of this Subpoena, the following terms shall have the following meanings:

The term "**Project**" means the mixed-use development that has been proposed by Continental Real Estate Companies for land located on Main Street in Bexley, Ohio identified by the Franklin County Auditor as Parcel Nos. 020-000217; 020-000836; and 20-000350, and as further shown in the filings of the record of proceedings in the City of Bexley Board of Zoning and Planning Case No. BZAP-23-23.

The term "**documents**" means the original(s) **and all drafts** of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof that are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation any paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, electronic mail, text message, instant message, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter of which you have or had possession, custody or control, or of which you have knowledge.

The term "**communications**" means any manner or form of information or message transmission, however produced or reproduced, whether as a "document" as herein defined, written, electronic, oral or otherwise, which is made, distributed or circulated between or among persons, or data storage or processing units.

The term “**relate to**” means anything which constitutes, contains, discusses, embodies, comments upon, identifies, refers to, concerns, or is otherwise pertinent to the specified object or matter.