

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2016 – 100

By: Mayor Perciak and All Members of Council

A RESOLUTION AUTHORIZING THE MAYOR AND ASSISTANT LAW DIRECTOR TO ENTER INTO A MODIFICATION TO THE PRIOR JUDGMENT ENTRY TO BE FILED IN COMMON PLEAS COURT CONCERNING THE PLAZA AT SOUTHPARK, AND DECLARING AN EMERGENCY.

WHEREAS, this Council resolved the litigation entitled *Visconsi-Royalton Limited, et al. vs. City of Strongsville, Ohio*, in Cuyahoga County Common Pleas Court, Case No. CV-98-361394, through passage of Resolution No. 2005-128, authorizing the Mayor and Law Director to execute a Judgment Entry dated June 7, 2005, which was ordered into effect by the Court; and

WHEREAS, that prior Judgment Entry contemplated future changes to the site plan; and

WHEREAS; the Plaintiffs, Visconsi-Royalton Limited, the owners of the approximately 49 acres of land located near the I-71/Royalton Road interchange and Howe Road, which was the subject of the afore-mentioned litigation, have now proposed to modify the gasoline pumps on the property; and

WHEREAS, the parties have now agreed to amend the previous Judgment Entry of the Court by modifying Section 3 of the Judgment Entry in order to permit up to six (6) islands (16 pumps) to the gasoline fueling station on the developed property; and

WHEREAS, at this time, the parties have proposed to enter into a Modification to Judgment Entry of June 7, 2005, a copy of which is attached hereto as Exhibit "A" and to file the same with the Court for approval; and

WHEREAS, if approved by the Court, the owner will need to go through the City's administrative process and comply with all City ordinances in regard to the modifications to the gasoline pumps.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That for the aforesaid reasons, the Mayor and Assistant Law Director be and are hereby authorized and directed to execute the Final Agreed Modification to Judgment Entry of June 7, 2005, in the form attached hereto as Exhibit "A".

Section 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open

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meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City; and for the further reason that the immediate execution of the aforesaid document is necessary to assure proper development of lots and lands within the City, to avoid legal entanglements, and conserve public funds. Therefore, provided this Resolution receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

[Signature]
President of Council

Approved: [Signature]
Mayor

Date Passed: May 2, 2016

Date Approved: May 3, 2016

	<u>Yea</u>	<u>Nay</u>
Carbone	<u>✓</u>	_____
Daymut	<u>✓</u>	_____
DeMio	<u>✓</u>	_____
Dooner	<u>✓</u>	_____
Schonhut	<u>✓</u>	_____
Short	<u>✓</u>	_____
Southworth	<u>✓</u>	_____

Attest: [Signature]
Clerk of Council

RES
ORD. No. 2016-100 Amended: _____

1st Rdg. 05-02-16 Ref: _____

2nd Rdg. Suspended Ref: _____

3rd Rdg. Suspended Ref: _____

Pub Hrg. _____ Ref: _____

Adopted: 05-02-16 Defeated: _____

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

VISCONSI-ROYALTON LIMITED, et al.)	CASE NO. CV 98 361394
)	
Plaintiffs)	JUDGE PETER J. CORRIGAN
)	
vs.)	
)	
CITY OF STRONGSVILLE, OHIO)	<u>FINAL AGREED MODIFICATION</u>
)	<u>TO JUDGMENT ENTRY OF</u>
Defendant)	<u>JUNE 7, 2005</u>

This matter came on for hearing on the _____ day of _____, 2016, upon a Final Agreed Modification to the Judgment Entry previously entered by this Court on June 7, 2005 and found in Volume 3343, Pages 0031 – 0047.

THE COURT FINDS the Plaintiffs and Defendant entered into a Judgment Entry on June 7, 2005, which was ordered into effect by this Court.

THE COURT FURTHER FINDS that pursuant to Section 11 of that Judgment Entry the provisions of the Judgment Entry may be amended by agreement of the City of Strongsville, through its Mayor and the Plaintiffs upon approval by this Court.

THE COURT FURTHER FINDS that the parties have agreed to amend the previous Judgment Entry of this Court by modifying Section 3 of that Judgment Entry.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT Section 3 of the Judgment Entry entered June 7, 2005 and found in Volume 3343, Pages 0031 – 0047, is herein modified to read as follows:

3. **Anchor Store/Fuel Station.** As part of the “anchor store,” Plaintiff is expressly permitted to construct a single gasoline fueling station. It shall be permitted to have up to six (6) islands (16 pumps), and it shall conform to site development, Fire Department, safety requirements, Planning Commission requirements, landscaping, designs, lighting, screening and related features as are consistent with the Strongsville Codified Ordinances (“SCO”). The site of the fueling station shall be on the eastern section of the development and shall not be adjacent to any residential structures.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT except as specifically set out herein, the provisions of the prior Judgment Entry dated June 7, 2005 and contained in Volume 3343, Pages 0031 – 0047, shall remain in full force and effect.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT the cost of this matter is taxed to the Plaintiffs, Visconsi-Royalton Limited, et al.

JUDGE PETER J. CORRIGAN

APPROVED BY:

Defendant, City of Strongsville
Mayor Thomas P. Perciak

Anthony J. Coyne (0039605)
Mansour Gavin LPA
Attorney for Plaintiffs

Daniel J. Kolick (0002631)
Attorney for Defendant