

MEMORANDUM

To: Dublin City Council
Marsha Grigsby, City Manager
Anne Clarke, Clerk of Council

From: Stephen J. Smith
Jennifer D. Readler
Philip K. Hartmann

Date: February 6, 2014

Re: Renewal Application for Placement of Farmland in an Agricultural District
Applicants- Floyd and Joyce Miller

I. INTRODUCTION

The City of Dublin recently received a renewal Application for Placement of Farmland in an Agricultural District (“Agricultural District”) pursuant to Ohio Revised Code Section 929.02 from Floyd and Joyce Miller.

Please note this designation is separate and in this case in addition to Current Agricultural Use Value (“CAUV”) designation. The County has exclusive decision making authority over CAUV designation and yearly renewal decisions. CAUVs provide a preferential real estate tax valuation to landowners engaging in agricultural use of their land.

An Agricultural District designation and renewal of property within incorporated boundaries of a City requires City Council’s review and decision to approve, modify, or deny. An Agricultural District designation provides the landowner protection against civil nuisance suits over farm operations, deferment of tax assessments on land to build sewer and water lines, and allows for additional review if land is taken by eminent domain for a public purpose.

II. BACKGROUND

The application for renewal is for property owned by Floyd and Joyce Miller located at 5274 Cosgray Road. The property lies within the City of Dublin, Washington Township and Hilliard City School District. It is comprised of 60.422 acres and is currently used as farmland and qualifies for the CAUV designation.

Although no City records exist regarding the initial placement of this property in this program, the Franklin County Auditor's office states the property has been in an Agricultural District since its November 2005 annexation into the City. It appears from the Auditor's records that when the Miller property was annexed, it already had the Agricultural District designation approved by the County. The designation must be renewed every five (5) years.

III. COUNCIL OPTIONS

Council has the authority to accept, reject, or modify the application. For Council to modify or reject, Council must demonstrate one or more of the following will occur should the Agricultural District designation be granted:

1. A substantial, adverse effect on the provision of municipal services within the municipal corporation
2. Prevent the efficient use of land within the municipal corporation
3. Prevent the orderly growth and development of the municipal corporation, **OR**
4. Adversely affect the public health, safety, or welfare.¹

Prior to rejecting an application, Council is required to make every effort to modify the application. Modifications may include:

1. The length of time during which land is considered to be within an agricultural district
2. Size of the agricultural district
3. Any changes in deferral of special assessments²
4. Defenses to a civil action for nuisances³ **OR**
5. Restrictions on the appropriation of agricultural land.⁴

IV. RECOMMENDATION

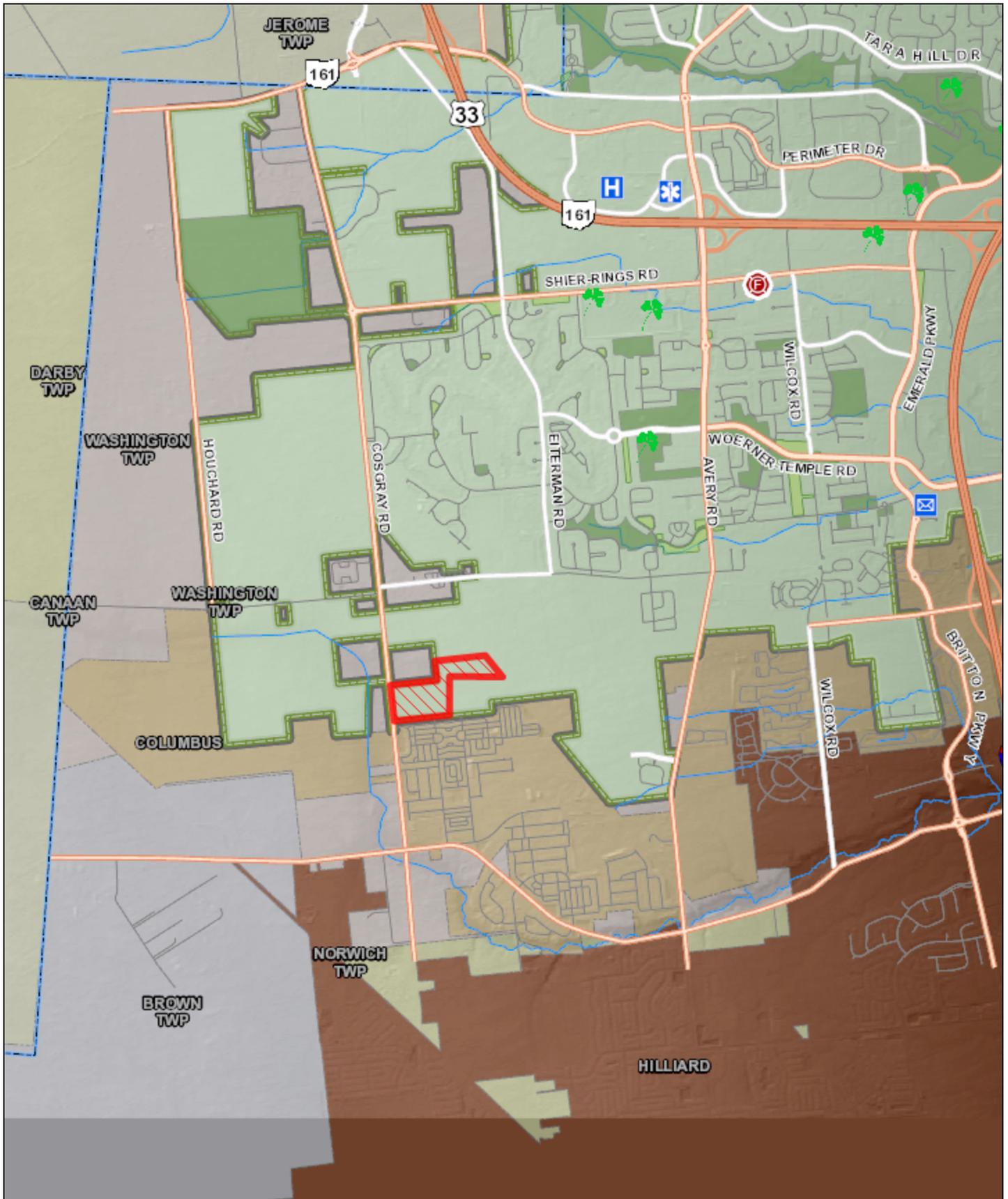
This property meets the requirements of the Agricultural District designation and this request is simply a continuation of its continued inclusion in the program for a five (5) year period. Staff recommends approval of the application.

¹ Ohio Revised Code Section 929.01- "Agricultural District"

² Ohio Revised Code Section 929.03 – "Agricultural District Exempt from Assessments"

³ Ohio Revised Code Section 929.04 – "Defense for Civil Action for Nuisance"

⁴ Ohio Revised Code Section 929.03 – "Appropriation of Agricultural Land"



Miller Farm
 5274 Cosgray Road
 February 6, 2014

**APPLICATION FOR PLACEMENT OF
FARMLAND IN AN AGRICULTURAL DISTRICT
(O.R.C. Section 929.02)**

New Application _____
Renewal Application

(See page 4 for General Information regarding this Application)

INSTRUCTIONS FOR COMPLETING APPLICATION

Print or type all entries.

- o List description of land as shown on the most recent tax statement or statements. Show total number of acres.
- o Describe location of property by roads, etc., and taxing district where located.
- o State whether any portion of land lies within a municipal corporation.
Note: See "Where to File" on page 4 to be sure that a copy of this Application is also filed with the Clerk of the municipal legislative body as well as the County Auditor.
- o A renewal application must be submitted after the first Monday in January and prior to the first Monday in March of the year in which the agricultural district terminates for the land to be continued in this program.
- o If the acreage totals 10 acres or more, do not complete Part D.
- o If the acreage totals less than 10 acres, complete either D (1) or (2).
- o Do not complete page 3. This space to be completed by the County Auditor and/or Clerk of the municipal legislative body.

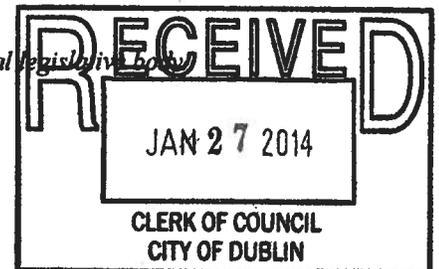
A.

Owner's Name:	Floyd Miller & Joyce E. Miller
Owner's Address:	5274 Cosgray Road Dublin, Ohio 43016
Description of Land as Shown on Property Tax Statement:	274-0110E -041-00 5274 Cosgray Rd Entry 3453-6953 60.422 acres
Location of Property:	
Street or Road-	5274 Cosgray Road
County-	Franklin

TAX DISTRICT(S)	PARCEL NUMBER(S)	# of Acres
City of Dublin - Washwp-H	274-001218-00	60.422
Total Number of Acres		60.422

B. Does any of the land lie within a municipal corporation limit or subject to pending annexation?
Yes No

If YES, REMEMBER a copy of this application must be submitted to the Clerk of the municipal legislative body



C. Is the land presently being taxed at its current agricultural use valuation under Section 5713.31 of the Ohio Revised Code? Yes No

If NO, complete the following showing how the land was used the past three years:

	ACRES		
	LAST YEAR	TWO YEARS AGO	THREE YEARS AGO
Cropland			
Permanent Pasture used for animal husbandry			
Woodland devoted to commercial timber and nursery stock			
Land Retirement or Conservation Program pursuant to an agreement with a federal agency			
Building areas devoted to agricultural production			
Roads, building areas, and all other areas not used for agricultural production			
Total Acres			

D. Does the land for which the application is being made total 10 acres or more devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government? Yes No

If NO, complete the following:

1. Attach evidence of the gross income for each of the past 3 years, if the average yearly income from agricultural production was at least twenty-five hundred (\$2,500.00) dollars or more, or
2. If the owner anticipates that the land will produce an annual gross income of twenty-five hundred (\$2,500.00) dollars or more, evidence must be attached showing the anticipated gross income.

Authorization and Declaration

By signing this application I authorize the county auditor or his duly appointed agent to inspect the property described above to verify the accuracy of this application. I declare this application (including accompanying exhibits) has been examined by me and to the best of my knowledge and belief is a true, accurate and correct application. I understand that land removed from this program before the 5-year enrollment period is subject to penalty, in accordance with Section 929.02(D) of the Ohio Revised Code.

Floyd Miller
Signature of Owner

Floyd Miller

Date: 1-17-14

DO NOT COMPLETE FOR OFFICIAL USE ONLY

CAUV Application No. _____

Action of County Auditor

Application Approved _____ Rejected _____ *

Date Application Filed with County Auditor _____

Date Filed (if required) with Clerk of Municipal Corporation _____

County Auditor's Signature _____ Date _____

Date Decision Mailed to Applicant _____ Certified Mail No.

Action of Legislative Body of Municipal Corporation

Application Approved _____ Approved with Modifications _____ * Rejected _____ *

Date Application Filed with Clerk _____

Date of Public Hearing _____

Date of Legislative Action _____

Clerk's Signature _____ Date _____

Date Decision Mailed to Applicant _____ Certified Mail No.

* IF MODIFIED OR REJECTED, ATTACH SPECIFIC REASONS FOR MODIFICATION OR REJECTION

INFORMATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT

A. WHO MAY FILE?

Any owner of land used for agricultural production may file an application to have the land placed in an agricultural district.

B. WHERE TO FILE

The completed application must be filed with the auditor of the county where the land is located. The applicant will be notified of action taken by the county auditor within 30 days of the filing of the application if the land is not within a municipal corporation or an annexation petition has not been filed. If the land for which an application has been made lies within a municipal corporation limit or if an annexation petition that includes the land has been filed with the Board of County Commissioners under Section 709.02 of the Ohio Revised Code, a copy of the application must also be filed with the Clerk of the legislative body of the municipal corporation. The legislative body is required to conduct a public hearing on the application within 30 days after the application has been filed with the Clerk. Within 30 days of the hearing, the legislative body may approve the application, modify and approve the application as modified, or reject the application.

C. WHEN TO FILE AND RENEWAL

The original application may be filed at any time for placement of land in an agricultural district for a five-year period. If at the end of five years, the owner decides to keep some or all of his or her land in a district, he or she shall submit a renewal application and must meet the same land requirements and use the same application process as the original application. The renewal application may be filed at any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, for a period of time ending on the first Monday in April of the fifth year following the renewal application.

D. WHAT IS "LAND USED FOR AGRICULTURAL PRODUCTION?"

In accordance with Section 929.01(A) of the Revised Code, land is devoted to "agricultural production" when it is used for commercial aquaculture, apiculture, animal husbandry, poultry husbandry; the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees; flowers or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices provided that the tracts, lots, or parcels of the land or portions thereof that are used for conservation practices comprise not more than twenty-five percent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed.

"Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

E. WHAT DOES "TRACTS, LOTS, OR PARCELS OF LAND" MEAN?

Tracts, lots, or parcels mean distinct portions of pieces of land (not necessarily contiguous) where the title is held by one owner, as listed on the tax list and duplicate of the county, is in agricultural production and conforms with the requirements of either D1, D2, or D3 below.

F. ARE THERE ANY OTHER REQUIREMENTS?

1. The land for which the application is made must have been used exclusively for agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency for the three consecutive calendar years prior to the year in which application is made. Evidence must be shown on the application. If the land contains timber which is not being grown for commercial purposes the land on which the timber is growing must be contiguous to or part of a parcel under common ownership that is otherwise devoted exclusively to agricultural use.
2. If the total amount of land for which application is made is less than 10 acres, there is an additional requirement that the applicant submit evidence with his application that the activities conducted on the land have produced an average yearly gross income of at least twenty-five hundred dollars over the three years immediately preceding the year in which application is made or that the land will produce an anticipated annual gross income of that amount.
3. Evidence of annual gross income may be satisfied by attaching to the application form a short statement stating the number of animals by species and anticipated market value, number of acres of crops to be grown, their expected yield and price per bushel or similar specific information.

G. IS THERE A PENALTY FOR EARLY WITHDRAWAL?

Land removed from this program before the 5-year enrollment period is subject to penalty, per Section 929.02(D) of the Ohio Revised Code. See County Auditor's Office for details on how the amount of the withdrawal penalty is determined.

H. APPEAL OF APPLICATION

The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice denying the application. When the land lies within a municipality the applicant may also appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection. In addition, the applicant may withdraw an application modified by a legislative body if he or she disapproves of the modifications.