ORDINANCE NO. 22-66

AN ORDINANCE FOR 15 FLAX LLC & 117 EAST CENTRAL LLC., APPROVING A REZONING AMENDMENT FROM B-3 (COMMUNITY BUSINESS DISTRICT) AND M-1 (LIGHT MANUFACTURING DISTRICT) TO B-3 AND M-1 PMU (COMMUNITY BUSINESS DISTRICT AND LIGHT MANUFACTURING DISTRICT WITH A PLANNED MIXED USE OVERLAY DISTRICT) FOR THE MILL ON FLAX ON APPROXIMATELY 4.6817 ACRES LOCATED NORTH OF EAST CENTRAL AVENUE AND EAST OF THE OLENTANGY RIVER.

WHEREAS, the Planning Commission at its meeting on June 1, 2022 recommended approval of a Rezoning Amendment for 15 Flax LLC & 117 East Central LLC., from B-3 (Community Business District) and M-1 (Light Manufacturing District) to B-3 and M-1 PMU (Community Business District and Light Manufacturing District with a Planned Mixed Use Overlay District) for The Mill on Flax on approximately 4.6817 acres located north of East Central Avenue and east of the Olentangy River (PC 2022-1497).

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That the Rezoning Amendment for 15 Flax LLC & 117 East Central LLC., from B-3 (Community Business District) and M-1 (Light Manufacturing District) to B-3 and M-1 PMU (Community Business District and Light Manufacturing District with a Planned Mixed Use Overlay District) for The Mill on Flax on approximately 4.6817 acres located north of East Central Avenue and east of the Olentangy River, is hereby confirmed, approved, and accepted with the following conditions that:

1. The development shall require conformance to all provisions of the Development Text and any conditions of approval.
2. Flax Street west of Milo Street shall be vacated and/or an agreement with the City shall be established and a perpetual maintenance agreement shall be executed.
3. The developer shall dedicate a portion of their property for the widening of Milo Alley to 24 feet and the City and developer shall execute a perpetual maintenance agreement for the Milo Alley.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all

deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION: YEAS 7 NAYS 0
ABSTAIN 0

PASSED: June 27, 2022 YEAS 7 NAYS 0
ABSTAIN 0

ATTEST: Elaine McCroskey
CITY CLERK

Cindy Kay Rigdon
MAYOR

15 FLAX LLC AND 117 EAST CENTRAL LLC

THE MILL ON FLAX

PLANNED MIXED USE DEVELOPMENT TEXT

DELAWARE, OHIO

May 27, 2022

Planned Mix Use Development

1) DESCRIPTION OF DEVELOPMENT

a) 15 Flax LLC and 117 East Central LLC is proposing a planned mixed-use development (the "Development") of approximately 5.1417 acres divided into 2 subareas. Currently, Subarea A is zoned M-1 (Light Manufacturing) and B-3 (Community Business District) is approx. 4.7907 acres. Subarea B is zoned B-3 (Community Business District) and is approx. 0.351 acres. See Subarea boundaries in section 4.

2) GENERAL DEVELOPMENT STANDARDS & REGULATIONS FOR ALL SUB-AREAS

a) **Purpose and Intent.** It is the intent of this development to provide a planned development with common architectural design, streetscape, signage, lighting, and pedestrian amenities to be compatible throughout the entire development and covered by a common set of declarations. Design that is not consistent with this purpose, intent, development text, and any approved plans will not be accepted. This Development Text represents the zoning requirements for this area unless otherwise noted

b) **Conformance with Codified Ordinances and City Policy.** Unless noted or planned otherwise within this development text and any approved Development Plans, all development will be constructed and provided in conformance with the then current Codified Ordinances and City Policy in effect at the time of application.

c) **Limitations.** Nothing in this text shall prohibit additional restrictions or requirements from being placed on the approval of any Final Development Plan.

d) **Major Modifications.** Once a Final Development Plan has been approved by City Council, any subsequent major modification to that plan shall only be permitted by resubmission and approval of a revised Final Development Plan through the procedures set forth in the Zoning Code. Major modification for the purposes of this text shall mean any modification of the approved Final Development Plan, as determined by the Director of Planning and Community Development, that results in:

i) Any major increase in the number of or change in the type and/or mix of dwelling units or any major increase in the non-residential building area.
ii) Major change in the approved location of land uses or land use sub-areas.
iii) Substantial alteration of the basic geometry, including right-of-way width, and/or operation characteristics of any element of the approved public and private street pattern, access points, parking facilities, service access, trash storage facilities, and system of pedestrian paths that results in a change in operating characteristics or character.

e) **Minor Modifications.** Once a Final Development Plan has been approved by City Council, any subsequent minor modification to that plan shall only be permitted by resubmission and approval by the Director of Planning and Community Development of a revised Final Development Plan. Minor modification for the purposes of this text shall mean any modification of the approved Final Development Plan, as determined by the Director of Planning and Community Development, that results in:

i) Any modification that is not considered a major modification by this Zoning Text or by determination of the Director of Planning and Community Development.
ii) Any minor increase in the number of or change in the type and/or mix of dwelling units less than 10% in the total number of dwelling units or any increase less than 15% in the non-residential building areas.
iii) Minor change in the approved location of land uses or land use sub-areas.
iv) Minor alteration of the basic geometry, including right-of-way width, and/or operation characteristics of any element of the approved public and private street pattern, access points, parking facilities, service access, trash storage facilities, and system of pedestrian paths that results in a change in operating characteristics or character.
v) Minor structural alterations that do not alter the overall design intent of the building.

f) **Construction Schedules.** Wherever reasonably possible, areas of the development to be utilized as buffers for existing residential areas shall be developed and constructed prior to or concurrent with commencement of construction of commercial portions of the Development.

g) **Perpetual Maintenance of Improvements.** Any and all improvements not dedicated to the City, including, but not limited to, buildings, structures, preserves, landscaping, open space, reserves, signage, and pavement approved and constructed within the Development are required to be maintained to the level at which such improvements were at their installation. Perpetual maintenance responsibility for such improvements other than buildings not dedicated to the City will be as determined and set forth by Developer in a master declaration creating a common association for the overall Development. Generally, maintenance responsibility for buildings will be imposed upon the building owner, with enforcement by the common association. The then landowners shall be compelled to comply with any written order of the City regarding maintenance of such buildings and other private improvements.

h) **Donation collection dumpsters, bins, or areas.** Donation boxes, dumpsters, bins, or areas are not permitted on the Development site to be located outside a completely enclosed structure.

i) **Tree Removal and Replacement.** Trees have been documented on the site. The City Arborist has been able to verify all counts, species, and sizes with the exception of three trees currently behind a locked gate which will need to be verified. Accounting for these three trees and the other trees proposed for removal there are a total of 129 caliper inches proposed for removal. These shall be replaced on site with additional (non-code required) trees, off-site, or a payment in lieu of planting at $100 per caliper inch shall be remitted to the City OR a combination of the three approaches. During construction, the Applicant shall inform the City as to any additional trees removed or preserved and these shall be added or subtracted from a running total to achieve compliance with this section. As there are few trees proposed to be removed and conceptually a significant number of trees to be planted it is anticipated that replanting will exceed the amount removed.

j) **Landscaping.** A comprehensive landscape plan for the entire development area shall be submitted for review by Staff prior to or concurrent with the submission of any Final

Development Plan. The Landscape plan shall include all elements of landscaping, street trees, parking lot landscaping, and the normal and customary elements of such a plan.

k) **Pedestrian Connectivity.** Pedestrian connectivity is currently available to all subareas of the proposed project. Sidewalks presently exist along the north and south sides of Flax Street which connects to Lake Street which likewise has sidewalks on both sides. Pedestrian connectivity is likewise available between Subareas A and B west of Milo Street and extends to East Central Avenue. Internally within the project, sidewalk connectivity is likewise available in or around each proposed structure. As this project develops, sidewalk along Milo Street to Flax Street and Flax Street to its western terminus will be reconstructed to a width of at least 5 feet on the south side of Flax Street. While a multi-use pathway system is shown on the preliminary plan for this project, the exact location may be altered should the city acquire lands or permission in that area. However, it is the responsibility of the developer to construct multi-use pathways shown on the Preliminary Development Plan and any subsequent Final Development Plan(s) in coordination with the City's or River Front District improvement project and the final details of the City's plans on the location of the proposed bridge has been determined. The proposed bridge over the Olentangy River shall be the responsibility of the City with the Applicant dedicating (or by easement) a reasonable area on their site needed to accommodate this future improvement, when planned.

l) **Parking.** The amount of parking provided shall not be more than approved on the Preliminary Development Plan and any subsequent Final Development Plan. Parking shall meet the minimum requirements of the current Zoning Code for size, access, and location. However, because the Planning Commission encourages the reduction of the required amount of parking by up to 30% and encourages shared parking opportunities where the locations and uses are compatible and make sense in order to minimize the overall amount of parking on-site as well as because of unit types and the urban makeup of the proposal, the parking requirements of the Development may be reduced with approval of the Preliminary Development Plan and any subsequent Final Development Plan(s). Where necessary as determined by the City for connectivity and access management throughout

the Development and to adjacent properties, cross access pedestrian, vehicular and utility easements shall be provided and recorded.

m) **Lighting.** Building, site, and accent lighting shall be provided in accordance with the current Zoning Code and this text. All lighting fixtures shall be decorative fixtures that are appropriate and consistent with the overall design of the Development. Site lighting shall utilize recessed or cut-off fixtures. Accent up-lighting may be approved to accentuate architectural features. No lighting fixture shall be mounted higher than 25 feet in height. All ground mounted accent lighting shall be hidden in landscaping and directed in a manner that does not affect visibility or significantly add to overall skyglow. Outdoor lighting may also be attached to any building structure in lieu of light poles as per code or per plan. A comprehensive lighting plan for the entire site shall be submitted prior to or concurrent with any Final Development Plan which, if approved, shall control for this element.

n) **Entry Features and Signs.** A comprehensive sign plan shall be provided and approved in conformance with then-current Section 1165.16(c) of the Zoning Code and this Development Text. If approved, such sign plan may be updated or modified from time to time consistent with this Development Text and applicable Zoning Code provisions. All signs in a Sub-Area shall be in conformance with the approved comprehensive sign plan. The comprehensive sign plan shall meet the following requirements, and unless noted below, all signs shall meet the then-current Zoning Code. All signage in the Final Development Plan shall be installed and at the cost of the Developer, while all signage in a Sub-Area Final Development Plan shall be installed at the cost of the developer of the Sub-Area.

i) **All Signs.** All signs shall be designed and located in a manner that is appropriate and consistent with the overall design of the development. Unless noted otherwise, externally illuminated, and reverse channel letter signs are preferred. For the purposes of this text, a reverse channel letter sign is generally a type of sign that utilizes an opaque aluminum letter which is stud mounted away from the wall or mounting surface. Rear illumination creates a soft glow or halo behind the letter. Changeable copy and changeable face signs are prohibited. All signs shall not be allowed to fall

into disrepair as determined by the City. If signs are found to be in disrepair and the City orders them removed, modified, or improved, the then current owner of the property and/or business is required to comply with any such order within 30 days.

ii) **Freestanding Signs.** Except for development identification and directional signs, freestanding signs are prohibited. Development identification signs shall be of the highest quality and design and serve as part of overall entry features to the Development. Development identification signs may only be provided at areas depicted on the comprehensive sign plan and as approved on the Final Development Plan.

iii) **Building Signs.** Wall signs shall be integrated into the overall design of the building to which the sign is attached in an area established as part of the building design approval for the purpose of mounting a wall sign (a sign band area). Only one wall sign is permitted per primary tenant per frontage of a public or private street except that there shall be no more than 2 such signs per primary tenant per building. Rear or parking lot facing signage shall be required. Reverse channel letters signs, as previously defined are preferred.

iv) **Other Signs.** A temporary marketing/for sale or lease sign plan shall be provided as part of the comprehensive sign plan for the development. All other signs shall meet the current Zoning Code. Temporary grand opening signage is allowed for up to 90 days (initial opening of the business) and shall not include streamers, balloons, spinners, other air activated devices, billboards, search lights, or other temporary or permanent signs or attraction devices shall be permitted.

v) **Prohibited signs.** Streamers, balloons (inflatable or hard plastic), spinners, any air activated devices, billboards, search lights, other devices prohibited within the Zoning Code of the City of Delaware, cardboard signs, sandwich board type signs, or other signs or attraction devices shall be prohibited.

vi) **Lighting.** All signs shall be externally illuminated only.

o) **Outdoor Patios.** Where permitted per plan approval and not in conflict with this text, commercial outdoor patio hours of operation shall not begin before 9am or extend past 10 pm Sunday through Thursday and 11 pm Friday and Saturday. Outdoor music, amplified sound or sound systems, or outdoor entertainment shall be allowed only during the hours

of operation and only where specifically permitted within each Sub-Area as noted in this Text. Any such area having outdoor music shall generally be located away from and screened from any adjacent residentially used property. Trash receptacles, regular maintenance, fencing and lighting shall be provided. No signs shall be permitted in conjunction with any outdoor dining area, such as, but not limited to, banners, umbrella signs, pennants, and flags.

p) Prohibited Uses.

i) Adult entertainment businesses: (also known as sexually oriented businesses) are expressly prohibited from locating anywhere in the development.
ii) Outdoor Storage: no outdoor storage, which includes open dumps, mineral extraction, etc., is permitted in the Development.
iii) Medical marijuana: no medical marijuana principal or accessory uses are permitted in the Development
iv) Games of skill: accessory or principle for-profit, non-charitable, skill-based gaming uses oriented towards adults and designed to substantially mimic gambling devices such as but not limited to spinning skill stop games, but not including traditional video arcade type games typically found in restaurant/party center arrangements.

q) Wireless telecommunication facilities including installations known as small cell sites and Distributed Antenna Systems (DAS). Towers are expressly prohibited from the entire Development area. Small cell sites, DAS, antennas, and/or amplifiers may be permitted so long as they are completely camouflaged so as to be not visible either within an enclosed building or the structure to which they are attached if external. These shall be reviewed individually administratively for compliance with these regulations.

r) Utilities. All public utilities except for any existing above-ground utilities shall be placed underground except for street and parking lot lights as approved on the Final Development Plan. Above-ground utilities shall be completely screened or camouflaged to the extent

legally permitted and practicable; provided, however, fire hydrants and standpipes are not subject to this requirement.

3) BUILDING DESIGN

a) **Building Design.** All buildings shall meet the design requirements the Preliminary and Final Development Plans. The entire development (all Sub-Areas) shall respect and be compatible with the architecture and history of the existing structure on site that was home to the Delaware Chair Factory. The architecture shall include a contemporary take on the existing historic vernacular which could include design elements such as stone end walls, vertical clapboard, board and batten, and board siding, and pitched standing seam metal roofs. To create a cohesive and unified design throughout the entire development, all buildings shall be consistent in overall design, color, materials, and architectural pattern, and shall include similar and/or repeating patterns of design elements such as architectural styles, roof and building massing, window proportion or other elements as determined through the Final Development Plan review process.

i) All buildings shall be consistent with the style, materials (including brick, stone, and siding), rhythm, glazing, spacing, roof lines and pitches, as depicted upon the submitted architectural renderings and this Text.

ii) A color pallet for buildings including roofs shall be submitted with the first Final Development Plan for a building use type (i.e. commercial or residential) for review and approval through the Final Development Plan process.

iii) Large commercial buildings shall incorporate elements and forms that reduce large masses into an assemblage of definable parts.

iv) Buildings shall be oriented to a street whenever possible.

v) Each building shall include a minimum of 15% brick, stone, or cultured stone

vi) Exterior materials color palette shall consist of natural colors including white. Additional colors may be used as accents but may not be high-gloss colors.

vii) Exterior materials shall include cement fiber board, brick, stone, cultured stone, wood, or similarly approved products on all elevations visible to the public. Each building shall contain natural materials. Vinyl siding shall be used as accent material only.

viii) The limestone (or cultured stone) on the building shall be Delaware blue vein limestone or equivalent as approved by City Staff.

ix) Painted standard concrete block (CMU), tilt-up concrete panels, or prefabricated steel panels are prohibited as exterior building materials. It is not anticipated that there will be many or any such areas that are not visible to the public and generally four-sided architecture and materials are required.

x) Unless otherwise approved in the Final Development Plan, buildings shall generally have a similar degree of exterior finishes on all sides and shall be articulated with recesses, pilasters, fenestration, and/or material changes. Compositions of similar building materials shall be used on all building elevations visible to public view and consistent with the Preliminary Architectural renderings made part of this Text and Preliminary Plan.

xi) Treated lumber shall be painted or stained

xii) All exposed foundation walls shall be faced with brick or stone.

xiii) Trim board around all corners, windows, and doors shall be a minimum of 4 inches all around except where shutters directly abut windows.

xiv) The principal roof structure does require minimum eave overhang as consistent with the building design.

xv) Primary Roofs shall have a minimum pitch of 6:12

xvi) Frieze trim shall be required to be a minimum of 4 inches wide under all overhangs and gables.

xvii) Standing seam metal roofs are allowed in natural colors. Any asphalt shingles shall be dimensional.

xviii) Lintels and sills in masonry walls shall be brick soldier course, limestone, sandstone, or a manufactured stone product.

xix) Windows shall be of vertical or square proportion. Accent windows may be circular, half-round, or octagonal and are limited to one per elevation unless used in a pair. Rear and side elevations shall have a minimum of two windows. Glazing (windows) shall comprise most of the ground floor elevation and shall be utilized on all elevations and all stories except for limited areas devoted only to service areas.

xx) Accessory structures such as enclosures for dumpsters, refrigeration and freezing units, and other similar structures shall consist of brick and stone or similar approved products as the exterior material. Any such accessory structure shall be designed to be consistent and cohesive with the principal building it serves. Doors shall be included with dumpster corrals areas and shall be metal or wood painted or stained to match the primary building materials.

xxi) Rooftop Mechanical Equipment shall be completely screened from public view from all sides of the building using parapets, equipment screens, or other screening measures as deemed appropriate.

4) SUB-AREAS

a) **General.** The project is separated into two main Sub-Areas to represent the distinct areas of development.

b) **Sub-Area A** is the northern portion of the development and the location of the historic Delaware Chair Factory. This Sub-Area is bounded the Olentangy River to the north & west, Milo Street & unnamed alley with residential neighborhood to the east, and unnamed alley to the south.

c) **Sub-Area B** is the southern portion of the development and is bounded by a currently unnamed alley to the north, Milo Street to the east, East Central Avenue to the south and the Olentangy River to the west.

5) SUB-AREA A & B DEVELOPMENT STANDARDS

a) **Uses.** The following uses shall be considered permitted, conditionally permitted, or limited uses in Sub-Area A & B as represented in the chart below by P, C, or L, respectively, and as defined within the Zoning Code. Any use not listed in the chart shall be considered a prohibited use unless amended by action of the Planning Commission and City Council through a Zoning Amendment process.

i) **Permitted Uses.** Permitted uses are permitted by-right and shall meet all development standards specified within this text and the Zoning Code, as applicable.

ii) **Conditionally Permitted Uses.** In addition to all standards specified within this development text, uses listed as conditionally permitted uses shall meet all the then current Zoning Code standards for approval of a Conditional Use Permit current at the time of application for the specific conditional use as well as any other regulations contained within the Zoning Code and applicable to the conditional use.

iii) **Limited Uses.** Limited uses shall be considered permitted uses subject to complying with all the specific limitations and restrictions as specified within this text as determined by Final Development Plan approval.

iv) **Accessory Uses.** Although not specified in the chart below, accessory uses, which are considered permitted uses, include those items that are accessory and necessary to the principal use of the land. Such items include but are not limited to fences, trash receptacles and enclosures, patios, decks, swimming pools, private garages, and off-street parking areas.

Land Use Category	**Sub-Area A Uses as noted**
1) Residential	
a) Multi-family Townhomes	P
b) First/Second/Third story flats / apartments	P
c) Multi-family dwellings	P
2) Community Facilities	
a) Leasing Office	P

Land Use Category	Sub-Area A Uses as noted
b) Development amenities (gym, clubroom, etc.)	P
c) Swimming pool (accessory use)	P
3) Recreation/Open Space	
a) Public Parks, Playgrounds & Private Amenities	P
4) Office and Professional Services	
a) Offices – administrative, business, and professional	P
5) Accessory Uses	
a) Outdoor Patios	L

Land Use Category	Sub-Area B Uses as noted
1) Commercial	
a) Retail	P
b) Restaurant	P
c) Office	P
2) Accessory Uses	
a) Outdoor Patios	L

b) **Max Units of Dwelling Unit Type.** The Sub-Area A maximum number of dwelling units shall not exceed 174 dwelling units as approved on the Preliminary Development Plan

c) **Limited Uses.** See appropriate section in this Development Text for specific requirements and limitations.

d) **Lot Standards.** The following standards shall apply for lot standards and coverage.

Lot Standards	Sub-Area A & B
Minimum lot area	As approved on the Final Development Plan and consistent with Preliminary Development Plan
Minimum lot width and frontage	As approved on the Final Development Plan and consistent with Preliminary Development Plan
Maximum building coverage	As approved on the Final Development Plan and consistent with Preliminary Development Plan
Maximum lot coverage	As approved on the Final Development Plan and consistent with Preliminary Development Plan

e) **Olentangy River Setback.** The requirements of Section 1150.07 of the zoning code of the City of Delaware, Ohio, shall be satisfied with this development approval as the development is proposed to be outside the 100-year floodplain and the required buffer to the Olentangy River in accordance with the regulations shall be determined by the Floodplain Administrator for the City through the Final Development Plan process. The Administrator has preliminarily concluded that the plans conform to the lesser of setback noted or to the nearest right of way. This is also represents an urban infill site that was previously used for industrial purposes, effectively cleared of vegetation, and which contains existing structures located within the existing 100 floodplain. The proposed development improves upon the existing condition substantially and over what could occur on the site as zoned today. Finally, there is a parcel of land between this development site and the river that is not controlled by this Applicant.

f) **Coordination and Adherence to State and Federal Permitting and Regulations.** The Applicant shall comply with and account for any required State or federal regulations. The Applicant shall coordinate submissions for such with the City to ensure an overall coordinated development approach and to account for any mitigation measures and site arrangements required from any regulatory authority.