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IN THE COURT OF COMMON PLEAS  
LICKING COUNTY, OHIO

JOHN THORNBOROUGH, ET AL.

APPELLANTS,

-VS-

CASE NO. 2007 CV 01076

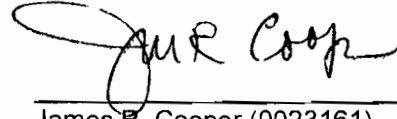
COUNCIL OF THE VILLAGE OF  
GRANVILLE OHIO, ET AL.,

APPELLEES.

**MOTION TO INTERVENE AS APPELLEE**

Denison University, an Ohio non-profit corporation, respectfully moves to intervene as an Appellee in this action in order to assert its claims and protect its interests on the grounds that it has an interest relating to the property or the transaction that is the subject of this action and is so situated that the disposition of the action may impair or impede its ability to protect that interest. Its claims or defenses have a question of law or fact in common with the parties already in the case. A memorandum is attached.

Respectfully submitted,



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**MEMORANDUM**

Intervention may be of right under Rule 24(A) of the Ohio Rules of Civil Procedure or permissive under Rule 24(B) of the Ohio Rules of Civil Procedure. Applications for both types of intervention are combined in this motion.

This action is an appeal of a decision of the Granville Village Council ("Village Council") which affirmed a decision of the Planning Commission of the Village of Granville ("Planning Commission") to issue a Zoning and Architectural permit to Denison University for the renovation and the construction of an addition to Cleveland Hall, a building on the campus of Denison University. Denison University was the applicant for the Zoning and Architectural permit and is in possession of the permit approval issued by the Village of Granville. Denison University participated in applicable hearings before the Planning Commission and the Village

Council.

Intervention under Rule 24 of the Ohio Rules of Civil Procedure is a method whereby a party who is not named in an action may apply to be made a party. Denison University submits that since it is the applicant for the permit at issue in this case and now holds that permit, it meets the requirements of Rule 24(A) and is entitled to intervention as a matter of right, to-wit:

- (1) It claims an interest relating to the property or transaction which is the subject of the action;
- (2) It is so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and
- (3) Its interest is not adequately represented by the existing parties.

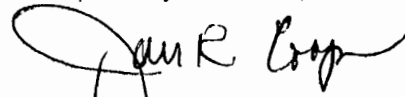
Alternatively, Denison University seeks permissive intervention under Rule 24(B) of the Ohio Rules of Civil Procedure on the grounds that its claims or defenses and the main action have questions of law or fact in common.

Denison University will seek to uphold the decision of Village Council.

There is authority which suggests that Denison University may in effect already be a "party" to this action since it was a party to the administrative proceedings before the Planning Commission and Village Council. See Thomas v. Webber (1968), 15 Ohio St. 2d 177, 182, where the court stated that omitted individuals were ". . . proper parties to an appeal from an order of the township trustees favorable to them, whether or not they are named as parties and designated as appellees in the notice of appeal from that decision."

Denison University is able to file its brief promptly in the action so as to maintain the briefing schedule set forth by judgment entry herein.

Respectfully submitted,



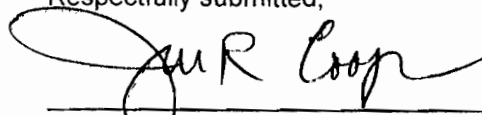
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**PROOF OF SERVICE**

A copy of the foregoing was served on Geoffrey R. Graham Judge, 964 N. 21<sup>st</sup> Street, Suite A, Newark, Ohio 43055, Attorney for Appellants, and upon D. Michael Crites, RICH, CRITES & DITTMER, LLC, 300 E. Broad Street, Suite 300, Columbus, Ohio 43215-3452, Attorney for Appellees, by ordinary U.S. mail, postage prepaid, and by facsimile, this 19<sup>th</sup> day of October, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James R. Cooper". The signature is written in a cursive style with a large initial "J" and "C".

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JUDGMENT ENTRY

This matter came on for hearing before the court on the motion of Denison University to intervene as an Appellee pursuant to Rule 24 of the Ohio Rules of Civil Procedure. The court finds that said motion is well taken and should be granted.

**IT IS, THEREFORE, ORDERED**, that Denison University shall be, and hereby is, joined as an Appellee and shall file its brief herein within ten (10) days of the filing of this judgment entry.

**IT IS FURTHER ORDERED**, that Appellants shall be, and hereby are, granted fourteen (14) days from the filing of the brief of Denison University to file a reply to the same.

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Judge

APPROVED BY:

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