

RECORD OF ORDINANCES

Ordinance No. 2006-10

Passed FEBRUARY 20, 2007

AN ORDINANCE AMENDING PLANNED DEVELOPMENT SECTIONS 1151.04(e), 1151.05(b) AND 1151.16 OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE.

WHEREAS, the Council of the City of Brookville has recently adopted Section 1151.15 Planned Development Overlay Districts; and

WHEREAS, the Council, upon recommendation of Planning Commission, now desires to amend certain sections of planned development procedure to address certain issues related to the administration of planned development overlay districts.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO,

SECTION 1: The Council of the City of Brookville hereby adopts and enacts the following amendment to Section 1151.04(e) of the Code of Ordinances of the City of Brookville. Section 1151.04(e) entitled Building Permit is hereby amended as follows and shall replace existing section 1151.04(e).

**Building Permit:** No building permit shall be issued by the Zoning Inspector until the Final Development Plan has been approved and duly recorded and the Planning Commission has approved the detailed plans (described in Section 1151.04(c)).

In Planned Development Overlay districts, no building permit shall be issued by the Zoning Inspector until he has made the following determinations:

(1) The building design is an approved design for this planned development, or is a building design that has been added to the approved designs for this planned development pursuant to the procedure set forth in 1151.05(b). The Zoning Inspector may, in his discretion, issue a building permit for a building design with minor alterations from an approved design provided that the building will be compatible with other buildings within the planned development.

(2) The plot plan for the building complies with all applicable setback requirements and any other applicable requirements of this planned development.

(3) The building design will not violate 1151.15(f)(5) by use of the same building design proposed for this building permit as the building design on a lot that abuts the lot that is the site for this building permit, or any other required dispersal of building designs within the planned development as approved by Planning Commission and City Council in the approval of the planned development under 1151.04.

(4) The decision of the Zoning Inspector to deny a building permit under this section shall be appealable to Planning Commission, and the Planning Commission shall hear said appeal at its next regularly scheduled meeting.

SECTION 2: The Council of the City of Brookville hereby adopts and enacts the following amendment to Section 1151.05 (b) of the Code of Ordinances of the City of Brookville, Ohio. Section 1151.05(b) entitled Minor Changes shall be amended as follows and shall replace existing Section 1151.05(b).

**Minor Changes:** The Planning Commission may approve minor changes to the Planned Development which do not change the concept or intent of the development without going through the "preliminary approval" steps. Minor changes are defined as any change not defined as a major change. In Planned Development Overlay Districts, the addition of new building designs to a development or the amendment of previously approved building designs by the applicant shall be a minor change unless Planning Commission determines that the new designs are not compatible with the previously approved building designs.

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Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. **2006-10**

Passed **FEBRUARY 20**, **2007**

**SECTION 3:** The Council of the City of Brookville hereby adopts and enacts the following amendment to Section 1151.16 of the Code of Ordinances of the City of Brookville, Ohio. Section 1151.16 is amended to amend Section 1151.16(H) and adopt new Section 1151.16(I), as set forth below:

## **1151.16-SUBMISSION REQUIREMENTS FOR PLANNED DEVELOPMENT PROPOSALS**

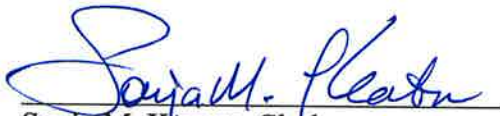
1151.16(H) The covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities, and the method of assuring perpetual maintenance of land to be used for common purposes.


1151.16(I) Proposed building designs for buildings in the planned development, including elevations of all four sides of the structure, basic floor plan, and proposed exterior building materials.

**SECTION 4:** This Ordinance shall take effect thirty (30) days after passage as provided by Section 4.07(B) of the Charter of the City of Brookville.

PASSED this 20th day of February 2007.

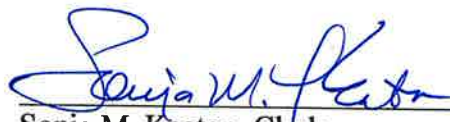
ATTEST:

  
Sonja M. Keaton, Clerk

  
David E. Seagraves, Mayor

## **CERTIFICATE**

The undersigned, Clerk of the City of Brookville, Ohio, does hereby certify that the foregoing is a true and correct copy of Ordinance 2006-10, passed by the Council of the City of Brookville, Ohio, on the 20th day of February, 2007.

  
Sonja M. Keaton, Clerk

## **CERTIFICATE OF POSTING**

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2006-10 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 21st day of February 2007 to the 22nd day of March 2007, both days inclusive.

  
Sonja M. Keaton, Clerk

RECORD OF ORDINANCES

Ordinance No. 2007-01 Passed FEBRUARY 20, 2007

**AN ORDINANCE ACCEPTING THE PETITION FOR ANNEXATION OF CERTAIN TERRITORY CONTAINING 96.688 ACRES, MORE OR LESS, IN CLAY TOWNSHIP AND PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, AND DECLARING IT AN EMERGENCY.**

WHEREAS, a petition for annexation of certain territory containing 96.688 acres, more or less, in Clay Township and Perry Township, to the City of Brookville, under the special procedure for annexation provided in Section 709.023 of the Ohio Revised Code was duly filed by Rodney L. Stephan, agent for the Petitioners, on October 2, 2006; and

WHEREAS, said petition for annexation of certain territory containing 96.688 acres, more or less, in Clay Township and Perry Township, to the City of Brookville was approved by the Board of County Commissioners of Montgomery County, Ohio by Resolution 06-1965 on November 14, 2006; and

WHEREAS, on November 20, 2006, the Clerk of the Board of County Commissioners of Montgomery County, Ohio delivered a certified transcript of the annexation proceedings with the map and petition for annexation to the Clerk of the City of Brookville; and

WHEREAS, sixty (60) days from the date of filing with the Clerk of the City of Brookville have now elapsed in accordance with the provisions of Revised Code 709.04, and the Clerk of the City of Brookville has now laid before this Council the Resolution of Board of County Commissioners of Montgomery County, Ohio granting the petition for annexation and the accompanying map and petition.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:**

**SECTION I:**

The petition for annexation for certain territory in Clay Township and Perry Township containing 96.688 acres, more or less, approved for annexation by the Board of County Commissioners of Montgomery County, Ohio on November 14, 2006, is hereby accepted by the City of Brookville. The territory to be annexed is described in the description attached hereto and marked Exhibit A, and the map attached hereto and marked Exhibit B.

A certified transcript of the proceedings for annexation with an accurate map of the territory, together with the Petition for annexation and all other papers relating to the proceedings thereto of the Board of County Commissioners are all on file with the Clerk of Council of the City of Brookville and have been for more than sixty (60) days.

**SECTION II:**

The Clerk of Council shall and is hereby authorized and directed to deliver copies of this Ordinance, together with said petition, map, transcript of the proceedings of the Board of County Commissioners of Montgomery County, Ohio and resolutions and ordinances in relation to said annexation to the Auditor and Recorder of Montgomery County, Ohio, and to the Secretary of State of Ohio, together with a certificate of the Clerk that each copy is correct, as required by Section 709.06 of the Ohio Revised Code. The Clerk shall file notice of this annexation with the Board of Elections within thirty days after it becomes effective, and the Clerk shall do all other things required by law.



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Passed FEBRUARY 20, 20 07

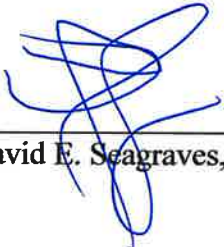
## SECTION III:

This Ordinance is hereby declared to be an emergency measure to preserve the public peace, health, safety and welfare of the citizens of the City of Brookville and to permit the immediate provision of municipal services to the territory.

PASSED this 20th day of February 2007.

ATTEST:

  
Sonja M. Keaton, Clerk

  
David E. Seagraves, Mayor

## CERTIFICATE

The undersigned, Clerk of the City of Brookville, Ohio, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2007-01, passed by the Council of the City of Brookville, Ohio, on the 20th day of February 2007.

  
Sonja M. Keaton, Clerk

## CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2007-01 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 21st day of February 2007 to the 22nd day of March 2007, both days inclusive.

  
Sonja M. Keaton, Clerk

EXHIBIT A

LEGAL DESCRIPTION

PROPOSED ANNEXATION TO THE CITY OF BROOKVILLE, OHIO  
96.688 ACRES

BEING PART OF TRACTS OF LAND OWNED BY WERNER H. AND BARBARA L. WERLING AS DESCRIBED IN MF 87-239A03 AND MF 98-769D12 OF THE MONTGOMERY COUNTY DEED RECORDS, SITUATE IN THE SOUTHEAST QUARTER OF SECTION 33, TOWN 6, RANGE 4 EAST, CLAY TOWNSHIP, MONTGOMERY COUNTY, OHIO AND BY TERESA DELINGER AS DESCRIBED IN MF 78-381A09 OF THE MONTGOMERY COUNTY DEED RECORDS, SITUATE IN THE NORTH HALF OF SECTION 4, TOWN 5, RANGE 4 EAST, PERRY TOWNSHIP, MONTGOMERY COUNTY, OHIO AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

Commencing for reference at a railroad spike found at the northeast corner of the northeast quarter of Section 4 and being the intersection of Westbrook Road and Johnsville-Brookville Road;

thence, South 88°-41'-25" West, 2264.17 feet, along the north line of Section 4 and the centerline of Westbrook Road to an railroad spike found at the northeast property corner of a tract of land owned by Teresa Denlinger as described in MF 78-381A09 and being on the existing corporation line of the City of Brookville and also being the principal place of beginning of the parcel herein conveyed;

thence, South 02°-09'-30" East, 2336.74 feet, along the east property line of said Denlinger tract and the existing corporation line of the City of Brookville to a point on the northwesterly right-of-way line of Brookville-Pyrmont Road;

thence, South 63°-49'-09" West, 227.91 feet, along the northwesterly right-of-way line of Brookville-Pyrmont Road to a point;

thence, South 54°-02'-54" West, 45.47 feet, along the northwesterly right-of-way line of Brookville-Pyrmont Road to a point on the south property line of said Denlinger tract and being on the south line of the northeast quarter of Section 4;

thence, South 89°-00'-37" West, 1481.79 feet, along the south line of the northeast quarter of Section 4 and the south property line of said Denlinger tract to a point, passing for reference a stone found at the southeast corner of the northwest quarter of Section 4 at 205.15 feet;

thence, North 02°-07'-33" West, 2420.16 feet, along the west property line of said Denlinger tract and the east property line of a tract of land owned by Jonathan and Marilyn Kay Eson as described in MF 96-662C02 of the Montgomery County Deed Records to a point on the south right-of-way line of Westbrook Road;

MOTBRO0605LGLannex

thence, North 88°-41'-25" East, 1051.80 feet, along the south right-of-way line of Westbrook Road to a point;

thence, North 00°-29'-30" East, 30.01 feet, to a point at the southwest corner of a tract of land owned by Werner H. and Barbara L. Werling as described in MF 87-239A03 of the Montgomery County Deed Records and being the southeast corner of a tract of land owned by Dull Homestead, Inc. as described in MF 98-355C03 of the Montgomery County Deed Records;

thence, North 00°-29'-30" East, 30.01 feet, along the east property line of said Dull Homestead tract and the west property line of said Werling tract to a point on the north right-of-way line of Westbrook Road and being on the existing corporation line of the City of Brookville;

thence, North 88°-41'-25" East, 671.67 feet, along the north right-of-way line of Westbrook Road and the existing corporation line of the City of Brookville to a point;

thence, South 02°-09'-30" East, 30.00 feet, along the existing corporation line to the principal place of beginning.

Containing a total of 96.688 acres more or less, with 0.088 acres being part of said Werling tract described in MF 87-239A03, 0.375 acres being part of said Werling tract described in MF 98-355C03, and 96.225 acres being part of said Denlinger tract described in MF 78-381A09.

The bearing of South 88°-41'-25" West along the north line of Section 4 was based on Plat Book 201, Page 22 of the Montgomery County Plat Records.

The above description was prepared by Wesley D. Goubeaux, Ohio Professional Surveyor Number 8254, based on a survey performed under his direction and dated August 17, 2006.



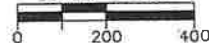
MOTBRO0605LGLannex

**CONTAINING 96.688 ACRES TOTAL**  
**SE 1/4 SEC 33, T 6, R 4 E, CLAY TOWNSHIP**  
**NE 1/4 SEC 4, T 5, R 4 E, PERRY TOWNSHIP**



THE BEARING OF SOUTH 88°-41'-25" WEST  
ALONG THE NORTH LINE OF SECTION 4  
WAS BASED ON PLAT BOOK 201, PG. 22

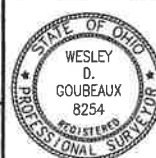
SCALE: 1"=200'



0.463 AC. SE COR SEC 33, CLAY TWP.  
95.225 AC. NE COR SEC 4, PERRY TWP.  
95.688 ACRES TOTAL TO BE ANNEXED

WERLING, MF 98-769D12 (LOT 2531): 0.088 AC.  
 WERLING, MF 87-239A03 (LOT 2530): 0.375 AC.  
DENLINGER, MF 78-381A08 (LOT 2529): 96.225 AC.  
 TOTAL AC. TO BE ANNEXED: 96.688 AC.

A detailed street map of the Brookville-Plymouth area. The map shows several streets including Dodson Pike, Westbrook Road, Ex. Corp., and Brookville-Plymouth Road. A large black rectangular area is highlighted on the map, with an arrow pointing to it and the text "THIS SURVEY".



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date: 08-17-2006	drawn by: WDG	job number: MOTBRO0603
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