

ORDINANCE 2000-01

AN ORDINANCE REZONING 31.911 ACRES FROM ITS PRESENT CLASSIFICATION OF HS HIGHWAY SERVICE AND R-3 MULTI-FAMILY RESIDENTIAL DISTRICT TO THE NEW CLASSIFICATION OF PC PLANNED COMMERCIAL DISTRICT.

WHEREAS, an application has been filed with the Municipal Clerk for rezoning of 31.911 acres, as set forth and described in Exhibit "A" attached hereto, located on the south side of W. Upper Lewisburg-Salem Road, from its present zoning classification of HS and R-3 to the new classification of PC Planned Commercial District.

WHEREAS, upon due consideration pursuant to the standards of the municipal zoning ordinances, Council has determined that the aforementioned 31.911 acres should be rezoned from its present classification of HS and R-3 to its new classification of PC Planned Commercial District.

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

SECTION 1: The real estate set forth and described in Exhibit A, being 31.911 acres located on the south side of W. Upper Lewisburg-Salem Road, is hereby rezoned from its present classification of HS and R-3 to the new classification of PC Planned Commercial District.

SECTION 2: Pursuant to Chapter 1151-Planned Development Provisions, the use specified and hereby approved for this Planned Commercial District of 31.911 acres is a "retail outlet center."

SECTION 3: This Ordinance shall revoke and rescind all Ordinances, parts of Ordinances, all Resolutions, and parts of Resolutions that are in conflict herewith, and shall be enforced from and after the passage of this Ordinance by this Council pursuant to the Charter of the Municipality of Brookville, Ohio.

PASSED this 4th day of April, 2000.

ATTEST:

  
SONJA M. KEATON, CLERK

  
THOMAS L. DAFLER, MAYOR

CERTIFICATE

The undersigned, Clerk of the Municipality of Brookville, Ohio, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2000-01, passed by the Council of the Municipality of Brookville, Ohio, on the 4th day of April, 2000.

  
SONJA M. KEATON, CLERK

CERTIFICATE OF POSTING

The undersigned, Clerk of the Municipality of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2000-01 was posted at the Municipal Building, U.S. Post Office, and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 12th day of April, 2000, to the 12th day of May, 2000, both days inclusive.

  
SONJA M. KEATON, CLERK

**Exhibit "A"**  
**DESCRIPTION OF**  
**31.911 Acres**  
**Planned Commercial Tract Number One**  
located in  
**Northeast Quarter of Section 33, Town 6, Range 4 East**  
**First Meridian**  
**Village of Brookville**  
**Montgomery County, Ohio**

Situate in the Northeast Quarter of Section 33, Town 6, Range 4 East, First Meridian, Village of Brookville, State of Ohio, *being part of a remainder tract of a 24.958 acres as conveyed to Darrell L. Flory, Sr., Barbara G. Flory, Thomas G. Oswald and Joan M. Oswald, as recorded in Microfiche No. 77-573B01* of the Deed Records of Montgomery County, Ohio, said 24.958 acre tract also being known as Lot Numbered 1479 of the consecutive numbered lots of the Village of Brookville, Ohio, said lot number established per annexation plat recorded in Record Plat Book Volume 109, Page 1 of the Plat Records of Montgomery County, Ohio, *also being part of a 1.228 acre tract conveyed to Darrell L. Flory, Sr., as recorded in Microfiche No. 96-0199A12* of the Deed Records of Montgomery County, Ohio, said 1.228 acre tract being known as Lot Numbered 1478 of the consecutive numbered lots of the Village of Brookville, Ohio, *also being part of a remainder tract of 37.419 acres as conveyed to Darrell L. Flory, Sr., Thomas A. Oswald, Thomas G. Oswald and Joan M. Oswald, as recorded in Microfiche No's. 83-264A03 and 95-571C08* of the Deed Records of Montgomery County, Ohio, said 37.419 acre tract also being known as Part Lots Numbered 1283 and 1285 of the consecutive numbered lots of the Village of Brookville, Ohio, said lot number established per annexation plat recorded in Record Plat Book Volume 79, Page 34 of the Plat Records of Montgomery County, Ohio, *also being part of remainder tract of 4.898 acres as conveyed to Darrell L. Flory, Sr., Thomas A. Oswald, Thomas G. Oswald, as recorded in Microfiche No. 86-0731A03* of the Deed Records of Montgomery County, Ohio, said 4.898 acre tract being known as Part Lots Numbered 1283 and 1285 of the consecutive numbered lots of the Village of Brookville, Ohio, said 24.958 acre tract and 1.228 acre tract being part of the original 50.15 acre tract conveyed to Earl M. Kimmel, as recorded in Deed Book Volume 1840, Page 650 of the Deed Records of Montgomery County, Ohio, said 37.419 acre tract and 4.898 acre tract being part of the original 80 acre tract conveyed to Virginia Knierim, as recorded in Deed Book Volume 1330, Page 181 of the Deed Records of Montgomery County, Ohio and being more fully bounded and described as follows:

**Commencing** at an O.D.O.T. monument found, said monument being the northeast corner of the Northeast Quarter of Section 33, said monument lying in the intersection of Upper Lewisburg – Salem Road and Arlington Road; thence with the east line of the Northeast Quarter of Section 33 and the center line of Arlington Road, South 02° 35' 03" East, a distance of 1278.53 feet to a Mag nail found, said Mag nail being the northeast corner of a 0.136 acre tract conveyed to the Village of Brookville, Ohio, as recorded in Microfiche No. 96-0242D01 of the Deed Records of Montgomery County, Ohio, said Mag nail set by previous survey dated December 10, 1995 by myself, Timothy W. Schram, Sr., Professional Surveyor number 7299 of the State of Ohio, said Mag nail located North 02° 35' 03" West, 2.39 feet from the northeast corner of a 4.562 acre tract conveyed to Velma Bloom, "Tr.", as recorded in Microfiche No's. 95-715D07 and 97-130E10 of the Deed Records of Montgomery County, Ohio, said 4.562 acre tract also being known in part as Lot Numbered 1477 and Part Lot Numbered 1284 of the consecutive numbered lots of the Village of Brookville, Ohio, witness a 1 1/8" iron pin found, South 02° 25' 03" East, a distance of 1378.45 feet, said iron pin being the

southeast corner of the Northeast Quarter of Section 33; thence with the north and northeasterly line of said Village of Brookville, Ohio 0.136 acre tract, said line also being the south and southwesterly right of way line of Relocated Upper Lewisburg – Salem Road as established by the State of Ohio and noted on the O. D. O. T. Right of Ways Plans, MOT 40-00 and PRE 40-40.11, sheet numbers 44 and 45, and conveyed to the State of Ohio by Court of Common Pleas case number 121983, on the following two (2) courses, South 86° 10' 25" West, a distance of 53.86 feet to a iron pin found as set by said previous survey, said iron pin being an angle point in said Relocated Upper Lewisburg – Salem Road right of way; thence North 64° 35' 02" West, a distance of 156.51 feet to a 5/8" iron pin set, said iron pin being the northwest corner of said Village of Brookville, Ohio 0.136 acre tract; thence with the west line of said Village of Brookville, Ohio 0.136 acre tract, South 02° 35' 03" East, a distance of 80.90 feet to an iron pin found as set by said previous survey, said iron pin being the northwest corner of said Velma Bloom, "Tr." 4.562 acre tract, said iron pin also being the northeast corner of a 7.848 acre tract conveyed to said Velma Bloom, "Tr.", as recorded in Microfiche No. 95-715D10 of the Deed Records of Montgomery County, Ohio, said 7.848 acre tract also being known in part as Lot Numbered 1477 and Part Lot Numbered 1284 of the consecutive numbered lots of the Village of Brookville, Ohio; thence with the north line of said Bloom 7.848 acre tract and the north line of Lot Numbered 1477, also the south line of Lot Numbered 1479 on the following four (4) courses, 1) North 88° 37' 03" West, a distance of 144.09 feet to a 5/8" iron pin set; 2) thence, South 87° 04' 57" West, a distance of 161.86 feet to a 5/8" iron pin set; 3) thence, South 85° 25' 57" West, a distance of 196.47 feet to a 5/8" iron pin set; 4) thence, South 32° 19' 57" West, a distance of 154.80 feet to a 5/8" iron pin set, said iron pin being the southwest corner of said Lot Numbered 1477, said iron pin lying in the north line of said Lot Numbered 1284, said iron pin also lying in the north line of an original 80 acre tract conveyed to Virginia Knierim, as recorded in Deed Book Volume 1330, Page 181 of the Deed Records of Montgomery County, Ohio, said iron pin also lying in the south line of said original Kimmel tract of 50.15 acres, said iron pin also being the **True Point of Beginning** of the hereinafter described tract;

**Thence** with the north line of said Bloom 7.848 acre tract, Part Lot Numbered 1284, the north line of a 2.001 acre tract conveyed to Darrell L. Flory, Sr., and Barbara G. Flory, as recorded in Microfiche No. 86-0521D07 of the Deed Records of Montgomery County, Ohio, also being known as Part Lot Numbered 1285 of the consecutive numbered lots of the Village of Brookville, Ohio, and the south line of said original Kimmel 50.15 acre tract, and the south line of Lot Numbered 1479, **South 89° 06' 54" West**, passing a 3/4" iron pipe found at 522.60 feet, in all a distance of **523.23 feet to a point**, said point being the northwest corner of said Flory 2.001 acre tract, Part Lot Numbered 1285, said point being witnessed by the afore mentioned 3/4" iron pipe found, witness the northwest corner of the original Knierim 80 acre tract, South 89° 06' 54" West, 1501.47 feet, said point also being the northeast corner of a remainder tract of 4.898 acres conveyed to Darrell L. Flory, Sr., Thomas G. Oswald and Thomas A. Oswald as recorded in Microfiche No. 86-0731A03 of the Deed Records of Montgomery County, Ohio;

**Thence** with the north line of said Flory and Oswald 4.898 acre tract and the north line of Part Lot Numbered 1285, also the south line of Lot Numbered 1479, **South 89° 06' 54" East**, a distance of **122.36 feet to a 5/8" iron pin set**;

**Thence** with a new division line on the following seven (7) courses,

1) **South 49° 00' 46" West**, passing a point on the west line of said Flory and Oswald 4.898 acre tract at 40.85 feet, in all a distance of **328.84 feet to a 5/8" iron pin set**;

- 2) **Thence, South 09° 00' 46" West, a distance of 233.69 feet to a 5/8" iron pin set;**
- 3) **Thence, South 49° 00' 46" West, passing a point on the south line of Part Lot Numbered 1285 and the north line of Part Lot Numbered 1283 at 56.04 feet, in all a distance of 364.56 feet to a 5/8" iron pin set;**
- 4) **Thence, South 89° 00' 46" West, a distance of 516.11 feet to a 5/8" iron pin set;**
- 5) **Thence, North 40° 59' 14" West, passing a point on the north line of Part Lot Numbered 1283 and south line of Part Lot Numbered 1285 at 259.73 feet, in all a distance of 310.00 feet to a 5/8" iron pin set;**
- 6) **Thence, North 49° 00' 46" East, a distance of 196.11 feet to a 5/8" iron pin set;**
- 7) **Thence, North 40° 59' 14" West, a distance of 261.53 feet to a 5/8" iron pin set, said iron pin lying in the southeasterly limited access right of way line of Interstate Route 70 as established by center line monumentation and shown on the right of ways plans as previously referenced, said iron pin lying 150.00 feet right and radial from center line station 140+27.71 as established by proration of found monumentation, said center line being platted and recorded in Record Plat Book Volume 68, Page 62 of the Plat Records of Montgomery County, Ohio, reference a radial bearing of North 34° 18' 42" West;**

**Thence with the southeasterly limited access right of way line of Interstate Route 70, with a curve to the left having a delta angle of 01° 35' 34", a radius of 7311.37 feet, an arc length of 203.24 feet and a chord bearing and distance of North 54° 53' 31" East, 203.23 feet to a 5/8" iron pin set, said iron pin being the northwest corner of said Flory & Oswald 37.419 acre tract, Part Lot Numbered 1285, said iron pin being the southwest corner of Lot Numbered 1479,**

**Thence with the northwesterly line of Lot Numbered 1479 and the southeasterly limited access right of way line of Interstate Route 70, with a non-tangential line on the following two (2) courses,**

- 1) **North 52° 26' 26" East, a distance of 944.57 feet to a 5/8" iron pin set;**
- 2) **Thence, North 44° 54' 02" East, a distance of 209.09 feet to a 5/8" iron pin set;**

**Thence with a new division line on the following two (2) courses,**

- 1) **South 62° 41' 58" East, a distance of 388.91 feet to a 5/8" iron pin set;**
- 2) **Thence, North 27° 18' 02" East, a distance of 250.00 feet to a 5/8" iron pin set, said iron pin lying in the southwesterly right of way line of Relocated Upper Lewisburg – Salem Road as established and shown in the previously referenced O.D.O.T. right of way plans, said right of way being conveyed by Court of Common Pleas case number 121983 to the State of Ohio;**


**Thence with the northeasterly line of Lot Numbered 1479 and the southwesterly right of way of Relocated Upper Lewisburg – Salem Road, South 62° 41' 58" East, a distance of 100.00 feet to a 5/8" iron pin set;**

**Thence** with a new division line on the following three (3) courses,

- 1) **South 27° 18' 02" West**, a distance of **250.00 feet to a 5/8" iron pin set**;
- 2) **Thence, South 62° 41' 58" East**, passing a point on the west line of said Flory 1.230 acre tract at 364.12 feet, also passing a point on the south line of said Flory 1.230 acre tract at 462.42 feet, in all a distance of **600.00 feet to a 5/8" iron pin set**;
- 3) **Thence, South 00° 48' 49" East**, a distance of **66.14 feet to the True Point of Beginning, containing 31.911 acres**, more or less, *of which, 0.052 acre being part of said Flory 1.230 acre tract and being Lot Numbered 1478, 0.009 acre being part of said Flory 4.898 acre tract and being Part Lot Numbered 1285, 11.107 acres being part of said Flory and Oswald 37.419 acre tract and being Part Lot Numbered 1285, 3.271 acres being part of said Flory and Oswald 37.419 acre tract and being Part Lot Numbered 1283, and 17.470 acres being part of said Flory and Oswald 24.958 acre tract and being Lot Numbered 1479*, subject to all easements and right of ways of record.

Bearing basis established as South 02° 35' 03" East along the east line of the Northeast Quarter of Section 33, Town 6, Range 4 East, First Meridian.

This description prepared from an actual field survey performed under my direct supervision, Timothy W. Schram, Sr., Registered Professional Surveyor number 7299 of the State of Ohio, and that all monuments referenced herein and placed on the ground represents the boundaries of the herein described tract.

  
Timothy W. Schram, Sr., Regist. Prof. Surveyor No. 7299  
of the State of Ohio, January 27, 2000.