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ORDINANCE 2000-02

AN ORDINANCE REZONING 10.701 ACRES FROM ITS PRESENT CLASSIFICATION OF 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 10.701 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 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 10.701 acres should be rezoned from its present classification of 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:

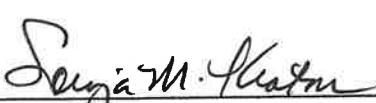
SECTION 1: The real estate set forth and described in Exhibit A, being 10.701 acres located on the south side of W. Upper Lewisburg-Salem Road, is hereby rezoned from its present classification of R-3 to the new classification of PC Planned Commercial District.

SECTION 2: Pursuant to Chapter 1151-Planned Development Provisions, the uses specified and hereby approved for this Planned Commercial District of 10.701 acres are a aquadrome and a motel.

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. 2000-02, passed by the Council of the Municipality of Brookville, Ohio, on the 4th day of April, 2000.

  
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SONJA M. KEATON, CLERK

CERTIFICATE OF POSTING

The undersigned, Clerk of the Municipality of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2000-02 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.

  
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SONJA M. KEATON, CLERK

Exhibit "A"  
DESCRIPTION OF  
**10.701 Acres**

**Planned Commercial Tract Number Two**

located in

**Northeast & Northwest Quarter of Section 33, Town 6, Range 4 East**

**First Meridian  
Village of Brookville  
Montgomery County, Ohio**

Situate in the Northeast and Northwest Quarter of Section 33, Town 6, Range 4 East, First Meridian, Village of Brookville, State of Ohio, *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 inclusive of a 7.252 acre tract as conveyed to Darrell L. Flory, Sr., Thomas A. Oswald, Thomas G. Oswald and Joan M. Oswald, as recorded in Microfiche No's. 83-281B11, 94-0068B04 and 94-355E04* of the Deed Records of Montgomery County, Ohio, said 7.252 acre tract being known as Lot Numbered 1717 of the consecutive numbered lots of the Village of Brookville, Ohio, said 37.419 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 continuing with the

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southerly right of way of Relocated Upper Lewisburg – Salem Road, North 64 35' 02" West, a distance of 303.58 feet to a 5/8" iron pin set, said iron pin being a deflection point in said right of way; thence continuing with the southerly right of way of Relocated Upper Lewisburg – Salem Road, North 62 41' 58" West, a distance of 1133.77 feet to a 5/8" iron pin set, said iron pin lying in the southeasterly limited access right of way of Interstate Route 70, said iron pin lying 180.00 feet right of center line of Interstate Route 70 at station 156+15.16; thence with the southeasterly limited access right of way of Interstate Route 70, South 44 54' 02" West, a distance of 471.37 feet to a 5/8" iron pin set, said iron pin being a deflection point in said southeasterly limited access right of way; thence continuing with the southeasterly limited access right of way of Interstate Route 70, South 52 26' 26" West, a distance of 944.57 feet to a 5/8" iron pin set, said iron pin being a point of curvature in said limited access right of way, said iron pin lying 150.00 feet right of and radial to the center line of Interstate Route 70 at station 142+26.81, said iron pin having a radial bearing of North 35 54' 16" West; thence with the southeasterly limited access right of way 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 South 54 53' 31" West, 203.24 feet to a 5/8" iron pin set, said iron pin being the **True Point of Beginning** of the hereinafter described tract;

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Thence with a new division line on the following five (5) courses,

- 1) Thence, **South 40° 59' 14" East**, a distance of **261.53 feet to a 5/8" iron pin set**;
- 2) Thence, **South 49° 00' 46" West**, a distance of **196.11 feet to a 5/8" iron pin set**;
- 3) Thence, **South 40° 59' 14" East**, passing a point on the north line of Part Lot Numbered 1283 and south line of Part Lot Numbered 1285 at 50.27 feet, in all a distance of **310.00 feet to a 5/8" iron pin set**;
- 4) Thence, **South 49° 00' 46" West**, a distance of **193.89 feet to a 5/8" iron pin set**;
- 5) Thence, **South 89° 00' 46" West**, a distance of **150.00 feet to a 5/8" iron pin set**, said iron pin lying in the west line of the Northeast Quarter and the east line of the Northwest Quarter of Section 33, said iron pin being the northeast corner of a 49.684 acre tract conveyed to Dull Homestead, Inc. as recorded in Microfiche No. 98-355C03 of the Deed Records of Montgomery County, Ohio, said iron pin being the southeast corner of said Flory and Oswald 7.252 acre tract and Lot Numbered 1717;

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Thence with the south line of said Flory and Oswald 7.252 acre tract, the south line of Lot Numbered 1717 and the north line said Dull Homestead, Inc. 49.684 acre tract, **South 89° 00' 46" West**, passing a planted granite stone found at 0.74 feet, in all a distance of **890.00 feet to a 5/8" iron pin set**, said iron pin being the southwest corner of said Flory and Oswald 7.252 acre tract, said iron pin also being the southwest corner of Lot Numbered 1717;

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Thence with the west line of said Flory and Oswald 7.252 acre tract, the west line of Lot Numbered 1717 and the east line of said Dull Homestead, Inc. 49.684 acre tract, **North 00° 03' 02" West**, a distance of **151.88 feet to a 5/8" iron pin set**, said iron pin being the northwest corner of said Flory and Oswald 7.252 acre tract, said iron pin also being the northwest corner of Lot Numbered 1717, 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 129+41.72 as established by proration of found monumentation, said center line being platted and recorded in

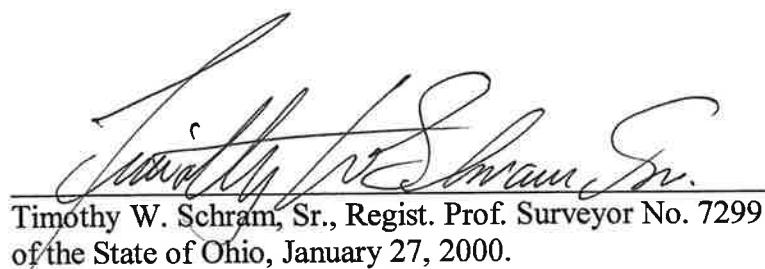
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Record Plat Book Volume 68, Page 62 of the Plat Records of Montgomery County, Ohio, said iron pin also being the southwest corner of a 7.073 acre right of way conveyed to the State of Ohio, as recorded in Deed Book Volume 2134, Page 376 of the Deed Records of Montgomery County, Ohio, reference a radial bearing of North 25° 37' 25" West;

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Thence with the southeasterly limited access right of way line of Interstate Route 70, with a curve to the left on the following two (2) courses,

- 1) having a delta angle of 07° 58' 55", a radius of 7311.37 feet, an arc length of 1018.55 feet and a chord bearing and distance of North 60° 23' 07" East, 1017.73 feet to a 5/8" iron pin set, said iron pin lying in the east line of the Northwest Quarter and the west line of the Northeast Quarter of Section 33, said iron pin also being the northeast corner of said Flory and Oswald 7.252 acre tract and Lot Numbered 1717, said iron pin also being the northwest corner of said Flory and Oswald 37.419 acre tract and Lot Numbered 1285, said iron pin also being the southwest corner of a 11.552 acre right of way conveyed by Court of Common Pleas case number 121983 to the State of Ohio, reference the northwest corner of said Knierim 80 acre tract, North 00° 28' 03" West, 163.48 feet, witness a planted limestone fund in a Montgomery County monument box, North 00° 28' 03" West, 1587.93 feet, said limestone being the northeast corner of the Northwest Quarter and the northwest corner of the Northeast Quarter of Section 33;
- 2) Thence, continuing with said curve having a delta angle of 00° 42' 22", a radius of 7311.37 feet, an arc length of 90.10 feet and a chord bearing and distance of North 56° 02' 29" East, 90.10 feet to the *True Point of Beginning*, containing 10.701 acres, more or less, of which, 1.287 acres being part of said Flory and Oswald 37.419 acre tract and being Part Lot Numbered 1285, 1.613 acres being part of said Flory and Oswald 37.419 acre tract and being Part Lot Numbered 1283, and 7.801 acres being all of said Flory and Oswald 7.252 acre tract and being Lot Numbered 1717, subject to all easements and right of ways of record.

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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.

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