



## **PLANNING COMMISSION MEETING**

**Thursday, May 20, 2021, 7:30 PM**

**VIRTUAL MEETING**

[www.brookvilleohio.com](http://www.brookvilleohio.com)

Citizens may attend and participate in this meeting by phone or internet pursuant to  
Ohio Revised Code Section 121.221:  
<https://brookvilleoh.webex.com/brookvilleoh/j.php?MTID=mb8ad50fdc882a36f76f8cdd48622e8aa>  
Meeting number: 132 666 7655 Password: NMaJHB8mP63  
Join by phone: +1-415-655-0001 US Toll Access code: 132 666 7655

### **Agenda**

#### **I. Opening**

- a. Call to Order
- b. Pledge of Allegiance
- c. Roll Call

#### **II. Adoption of Agenda**

#### **III. Approval of Minutes**

- a. Approval of April 15, 2021 Meeting Minutes

#### **IV. Public Hearing on Planned Development**

- a. Ryan Reed - DDC Management
- b. Public Comments
- c. Preliminary Plan Recommendation, Part Lot 1743 (County Auditor Parcel No. C05 00109 0020) located at 10400 Upper Lewisburg-Salem Road

#### **V. Variance Application 21-01 or Appeal - 561 Golden Maple Avenue**

- a. Power Home Solar - Ground Mounted Solar Panels
- b. Public Comments

#### **VI. Meadows of Brookville, Section 7 - Final Record Plan Approval**

#### **VII. Special Use Application #21-02 - Mobile Food Vending**

#### **VIII. Reports**

Chairperson Ryan Henderson • Mayor Chuck Letner  
Members: • Ken Claggett • Don Cordes • Jeff Requarth • Curt Schreier • Jessi Sievers



- a. Zoning Officer
- b. Law Director

**IX. Old Business**

- a. Final Recommendation on Ordinance No. 2021-03
- b. Preliminary Plan Recommendation - 201 Sycamore Street
- c. Final Recommendation on Ordinance No. 2021-05
- d. Final Recommendation on Ordinance No. 2021-06
- e. Final Recommendation on Ordinance No. 2021-07

**X. New Business**

**XI. Adjournment**

Brookville Planning Commission  
Virtual Regular Meeting  
April 15, 2021

The Regular Meeting of the Brookville Planning Commission was called to order by Chairperson Henderson at 7:30 p.m. on April 15, 2021. The meeting was held virtually using Webex. The Pledge of Allegiance was recited. Mayor Letner; Members, Claggett, Cordes, Requarth, Schreier and Sievers; City Manager Keaton, Clerk Duncan, Zoning Officer Snedeker and Law Director Stephan were present.

Chairperson Henderson reminded everyone the meeting is being recorded.

Roll call by Clerk Duncan.

Motion by Cordes, second by Requarth to approve the Agenda as presented. All yeas, motion carried.

Motion by Schreier, second by Requarth to approve the Regular Meeting Minutes of the March 18, 2021 Planning Commission Meeting. All yeas, motion carried.

Chairperson Henderson announced Planning Commission will be reviewing a Preliminary Plan and rezoning application submitted by CAP 5 Development, LLC for Lot 1743.

Ryan Reed, of DDC Management, stated he is present for Planning Commission to review the Preliminary Plan and rezoning application for the 18.6-acre site on the corner of Albert and Upper Lewisburg Salem Roads. The intent is to go to a Planned Residential zoning and construct 69 single-family homes. Mr. Reed indicated he presented the plan at the last Planning Commission meeting and is back to answer any questions.

Member Cordes inquired what the width of the individual lots are?

Mr. Reed replied the lot width is 51 feet.

Member Claggett commented the plan shows 11.9% open space while Planning Commission wants 25% open space. Member Claggett stated he would like to see at least 20% open space.

Mr. Reed replied that is understandable. By their calculations, this would cause them to lose 12-15 lots to get close to the 25% green space requirement. Unfortunately, this would not work for them economically and they are proposing the 69 lots.

Member Cordes commented he does not see where they get 11.9% open space.

Mr. Reed stated the pond and 30% buffer space around the property is considered open space.

Member Cordes commented other than the pond there is no play area for kids, or any space to walk a dog.

Mr. Reed replied there will be a small amenity near the pond, not a playground, but possibly a park bench or gazebo. As far as walkability, they worked with City staff to try to devise a route for sidewalks. All of the lots within the community will have sidewalk in front of them.

Member Cordes asked what the price point is for these homes?

Austin Schile, Director of Market Research for Arbor Homes, replied the price points are ultimately market driven, but in 2020, their average price point in the Indianapolis market was \$230,000. He would expect the net average in the Brookville market to be very close to that.

Member Claggett asked if Planning Commission has input on the minimum square footage home that can go on these lots?

Chairperson Henderson replied they would have to comply with minimum square footage in our zoning.

Member Claggett inquired about a continuous wall or barrier so the back yards of the proposed homes cannot be seen from Albert and Upper Lewisburg Salem Roads? This would prevent people from having to look at swimming pools and trampolines in the back yards.

Chairperson Henderson asked Mr. Reed if there is a landscaping plan to shield the back of the homes?

Mr. Reed replied right now screening for the backs of the homes is not included in the plan. In the covenants and restrictions draft provided, they do not allow above-ground pools or trampolines. A wooden play structure or fencing would have to go through the HOA board. They try to keep a consistent community and keep it succinct and appealing across the board.

Member Requarth stated he did some research on Arbor Homes from Indianapolis and from June 29, 2018 through March 9, 2021 there were 63 complaints filed with the Better Business Bureau, which is 81 pages long. Most of them are quality complaints regarding the houses themselves. Member Requarth wondered if this builder builds to the standard we want here in Brookville.

Mr. Reed commented they work with large national and regional builders throughout the country. If you did the same research on these top builders in the country, you would find the same types of complaints. This is pretty standard for the industry. DDC Management feels Arbor Homes is a reputable company that put out a really good product.

Member Requarth commented if people are spending a quarter of a million dollars for a home they should not have problems with it. If they do it should not be difficult to get it resolved.

Mr. Schile replied Arbor Homes is the largest builder in the central Indiana area. They built 1,300 homes in Indiana last year and 15,000 since the company was founded in 1994. They have been a member of the Better Business Bureau for a good portion of the time and consistently receive A+ ratings. They also participate in AVID ratings, which is an industry standard, and consistently receive above average ranks. They have a dedicated quality assurance and warranty team and take



great care to follow up with customers. During the time period Member Requarth referred to, Arbor Homes built over 3,000 homes, so those complaints represent a low percentage. Mr. Schile stated Arbor Homes is committed to building a quality product that meets or exceeds industry standards.

Member Schreier commented it looks like a potential four-foot walkway on Albert Road has been added to the plan drawing. He is still struggling with the backs of the houses facing Albert Road and potentially Upper Lewisburg Salem Road. Member Schreier asked as they developed the plan and looked at payback per acre, was it ever configured where the front of the houses faced the roads so it would be aligned with what we currently have in Brookville? Member Schreier asked if this is typical in other communities they have built in?

Mr. Reed replied most of their communities are constructed with the backs of some homes facing the street. Mr. Reed stated they did not look at another configuration as they feel this was the most efficient. They prefer to keep a close-knit community and it has never really been an issue as long as the HOA is enforcing the covenants and restrictions.

Chairperson Henderson commented that access control is important. It is safer to have residents backing up on roads less traveled, with slower speeds.

Member Schreier commented the speed limit is 35 mph on Upper Lewisburg Salem Road, but people tend to go faster.

Member Cordes stated his taxes for last year show \$80 out of \$4,400 went to the City of Brookville and twice that amount went to Clay Township. Member Cordes stated if this property is also in Clay Township, there is not a lot of money to be realized for Brookville from this development.

Mr. Reed replied the City would also receive the income tax from residents in the development.

Member Schreier advised the amount Brookville receives in property taxes is very low.

Member Sievers echoed Member Claggett's concern, stating she would like to see more open space. Member Sievers stated if you are going for a family friendly community, we need to have more green space.

Chairperson Henderson commented something else to keep in mind is that we currently measure the setback from the overhangs of homes, rather than the foundation, which will give the appearance that the homes are closer than we are used to. If there is an opportunity to add an additional two feet or more on each side, that would be more favorable to him than adding green space.

Mr. Reed asked what the current setbacks are?

Zoning Officer Snedeker attempted to respond but his audio was garbled.

Mayor Letner asked Mr. Reed what their target marketing group is?

Mr. Reed replied the target group is young families and first-time buyers.

Mr. Schile advised approximately 40% of their buyers are first-time buyers and 60% are in the move-up or second move-up buyer category. Most buyers would be between the ages of 25 and 50.

Mayor Letner commented that is a large down payment for first-time buyers at the \$230,000 price point.

Mr. Reed replied with financing as it is now, most buyers can purchase with 3.5% down, and the demand is certainly there right now.

Mayor Letner asked if the price point will stay the same with the escalating construction costs?

Mr. Schile stated they are not projecting construction costs to increase like they did in 2020.

Mayor Letner asked if their prices are locked in on building materials?

Mr. Schile replied the construction costs are variable until the point of contract.

Member Schreier asked if there is an escalation clause in the contract regarding building materials?

Mr. Reed replied because of the high demand they are currently taking a deposit to reserve a spot. Buyers are made aware the price is not locked in until they sign a contract.

Chairperson Henderson reminded Planning Commission they are not approving this plan tonight, they are simply providing commentary and feedback. Chairperson Henderson stated he will be asking for a motion to commence our rezoning process for City Council to consider changing this lot from R-1B to Planned Residential District, assuming everyone is feeling comfortable that we can move in a direction where this seems feasible.

Chairperson Henderson stated to summarize Planning Commission concerns, the green space is still a sticking point. If there is an opportunity, rather than asking for a variance between 5-yard setbacks, maybe they could look at getting this a little bit wider. It is a variance right now because it is measured to overhangs.

Zoning Officer Snedeker advised the side yard setback in R-1A is 15 feet, R-1B is 10 feet and R-1C is the sum of both to 20 feet. Planned Development is at 7.5 feet. Setbacks are measured from the overhang.

Chairperson Henderson stated the other item is the screening or backs of homes facing the roads. We currently have an area in Arlington Woods where the backs of homes face the street and it is possible to make it look good, but it is a concern when you have residents that do not take care of their properties.

Chairperson Henderson asked if anyone else had any feedback or commentary?

Member Requarth commented he still thinks this development is too dense for 18 acres. He understands some people do not want a lot of property to take care of, but he just does not see enough space for first time buyers, who are likely to be raising families. Member Requarth stated he thinks this will be a hard sell to the community if we cannot incorporate more green space. Member Requarth stated it is too dense as presented.

Member Sievers agreed, stating we are a small, family centered community, used to having a lot of space. In a place like Indianapolis, where you are within a very large city, that is one thing, but we are a really small community and this development, as presented, is too dense for that area.

Member Cordes agreed, stating he does not see why we would want these tiny lots. Member Cordes stated for families raising a child there is no place for them to play. Member Cordes indicated he has serious concerns about the density.

Member Schreier agreed density is a concern and stated it would help if the number of homes could be reduced to the mid-fifties. Member Schreier stated he understands this would remove a fair number of lots and recouping the costs for the developer may be difficult. Member Schreier stated there are some other houses in our community that are pretty close together, so it can work.

Mr. Reed said they appreciate the feedback, stating they are going to put their heads together and see if there is something they can resolve. Mr. Reed advised they have 10-12 successful communities in the Dayton, Columbus and Cincinnati market that have about 50-foot lots. Most first-time or move-up buyers do not want a large yard to take care of. Mr. Reed stated these buyers want a really nice home, in a community like Brookville, that they can share with their family and friends. Mr. Reed stated the HOA does a really good job of making sure that everything is well cared for and is aesthetically pleasing. Mr. Reed stated they will take Planning Commission comments into consideration, but they still want to move forward with this project and the re-zoning. Mr. Reed stated they will see if they can find a solution, but they really do believe this size of lot and types of homes are what the market is showing them. Mr. Reed stated an unofficial slogan they have is “we don’t make the market, we serve the market” and they feel that the layout they presented does that.

Chairperson Henderson thanked Mr. Reed and Mr. Schile for their interest in Brookville, stating ultimately, we have to protect our community and make sure they understand what is going on. That is part of the Public Hearing process. Chairperson Henderson stated he hopes this has been helpful and indicated to them any hurdles and roadblocks that may come up down the road.

Chairperson Henderson asked for a motion to recommend to Council the re-zoning of Lot 1743 from R-1B to Planned Residential District. Chairperson Henderson asked that members also consider a Public Hearing on May 20, 2021 at the next Planning Commission meeting.

Member Requarth asked Mr. Reed where their nearest community is if Planning Commission members would like to go look at it?

Mr. Reed replied the closest is Lexington Place in Huber Heights. Members could also look at Waterford Landing in Fairborn and Brantwood Homes in Riverside. Their biggest community with over 1,000 varying size lots and homes is Winding Creek in Centerville.

Motion by Cordes, second by Schreier to recommend City Council to commence the rezoning of Part Lot 1743 from R-1B to (PD) Planned Residential District. Claggett yea, Letner yea, Cordes yea, Requarth nay, Schreier yea, Sievers yea, Henderson yea. Motion carried with six yeas and one nay.

Law Director Stephan commented the process will include two Public Hearings, one on May 20 and the second would be a joint Public Hearing with Council regarding the final rezoning on June 1, 2021.

Chairperson Henderson called for a motion to set the Public Hearing for this Planned Development rezoning for May 20, 2021 at the Planning Commission meeting.

Motion by Claggett, second by Sievers to set the Public Hearing regarding the rezoning of Lot 1743 from R-1B to (PD) Planned Residential District for May 20, 2021. All yeas, motion carried.

Zoning Officer Snedeker reported we have received eight building permit applications from Fisher Homes for the lots on Westbrook Road in the Meadows of Brookville. There are only two remaining lots, one will be sold to a homeowner and one is reserved for their model.

Zoning Officer Snedeker reported regarding rear yard setbacks, R-1A Suburban Residential District single-family dwellings have the largest minimum lot area of 12,500 square feet and a minimum floor area of 1,800 square feet. They have a 40-foot rear yard set-back depth. R-1B Urban Residential District has a minimum lot area of 10,000 square feet and minimum floor area of 1,600 square feet. This has a 40-foot rear yard setback. R-1C Urban Residential District has a minimum lot area of 8,400 square feet and a minimum floor area of 1,400 square feet. This also has a rear yard setback of 40-feet. Zoning Officer Snedeker stated the lots get smaller however, the rear yard setback remains the same. If R-1C had a 30-foot set back or even 35-feet, then it could entice a larger home in areas for development of moderate density single-family neighborhoods.

Member Schreier stated his opinion is that changing the rear yard setbacks to be a little less restrictive as deemed appropriate is a good idea. The front yard setbacks should remain the same but changing the rear yard setback even 5-feet may make or break a design fitting on a lot. Member Schreier asked if we had ever considered having a different zoning classification for smaller homes?

Law Director Stephan replied one of the concepts with Planned Development is that Planning Commission can adjust setbacks for specific projects. The other thing that he has looked at is that the older parts of Brookville developed before we had zoning have very small setbacks. He has considered developing another zoning district that would perhaps encompass those areas. We are dealing with variances there all the time and this would bring them into more conformity with the

code. Law Director Stephan stated with respect to R-1B and especially R-1C, if we would reduce the rear yard setback, we could encourage bigger homes in those zoning districts and maybe leave the 40-foot rear yard setback for the R-1A district which is the largest zoning district.

Law Director Stephan discussed setbacks in other communities and recommended a 35-foot rear yard setback for R-1B and 30-foot setback for R-1C, which would encourage larger homes but still keep the front yard appearance as you are not changing those setbacks.

Member Schreier commented modern home plans are often not perfect squares or even remotely square like they used to be. Some of these setbacks intrude on the plans and five feet could make a big difference.

Member Claggett asked if front yard setback is measured from the street or the sidewalk?

Zoning Officer Snedeker replied it is measured from the inside of the sidewalk.

Law Director Stephan presented a draft of revised zoning code for solar energy equipment as requested by Planning Commission. The current zoning code addresses solar energy equipment in Section 1157.10 of the Code of Ordinances. Section 1157.10 is located within Chapter 1157 on Accessory Uses. Accessory Use or Structure is defined in 1103.03 as: "A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. " Accessory uses in our code include garages, storage sheds, patios, open porches, and carports, swimming pools, satellite antenna dishes, and other accessory uses. Law Director Stephan reported he has reviewed a number of other zoning codes from other communities and most address solar energy equipment as an accessory use. Law Director Stephan provided a copy of zoning codes from Vandalia, Beavercreek, and Fairborn.

Law Director Stephan advised he has prepared a draft of two ordinances. One ordinance would place solar energy equipment within Chapter 1163.03 as a Special Use. The special use ordinance would require Planning Commission approval for every solar energy equipment application.

Law Director Stephan stated the other proposed ordinance would keep solar energy equipment with Chapter 1157 as an accessory use and establish standards of approval for solar energy equipment accessory use. The application for solar energy equipment accessory use would also have to be approved by Planning Commission. The ordinance would provide revised regulations for solar energy systems. With respect to the location in the rear yard of a ground mounted solar system, this Ordinance would require it to be located 10 feet from any property line but would allow the system to be located within the rear yard setback. The issue with the current rear yard setback in our single-family residential districts is that it is 40 feet, and with some lots, it is impossible to locate the solar system in the rear yard but outside of the rear yard setback. Many other accessory uses are permitted to be located within the rear yard setback, and therefore, permitting solar energy systems to be within the rear yard setback would be consistent with other accessory uses in the rear yard. An alternative solution to this issue would be to amend the rear yard setback to reduce the size of the rear yard setback, and then require the solar system in the rear yard but not in the rear yard setback.

Law Director advised Exhibit A of each draft ordinance has general provisions as follows:

General Provisions:

(1) All solar energy systems shall comply with all applicable zoning, building, fire, plumbing and electrical codes of the City of Brookville.

(2) This section shall apply to solar energy systems on private property for use by the property owner and shall not be construed to permit a solar energy farm as a business. A "solar energy farm" is defined as an energy generation facility or area of land principally used to convert solar energy to electricity.

(3) Only commercially produced solar energy systems are permitted. The manufacturer specifications shall be submitted as part of the application for approval.

(B) Ground-Mounted Solar Energy Systems

(1) Ground-mounted solar energy systems shall only be permitted in the rear yard and shall be set back a minimum of 10 feet from all lot lines.

(2) In conservation and residential districts, no ground mounted solar energy system shall exceed six feet in height as measured from the average grade at the base of the system. In commercial and industrial districts, no ground mounted solar energy system shall exceed 25 feet in height, or the maximum height of the building, whichever is less; provided, however, that if the ground mounted solar energy system is located in a rear yard that is adjacent to a lot in a residential district, the maximum height shall be six feet.

(3) Ground-mounted solar energy systems shall be screened from any adjacent lot lines of lots used for residential purposes by a fence, wall, landscaping or combination thereof.

(4) Ground-mounted solar energy systems shall not be positioned so as not to reflect sunlight onto neighboring property, public streets or sidewalks, including on any neighboring structures.

(5) The total area of the ground-mounted solar energy system shall not exceed more than fifteen percent (15%) of the rear yard area in residential districts.

(C)Roof-Mounted Solar Energy Systems

(1) Roof-mounted solar panels that are integrated with the surface

layer of the roof structure and which resemble common roofing materials may be permitted on any roof surface of a principal building or accessory building.

(2) Roof-mounted solar panels that are separated panels mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building that does not face a street. Such panels shall be mounted flush to the roof and not extend vertically from the roof structure more than eight inches.

(3) Solar panels may be mounted on flat roofs provided there is a parapet wall or other architectural feature that screens the view of the panels. Such panels may be mounted at an angle provided they do not extend more than five feet above the roof surface.

(4) All wires and other associated appurtenances related to the solar energy systems shall be installed below the roofline and not visible from the street.

(5) Solar energy systems located on the roof shall provide, as part of their permit application, evidence of design review and structural certification signed by an engineer.

Law Director Stephan noted General Provisions (B)(1) would be different from the current code which requires it to be outside the rear yard setback. The other option would be to change the rear yard setback in some of these districts.

Law Director Stephan noted General Provisions (B)(2) could also be worded to say if the ground mounted solar energy equipment is located adjacent to any house, whether it is in an industrial or residential district, the maximum height would be six feet. We do have some areas of Brookville where we have a mixture of businesses and housing, for example on Albert Road, where the zoning is actually industrial.

Member Schreier stated the maximum six-foot height would be a good change as the recent variance application was for eight-foot solar panels, which is higher than the allowed privacy fence height.

Law Director Stephan stated some of the other ordinances he reviewed allow solar panels up to 12 feet in height, so we may get applications for solar panels higher than six feet.

Chairperson Henderson advised most companies will want taller panels as they are trying to get above the ground snow load. The panels need to get above six feet otherwise you are limiting the size of the panel. Six feet is possible, it is just going to depend on the manufacturer.

Law Director Stephan stated if we leave it at the six feet, it will match our fence height, but we are likely looking at a variance each time someone submits an application for solar panels higher than six feet.

Member Schreier commented this could create a reasonable number of variances that Planning Commission would have to consider.

Chairperson Henderson stated he is not opposed to reviewing applications for solar panels above six feet in height to determine whether they would be obtrusive to the surrounding area.

Chairperson Henderson asked if Planning Commission wants to start the process tonight to amend our zoning code or if they need more time to review the information presented?

Law Director Stephan advised the Accessory Use chapter is probably the appropriate place for it. Most jurisdictions will have the Zoning Officer approve it if it meets the requirements, but we can have Planning Members review all of these.

Law Director Stephan stated the process would be to have a first reading of the proposed Ordinance, then hold a Public Hearing then come back to Planning Commission for final recommendation.

Member Requarth stated if we also have a Public Hearing on the proposed setback changes and rear yard setback changes, we should try to do this all at one time to limit the number of required Public Hearings.

Law Director Stephan asked if Planning Members need additional time to review the information?

Member Requarth recommended Planning Commission move forward. Since the required process is lengthy, they will have time to review before making a final recommendation to Council.

Member Requarth stated he thinks most solar panel applications will come before Planning Commission anyway with a variance request for height or other issues.

Mayor Letner observed we are going to see more and more applications as technology evolves.

Member Claggett inquired if Planning should make this Special Use until we get a better feel for it?

Member Requarth replied we can make changes as technology evolves.

Chairperson Henderson stated the two exhibits presented by Law Director Stephan are different. One is for the accessory use and one is for Special Use. The accessory use option gives the Zoning Officer the ability to approve the application without Planning Commission involvement, as long as it is under the six-foot height requirement.



Member Sievers recommended the accessory use option so that Planning Commission does not have to review every application.

Members Requarth and Claggett agreed.

Member Schreier agreed, with the recommendation to change (B)(2) to clarify that any residential property next to an industrial property would be required to be six feet maximum height.

Law Director Stephan replied he could change the wording to refer to any residential property, rather than any residential district.

Motion by Requarth, second by Sievers to recommend to City Council to amend Section 1157.10 of the Code of Ordinances regulating solar energy equipment with a modification for any residential property adjacent to industrial property to comply with the six-foot maximum height requirement. All yeas, motion carried.

Chairperson Henderson asked if Planning Commission would like to move forward with changing rear yard setbacks?

Member Requarth suggested changing the rear yard setback in R-1B to 35 feet and the R-1C to 30 feet.

Member Schreier asked if this change would be heard at the same Public Hearing as the changes to the foundation setbacks?

Law Director Stephan replied he can put both the rear yard and foundation setback revisions in the same ordinance. The Public Hearing will be on the same night for both issues.

Motion by Schreier, second by Cordes to recommend to City Council to amend Sections 1123.03(b)(2) and 1125.03(b)(2) of the Code of Ordinances to amend the rear yard setback in R-1B to 35 feet and the rear yard setback in R-1C to 30 feet; and to amend Section 1103.03 of the Code of Ordinances to amend the definition of the building and setback line. All yeas, motion carried.

There was no Old Business.

Manager Keaton announced the City has two levies on the May 4 Primary ballot. Issue 1 is a .96 mill Park Levy and Issue 2 is a 3.85 mill Street Levy. Both levies are for a period of five years that will be placed on property tax bills for 2021, for collection in 2022. Manager Keaton indicated she emailed additional information to each Planning Member. Planning Members are welcome to help distribute door hangers with information on the levies next weekend. Manager Keaton also encouraged all citizens to get out and vote during the May primary.

Chairperson Henderson inquired if Planning Members are willing to hold a hybrid meeting next month, with Planning Members attending in person and the public attending virtually via Webex.

Member Schreier commented that Council has been holding hybrid meetings and it is working out well.

The consensus is the May 20, 2021 Planning Commission Meeting will be a hybrid in-person and virtual meeting.

Motion by Claggett, second by Requarth to adjourn. All yeas, motion carried.

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Kimberly Duncan, Clerk

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Ryan Henderson, Chairperson

# Memo

**To:** Chairperson and Planning Commission  
**From:** Jim Snedeker Zoning Officer  
**Date:** May 14, 2021  
**Re:** Updated Preliminary Plan for Albert Road and Upper Lewisburg Salem

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DDC Management LLC would like to re-submit a Preliminary Plan for the development along Albert Road and Upper-Lewisburg Salem Road.

Changes made from last proposal:

67 lots instead of 69 initially submitted.

Lot size of 55 feet from 51 feet.

Side yard setbacks of 7.5 feet or the sum of 15 feet.

Open space is 16.3% (initial submittal was 11.9%).

Maintained the 30-foot buffer and remove one knuckle along with shifting the entrance.

Please review attached section 1151.10 (d) Density Requirements.

Jim Snedeker

**1151.10 PR PLANNED RESIDENTIAL DISTRICT.**

(a) Policies Underlying Use of Zone. This district is intended to provide a good deal of flexibility in the arrangement and design of residential dwellings, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is permitted. Natural features such as topography, trees and drainage ways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space, and unified design concept with particular attention devoted to the periphery of the development, with the objective being the compatibility of the development with its surroundings.

(b) Permitted Uses. Those uses included as permitted and accessory uses in R-1A through R-3 Residential Districts developed in a unified manner in accordance with the approved development plan.

Convenience establishments have accessory uses which have been established as necessary for the proper development of the community and to be so located, designated and operated to serve primarily the needs of the persons within the Planned Development if specifically approved as part of the Planned Development Plan. Uses shall be generally limited to those uses permitted in the CB District, with no direct access or advertising signs for such uses to be visible from the exterior of the development.

Such convenience establishments and their parking areas shall not occupy more than five (5) percent of the total area of the development.

No separate building or structure designed or intended to be used, in whole or part, for business purposes within a Planned Residential Development shall be constructed prior to the construction of not less than thirty percent (30%) of the dwelling units proposed in the development plan.

(c) Area Requirements. The minimum land area required for a Planned Residential Development shall be five (5) acres. This area requirement may be varied at the discretion of the Planning Commission and Municipal Council if it can be demonstrated that a variance is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(d) Density Requirements. Any combination or cluster of housing units is permitted, provided that the average lot area per family or dwelling unit contained in the site, exclusive of the area of street rights-of-way, and commercial area, will not exceed the following net overall densities:

- (1) Six (6) dwelling units per acre for single family residential developments.
- (2) Eight (8) dwelling units per acre for developments containing a combination of single family and two family units.
- (3) Twelve (12) dwelling units per acre for a development containing a combination of single family, two family and multi-family units.
- (4) Fifteen (15) dwelling units per acre for multi-family residential developments.

The above density requirements may be varied at the discretion of the Planning Commission and Municipal Council if it can be demonstrated that a variance is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(e) Site Design. All housing shall be sited to preserve privacy and to ensure natural light.

Lot widths may be varied to permit a variety of structural designs. It is also recommended that setbacks be varied. Every housing unit should be situated to abut upon common open space or similar areas. A clustering of dwellings is encouraged.

(f) Structure Spacing. A minimum of fifteen (15) feet shall be maintained between unattached principal structures.

(g) Length. There shall be no continuous structure of apartments, attached dwellings, or townhouses containing more than the following respective maximum numbers of side by side dwelling units:

- (1) Apartments - twelve (12) units.
- (2) Attached dwellings other than townhouses - eight (8) units.
- (3) Townhouses - six (6) units.

(h) Height. The height of any residential structure within a planned unit development shall not exceed thirty five (35) feet, unless it can be demonstrated that an additional height is required, with provision of suitable open space to protect adjacent structures from adverse reduction of light and air.

(i) Setback and Screening. A setback of fifty feet shall be provided along the entire perimeter of the development and retained in natural woods or be suitably landscaped with grass and/or ground cover, shrubs and trees. Under appropriate circumstances, at the discretion of the Planning Commission and the Council, this setback may be reduced to a setback of not less than thirty feet, it being expressly understood that both the Planning Commission and Council must approve such reduction of the fifty foot setback to a setback not less than thirty feet. Projects located and adjacent to commercial or industrially zoned areas shall provide screening facilities comprising landscaping, walls or both which will provide suitable protection to the residential development as adjudged by the Planning Commission and Council. Screening facilities shall not obscure traffic visibility within fifty feet of an intersection.  
(Ord. 1988-03. Passed 6-21-88.)

(j) Common Open Space. A minimum of twenty-five percent (25%) of the land in any planned residential development shall be reserved for permanent common open space and recreational facilities for the residents or users of the area being developed. Only areas having minimum dimensions of 50 feet by 100 feet shall qualify for computation as usable open spaces.

(k) Parking Requirements. See Chapter 1159 for off-street parking requirements.

(l) Signs. See Chapter 1161 for size and location of permitted signs.

#### **1151.11 PMH PLANNED MOBILE HOME RESIDENTIAL DISTRICT.**

(a) Policies Underlying Use of Zone. This district is intended to permit the development of Mobile Home Parks in association with other residential development types while maintaining a reasonable population density and by providing for the unique requirements for this type of development. The provisions of this district are established to assure that the site design and arrangement in relation to other areas together with the provision of associated facilities result in an attractive, orderly and efficient residential environment of sustained desirability in harmony with adjacent areas.

City of Brookville, Ohio

# **PUD Re-Zoning Application and Development Plan Submittal**

Submitted on: 5-13-2021

**Contact: Ryan Reed**  
DDC Management, LLC  
3601 Rigby Road, Suite 300  
Miamisburg, Ohio 45342  
937.401.3844

### PD-1 Requirement Variances:

The following are variance from Section 1151.10:

- Section (e) – “Every housing unit shall be situated to abut upon common open space or similar areas.
  - **Variance** – Per provided plan not all lots will abut to open space
- Section (i) – “A setback of fifty feet shall be provided along the entire perimeter of the development and retaining in natural woods or be suitably landscaped with grass and/or ground cover...under appropriate circumstances, at the discretion of the Planning Commission and the Council, this setback may be reduced to a setback of not less than thirty feet, it being expressly understood that both the Planning Commission and Council must approve such reduction...Projects located and adjacent to commercial or industrial zoned areas shall provide screening facilities comprising landscaping, walls or both...”
  - **Variance** – A 30 ft buffer is in place around the perimeter of the property, excluding the area around Lot 1744 at the corner of Albert Road and Upper Lewisburg Salem Road
- Section (j) – “A minimum of twenty-five percent (25%) of the land in any planned residential development shall be reserved for permanent common open space...”
  - **Variance** – Per provided plan we are at 16.3% open space

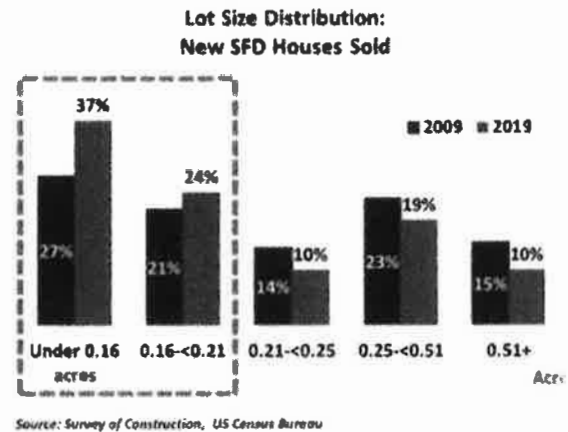
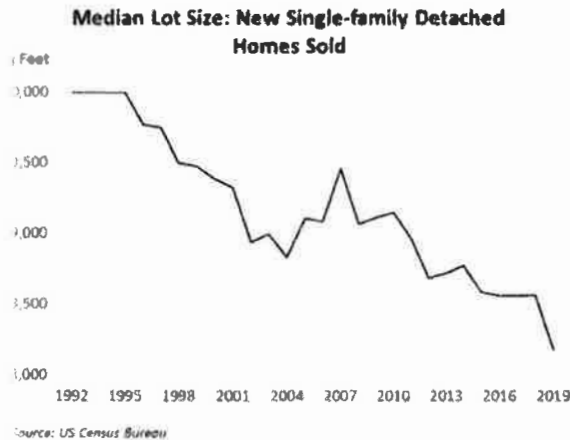
### High-level Development Schedule

- **Re-zone and Preliminary Plan Approval, Planning Commission – May 2021**
- **Re-zone and Preliminary Plan Approval, City Council – June 2021**
- **Construction Drawing Submittal to City – August 2021**
- **Construction Drawing Approval – October 2021**
- **Land Closing – October 2021**
- **Begin Construction – October/November 2021**
- **Construction on 69 Lots Complete – July 2022**
- **First Lot Sales to Builder – August 2022**
- **First Homes Completed – November 2022**
- **Final Lot Sale – Q1 2024**
- **Final Home Sale – Q2 2024**

Based upon studies done by Zonda (A National Real Estate Data Platform) average lot sizes are on the decline. The market isn't demanding large lots, in fact, 61% of homes sold with lot sizes under .20 of an acre.

% Zonda

## Opportunities: Thinking About Lot Size



% Zonda

## Top Home Features

Consumers are searching for style and function first



1. **Better interior style**
2. **More functional space**
3. More affordable
4. More energy efficient
5. Better lifestyle
6. Better exterior style
7. More performance, home technology
8. More wellness/healthy living features
9. **Larger home**
10. **Larger yard**

Size last...

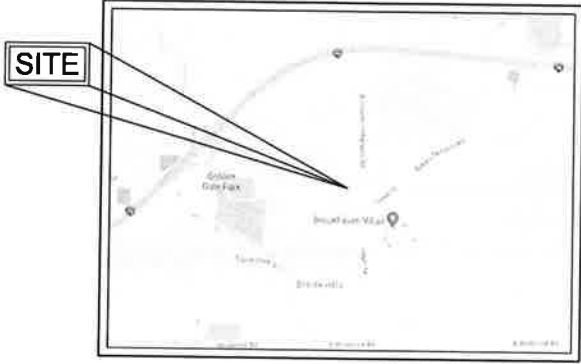




# PRELIMINARY DEVELOPMENT PLAN

## BROOKVILLE SITE UPPER LEWISBURG SALEM RD AND ALBERT RD

CITY OF BROOKVILLE  
MONTGOMERY COUNTY, OHIO  
SECTION 34, TOWN 6, RANGE 4E  
MAY 2021



VICINITY MAP  
NTS

### NOTES:

1. ALL LOTS WILL CONTAIN SINGLE-FAMILY, DETACHED RESIDENCES.
2. THE SITE WAS PREVIOUSLY AGRICULTURAL.
3. WATER SUPPLY TO BE BY CITY OF BROOKVILLE.
4. WASTEWATER DISPOSAL TO BE BY THE CITY OF BROOKVILLE.
5. STORMWATER SHALL COMPLY WITH THE CITY OF BROOKVILLE STANDARDS AND OEPA.
6. ALL STREETS ARE TO BE PUBLIC STREETS CONSTRUCTED TO THE CITY OF BROOKVILLE STANDARDS.
7. THE OPEN SPACE AREAS SHALL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
8. EXISTING ZONING: R-1B
9. PROPOSED ZONING: PR (PLANNED RESIDENTIAL)

### DEVELOPER

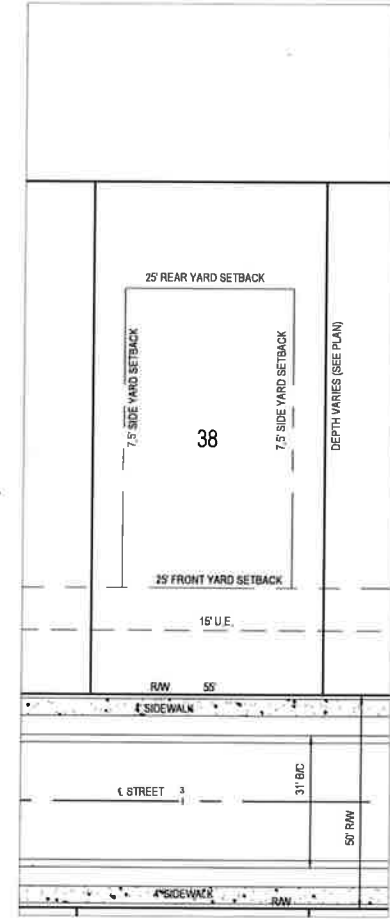
DDC MANAGEMENT  
3601 RIGBY ROAD, SUITE 300  
MIAMISBURG, OH 45342  
PH: (937) 610-1500

### ENGINEER/SURVEYOR

CESO, INC.  
3601 RIGBY ROAD, SUITE 300  
MIAMISBURG, OH 45342  
PH: (937) 435-8584  
JUSTIN ELAM, P.E.  
MICHAEL WILSON, P.S.

### OWNER

KAREN WOMBOLD TRUSTEE  
5053 CRESCENT DR  
CLAYTON, OH 45315

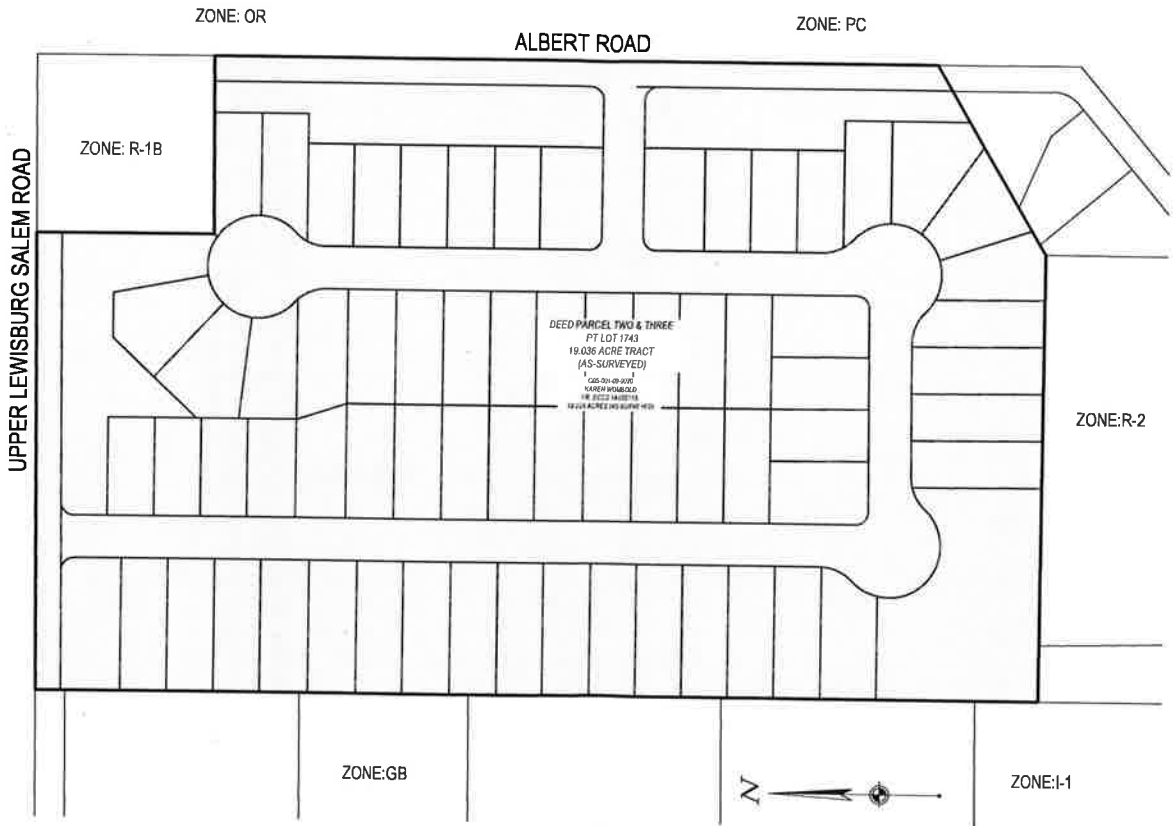


TYPICAL 55' LOT LAYOUT (PR)

SCALE 1" = 20'

51' LOTS

LOT WIDTH 55'  
MIN. FRONT YARD SETBACK 25'  
MIN. REAR YARD SETBACK 25'  
MIN. SIDE YARD SETBACK 7.5', 15' TOTAL



AREA MAP  
SCALE: 1" = 100'

| SITE DATA TABLE |                 |
|-----------------|-----------------|
| OVERALL ACREAGE | 18.631 ACRES    |
| LOT COUNT       | 67              |
| DENSITY         | 3.60 UNITS/ACRE |
| OPEN SPACE      | 3.04 AC (16.3%) |

| SHEET LIST TABLE |                          |
|------------------|--------------------------|
| Sheet Number     | Sheet Title              |
| 1                | TITLE SHEET              |
| 2                | EXISTING CONDITIONS PLAN |
| 3                | SITE PLAN                |
| 4                | UTILITY PLAN             |
| 5                | DRAINAGE PLAN            |

JUSTIN ELAM, P.E.  
OHIO LICENSE NO. E-76298

DATE

### APPROVAL:

PLANNING COMMISSION CHAIRMAN

DATE

DDC MANAGEMENT, LLC.

BROOKVILLE SITE

BROOKVILLE, OHIO

TITLE SHEET

|                  |        |
|------------------|--------|
| ISSUE:           |        |
| DEVELOPMENT PLAN |        |
| DATE:            |        |
| 05/13/2021       |        |
| JOB NO.:         | 758340 |
| DESIGN:          | JEE    |
| DRAWN:           | SJS    |
| CHECKED:         | JEE    |
| SHEET NO.        |        |
| 1                |        |

## EXHIBIT "A" LEGAL DESCRIPTION

FROM STEWART TITLE GUARANTY COMPANY COMMITMENT NO. 2019120058 WITH A COMMITMENT DATE OF JANUARY 31, 2020 AT 7:58 P.M.

### PARCEL ONE

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWN 6, RANGE 4 EAST, CITY OF BROOKVILLE AND CLAY TOWNSHIP, MONTGOMERY COUNTY, OHIO, BEING ALL OF LOT 1744 OF THE CONSECUTIVELY NAMED LOTS OF THE CITY OF BROOKVILLE AND BEING ALL OF A 1 ACRE TRACT (BY DEED) AS CONVEYED TO CHARLES W. BRITTON AND GENEVA N. BRITTON, TRUSTEES OF THE BRITTON FAMILY TRUST DATED MAY 8, 2008 BY DEED RECORDED ON MICROFILM NO. 01-402602 OF THE MONTGOMERY COUNTY DEED RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND 5' DIA. AT THE CENTERLINE INTERSECTION OF UPPER LEWISBURG SALEM ROAD AND ALBERT ROAD, SAID PIN BEING THE NORTHEAST CORNER OF SAID 1 ACRE TRACT AND THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34;

THENCE, WITH THE CENTERLINE OF SAID ALBERT ROAD AND WITH THE EAST LINE OF SAID 1 ACRE TRACT SOUTH 61 DEGREES 37 MINUTES OF SECONDS EAST FOR 206.72 FEET TO A MAGNAIL FOUND, SAID MAGNAIL BEING THE SOUTHEAST CORNER OF SAID 1 ACRE TRACT;

THENCE, WITH THE SOUTHWEST LINE OF SAID 1 ACRE TRACT, SOUTH 88 DEGREES 24 MINUTES OF SECONDS WEST FOR 206.72 FEET TO AN IRON PIN FOUND 5' DIA. (1) SAID PIN BEING THE SOUTHWEST CORNER OF SAID 1 ACRE TRACT, PASSING AN IRON PIN FOUND 5' DIA. (1) IN THE FORMER WEST RIGHT-OF-WAY LINE OF SAID ALBERT ROAD AT 18.50 FEET ALONG THIS COURSE, ALSO PASSING A POINT IN THE CURRENT WEST RIGHT-OF-WAY LINE AS DESCRIBED IN A PERPETUAL EASEMENT FOR RIGHT-OF-WAY AS CONVEYED TO THE CITY OF BROOKVILLE, AN OHIO MUNICIPAL CORPORATION BY DEED RECORDED AS INSTRUMENT RECORD DEED NO. 04-019649 OF THE MONTGOMERY COUNTY DEED RECORDS AT 30.00 FEET ALONG THIS COURSE;

THENCE, WITH THE WEST LINE OF SAID 1 ACRE TRACT, NORTH 91 DEGREE OF MINUTES OF SECONDS WEST FOR 206.72 FEET TO A MAGNAIL FOUND IN THE CENTERLINE OF SAID UPPER LEWISBURG SALEM ROAD, SAID MAGNAIL BEING ALSO IN THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34 AND SAID MAGNAIL BEING THE NORTHWEST CORNER OF SAID 1 ACRE TRACT, PASSING AN IRON PIN FOUND 5' DIA. (1) IN THE SOUTH RIGHT-OF-WAY LINE OF SAID UPPER LEWISBURG SALEM ROAD AT 178.72 FEET ALONG THIS COURSE, THENCE, WITH THE CENTERLINE OF SAID UPPER LEWISBURG SALEM ROAD AND WITH THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34 AND WITH THE NORTH LINE OF SAID 1 ACRE TRACT, NORTH 88 DEGREES 24 MINUTES OF SECONDS EAST FOR 206.72 FEET TO THE PLACE OF BEGINNING, CONTAINING 1.000 ACRES WITHIN CLAY TOWNSHIP AND 0.888 ACRES WITHIN THE CITY OF BROOKVILLE FOR A TOTAL OF 1.000 ACRES MORE OR LESS AND SUBJECT TO ANY EASEMENTS, RESTRICTIONS, CONDITIONS, AND LEGAL HIGHWAYS OF RECORD PERTAINING TO ABOVE DESCRIBED TRACT;

SAVE AND EXCEPT:  
A .888 ACRE OF LAND MORE OR LESS SOLD TO KEVIN H. REED AND BETH E. REED BY DEED DATED OCTOBER 15, 2008 AND RECORDED IN MONTGOMERY COUNTY DEED RECORDS INSTRUMENT NUMBER DEED NO. 071154002 (PARCEL NUMBER 035 00109 0021)

LEAVING A TOTAL ACREAGE FOR SAID PARCEL IS: 1.000 ACRES MORE OR LESS  
NOTE: THIS DESCRIPTION DOES NOT CLOSE. IT IS MISSING THE LAST CALL.

PARCEL TWO AND THREE  
SITUATE IN THE TOWNSHIP OF CLAY AND THE CITY OF BROOKVILLE, COUNTY OF MONTGOMERY AND STATE OF OHIO, BEING PART OF THE NORTHEAST QUARTER OF SECTION THIRTYFOUR (34), TOWN SIX (6), RANGE FOUR (4) EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON STAKE AT THE NORTHEAST CORNER OF SAID QUARTER;  
THENCE SOUTH 88° 54' WEST ON THE NORTH LINE OF SAID SECTION 45.16 RODS TO AN IRON STAKE;  
THENCE SOUTH 2° 35' EAST, 21.83 RODS TO AN IRON STAKE;  
THENCE NORTH 87° 25' EAST, 31.75 RODS TO AN IRON STAKE;  
THENCE SOUTH 12° 35' EAST, 13.6 RODS TO A CORNER IN THE CENTER OF THE BROOKVILLE AND SALEM PIKE, WITNESS AN IRON PIN BEARS NORTH 2° 35' WEST, 31.5 FEET DISTANT;  
THENCE WITH SAID PIKE NORTH 47° 15' EAST, 17.54 RODS TO THE PLACE OF BEGINNING, CONTAINING 2.1 ACRES

SAVE AND EXCEPT ONE (1) ACRE OF LAND SOLD OFF THE SOUTHWEST CORNER THEREOF TO LEE MILLER, NOW KNOWN AS LOT 1741 OF THE CITY OF BROOKVILLE

SAVE AND EXCEPT  
ONE ACRE OF LAND SOLD TO CHARLES W. BRITTON AND GENEVA NEOMA BRITTON BY DEED DATED MARCH 12, 1956, AND RECORDED IN MONTGOMERY COUNTY DEED RECORDS VOLUME 1781, PAGE 25 ON MARCH 12, 1956, AT 7:24 P.M. SAID ONE ACRE IS MORE PROPERLY DESCRIBED AS FOLLOWS:

SITUATE IN THE TOWNSHIP OF CLAY AND THE CITY OF BROOKVILLE, COUNTY OF MONTGOMERY AND STATE OF OHIO, BEING PART OF THE NORTHEAST QUARTER OF SECTION THIRTYFOUR (34), TOWN SIX (6), RANGE FOUR (4) EAST, ETC. AND BEING PART OF THE SAME PREMISES DESCRIBED IN THE CONVEYANCE FROM RAYMOND L. HUNT, HUSBAND, TO MATTHEW L. HUNT, HIS WIFE, DEED DATED SEPTEMBER 23, 1947, AND RECORDED IN DEED BOOK 1245, PAGE 581, OF THE DEED RECORDS OF MONTGOMERY COUNTY, OHIO, BEING BOUNDED AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN AT THE NORTHEAST CORNER OF SAID QUARTER SECTION;  
THENCE SOUTH 88° 54' WEST, WITH THE NORTH LINE OF SAID SECTION AND APPROXIMATE CENTER OF THE UPPER LEWISBURG AND SALEM ROAD FOR A DISTANCE OF TWO HUNDRED EIGHT AND SEVENTY-TWO HUNDREDTHS (208.72) FEET TO AN IRON PIN;  
THENCE SOUTH 12° 35' EAST AND PARALLEL WITH THE EAST LINE OF SAID QUARTER SECTION AND APPROXIMATE CENTER OF THE BROOKVILLE AND PHILLIPSBURG ROAD FOR A DISTANCE OF TWO HUNDRED EIGHT AND SEVENTY-TWO HUNDREDTHS (208.72) FEET TO AN IRON PIN;  
THENCE NORTH 88° 54' EAST AND PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION AND APPROXIMATE CENTER OF THE BROOKVILLE AND PHILLIPSBURG ROAD FOR A DISTANCE OF TWO HUNDRED EIGHT AND SEVENTY-TWO HUNDREDTHS (208.72) FEET TO AN IRON PIN IN THE EAST LINE OF SAID QUARTER SECTION AND APPROXIMATE CENTER OF THE BROOKVILLE AND PHILLIPSBURG ROAD;

THENCE NORTH 12° 35' WEST, WITH THE EAST LINE OF SAID QUARTER SECTION AND APPROXIMATE CENTER OF THE BROOKVILLE AND SALEM ROAD FOR A DISTANCE OF TWO HUNDRED EIGHT AND SEVENTY-TWO HUNDREDTHS (208.72) FEET TO THE PLACE OF BEGINNING, CONTAINING ONE ACRE (1) MORE OR LESS, SUBJECT, HOWEVER, TO ALL LEGAL HIGHWAYS AND EASEMENTS OF RECORD

NOW KNOWN AS LOT 1744 OF THE CITY OF BROOKVILLE. THE PARCEL DESCRIBED ABOVE IS NOW KNOWN AS LOT 1743 OF THE CITY OF BROOKVILLE.

SAVE AND EXCEPT  
ROADWAY EASEMENT  
BEING A PART OF LOT NUMBER 1743 OF THE CONSECUTIVE LOTS IN THE CITY OF BROOKVILLE OWNED BY CHARLES W. AND GENEVA N. BRITTON, TRUSTEES AS DESCRIBED IN DEED MICROFILM 01-325 003

PARCEL NO. 2, SITUATE IN SECTION 34, TOWN 6, RANGE 4 EAST, CITY OF BROOKVILLE, MONTGOMERY COUNTY, OHIO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING FOR REFERENCE AT AN IRON PIN FOUND AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 34, ALSO BEING THE INTERSECTION OF CENTERLINES OF ALBERT ROAD AND UPPER LEWISBURG SALEM ROAD;

THENCE, SOUTH 01° 06' 58" EAST, 206.72 FEET, ALONG THE EAST LINE OF SAID QUARTER SECTION AND THE CENTERLINE OF ALBERT ROAD TO THE SOUTHEAST CORNER OF LOT 1744;

THENCE, SOUTH 88° 54' WEST, 18.50 FEET, ALONG THE SOUTH LINE OF LOT 1744 TO THE PRINCIPAL PLACE OF BEGINNING FOR THE EASEMENT HEREIN CONVEYED;

THENCE, SOUTH 01° 06' 58" EAST, 685.01 FEET, ALONG THE EXISTING WESTERLY RIGHT-OF-WAY LINE OF ALBERT ROAD TO A POINT;

THENCE, SOUTH 58° 12' 53" WEST, 15.70 FEET, TO AN IRON PIN FOUND AT THE NORTHEAST CORNER OF LOT 1904;

THENCE, ON A NEW DIVISION LINE, NORTH 01° 06' 58" WEST, 872.80 FEET, PARALLEL WITH THE EAST LINE OF SAID QUARTER SECTION AND THE CENTERLINE OF SAID ALBERT ROAD TO AN IRON PIN WITH CAP SET ON THE SOUTH LINE OF LOT 1744;

THENCE, NORTH 08° 22' 42" EAST, 13.50 FEET, ALONG THE SOUTH LINE OF LOT 1744 TO THE PRINCIPAL PLACE OF BEGINNING

CONTAINING 11,720.80 SQUARE FEET MORE OR LESS, OR 0.269 MORE OR LESS WITH ALL BEING SUBJECT TO ANY LEGAL HIGHWAYS AND EASEMENTS OF RECORD

24  
THE ABOVE DESCRIPTION WAS PREPARED BY THOMAS J. COVINGTON, OHIO PROFESSIONAL SURVEYOR NUMBER 7100, BASED ON A FIELD SURVEY BY SAME DATED DECEMBER 4, 2002

PARCEL NO. 005-001-09-0028 004-008100014 004-008100005  
COMMONLY KNOWN AS: 10400 UPPER LEWISBURG SALEM ROAD, UPPER LEWISBURG SALEM ROAD, AND UPPER LEWISBURG SALEM ROAD, MONTGOMERY COUNTY, OHIO

PRIOR INSTRUMENT REFERENCE: FILED CONCURRENTLY HEREWITH

DATE OF PLAT OR MAP: APRIL 6, 2021

PRELIMINARY  
MICHAEL JAY WILSON P.S.  
STATE PROFESSIONAL SURVEYOR #10281

## ALTA / NSPS LAND TITLE SURVEY

SECTION 34, TOWNSHIP 6, RANGE 4 EAST  
CITY OF BROOKVILLE, MONTGOMERY COUNTY, STATE OF OHIO



### LEGEND:

- 5/8" x 30" IRON REBAR SET WITH YELLOW CESS CAP
- MAGNAIL SET
- FOUND IRON PIN AS NOTED
- EXISTING MONUMENT AS NOTED
- STEEL FENCE POST
- MAGNAIL
- AIR CONDITIONER
- EXISTING TELEPHONE POLE
- EXISTING POWER & TELEPHONE POLE
- LIGHT POLE
- FIRE HYDRANT
- WATER VALVE
- EXISTING CATCH BASIN
- EXISTING STORM MANHOLE
- EXISTING SANITARY MANHOLE
- CLEANOUT
- GAS MARKER
- GAS METER
- CABLE BOX
- ELECTRIC PEDestal
- SKIN
- RECORD INFORMATION
- PROPERTY BOUNDARY
- PROPERTY LINE
- EXISTING EASEMENT
- EXISTING FENCE LINE
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER
- EXISTING WATER LINE
- EXISTING GAS LINE
- EXISTING TREE LINE
- CORPORATION LINE
- OVERHEAD LINE

### TABLE A ITEMS

1. MONUMENTS FOUND OR SET AS SHOWN
2. ADDRESSES IF DISCLOSED IN RECORD DOCUMENTS ARE AS SHOWN
3. IF INFORMATION PROVIDED BY FEMA FLOOD MAP SURVEY CENTER, THIS PROPERTY WAS FOUND TO BE LOCATED WITHIN FLOOD ZONE X, AN AREA OF MINIMAL FLOOD HAZARD BY THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 331103010E & NO. 331103010E, WHICH BEARS AN EFFECTIVE DATE OF JANUARY 6, 2005. SUBJECT TO MAP SCALING
4. GROSS LAND AREA AS SHOWN
- 7(a) NO BUILDINGS ON SUBJECT PARCEL
- 7(b) NO BUILDINGS ON SUBJECT PARCEL
- 7(c) NO BUILDINGS ON SUBJECT PARCEL
8. SUBSTANTIAL FEATURES OBSERVED IN THE PROCESS OF CONDUCTING THE SURVEY ARE AS SHOWN
9. NO PARKING SPACES OBSERVED ON SUBJECT PARCEL
- 11(b) THE UTILITIES SHOWN HEREON HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND/OR EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES LOCATED HEREON COMPREHEND ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UTILITIES LOCATED ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AT ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. MARKING PROVIDED BY O.U.P.S.
13. NAMES OF ADJACENTS ARE AS SHOWN
14. THE CLOSEST INTERSECTION TO THE SITE BEING THE INTERSECTION OF UPPER LEWISBURG SALEM RD. AND ALBERT RD. AND BEING A PUBLIC RIGHT-OF-WAY
15. NO OBSERVED EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS AT THE TIME OF THIS SURVEY OR PROVIDED TO THE SURVEYOR
17. NO PROPOSED CHANGES IN STREET RIGHT-OF-WAY LINES, NO EVIDENCE OF STREET OR SIDEWALK CONSTRUCTION OR REPAIRS OBSERVED AT TIME OF SURVEY OR DISCLOSED TO THE SURVEYOR
18. NO OFFSITE EASEMENTS PROVIDED

### BENCHMARK DESCRIPTIONS

BM 1 CROSS NOTCH SET ON A BRONZE BOX ON WEST SIDE OF A FIRE HYDRANT, ABOUT 50' SOUTH OF EAST UPPER LEWISBURG SALEM ROAD ON THE EAST SIDE OF THE BROOKVILLE FIRE STATION TRUCK ENTRY AND DOOR

BM 1 CROSS NOTCH SET ON THE SOUTHWEST SIDE OF A FIRE HYDRANT, IN THE WEST RIGHT-OF-WAY OF ALBERT RD. ABOUT 50' SOUTH OF THE INTERSECTION OF UPPER LEWISBURG SALEM RD. AND ALBERT RD.

### SURVEY NOTES:

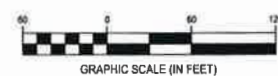
1. NORTH AND BEARINGS SYSTEM BASED ON THE OHIO STATE PLANE. SOUTH, MAG. NAD 83 AND UPON GPS OBSERVATIONS TAKEN BY CSD INC. IN MARCH OF 2021. SCALED TO GROUND AT A LAT. N 39° 50' 00" 3333", LONG. W 83° 14' 23" 3333" AND A PROJECT HEIGHT OF 540.81 FEET AND A SCALE FACTOR OF 1.00078900207
2. ALL DATA SOURCE'S DOCUMENTS AND RECORDS SHOWN HEREON ARE ON FILE IN THE MONTGOMERY COUNTY RECORDS OFFICE LOCATED IN DAYTON, OHIO, UNLESS NOTED OTHERWISE
3. SURVEY PREPARED FROM FIELDWORK PERFORMED IN MARCH OF 2021. ALL MONUMENTATION SHOWN HEREON IS IN GOOD CONDITION UNLESS OTHERWISE NOTED
4. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR. ALL INFORMATION REGARDING ALLEGED EASEMENTS, AND OTHER DOCUMENTS THAT MIGHT AFFECT THE QUALITY OF TITLE TO THE PARCEL, SHOWN HEREON WERE OBTAINED THROUGH A CERTIFIED TITLE COMMITMENT ISSUED BY STEWART TITLE GUARANTY COMPANY, COMMITMENT NUMBER 2019120058, DATED JANUARY 31, 2020
5. THE SUBJECT PARCEL HAS ACCESS TO UPPER LEWISBURG SALEM RD. ALONG THE NORTHERN BOUNDARY AND ALBERT RD. ALONG WITH EASTERLY BOUNDARY BOTH BEING PUBLIC RIGHT-OF-WAYS
6. THE SURVEY IS NOT A RECORDABLE DOCUMENT FOR TRANSFER OF TITLE
7. OCCUPATION GENERALLY FITS THE BOUNDARY LINES AS SHOWN

### SCHEDULE B PART II EXCEPTIONS:

FROM STEWART TITLE GUARANTY COMPANY COMMITMENT NO. 2019120058 WITH A COMMITMENT DATE OF JANUARY 31, 2020 AT 7:58 P.M.

ITEMS 1-10 ARE NOT SURVEY RELATED

- ITEM 16. EASEMENT TO THE DAYTON POWER AND LIGHT COMPANY DATED 10/19/1961 AND FILED ON 10/20/1961 IN DEED BOOK 1485, PAGE 88 AS RECORDED IN THE RECORDS OFFICE OF MONTGOMERY COUNTY, OHIO. EASEMENT IS ON SUBJECT PARCEL AND SHOWN HEREON
- ITEM 20. EASEMENT TO THE DAYTON POWER AND LIGHT COMPANY DATED 5/01/1962 AND FILED ON 5/01/1962 IN DEED BOOK 2084, PAGE 45 AS RECORDED IN THE RECORDS OFFICE OF MONTGOMERY COUNTY, OHIO. EASEMENT IS ON SUBJECT PARCEL AND SHOWN HEREON
- ITEM 21. EASEMENT TO THE GENERAL TELEPHONE COMPANY OF OHIO DATED 10/29/1970 AND FILED ON 10/29/1970 IN DEED MF 72-57 D11 AS RECORDED IN THE RECORDS OFFICE OF MONTGOMERY COUNTY, OHIO. EASEMENT IS ON SUBJECT PARCEL AND SHOWN HEREON
- ITEM 22. PERPETUAL EASEMENT FOR RIGHT-OF-WAY TO THE CITY OF BROOKVILLE, OHIO DATED 10/06/2004 AND FILED ON 10/20/2004 IN INSTRUMENT 2004-0001944 AS RECORDED IN THE RECORDS OFFICE OF MONTGOMERY COUNTY, OHIO. EASEMENT IS ON SUBJECT PARCEL AND SHOWN HEREON



| REVISIONS |      |             |
|-----------|------|-------------|
| NO.       | DATE | DESCRIPTION |
|           |      |             |
|           |      |             |
|           |      |             |
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### ALTA / NSPS SURVEY

#### DDCM BROOKVILLE

|                                               |     |                                                   |        |
|-----------------------------------------------|-----|---------------------------------------------------|--------|
| 10400 UPPER LEWISBURG SALEM RD.<br>BROOKVILLE |     | SEC. 34, TWP. 6, R. 4E<br>MONTGOMERY COUNTY, OHIO |        |
| SCALE: 1" = 60'                               |     | DATE: 04/7/2021                                   |        |
| DESIGN:                                       | N/A | JOB NO.:                                          | 757660 |
| DRAWN:                                        | RSL | SHEET NO.:                                        | 1 OF 1 |
| CHECKED:                                      | JKH |                                                   |        |

CESO  
WWW.CESONC.COM

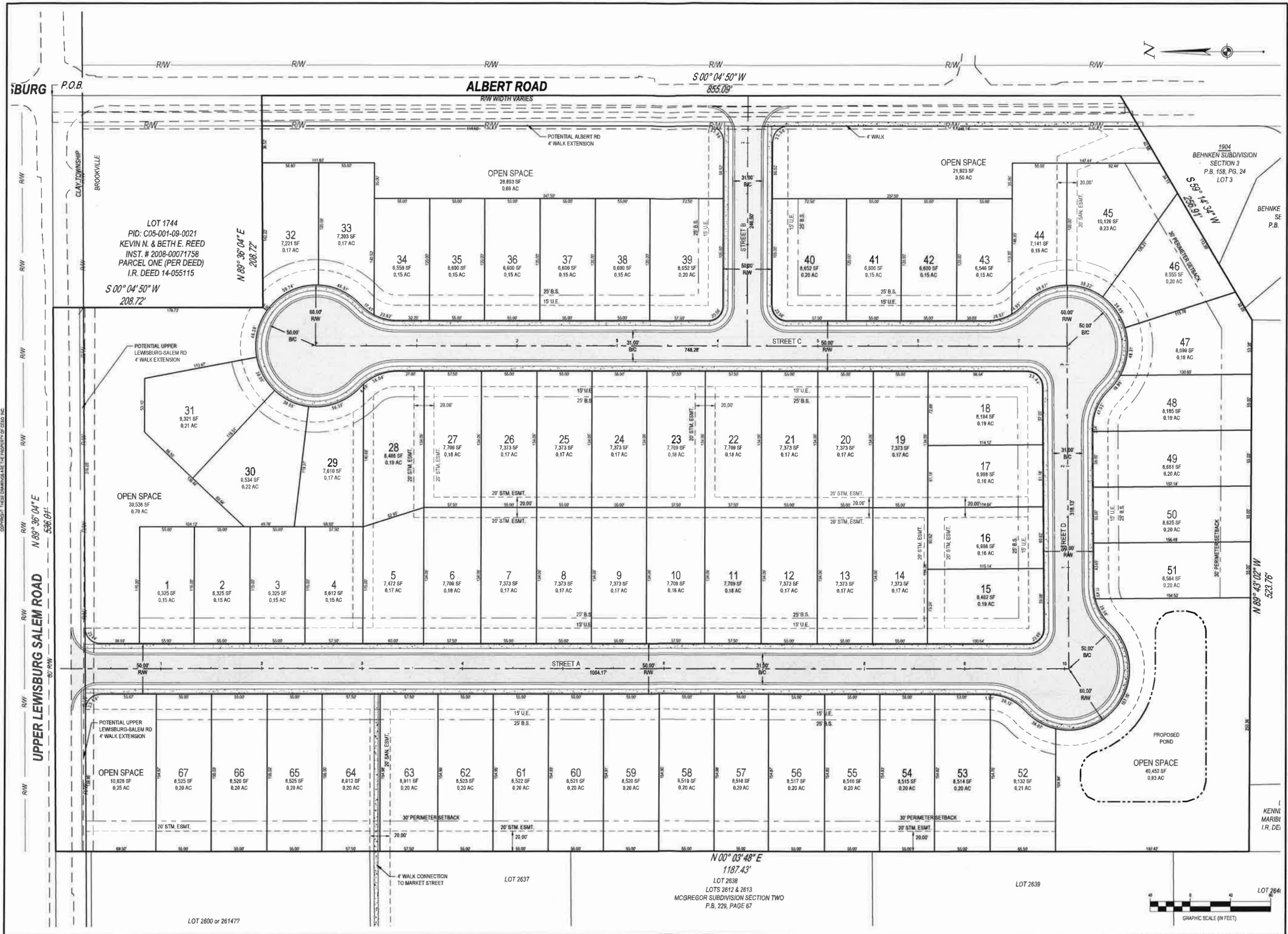




BROOKVILLE SITE

## LAYOUT PLAN

|                  |        |
|------------------|--------|
| ISSUE:           |        |
| DEVELOPMENT PLAN |        |
| DATE:            |        |
| 05/13/2021       |        |
| NO.:             | 758340 |
| IGN:             | JEE    |
| IWN:             | SJS    |
| CKED:            | JEE    |
| SHEET NO.        |        |
| 3                |        |

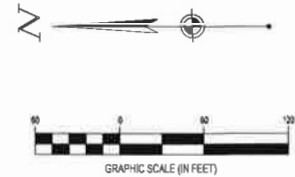


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## BROOKVILLE SITE

|                  |        |
|------------------|--------|
| ISSUE:           |        |
| DEVELOPMENT PLAN |        |
| DATE:            |        |
| 05/13/2021       |        |
| JOB NO.:         | 758340 |
| DESIGN:          | JEE    |
| DRAWN:           | SJS    |
| CHECKED:         | JEE    |
| SHEET NO.        |        |
| 4                |        |





# Memo

**To:** Chairperson and Planning Commission  
**From:** Jim Snedeker Zoning Officer  
**Date:** May 14, 2021  
**Re:** Zoning Variance VA21-01 for Ground Mounted Solar Panels

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Power Home Solar is here tonight for a Variance to construct ground mounter solar panels in the rear yard setback of 561 Golden Maple Ave. in Golden Gate Estates. A Public Hearing was held for the same variance at Planning Commission Meeting on February 18, 2021. Nothing has changed on this application; the applicant was not present to represent the project properly.

Jim Snedeker



Application # VA 21-01

### APPLICATION FOR A ZONING VARIANCE OR APPEAL

The undersigned applies for a **ZONING VARIANCE OR APPEAL** to be issued solely on the basis of information contained herein, and, with the knowledge that the falsification of any fact or statement with, or within this application null and void. (NO ORDER OF THE ZONING BOARD OF APPEALS GRANTING A **VARIANCE OR APPEAL** SHALL BE VALID FOR A PERIOD LONGER THAN TWELVE (12) MONTHS FROM THE DATE OF SUCH ORDER, UNLESS THE BUILDING PERMIT OR ZONING APPROVAL IS OBTAINED WITHIN SUCH PERIOD AND THE ERECTION OR ALTERATION OF A BUILDING IS STARTED OR THE USE IS COMMENCED WITHIN SUCH PERIOD.)

1. Applicant: Power Home Solar / Bryan Law Homeowner: Howard Williams
2. Applicant address: 919 N Main Street Mooresville, NC 28115
3. Phone: (Hm) (937) 833-5421 (Bus) (919) 300-7976 Interest in property: Solar installation on an existing residence.
4. Location or address of property to be affected: 561 Golden Maple Ave Brookville, OH 45309
5. Legal description: 16 ground mounted solar modules, grid tied, 5.12kW, solar installation on existing structure.
6. Present Zoning classification: \_\_\_\_\_ Existing use: Single Family Residence
7. In order to be processed, applicant must provide:
  - (a) Description or nature of **variance or appeal** requested;
  - (b) Narrative statements which demonstrate to the satisfaction of the Board of Zoning Appeals that the **variance** conforms to the following standards;
    - (1) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out;
    - (2) The conditions upon which an application for a **variance or appeal** is based are unique to the property for which the **variance or appeal** is sought, and are not applicable, generally, to other property within the same Zoning classification;
    - (3) The purpose of the **variance or appeal** is not based exclusively upon a desire to increase financial gain;
    - (4) The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property;
    - (5) The granting of the **variance or appeal** will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
    - (6) The proposed **variance or appeal** will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase damage of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;
    - (7) The Zoning Board of Appeals may impose such conditions and restrictions upon the premise benefitted by a variance as may be necessary to comply with standards established in this section and the objectives of this Ordinance;

8. Under no circumstances shall the Board of Zoning Appeals grant a *variance or appeal* to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. In granting any *variance or appeal*, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the *variance or appeal* is granted, shall be deemed a violation of this Ordinance and punishable under Section 1107.99.

9. The Board of Zoning Appeals shall hold a public hearing within forty (40) days after the receipt of an application for a *variance or appeal* from the Zoning Enforcement Officer or a applicant.

10. Before holding the public hearing required in Section 111.08, notice of such hearing shall be given in one or more newspaper of general circulation of the Municipality at least seven (7) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed *variance or appeal*.

11. Has previous application been filed for the a *variance or appeal*? Yes

When? 2/18/2021 Results? Denied

Application Date: 3/17/2021



Signature of Applicant

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OFFICE USE ONLY BELOW LINE

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Reviewed by Planing Commission: Yes? \_\_\_\_\_ No? \_\_\_\_\_ Date: \_\_\_\_\_

App/Denied Board of Zoning Appeals: \_\_\_\_\_ Date: \_\_\_\_\_

Fee: 160.00 Receipt number: 12896 Date: 3/24/21

(NON REFUNDABLE)

REV01/02



Brookville Planning Commission  
Virtual Regular Meeting  
February 18, 2021

The Regular Meeting of the Brookville Planning Commission was called to order by Chairperson Henderson at 7:30 p.m. on February 18, 2021. The meeting was held virtually using Webex. The Pledge of Allegiance was recited. Mayor Letner; Members, Claggett, Cordes, Requarth, Schreier and Sievers; City Manager Keaton, Zoning Officer Snedeker, Law Director Stephan and Clerk Duncan were present.

Chairperson Henderson reminded everyone the meeting is being recorded.

Roll call by Clerk Duncan.

Motion by Schreier, second by Claggett to approve the Agenda as presented. All yeas, motion carried.

Motion by Claggett, second by Cordes to approve the Regular Meeting Minutes of the January 14, 2021 Planning Commission Meeting. All yeas, motion carried.

Chairperson Henderson directed Clerk Duncan to start the Public Hearing.

Clerk Duncan indicated that neither the applicant or the homeowner were present and asked Law Director Stephan if it was proper to proceed.

Law Director Stephan advised we can proceed with the Public Hearing based on the application and the information presented. Law Director directed Clerk Duncan to read the Public Hearing statement, stating Staff comments will follow and then we will open it up to anyone who would like to testify.

Clerk Duncan announced this Public Hearing is to consider Variance Application #20-02 from Power Home Solar/Bryan Law to install 16 ground mounted solar modules, grid ties, 5.12 kW in the rear yard setback at 561 Golden Maple Avenue, Brookville, Ohio, which violates Section 1157.10 (e) Ground mounted solar energy equipment shall not be permitted in the front yard or side yard of a residential property. Ground mounted solar energy equipment may be located in the rear yard of a residential property but shall not be located within the rear yard setback. The ground mounted solar energy equipment shall not exceed thirty-five (35%) of the total area of the rear yard. The ground mounted solar energy equipment located in the rear yard shall be adequately screened by vegetation or a fence and shall be installed in compliance with the applicable building code.

Clerk Duncan stated a Legal Notice was published on the City website advising of the Public Hearing.

Clerk Duncan advised letters were mailed out to all property owners within 250 feet of the applicant address of 561 Golden Maple, advising of the Public Hearing and the variance requested in Variance Application #20-02.

Clerk Duncan reported she received one phone call regarding the letter, with general questions regarding the variance application.

Clerk Duncan reported she received two emails regarding the variance application which will be read during Public Comments.

Clerk Duncan inquired whether any Planning Commission Member needs to abstain from participating in this Public Hearing?

Member Schreier indicated he needs to abstain from participating in the Public Hearing.

Lisa Hopkins asked if she would be allowed to speak on this matter?

Chairperson Henderson replied the meeting will be opened for Public Comment after staff reports and presentation.

Member Claggett asked how specifically the solar panels are violating our Zoning Code?

Zoning Officer Snedeker replied the rear yard has a 40-foot setback from the back of the house to the property line. The solar panels are in that 40-foot setback which means it is basically in the rear yard.

Member Claggett asked if they move the solar panels closer to the house, will they still be in the setback?

Zoning Officer Snedeker replied the setback goes from the back of the house to the property line.

Member Requarth stated he drove by the house yesterday. Our Zoning Code says the solar panels cannot be in the side yard but looking at the application it looks like the solar panels will be visible from the side as it will stick out past the east side of the house.

Zoning Officer Snedeker replied it will be visible from the road but technically it is not considered in the side yard. The side yard stops at the rear yard setback.

Member Sievers inquired how the homeowner intends to make the solar panels not visible?

Zoning Officer Snedeker replied they intend to plant shrubs around it.

Member Requarth inquired how high the solar panels actually are?

Zoning Officer Snedeker replied the application indicates the panels are 8 feet 4 inches high.

Member Requarth commented the shrubs will need to be tall.

Zoning Officer Snedeker stated the vegetation should be planted between the solar panels and the neighbors.

Member Claggett questioned if the rear yard setback goes from the back of the house to the property line, how will anyone ever qualify under Section 1157.10(e) where it states ground mounted solar equipment may be located in the rear yard of a residential property? Member Claggett inquired if the rear yard setback always runs from the back of the house to the property line?

Zoning Officer Snedeker replied the setback is 40 feet. Once you get past 40 feet you have 10-20 feet to work with. Some houses in Brookville do meet that. Many homes in Golden Gate Estates and Hunters Run would not qualify and this is one of them.

Member Claggett stated it sounds like it should be a no vote then.

Chairperson Henderson inquired how much of the back yard square footage the solar panels will occupy?

Zoning Officer Snedeker replied it looks like it takes up approximately 25% of the back yard.

Mayor Letner commented the solar panels are 8 feet high and we only allow 6-foot privacy fences. If the homeowner is planting foliage to conceal it, they will be creating shade, which would interfere with the solar panels depending on the time of day.

Member Claggett observed the plot plan looks like the solar panel takes up about 10% of the back yard.

Mayor Letner inquired whether the panels could be lowered and still accomplish the same thing?

Zoning Officer Snedeker stated the way the angle is on the solar panels you have 2 feet in the front of it and 8 feet 5 inches in the back. He stated he is not an engineer, but it looks like it could only be lowered about 1 foot.

Chairperson Henderson advised the solar panels can be installed flat, but they lose efficiency. The submitted design is at the peak angle for maximum efficiency.

Member Requarth commented he does not see how this will ever look good.

Mayor Letner asked if the 35-degree tilt is the optimum?

Chairperson Henderson replied that is correct. Some solar panels rotate and move with the sun's angle, but he does not know if these particular panels move. Chairperson Henderson stated typically the most efficient is a 35-degree tilt. That is why they want the panels to be in the rear yard in this particular case, to achieve the sun angles throughout the course of the year.

Mayor Letner stated his concern is the 8-foot height with neighbors on either side.

Clerk Duncan administered the Oath of Witnesses to Lisa Hopkins, of 585 Golden Maple Avenue.

Ms. Hopkins stated she has several concerns. The lots are fairly close together in their development and putting up 8–10-foot shrubs would be pretty expensive. She does not see the homeowner doing that. Ms. Hopkins stated she thinks it will depreciate their home values. Ms. Hopkins stated she does not know anyone living in this subdivision, Arlington Woods, Charlie Court or anywhere with nice homes would say this is a great idea. Ms. Hopkins stated she would never have built her home in Golden Gate Estates if she knew these solar panels would go in. She thinks they look terrible and she does not think they are really effective. She has known people in the past that have had solar panels and they don't work. If they are supposed to be that great of an idea, then why isn't everyone doing it? More than anything it is not going to help their home values at all, and it will be an eyesore to everyone that drives by. Ms. Hopkins stated she is the Secretary of the HOA. They had a meeting and all four HOA officers opposed the solar panels, but they were later told they could not oppose it. Ms. Hopkins stated she does not know anyone in this subdivision that would want this and asked Planning Commission if they would want it next to their house. Ms. Hopkins stated she has a \$400,000 home and two lots down she is going to get a backyard full of solar panels. She is not sure why the HOA could not oppose this. Ms. Hopkins thanked Planning Commission for listening to her concerns.

Clerk Duncan indicated she received an email from Howard and Koli Williams, of 561 Golden Maple Avenue, which read "We would like to have the Solar Energy System, so we save money, reduce our carbon footprint and gain energy independence. Also, by having the Solar Energy System we will have back up power in case the power will go out, by having the Generac Battery.

Ms. Hopkins commented that all of the electricity in their development is underground and they have never lost power back there.

Clerk Duncan then read a letter from Donna and Steve Whisler, of 1003 Calmer Ernst Boulevard, which read "We have received your letter regarding the application for the zoning variance at 561 Golden Maple Avenue in Brookville. While public pressure here in our rural county is for homeowners to place solar systems only on roofs, we have decided we have no objection to the request to locate solar modules in the rear yard of the residential property on Golden Maple. Thanks for letting us provide our opinion."

Chairperson Henderson opened the floor for further discussion.

Mayor Letner stated the 8-foot height is not a doable scenario. Mayor Letner commented that the folks in Texas who are living off of solar energy and windmills are currently freezing. They are having blackouts and brownouts because they cannot get power. Mayor Letner stated he does not think the solar panels will protect residents if there is a power outage. We have not come that far yet at this time. Mayor Letner stated his personal opinion is no to the solar panels.

Member Requarth stated if they really want standby power, they would be better off putting in a natural gas-powered generator. That would be a cheaper route to go if the concern is losing power.

Chairperson Henderson advised that what Planning Commission is considering is allowing the solar panels in the setback. Solar panels are allowed in our current ordinance so if this is something Planning Commission is adamantly opposed to, we may want to reconsider how that is written. If the applicant had a deeper yard, the solar panels would go in. Member Henderson stated this system would probably not power their whole house and be self-sustaining, however, this is going to be our future and we should be ready for it. Sustainability, carbon neutrality and zero energy homes and putting energy back on the grid is going to come. It is just a matter of time and when. Planning Commission will need to meet again and decide how we are going to handle it. Chairperson Henderson stated he is not in favor of the solar panels in the yard, they need to be on the roof where they can be a little better hidden. He stated he has spoken with a number of people in the community who agree that putting them in the backyard is not the right answer. Planning Commission needs to start thinking about that.

Ms. Hopkins asked if this is something they can put in their HOA?

Law Director Stephan replied the homeowners can amend the covenants to prohibit solar panels or make it a decision of the Homeowner's Association. Law Director Stephan stated the covenants do have architectural control and review by the Homeowner's Association but he did not see anything explicitly addressing solar panels. Law Director Stephan stated conceivably the Homeowner's Association could object to solar panels based on the architectural control provisions. Law Director Stephan advised if you wanted to make it more explicit in your covenants, you could amend the covenants through a proper legal document signed by the number of owners needed for an amendment and file that with Montgomery County.

Ms. Hopkins stated you are correct; they do not have anything regarding the solar panels but when she had her home built four years ago, they had to approve the structure of her home.

Law Director Stephan stated the homeowners could review and approve this installation based on the architectural control provisions of the covenants.

Member Claggett inquired how to make a motion to reject the Variance Application?

Law Director Stephan replied the Variance Application is to install the solar panels in the rear yard setback so this would be a motion to deny the Variance to permit the solar panels to be constructed in the rear yard setback. If they are moved outside of the rear yard setback and moved into a legal position in the rear yard, then they could go ahead and do this project as Chairperson Henderson noted earlier.

Motion by Claggett, second by Requarth to deny Variance Application #20-02 from Power Home Solar/Bryan Law to install 16 ground mounted solar modules, grid ties, 5.12 kW in the rear yard setback at 561 Golden Maple Avenue, Brookville. All yeas, motion carried.

Member Requarth asked if the homeowner can appeal this decision?

Chairperson Henderson replied the homeowner does not have enough rear yard to without setback to do this project. They could put the solar panels on the roof, but it would not be very efficient and probably would not make sense economically for them.

Law Director Stephan advised the homeowners could appeal this decision. They could appeal through the Board of Zoning Appeals and then potentially to the court system if they wanted to do that.

Chairperson Henderson announced the next order of business is Special Use Permit #21-01 for a Home Occupation at 139 June Place.

Zoning Officer Snedeker reported Thomas and Peggy Delaney of 139 June Place have applied for a Special Use Permit for Home Occupation 1163.03(24) to sell pool chemicals and supplies out of their home. Zoning Officer Snedeker stated he has explained to them the concerns of additional traffic along with hours of operation. They will take orders for products to be picked up and offer water testing for customers. Zoning Officer Snedeker advised Mrs. Delaney is in attendance and can answer any questions.

Member Cordes asked Mrs. Delaney what volume of sales she anticipates having?

Mrs. Delaney replied she is not anticipating a lot of sales. They will start small in her one-car garage. They had planned on opening a brick-and-mortar store, but with everything so up in the air they did not want to give up on it totally. Mrs. Delaney stated she has spoken to some of her neighbors and none of them have stated they are against her operating a business.

Member Claggett inquired whether there are any safety concerns with these chemicals?

Mrs. Delaney replied the only two chemicals that would be of concern would be the Shock and the Acid, and she would keep those separate. Everything will be in cases. There is nothing in bulk and nothing that would be open container. It will all be sealed.

Member Cordes inquired whether Mrs. Delaney has checked with her insurance agent regarding opening this type of business in her residence.

Mrs. Delaney replied her mortgage company has no issues with the business and her insurance agent has given her a quote to insure the business.

Member Schreier asked if the business hours on her proposal are actual hours of operation or has she not defined those yet?

Mrs. Delaney replied she has not set the hours of operation yet. She was waiting on Planning Commission input. Her husband would work the first shift, her sister-in-law in the afternoon and she would work it in the evenings.

Member Schreier asked if there will be any signage allowed for the business?

Zoning Officer Snedeker replied the only signage allowed is in the window.

Chairperson Henderson inquired if all the materials will be stored in the garage?

Mrs. Delaney replied it will all be stored in the garage. Mrs. Delaney stated she can provide safety data sheets for all the products upon request.

Zoning Officer Snedeker advised Mrs. Delaney did provide him with information on all the products and their safety requirements. He will forward this information to Planning Members upon request.

Member Claggett asked if the Fire Chief has reviewed this application for any safety concerns?

Zoning Officer Snedeker replied he has not reviewed this with Fire Chief Fletcher.

Mayor Letner asked what quantity of products Mrs. Delaney plans to keep in stock?

Mrs. Delaney replied she will probably keep a couple of skids, which is about 40 cases per skid, of Shock. She stated she will only keep a couple cases of Acid on hand. Those are the only two chemicals that need to be separated because if they get together it is like a mustard gas. They are all in gallon jugs and will be placed apart. Everything is closed, nothing will be open.

Member Schreier asked Mrs. Delaney if she will you have any spill socks or some kind of spill prevention just in case there is spill, or all these all dry?

Mrs. Delaney replied the Shock is not dry and the Acid is not dry. There are some other wet chemicals in gallons or quarts. The only two that she has any concerns about are the Acid and the Shock but those will be separated and kept apart. Mrs. Delaney stated she does have handling bags for customer purchases. The SDS sheets she has show how to do cleanup if something should spill.

Member Schreier stated that may be something the Fire Chief could give input on regarding storage and capturing a spill before it has a chance to mix or leach out into the driveway.

Mrs. Delaney stated she has really does not have a concern for that. She has worked for a chemical company for ten years and has the Hazmat emergency phone number should she need it.

Member Sievers asked if there are any more retail businesses being operated out of homes in that plat?

Zoning Officer Snedeker replied no.

Member Schreier asked what about in general?

Zoning Officer Snedeker replied there are a couple of home businesses in town who sell firearms.



Member Sievers stated her concern is adding traffic back in that plat. It is not well suited for the residents' traffic that live there, let alone adding more.

Chairperson Henderson asked how they are going to get the material into the garage?

Mrs. Delaney replied it will be delivered by her employer with a box truck.

Chairperson Henderson asked if she would have online sales and if she would be shipping by Amazon, UPS or FedEx.

Mrs. Delaney stated they will not have online sales. If this operation goes well, they will move to a brick-and-mortar establishment here in Brookville. There are no pool dealers in this area so she thought this would be a good location.

Member Schreier asked if the driveway will be accessible for customers to pick up and load products into their trunk.

Mrs. Delaney replied that is correct. Customers will pull into the drive to load product.

Member Schreier stated that may mitigate some of the risk of customers being parked on the street.

Member Claggett asked if there would ever be a semi size truck delivering product?

Mrs. Delaney replied the product will be delivered by box truck.

Member Requarth commented probably the only time there would be a lot of traffic would be late spring.

Mrs. Delaney stated that is correct. They will be busy when pools are open and closed. The rest of the season the business will be light.

Member Schreier inquired if everything on the application complies and meets all the requirements in our Zoning Code 1163.03?

Zoning Officer Snedeker replied the only thing he was concerned about was the traffic and the hours of operation and Planning Commission has covered both of those topics.

Member Claggett inquired whether the Special Use Permit could be revoked if the traffic becomes burdensome?

Zoning Officer Snedeker replied if she gets to that point, we can hopefully get her into a brick-and-mortar storefront. Zoning Officer Snedeker stated if the traffic should become burdensome, the Special Use Permit could be brought back before Planning Commission.

Member Claggett stated his main concern is Fire Chief Fletcher's approval of the business.

Zoning Officer Snedeker replied he will contact Fire Chief Fletcher tomorrow and provide him with a list of the chemicals that will be on site.

Member Schreier inquired if Planning Commission could give a conditional approval based on the Fire Chief's review?

Law Director Stephan stated they could adopt a motion subject to review and approval by the Fire Chief. If the Fire Chief renders an opinion that this is not safe, Mrs. Delaney would not be able to receive her permit.

Motion by Schreier, second by Claggett to approve Special Use Permit 21-01, with a provision that the Application is reviewed and approved by the Fire Chief for safety reasons. Cordes nay, Claggett yea, Requarth yea, Letner yea, Schreier yea, Sievers nay, Henderson yea. Motion carried with five yeas and two nays.

Zoning Officer Snedeker reported DMAX, along with Jobs Ohio, held a drive-thru Job Fair last Friday at Golden Gate Park with over 170 participants.

Zoning Officer Snedeker reported construction on the Freedom First Credit Union is progressing and the building will be under roof soon.

Zoning Officer Snedeker reported Gaging Solutions and Services is working hard to get the old fire station on Albert Road up and running. The electrical upgrade will be completed soon and the machines will be set.

Zoning Officer Snedeker reported he had 16 pool permits last year and expects things to pick up once the weather improves.

Member Schreier asked if there have been any permits issued for the old K's Restaurant location?

Zoning Officer Snedeker stated no permits have been pulled yet. All of the restaurant equipment and furniture was sold by the previous owner.

Member Claggett asked if there is any information on the Old Hickory Restaurant and why they shut down.

Zoning Officer Snedeker replied he has only heard rumors, so he does not have any information to share.

Member Claggett inquired what the remodeling is about at the old Fire Station on Albert Road?

Zoning Officer Snedeker replied the City is leasing the building to Gaging Solutions and Services, who has been contracted by DMAX.

Manager Keaton stated the City entered into a five-year lease with this company out of Michigan, who is contracted with DMAX to maintain their equipment. They will start with three employees and eventually ramp up to 18 employees.

Law Director Stephan had no report.

In Old Business, Member Requarth asked if Planning Commission was going to begin working on the setback regulations and on solar panel regulations?

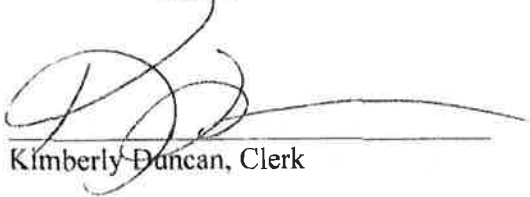
Chairperson Henderson directed Planning Commission Members to review those two items and be prepared to discuss them at the next meeting.

Member Claggett asked if the school has sold the old high school lot?

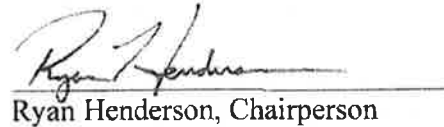
Member Requarth replied the school sold it over a year ago to Alan Thrush.

There was no New Business.

Motion by Claggett, second by Schreier to adjourn. All yeas, motion carried.



Kimberly Duncan, Clerk



Ryan Henderson, Chairperson

# PROJECT DESCRIPTION:

16 X 320W MODULES SILFAB SIL-320 BL  
GROUND MOUNTED SOLAR PHOTOVOLTAIC MODULES  
SYSTEM SIZE: 6.12 KW DC STC  
ARRAY AREA: 292.8 SQ FT

AUTHORITIES HAVING JURISDICTION  
BUILDING : MONTGOMERY COUNTY  
ZONING : MONTGOMERY COUNTY  
UTILITY : THE DAYTON POWER& LIGHT CO

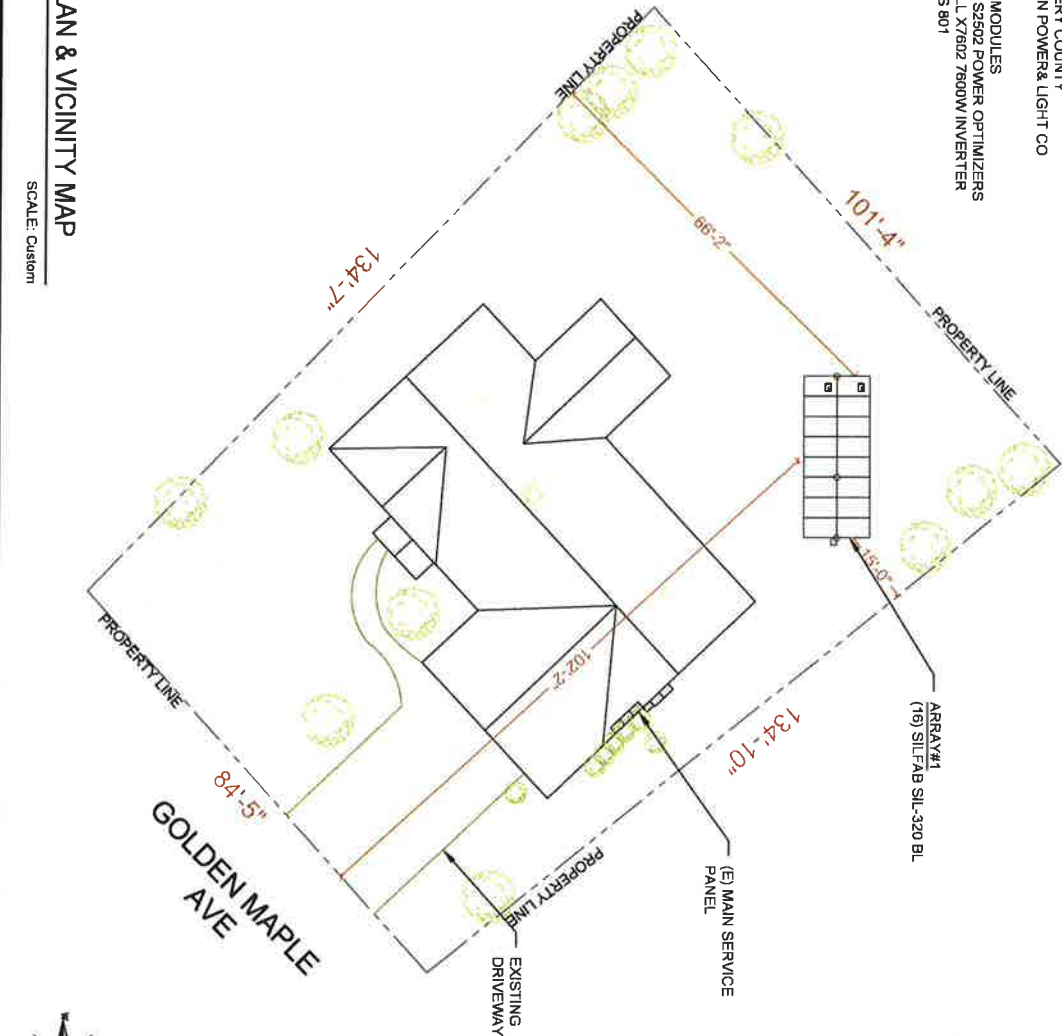
EQUIPMENT SUMMARY  
16 SILFAB SIL-320 BL MODULES  
02 GENERAC PV LINK S2502 POWER OPTIMIZERS  
01 GENERAC PWRCELL X7602 7600W INVERTER  
16 GENERAC SNAP-RS 801

DESIGN SPECIFICATIONS  
OCCUPANCY : II  
CONSTRUCTION : SINGLE-FAMILY  
ZONING : RESIDENTIAL  
GROUND SNOW LOAD : SEE STRUCTURAL LETTER  
WIND EXPOSURE : SEE STRUCTURAL LETTER  
WIND SPEED : SEE STRUCTURAL LETTER

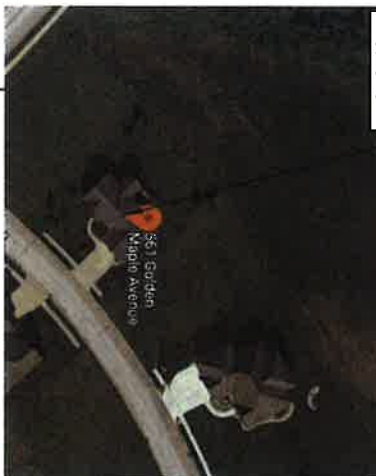
APPLICABLE CODES & STANDARDS  
RCO 2019  
NEC 2017

## 1 PLOT PLAN & VICINITY MAP

SCALE: Custom



## PROJECT SITE



## 2 HOUSE PHOTO

SCALE: NTS



## 3 VICINITY MAP

SCALE: NTS

SHEET INDEX

|            |                          |
|------------|--------------------------|
| PV-1       | PLOT PLAN & VICINITY MAP |
| PV-2       | ROOF PLAN & MODULES      |
| PV-2A      | STRING LAYOUT            |
| PV-3       | ATTACHMENT DETAIL        |
| PV-4       | ELECTRICAL LINE DIAGRAM  |
| PV-5       | WIRING CALCULATIONS      |
| PV-6 to 12 | EQUIPMENT SPECIFICATIONS |

HOWARD WILLIAMS JR  
RESIDENCE  
561 GOLDEN MAPLE AVE,  
BROOKVILLE, OH 45309

DATE: 10/9/2020  
PROJECT NAME & ADDRESS

Signature with Seal

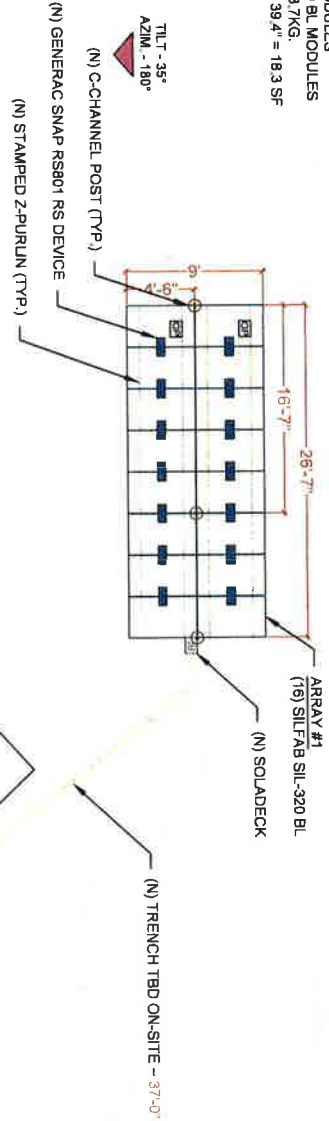
**POWERHOME**  
POWER HOME SOLAR, LLC  
"POWER YOUR FUTURE"  
919 N. MAIN ST.  
MOORESVILLE, NC 28115  
Phone: 704-800-6591 (OFFICE)  
Email: info@powerhome.com  
Web: www.powerhome.com

| REVISIONS   |            |     |
|-------------|------------|-----|
| DESCRIPTION | DATE       | REV |
| INITIAL     | 07/11/2020 |     |
| DRAWING     | 10/9/2020  |     |
| MODIFY      |            |     |

|              |                          |
|--------------|--------------------------|
| SHEET NAME   | PLOT PLAN & VICINITY MAP |
| SHEET SIZE   | ANSI B<br>11" X 17"      |
| SHEET NUMBER | PV-1                     |

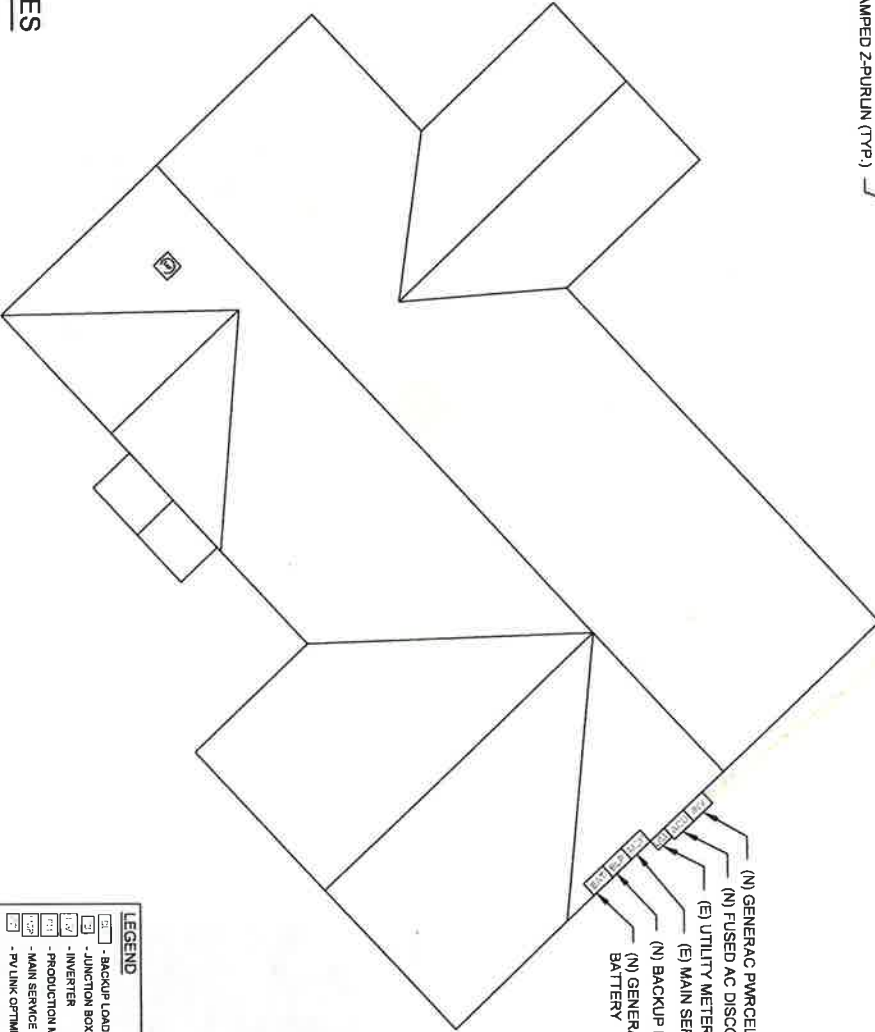
# MODULE TYPE, DIMENSIONS & WEIGHT

NUMBER OF MODULES = 16 MODULES  
 MODULE TYPE = SILFAB SIL-320 BL MODULES  
 MODULE WEIGHT = 41.2 LBS / 18.7 KG.  
 MODULE DIMENSIONS = 66.93" x 39.4" = 18.3 SF



# 1 ROOF PLAN & MODULES

SCALE: Custom



**LEGEND**

- [Symbol] - BACKUP LOAD PANEL
- [Symbol] - JUNCTION BOX
- [Symbol] - INVERTER
- [Symbol] - PRODUCTION METER
- [Symbol] - MAIN SERVICE PANEL
- [Symbol] - PV LINK OPTIMIZER 2502
- [Symbol] - BATTERY
- [Symbol] - VENT, ATTIC FAN (ROOF OBSTRUCTION)
- [Symbol] - ROOF ATTACHMENT
- [Symbol] - RAFTERS
- [Symbol] - CONDUIT
- [Symbol] - SNAP RS801

**SOLAR ATTACHE**

NOTE: LOCATION OF THE SAFE SHOULD BE DETERMINED ON-SITE. LOCATED NEAR THE REAR OF THE ROOF OR ABOUT 5 ROWS DOWN THE SAFE SHOULD NOT BE MOUNTED ON ANY STRUCTURAL MEMBER OR RAFTER. THE SAFE SHOULD BE MOUNTED ON A METAL ROOF OR CONCRETE SLAB. SEE THE MANUFACTURER'S INSTALLATION INSTRUCTIONS FOR DETAILS.

SILFAB SIL-320 BL  
 66.93"  
 39.4"

**POWERHOME**

POWER HOME SOLAR, LLC  
 "POWER YOUR FUTURE!"  
 919 N. MAIN ST.  
 MOORESVILLE, NC 28115  
 Phone: 704-600-6591 (OFFICE)  
 Email: info@powerhome.com  
 Web: www.powerhome.com

**REVISIONS**

| DESCRIPTION | DATE       | REV |
|-------------|------------|-----|
| INITIAL     | 07/16/2020 |     |
| DRAWING     | 10/06/2020 |     |
| MODULE      |            |     |

Signature with Seal

DATE: 10/6/2020

PROJECT NAME & ADDRESS

HOWARD WILLIAMS JR RESIDENCE  
 561 GOLDEN MAPLE AVE,  
 BROOKVILLE, OH 45309

SHEET NAME

ROOF PLAN & MODULES

SHEET SIZE

ANSI B  
 11" X 17"

SHEET NUMBER

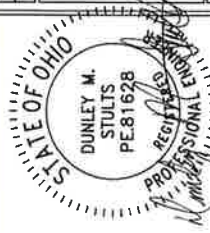
PV-2

| REVISIONS   | DATE       | REV |
|-------------|------------|-----|
| DESCRIPTION |            |     |
| INITIAL     | 07/16/2020 |     |
| GROUND      | 10/02/20   |     |
| AMOUNT      |            |     |
|             |            |     |
|             |            |     |

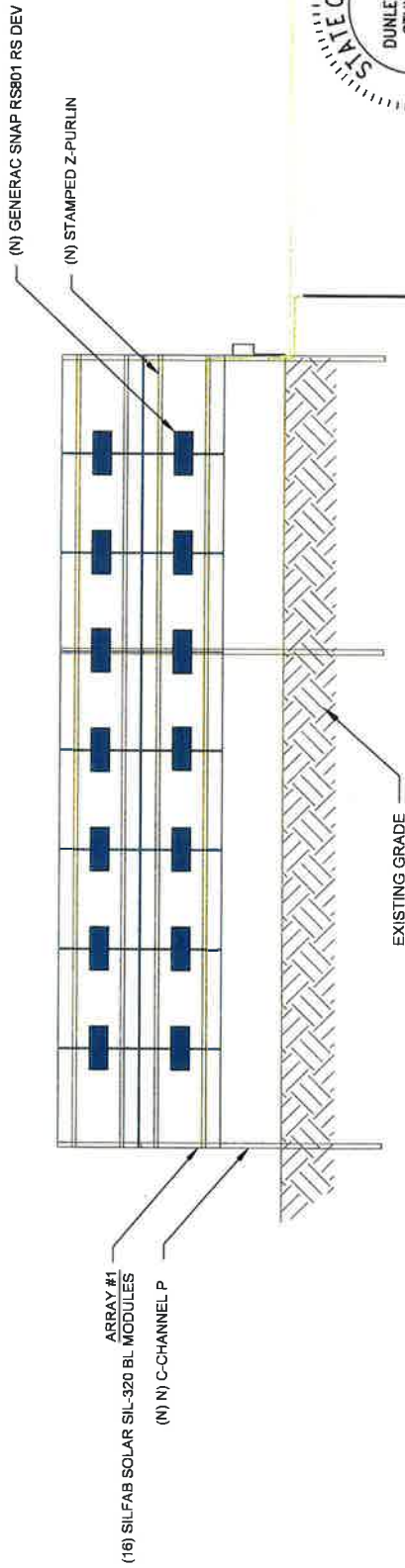
Signature with Seal  
 DATE: 10/6/2020  
 PROJECT NAME & ADDRESS

HOWARD WILLIAMS JR  
 RESIDENCE  
 661 GOLDEN MAPLE AVE.  
 BROOKVILLE, OH 45309

|              |                      |
|--------------|----------------------|
| SHEET NAME   | ATTACHMENT<br>DETAIL |
| SHEET SIZE   | ANSI B<br>11" X 17"  |
| SHEET NUMBER | PV-3 B               |

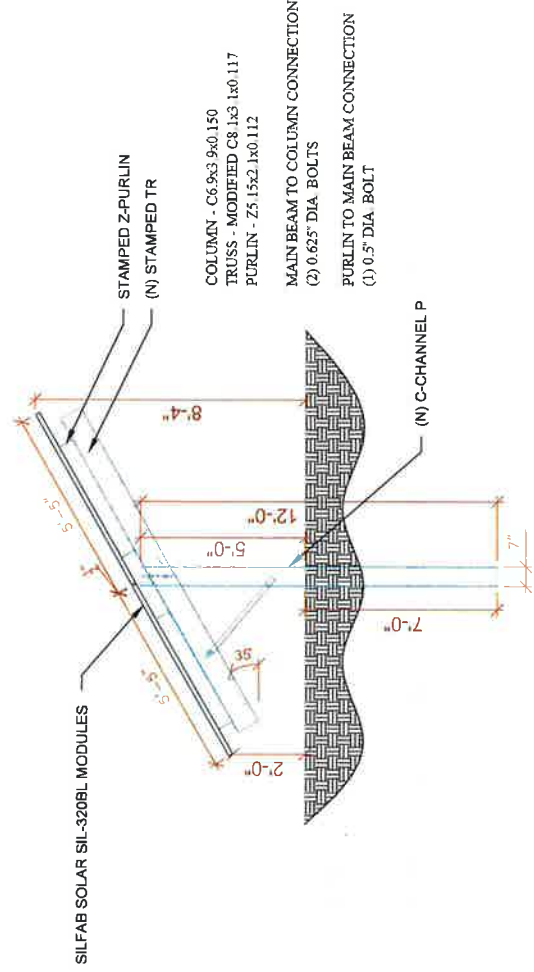


10/7/2020  
 SEAL LIMITED TO  
 STRUCTURAL  
 COMPONENTS  
 SINCLAIR DESIGNS &  
 ENGINEERING, LLC  
 C.O.A. NO. 06054  
 1104 INDUSTRIAL BLVD.  
 ALBION, MI 49224



**1 RACKING DETAIL (Rear View)**

PV-3B SCALE: 1/4" = 1'-0"



**2 RACKING DETAIL (Side View)**

PV-3B SCALE: NTS



| REVISIONS   | DATE       | REV |
|-------------|------------|-----|
| DESCRIPTION | DATE       | REV |
| INITIAL     | 07/16/2020 |     |
| GROUND      | 10/02/2020 |     |
| MOUNT       |            |     |
|             |            |     |
|             |            |     |

Signature with Seal

DATE: 10/02/2020

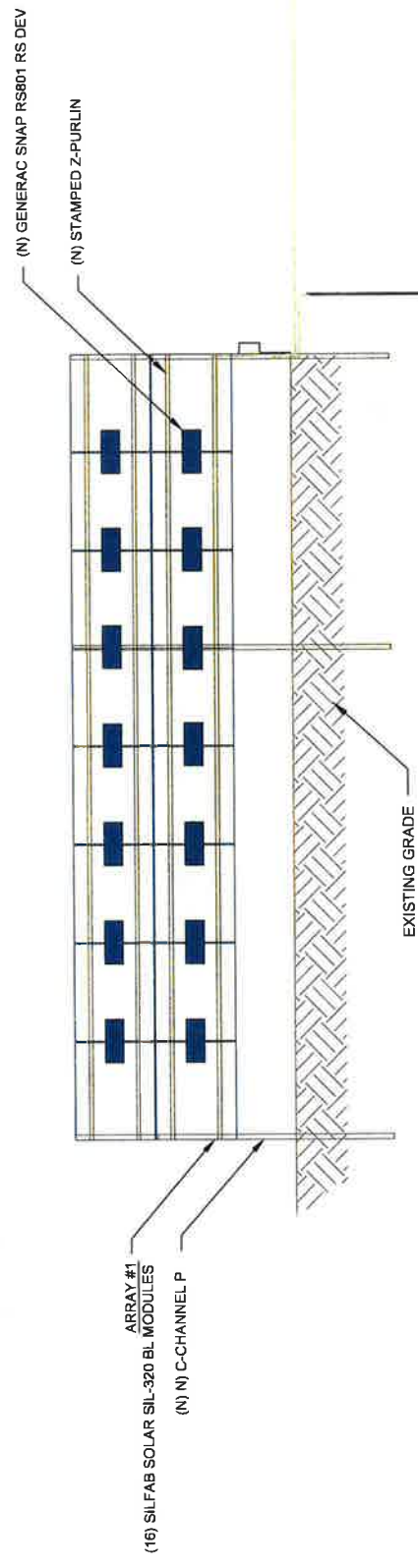
PROJECT NAME & ADDRESS

HOWARD WILLIAMS JR  
 RESIDENCE  
 561 GOLDEN MAPLE AVE,  
 BROOKVILLE, OH 45309

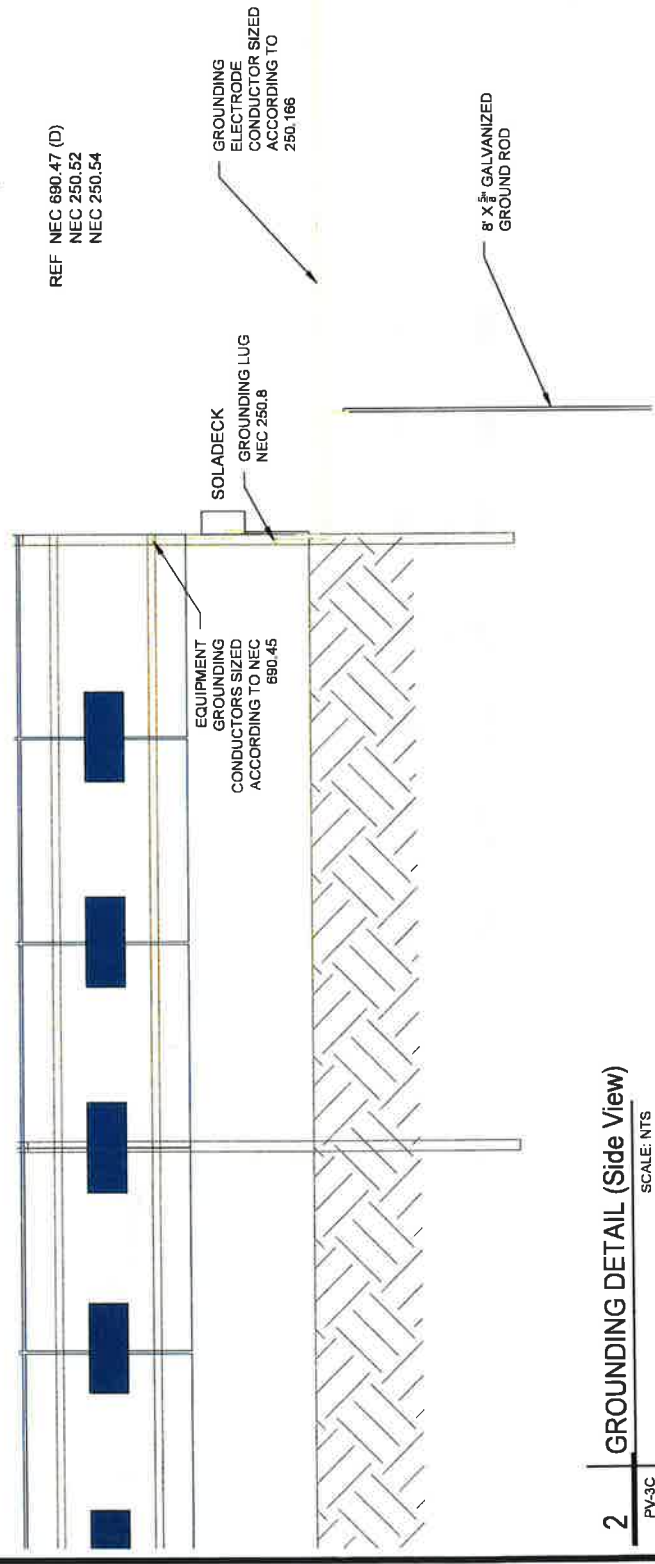
SHEET NAME  
 ATTACHMENT  
 DETAIL

SHEET SIZE  
 ANSI B  
 11" X 17"

SHEET NUMBER  
 PV-3 C



**1 RACKING DETAIL (Rear View)**  
 SCALE: 1/4" = 1'-0"



**2 GROUNDING DETAIL (Side View)**  
 SCALE: NTS

(b) Solar energy equipment means panels, lines, pumps, batteries, mounting brackets, framing, and any other equipment used for or intended to be used for collection of solar energy.

(c) Roof mounted solar energy equipment shall be permitted in all zoning districts provided the roof mounted solar energy equipment shall not exceed the maximum building height for the zoning district, and shall be installed in compliance with the applicable building code.

(d) Ground mounted solar energy equipment shall be permitted in the front yard, side yard, and rear yard of a commercial or industrial property, but shall not be located within the applicable front yard, side yard, or rear yard setback of any commercial or industrial property. Ground mounted solar energy equipment shall be installed in compliance with the applicable building code.

(e) Ground mounted solar energy equipment shall not be permitted in the front yard or side yard of a residential property. Ground mounted solar energy equipment may be located in the rear yard of a residential property, but shall not be located within the rear yard setback. The ground mounted solar energy equipment shall not exceed thirty-five percent (35 %) of the total area of the rear yard. The ground mounted solar energy equipment located in the rear yard shall be adequately screened by vegetation or a fence, and shall be installed in compliance with the applicable building code.

(f) Zoning permits for solar energy equipment which fully comply with the requirements of this Ordinance may be issued by the Zoning Enforcement Officer.  
(Ord. 2009-11. Passed 9-15-09.)

#### **1157.11 DONATION BINS.**

(a) Donation Bins are defined as any enclosed receptacle or container made of metal, steel, or a similar product and designed or intended for the donation and temporary storage of clothing or other materials.

(b) Donation Bins located inside a building used as a church, school, non-profit organization or inside a commercial or industrial building are permitted use and shall not require a zoning permit.

(c) Donation Bins located on the exterior of a church, school, non-profit organization, or commercial or industrial building shall require approval by Planning Commission as a temporary accessory structure. Planning Commission may approve a Donation Bin upon compliance with the following standards:

- (1) The property owner has approved in writing the location of the Donation Bin on the property.
- (2) The Donation Bin is not located within any required front yard, rear yard or side yard setback for the zoning district, access easement, driveway, parking area, fire lane, or any other area prohibited by the Zoning Code or Building Code of the City of Brookville.
- (3) The placement of the Donation Bin shall not impede traffic or visually impair any motor vehicle operation within a parking lot or from a public street or alley.
- (4) The Donation Bin is being used by a duly registered charitable organization and the Donation Bin shall contain the name, address and phone number of the charitable organization.
- (5) The Donation Bin shall not exceed five (5) feet in height, and shall not exceed four (4) feet in width.
- (6) Only one Donation Bin shall be permitted on a property at any time.



(b) Portable on-demand storage units may be located as a temporary structure on a property within the City for a period of seventy-two (72) hours in duration from time of delivery to time of removal and shall not require a zoning permit.

(c) Portable on-demand storage units may be located as a temporary structure on a property within the City for a period exceeding seventy-two (72) hours in duration from time of delivery to time of removal only upon application for a temporary accessory use permit. The Zoning Enforcement Officer may approve the temporary accessory use permit for a period of time that shall not exceed thirty (30) days upon demonstrated need by the property owner for location of a portable on-demand storage unit on the property for a period of time exceeding seventy-two hours. The Planning Commission shall review the temporary accessory use permit issued by the Zoning Enforcement Officer at its next regularly scheduled meeting, and may modify, extend or terminate said temporary accessory use permit after review of the application and evidence regarding the reasons for the continued location of the portable on-demand storage unit on a property for a period exceeding seventy-two (72) hours.

(d) Portable on-demand storage units shall not be located closer than three (3) feet from any side or rear property line, and shall be located behind the sidewalk in the front yard between the sidewalk and the principal structure. If there is no sidewalk, the portable on-demand storage unit shall be located behind the front setback for the zoning district in which the property is located. Portable on-demand storage units shall be located on the property on a hard surface, as defined in 1103.03 of the Code of Ordinances.

(e) The Zoning Enforcement Officer may approve the location of more than one portable on-demand storage unit on a property upon demonstrated need by the property owner, subject to review by Planning Commission at its next regularly scheduled meeting.

(f) Portable on-demand storage units shall not exceed eight (8) feet six (6) inches in height, ten (10) feet in width or twenty (20) feet in length.

(g) Portable on-demand storage units shall not be located on a property more than two (2) times in a calendar year.

(h) It shall be the responsibility of the property owner to secure a portable on-demand storage unit so that it does not endanger the safety of persons or property in the vicinity of the portable on-demand storage unit. The Zoning Enforcement Officer may order the immediate removal of a portable on-demand storage unit that is not properly secured and is a danger to the safety of person or property in the vicinity of the portable on-demand storage unit.

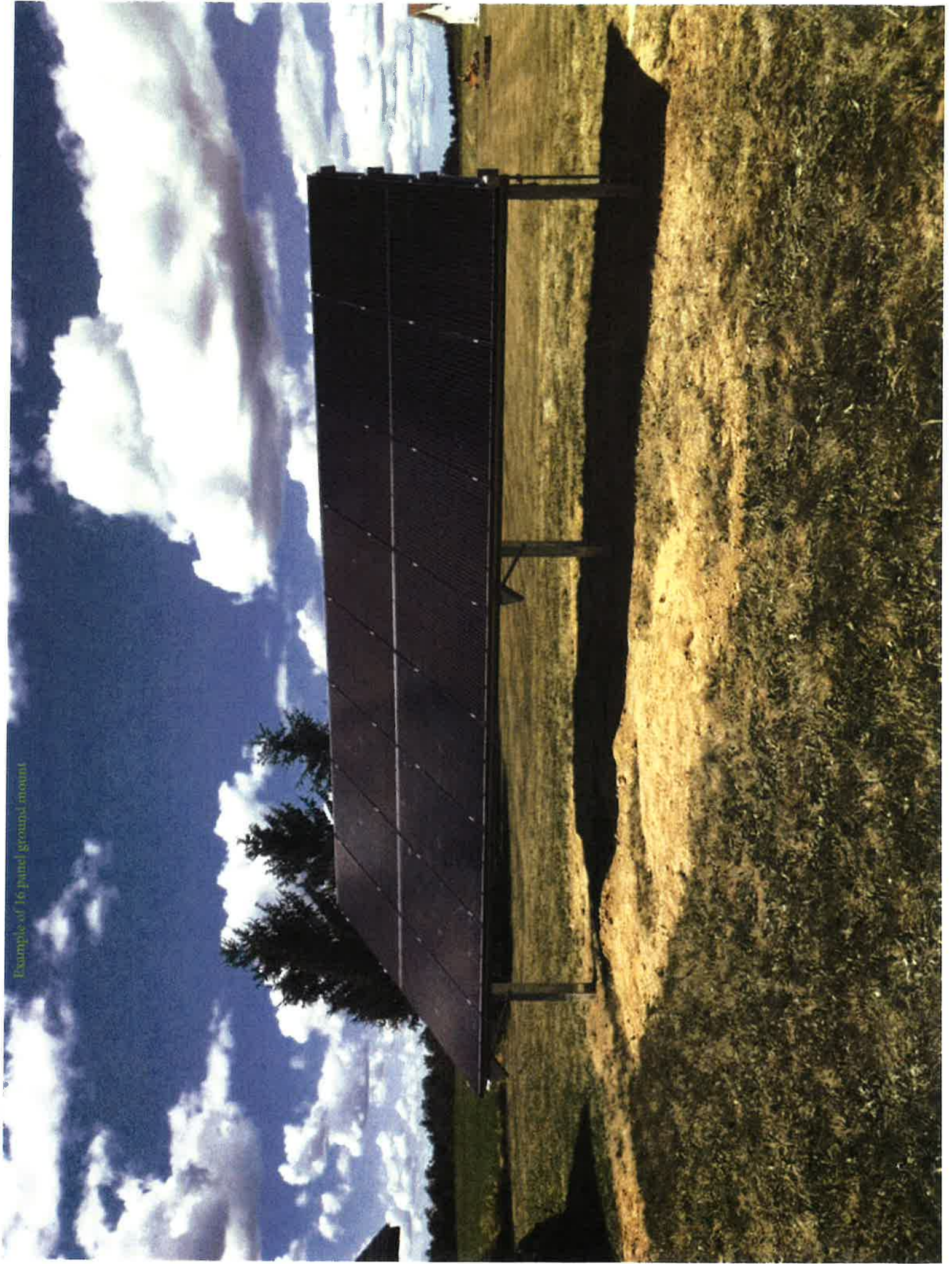
(i) Any portable on-demand storage unit which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the order of the Zoning Enforcement Officer for removal of the portable on-demand storage unit for safety reasons, may be removed by the City immediately, without notice, and the cost of such removal, together with the cost of administration of its removal, may be assessed against the property on which the portable on-demand storage unit was located and may be certified to the County Auditor as an assessment against the property.  
(Ord. 2009-10. Passed 9-15-09.)

#### **1157.10 SOLAR ENERGY EQUIPMENT.**

(a) The use of solar energy equipment for collection of solar energy to provide electricity, heat, or otherwise provide energy to a residential, commercial, or industrial building shall be a permitted accessory use in all zoning districts in the City of Brookville.



Example of 16 panel ground mount



# Memo

**To:** Chairperson and Planning Commission  
**From:** Jim Snedeker Zoning Officer  
**Date:** May 14, 2021  
**Re:** Final Plat Approval for Meadows of Brookville Section 7

---

Taywood Enterprises Inc. has submitted a Zoning Application for a Final Subdivision Permit for Meadows of Brookville Section Seven to be approved by Planning Commission. This section has been reviewed and passed previously and all site development requirements are permitted under R-1C Urban Residential District.

Jim Snedeker



# Municipality of Brookville

*"A Proud and Progressive Community"*

Application #FS 21-01

## ZONING APPLICATION FOR A MAJOR (FINAL) SUBDIVISION PERMIT

The undersigned hereby applies for a MAJOR (FINAL) SUBDIVISION PERMIT to be issued solely on the basis of information contained herein, and, with the knowledge that the falsification of any fact or statement submitted with, or within, this application shall render this application null and void.

TAYWOOD ENTERPRISES INC

1. Applicant \_\_\_\_\_
2. Applicant address 3650 OLD SALEM RD.
3. Phone (Hm) \_\_\_\_\_ (Bus) 937-623-2237 Interest in property OWNER
4. Location or address of property to be affected END OF BROOKE PARK AVE.
5. Legal description 3.427 Ac. PT. LOT 2609 CITY OF BROOKVILLE
6. Present Zoning classification R-1C Existing use VACANT

7. To be processed for a MAJOR (FINAL) SUBDIVISION PERMIT, the Subdivider shall prepare and submit the following:

(a) Fifteen (15) copies of the final plat of the proposed subdivision. (b) Three (3) copies of construction drawings related to the improvements to be constructed in the proposed subdivision. (c) Three (3) copies of an itemized engineer's estimate with quantities for all proposed improvements including the estimate of cost for each item. (d) Three (3) copies of the storm sewer and storm detention calculations and other applicable calculations for design. (e) Completed final checklist with remarks, and (f) Final construction plan checklist with remarks (See Design Criteria for list).

8. All final plats, construction drawings and supporting documents shall meet all Design Criteria and Construction Standards and Drawings established by the Municipality of Brookville, the Zoning Code of the Municipality, or requirements established by other Governmental organizations having jurisdiction over the improvements. The most restrictive requirements shall apply.

9. The final plat shall be considered officially filed on the day it is received and properly noted and shall be so dated. However, the final plat shall not be considered properly submitted until all applicable fees are paid by the developer (see Schedule of Fees - Section 1185.04) and until all plans, supporting documents, and materials are provided to the Municipal Manager.

### 10. Final Plat Form

(a) The final plat shall be clearly legibly drawn on reproducible mylar. The size of the drawing shall be 11" x 17". The plat of a subdivision containing five (5) acres or less, shall be drawn to a scale of 1" = 50'. All other subdivisions shall be drawn to a scale of 1" = 100'. The minimum lettering height shall be 3/32" and all lot dimensions shall be 1/8" or larger. Lot number lettering shall be 1/4" or larger and underlined or circled. (b) If the final plat is drawn in two (2) or more sections, each section shall be accompanied by a key map showing the location of the sections. All final plat sections shall either totally include or totally exclude intersections and all lots fronting such intersections. (c) The survey shall conform to the minimum standards as per Section 4733-37-01 through 07 of the Ohio Revised Code, and further, shall meet the Minimum Standards for Filing Land Surveys within the Municipality of Brookville, Ohio. (d) Construction Drawings shall be submitted in the form stated in the Municipality of Brookville Design Criteria. The plans shall consist of the required improvements stated in the Regulations.

### 11. The final plat shall contain the following information:

(a) Name of the subdivision (which shall not duplicate or closely resemble the name of any other subdivision in the County), location by section, town, range and township, or by other survey number, date, North arrow and basis of bearing, acreage to thousandths of an acre (total lot acreage and total street acreage) and deed book and page reference. (b) Name and address of the subdividers, the professional engineer, and registered surveyor who prepared the plat and appropriate registration numbers and seals. (c) The total area being platted shall include all perimeter courses and be outlined by a heavy-line border. Courses are to be listed in a clockwise direction. All dimensions, both lineal and angular, shall be determined by an accurate control survey in the field. The error of closure shall conform to the Ohio Administrative Code. (d) Bearings and distances to the nearest centerline of intersecting roads or the intersection of right-of-way lines; lot corners of recorded plat with plat reference; or Section Corner or Quarter Section



Corner. (e) Names, exact location, dimensions and right-of-way width of all streets and railroads within and adjoining the plat and building set back lines. Street names shall be approved by the Planning Commission. (f) Radii, internal angles, points of curvature, tangent bearings, lengths of arcs, chord length bearing of all applicable streets within the plat area shall be illustrated on the plat. (g) The exact locations, dimensions and uses of all private and public utility easements shall be illustrated on the plat. (h) All lots accurately dimensioned in feet and hundredths with lot numbers and acreage. The lot numbers shall be consecutive for each platted section and shall be placed in the center of the lot with acreage under the lot number. Replatted lots shall illustrate existing lot numbers, lot lines dashed, and utility easements on the plat. (i) Accurate location and a description of all monuments as to type, size, and whether the monument was found or set. If a monument has been omitted or offset, a notation shall appear on the plat indicating the reason for the omission; or if it has been offset, its true location in relation to the property corner or lot corner shall be noted. (j) Accurate outlines of areas to be dedicated or reserved for public use, or any area to be reserved for the common use of all property owners. The use and accurate boundary locations shall be shown for each parcel of land to be dedicated. (k) Any restrictions and covenants shall be shown or referenced on the final plat. (l) Certification shall contain the following: (1) The total acres being subdivided; (2) Current ownership; (3) Deed reference; and (4) Zoning. (m) Acknowledgment dedication statement of the owner or owners to the plat and restrictions, including dedications to public use of all public streets, alleys, parks or other open spaces shown thereon and the granting of the required easements, as shall be indicated by the following statement on the plat tracing: "Easements shown on this plat are for the construction, operation, maintenance, repair, replacement or removal of water, gas, sewer, electric, telephone, or other utilities or services, and for the express privilege of removing any and all trees or other obstructions to the free use of said utilities and for providing of ingress and egress to the property for said purposes, and to be maintained as such indefinitely". A statement of intention and request for the vacation of lot lines and easements on previously platted properties, and the signature of authorized representatives of local utility companies (electric, telephone, cable television, etc.) acknowledging the abandonment of easements. (n) The names of record of all abutting parcels with deed reference, acreage and survey record reference, if applicable. Platted land shall show the name of the subdivision, lot numbers, plat book and page reference. (o) Any section lines, corporation limits, township and county lines shall be accurately documented and located on the plat and their names lettered thereon. (p) Location of permanent facilities and easements for same used for drainage control such as detention ponds, retention ponds, infiltration beds, etc., and the statement of the provisions for the maintenance of these facilities. (q) Approval signature and date lines shall be provided for Municipal Manager, Mayor, Clerk of Council, Planning Commission Chairperson, and County Engineer.

12. The following information shall be supplied in addition to the above requirements:

(a) If a zoning change is involved, approval shall be required and in effect prior to submittal. (b) Prior to approval of the final plat, a Surety shall be furnished assuring installation and initial maintenance of the required improvements (c) In flood prone areas the subdivider shall provide information detailing how the structures will be protected from flood hazard. (d) The Planning Commission may require the applicant to submit additional topographic information, detailed plans for proposed uses, and other information to determine possible flood or erosion hazards, the effect of the subdivision uses upon flood flows, and the adequacy of proposed flood protection measures. The Planning Commission may consult with expert persons or agencies for technical assistance and advice. (e) These construction plans shall be submitted to the OEPA and the City of Dayton Water Department for approvals as required. Certification of OEPA approval shall be provided on the plans where applicable. Construction shall not commence until such approvals are granted. (f) The Municipal Manager's signature shall be provided on approved construction plans to verify compliance with the applicable specifications and the requirements of the Regulations.

13. After the final plat has been approved by the Planning Commission, dedications accepted by the Council and the necessary approval endorsed in writing thereon, the subdivider shall record the plat in the office of the County Recorder. The final plat shall be recorded in the office of the County Recorder as required by law within 90 days after the date of final approval. If such record is not made within 90 days, the approval will become void and reapplication must be made. The subdivider shall furnish the Municipality with a copy of the recorded plat.

TIM TAYLOR, PRESIDENT

4-23-21

Application Date

Signature of Applicant

OFFICE USE ONLY BELOW LINE

Appr/Denied Planning Commission \_\_\_\_\_ Date \_\_\_\_\_

Appr/Denied Brookville Council \_\_\_\_\_ Date \_\_\_\_\_

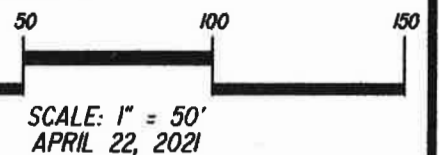
Fee \$300.00 Receipt number 73107 Date 4/23/2021  
(NON REFUNDABLE) REV 8/00

RECORD PLAN  
OF  
**MEADOWS OF BROOKVILLE**  
SECTION SEVEN - 3.427 AC.

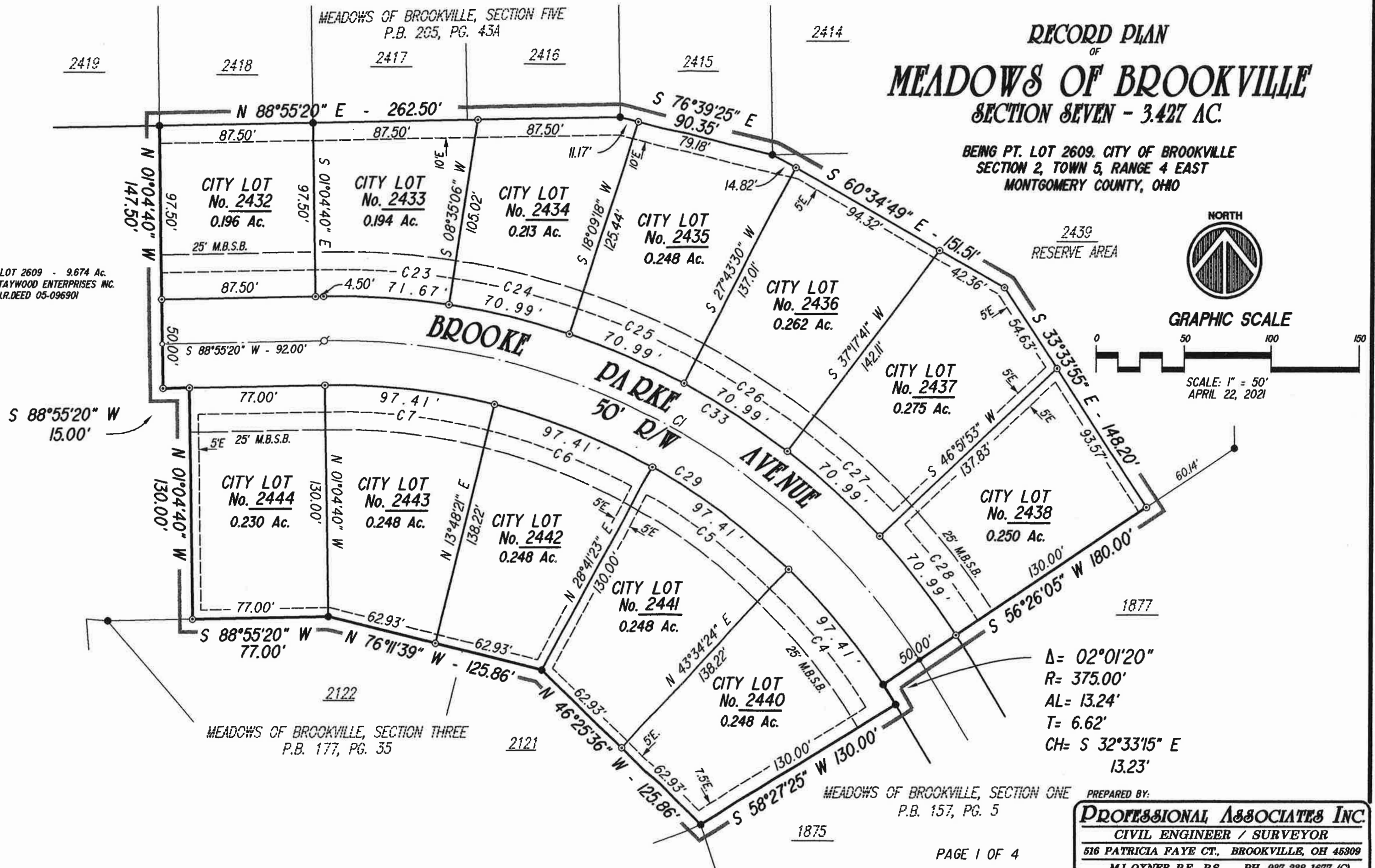
BEING PT. LOT 2609, CITY OF BROOKVILLE  
SECTION 2, TOWN 5, RANGE 4 EAST  
MONTGOMERY COUNTY, OHIO

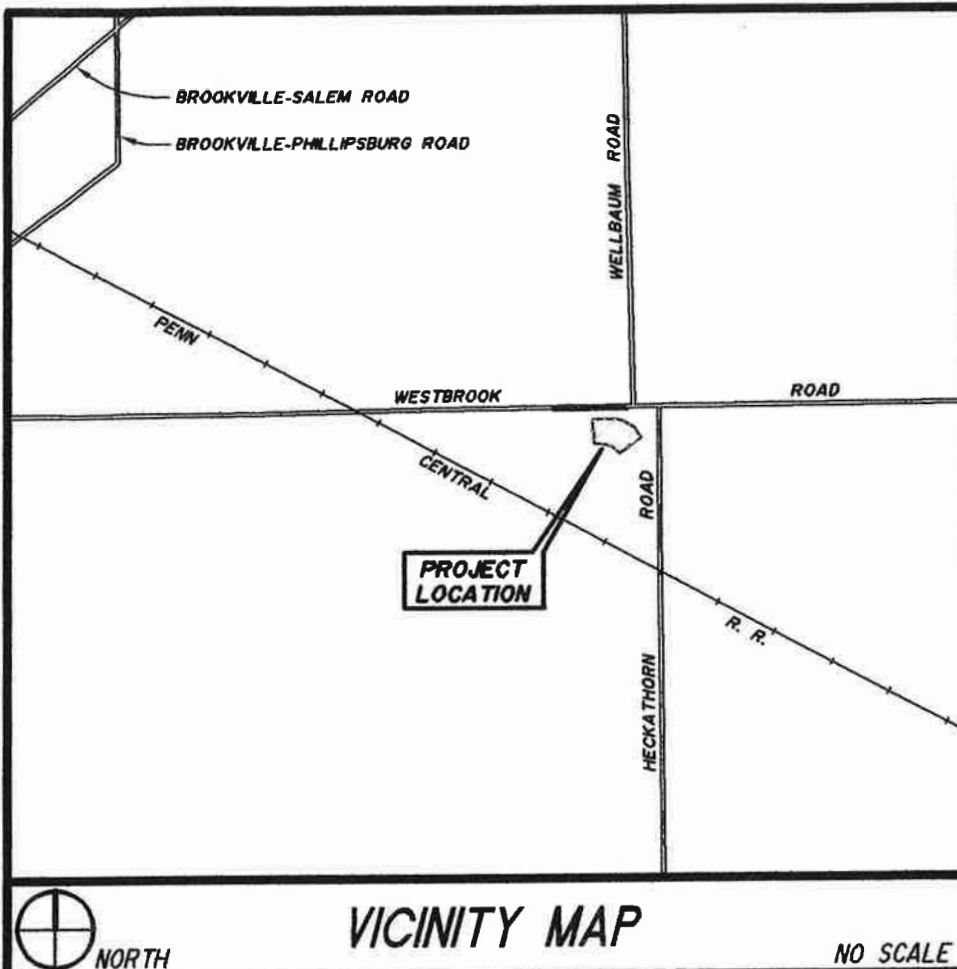


GRAPHIC SCALE



LOT 2609 - 9.674 Ac.  
TAYWOOD ENTERPRISES INC.  
LR DEED 05-096901





### BEARING BASIS

CORRELATED TO THE NORTHWESTERLY LINE OF MEADOWS OF BROOKVILLE, SECTION TWO AS RECORDED IN PLAT BOOK 163 Pg. 40 AS S 27°30'50" W

### OCCUPATION STATEMENT

OCCUPATION LINES ARE IN GENERAL AGREEMENT WITH TITLE LINES.

### LEGEND:

- IRON PIN FOUND - SIZE INDICATED
- IRON PIN SET W/I.D. CAP - 5/8"
- IRON PIPE FOUND - SIZE INDICATED
- ✕ R/R SPIKE FOUND
- ✕ R/R SPIKE SET
- P.K. NAIL SET
- △ STONE FOUND
- MONUMENT FOUND
- ⊗ MONUMENT SET
- CORNER NOT MONUMENTED

OWNER/DEVELOPER  
**TAYWOOD ENTERPRISES, INC.**  
3650 OLD SALEM RD.  
DAYTON, OHIO 45445  
Ph: (937) 623-2237

### ACREAGE SUMMARY

|              |                  |
|--------------|------------------|
| R/W          | 0.566 AC.        |
| LOTS         | 2.860 AC.        |
| <b>TOTAL</b> | <b>3.426 AC.</b> |

### APPROVALS:

APPROVED FOR DESCRIPTION

BY: \_\_\_\_\_

MONTGOMERY COUNTY ENGINEER

DATE \_\_\_\_\_

FILE NO. \_\_\_\_\_

### CURVE DATA:

| NUMBER | DELTA ANGLE | RADIUS  | ARC LENGTH | TANGENT | CHORD DIRECTION | CHORD LENGTH |
|--------|-------------|---------|------------|---------|-----------------|--------------|
| C1     | 57°30'45"   | 400.00' | 401.5'     | 219.50' | N 62°19'17" W   | 384.87'      |
| C4     | 14°53'01"   | 375.00' | 97.4'      | 48.98'  | N 38°59'06" W   | 97.14'       |
| C5     | 14°53'01"   | 375.00' | 97.4'      | 48.98'  | N 53°52'07" W   | 97.14'       |
| C6     | 14°53'01"   | 375.00' | 97.4'      | 48.98'  | N 68°45'08" W   | 97.14'       |
| C7     | 14°53'01"   | 375.00' | 97.4'      | 48.98'  | N 83°38'09" W   | 97.14'       |
| C23    | 09°39'46"   | 425.00' | 71.67'     | 35.92'  | N 86°14'47" W   | 71.59'       |
| C24    | 09°34'12"   | 425.00' | 70.99'     | 35.58'  | N 76°37'48" W   | 70.90'       |
| C25    | 09°34'12"   | 425.00' | 70.99'     | 35.58'  | N 67°03'36" W   | 70.90'       |
| C26    | 09°34'12"   | 425.00' | 70.99'     | 35.58'  | N 57°29'25" W   | 70.90'       |
| C27    | 09°34'12"   | 425.00' | 70.99'     | 35.58'  | N 47°55'13" W   | 70.90'       |
| C28    | 09°34'12"   | 425.00' | 70.99'     | 35.58'  | N 38°21'01" W   | 70.90'       |
| C29    | 57°30'45"   | 375.00' | 376.42'    | 205.79' | N 62°19'17" W   | 360.81'      |
| C33    | 57°30'45"   | 425.00' | 426.61'    | 233.22' | S 62°19'17" E   | 408.92'      |
|        |             |         |            |         |                 |              |
|        |             |         |            |         |                 |              |
|        |             |         |            |         |                 |              |



### DESCRIPTION:

THE WITHIN PLAT IS A SUBDIVISION OF 3.427 ACRES LOCATED IN THE COUNTY OF MONTGOMERY, STATE OF OHIO, AND BEING PART OF LOT No. 2609 OF THE CONSECUTIVE NUMBERED LOTS OF THE CITY OF BROOKVILLE AND PART OF THE NORTHEAST QUARTER OF SECTION 2, TOWN 5, RANGE 4 EAST AND BEING PART OF THE LANDS HERETOFORE CONVEYED TO TAYWOOD ENTERPRISES, INC. BY I.R. DEED 05-096901.

### DEDICATION:

WE, THE UNDERSIGNED, BEING ALL OF THE OWNERS AND LIENHOLDERS OF THE LAND HEREIN SUBDIVIDED, DO HEREBY ACKNOWLEDGE AND VOLUNTARILY CONSENT TO THE EXECUTION OF SAID PLAT AND DO HEREBY RESERVE THE EASEMENTS AS SHOWN, AND DEDICATE THE STREETS AND ROADS TO THE PUBLIC USE.

EASEMENTS SHOWN ON THIS PLAT ARE FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, OR REMOVAL OF WATER, GAS, ELECTRIC, TELEPHONE, OR OTHER UTILITY LINES OR SERVICES, AND FOR THE EXPRESS PRIVILEGE OF REMOVING ANY AND ALL TREES, SHRUBS OR OTHER OBSTRUCTIONS TO THE FREE USE OF SAID UTILITIES, AND FOR PROVIDING OF INGRESS TO AND EGRESS FROM THE PROPERTY FOR SAID PURPOSES, AND ARE TO BE MAINTAINED AS SUCH FOREVER.

SIGNED AND ACKNOWLEDGED IN THE PRESENCE OF: OWNER: TAYWOOD ENTERPRISES, INC.  
AN OHIO CORPORATION

WITNESS

TIM TAYLOR, PRESIDENT

NAME PRINTED

WITNESS

NAME PRINTED

### STATE OF OHIO, S.S.:

BE IT REMEMBERED ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021, BEFORE THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY CAME THE SAID TAYWOOD ENTERPRISES, INC. BY TIM TAYLOR, ITS PRESIDENT, TO ME KNOWN, AND ACKNOWLEDGED THE SIGNING AND EXECUTION OF THE WITHIN PLAT TO BE THEIR VOLUNTARY ACT AND DEED. IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND NOTARIAL SEAL ON THE DAY AND DATE ABOVE WRITTEN.

NOTARY PUBLIC \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_



### STATE OF OHIO, S.S.:

TIM TAYLOR, AS PRESIDENT OF TAYWOOD ENTERPRISES, INC., BEING DULY SWORN SAYS THAT ALL PERSONS AND CORPORATIONS, TO THE BEST OF HIS KNOWLEDGE INTERESTED IN THIS DEDICATION, EITHER AS OWNERS, OR AS LIENHOLDERS HAVE UNITED IN ITS EXECUTION.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL ON THE DAY AND DATE ABOVE WRITTEN.

NOTARY PUBLIC \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_



### APPROVALS:

#### CITY OF BROOKVILLE

##### COUNCIL

DATE: \_\_\_\_\_

MAYOR: CHUCK LETNER

CLERK: KIM DUNCAN

##### PLANNING COMMISSION

DATE: \_\_\_\_\_

CHAIRPERSON: RYAN HENDERSON

CLERK: KIM DUNCAN

### SURVEYOR'S CERTIFICATION:

I, MICHAEL L. OXNER, HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF OHIO, THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH O.A.C. CHAPTER 4733-37 STANDARDS FOR PLAT OF SURVEY AND ALSO CONFORMS TO THE O.R.C. CHAPTER 711 STANDARDS FOR RECORD PLANS AND WAS CONDUCTED UNDER MY DIRECT SUPERVISION, BASED ON FIELDWORK IN APRIL 2021. ALL MEASUREMENTS ARE CORRECT AND MONUMENTS ARE TO BE SET AS SHOWN. CURVED DISTANCES ARE MEASURED ON THE ARC. IRON PINS TO BE SET AT ALL CORNERS.



MICHAEL L. OXNER, REG. PROF. SURVEYOR, NO. 6209  
STATE OF OHIO APRIL 2021

## PROTECTIVE COVENANTS & RESTRICTIONS

1. ALL LOTS IN THIS SUBDIVISION SHALL BE FOR RESIDENTIAL PURPOSES ONLY. NO BUILDING SHALL BE ERRECTED, ALTERED, PLACED, OR PERMITTED TO REMAIN ON ANY OF THESE LOTS OTHER THAN ONE SINGLE FAMILY DWELLING UNIT, NOT TO EXCEED TWO AND ONE-HALF (2-1/2) STORIES STORIES IN HEIGHT AND A PRIVATE ATTACHED GARAGE FOR NOT LESS THAN TWO CARS.
2. THE MINIMUM FLOOR AREA FOR DETACHED SINGLE FAMILY RESIDENTIAL BUILDINGS, EXCLUSIVE OF ONE STORY PORCHES, BASEMENTS AND GARAGES SHALL NOT BE LESS THAN 1400 SQUARE AS REQUIRED BY THE RIC ZONING REGULATIONS.
3. NO BUILDING SHALL BE LOCATED ON ANY LOT NEARER TO THE FRONT LOT LINE OR NEARER TO THE SIDE LOT LINE THAN THE MINIMUM BUILDING SETBACK LINE SHOWN ON THE RECORDED PLAT. IN ANY EVENT, NO BUILDING SHALL BE LOCATED NEARER THAN TWENTY FIVE (25) FEET TO THE FRONT LOT LINE OR NEARER THAN TEN (10) FEET TO ANY INTERIOR LOT LINE, EXCEPT FOR LOTS NO. 2435 - 2438, WHICH MAY HAVE A SIDEYARD DISTANCE OF 7.5 FEET.
4. NO BUILDING MAY BE LOCATED ON A LOT CLOSER THAN FORTY (40) FEET TO ANY REAR LOT LINE, EXCEPT FOR LOTS 2432 - 2434, WHICH MAY HAVE A REAR YARD DIMENSION OF THIRTY (30) FEET. FOR PURPOSES OF THIS COVENANT, STEPS, AND OPEN DECKS SHALL NOT BE CONSIDERED AS A PART OF A BUILDING, PROVIDED HOWEVER THAT THIS SHALL NOT BE CONSTRUED TO PERMIT ANY PORTION OF A BUILDING ON ANY LOT TO ENCROACH UPON ANOTHER LOT.
5. NO STRUCTURE OF A TEMPORARY CHARACTER, TRAILER, BASEMENT, TENT, SHACK, GARAGE OR OTHER OUTBUILDING SHALL BE USED AT ANY TIME AS A RESIDENCE, EITHER TEMPORARILY OR PERMANENTLY.
6. NO NOXIOUS OR OFFENSIVE ACTIVITY SHALL BE CARRIED ON UPON ANY LOT, NOR SHALL ANYTHING BE DONE THEREON WHICH MAY BECOME AN ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD.
7. ANIMALS, LIVESTOCK, OR POULTRY OF ANY KIND SHALL NOT BE RAISED, BRED, OR KEPT ON ANY LOT, EXCEPT THAT DOGS, CATS OR HOUSEHOLD PETS MAY BE KEPT PROVIDED THAT THEY ARE NOT KEPT, BRED, OR MAINTAINED FOR ANY COMMERCIAL PURPOSES.
8. NO SIGN OF ANY KIND SHALL BE DISPLAYED TO THE PUBLIC VIEW ON ANY LOT EXCEPT ONE PROFESSIONAL SIGN OF NOT MORE THAN ONE (1) SQUARE FOOT, ONE SIGN OF NOT MORE THAN FIVE (5) SQUARE FEET ADVERTISING THE PROPERTY FOR SALE, OR SIGNS USED BY A BUILDER TO ADVERTISE THE PROPERTY FOR SALE.
9. NO LOT SHALL BE USED AS A DUMPING GROUND FOR RUBBISH, TRASH, GARBAGE OR OTHER WASTE SHALL BE KEPT IN SANITARY CONTAINERS. ALL INCINERATORS OR OTHER EQUIPMENT FOR DISPOSAL OR STORAGE OF SUCH MATERIAL SHALL BE KEPT IN A CLEAN AND SANITARY CONDITION.
10. NO FENCE OR WALL SHALL BE ERRECTED, PLACED OR PERMITTED ON ANY LOT NEARER TO ANY STREET THAN THE MINIMUM BUILDING SETBACK LINE.
11. NO HEDGES OR OTHER PLANTING WHICH OBSTRUCTS SIGHT LINES OF ELEVATIONS BETWEEN TWO (2) AND SIX (6) FEET ABOVE THE ROADWAYS SHALL BE PLACED OR PERMITTED TO REMAIN ON ANY CORNER LOT WITHIN THE TRIANGULAR AREA FORMED BY THE STREET PROPERTY LINES AND A LINE CONNECTING THEM AT POINTS TWENTY FIVE (25) FEET FROM THE INTERSECTION OF THE STREET PROPERTY LINES EXTENDED. THE SAME SIGHT LINE LIMITATIONS SHALL APPLY TO ANY LOT TO WITHIN TEN (10) FEET FROM THE INTERSECTION OF A STREET PROPERTY LINE WITH THE EDGE OF A DRIVEWAY OR ALLEY PAVEMENT. NO TREES SHALL BE PERMITTED TO REMAIN WITHIN SUCH DISTANCES OF INTERSECTIONS UNLESS THE FOLIAGE IS MAINTAINED AT SUFFICIENT HEIGHT TO PREVENT OBSTRUCTION OF SUCH SIGHT LINES.
12. NO TRUCK ONE (1) TON CAPACITY OR OVER SHALL AT ANY TIME BE PARKED IN THIS SUBDIVISION EXCEPT WHEN IN AN ENCLOSED GARAGE. TRUCKS MAKING SERVICE OR DELIVERY CALLS ARE HEREBY EXCLUDED FROM THIS RESTRICTION.
13. DRAINAGE AREAS, SWALES AND SLOPES ESTABLISHED ON LOTS BY THE DEVELOPER OR BUILDER FOR THE CONVEYANCE OF SURFACE WATER SHALL AT ALL TIMES BE KEPT FREE FROM OBSTRUCTION TO SAID FLOW.
14. IF THE PARTIES HERETO, OR ANY OF THEIR HEIRS OR ASSIGNS SHALL VIOLATE OR ATTEMPT TO VIOLATE ANY OF THE COVENANTS HEREIN, IT SHALL BE LAWFUL FOR ANY OTHER PERSON OWNING REAL PROPERTY SITUATED IN THIS SUBDIVISION DESCRIBED HEREIN TO PROSECUTE ANY PROCEEDING AT LAW OR IN EQUITY AGAINST THE PERSON OR PERSONS VIOLATING THESE COVENANTS AND EITHER TO PREVENT HIM OR THEM FROM SO DOING OR TO RECOVER DAMAGES OR OTHER DUES FOR SUCH VIOLATIONS.
15. INVALIDATION OF ANY ONE OF THE COVENANTS BY JUDGMENT OR COURT ORDER SHALL IN NO WAY AFFECT ANY OF THE OTHER PROVISIONS OR COVENANTS WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.
16. THESE COVENANTS AND RESTRICTIONS ARE TO RUN WITH THE LAND AND SHALL BE BINDING ON ALL PERSONS AND PARTIES CLAIMING UNDER THEM UNTIL JANUARY 1, 2031 AT WHICH TIME SAID COVENANTS SHALL BE AUTOMATICALLY EXTENDED FOR SUCCESSIVE PERIODS OF TEN (10) YEARS. AT ANY TIME THESE COVENANTS, EXCEPT NO. 13, MAY BE AMENDED BY WRITTEN CONSENT OF SIXTY-SEVEN (67) PERCENT OF THE LOT OWNERS OF RECORD, EACH OWNER HAVING ONE VOTE FOR EACH SEPARATE LOT OWNED. COVENANT NUMBER 13 MAY ONLY BE AMENDED WITH WRITTEN PERMISSION OF THE MUNICIPAL OFFICIALS. SUCH AMENDMENTS, IF EXECUTED AND APPROVED, SHALL BE FILED AND RECORDED WITH THE MONTGOMERY COUNTY RECORDER WITHIN TEN (10) DAYS AND SHALL BECOME PART OF AND BINDING UPON THIS SUBDIVISION.
17. NO HOUSE, FENCE, WALL, HEDGE, WALK OR OTHER STRUCTURE AND NO GRADING OR LANDSCAPING SHALL BE COMMENCED, ERRECTED OR PERMITTED TO REMAIN ON ANY LOT UNLESS THE PLANS AND SPECIFICATIONS THEREOF, HAVE BEEN SUBMITTED TO AND APPROVED IN WRITING BY THE DEVELOPER, AND ITS SUCCESSORS AND ASSIGNS, OR BY THE DEVELOPER'S DESIGNATED AGENT OR ARCHITECT.
18. ANY PURCHASER, THEIR SUCCESSORS AND ASSIGNS, OF A LOT IN THIS PLAT HEREBY AGREE TO PARTICIPATE IN AND PAY, ON A PRO-RATA BASIS, THE CITY OF BROOKVILLE'S COMMON AREA MAINTENANCE EXPENSES INCURRED WITHIN THE MEADOWS OF BROOKVILLE SUBDIVISION.

# Memo

**To:** Chairperson and Planning Commission

**From:** Jim Snedeker Zoning Officer

**Date:** May 14, 2021

**Re:** Special Use 21-02 Mobile Food Vending

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Oakwood Investments Partners would like to renew their Special Use Permit for Mobile Food Vending located at McMaken's IGA on McMaken Lane. The location is the same as last year. The City did not experience any problems with Oakwood Investment once they were up and running plus it does help generate business for the IGA.

Thank you.

Jim Snedeker



# City of Brookville

"A Proud and Progressive Community"

Application #SU 21-02

## ZONING APPLICATION FOR A SPECIAL USE PERMIT

The undersigned hereby applies for a **SPECIAL USE PERMIT**, to be issued solely on the basis of information contained herein, and with the knowledge that the falsification of any fact or statement submitted with, or within, this application shall render this application null and void. **(PERMIT SHALL EXPIRE IF USE HAS NOT BEGUN WITHIN SIX (6) MONTHS, OR IF DISCONTINUED FOR MORE THAN TWO (2) YEARS.)**

1. Applicant JAMES KELLY (OAKWOOD INVEST PRIS, LTD)
2. Applicant address 10777 YANKEE ST DAYTON OH 45458
3. Phone (Hm) \_\_\_\_\_ (Bus) 937-602-9272 Interest in property \_\_\_\_\_
4. Location or address of property to be affected McMAKEN IGA
5. Legal description MOBILE FOOD SERVICE; MFG OF SAUCES  
& OTHER FOOD PRODUCTS
6. Present Zoning classification \_\_\_\_\_ Existing \_\_\_\_\_
7. Proposed Special Use COOKING AT OUTDOOR EVENTS & PROMOTIONS

8. In order for a **SPECIAL USE PERMIT** to be processed, applicant must provide a narrative statement evaluating the effect of such elements as noise, glare, odor, fumes, and vibrations on adjoining property; and discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Zoning District Map.

OUTDOOR COOKING USING PROPANE; GRILL SMOKE  
FROM COOKING CHICKEN; ASSISTING RETAIL CUSTOMER  
to PROMOTE SALE OF FOOD PRODUCTS, by INVITATION

9. The Planning Commission shall establish beyond reasonable doubt that both the general standards and the specific requirements pertinent to each special use indicated herein shall be satisfied by the establishment and operation of the proposed special use.

10. Wherever no specific area, frontage and setback requirements are specified in provision for specific special uses, then the area, frontage and setback requirements in the applicable zone shall apply; provided, that the Planning Commission shall be authorized to waive or modify certain requirements as necessary to achieve compatible development with adjacent land areas as well as in the interest of the community in general. The Planning Commission may also impose such additional conditions, guarantees, and safeguards as it deems necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Ordinance will be observed.

11. Has previous application been filed for a **SPECIAL USE PERMIT**? 2020

12. When? \_\_\_\_\_ Results? \_\_\_\_\_

\_\_\_\_\_  
Application Date

  
Signature of Applicant

\_\_\_\_\_  
OFFICE USE ONLY BELOW LINE  
\_\_\_\_\_

Reviewed by \_\_\_\_\_ Date \_\_\_\_\_

Appr/Denied Planning Commission \_\_\_\_\_ Date \_\_\_\_\_

Fee \$35.00 Receipt Number 73155 Date 4/29/21  
(NON REFUNDABLE)



2020 COPY

## City of Brookville

"A Proud and Progressive Community"

Application #SU 20-06

### ZONING APPLICATION FOR A SPECIAL USE PERMIT

The undersigned hereby applies for a **SPECIAL USE PERMIT**, to be issued solely on the basis of information contained herein, and with the knowledge that the falsification of any fact or statement submitted with, or within, this application shall render this application null and void. (PERMIT SHALL EXPIRE IF USE HAS NOT BEGUN WITHIN SIX (6) MONTHS, OR IF DISCONTINUED FOR MORE THAN TWO (2) YEARS.)

1. Applicant OAKWOOD INVESTMENT PARTNERS, LTD
2. Applicant address 10777 YANKEE ST, DAYTON, OH 45458
3. Phone (Hm) 937-602-9272 (Bus) JIM KELLY, OWNER Interest in property \_\_\_\_\_
4. Location or address of property to be affected TBA
5. Legal description MOBILE FOOD SERVICE; MANUFACTURER OF FOOD SAUCES
6. Present Zoning classification \_\_\_\_\_ Existing \_\_\_\_\_
7. Proposed Special Use COOKING AT OUT DOOR EVENTS

8. In order for a **SPECIAL USE PERMIT** to be processed, applicant must provide a narrative statement evaluating the effect of such elements as noise, glare, odor, fumes, and vibrations on adjoining property; and discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Zoning District Map.

OUT DOOR COOKING USING PROPANE; GRILL SMOKE.  
WORKING W/ CUSTOMER TO PROMOTE THEIR SALE  
OF FOOD PRODUCTS, IN FREQUENTLY, BY INVITATION  
AND OTHER SPECIAL EVENTS

9. The Planning Commission shall establish beyond reasonable doubt that both the general standards and the specific requirements pertinent to each special use indicated herein shall be satisfied by the establishment and operation of the proposed special use.

10. Wherever no specific area, frontage and setback requirements are specified in provision for specific special uses, then the area, frontage and setback requirements in the applicable zone shall apply; provided, that the Planning Commission shall be authorized to waive or modify certain requirements as necessary to achieve compatible development with adjacent land areas as well as in the interest of the community in general. The Planning Commission may also impose such additional conditions, guarantees, and safeguards as it deems necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Ordinance will be observed.

11. Has previous application been filed for a SPECIAL USE PERMIT?

NO

12. When?

Results?

7-14-20

Application Date

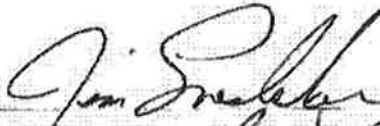
  
Signature of Applicant

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OFFICE USE ONLY BELOW LINE

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Reviewed by



Date

7-16-20

Appr/Denied Planning Commission

Ben D. Borse

Date

July 20, 2020

Fee

\$75.00

Receipt Number

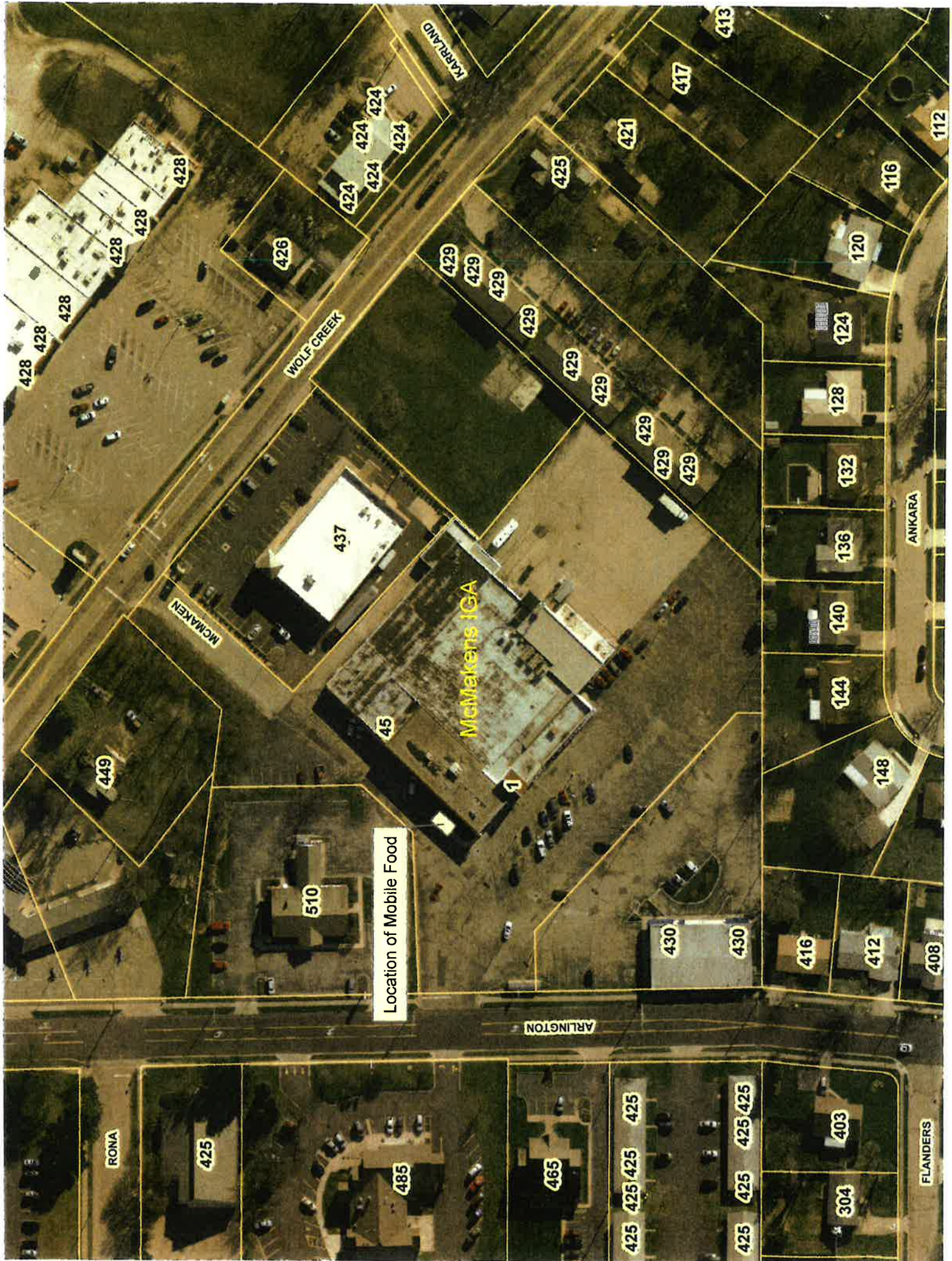
71221

Date

7-15-20

(NON REFUNDABLE)









McMaken IGA  
1 McMaken Lane  
Brookville, OH 45309

McMaken IGA provides consent and grants permission for Oakwood Investment Partners Ltd ( DBA Louisiana Grill...Jim Kelly ) to set up on the side of our building in the parking area for cooking demonstration and sales promotion.

Oakwood Investment Partners Ltd is one of our food suppliers.

Thank you,



Mark Tayloe  
Store Director  
Tel 937-833-2118





Brookville Planning Commission  
Virtual Regular Meeting  
July 16, 2020

The Regular Meeting of the Brookville Planning Commission was called to order by Vice Chairperson Boose at 7:30 p.m. on July 16, 2020. The meeting was held virtually using the Zoom web application. The Pledge of Allegiance was recited. Mayor Letner; Members Cordes, Schreier and Sievers; City Manager Keaton, Zoning Officer Snedeker, Law Director Stephan and Clerk Duncan were present. Member Henderson was absent. Member Claggett arrived later.

Roll call by Clerk Duncan.

Motion by Schreier, second by Letner to approve the Agenda as presented. All yeas, motion carried.

Motion by Cordes, second by Sievers to approve the meeting minutes of the June 11, 2020 Regular Planning Commission Meeting. Schreier abstain, Letner yea, Sievers yea, Cordes abstain, Boose yea. Motion carried with three yeas and two abstentions.

Zoning Officer Snedeker reported Minor Subdivision MS #20-02 is a Minor Subdivision Lot Split Application jointly filed by Mike Oxner of 516 Patricia Faye, owner of Lot 2043 and Justin Izor, owner of Lot 2045, who would like to split Lot 2044 to add to their current properties. This is a Minor Subdivision re-plat.

Member Schreier commented maybe he should abstain from the discussion as this is in his development.

Member Letner inquired whether Member Schreier is a member of the Golden Gate Homeowners Association?

Member Schreier indicated he is a member of the Homeowners Association.

Member Letner asked if the Homeowners Association has been notified of this proposed lot split?

Member Schreier replied not to his knowledge.

Member Letner stated his concern is this is taking an unimproved lot and adding another unimproved lot to it. Mayor Letner indicated he would like to know the owner's intentions once the lots are merged. Mayor Letner asked Zoning Officer Snedeker if the intention is to build a bigger home?

Zoning Officer Snedeker stated he does not know the owner's intentions. If it is to build a bigger home he will have to keep in mind the utility easement. Merging the lots will give him a little more room on the side yard setbacks but he cannot get into that utility easement. Zoning Officer Snedeker stated he thinks Mike Oxner is the President of the Homeowner's Association.

Mayor Letter stated he would like to see a letter from the Homeowners Association that states they approve the lot split.

Law Director Stephan advised the center lot is currently owned by the parties on either side and one of the reasons for the lot split is to divide the ownership of the lot.

Member Schreier asked Member Letner what he would like to see?

Member Letner replied he would like to see that the lot split has the blessing of the Homeowners Association. Member Letner commented this lot has been empty for 20 years. Maybe no one wants it, but the lot is also potentially taking revenue away from the City.

Member Schreier commented the Izor's just purchased Lot 2045. If the lot split is approved, they could potentially expand their home to the west, depending on the easements as they will have a lot and a half. Mike Oxner already has an existing home so his half of the lot would not be suitable for any future building. Member Schreier commented his current home in this development is on a lot and a half that was re-platted and split with his neighbor years ago. Member Schreier stated this set a precedent in Golden Gate Estates where three lots were converted into two lots.

Member Boose inquired whether the previous lot split was voted on by the Homeowners Association?

Member Schreier replied that was many years ago and he does not know whether it went before the Homeowners Association.

Law Director Stephan stated the prior lot combination was not submitted to the Homeowners Association for approval. From a zoning point of view, it met all the subdivision regulations and requirements and did not need approval by the Homeowners Association.

Member Letner stated he is good with that.

Member Schreier asked if he should abstain from the vote as he lives in this subdivision?

Law Director Stephan replied Member Schreier should abstain.

Motion by Letner, second by Sievers to approve the Record Plan for Golden Gate Estates Section 2-B to subdivide Lot 2044. Member Letner yea, Member Sievers yea, Member Schreier abstained, Member Cordes yea, Member Boose yea. Motion carried with four yeas and one abstention.

Zoning Officer Snedeker reported that H.R. Holp & Sons is interested in purchasing the old Singer's Catering property at 263 Joanna Street, which borders their property at 530 Hay Avenue. The plan is to demolish the existing building on the property and combine all the lots into one parcel. Zoning Officer Snedeker advised H.R. Holp would like to use this property to expand their business in machinery equipment storage, which is a Special Use in I-1 Light Industrial District 1143.03 (b) (12).

H. R Holp & Sons is also requesting a Variance for the property for Construction Requirements. Concrete and asphalt will not hold up to the heavy equipment they use. They are requesting a gravel pad like they have in their current lot.

Member Schreier inquired if the plan is to keep the lots separate or re-plat the properties into one lot?

Zoning Officer Snedeker replied they will combine all the lots into one lot if Planning Commission approves the Variance. They will come back with a subdivision plan to combine the lots in the future.

Member Boose asked how much of the property will be gravel?

Zoning Officer Snedeker replied everything will be graveled where the old Singer's building is. They will keep a grass buffer in the back where the catch basin is.

Member Schreier inquired about the parcel that is on the corner?

Zoning Officer Snedeker replied the Holps own that property as well. There is a house on the property which they lease to a tenant.

Member Sievers inquired whether the house at 504 Hay Avenue is occupied.

Zoning Officer Snedeker replied 504 Hay Avenue is occupied.

Member Letner asked if there will be an egress off Joanna Street?

Zoning Officer Snedeker replied they already have egress on Joanna Street.

Member Boose asked if they will come back with a formal plat plan once this moves forward?

Law Director Stephan replied right now they are asking for approval of the Special Use for storage of their trucks with the variance for using gravel for the parking lot instead of pavement or concrete as required by the zoning code. They wanted to get this decision before they move forward with the purchase of the property. Once they complete the purchase, they will come back with a subdivision plan to combine the lots together.

Member Schreier inquired whether there are any dust concerns with all the gravel and trucks going in and out.

Zoning Officer Snedeker replied their current lot is all gravel and they seem to keep the dust down with no complaints.

Member Cordes asked if there is any chance the Singer's property could be sold "as is" and be of more value to the City?

Zoning Officer Snedeker replied the engineering and structure evaluation would cost more than the building is worth if a buyer wanted to change the use.

Motion by Schreier, second by Cordes to approve Special Use #SU 20-05 at 263 Joanna Street for storage of machinery and equipment in the I-1 Zoning District with a Variance to permit gravel instead of concrete or pavement. All yeas, motion carried.

Zoning Officer Snedeker advised the next item for review is Special Use Permit #SU 20-06 submitted by Oakwood Investment Partners, to place their food vendor truck on the McMakens IGA lot with the purpose of selling bourbon chicken. Zoning Office Snedeker reported they have submitted their food inspection report, vendors license and proof of insurance. They did not have a set schedule but they indicated they plan to rotate weekends between our community and several other communities. McMakens has also submitted a letter granting permission for the food truck to be on their lot.

Mayor Letner stated about three weeks ago, he delivered a Cease and Desist letter to the operator of this mobile food truck. They were violating City Ordinance by operating without a City permit. Mayor Letner stated he spoke with the owner, Jim Kelly, and advised him this was a zoning issue and not a police issue. Mr. Kelly's response was to thumb his nose at both the Mayor and the City, and he continued to operate from Thursday through Saturday, with total disregard for the Cease and Desist letter. Mayor Letner stated within 20-30 minutes of delivering the letter, it was incorrectly reported on Facebook, giving all the wrong reasons, that the Mayor was trying to shut down the food truck. Mayor Letner stated he has six points of contact, but no one contacted him personally. Mayor Letner stated he was called a tyrant, which did not offend him. He was offended by Mr. Kelly who showed total disregard for the process and thumbing his nose at the Mayor and the City. Mayor Letner stated Mr. Kelly does not have his support for this reason. Mayor Letner also stated he would welcome Mr. Kelly if he would like to build a brick and mortar store in Brookville.

Member Boose stated that is a common stance that previous Planning Commission members have taken, opposing food trucks as they take away potential sales from Brookville businesses. Member Boose stated he has not been opposed to food trucks when they have followed the procedure, but he is concerned about Mr. Kelly's lack of regard for the procedure.

Mayor Letner stated once he explained to Mr. Kelly that it was a Zoning matter and not a Police matter, Mr. Kelly's response was that he bought product for the whole weekend and he was staying open.

Mayor Letner stated Mr. Kelly put the cart before the horse and now he is coming to them with his hat in his hand. Mayor Letner advised his personal opinion is to vote no.

Member Schreier stated this is a tough one. He definitely does not agree with the way Mr. Kelly went through the process, however his food truck has the potential to attract people into town which could increase traffic in other local businesses. Member Schreier commented that surely

Mr. Kelly has set up in other communities who required a permit, and he should have followed our process.

Member Sievers agreed that surely Mr. Kelly knows that he cannot just set up somewhere without checking into whether he needs to file for a permit. Member Sievers advised she did see the Facebook post, which was one-sided and blew the situation out of proportion. Member Sievers commented that the food truck trend is popular right now. It has the potential to bring people into Brookville, and to increase traffic to other local businesses. Member Sievers stated this is a tough call, how it was handled was wrong, however, this will come up again and Planning Commission needs to think about how they want to handle it.

Member Schreier stated it is difficult to grant the permit when Mr. Kelly was advised of the process and did not follow it. The permitting process is here for a reason.

Member Boose stated he has been on Planning Commission for 20 years and although some members have been against it in the past, they have never denied a permit for a food vendor to set up in town.

Member Schreier inquired whether previous applicants have always followed the permitting process?

Member Boose replied previous applicants have followed the permitting process.

Zoning Officer Snedeker stated while Planning Commission has made some good points, there is no reason to deny the permit based on our Zoning Ordinance. Mobile food vendors can be denied for parking or for location but denying them for not getting a permit is not listed. Zoning Officer Snedeker asked Law Director Stephan if his interpretation is correct?

Law Director Stephan stated that is correct. It is not specifically listed in the Zoning Code that failure to comply in the past is a basis for denying a current permit application. Law Director Stephan also noted that technically Mr. Kelly had 14 days to appeal the Cease and Desist Order he was issued. Law Director Stephan stated he appreciated the Mayor's efforts to deliver the order and try to make our position clear. Our community is unique in that we have written mobile food vending into our Zoning Ordinance to try to manage it. We could revisit the issue and add additional provisions or decide not to allow mobile food vendors at all. There are other communities that do not deal with it through a zoning code so our approach is unique, however, most communities do require some type of permit from the City to operate a mobile food truck.

Member Schreier stated that based on this, it sounds like if we cannot technically deny the permit because they meet the criteria and we do not have any recourse.

Law Director Stephan stated Zoning Officer Snedeker is correct that failing to file for a permit is not a criteria for denying the Special Use application.

Member Schreier stated this is a unique situation and we want to be cautious about how we interpret this. What is to prevent someone else from setting up a food truck for a few weeks without a permit and waiting to apply for the permit after they receive a cease and desist order?

Law Director Stephan stated most mobile food vendors are only here for a few weekends. We created the mobile food vendor Code to try to control the process. We have this issue from time to time where vendors come in and are not aware of the Code. In these cases, Zoning Officer Snedeker tries to notify them of the procedure immediately. Law Director Stephan agreed with the Mayor that in this situation there was a willful disrespect of the process and the steps taken to try and get them to come into compliance. Law Director Stephan commented at least they have now submitted a Special Use application and are trying to come into compliance.

Zoning Officer Snedeker stated the mobile food vendor permit is good for one year. Planning Commission could approve this permit and review the Code before Mr. Kelly applies for a permit next year.

Member Boose agreed Planning Commission should consider reviewing our Ordinance Code.

Zoning Officer Snedeker suggested we could double the fee if a mobile food vendor applies for a Special Use permit after they have already set up.

Law Director Stephan agreed we could build that into the Code and stated technically we could still seek a penalty under the current order. Law Director Stephan stated he thinks this is a common problem.

Member Schreier suggested shortening the time frame for compliance from 14 days to 48 hours.

Law Director Stephan stated the 14 days is a time frame for property maintenance or Zoning Code violations. Law Director Stephan stated the Code could be amended to require them to respond in a certain time period.

Member Boose suggested if the penalty is substantial, they will go through the process up front.

Member Schreier stated even though it has not been a pleasant situation it is hard to deny this permit application.

Member Boose inquired about the food truck from a public health standpoint regarding COVID-19?

Zoning Officer Snedeker replied Montgomery County Health Department is in charge of enforcing that compliance.

Member Schreier commented Mr. Kelly has produced their health inspection certificates as part of the process.



Motion by Sievers, second by Schreier to approve Special Use #SU 20-06 for Oakwood Investment Partners to operate a mobile food truck in the McMakens parking lot. Schreier yea, Letner nay, Sievers yea, Cordes nay, Boose yea. Motion passed with three yeas and two nays.

Member Cordes commented on his vote, stating that sometimes you have to look at the character of the person involved. Member Cordes stated in this case he would not want that person in our community.

Zoning Officer Snedeker reported that Bruns Development has broke ground on the multi-family units and Tim Via's permits for the daycare center have been approved by Montgomery County Building Department.

Zoning Officer Snedeker reported another single-family home permit has been issued for a total of three homes currently under construction on Kimmel Avenue.

Zoning Officer Snedeker advised Freedom First Credit Union has changed engineers to Choice One Engineering and are awaiting final review.

Member Boose commented he has been approached about how to apply at the new GM plant and asked if Zoning Officer Snedeker has that information?

Zoning Officer Snedeker stated they should contact the UAW in Dayton, Ohio as these jobs will all be union positions.

Member Sievers asked if Zoning Officer Snedeker has any information about the sale of the land on West Westbrook Road?

Zoning Officer Snedeker replied that land was purchased by the developer who previously approached Planning Commission about the patio homes. The developer is currently working with two potential builders. They will be coming back to Planning Commission with several proposals about this land, the land next to the Fire Station, and the lots in Sterling Homes, Section 8.

Law Director Stephan reported the City of Brookville has received a request from a citizen to consider permitting the keeping of chickens within the City of Brookville. Law Director Stephan advised he was directed by the City Manager to prepare a memorandum regarding this issue to assist Planning Commission and City Council in reviewing this request. Law Director Stephan reported our current nuisance Code prohibits chickens from being housed anywhere in Brookville. Our zoning regulations prohibit as an accessory use the housing or keeping of chickens in a chicken coup or other structure in any residential district. The language in our C conservation district permits agricultural activities. Our conservation districts are only used for areas when they are first annexed in, and typically there have been a few occasions where those properties have been farms. The code language for agricultural uses prohibits chickens from being housed within one hundred (100) feet of any residential zoning district. We have very few properties zoned Conservation and the nuisance code would conflict with the zoning code as the nuisance code prohibits chickens from being housed anywhere in the city." We have very few properties zoned conservation and the nuisance Code would conflict with that and say that chickens cannot be housed at all. Law Director

Stephan stated he has provided sample Ordinances from three jurisdictions in Ohio that have adopted regulations that do allow chickens. Each of these Ordinances limit the number of chickens and limit it to hens. They all have significant provisions about how the chicken coup or enclosure needs to be built and the setbacks for those structures. Law Director Stephan stated he also looked at the Codes in Vandalia, Englewood, Union and Clayton and none of them have adopted an Ordinance to permit chickens within residential districts. Law Director Stephan asked Planning Commission to review the sample Ordinances for further discussion next month and asked if he could answer any questions?

Member Schreier wondered how many cities there are in the State of Ohio and how many of them allow chickens within the City limits? Member Schreier stated he would like to know if the percentage is very small or if only a few Planning Commissions have entertained this idea, how did they go through the process? Member Schreier wondered whether they had a public hearing or if they asked for input from the surrounding neighbors. Member Schreier stated there are a lot of things that come into play other than just writing an Ordinance.

Law Director Stephan replied if Planning Commission wants to move forward this would come before our citizens in a public hearing. We would want to have a thorough process if we head down the pathway of permitting chickens. Law Director Stephan stated he does not know the percentage of communities that have adopted an Ordinance to allow chickens. Law Director Stephan stated the State of Ohio Legislature was looking at state-wide regulations regarding chicken but to his knowledge that has never been passed. It is still a city by city decision.

Member Boose stated he believes it would be a logistical nightmare to manage the different zoning districts if the number of chickens they could have is determined by lot size and/or by zoning district.

Law Director Stephan stated he would agree with that. If Planning Commission wants to move forward he would suggest there are some districts where chickens would not be allowed at all because of small setbacks. There are a few areas with much bigger yards and much bigger setbacks where it would be more feasible. Law Director Stephan advised Planning Commission could adopt a Code that would be limited to certain zoning districts. Law Director Stephan commented it is a lot to take on and a lot to consider as you will have neighbors who will be concerned about it.

Mayor Letner stated his concern is wildlife as there are many raccoons, coyotes and fox in town.

Member Sievers commented she has raised chickens in the past and it attracts a ton of predators. Even with an enclosed coup the predators manage to get in it. Then there are chicken carcasses to deal with. Member Sievers stated Brookville is surrounded by townships that are very open to agriculture so the opportunity is really close if you want that kind of lifestyle.

Member Boose asked what Mr. Hopkins reasons are for wanting to raise chickens within the City?

Law Director Stephan stated he has not communicated with Mr. Hopkins directly, but he has read the emails between Manager Keaton and Mr. Hopkins. Law Director Stephan stated he thinks Mr. Hopkins reasons are a combination of there has been a back-to-nature type movement in Ohio

where some communities are trying to allow citizens to raise their own fresh eggs. Again, the State Legislature has looked at provisions that actually prohibit cities from regulating chickens that has not passed. Law Director Stephan stated Mr. Hopkins is in an area which does have some bigger back yards and he is requesting it because other communities have allowed it.

Member Schreier stated he read Mr. Hopkin's request and recalled a few of the reasons Mr. Hopkins listed in his email were altruistic, well intentioned thoughts about providing things for others and having the chickens as a resource for other people, which is a reasonable thought process. Planning Commission has to look at the overall impact on the community, whether the neighborhoods are going to accept it, the impact on the community such as the wildlife and the housekeeping things that go along with having a chicken coup. Member Schreier commented this is one of those things that may start out well intentioned, such as when people landscape their yard, but later realize it is hard to maintain. There is a lot of work involved in owning wildlife. Member Schreier commented he has taken a straw poll regarding chickens from people he has been in contact with recently.

Mayor Letner advised Mr. Hopkins has sent him some correspondence and included a photograph of the long lines of cars at the Nutter Center where people were waiting for food from the food bank. That same week the local IGA advertised two dozen eggs for \$0.50 per dozen. Mayor Letner commented if eggs are that plentiful and that cheap, he does not buy into Mr. Hopkin's reasoning.

Member Schreier commented that the Ordinance examples in front of them allow only three or four chickens, some of them up to six chickens. This is not a sustainable food source. It seems the thought process is here but the execution of it won't work because the volume is not there.

Law Director Stephan agreed that these Ordinances are designed for personal consumption.

Member Schreier agreed it cannot be commercialized.

Member Claggett joined the meeting.

Member Claggett commented that if Planning Commission would allow chickens they should only allow a certain number of chickens in certain zoning districts, and no roosters should be allowed.

Member Schreier stated the examples that Law Director Stephan provided did not allow roosters.

Member Claggett asked if the State of Ohio is actually thinking of allowing this?

Law Director Stephan replied there was a bill introduced that would pre-empt local legislation prohibiting chickens. This bill has not passed.

Member Boose asked if Council is waiting for Planning Commission's recommendation?

Mayor Letner replied that Council does not have an opinion at this point.

Member Schreier commented Mr. Hopkins did make a statement to Council that he would like to see chickens allowed in Brookville.

Member Boose inquired if any other community members have approached Council or the City with this same request?

Mayor Letner replied not that he is aware of.

Member Claggett commented there is a man on Westbrook who has raised horses for years.

Zoning Officer Snedeker stated that man has been raising horses for years, prior to Brookville's livestock Ordinance.

Member Claggett expressed concern that if we allow chickens, people will want other livestock such as pet pigs.

Member Schreier commented the Ordinances provided by Law Director Stephan were very specific that they only allowed chickens.

Member Sievers asked if the City did allow chickens, who would be in charge of enforcing it?

Law Director Stephan replied it would be enforced by Zoning Officer Snedeker.

Member Schreier stated there is a fair amount of content we need to review.

Law Director Stephan recommended taking 30 days to review the material as there is a lot to look at and consider.

There was no Old Business.

Member Schreier commented that the Service Department did a nice job edging the sidewalks in the park.

Member Claggett asked if the car service center on the corner of Western and Wolf Creek is abandoned?

Zoning Officer Snedeker replied he and Manager Keaton have been working with Law Director Stephan to get the property under our control, but it is not an easy task.

Motion by Schreier, second by Claggett to adjourn. All yeas, motion carried.

  
Kimberly Duncan, Clerk

  
Brent Boose, Vice Chairperson

| CODE VIOLATIONS FOR APRIL 2021 |                              |                  |        |          |         |    |       |                 |          |             |                                                       |
|--------------------------------|------------------------------|------------------|--------|----------|---------|----|-------|-----------------|----------|-------------|-------------------------------------------------------|
| APRIL                          | Address                      | Name             | Zoning | Property | Vehicle | RV | Weeds | Date 1st Notice | MC Court | Violation # | Description                                           |
| 4/1/2021                       | Lot 2543 Hill St.            | Thrush           |        | X        |         |    |       | 4-1-21-5-12-21  |          | P-21035     | Dilapidated sidewalk may cause injury                 |
| 4/5/2021                       | 331 Albert Rd.               | Puterbaugh       |        | XX       |         |    |       | 4-5-21-5-14-21  |          | P-21036     | Dilapidated building needing pain, windows and doors  |
| 4/7/2021                       | 175 Brooke Woode             | Wakins           | X      |          |         |    |       | 4-7-21-5-12-21  |          | Verbal      | Under square foot per R-1C Zoning Classification      |
| 4/12/2021                      | 445 Sycamore St.             | Robert           |        | X        |         |    |       | 4-12-21-4-16-21 |          | P-21037     | Dangerous ladder and metal rod leaning on tree        |
| 4/12/2021                      | 303 Woodfield Dr.            | Brandenburg      |        | XX       |         |    |       | 4-12-21-5-7-21  |          | P-21038     | Fence around deck has collapse                        |
| 4/12/2021                      | 435 Meadow Glen Ave.         | Ladford          |        | X        |         |    |       | 4-12-21-4-29-21 |          | P-21039     | Car(s) parked in the grass & not on a harden surface  |
| 4/12/2021                      | 438 Meadow Glen Ave.         | Cyphert          |        | X        |         |    |       | 4-12-21-4-29-21 |          | P-21040     | Trailer parked in the grass & not a harden surface    |
| 4/12/2021                      | 200 E. Westbrook Rd.         | Hugh             |        | X        |         |    |       | 4-12-21-5-29-21 |          | P-21041     | Dead decade tree notice                               |
| 4/13/2021                      | 133 Ashmark Ct.              | Schaefer         |        | X        |         |    |       | 4-13-21-4-16-21 |          | P-21042     | Appliances at the curb for a long period of time      |
| 4/14/2021                      | 217 Market St.               | Skinner          |        | X        |         |    |       | 4-14-21-6-30-21 |          | PWW         | Peeling paint on building                             |
| 4/15/2021                      | 5 S. Wolf Creek St.          | Gassaway         |        |          |         |    | X     | 4-15-21-4-23-21 |          | G-21043     | Tall weeds                                            |
| 4/20/2021                      | 63 terrace Park Blvd         | Myers            |        |          |         |    | X     | 4-20-21-4-27-21 |          | G-21044     | Tall grass Violation Posted on Property               |
| 4/22/2021                      | 242 Foothill Dr.             | Comp             |        | XX       |         |    |       | 4-22-21-5-21-21 |          | P-21045     | Household equipment in visible yard & paint violation |
| 4/22/2021                      | 555 Golden Maple             | Morris           |        |          |         |    | X     | 4-22-21-4-27-21 |          | G-21046     | Tall grass Violation Posted on Property               |
| 4/22/2021                      | 567 Golden Maple             | Rice             |        |          |         |    | X     | 4-22-21-4-27-21 |          | G-21047     | Tall grass Violation Posted on Property               |
| 4/22/2021                      | 430 N Wolf Creek St.         | 5th/3rd          |        |          |         |    | X     | 4-22-21-4-27-21 |          | G-21048     | Tall grass                                            |
| 4/23/2021                      | 43 Durwell Dr.               | Colwell          |        |          |         |    |       | 4-23-21-4-29-21 |          | G-21049     | Tall grass                                            |
| 4/23/2021                      | 116 N. Wolf Creek St.        | Bland            |        | X        |         |    |       | 4-23-21-5-14-21 |          | P-21050     | Household items in visible yard area                  |
| 4/23/2021                      | 54 Ankara Ave.               | Fulkerson        |        |          |         | X  |       | 4-23-21-5-3-21  |          | RV-21051    | Trailer parked on the grass in the side of the yard   |
| 4/23/2021                      | 303 Woodfield Dr.            | Brandenburg      |        |          |         |    | X     | 4-23-21-4-29-21 |          | G-21053     | Tall Grass posted violation                           |
| 4/23/2021                      | 112 June Place               | Arundina LLC     |        |          |         |    | X     | 4-23-21-4-29-21 |          | G-21052     | Tall Grass posted violation                           |
| 4/26/2021                      | 300 Woodfield Dr.            | Argabright       |        | X        |         |    |       | 4-26-21-5-17-21 |          | P-21054     | Unightly trash, boxes and junk in front yard area     |
| 4/26/2021                      | 521 Salem St.                | Henson           |        | X        |         |    |       | 4-26-21-5-28-21 |          | P-21055     | Fence not secured to the ground                       |
| 4/27/2021                      | 3 Pryor Court                | Schrolucke       |        |          |         |    | X     | 4-27-21-5-6-21  |          | G-21056     | Tall grass                                            |
| 4/27/2021                      | 538 Main St.                 | TQM Investments  |        |          |         |    | X     | 4-27-21-5-6-21  |          | G-21057     | Tall grass posted violation                           |
| 4/27/2021                      | 237 Maple St.                | Williams         |        |          |         |    | X     | 4-27-21-5-6-21  |          | G-21059     | Tall grass posted violation                           |
| 4/27/2021                      | 301 Maple St.                | Timpson & Shue   |        |          |         |    | X     | 4-27-21-5-6-21  |          | G-21060     | Tall grass                                            |
| 4/28/2021                      | 449 N. Wolf Creek St.        | M&L Family Inv   |        |          |         |    | X     | 4-28-21-5-7-21  |          | G-21061     | Tall grass                                            |
| 4/28/2021                      | L54 00403 005 on Blue Pride  | Jackson          |        |          |         |    | X     | 4-28-21-5-7-21  |          | G-21062     | Tall grass                                            |
| 4/28/2021                      | L54 00403 0053 on Blue Pride | Wackerman        |        |          |         |    | X     | 4-28-21-5-7-21  |          | G-21063     | Tall grass                                            |
| 4/28/2021                      | 325 Carr Dr.                 | DGTZ Partners    |        |          |         |    | X     | 4-28-21-5-7-21  |          | G-21064     | Tall grass                                            |
| CODE VIOLATIONS FOR MAY 2021   |                              |                  |        |          |         |    |       |                 |          |             |                                                       |
| MAY                            | Address                      | Name             | Zoning | Property | Vehicle | RV | Weeds | Date 1st Notice | MC Court | Violation # | Description                                           |
| 5/3/2021                       | 208 Brookside Dr.            | Phillips         |        |          |         | X  |       | 5-3-21-5-6-21   |          | RV-21065    | Boat parked in the drive pass the 72 hour limit.      |
| 5/4/2021                       | 121 Hay Ave.                 | Drew             |        |          |         |    | X     | 5-4-21-5-8-21   |          | G-21066     | Tall weeds around foundation of building              |
| 5/5/2021                       | 425 Arlington Rd.            | Freedom 1st      |        |          |         |    | X     | 5-5-21-5-10-21  |          | Email       | Tall weeds in curb lawn                               |
| 5/5/2021                       | 8 Oslo Court                 | Hamm             |        |          |         |    | X     | 5-5-21-5-11-21  |          | G-21067     | Tall grass                                            |
| 5/5/2021                       | 17 Jefferson St.             | Peters           |        |          |         |    | X     | 5-5-21-5-11-21  |          | G-21068     | Tall grass                                            |
| 5/5/2021                       | 653 Vine St.                 | Crum             |        |          |         |    | X     | 5-5-21-5-11-21  |          | G-21069     | Tall grass                                            |
| 5/10/2021                      | 418 N. Wolf Creek St.        | Southwood        |        | X        |         |    |       | 5-10-21-5-28-21 |          | P-21070     | Unightly household equipment in visible yard area     |
| 5/10/2021                      | 300 N. Wolf Creek St.        | Lovely           | X      |          |         |    |       | 5-10-21-5-27-21 |          | Z-21071     | Operating a daycare without a permit                  |
| 5/10/2021                      | 62 Madrid Ave.               | Powell           |        | X        |         |    |       | 5-10-21-5-27-21 |          | P-21072     | Limbs at the curb for extended time                   |
| 5/10/2021                      | 139 Hill St.                 | Wellbaum         |        |          |         |    | X     | 5-10-21-5-17-21 |          | G-21073     | Tall grass                                            |
| 5/10/2021                      | 235 E. Westbrook Rd          | Puterbaugh       |        |          |         |    | X     | 5-10-21-5-17-21 |          | G-21074     | Tall grass                                            |
| 5/12/2021                      | 637 Salem St.                | New Hope Reality |        |          |         |    | X     | 5-12-21-5-19-21 |          | G-21075     | Tall grass                                            |
| 5/13/2021                      | 548 Western Ave.             | Lovely           |        |          |         |    | X     | 5-13-21-5-21-21 |          | G-21076     | Tall grass                                            |



[illegible]



RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2021-03 Passed \_\_\_\_\_, 20\_\_\_\_

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF THE PROPERTY LOCATED AT 201 SYCAMORE STREET IN THE CITY OF BROOKVILLE FROM ITS PRESENT CLASSIFICATION OF OR (PD) OFFICE RESIDENTIAL PLANNED DEVELOPMENT OVERLAY DISTRICT TO THE NEW CLASSIFICATION OF I-1 (PD) LIGHT INDUSTRIAL PLANNED DEVELOPMENT OVERLAY DISTRICT.

WHEREAS, the property located at 201 Sycamore St. in the City of Brookville, including parcels C05 00114 0001, C05 00114 0002, C05 00203 0033, and C05 00203 0041, being further described in Exhibit A attached hereto (the "Property"), is currently zoned OR (PD) Office Residential Planned Development Overlay District; and

WHEREAS, after public hearing on this amendment to the zoning classification of the Property as required by Section 4.11 of the Charter, and upon recommendation of the Planning Commission, Council hereby adopts this Ordinance to amend the zoning classification of the Property from its present classification of OR (PD) Office Residential Planned Development Overlay District to its new classification of I-1 (PD) Light Industrial Planned Development Overlay District.

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

SECTION I: The zoning classification of the Property located at 201 Sycamore St. in the City of Brookville, including parcels C05 00114 0001, C05 00114 0002, C05 00203 0033 and C05 00203 0041, being further described in Exhibit "A" attached hereto and incorporated herein by reference, is hereby amended from its present zoning classification of OR (PD) Office Residential Planned Development Overlay District to the new classification of I-1 (PD) Light Industrial Planned Development Overlay District

SECTION II: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION III: This Ordinance shall take effect thirty (30) days after passage by the Council of the City of Brookville as provided by the Charter of the City of Brookville.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2021-03 Passed , 20

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2021-03, passed by the Council of the City of Brookville, Ohio, on the day of 2021.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2021-03 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the day of 2021, to the day of 2021, both days inclusive.

Kimberly Duncan, Clerk

## RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2021-03 Passed                     , 20            

## EXHIBIT "A"

The real property located at 201 Sycamore Street, Brookville, Ohio and further described in the attached plat of survey and legal description dated January 3, 2017 and prepared by Luis G. Rancho & Associates, Inc.

# RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. \_\_\_\_\_ Passed \_\_\_\_\_, 20\_\_\_\_





LUIS G. RIANCHO, PS

## LUIS G. RIANCHO & ASSOCIATES, INC.

### SURVEYING

GPS SERVICES  
HIGHWAY & CONSTRUCTION STAKING  
BOUNDARY & TOPOGRAPHIC SURVEYS

140 W. WENGER ROAD  
ENGLEWOOD, OHIO  
45322-2727

TEL (937) 836-1585  
FAX (937) 836-9974  
Email: lgriancho@woh.rr.com

D16060-1

January 3, 2017

Description of Parcel Combination  
Sycamore Street, Brookville, Ohio  
Containing 1.7888 Acres

C05 00114 0001  
C05 00114 0002  
C05 00203 0033 N.S.  
C05 00203 0041

Located in the City of Brookville and in the southeast quarter of Section 34, Town 6, Range 4E, County of Montgomery, State of Ohio and being all of a 1.6598 acre tract of land conveyed to Thrush Rentals, LLC by deed recorded in I.R. Deed 12-078559, Parcel I, and being all of a 0.005 acre tract of land conveyed to Thrush Rentals, LLC by deed recorded in I.R. Deed 12-078559, Parcel II, and being all of a 0.26 acre tract of land conveyed to Thrush Rentals, LLC by deed recorded in I.R. Deed 12-078559, Parcel III, and being all of a 0.0832 acre tract of land conveyed to Thrush Rentals, LLC by deed recorded in I.R. Deed 12-069799, all in the Deed Records of Montgomery County, Ohio and being a tract of land described as follows:

commencing at a 1/2" iron pin found at the intersection of the south right-of-way line of Hays Avenue (51' Right-of-Way) with the east right-of-way line of Sycamore Street (51' Right-of-Way), said iron pin being also at the northwest corner of a 0.3607 acre tract of land conveyed to Eric B. Leiber by deed recorded in I.R. Deed 13-076342;

thence in a southerly direction with the east line of said Sycamore Street, South thirty degrees forty-two minutes twenty seconds (30° 42' 20") East for two hundred seventy-seven and 35/100 (277.35) feet to a 5/8" iron pin capped "LGR" found at the southwest corner of a 0.0142 acre tract of land conveyed to Geve Properties, LLC by deed recorded in I.R. Deed 09-034669, Parcel III and the **TRUE POINT OF BEGINNING**;

thence in an easterly direction with the south line of said 0.0142 acre Geve Properties, LLC land, North sixty degrees fourteen minutes thirty-one seconds (60° 14' 31") East for two hundred six and 76/100 (206.76) feet to a 5/8" iron pin capped "LGR" found at the southeast corner of said 0.0142 acre Geve Properties, LLC land;

Continued on Page 2



D16060-1  
Desc. of 1.7888 Acres  
Sycamore Street  
Brookville, Ohio

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01/03/17

thence in a northerly direction with the east line of said 0.0142 acre Geve Properties, LLC land and with the east line of a 0.489 acre tract of land conveyed to Geve Properties, LLC by deed recorded in I.R. Deed 09-034669, Parcel I and with the east line of a 0.0758 acre tract of land conveyed to Geve Properties, LLC by deed recorded in I.R. Deed 09-034669, Parcel II, North thirty degrees twenty-two minutes fifty-five seconds (30° 22' 55") West, passing axes found at three and 00/100 (3.00) feet and at one hundred six and 76/100 (106.76) feet, for a total distance of one hundred twenty-two and 76/100 (122.76) feet to an iron pin set in the south line of a 0.534 acre tract of land conveyed to Darrell L., Jr. & Nancy Flory by deed recorded in I.R. Deed 16-027502;

thence in an easterly direction with the south line of said Flory land, North fifty-nine degrees thirty-three minutes twenty-five seconds (59° 33' 25") East for eighty-six and 18/100 (86.18) feet to a 5/8" iron pin capped "SCHRAM" found at the southeast corner of said Flory land, said iron pin being also in the southerly line of a 7.59 acre tract of land conveyed to Village of Brookville, Ohio by deed recorded in Micro 93-0118D06;

thence in a southeasterly direction with the southerly line of said Village of Brookville land, South sixty-two degrees forty-two minutes forty-six seconds (62° 42' 46") East for three hundred twenty-five and 06/100 (325.06) feet to a 5/8" iron pin capped "SCHRAM" found at the northeast corner of a 0.163 acre tract of land conveyed to City of Brookville by deed recorded in I.R. Deed 03-165797;

thence in a southwesterly direction with the northerly line of said 0.163 acre City of Brookville land, South forty-five degrees forty-four minutes thirteen seconds (45° 44' 13") West for sixty-five and 32/100 (65.32) feet to a 5/8" iron pin capped "SCHRAM" found at the northwest corner of said 0.163 acre City of Brookville land, said iron pin being also in the easterly line of a 1.839 acre tract of land conveyed to City of Brookville by deed recorded in I.R. Deed 03-085244;

thence in a northwesterly direction with the easterly line of said 1.839 acre City of Brookville land, North sixty-two degrees forty-two minutes forty-six seconds (62° 42' 46") West for twenty and 00/100 (20.00) feet to a 1/2" iron pipe found at the northeast corner of said 1.839 acre City of Brookville land;

thence in a westerly direction with the north line of said 1.839 acre City of Brookville land and with the north line of a 0.878 acre tract of land conveyed to City of Brookville by deed recorded in I.R. Deed 03-085246, South sixty degrees thirty-four minutes zero

Continued on Page 3

D16060-1  
Desc. of 1.7888 Acres  
Sycamore Street  
Brookville, Ohio

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01/03/17

seconds (60° 34' 00") West for three hundred ninety-one and 89/10 (391.89) feet to a 5/8" iron pin capped "SCHRAM" found at the northwest corner of said 0.878 acre City of Brookville land, said iron pin being also in the east right-of-way line of said Sycamore Street;

thence in a northerly direction with the east right-of-way line of said Sycamore Street, North thirty degrees forty-two minutes twenty seconds (30° 42' 20") West for one hundred forty-six and 35/100 (146.35) feet returning to the **TRUE POINT OF BEGINNING**, containing 1.7888 acres more or less and subject to all legal highways, easements, restrictions and agreements of record, according to a survey of said premises by Luis G. Riancho, Registered Surveyor, State of Ohio #5287, dated December 2016.

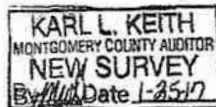
Note: basis of bearing is North thirty degrees forty-two minutes twenty seconds (30° 42' 20") West for the easterly right-of-way line of Sycamore Street by deed recorded in Instrument Record Number Deed-03-085246.

Note: All deeds referenced are recorded in the Deed Records of Montgomery County, Ohio and all plats referenced are recorded in the Plat Records of Montgomery County, Ohio.

Note: All iron pins set are #5 rebars, capped and stamped "LGR & ASSOC, ENGLEWOOD, OHIO".

Note: A Plat of Survey is recorded with the Montgomery County Engineer's Office Record of Land Surveys Volume 2017 Page 0001.

PAUL W. GRUNER, P.E., P.S.  
MONTGOMERY COUNTY ENGINEER  
APPROVED FOR POINT OF BEGINNING,  
ACREAGE AND CLOSURE ONLY  
DATE 1/23/17 FILE NO. 2017-0001  
BY Wayne B. Tol



A handwritten signature of Luis G. Riancho.

Luis G. Riancho  
Registered Surveyor  
State of Ohio #5287

Date 1/23/17



RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2021-05 Passed, 20

AN ORDINANCE AMENDING SECTION 1123.03(b)(2) and 1125.03(b)(2) OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO.

WHEREAS, Section 1123.03(b)(2) and 1125.03(b)(2) of the Code of Ordinances establish the required rear yard for the R-1B and R-1C zoning districts in the City of Brookville; and

WHEREAS, the Planning Commission and City Council desire to amend the zoning code to modify the required rear yard depth for the R-1B and R-1C zoning districts in the City of Brookville to permit larger single family residential structures to be built on these lots; and

WHEREAS, after public hearing on this amendment to the zoning code of the City of Brookville, Ohio as required by Section 4.11 of the Charter, and upon recommendation of the Planning Commission, Council hereby adopts this Ordinance to amend the zoning code.

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

SECTION I: Section 1123.03(b)(2) is hereby amended to provide the following:

(b) Minimum rear yard depth 35 feet

SECTION II: Section 1125.03(b)(2) is hereby amended to provide the following:

(c) Minimum rear yard depth 30 feet

SECTION III: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION IV: This Ordinance shall take effect thirty (30) days after passage by the Council of the City of Brookville as provided by the Charter of the City of Brookville.

PASSED this day of 2021.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Kimberly Duncan, Clerk

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2021-06 Passed, 20

AN ORDINANCE AMENDING SECTIONS 1157.01 AND 1157.10 OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO TO REGULATE SOLAR ENERGY EQUIPMENT.

WHEREAS, Section 1157.10 of the Code of Ordinances regulates solar energy equipment in the City of Brookville; and

WHEREAS, the Planning Commission and City Council desire to amend the zoning code to amend regulations regarding solar energy equipment in the City of Brookville; and

WHEREAS, this Ordinance amends Section 1157.10 of the Code of Ordinances to modify regulations regarding solar energy equipment within the City of Brookville, and amends Section 1157.01 to include solar energy systems as a permitted accessory use subject to the provisions of Section 1157.10 as amended.

WHEREAS, after public hearing on this amendment to the zoning code of the City of Brookville, Ohio as required by Section 4.11 of the Charter, and upon recommendation of the Planning Commission, Council hereby adopts this Ordinance to amend the zoning code.

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

SECTION I: Section 1157.10 is hereby amended and replaced to provide new and amended regulations regarding solar energy equipment in the City of Brookville. The amended Section 1157.10 is set forth in Exhibit "A" attached hereto and incorporated herein by reference and is hereby approved.

SECTION II: Section 1157.01 is amended to add solar energy systems as a permitted accessory use in Section 1157.01(l) and existing 1157.01(l) is renumbered to 1157.01(m) as follows:

1157.01(l) Solar Energy Systems subject to the required provisions of Section 1157.10.

1157.01(m) Any other use customarily incidental, related, or subordinate to a residential use.

SECTION III: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION IV: This Ordinance shall take effect thirty (30) days after passage by the Council of the City of Brookville as provided by the Charter of the City of Brookville.

PASSED this day of 2021.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor



RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2021-06 Passed , 20

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2021-06, passed by the Council of the City of Brookville, Ohio, on the day of 2021.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2021-06 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the day of 2021, to the day of 2021, both days inclusive.

Kimberly Duncan, Clerk



## **EXHIBIT "A"**

### **1157.10 Solar Energy Systems**

(a) The use of Solar Energy Systems for collection of solar energy to provide electricity, heat, or otherwise provide energy to a residential, commercial, or industrial building is a permitted accessory use subject to the following standards.

#### **(b) General Provisions:**

(1) All solar energy systems shall comply with all applicable zoning, building, fire, plumbing and electrical codes of the City of Brookville.

(2) This section shall apply to solar energy systems on private property for use by the property owner and shall not be construed to permit a solar energy farm as a business. A "solar energy farm" is defined as an energy generation facility or area of land principally used to convert solar energy to electricity.

(3) Only commercially produced solar energy systems are permitted. The manufacturer specifications shall be submitted as part of the application for approval.

#### **(b) Ground-Mounted Solar Energy Systems**

(1) Ground-mounted solar energy systems shall only be permitted in the rear yard and shall be set back a minimum of 10 feet from all lot lines.

(2) In conservation and residential districts, no ground mounted solar energy system shall exceed six feet in height as measured from the average grade at the base of the system. In commercial and industrial districts, no ground mounted solar energy system shall exceed 25 feet in height, or the maximum height of the building, whichever is less; provided, however, that if the ground mounted solar energy system is located in a rear yard that is adjacent to a residential property or adjacent to a residential zoning district, the maximum height shall be six feet.

(3) Ground-mounted solar energy systems shall be screened from any adjacent lot lines of lots used for residential purposes by a fence, wall, landscaping or combination thereof.

(4) Ground-mounted solar energy systems shall not be positioned so as to reflect sunlight onto neighboring property, public streets or sidewalks, including on any neighboring structures.

(5) The total area of the ground-mounted solar energy system shall not exceed more than fifteen percent (15%) of the rear yard area in residential districts.

#### **(c) Roof-Mounted Solar Energy Systems**

(1) Roof-mounted solar panels that are integrated with the surface layer of the roof structure and which resemble common roofing materials may be permitted on any roof surface of a principal building or accessory building.

(2) Roof-mounted solar panels that are separated panels mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building that does not face a street. Such panels shall be mounted flush to the roof and not extend vertically from the roof structure more than eight inches.

(3) Solar panels may be mounted on flat roofs provided there is a parapet wall or other architectural feature that screens the view of the panels. Such panels may be mounted at an angle provided they do not extend more than five feet above the roof surface.

(4) All wires and other associated appurtenances related to the solar energy systems shall be installed below the roofline and not visible from the street.

(5) Solar energy systems located on the roof shall provide, as part of their permit application, evidence of design review and structural certification signed by an engineer.

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8084 FORM NO. 30043

Ordinance No. 2021-07 Passed \_\_\_\_\_, 20\_\_\_\_

AN ORDINANCE AMENDING THE DEFINITION OF BUILDING LINE, SETBACK LINE AND YARD IN SECTION 1103.03 OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO.

WHEREAS, in Section 1103.03 of the Code of Ordinances, which contains definitions for certain terms in the City of Brookville Zoning Code, sets forth definitions for the terms “Building Line”, “Setback Line”, and “Yard”; and

WHEREAS, the Planning Commission and City Council desire to amend Section 1103.03 of the Code of Ordinances to modify the definition for the terms “Building Line”, “Setback Line” and “Yard”; and

WHEREAS, after public hearing on this amendment to the zoning code of the City of Brookville, Ohio as required by Section 4.11 of the Charter, and upon recommendation of the Planning Commission, Council hereby adopts this Ordinance to amend the zoning code.

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

SECTION I: The definition of the terms “Building Line”, “Setback Line, and “Yard” in Section 1103.03 of Code of Ordinances of the City of Brookville is hereby amended as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

SECTION II: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION III: This Ordinance shall take effect thirty (30) days after passage by the Council of the City of Brookville as provided by the Charter of the City of Brookville.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

ATTEST:

Kimberly Duncan, Clerk Charles Letner, Mayor

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Kimberly Duncan, Clerk

## EXHIBIT "A"

1103.03 BUILDING LINE: A line parallel to the street right-of-way line or, lot line at the foundation of the principal building and representing the distance which the foundation of the principal building is to be set back from the street right-of-way line, or lot line, except as specified in Chapter 1153.

1103.03 SETBACK LINE: The line that is the required minimum distance from the street right-of-way line, or any other lot line and the foundation of the principal building that establishes the area within which the foundation of the principal building must be erected or placed.

1103.03 YARD: A required open space unoccupied and unobstructed by the foundation of a principal building. Other structural elements of a principal building above the foundation at ground level may extend into a yard. Accessory buildings may be located in the yard as permitted in Chapter 1157.

### YARD, FRONT:

(a) Front Yard: An open space extending the full width of the lot between the foundation of the principal building at the ground level and the front lot line.

(b) Front Yard (Least Depth): The shortest distance, measured horizontally, between the foundation of the principal building and the front lot line.

(c) Front Yard (Least Depth) The depth shall be measured from the right-of-way line of the existing street or proposed street on which the lot fronts.

### YARD, REAR:

(a) Rear Yard: An open space extending the full width of the lot between the foundation of the principal building at the ground level and the rear lot line.

(b) Rear Yard (Least Depth) The average distance measured horizontally between the foundation of the principal building and the nearest rear lot line.

### YARD, SIDE

(a) Side Yard: An open space extending from the front yard to the rear yard between the foundation of the principal building and the nearest side lot line.

(b) Side Yard (Least Width): The shortest distance, measured horizontally, between the foundation of the principal building and the nearest side lot line.

(c) Side Yard (Least Width, How Measured): Such width shall be measured from the nearest side lot line and the foundation of the principal building. On a corner lot when the side lot line is a side street lot line, the required side yard shall be the same as the required front yard of the lot adjacent thereto.