

**ORDINANCE NO. 04-29**

CITY OF BEAVERCREEK

SPONSORED BY COUNCIL MEMBER Perales ON THE  
13<sup>th</sup> TH DAY OF September, 2004.

AN ORDINANCE AMENDING THE ZONING MAP, BY REZONING APPROXIMATELY 6.509 ACRES OF LAND LOCATED ON THE NORTH SIDE OF DAYTON-XENIA ROAD APPROXIMATELY 900 FEET WEST OF THE INTERSECTION OF DAYTON-XENIA ROAD AND NORTH FAIRFIELD ROAD, FURTHER DESCRIBED AS BOOK 5, PAGE 5, PARCELS 137, 168 AND 169 ON THE PROPERTY TAX MAPS OF GREENE COUNTY FROM R-1A ONE FAMILY RESIDENTIAL AND B-2 COMMUNITY BUSINESS DISTRICT TO C-PUD COMMERCIAL PLANNED UNIT DEVELOPMENT. (PUD 04-5)

Whereas, Warren Family Funeral Homes, Inc. has requested the rezoning; and

Whereas, the City of Beavercreek Planning Commission has recommended approval of the rezoning; and

Whereas, the City Council finds that the facts submitted with the application and presented at the public hearing and any modifications, amendments, or supplementary conditions satisfy the standards and criteria for Planned Unit Development approval as per §158.065 (I) of the Zoning Code; and

Whereas, the City Council finds that, pursuant to §158.072(B) of the Zoning Code, each and all of the excluded uses are inappropriate for this specific Planned Unit Development; and

WHEREAS, the City Council has voted to accept the recommendation of the Planning Commission and adopt this ordinance, this being a decision that requires approval by four members of Council;

NOW THEREFORE THE MUNICIPALITY OF BEAVERCREEK HEREBY ORDAINS:

**SECTION I**

That the Zoning Map referenced in §158.018 of the Zoning Code is hereby further amended to change approximately 6.509 acres of land located on the north side of Dayton-Xenia Road approximately 900 feet west of the intersection of Dayton-Xenia Road and North Fairfield Road as such land and is more particularly described in Exhibit A and Exhibit B attached hereto and incorporated herein, to C-PUD Commercial Planned Unit Development District.

**SECTION II**

The following conditions and requirements shall apply:

1. The concept plan dated "Received August 9, 2004" is the approved plan and shall be incorporated as part of this zoning amendment approval except as further modified by the following conditions.

2. Uses permitted within Phase I of this C-PUD shall include only those uses permitted in the B-2 Community Business District with the addition of the B-3 permitted use of Funeral services. All other permitted and conditional B-3 uses are excluded. Those B-2 permitted uses which are excluded are as follows.
  - Automobile parts and accessories (retail)
  - Automobile service station (gas, lubricant, coolants and accessories only)
  - Carry outs – beer, wine and party supply
  - Cigars, cigarette and tobacco stores – retail
  - Drug stores
  - Dry-cleaning and laundry (pick-up stations)
  - Grocery stores – convenience
  - Newspaper, magazine and book stores – retail
  - Offices: Civic, social and fraternal associations meeting rooms and offices
3. Uses permitted within Phase 2 of this C-PUD shall include only those principal uses permitted within an O-1 Office District, excluding the following uses.
  - Audio and visual communication services and banking services
  - Business associates, civic, social and fraternal association meeting rooms
  - Detective and protective services
  - Newspaper, magazine and book stores, retail
  - Office supply stores
  - Public buildings including community center buildings and libraries
  - Restaurants – inside service only
4. Points of access and vehicular circulation, as shown on the concept plan, as well as public improvements, stormwater management and building design are subject to the City of Beavercreek final review and approval at the specific site plan stage. The alignment of the entranceway onto Dayton-Xenia Road is subject to final approval by the City Engineer. The City Engineer's requirements for road improvements are to be determined at the specific site plan stage of review.
5. The building setbacks for Phase I of this development shall be as follows:
  - Front yard setback from Dayton-Xenia Road shall be 70 feet from the property line.
  - Front yard setback shall be 40 feet from the right-of-way of the proposed future road as shown on the concept plan
  - The side yard setback from the west property line shall be 25 feet.
  - The rear yard setback from the north property line for Phase 1 shall be 50 feet.
6. A minimum buffer area of 50 feet is required for Phase 2 of this development along any adjoining residentially zoned properties. All other setback requirements for Phase 2 of this project shall be established when the specific site plan for Phase 2 is reviewed and approved.
7. Building plans, designs and elevations shall be subject to City of Beavercreek final review and approval at specific site plan stage.

**SECTION III**

This Ordinance shall take effect from and after the earliest period allowed by law.

**SECTION IV**

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED this 12<sup>th</sup> day of October, 2004.

Joy M. Brailley  
Mayor

ATTEST:

Liliana W. Ball  
Clerk of Council

**SUMMARY**

This Ordinance adopts a recommendation to rezone approximately 6.509 acres of land located on the north side of Dayton-Xenia Road approximately 900 feet west of the intersection of Dayton-Xenia Road and North Fairfield Road to C-PUD, Commercial Planned Unit Development District.

This is not an emergency ordinance and will become effective 30 days after passage.

PUD-04-5 Warren Funeral Ord.CC 9-13-04



EXHIBIT "A"  
Cosler Engineering

Mitchell W. Cosler P.E., P.S.  
Gary Wolfe  
Civil Engineering • Land Surveying

574 Orchard Lane  
P.O. Box 151  
Alpha, Ohio 45301  
(513) 426-9913  
FAX (513) 426-3390

TRACT NO. 2

Description of 5.442 Acre Tract of Land  
on Dayton-Xenia Road  
for  
Martin Cummings

CITY OF BEAVERCREEK  
DEPARTMENT OF PLANNING  
NO PLAT REQUIRED  
*[Signature]*  
5-5-94

May 5, 1994

Located in the Section 32, Town 3, Range 7, City of Beavercreek, County of Greene, State of Ohio, and being a tract of land described as follows:

Beginning at a stone found at the southeast corner of King Plat as recorded in Book 2, Page 242 of the Plat Records of Greene County, Ohio and in the west line of land conveyed to Clifford D. & S.D. Heckler by deed recorded in Volume 343, Page 701 of the Official Records of Greene County, Ohio;

thence with the west line of said Heckler land and its southwardly extension, said extension being the west lines of land conveyed to William M. & Hazel S. Gibson by deed recorded in Volume 449, Page 372 and of land conveyed to Susan E. Corbet by deed recorded in Volume 352, Page 809 both of the Official Records of Greene County, Ohio, South one degrees sixteen minutes thirty-four seconds (01°16'34") East for a distance of three hundred seventy-one and 08/100 (371.08) feet to a stone found at the southwest corner of said Corbet land;

thence with the south line of said Corbet land, South eighty-five degrees fifty-six minutes one seconds (85°56'01") East for a distance of twenty-one and 87/100 (21.87) feet to an iron pin found at the northwest corner of land conveyed to Usha P. Desai by deed recorded in Volume 658, Page 32 of the Official Records of Greene County, Ohio;

thence with the west line of said Desai land, South nineteen degrees twenty-five minutes four seconds (19°25'04") West for a distance of one hundred eighty-five and 00/100 (185.00) feet to an iron pin set 40.00 feet from and at right angles to the centerline of Dayton-Xenia Road;

thence parallel to and 40.00 feet north of said centerline, North fifty-seven degrees thirty-eight minutes nine seconds (57°38'09") West for a distance of three hundred sixty-four and 28/100 (364.28) feet to the east line of land conveyed to G. J. & Helen George by deed recorded in Volume 432, Page 559 of the Official Records of Greene County, Ohio;

thence with the east line of said George land, North no degrees forty-four minutes twenty-nine seconds (00°44'29") West for a distance of two hundred ninety-eight and 29/100 (298.29) feet to an iron pin set;

thence North seventy-seven degrees twelve minutes eighteen seconds (77°12'18") West for a distance of two hundred eleven and 97/100 (211.97) feet to an iron pin found in the east line of land conveyed to Larry J. Magnon by deed recorded in Volume 386, Page 929 of the Official Records of Greene County, Ohio;

thence with the east line of said Magnon land, North no degrees fifty-three minutes fifty-nine seconds (00°53'59") West for a distance of three hundred sixty-five and 52/100

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(365.52) feet to an axle found at the northeast corner of said Magnon land, at the southeast corner of Lot 1 in Locust Grove Plat as recorded in Plat Book 21, Pages 43-44 of the Records of Greene County, Ohio, and at the southwest corner of land conveyed to Opa & Wulbeck by deed recorded in Volume 696, Page 116 of the Official Records of Greene County, Ohio;

thence with the south line of said Wulbeck land, South eighty-six degrees fifty-four minutes twenty-nine seconds (86°54'29") East for a distance of two hundred seven and 56/100 (207.56) feet to an iron pin set at the southeast corner of said Wulbeck land and in the west line of said King Plat;

thence with the west line of said King Plat, South no degrees forty-four minutes twenty-nine seconds (00°44'29") East for a distance of three hundred forty-six and 76/100 (346.76) feet to the southwest corner of said King Plat;

thence with the south line of said King Plat, South eighty-nine degrees fifty-two minutes twenty-nine seconds (89°52'29") East for a distance of three hundred forty-three and 69/100 (343.69) feet to the point of beginning, containing five and 442/1000 (5.442) acres, more or less, subject however to all covenants, conditions, restrictions, reservations, or easements of record pertaining to the above-described tract of land.

Parcel ID# B42-5-5-170, 169, 167

DESCRIPTION CHECK  
 Greene County Engineers Tax Map Dept.  
 Legally Sufficient As Described  
 Legally Sufficient With Corrections Noted  
 Legally Insufficient, New Survey Required  
 By: WLS Date: 1/31/00  
 PAR ID Dist B42-5 PG 5 PAR 169

110 169, 167



Haley-Dusa Engineering & Surveying Group, LLC

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270 Regency Ridge Dr. Suite 203 Dayton, Ohio 45459 Phone: (937) 439-4300 Fax: (937) 439-2005

TRACT NO. 1

Parcel ID# B42-5-5-138,137

DESCRIPTION OF 0.740 ACRES SECTION 32, TOWN 3, RANGE 7 PART OF LOT NUMBER 4 KING SUBDIVISION CITY OF BEAVERCREEK GREENE COUNTY, OHIO

Situate in Section 32, Town 3, Range 7, City of Beavercreek, County of Greene, State of Ohio, and being all of that Part of Lot Number 4 of King Subdivision as recorded in Plat Records Volume 2, Page 242 and conveyed to DKZ, an Ohio Partnership in Deed Volume 139, Page 37, more particularly described as follows:

Beginning at a railroad spike found on the south right-of-way line of Rock Drive at the northwest corner of Lot Number 4 of King Subdivision, thence along the south right-of-way line of Rock Drive and the north line of Lot Number 4, South 88°30'00" East for a distance of 251.67 feet, to a 5/8" iron pin set at the northwest corner of land conveyed to Teresa L. Snipes in Deed Book 1182, Page 221;

Thence along the west line of said Snipes' land, South 00°40'04" West for a distance of 128.00 feet, to a 5/8" pinched iron pipe found at the southwest corner of said Snipes' land;

Thence along the north line of land conveyed to DKZ, an Ohio Partnership in Deed Book 224, Page 850, North 88°30'00" West for a distance of 251.84 feet to a 5/8" iron pin set at the southwest corner of Lot Number 4;

Thence along the east line of land conveyed to DKZ, an Ohio Partnership in Deed Book 856, Page 708, North 00°44'38" East for a distance of 128.00 feet to the place of beginning.

Containing 0.740 acres, more or less.

Subject to all legal highways, easements, and restrictions of record.

Basis of Bearings: North line of Lot #4, King Subdivision Plat Records Volume 2, Page 242, South 88°30'00" East

A (5/8" iron pin set) refers to a 30" long rebar with a plastic identification cap stamped "Haley-Dusa 6819".

This description is based upon a field survey conducted under the supervision of John P. Haley, Registered Surveyor, Ohio License Number 6819, in January of 2000.

Greene County Surveyor's Record No. 31, Page 188

Haley-Dusa Engineering & Surveying Group, LLC

John P. Haley Registered Surveyor Ohio License Number 6819

DESCRIPTION CHECK January 7, 2000 Greene County Engineers Tax Map Dept Job # S0219 X Legally Sufficient As Described Legally Sufficient With Corrections Noted Legally Insufficient - New Survey Required By: JPH Date: 1-10-2000 PAR ID: DIS 842 PG 5 PAR 137