ORDINANCE NO. 17 , 2008

AN ORDINANCE ACCEPTING REAL ESTATE RIGHTS TO BE DEDICATED TO A PUBLIC ACCESS ROAD

WHEREAS, Twin Lakes in Ohio ("Twin Lakes") has received approval to develop land on the east side of Montgomery Road which in part is located opposite property owned by the City of Montgomery, Ohio; and

WHEREAS, it has been determined that the access point for the development of this land is best positioned by constructing the access point directly across from the driveway opening to the City's recreation annex; and

WHEREAS, the City has determined that creating this access point as a public access point will best serve the interests of the community to minimize curb cuts on Montgomery Road and to manage traffic along Montgomery Road by providing access to additional properties south of the access point, which properties may be developed in the future; and

WHEREAS, to be able to construct this access point, the property owners have agreed to either gift real property to the City or to grant a perpetual easement to the City within which to construct this public access roadway; and

WHEREAS, to be able to safely construct and support the roadway, the property owners have agreed to grant to the City support easements allowing the City to construct appropriate supports and to access those supports for continuing maintenance of the roadway.

NOW THEREFORE, with these purposes in mind, **IT IS HEREBY ORDAINED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. The City hereby accepts the real estate described on Schedule "A" attached hereto and incorporated herein by reference from Don H. Hinkley, Elizabeth H. Hoyt and Phyllis Emery Hinkley, which property is being gifted, granted and devised to the City for the purposes of constructing a publicly dedicated roadway. The City Manager is authorized to execute any and all documents necessary to accept this devise. It is understood and agreed that this gift is conditioned upon the closing and sale of the remaining property held by LE Steele Properties, LLC and/or Don H. Hinkley, Elizabeth H. Hoyt and Phyllis Emery Hinkley to Twin Lakes for their development.

SECTION 2. The City hereby accepts a perpetual easement from Addison Lanier, II as describe on the attached Schedule "B", which easement shall allow the City to construct and maintain a portion of the publicly dedicated roadway and access point on the property owned by Addison Lanier, II as more fully described on the attached Schedule "C". The City Manager is hereby authorized to execute any and all documentation necessary to accept this easement. It is understood and agreed that this grant from Addison Lanier II is conditioned upon the closing and sale of the adjacent property held by LE Steele Properties, LLC to Twin Lakes for their development.

SECTION 3. The City hereby accepts structural easements from both Twin Lakes in Ohio and Addison Lanier, II, such easements being described on Schedules "D" and "E" respectively attached hereto and incorporated herein by reference. The City Manager is authorized to execute any and all documentation necessary to accept these easement rights and to commit the City to the appropriate construction and maintenance of improvements within the easements.

SECTION 4. This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: November 5, 2008

ATTEST: Susan J. Hamm
Susan J. Hamm, Clerk of Council

Gerri Harbison
Gerri Harbison, Mayor

APPROVED AS TO FORM:
Terrence M. Donnellon
Terrence M. Donnellon, Law Director

Schedule "A"

LEGAL DESCRIPTION
TRACT I
0.5647 ACRES

Situate in Section 4, Town 4, Entire Range 1, Sycamore Township, City of Montgomery, Hamilton County and State of Ohio and being more particularly described as follows:

Starting at a point in the centerline of Montgomery Road, said point lying North 16 Degrees 06 Minutes 00 Seconds East a distance of 1601.65 Feet from the intersection of the said centerline of Montgomery Road with the Southerly line of Section 4;

THENCE North 16 degrees 23 minutes 00 seconds East and continuing with the said centerline of Montgomery Road, a distance of 329.33 feet to the real place of beginning for this description:

THENCE North 16 degrees 23 minutes 00 seconds East for a distance of 158.16 feet with said centerline of Montgomery Road;

THENCE South 73 degrees 37 minutes 00 seconds East for a distance of 104.48 feet leaving said centerline of Montgomery Road and passing a set 5/8" Iron Pin and Cap at 40.00 Feet to a set 5/8" Iron Pin and Cap;

THENCE South 46 degrees 09 minutes 47 seconds East for a distance of 71.20 feet to a set 5/8" Iron Pin and Cap;

THENCE along a curve to the left having a radius of 68.00 feet and an arc length of 32.58 feet, being subtended by a chord of South 30 degrees 06 minutes 36 seconds West for a distance of 32.27 feet to a set 5/8" Iron Pin and Cap;

THENCE South 16 degrees 23 minutes 00 seconds West for a distance of 93.99 feet to a set 5/8" Iron Pin and Cap;

THENCE North 73 degrees 37 minutes 00 seconds West for a distance of 160.00 feet passing a set 5/8" Iron Pin and Cap at 120.00 feet to the said centerline of Montgomery Road and the place of beginning.

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 0.5647 acres more or less.

Based on a survey by Nordloh & Associates, Inc. 614 Wooster Pike, Terrace Park, Ohio 45174 under the direct supervision of Lee C. Nordloh P.S. Ohio Registration No. 7066 dated September, 2008.

28038BLN_I.doc

Schedule "B"

LEGAL DESCRIPTION
SUPPORT EASEMENT
10 FEET WIDE

Situate in Section 4, Town 4, Entire Range 1, Sycamore Township, City of Montgomery, Hamilton County and State of Ohio and being more particularly described as follows:

Starting at a point in the centerline of Montgomery Road, said point lying North 16 Degrees 06 Minutes 00 Seconds East a distance of 1601.65 Feet from the intersection of the said centerline of Montgomery Road with the Southerly line of Section 4;

THENCE North 16 degrees 23 minutes 00 seconds East and continuing with the said centerline of Montgomery Road, a distance of 329.33 feet:

THENCE South 73 degrees 37 minutes 00 seconds East for a distance of 160.00 leaving said centerline of Montgomery Road and passing a set 5/8" Iron Pin at 40.00 feet to a set 5.8" Iron Pin and Cap and real place of beginning for this description;

THENCE North 16 degrees 23 minutes 00 seconds East for a distance of 93.99 feet to a set 5/8" Iron Pin and Cap;

THENCE along a curve to the right having a radius of 68.00 feet and an arc length of 32.58 feet, being subtended by a chord of North 30 degrees 06 minutes 36 seconds East for a distance of 32.27 feet to a set 5/8" Iron Pin and Cap;

THENCE South 46 degrees 09 minutes 47 seconds East for a distance of 10.00 feet;

THENCE along a curve to the left having a radius of 58.00 feet and an arc length of 27.79 feet, being subtended by a chord of South 30 degrees 06 minutes 36 seconds West for a distance of 27.53 feet;

THENCE South 16 degrees 23 minutes 00 seconds West for a distance of 93.99 feet;

THENCE North 73 degrees 37 minutes 00 seconds West for a distance of 10.00 feet to the place of beginning;

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 0.0285 acres more or less.

Based on a survey by Nordloh & Associates, Inc. 614 Wooster Pike, Terrace Park, Ohio 45174 under the direct supervision of Lee C. Nordloh P.S. Ohio Registration No. 7066 dated September, 2008.

28038BLN_SE.doc

Schedule "C"

603-8-283 & 284 Cons

8th Series 9B/56

EXHIBIT A-5

Parcel One (603-8-283)

Situated in Section 4, Town 4, Entire Range 1, Sycamore Township, Village of Montgomery, Hamilton County, Ohio, and being more particularly described as follows:

Starting at a point in the centerline of Montgomery Road, said point lying North 16° 06' East a distance of 1601.65 feet from the intersection of the said centerline of Montgomery Road with the southerly line of Section 4, thence North 16° 23' East and continuing with the said centerline of Montgomery Road a distance of 688 feet to the real place of beginning; thence continuing North 16° 23' East with the said centerline of Montgomery Road a distance of 141.33 feet to a point; thence South 73° 37' East a distance of 356.93 feet to a point in the corporation line of the Village of Montgomery; thence South 16° 15' West with the said corporation line a distance of 141.33 feet; thence North 73° 37' West a distance of 357.25 feet to the place of beginning in the centerline of Montgomery Road.

Prior Deed Reference: Official Record Book 5598, Page 744 of the Hamilton County, Ohio records.

Subject to the following restrictions appearing in the Deed recorded in Deed Book 3473, at Page 440, of the Hamilton County, Ohio, records:

1. Any sanitary treatment system which shall be installed on the premises hereinbefore described shall consist of a settling tank and an adequate filtration bed for secondary treatment.

2. The treated effluent shall be discharged within the limits of the premises hereinbefore described;

3. The capacity of the settling tank, filtration bed and other appurtenances of the treatment system shall conform to the requirements of the municipality of which the premises hereinbefore described form a part;

4. John J. Emery agrees to insert similar restrictions in all other deeds from him to any tract or parcel of land in said Peterloon Farm, provided, however, John J. Emery reserves the right to waive, change or cancel any or all of these restrictions, and the right to omit any or all of these restrictions in any other deed from him, if in his judgment the development or lack of development of any portion of said Peterloon Farm makes that course advisable, and if in his judgment that course will not adversely

DESCRIPTION ACCEPTED
HAMILTON COUNTY
10-25-99
CAGIS 10-26-99

8114 1895

8582 2089

affect the premises hereinbefore described, to a material degree. It is understood, however, that the exercise of the right to omit any or all of these restrictions in any other deed from John J. Emery shall not be held as relieving the grantee herein from the restrictions imposed upon the premises hereinbefore described;

5. These restrictive covenants shall run with the land until such time as an adequate sanitary sewer main is available and is connected to serve the premises hereinbefore described;

6. All future instruments conveying any portion or all of the premises hereinbefore described shall set forth verbatim these paragraphs numbered 1 through 6, as restrictive covenants therein, and paragraph numbered 2 shall be so interpreted in any such future instrument as to require the effluent from the premises described therein to be discharged within the limits of such premises.

Parcel Two (603-8-295)

Situate in Section 4, Town 4, Entire Range 1, Sycamore Township, Village of Montgomery, Hamilton County, Ohio, and being more particularly described as follows:

Starting at a point in the centerline of Montgomery Road, said point lying North 16° 06' East a distance of 1601.65 feet from the intersection of the said centerline of Montgomery Road with the southerly line of Section 4, thence North 16° 23' East and continuing with the said centerline of Montgomery Road a distance of 407.00 feet to the real place of beginning; thence continuing North 16° 23' East with the said centerline of Montgomery Road a distance of 135.00 feet to a point; thence South 73° 37' East a distance of 357.59 feet to a point in the corporation line of the Village of Montgomery; thence South 16° 15' West with the said corporation line a distance of 135.00 feet; thence North 73° 37' West a distance of 357.91 feet to the place of beginning in the centerline of Montgomery Road.

Prior Deed Reference: Official Record Book 5598, Page 744 of the Hamilton County, Ohio records.

Subject to the following restrictions appearing in the Deed recorded in Deed Book 3522, at Page 843 Hamilton County, Ohio records:

1. Any sanitary treatment system which shall be installed on the premises hereinbefore described shall consist of a settling tank and an adequate filtration bed for secondary treatment.

2. The treated effluent shall be discharged within the limits of the premises hereinbefore described;

8582 2090 8114 1696

Schedule "D"

LEGAL DESCRIPTION
SUPPORT EASEMENT
10 FEET WIDE

Situate in Section 4, Town 4, Entire Range 1, Sycamore Township, City of Montgomery, Hamilton County and State of Ohio and being more particularly described as follows:

Starting at a point in the centerline of Montgomery Road, said point lying North 16 Degrees 06 Minutes 00 Seconds East a distance of 1601.65 Feet from the intersection of the said centerline of Montgomery Road with the Southerly line of Section 4;

THENCE North 16 degrees 23 minutes 00 seconds East and continuing with the said centerline of Montgomery Road, a distance of 329.33 feet:

THENCE South 73 degrees 37 minutes 00 seconds East for a distance of 160.00 leaving said centerline of Montgomery Road and passing a set 5/8" Iron Pin at 40.00 feet to a set 5.8" Iron Pin and Cap and real place of beginning for this description;

THENCE North 16 degrees 23 minutes 00 seconds East for a distance of 93.99 feet to a set 5/8" Iron Pin and Cap;

THENCE along a curve to the right having a radius of 68.00 feet and an arc length of 32.58 feet, being subtended by a chord of North 30 degrees 06 minutes 36 seconds East for a distance of 32.27 feet to a set 5/8" Iron Pin and Cap;

THENCE South 46 degrees 09 minutes 47 seconds East for a distance of 10.00 feet;

THENCE along a curve to the left having a radius of 58.00 feet and an arc length of 27.79 feet, being subtended by a chord of South 30 degrees 06 minutes 36 seconds West for a distance of 27.53 feet;

THENCE South 16 degrees 23 minutes 00 seconds West for a distance of 93.99 feet;

THENCE North 73 degrees 37 minutes 00 seconds West for a distance of 10.00 feet to the place of beginning;

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 0.0285 acres more or less.

Based on a survey by Nordloh & Associates, Inc. 614 Wooster Pike, Terrace Park, Ohio 45174 under the direct supervision of Lee C. Nordloh P.S. Ohio Registration No. 7066 dated September, 2008.

28038BLN_SE.doc

Schedule "E"

LEGAL DESCRIPTION
SUPPORT EASEMENT

Situate in Section 4, Town 4, Entire Range 1, Sycamore Township, City of Montgomery, Hamilton County and State of Ohio and being more particularly described as follows:

Starting at a point in the centerline of Montgomery Road, said point lying North 16 Degrees 06 Minutes 00 Seconds East a distance of 1601.65 Feet from the intersection of the said centerline of Montgomery Road with the Southerly line of Section 4;

THENCE North 16 degrees 23 minutes 00 seconds East and continuing with the said centerline of Montgomery Road, a distance of 329.33 feet:

THENCE South 73 degrees 37 minutes 00 seconds East for a distance of 160.00 leaving said centerline of Montgomery Road and passing a set 5/8" Iron Pin at 40.00 feet to a set 5.8" Iron Pin and Cap and the real place of beginning for this description;

THENCE South 73 degrees 37 minutes 00 seconds East for a distance of 10.00;

THENCE South 16 degrees 23 minutes 00 seconds West for a distance of 30.00 feet;

THENCE North 73 degrees 37 minutes 00 seconds West for a distance of 10.00 feet;

THENCE North 16 degrees 23 minutes 00 seconds East for a distance of 30.00 feet to the place of beginning;

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 0.0069 acres more or less.

Based on a survey by Nordloh & Associates, Inc. 614 Wooster Pike, Terrace Park, Ohio 45174 under the direct supervision of Lee C. Nordloh P.S. Ohio Registration No. 7066 dated September, 2008.

28120_SE.doc