

ORDINANCE C-86-04

AN ORDINANCE CREATING THE PINNACLE NO. 1 INCENTIVE DISTRICT, THE PINNACLE NO. 2 INCENTIVE DISTRICT, AND THE PINNACLE NO. 3 INCENTIVE DISTRICT, DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN EACH INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE TO BENEFIT THE PARCELS IN EACH DISTRICT, REQUIRING THE OWNERS THEREOF TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, PROVIDING FOR THE FRANKLIN COUNTY TREASURER TO DISTRIBUTE SERVICE PAYMENTS TO THE SOUTH-WESTERN CITY SCHOOL DISTRICT IN THE AMOUNT IT WOULD OTHERWISE RECEIVE ABSENT THE EXEMPTION, CREATING THREE TAX INCREMENT EQUIVALENT FUNDS FOR THE DEPOSIT OF THE BALANCE OF SUCH SERVICE PAYMENTS, AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT, AND DECLARING AN EMERGENCY.

WHEREAS, Parkway Village LLC, Epcon Fountainview LLC, Ronald D. Eberhard, and M/I Homes of Central Ohio (collectively, the "*Developers*" and each individually, an "*Developer*") now own certain parcels of real property within the City (such real property being depicted on Exhibit A-1, Exhibit A-2, and Exhibit A-3 and referred to herein collectively as the "*Property*" with each parcel comprising the Property being referred individually as a "*Parcel*"); and

WHEREAS, the Developers, or their successors or assigns, has or will develop certain residential projects on the Property (collectively, the "*Project*") and desire that the public infrastructure improvements described on Exhibit B hereto (the "*Public Infrastructure Improvements*") be constructed and installed, and agrees that the Public Infrastructure Improvements will benefit the Property; and

WHEREAS, the City, together with M/I Homes of Central Ohio, LLC and Pinnacle Development Company of Grove City, Ltd., heretofore executed a Pre-Annexation and Development Agreement dated March 9, 2004 (the "*Pre-Annexation Agreement*") which Pre-Annexation Agreement provided for, among other items, the City's obligation to construct certain public infrastructure improvements; and

WHEREAS, on July 19, 2004, this Council adopted Resolution No. CR-52-04 which approved the Pinnacle Club Economic Development Plan (the "*Development Plan*") for the Property, which plan is on file in the office of the Department of Development; and

WHEREAS, the engineer for the City has certified to this Council that (i) the Property is located in the City, (ii) the total acreage of the Parcels depicted on each of the Exhibits A-1, A-2 and A-3 is not more than 300 acres, (iii) each of the areas depicted on Exhibits A-1, A-2 and A-3 is enclosed by a continuous boundary, and (iv) the existing public infrastructure serving the Property is inadequate to meet the development needs of the Project as evidenced by the Development Plan; and

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "*TIF Statute*") provide that this Council may create one or more incentive districts within the City, declare any Improvement (as defined in Ohio Revised Code 5709.40) to a parcel of real property located in an incentive district to be a public purpose, thereby exempting those Improvements from real property taxation for a

period of time, specify public infrastructure improvements to be made to benefit those parcels, provide for the making of service payments in lieu of taxes by the owner thereof, provide for the distribution of the applicable portion of those service payments to the overlapping city school district, and establishing one or more municipal public improvement tax increment equivalent funds into which the balance of such service payments shall be deposited; and

WHEREAS, this Council finds that the Public Infrastructure Improvements described in Exhibit B attached hereto will directly benefit the Property; and

WHEREAS, pursuant to Section 5709.40(C) of the Ohio Revised Code and in furtherance of the Development Plan, this Council has determined to create three incentive districts known as the "Pinnacle No. 1 Incentive District" (the "*Pinnacle No. 1 District*"), the "Pinnacle No. 2 Incentive District" (the "*Pinnacle No. 2 District*"), and the "Pinnacle No. 3 Incentive District" (the "*Pinnacle No. 3 District*" and collectively with the Pinnacle No. 1 District and the Pinnacle No. 2 District, the "*Districts*"), the boundaries of which shall be coterminous with the boundaries of the Parcels located in each District (all as more specifically depicted on Exhibits A-1, A-2 and A-3); and

WHEREAS, this Council has determined that the life of each District shall be 30 years and that it is appropriate and in the best interests of the City to exempt from taxation 100% of the Improvements to parcels located within the Districts during the 30-year life of each District, as permitted and provided in Section 5709.40(C) of the Ohio Revised Code; and

WHEREAS, this Council has further determined to direct and require the current and future owners of each of the Parcels located within the Districts to make annual service payments in lieu of the real property tax payments, which service payments shall be remitted to the Franklin County Treasurer on or before the final dates for payment of real property taxes, all in accordance with Section 5709.42 of the Ohio Revised Code; and

WHEREAS, the City has further determined that a portion of the service payments shall be paid to the South-Western City School District in an amount equal to the real property taxes that the South-Western City School District would have received if the Improvements to the Parcels had not been exempted from taxation pursuant to this Ordinance; and

WHEREAS, this Council has further determined to provide for the execution and delivery of one or more Tax Increment Financing Agreements to provide for the development of the Districts; and

WHEREAS, this Council finds and determines that notice of this proposed Ordinance has been delivered to all affected school districts in accordance with Sections 5709.40 and 5709.83 of the Ohio Revised Code and hereby ratifies the giving of that notice;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, COUNTY OF FRANKLIN, STATE OF OHIO, THAT:

SECTION 1. Creation of Incentive Districts. Pursuant to Section 5709.40(C) of the Ohio Revised Code, this Council hereby creates the "Pinnacle No. 1 Incentive District", the "Pinnacle No. 2 Incentive District", and the "Pinnacle No. 3 Incentive District", the boundaries of which shall be coterminous with the boundaries of the Parcels included therein, which Parcels and respective Districts are also identified on Exhibits A-1, A-2 and A-3 attached hereto. Each District shall have a life commencing on the effective date of this Ordinance and terminating on December 31 of the last year in which Service Payments (as defined

below) have been paid in connection with Improvements (as defined below) on the Property. Pursuant to Section 5709.40(A)(5), the engineer for the City has certified to this Council that (a) each District is located in the City, (b) the total acreage of each District is not more than 300 acres, (c) each District is enclosed by a continuous boundary, and (d) the existing public infrastructure serving the Districts is inadequate to meet the development needs of the Districts as evidenced by the Development Plan.

SECTION 2. Tax Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40, this Council hereby finds and determines that 100% of the increase in assessed value of the Parcels subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "*Improvement*" as defined in Section 5709.40) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such exemption commenced, or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Sections 5709.40 and 5709.42 of the Ohio Revised Code.

SECTION 3. Payment of Service Payments. As provided in Ohio Revised Code Section 5709.42, the owner of any Parcel is hereby required to, and shall make, service payments in lieu of taxes with respect to the Improvements allocable thereto to the Treasurer of Franklin County, Ohio (the "*County Treasurer*") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against that Parcel if it were not exempt from taxation pursuant to Section 2. Any late payments shall be subject to penalty and bear interest at the then current rate established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the payment of penalties and interest are collectively referred to herein with the service payments in lieu of taxes as the "*Service Payments*"). The Service Payments, and any other payments in respect of each Parcel which is received by the County Treasurer in connection with the reduction required by Ohio Revised Code Section 319.302, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "*Property Tax Rollback Payments*"), shall be allocated and distributed in accordance with Section 4 of this Ordinance.

SECTION 4. Distribution of Payments to School District and City. Pursuant to Ohio Revised Code Sections 5709.40 and 5709.42, the County Treasurer shall distribute from each Service Payment and Property Tax Rollback Payment to the South-Western City School District the amount that the School District would otherwise receive as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement related to the Parcels absent the passage of this Ordinance, and shall distribute all remaining amounts to the City for further deposit into the respective Funds.

All distributions required under this Section 4 shall be made at the same time and in the same manner as real property tax distributions.

SECTION 5. Creation of TIF Funds. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, the Pinnacle No. 1 Municipal Public Improvement Tax Increment Equivalent Fund (the "*Pinnacle No. 1 Fund*"), the Pinnacle No. 2 Municipal Public Improvement Tax Increment Equivalent Fund (the "*Pinnacle No. 2 Fund*"), and the Pinnacle No. 3 Municipal Public Improvement Tax Increment Equivalent Fund (the "*Pinnacle No. 3 Fund*" and collectively with the Pinnacle No. 1 Fund and the Pinnacle No. 2 Fund, the "*Funds*"). The Funds shall be maintained in the custody of the City and shall receive all distributions required to be made to the City pursuant to Section 4.

Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvements on the Parcels and so deposited pursuant to law as provided in Ohio Revised Code Section 5709.42 shall be used solely for the purposes authorized in Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43, including, but not limited to, paying debt service on any City securities issued to finance the Public Infrastructure Improvements and paying any costs of the Public Infrastructure Improvements, in a manner which is consistent with this Ordinance and the Pre-Annexation Agreement. For purposes of this Ordinance, “costs” of the Public Infrastructure Improvements payable from the Funds shall also include the items of “costs of permanent improvements” set forth in Section 133.15(B) of the Ohio Revised Code, and incurred with respect to the Public Infrastructure Improvements. The Funds shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time said Funds shall be dissolved and any incidental surplus funds remaining therein transferred to the City’s General Fund, all in accordance with Ohio Revised Code Section 5709.43.

SECTION 6. Public Infrastructure Improvements. The Public Infrastructure Improvements set forth in Exhibit B hereto are hereby designated as those public infrastructure improvements that directly benefit, or that once made will directly benefit, the Property.

SECTION 7. TIF Agreement. The Tax Increment Financing Agreement relating to the Districts, in the form presently on file with the Clerk of Council, providing for, among other things, the payment of such Service Payments, is hereby approved and authorized with changes therein not inconsistent with this Ordinance and not substantially adverse to this City and which shall be approved by the City Administrator. The City Administrator, for and in the name of this City, is hereby authorized to execute that Tax Increment Financing Agreement, provided further that the approval of changes thereto by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This Council further hereby authorizes and directs the City Administrator, the Mayor, the Clerk of Council, the Director of Law, the Director of Finance, or other appropriate officers of the City, to make such arrangements as are necessary and proper for collection of said Service Payments from the owners of the Parcels.

SECTION 8. Further Authorizations. This Council further hereby authorizes and directs the City Administrator, the Mayor, the Clerk of Council, the Director of Law, the Director of Finance, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

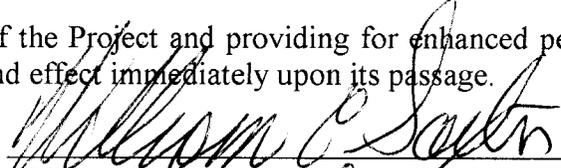
SECTION 9. Notification of Passage. Pursuant to Ohio Revised Code Section 5709.40, the Clerk of this Council is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 hereof remains in effect, the Director of Finance or other authorized officer of this City shall prepare and submit to the Director of the Department of Development of the State of Ohio the status report required under Section 5709.40(G) of the Ohio Revised Code.

SECTION 10. Open Meetings. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council that resulted in those formal actions were in meetings open to the public in compliance with the law.

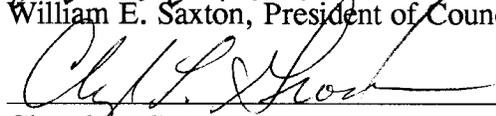
SECTION 11. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare of this City and for the further reason that this Ordinance is required to be immediately effective to allow the City to timely commence the construction of the Public Infrastructure Improvements thereby facilitating the development of the Project

and improving traffic flow in the proximate area of the Project and providing for enhanced pedestrian and traffic safety, this Ordinance shall be in full force and effect immediately upon its passage.

Passed: 9-20-04
Effective: 9-20-04

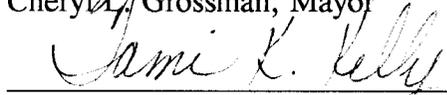


William E. Saxton, President of Council



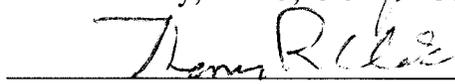
Cheryl A. Grossman, Mayor

Attest:



Tami K. Kelly, MMC, Clerk of Council

I certify that this ordinance is correct as to form.



Thomas R. Clark, Director of Law

I certify that there is money in the treasury, or is in the process of collection, to pay the within ordinance.



Robert E. Behlen, Director of Finance

EXHIBIT A-1

DEPICTION OF THE PINNACLE NO. 1 DISTRICT

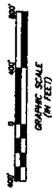
EXHIBIT A-2

DEPICTION OF THE PINNACLE NO. 2 DISTRICT

EXHIBIT A-3

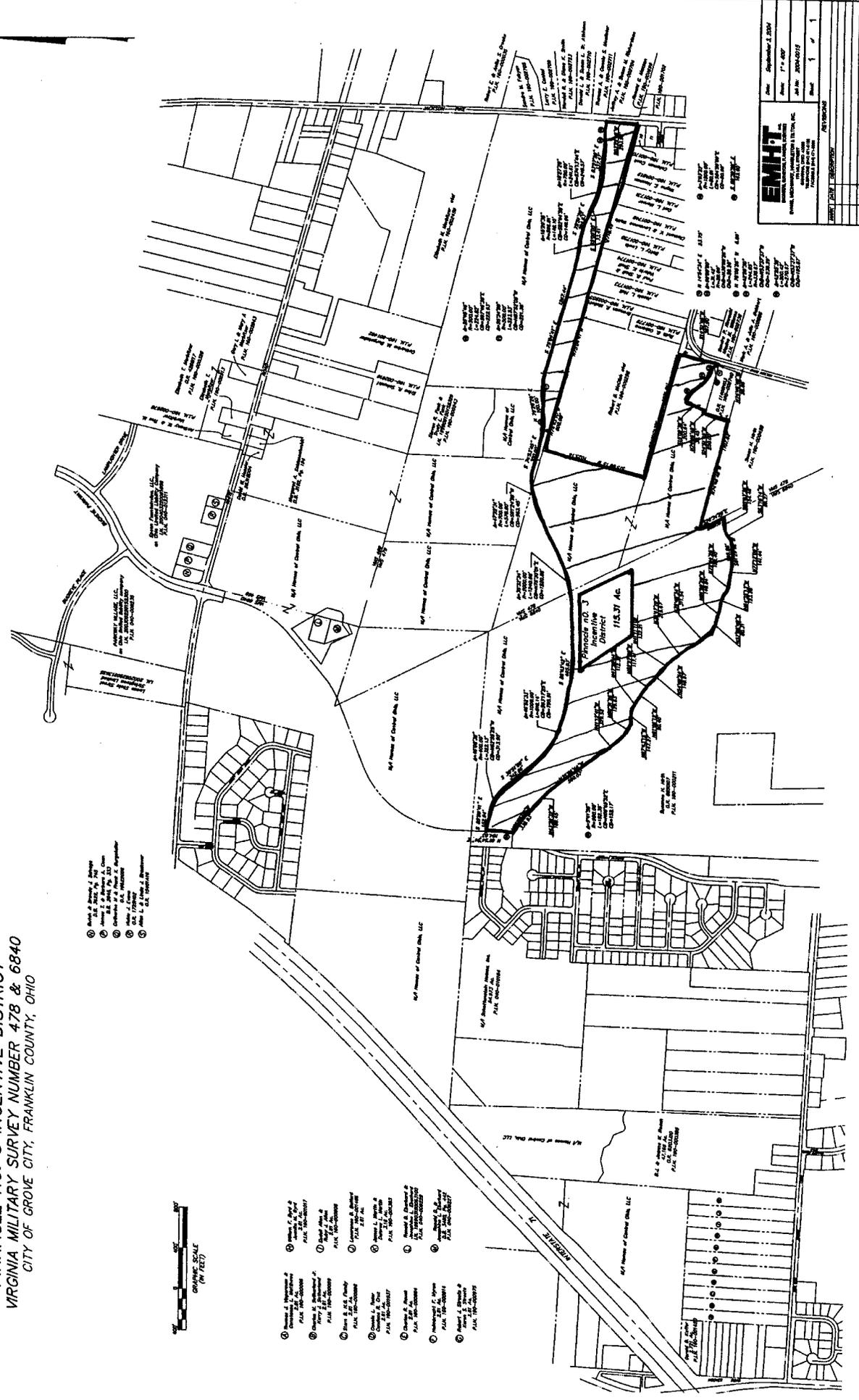
DEPICTION OF THE PINNACLE NO. 3 DISTRICT

PINNACLE NO. 3 INCENTIVE DISTRICT
VIRGINIA MILITARY SURVEY NUMBER 478 & 6840
CITY OF GROVE CITY, FRANKLIN COUNTY, OHIO



- ① Thomas J. Hines, et al.
P.L. 198-00000000
- ② Thomas J. Hines, et al.
P.L. 198-00000000
- ③ Thomas J. Hines, et al.
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EMHT	
ENGINEERING & SURVEYING	
10000 W. STATE ST., SUITE 1000, COLUMBUS, OHIO 43240	
PHONE: 614-266-1111 FAX: 614-266-1112	
WWW.EMHT.COM	
DATE	10/11/2011
TIME	1:00 PM
BY	J. HINES
SCALE	AS SHOWN
PROJECT	PINNACLE NO. 3 INCENTIVE DISTRICT
FILE NO.	198-00000000
PLAT NO.	1
TOTAL SHEETS	1
CHECKED BY	J. HINES
APPROVED BY	J. HINES

FRANKLIN COUNTY, OHIO

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The public infrastructure improvements to be made include, but are not limited to:

- The construction of Buckeye Parkway from White Road to its present terminus north of Holton Road and Pinnacle Club Drive from Buckeye Parkway to State Route 104, including engineering, right-of-way acquisition, pavement, curbing, landscaping, irrigation, street lights, traffic control devices, sidewalks, bike paths, utilities and appurtenances thereto, and related engineering and legal fees,
- The acquisition of real property, and
- The construction of a public safety building for the provision of fire, EMS and police services and the acquisition of related vehicles and equipment.