

RESOLUTION NO. CR-45-97

A RESOLUTION GRANTING AUTHORITY TO THE CITY ADMINISTRATOR TO SELL,  
WITH DEED RESTRICTIONS, REAL ESTATE TO BE DEVELOPED BY PURCHASER  
UNDER CERTAIN CONDITIONS AND WITHIN A CERTAIN TIME FRAME

WHEREAS, the City of Grove City currently owns certain real estate located at 4009 Broadway, Grove City, Ohio; and

WHEREAS, a portion of the aforementioned real property is not needed by the City for its purposes, and a more specific description of said portion of said property is attached hereto as Exhibit "A"; and

WHEREAS, with respect to the aforementioned real property, which is located in the Historical Preservation Area of the City of Grove City, the Council of the City of Grove City wishes to carry out the purpose of Chapter 1138 of the Codified Ordinances of the City of Grove City which created the Historical Preservation Area; and

WHEREAS, in order to carry out said purpose, Grove City Council wishes to sell said portion of the aforementioned real property for development by a purchaser, but, with certain deed restrictions, under certain conditions and within a certain time frame.

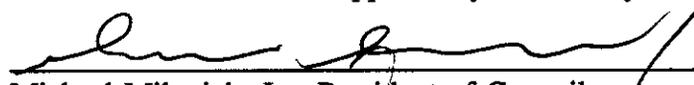
NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. This Council hereby authorizes the City Administrator to take all necessary actions to sell said portion of the aforementioned real property to be developed by a purchaser, subject to the conditions set forth in Section 2 below and subject to the deed restrictions set forth in Section 3 below.

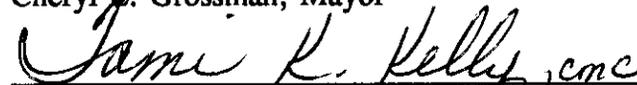
SECTION 2. This Council hereby authorizes the City Administrator to sell said portion of the aforementioned real property only if said purchaser agrees to develop the property in a manner consistent with the purpose of Chapter 1138 of the Codified Ordinances of the City of Grove City, Ohio, and consistent with the Declaration of Restrictions, attached hereto as Exhibit "B", as well as any other conditions or requirements deemed appropriate by the City Administrator, including, but not limited to, the time frame for completion of said development. The sale of said portion of the aforementioned real property can be made only after the purchaser has applied for and received a Certificate of Appropriateness, as provided in Chapter 1138 of the Codified Ordinances of the City of Grove City, Ohio.

SECTION 3. This Council hereby authorizes the City Administrator to sell said portion of the aforementioned real property only if the deed to the real property contains the restrictions set forth in the Declaration of restrictions attached hereto as Exhibit "B".

SECTION 4. This resolution shall take effect at the earliest opportunity allowed by law.

  
\_\_\_\_\_  
Michael Milovich, Jr., President of Council

  
\_\_\_\_\_  
Cheryl W. Grossman, Mayor

Attest:   
\_\_\_\_\_  
Tami K. Kelly, Clerk of Council

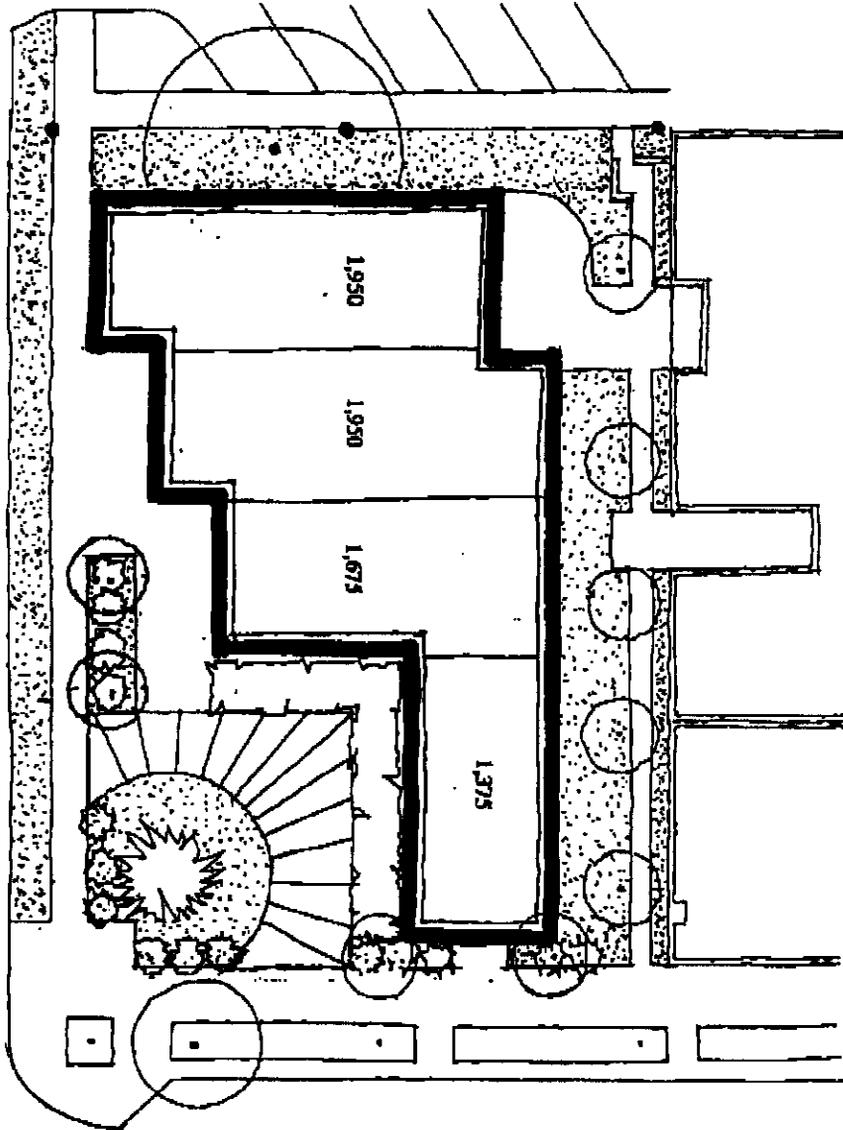
  
\_\_\_\_\_  
Thomas R. Clark, Director of Law

Passed: 8-4-97  
Effective: 8-4-97

I Certify that this resolution  
is correct as to form.

# EXHIBIT "A" CR-45-97

PARK ST.



BROADWAY

**E**  
 WINDOW & PAINT SYMBOL  
 CITY OF GROVE CITY, OHIO



FRANK FLIMMER ASSOCIATES



DATE: 07/29/97

CE-45-97  
EXHIBIT "B"

DECLARATION OF RESTRICTIONS

ARTICLE I - GENERAL PROVISIONS

1.01 Establishment of Restrictions

In order to carry out the purpose of Chapter 1138 of the Codified Ordinances of the City of Grove City as determined by the City Council of the City of Grove City and in light of the fact that the real property ("Property") conveyed by this deed conveyance is located on a portion of 4009 Broadway, Grove City, Ohio, and in the Historical Preservation Area of the City of Grove City ("City"), and as a part of the consideration for this conveyance, the Grantor executed this deed of conveyance and the Grantee accepts the same, subject to all and each of the following reservations, restrictions, conditions, easements, charges, agreements, covenants, obligations, rights, uses and provisions, hereinafter referred to as the "Restrictions," which are for the benefit and protection of, and shall be enforceable by, the City, and the Grantee, for itself, its successors and assigns, covenants and agrees to keep and perform each of said Restrictions and to hold the land above described and all parts thereof into which such land may later be divided or subdivided upon and subject to these Restrictions as herein set forth.

1.02 Purpose of Restrictions

The purpose of these Restrictions is to insure proper development and use of the Property, to protect the City against improper and undesired development of the Property, and in general to provide adequately for a high type and quality of improvement of the Property in accordance with Chapter 1138 of the Codified Ordinances of the City of Grove City.

1.03 Definitions

(a) Property - "Property" shall mean the real property conveyed by this deed of conveyance.

(b) Improvements - "Improvements" shall mean and include new buildings, buildings, outbuildings, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, signs and any structures of any type or kind.

(c) Use - "Use" shall mean the application, operation, exploitation, or enjoyment of the Property which consists in its employment or occupation, or the exercise of dominion over the Property.

(d) City - As used in Section 2.02 of Article II and Section 4.04 of Article IV, "City" shall mean the City of Grove City, the City Council of the City of Grove City, their employees, their representatives or any board or commission or members thereof of the City of Grove City.

## ARTICLE II - APPROVAL OF PLANS

### 2.01 Submission of Plans

Grantee, its successors or assigns shall, pursuant to process set forth in Chapter 1138 of the Codified Ordinances of the City of Grove City and prior to making any improvements or entering into an initial use of the Property, submit an Application for Certificate of Appropriateness, including all plans for such improvements, and any other information as may be required by the Planning Commission and/or City Council of the City of Grove City.

### 2.02 Liability of City

The City shall not be liable in damages to anyone submitting an Application for Certificate of Appropriateness to it for approval, or to any owner or lessee of the Property, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any such plans. Every person who submits an Application for Certificate of Appropriateness, and every owner or lessee of any of the Property agrees, by acquiring title thereto or interest therein, that he/she will not bring any action or suit against the City to recover any such damages.

### 2.03 Criteria

Notwithstanding any contrary provision in said Chapter 1138 of the Codified Ordinances of the City of Grove City, approval of an Application for Certificate of Appropriateness shall be based on conformity with the restrictions set forth in Article III hereof and in the sole discretion of the City Council of the City of Grove City.

## ARTICLE III - REGULATION OF USES

### 3.01 Permitted Operations and Uses

The following Uses shall be permitted on the Property, except that none of the uses shall include drive-in or drive-thru facilities.

#### (a) Professional Services

- (1) Insurance agents, brokers and services
- (2) Combinations of real estate, insurance, loans, law offices

- (3) Business, management, administrative, or consulting services
- (4) Detective agencies or protective services
- (5) Offices of health care providers
- (6) Offices of veterinarians, excluding the boarding of animals not requiring veterinary services
- (7) Legal services
- (8) Business associations
- (9) Professional membership organizations
- (10) Accounting, auditing or bookkeeping services
- (11) Engineering or architectural services
- (12) Beauty salons or barber shops

(b) Commercial Services, Retail and Residential

- (1) Eating places
- (2) Food stores, except those with gasoline sales facilities
- (3) Apparel and accessory stores
- (4) Furniture, home furnishings or equipment stores
- (5) Banking
- (6) Credit agencies other than banks
- (7) Security and commodity brokers, dealers, exchanges and services
- (8) Holding or other investment companies
- (9) Shoe repair shops, shoe shine parlors, and hat cleaning shops
- (10) Garment pressing, alteration or repair
- (11) Electrical repair shops
- (12) Watch, clock or jewelry repair
- (13) Offices of local, state and federal governments
- (14) Residential uses may be permitted as uses secondary to the permitted uses set forth in Section 3.01 and upon approval by the City Council of the City of Grove City.

3.02 Other Uses

Uses which are not specifically permitted by these restrictions may be permitted upon approval by the City Council of the City of Grove City.

ARTICLE IV - ENFORCEMENT

4.01 Reverter

Violation or breach of any restriction herein contained shall result in the reversion of the Property to the City.

#### 4.02 Deemed to Constitute a Nuisance

The result of every action or omission whereby any restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an owner, or lessee of any part of the Property, shall be applicable against every such result and may be exercised by the City.

#### 4.03 Inspection

The City Administrator, or his/her designee, may from time to time at any reasonable hour or hours, enter and inspect Property subject to these restrictions to ascertain compliance therewith.

#### 4.04 Failure to Enforce Not A Waiver of Rights

The failure of the City to enforce any restrictions herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restrictions.

### ARTICLE V - TERM, TERMINATION, MODIFICATION AND TRANSFER OF CITY'S RIGHTS AND DUTIES

#### 5.01 Term

The possibility of reverter created by this deed of conveyance, these Restrictions, every provision hereof and every covenant, condition and restriction contained herein shall continue in full force and effect in perpetuity.

#### 5.02 Termination and Modification

These Restrictions, or any provisions hereof, or any covenant, condition or restriction contained herein, may be terminated, extended, modified, or amended, as to the whole of the Property or any portion thereof, upon the majority vote of the members of City Council the City of Grove City. No such termination, extension, modification or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the office of the Recorder of Franklin County, Ohio.

### ARTICLE VI - MISCELLANEOUS PROVISIONS

#### 6.01 Constructive Notice and Acceptance

Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have

consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to these Restrictions is contained in the instrument by which such person acquired an interest in the Property.

#### 6.02 Personal Nature of Rights to Enforce

All restrictions, conditions, covenants and agreements contained herein are made for the direct, personal benefit of the City and shall not run with the land of any owner of property adjoining or near the Property, and shall be enforceable personally, only by the City.

#### 6.03 Section Headings

Section headings, where used herein, are inserted for convenience only and are not intended to be a part of these Restrictions or in any way to define, limit or describe the scope and intent of the particular paragraphs to which they refer.

#### 6.04 Effect of Invalidation

If any provision of these Restrictions is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.