

RESOLUTION NO. 03-06  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Gusham ON THE 23<sup>rd</sup> DAY OF January, 2006.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO TAKE ALL STEPS AND EXECUTE ALL DOCUMENTS NECESSARY IN ORDER TO EFFECT THE SECURING OF AN EASEMENT FOR INGRESS AND EGRESS AND PUBLIC PARKING OVER REAL PROPERTY OWNED BY W. RICHARD AND DEBRA L. TEETERS.

WHEREAS, this Council has determined that the City should assist in the economic development of the Main and Franklin Streets area of the City; and

WHEREAS, pursuant to this determination the City has been working with property owners in said area to develop additional access and parking; and

WHEREAS, the City staff has successfully negotiated with W. Richard and Debra L. Teeters to secure an easement over their real property located at 27 West Franklin Street for ingress and egress and public parking; and

WHEREAS, this City as a charter city with full home rule powers as authorized by Section 3, Article XVIII of the Constitution of the State of Ohio which powers would allow the City to conclude said securing of said easement if this Council determines that such a procedure is in the best interests of the citizens of Centerville; and

WHEREAS, this Council has determined that it is in the best interests of the City to conclude said securing of said easement and to authorize and direct the City Manager to do any and everything and to execute all documents deemed by him to be necessary to conclude said securing of said easement.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is authorized and directed to do any and everything and to execute all documents deemed by him to be necessary to conclude the securing of said easement for the reasons set forth in the preamble hereof. A copy of the proposed Easement Agreement is attached hereto as Exhibit "A" and incorporated herein.

Section 2. That the City Manager is further authorized and directed to do any and everything and to accept the terms for said easement as set forth in the Easement Agreement, attached as Exhibit A.

PASSED THIS 23<sup>rd</sup> day of January, 2006.

C. Mark Kenzler  
Mayor of the City of  
Centerville, Ohio

ATTEST:

Debra A. James  
Clerk of Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 03-06, passed by the Council of the City of Centerville, Ohio on the 23<sup>rd</sup> day of January, 2006.

Debra A. James  
Clerk of the Council

Approved as to form, consistency with the  
Charter and Constitutional Provisions.  
Department of Law  
Scott A. Liberman  
Municipal Attorney

EASEMENT AGREEMENT

This EASEMENT AGREEMENT entered into at Centerville, Ohio this 17<sup>th</sup> day of January, 2006 by and between W. Richard Teeters and Debra L. Teeters, husband and wife, 27 West Franklin Street, Centerville, Ohio 45459 (hereinafter "Grantors") and the City of Centerville, Ohio, an Ohio municipal corporation, 100 West Spring Valley Road, Centerville, Ohio 45459 (hereinafter "City").

WITNESSETH:

WHEREAS, the Grantors are the owners of the real property located at 27 West Franklin Street, Centerville, Ohio and more particularly described at 02-127089 of the Deed Records of the Montgomery County, Ohio Recorder and in Exhibit "A" attached hereto and incorporated herein (hereinafter "Property"); and

WHEREAS, the City is in the process of developing a public parking program to assist all of the businesses located and/or to be located in the area of Main and Franklin Streets in the City, including the Grantors (hereinafter "Main and Franklin Parking Area"); and

WHEREAS, as a part of said program, the City is negotiating with several of the merchants, including the Grantors, for parking and ingress/egress easements over the lands owned by said merchants; and

WHEREAS, the Grantors are willing to grant parking and ingress/egress easements over the Property upon the terms and conditions hereinafter stated which terms and conditions are acceptable to the City.

NOW THEREFORE, in consideration of the foregoing recitations and the terms and conditions hereinafter stated, the parties agree as follows:

Section 1. MONETARY CONSIDERATION Upon execution of this EASEMENT AGREEMENT the City shall pay to the Grantors the sum of THIRTY THOUSAND DOLLARS (\$30,000.00).

Section 2. GRANT OF EASEMENT The Grantors hereby grant to the City a perpetual nonexclusive ingress/egress and parking easement for the benefit of the business properties (including the Grantors' property and the Township Hall property) located in the area of Main and Franklin Streets in the City. Said ingress/egress and parking easement shall be for the use of said business property owners, their tenants, customers, clients, vendors and business invitees. The boundaries of said easement are set forth in Exhibit "B" and more fully described on Exhibit "C" attached hereto and incorporated herein.

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Section 3. EASEMENT CONDITIONS      The easements granted herein shall be subject to the following conditions:

- A.      The City will construct, pave, seed and mark the easement area set forth in Exhibits "B" and "C". The driveway area from West Franklin Street to the parking areas shall be for ingress and egress and two-way traffic shall be maintained. The City shall erect and maintain restricted parking signs in the easement area but shall not be required to erect any additional restrictive signs unless deemed warranted and necessary by the City. The City agrees to monitor the traffic over the driveway area to determine whether any additional restrictive signs are necessary.
  
- B.      The City shall at the City's sole expense maintain the entire ingress/egress and utility easement area, including, but not limited to, parking, driveway and landscaped areas. Said maintenance shall include snow removal to City's standards. Accordingly, the Grantors hereby grant an access easement to the City, its agents and employees over said easement area for the City to carry out all of its obligations imposed by this Easement Agreement for both construction and maintenance.
  
- C.      Six (6) parking spaces directly north of Grantors' store building are reserved for the exclusive use of the business occupants of 27 West Franklin Street during said business's normal hours of operation and for thirty (30) minutes preceding such business's hours of operation. The present occupant, to wit, Joli's Boutique, is open from 10:00 a.m. to 5:00 p.m., Monday through Saturday and noon to 5:00 p.m. on Sundays. Thus, the initial reserved time would be 9:30 a.m. on Monday through Saturday and from 11:30 a.m. on Sunday. The City shall be responsible for the erection and maintenance of signs in the easement area advising the public of the parking restrictions set forth herein. Grantors shall have the right to enforce the parking restrictions through any legal means. In the event future occupants adopt different hours of operation, the City will revise the signs accordingly. Grantors' right to enforce the parking restrictions shall be restricted to only the time of the business' normal hours of operation and for thirty (30) minutes preceding such business's hours of operation. The City acknowledges that the Grantors' present use of the Property does not violate the parking requirements of its zoning code for either a Specialty retail commercial use or a Business, professional office or association use. The six (6) reserved parking spaces are depicted on Exhibit "B".
  
- D.      The City agrees to apply for an exemption from real property taxes for the area covered by the easement herein granted. Said application shall be made as soon after execution of the Easement Agreement as is reasonable and will be diligently pursued to its conclusion. Grantors agree to cooperate with the

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City in this endeavor. The City agrees to reimburse the Grantors in an amount equal to the real property taxes for the easement area until the exemption is granted.

- E. The City shall maintain liability insurance on the easement area to protect the Grantors in an amount equal to its liability insurance carried on other City properties.
- F. As part of the construction of the parking area, the existing electric, cable television and telephone service utility lines will be moved underground. Accordingly, the Grantors hereby grant to the City, its agents and employees a temporary construction easement for entrance to the building located on the Property for the purpose of extending said lines into said building. This work will include trenching, new meter setting and associated feeds from the existing meter to the new meter. The City shall cause reasonable prior notice to be given to the Grantors before said construction is commenced, shall leave the area of construction clean after construction is concluded and shall be responsible for the repair of any damage.
- G. By the execution of this Easement Agreement by the Grantors, the City agrees to relinquish any and all of its rights under a lease of a portion of the Property previously granted by a Grantors' predecessor in title to a predecessor in title of the City, commonly referred to as the Early Lease.
- H. The Grantors agree to cooperate with the City in securing the recordation of an Auditor's record plat of the Benjamin Robbins Plat once the same has been prepared.
- I. The cost of recording this Easement Agreement shall be borne by the City. Each party is to bear their own legal fees and costs associated with the negotiation and execution of this Easement Agreement.

Section 4. NOTICES Any notices given pursuant to the Easement Agreement shall be in writing at the addresses first above written unless a party gives written notice of a different address in which case that address shall be used.

Section 5. AMENDMENTS No modification or amendment shall be effective unless in written recordable form signed by both parties hereto, their heirs, successors or assigns. This Easement Agreement supersedes any prior written or oral understanding between the parties.

Section 6. MISCELLANEOUS This Easement Agreement being perpetual shall run with the land and be binding upon the parties hereto, their heirs, successors and assigns.

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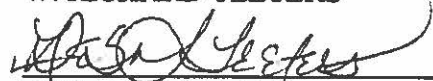
The terms of this Easement Agreement shall be interpreted in accordance with the laws of Ohio.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement on the date first above written.

**Grantors:**



W. RICHARD TEETERS



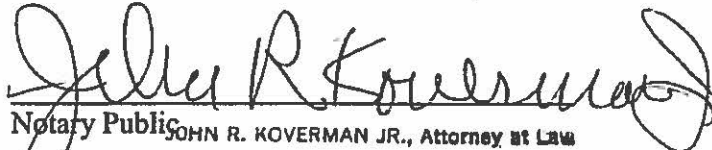
DEBRA L. TEETERS

CITY OF CENTERVILLE, OHIO

By \_\_\_\_\_  
Gregory B. Horn, City Manager

*State of Ohio*  
*Montgomery County SS:*

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of January, 2006 by W. RICHARD TEETERS and DEBRA L. TEETERS, husband and wife, the Grantors.

  
Notary Public

JOHN R. KOVERMAN JR., Attorney at Law

Notary Public, State of Ohio

My Commission has no expiration date,

Section 147.03 B, G.

*State of Ohio*  
*Montgomery County SS:*

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of January, 2006 by GREGORY B. HORN, City Manager of the City of Centerville, Ohio, an Ohio municipal corporation on behalf of the corporation.

\_\_\_\_\_  
Notary Public

This Instrument Prepared By:  
Scott A. Liberman, Attorney at Law, ALTICK & CORWIN CO., L.P.A., 1700 One Dayton Centre, 1 South Main Street, Dayton, Ohio 45402

Prepared	✓
Cashiered	✓
Filed	
Coded	
Entered	
Verified	
Imaged	

382735

TRANSFER  
 11:59am OCTOBER 16, 2002  
 KARL L. KEITH, COUNTY AUDITOR  
 Conv/Tran #: 28367 \$240.00

**SURVIVORSHIP DEED\***

WILLIAM DAVID AUSTIN AKA WILLIAM D. AUSTIN AND ROBIN L. AUSTIN, Husband and Wife, for valuable consideration paid, grants with general warranty covenants, to

W. RICHARD TEETERS AND DEBRA L. TEETERS, Husband and Wife, FOR THEIR JOINT LIVES, REMAINDER TO THE SURVIVOR OF THEM, whose tax-mailing address is  
 27 W. FRANKLIN ST., CENTERVILLE, OH 45459

the following REAL PROPERTY:

SEE ATTACHED EXHIBIT "A"

PARCEL NO. 068-0001-03-0003

Subject to all easements, conditions, restrictions and limitations of record and all legal highways, and excepting from the warranty hereof taxes and assessments due and payable January, 2003 and thereafter.

Prior Instrument reference: Deed No. 98-798E06 of the Official Records of Montgomery County, Ohio. Executed this 15th of October, 2002.

*[Signature]*  
 WILLIAM DAVID AUSTIN

*[Signature]*  
 ROBIN L. AUSTIN aka ROBIN LEE AUSTIN

219.00 10/16/02 12:15:10  
 DEED-02-127089 0002  
 Montgomery County  
 Judy Dodge Recorder

STATE OF OHIO, COUNTY OF MONTGOMERY SS:

The foregoing instrument was acknowledged before me this 15th day of October, 2002, by William David Austin AKA William D. Austin and Robin L. Austin.



LINDA S. WENDLING  
 Notary Public  
 In and for the State of Ohio  
 My Commission Expires  
 March 8, 2003

*[Signature]*  
 Notary Public

This instrument prepared by: William H. Frapwell, Attorney at Law

\*See Sections 5302-17 Ohio Revised Code

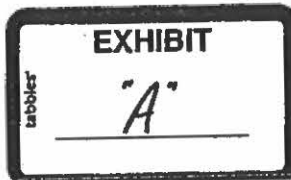




EXHIBIT "A"

SITUATED IN THE CITY OF CENTERVILLE, COUNTY OF MONTGOMERY, AND STATE OF OHIO, AND BEING LOT NUMBERED TWENTY ONE (21) ON THE WEST SIDE OF MAIN STREET AND NORTH SIDE OF FRANKLIN STREET IN BENJAMIN ROBBINS PLAT IN THE CITY OF CENTERVILLE, CONTAINING 1/2 ACRE AND EXCEPTING 40 FEET IN WIDTH RUNNING PARALLEL WITH THE EAST LINE OFF THE EAST SIDE OF SAID LOT NUMBERED 21 CONVEYED BY ELMIRA LINCOLN AND OTHERS TO THE TRUSTEES OF CENTER LODGE K OF P. 683, BY DEED EXECUTED BY SEPTEMBER 20, 1902 AND RECORDED IN DEED BOOK 253 PAGE 117, AND RESERVING THEREFROM THAT PART SOLD TO THE STATE OF OHIO BY DEED DATED OCTOBER 10, 1967, AND RECORDED IN DEED BOOK 2391 PAGE 572.

**KARL KEITH**  
COUNTY AUDITOR  
MONTGOMERY COUNTY DAYTON, OHIO  
DESCRIPTION APPROVED FOR  
STRAIGHT TRANSFER CLOSURE  
NOT CHECKED.  
BY dj DATE 10/15/02  
MAP DEPARTMENT

WRT  
DET

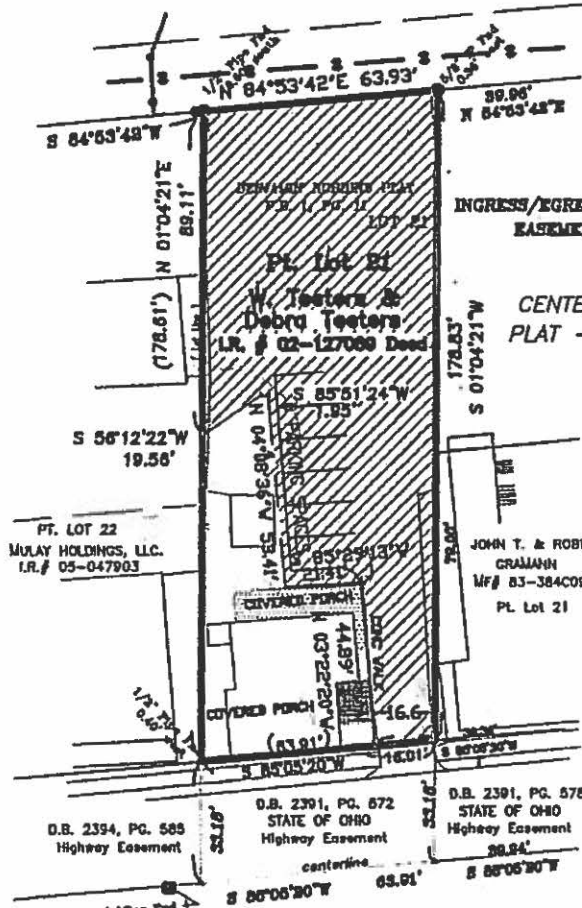


**LOT # 3**  
 CENTERVILLE BENJAMIN ROBBINS  
 PLAT - SECTION 1 - P.B. 201, PG. 6

**EXHIBIT TO INGRESS / EGRESS  
 ACCESS EASEMENT**

**TEETERS PARCEL**

**PT. LOT 1 - BENJAMIN ROBBINS PLAT**  
 City of Centerville  
 Montgomery County, Ohio



INGRESS/EGRESS PARKING  
 EASEMENT  
 LOT # 2

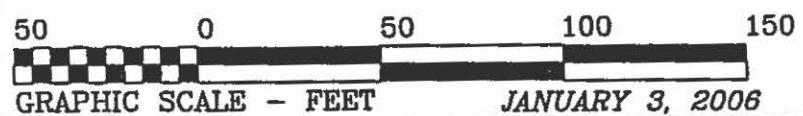
CENTERVILLE BENJAMIN ROBBINS  
 PLAT - SECTION 1 - P.B. 201, PG. 6



Mons. Box (1.86x Fed.)  
 Const. C/L Sta. 0784+00.72  
 For NOT 750-18.11 N/W Plane

**W. FRANKLIN STREET (66')**

*Thomas K. Marsh*  
 THOMAS K. MARSH, P.S. # 7735



JANUARY 3, 2006

⊕ McDougall, Marsh & Chico  
 Surveyors and Civil Engineers  
 8529 Byers Road Tel: 937-847-2660  
 Miamisburg, Ohio 45342 Fax 937-847-2670

 **McDougall, Marsh & Chico**  
Surveyors & Civil Engineers

8529 Byers Road, Miamisburg, OH 45342  
Tel: 937-847-2660 Fax: 937-847-2670

## INGRESS / EGRESS PARKING & UTILITY EASEMENT

Situate in the City of Centerville, Montgomery County, Ohio and being an ingress/egress and utility easement for the purpose of vehicular and pedestrian traffic, installation, maintenance and replacement of said utilities upon Part Lot 21 of the Benjamin Robbins Plat as recorded in Plat Book 1, Page 11 and as conveyed to Richard W. & Debra L. Teeters by IR # 02-127089 Deed of the deed records of Montgomery County, Ohio and being more particularly described as follows:

Beginning at a 5/8" iron pin set at the northwest corner of said Lot 21 and also being the northwest corner of said Teeters' Parcel and the True Point of Beginning for the herein described ingress/egress and utility easement;

thence N 84°53'42" E with the north line of said Part Lot 21 a distance of 63.93 feet to a 5/8" iron pin found at the northeast corner of said Teeters' Parcel;

thence S 01°04'21" W with the east line of said Teeters' Parcel a distance of 178.83 feet to a 5/8" iron pin set in the north right-of-way line of West Franklin Street ( S.R. 725 );

thence S 85°05'20" W with the north right-of-way line of said West Franklin Street a distance of 16.01 feet to a mag nail set;

thence N 03°22'20" W through said Teeters' Parcel a distance of 44.89 feet to a mag nail set;

thence S 85°29'13" E continuing through said Teeters' Parcel a distance of 21.41 feet to a point;

thence N 04°08'36" W continuing through said Teeters' Parcel a distance of 53.41 feet to a point;

thence S 85°51'24" W continuing through said Teeters' Parcel a distance of 1.95 feet to a point;

thence S 56°12'22" W continuing through said Teeters' Parcel a distance of 19.56 feet to a point in the west line of said Lot 21 ( Teeters' west line );

thence N 01°04'21" E with the west line of said Lot 21 a distance of 89.11 feet to the True Point of Beginning, containing 0.1897 acres ( 8263 sq. ft. ). Subject to all legal conditions, easements and rights-of-way of record. This description prepared by McDougall, Marsh, & Chico, based on a survey made by same in January 2003, October 2004, July 2005. Bearings are assumed for the purpose of angular measurement only.

  
Thomas K. Marsh, P.S. #7735

