

ORDINANCE NO. 29-12

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Graham ON THE
17 DAY OF December, 2012.

AN EMERGENCY ORDINANCE PURSUANT TO OHIO REVISED CODE SECTION 709.38 ASSENTING TO THE DETACHMENT OF CERTAIN PROPERTY FROM THE CITY FOR THE PURPOSE OF RE-ANNEXING AND ELIMINATING DOUBLE TAXATION.

WHEREAS, due to an annexation which occurred in 2006, certain real property (the "Property"), more fully described in Exhibit "A", was annexed to the City of Centerville from Washington Township (the "Township"); and

WHEREAS, due to the original type of annexation of the Property, it has been discovered that the Property is currently being taxed for both the City and the Township by the Montgomery County Auditor, different than other properties in the City; and

WHEREAS, the City and the Township had entered into a master agreement outlining the terms for detaching the Property from the City and then re-annexing the Property back into the City under a different type of annexation procedure; and

WHEREAS, Ohio Revised Code Section 709.38 requires the City by ordinance to assent to the detachment of property; and

WHEREAS, the City Council of the City of Centerville will assent to the detachment of the Property from the City with the understanding that the Property will then subsequently be re-annexed into the City but no longer subject to double taxation; and

WHEREAS, the City, the Township and the owner of the Property have entered into an Agreement (the "Agreement") which details the detachment and re-annexation process a copy of which is attached hereto as Exhibit "B"; and

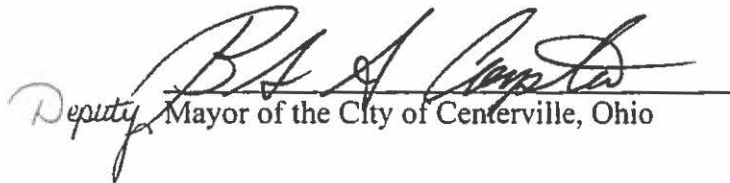
WHEREAS, the City Council enacts this Ordinance to assent to the detachment in accordance with R.C. 709.38.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY
ORDAINS:

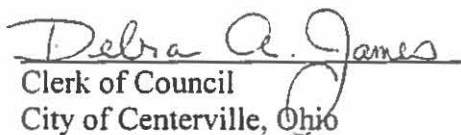
Section 1. In accordance with R.C. 709.38, City Council hereby assents to the detachment as described in the Agreement attached hereto and incorporated herein at Exhibit "B" with the understanding that the Property will be subsequently re-annexed to the City.

Section 2. This Ordinance is hereby declared to be an emergency measure and shall become effective immediately upon passage. An emergency affecting public health, safety and welfare is hereby declared to exist by virtue of the fact that the Property is being subjected to double taxation and development of the lots included in the Property is delayed until the double taxation issue is corrected.

PASSED THIS 17th day of December, 2012.


Deputy Mayor of the City of Centerville, Ohio

ATTEST:


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 Ordinance No. 29-12, passed by the Council of the City of Centerville, Ohio on the 17th day of December, 2012.


Clerk of the Council

Approved as to form and consistency
with the Charter and Constitutional
Provisions.

Department of Law
Scott A. Liberman
Municipal Attorney

EXHIBIT A



8800 Tylersville Road, Suite A
Mason, OH 45040
phone: 613.338.8600
fax: 613.338.9365
www.bayerbecker.com

December 14, 2005

DESCRIPTION:

John & Mary Reese
1.214 Acres
Annexation into the City of Centerville

LOCATION:

Washington Township
Montgomery County, Ohio



Situate in Section 34, Town 3, Range 5, M.Rs., Washington Township, Montgomery County, Ohio and being part of a 5.897 acre parcel conveyed to John & Mary Reese as recorded in M.F.# 78-0276-A06 of the Montgomery County Recorder's Office containing 1.214 acres to be annexed into the City of Centerville and being further described as follows:

Begin at the southwest corner of lot 271 of Rose Estates, Section 14 as recorded in Plat Book 107, Page 47 of the Montgomery County Recorder's Office, said corner also being on a easterly line of a 3.988 acre parcel as conveyed to Yankee Trace Development Inc., as recorded in M.F. #01-0663-E06 and on the north line of said Section 34, a north line of the existing corporation line and the true point of beginning;

- thence from the true point of beginning, departing said Yankee Trace Development, Inc., with said Section line, said Rose Estates and said existing corporation line, North 88°44'02" East, 414.88 feet;
- thence departing said Section line, said Rose Estates and said existing corporation line, with the proposed corporation line, South 18°19'33" West, 205.39 feet, to a northeast corner of a 40.728 acre parcel as conveyed to Yankee Trace Development, Inc. as recorded in M.F.# 01-0663-D08 and a northwest corner of a 4.175 acre remainder parcel as conveyed to Kevin A. & Polly A. Harker as recorded in I.R. #03-06880-00 and the existing corporation line;
- thence departing said proposed corporation line and said Harker, with said Yankee Trace Development, Inc. and said existing corporation line, North 71°27'47" West, 378.02 feet to a easterly corner of said 3.988 acre parcel conveyed to said Yankee Trace Development, Inc.;
- thence departing said 40.728 acre parcel conveyed to said Yankee Trace Development, Inc; continuing with said existing corporation line, and with said 3.988 acre parcel conveyed to said Yankee Trace Development, Inc, North 02°08'03" East, 87.50 feet to the true point of beginning, containing 1.214 acres of land subject to all easements and rights of way of record.

This description was based on existing deeds and plats of record and does not represent a new survey.

Prepared by Bayer Becker Engineers, Jeffrey O. Lambert P.S. #7568.

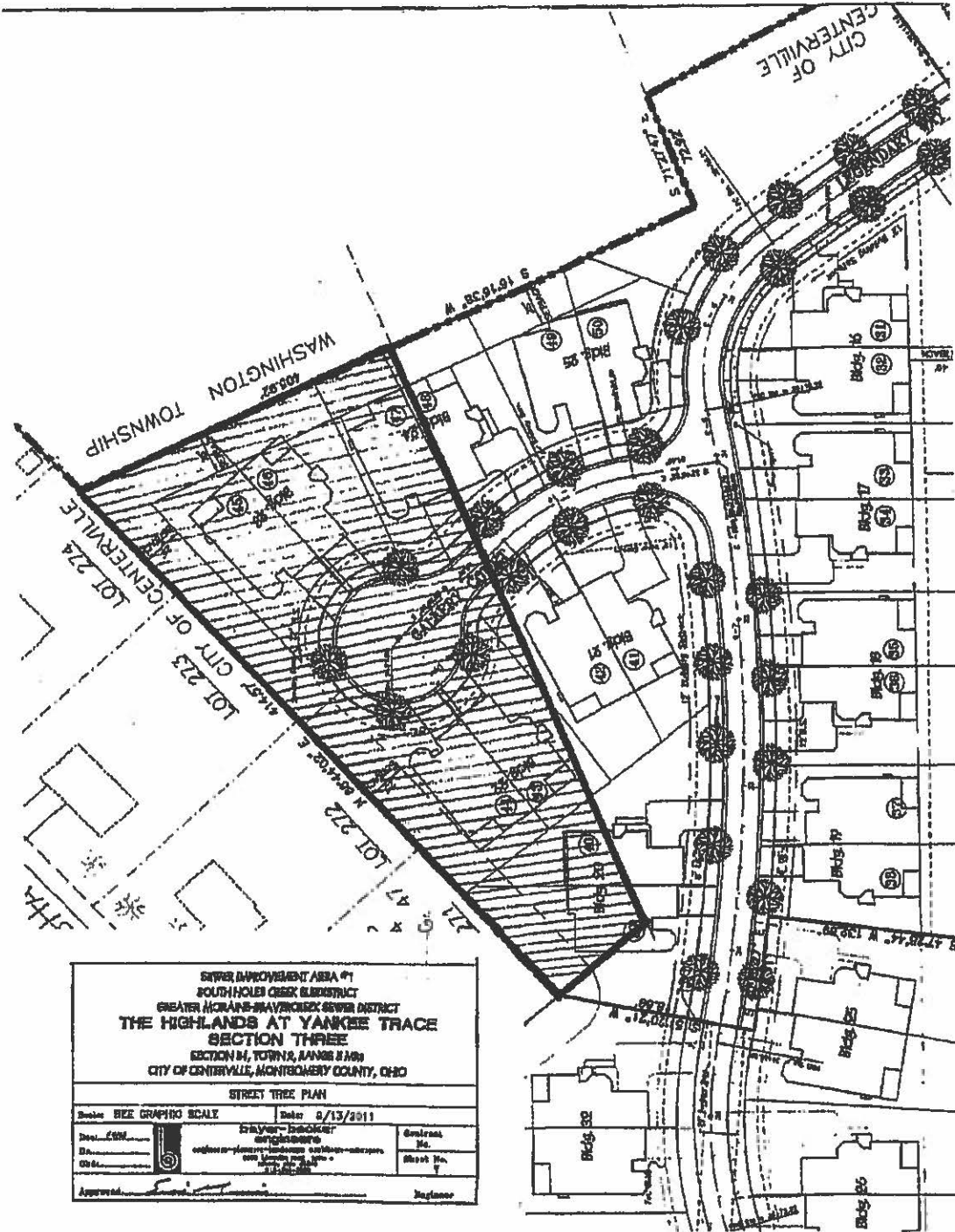
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700 Niles Road
Fairfield, OH 45014
(REV 0-03)

14 East Eighth Street
Covington, KY 41011

8800 Tylersville Road
Mason, OH 45040

777 Eads Pkwy., Suite C
Lawrenceburg, IN 47025



SEWER IMPROVEMENT AREA #1
 SOUTH HOLEY CREEK SUBDISTRICT
 GREATER HIGHLANDS-WAVERLY CREEK SEWER DISTRICT
THE HIGHLANDS AT YANKEE TRACE
 SECTION 34, TOWN 4, RANGE 2 N 10 E
 CITY OF CENTERVILLE, MONROE COUNTY, OHIO

STREET TREE PLAN

Scale: SEE GRAPHIC SCALE	Date: 8/13/2011
Drawn: <i>CMW</i>	Checked: <i>hbk</i>
By: _____	Engineer No. _____
City: _____	Sheet No. _____
Approved: _____	Engineer _____

EXHIBIT B
DETACHMENT AGREEMENT

THE CITY OF CENTERVILLE, OHIO, an Ohio municipal corporation (the "City") and WASHINGTON TOWNSHIP, MONTGOMERY COUNTY, OHIO (the "Township") are entering into this Detachment Agreement (the "Detachment Agreement") under the following circumstances:

A. Yankee Trace Development, Inc., an Ohio corporation, ("Owner") desires to petition the Board of County Commissions of Montgomery County, Ohio (the "County") for detachment from the City certain real property owned by Developer as described in Exhibit A attached hereto (the "Property").

B. Owner desires that, upon such detachment, the Property will be attached to the Township.

C. In consideration of certain other agreements between the Owner, the City and the Township regarding the Property, including an Annexation Agreement pursuant to and by which the Property will be re-annexed into the City, both the Township and the City desire assent to the detachment of the Property from the City and the resulting attachment of the Property into the Township and are entering into this Detachment Agreement to reflect this assent to the detachment petition filed by the Owner and their agreement regarding the apportionment of indebtedness, moneys and credits related to the Property pursuant to Section 709.38 of the Ohio Revised Code.

D. This Detachment Agreement is authorized under Section 709.38 of the Ohio Revised Code and other applicable laws and has been approved by the Board of Trustees of the Township by Resolution Number _____, adopted on November 5, 2012 and by the City Council of the City by ~~Ordinance~~ ^{Resolution} Number 44-12, adopted on October 15, 2012.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and for other good and valuation consideration, including without limitation certain agreements between the City and the Township regarding the re-annexation of the Property into the City, the receipt and sufficiency of which are hereby acknowledged by both parties hereto, the City and the Township, as approved by their respective appropriate legislative actions, agree as follows:

1. The City and the Township each consent to the detachment of the Property from Centerville and the resulting attachment of the Property to the Township.

2. The City and the Township agree there is to be no apportionment of indebtedness to the Property and, pursuant to Section 709.38 of the Ohio Revised Code, there is no need for the County to make any apportionment of debt to the Property, or to make any adjustment or division of moneys with respect to this detachment.

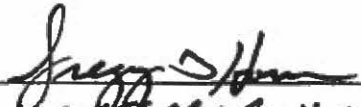
3. This Detachment Agreement may be executed in one or more counterparts or duplicate signature pages with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more such counterparts or duplicate

signature pages may be removed from any one or more original copies of this Detachment Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument.


4. If any term or provision of this Detachment Agreement is held to be invalid, such invalidity shall not affect other terms, conditions, or provisions that can be given effect without the invalid term, condition, or provision and, to this end, the terms and provisions of this Detachment Agreement are declared severable; provided, however, that in the event of invalidation of any portion of this Detachment Agreement, the parties hereto shall, upon the written request of any other party hereto, meet within thirty (30) days after the receipt of such request, and modify the invalidated provision(s) in such a manner so as to accomplish the purpose and intent of this Detachment Agreement and certain other agreements being entered into by the City, the Township and the Owner regarding the re-annexation of the Property into the City, with time being of the essence.

IN WITNESS WHEREOF, the parties have caused this Detachment Agreement to be duly executed as of the date beneath its signature.


CITY OF CENTERVILLE, OHIO

By: 
Print: GREGORY S. HAWN
Its: CITY MANAGER
Date: 10-22-2012

APPROVED AS TO FORM:

By: 
Print: SCOTT A. LEBERMAN
City Attorney, City of Centerville

WASHINGTON TOWNSHIP, MONTGOMERY COUNTY, OHIO

By: 
Print: Jesse K. Wright
Its: Township Administrator
Date: 12-3-12