

RESOLUTION NO. 35-13
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Sheehan ON THE 19th
DAY OF AUGUST, 2013.

A RESOLUTION RATIFYING THE ACTIONS OF THE CITY
MANAGER TO ENTER INTO A PRE-ANNEXATION AGREEMENT
WITH YANKEE TRACE WOODS, LLC FOR PROPERTY LOCATED IN
WASHINGTON TOWNSHIP.

WHEREAS, the City and YANKEE TRACE WOODS, LLC, the owner of
property located in Washington Township, have successfully negotiated a Pre-
annexation Agreement to allow property to be annexed into the City; and

WHEREAS, this Council has determined that it would be in the best interests of
the citizens of Centerville to enter into said agreement.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY
RESOLVES:

Section 1. That the City Manager's actions in executing a Pre-Annexation
Agreement with YANKEE TRACE WOODS, LLC to allow for the annexation of
property located in Washington Township in accordance with the terms of said
agreement, a copy of which is attached hereto as Exhibit "A" and incorporated
herein is hereby ratified and approved.

Section 2. This Resolution is to take effect at the earliest time allowed by law.

PASSED THIS 19th day of August, 2013.

Brad A. Copton
Deputy 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. 35-13, passed by the Council of the City of Centerville, Ohio on the 19th day of August, 2013.

Debra A. James
Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement is entered into this 1st day of August, 2013, by and between the City of Centerville, an Ohio municipal corporation (hereinafter "City"), and Yankee Trace Woods, LLC, an Ohio limited liability company, a real property owner in Washington Township, Montgomery County, Ohio (hereinafter referred to as "Petitioner").

WHEREAS, the undersigned Petitioner is the owner of a 13.8 acre property, located on Paragon Road in Washington Township, Montgomery County, Ohio, which property is contiguous with the City and further identified on Exhibit "A" attached and incorporated herein; and

WHEREAS, the undersigned Petitioner wishes to annex its property or a portion thereof to the City ("Property"); and

WHEREAS, both parties wish to cooperate in facilitating the annexation of the territory;

NOW, THEREFORE, in consideration of the following, Petitioner and City hereby agree as follows:

Section 1: Annexation Petition. The Petitioner has prepared an annexation petition, map, and description to petition for the annexation of Property into the City of Centerville in the appropriate form for review and approval by the City. The Petitioner agrees to sign the annexation petition agreeing to annex the territory described in this Agreement to the City and appointing Nathan E. Cahall, residing at 1606 Gatekeeper Way Centerville, OH 45458, as the Petitioner's agent. The annexation petition shall be filed solely containing the Petitioner's Property. The petition will be filed with the Montgomery County Board of County Commissioners within sixty (60) days of obtaining the owner's signature. The City agrees that all costs and expenses associated with petitioning for the annexation will be borne by City. Should Petitioner desire its own attorney to represent its interests with regard to the annexation petition, those costs will be borne by Petitioner. Once this Agreement is signed and accepted by City, the Petitioner agrees that it will not remove its name from the petition, unless a condition ("Condition") stated below occurs, and will continue to support the annexation to the City throughout the entire annexation process, including any appeal or court action provided such is at no further expense to Petitioner and as long as the annexation, appeal, or court action is supported by the City. Petitioner will cooperate with City in attending or presenting any necessary information or testimony before the Montgomery County Board of County Commissioners or court of competent jurisdiction as requested by City. If necessary, and at City's request, Petitioner will appear at the review of the petition before the Montgomery County Board of County Commissioners and at any subsequent court hearings on appeal.

Section 2: Service Resolution. The City agrees to enact and file the appropriate service resolution with the Montgomery County Board of County Commissioners within twenty (20) days of the filing of the annexation petition stating the services that would be provided to the area sought to be annexed and the approximate time such services would be provided.

Section 3: Zoning. The City agrees to review a request for rezoning of the Property to R1-C zoning with a Cluster Development Plan approval at the earliest possible time after filing of the annexation petition. A copy of the current proposed development plan ("Plan") is attached hereto as Exhibit "B" and represents Petitioner's plan for development of the Property. The Plan shows creation of a street connecting Paragon Road to Yankee Trace Drive. The Plan will include provisions to maintain existing trees as reasonably possible and certain non-disturbance areas will be shown on the Plan pending review by Planning Commission and City Council. Petitioner may amend the plan as reasonably required through the zoning approval process but is committed to development of a single family residential development compatible with the adjacent Yankee Trace development. If the zoning has not been approved in a manner acceptable to Petitioner prior to completion of the Annexation procedure, this will constitute a Condition under which Petitioner shall have the right to withdraw the signature from the Annexation Petition. The Petitioner agrees that the City may adopt an ordinance or resolution stating that if the territory is annexed and becomes subject to zoning by the City and the zoning permits uses in the annexed territory that the City determines are clearly incompatible with the uses permitted under the current zoning on the adjacent land that remains within the township, the City will require in the rezoning ordinance that the owner provide a buffer separating the uses in the annexed territory from the adjacent township uses as set out by law.

Section 4: Yankee Trace. The City and the Petitioner have agreed that the Property is to be developed as single family residences within the "Yankee Trace" development. The City advises that it is the owner of the "Yankee Trace" name and logo and related rights ("Rights"). The City agrees to allow Petitioner and its successors and assigns the right to use the "Yankee Trace" name and logo and associated Rights in its development and its marketing of said development only, and that the Petitioner will not be required to pay any additional amounts to exercise these Rights. The City agrees to provide Petitioner with necessary logo artwork and related materials as needed to allow Petitioner to identify the Property as being part of "Yankee Trace". However, Petitioner shall not acquire any permanent ownership rights of the logo artwork and related materials and such use is upon the permission of the City. The Petitioner must receive written approval from the City for the use of these Rights.

Section 5: Covenants, Conditions and Restrictions. Petitioner will seek to become a part of the existing Yankee Trace Community Association, Inc. governed by the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements ("Declaration") as originally recorded at Deed Book 94-0783A08 on December 6, 1994 and as subsequently amended from time to time. Under The Declaration, the Association must agree to allow any additional property to be added to the property covered by the Declaration. Petitioner will seek approval of the Association to add the Property to the lands covered by the Declaration. If the Association under the Declaration does not agree to allow this Property to be additional property to be governed by the Declaration, the Petitioner shall develop its own covenants, conditions and restrictions with its own design guidelines similar to those in the Declaration as Petitioner deems applicable and which shall be acceptable to the City. City agrees that owners of lots in the Property will have the right to use the walking paths throughout the Yankee Trace development that are located within public rights-of-way.

Section 6. Assessments. Both parties acknowledge that Petitioner intends to file a petition with the City requesting the establishment of a special assessment district to be used to finance the construction of certain public improvements that will service the development. A draft copy of the petition is attached hereto as Exhibit "B". Petitioner shall provide final construction drawings for the work to be approved by the City Engineer. The City will, to the extent allowed, add Petitioner's engineering costs to develop the construction plans to the total assessments for the project.

Section 7: Further Support. The City further agrees, if necessary, to appear by its designated representative at the review before the Montgomery County Board of County Commissioners in support of the petition. The City agrees that it will make all reasonable efforts and actions needed to support the annexation process.

Section 8: Condition Precedent. Both parties acknowledge and agree that this Agreement is effective at the earliest period allowed by law.

Section 9: Miscellaneous. This Agreement and the rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof and shall inure to the benefit of and be binding on the respective successors and assigns.

This Agreement supersedes any and all prior agreements, arrangements, negotiations, letters of understanding and acknowledgements between City and Petitioner or Petitioners, or any related party, relative to matters contained herein whether oral or written. No amendment, modification or alteration of this Agreement shall be valid unless in writing and signed by the parties hereto.


If for any reason any one or more articles, sections, sentences, clauses or parts of this Agreement are held invalid by any court of law or duly authorized public body such determination shall not affect, impair, or invalidate the remaining provisions of this Agreement but shall be confined in its operation to the specific articles, sections, sentences, clauses or parts of the Agreement in any one or more instance shall not prejudice in any way the validity of the Agreement in any other instance nor shall such finding alter the understandings of both parties as to the intent of this Agreement and both parties agree to use their best efforts to bring to fruition the results contemplated in this Agreement regardless of the findings of any court of law or other duly authorized public body.

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

This Agreement is executed this 16th day of August, 2013, by the City of Centerville, Ohio, and Yankee Trace Woods, LLC, and is effective upon the date provided above.

**PETITIONER
YANKEE TRACE WOODS, LLC**


Date: Aug 15th, 2013

By: 
Brian Barnard
Its: Member

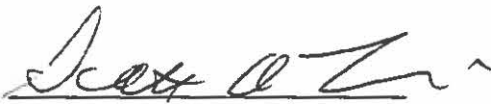
This Agreement was authorized by the City of Centerville by Resolution No. 35-13 adopted on August 19, 2013 at an open meeting and in accordance with the laws of the state of Ohio, and the ordinances and Charter of the City of Centerville, and is executed by the City Manager this 16th day of August, 2013 in accordance with such authority and is effective at the earliest date as provided by law.

CITY OF CENTERVILLE, OHIO

Date: 8-16, 2013


By: Gregory B. Horn
Its: City Manager

Approved as to form:


Scott A. Liberman
Municipal Attorney

BRUMBAUGH ENGINEERING & SURVEYING, LLC
1105 South Miami St.
West Milton, Ohio 45383
937-698-3000

August 16, 2013

PROPOSED ANNEXATION
13.8 ACRES

Situate in the State of Ohio, County of Montgomery, Township of Washington, and being in Section 35, Town 3, Range 5 MRS, and being all of the 13.812 Acre Tract as acquired by Yankee Trace Woods, LLC in I.R. Deed 13-057389 (all references to deed books, official records, microfiche numbers, instrument numbers, survey records and/or plats refer to the Montgomery County Recorders office, Montgomery County, Ohio), and being more specifically described as follows:

Commencing at the Northwest corner of said Yankee Trace Woods, LLC tract and the Northwest corner of the Southwest quarter of Section 35, Town 3, Range 5 MRS marking the **TRUE POINT OF BEGINNING**;

Thence with the North line of said Yankee Trace Woods, LLC tract and with the South line of a tract conveyed to Linda S. Gastineau, Trustee in IR Deed 07-004940 S 89° 41' 28" E for a distance of 870.70 feet to a point at the Northwest corner of a tract conveyed to James C. Mayberry, Sr. and Carolyn Mayberry in I.R. Deed 02-128968;

Thence with an East line of said Yankee Trace Woods, LLC tract and the West Line of said Mayberry tract S 00° 20' 12" W for a distance of 398.76 feet to a point at the Southwest corner of said Mayberry tract;

Thence with a North line of said Yankee Trace Woods, LLC tract and the South line of said Mayberry tract S 89° 43' 15" E for a distance of 369.70 feet to a point on the west line of a tract conveyed to the Board of Trustees of the Township of Washington, County of Montgomery, Ohio in I.R. Deed 10-051094, being the west right-of-way line of Paragon Road (82' ROW);

Thence with the East line of said Yankee Trace Woods, LLC tract and the west right-of-way line of said Paragon Road on a curve to the left with an arc distance of 4.88 feet whose radius = 410.65 feet, delta = 0° 40' 51", tangent = 2.44 feet, and whose long chord bears S 05° 23' 11" W for a distance of 4.88 feet to a point;

Thence continuing with the East line of said Yankee Trace Woods, LLC tract and the West right-of-way line of said Paragon Road S 05° 03' 17" W for a distance of 194.96 feet to a point on the North line of a tract conveyed to Susan J. Mauro, Trustee in I.R. Deed 03-083491;

Thence with the South line of said Yankee Trace Woods, LLC tract and North Line of said Mauro tract N 89° 43' 22" W for a distance of 1070.46 feet to a point on the Northwest corner of said Mauro tract and in the North line of Yankee Trace Section 17 recorded in Plat Book 174 page 42A;

Thence with a Southerly line of said Yankee Trace Woods, LLC tract and the North Line of said Yankee Trace Section 17 N 67° 49' 39" W for a distance of 219.90 feet to a point in the West line of said section 35 and the East line of Yankee Trace Subdivision Section 16 as recorded in Plat Book 173 page 36A;

Thence with the West line of said section 35 and said Yankee Trace Woods, LLC tract and the East line of Yankee Trace Section 16 N 05° 56' 19" E for a distance of 518.93 feet to the **TRUE POINT OF BEGINNING**. The above described property contains a total of 13.8 ± acres more or less and being subject to all restrictions, easements, conditions, covenants and legal highways of record.

The basis of bearing of the foregoing description is the Ohio State Plane Coordinate system, south zone, NAD83 (cors), the South line of the Yankee Trace Woods, LLC being N 89° 43' 22" W.

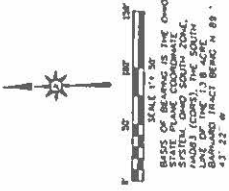
The foregoing description is according to the 12-12-12 survey of Philip C Brumbaugh, Registered Surveyor # 5057, as filed in Survey Volume 2012 and Page 0340 of the Montgomery County Engineers Office.

This description is for annexation purposes only and is not to be used for deed transfer.

Philip C. Brumbaugh
Ohio Reg. #5057

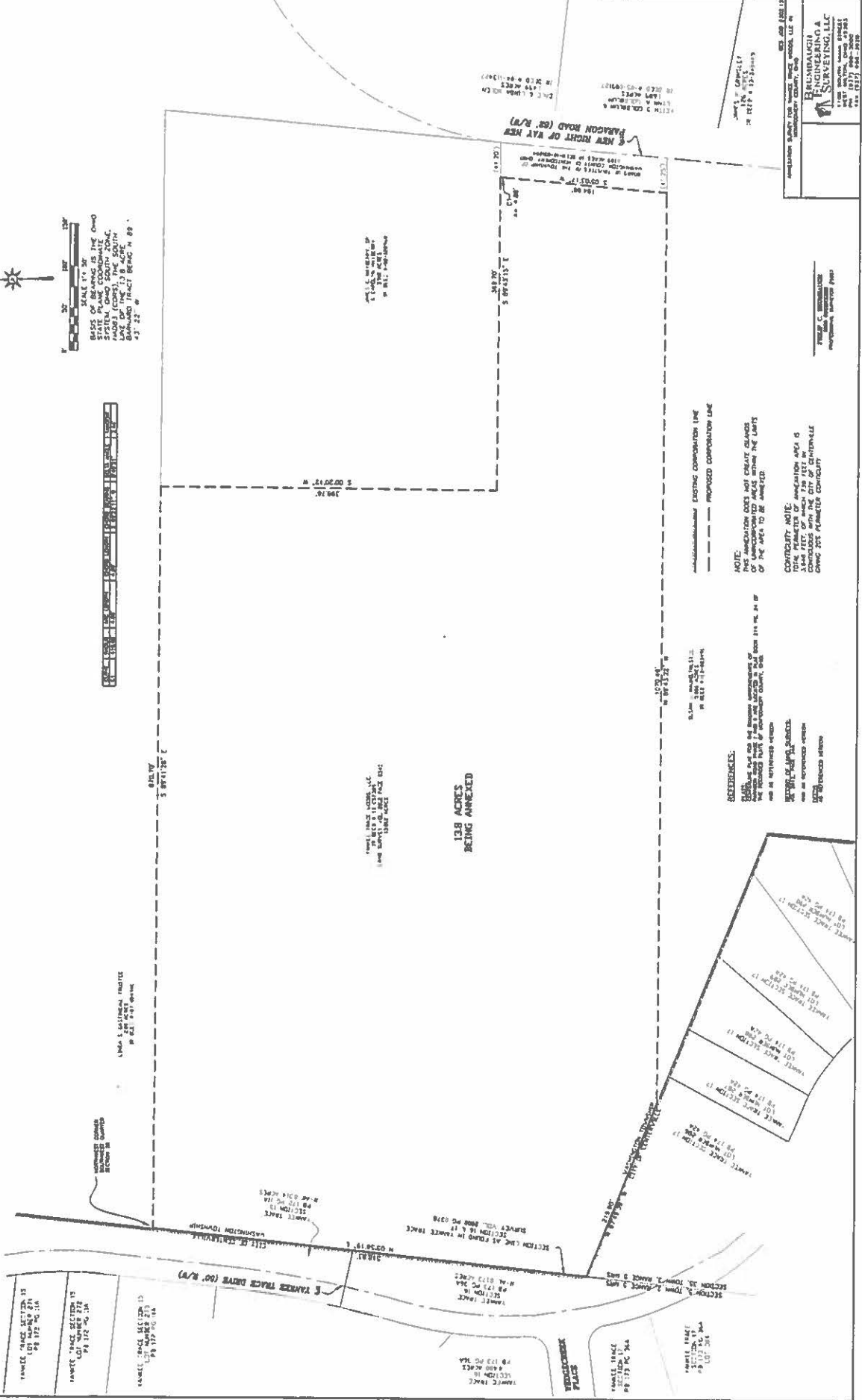
ANNEXATION OF 13.8 ± ACRES TO THE CITY OF CENTERVILLE
TOWNSHIP OF WASHINGTON, COUNTY OF MONTGOMERY, STATE OF OHIO

AUGUST 14, 2013



BASES OF ALL LINES BY THE OHIO STATE PLANE COORDINATE SYSTEM (NAD 83) (GCS), THE SOUTH ZONE OF THE 13.8 ACRES PROJECT BEING N 09° 43' 22" E

LINE NO.	LENGTH (FEET)	BEARING	START POINT (Easting, Northing)	END POINT (Easting, Northing)
1	118.5	N 89° 11' 30" E	118.5, 118.5	118.5, 118.5
2	118.5	S 89° 11' 30" E	118.5, 118.5	118.5, 118.5
3	118.5	S 00° 00' 00" E	118.5, 118.5	118.5, 118.5
4	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
5	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
6	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
7	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
8	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
9	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
10	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
11	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
12	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
13	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
14	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
15	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
16	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
17	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
18	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
19	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
20	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
21	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
22	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
23	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
24	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
25	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
26	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
27	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
28	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
29	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5
30	118.5	N 89° 11' 30" W	118.5, 118.5	118.5, 118.5

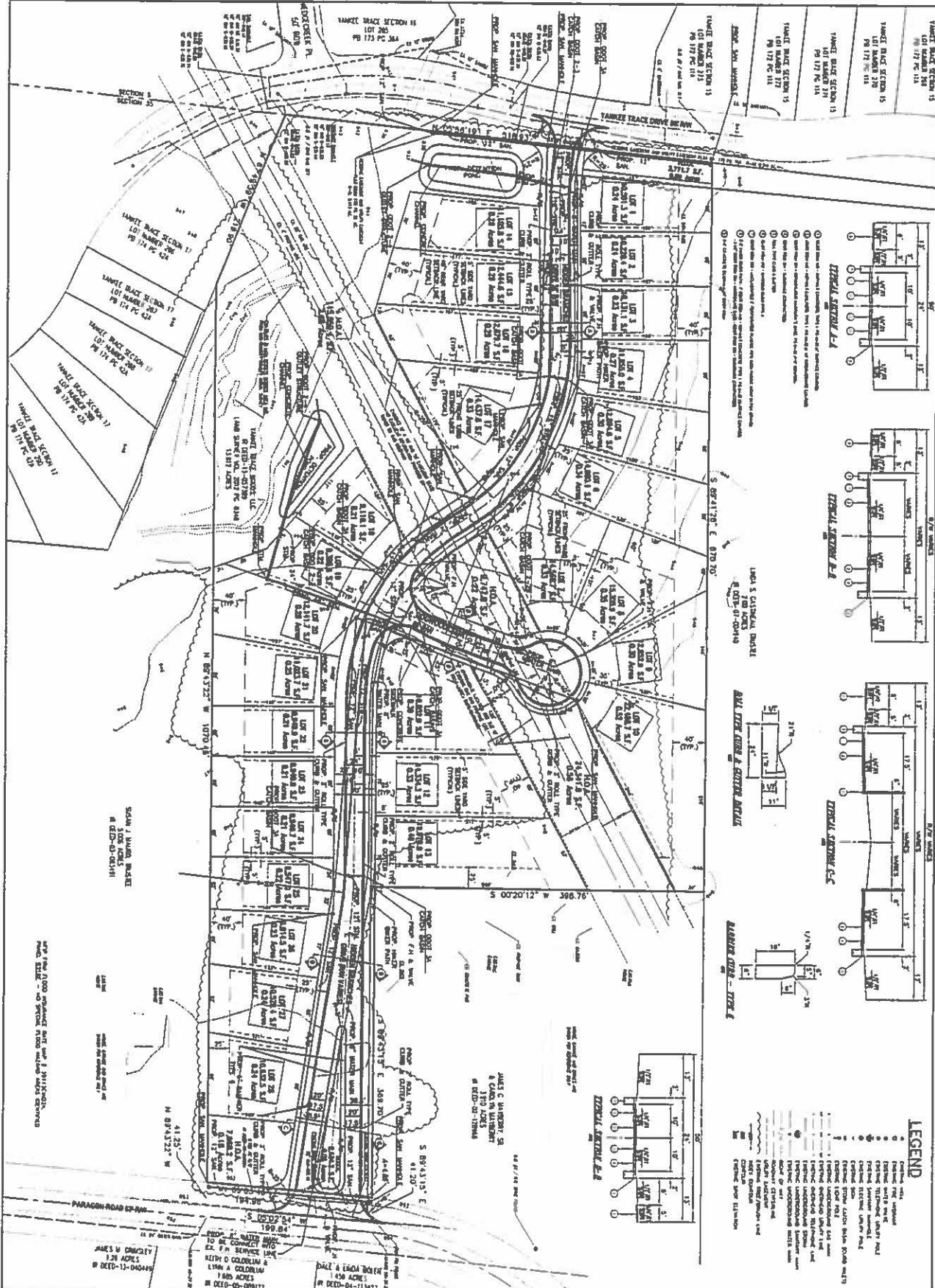


NOTICE:
 THIS ANNEXATION DOES NOT CREATE GRANTS OR UNINCORPORATED AREAS WITHIN THE LIMITS OF THE CITY TO BE ANNEXED.

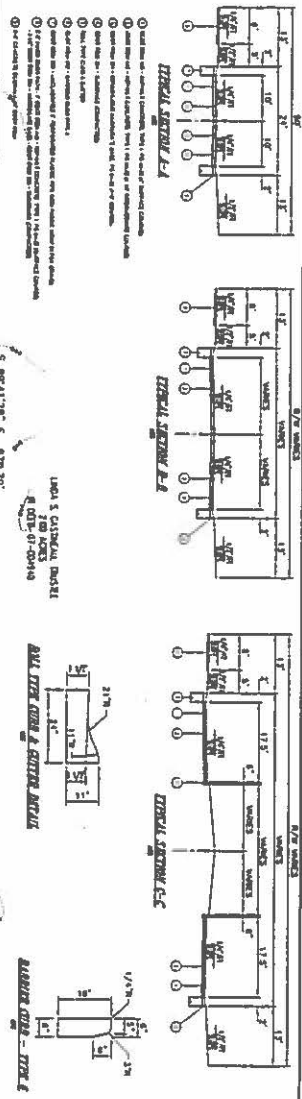
COUNTY NOTE:
 TOTAL PARCELS OF ANNEXATION AREA IS 13.8 ACRES. OF WHICH 13.8 ACRES IN WASHINGTON COUNTY AND 0.0 ACRES IN MONTGOMERY COUNTY.

REFERENCES:
 ALL DISTANCES AND BEARINGS ARE AS SHOWN ON THE RECORDED PLANS AND SURVEY RECORDS ON FILE IN THE OFFICE OF THE COUNTY ENGINEER, OHIO.

RESURVEYING ENGINEERING, LLC
 1480 N. WILSON AVENUE
 SUITE 100
 CINCINNATI, OHIO 45240
 PHONE: (513) 266-0000
 FAX: (513) 266-0001



- YANKEE TRACE SECTION 15
LOT NUMBER 154
PG 172 PG 113
- YANKEE TRACE SECTION 15
PG 172 PG 113
- YANKEE TRACE SECTION 15
PG 172 PG 113
- YANKEE TRACE SECTION 15
LOT NUMBER 177
PG 172 PG 113
- YANKEE TRACE SECTION 15
LOT NUMBER 211
PG 172 PG 113
- YANKEE TRACE SECTION 15
LOT NUMBER 211
PG 172 PG 113



- LEGEND**
- Existing utility
 - Proposed utility
 - Proposed utility - 12" dia
 - Proposed utility - 18" dia
 - Proposed utility - 24" dia
 - Proposed utility - 30" dia
 - Proposed utility - 36" dia
 - Proposed utility - 42" dia
 - Proposed utility - 48" dia
 - Proposed utility - 54" dia
 - Proposed utility - 60" dia
 - Proposed utility - 66" dia
 - Proposed utility - 72" dia
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 - Proposed utility - 246" dia
 - Proposed utility - 252" dia
 - Proposed utility - 258" dia
 - Proposed utility - 264" dia
 - Proposed utility - 270" dia
 - Proposed utility - 276" dia
 - Proposed utility - 282" dia
 - Proposed utility - 288" dia
 - Proposed utility - 294" dia
 - Proposed utility - 300" dia

PRELIMINARY SITE LAYOUT PLAN - 90%
 FOR
YANKEE TRACE WOODS
 A 14.00AC. TRACT AS DESCRIBED IN DEED 07-095190
 LOCATED IN
 SEC. 35, TOWN. 3, RANGE 5 MRS. WASHINGTON TWP.
 COUNTY OF MONTGOMERY, STATE OF OHIO

PROJECT NO.	2012
DATE	8/16/2011
DRAWN BY	JAN
CHECKED BY	JAN
SCALE	AS SHOWN
PROJECTED BY	
REVISIONS	

BRUMBAUGH ENGINEERING & SURVEYING, LLC
 1102 SOUTH MIAMI STREET
 WEST MILTON, OHIO 43083
 PHONE: (637) 696-3000
 FAX: (637) 696-3928
 EMAIL: john@br-engineer.com

BEFORE YOU GO
 CALL TOLL FREE 800-361-7764
 HORIZONTAL SCALE 1"=30'
 0 90' 180' 150'
 PLAN NORTH

SPECIAL ASSESSMENT PETITION

**AFFIDAVIT
AND
PETITION FOR SPECIAL ASSESSMENTS**

Date: _____

To the Council of the City of Centerville, Ohio:

WHEREAS, Yankee Trace Woods, LLC, an Ohio limited liability company (the "Property Owner") represents that it owns certain real property (which real property represents 100% of the real property described and depicted on Exhibit A and attached hereto and by reference made a part hereof and referred to herein as the "*Property*"), all of which Property is located within the City of Centerville, Ohio (the "*City*"); and

WHEREAS, the Property Owner, acting through Brian Barnard, as its Authorized Representative, upon being duly sworn, deposes and states that this Affidavit and Petition for Special Assessment (the "*Petition*") is, among other things, intended for the purpose of stating facts relating to conditions or events that may create an interest or estate in the Property; and

WHEREAS the Property Owner acknowledges that, in connection with the development of the Property, the Property will benefit from the construction and installation of public roadways, sidewalks, water mains, sanitary mains, and public sewer lines, (the "*Improvement*"), and that plans, specifications profiles of the proposed Improvement and estimates of the cost of the Improvement have been placed on file in the office of the Clerk of Council of the City; and

WHEREAS, the Property Owner hereby petitions the City for the construction of the Public Improvements, requests that 100% of the cost of the Public Improvements be assessed against the Property, and acknowledges and agrees that such assessment may be re-allocated among the benefited parcels comprising the Property, all as may deemed necessary by the City; and

WHEREAS, the Property Owner acknowledges and agrees that the Property includes all of the real property to be assessed pursuant to this Petition, and that the Property will receive special benefits from the construction of the Public Improvements; and

WHEREAS, the Property Owner requests that the special assessments be collected in annual installments in each year to pay 100% of the costs of the Public Improvements (including the principal amount of any notes or bonds (the "*Securities*") issued in anticipation of the collection of the special assessments and any interest due in that year with respect to such Securities), all in accordance with and subject to, Section 3 of this Petition; and

WHEREAS, the Property Owner, speaking through its Authorized Representative, further deposes and states that this Petition and the actions provided for herein impose burdens and obligations upon the Property and provide for special assessments to be levied upon the Property in accordance with this Petition, and that the Petition shall be placed on file and made available for public inspection at the office of the Clerk of Council of the City;

NOW, THEREFORE, the Property Owner hereby petitions the Council of the City of Centerville, Ohio as follows:

1. ***Special Assessments.*** The Property Owner states that it is the sole owner of 100% of the Property as described in Exhibit A. Acting pursuant to Chapter 727, Ohio Revised Code, the Property Owner requests that the City shall cause the Public Improvements to be acquired and constructed, acknowledges and agrees that the Property will receive special benefits from the Public Improvements and that no other property will receive special benefits from the Public Improvements, and respectfully request that 100% of the actual cost of the Public Improvements shall be proportionally assessed against the Property, with further apportionment, as may be required or deemed necessary by the City at any time in the future, based on a per lot basis. The Property Owner acknowledges and consents that the City, acting in good faith, may equalize the assessments on the parcels comprising the Property as the Property may hereafter be subdivided, based on a per lot calculation; provided, however, that to the extent the Montgomery County Auditor requires an alternate method of apportioning the assessments, the City will act in good faith to apportion the assessments in a manner which approximates a per lot assessment as much as possible. To the extent the Property Owner, or its grantees or other successors with respect to the Property, does not pay the special assessments as levied in the time period provided for by Ohio law, the Property Owner acknowledges and agrees that the City may, in accordance with Ohio law, issue Securities in anticipation of the collection of those unpaid special assessments. The Property Owner further agrees that in accordance with Ohio law, the City may increase those unpaid special assessments by an amount necessary to reflect any financing costs, including but not limited to, interest and issuance expenses, and if the City elects not to issue Securities in anticipation of the collection of those unpaid special assessments, the City may increase those unpaid special assessments by an amount to reflect interest on such unpaid special assessments at an interest rate which shall be determined by the City to be substantially equivalent to the fair market rate that would have been borne by such Securities. The City may also increase the unpaid assessments by an amount equal to the actual costs charged by Montgomery County to administer and collect the special assessments.

2. ***Construction and Payment of Costs of the Public Improvements.*** The City shall construct the Public Improvements in a manner consistent with the plans and specifications for such Public Improvements which shall have been approved by the City. The Property Owner will provide at its cost all necessary land, easements, and right-of-ways required to construct the Public Improvements. The Property Owner will grant to the City and its contractors unrestricted access to the Property as necessary during construction of the Public Improvements and as may be reasonably required after completion of construction of the Public Improvements.

3. ***Duration of Special Assessments.*** The Property Owner further requests and agrees that the special assessments, including interest thereon, will be payable in thirty (30) annual

installments of principal and interest (each annual installment to be payable semi-annually at the time real estate taxes in Montgomery County, Ohio are payable), that the interest on the special assessments will be computed at the same interest rate as is applicable to the Securities, and that the annual amounts for principal and interest will be computed utilizing a methodology which produces the same amount, or approximately the same amount, each year. The Property Owner acknowledges and agrees that the City will levy and certify the special assessments and interest thereon to the Montgomery County Auditor for collection (as provided below) as soon as practicable after the completion of the Public Improvements. The Property Owner acknowledges and agrees that the interest payable with respect to any Securities issued in anticipation of the levy and collection of special assessments will be capitalized to the extent permitted by law and included in the cost of the Public Improvements and that payment of principal on such Securities will be delayed, to the extent permitted by law, to coincide with the receipt of special assessment payments. The Property Owner requests that the City delay the levy of the special assessments so that the first debt service payments for the Securities will be due and payable starting in property tax collection year 2016.

4. *Payment of Special Assessments.* In consideration of the Public Improvements, the Property Owner, for itself and its grantees or other successors with respect to the Property, agrees to pay promptly all special assessments levied against the lots and lands which collectively constitute the Property as they become due, and agrees that the determination by the Council of the special assessments in accordance with the terms hereof will be final, conclusive and binding upon the Property Owner and the Property. In further consideration of the Public Improvements, the Property Owner covenants and agrees to disclose, upon the transfer of the Property or any portion of the Property to be specially assessed for the actual costs of the Public Improvements, in the deed to the transferee the existence of any outstanding special assessment for the Public Improvements and to require that transferee covenant to disclose that information in any subsequent deed to any transferee so long as such special assessments remain unpaid. As a condition to each subsequent transfer while such special assessments remain unpaid, the Property Owner further covenants and agrees to provide expressly in the deed to any transferee (a) for the acquisition by such transferee of the Property subject to any outstanding special assessment and such transferee's assumption of responsibility for payment thereof and for the waiver by the transferee of any rights that the Property Owner has waived pursuant to this Petition and (b) the requirement that each transferee from time to time of the Property covenant to include in the deed to any subsequent transferee the conditions described in clause (a) so long as such special assessments remain unpaid.

5. *Collection of Special Assessments.* The levy and collection of the special assessments in any year is authorized hereunder to pay debt service as the same shall come due on an amount equal to 100% of the Securities. The Property Owner further requests that if any special assessments remain after the City has paid all costs of the Public Improvements, the City's Director of Finance shall certify to the Montgomery County Auditor that such special assessments are no longer due and payable and shall no longer constitute a lien against the Property.

6. *Action by Council.* The Property Owner, for itself and its successors and assigns, further consents and requests that all legislation required to be enacted to permit the Public Improvements to commence immediately shall be enacted at one Council meeting.

7. **Waivers.** The Property Owner consents and requests that the special assessments shall be levied and collected without limitation as to the value of the Property, and waives all of the following relating to the Public Improvements and the special assessments:

- a. any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code or by any other provision of the Revised Code restricting the special assessments to 33-1/3% of the actual improved value of the Property as enhanced by the Public Improvements to be made;
- b. any and all rights, benefits and privileges specified by Section 727.04 of the Revised Code or by any other provision of the Revised Code limiting special assessments for re-improvement when a special assessment has been levied and paid previously;
- c. any and all damages or claims for damages of whatsoever kind, character or description resulting from the Public Improvements or the making of the Public Improvements, including but not limited to all rights, benefits and privileges specified by Sections 727.18 through 727.22 and Section 727.43 of the Revised Code;
- d. any and all resolutions, ordinances and notices required for the making of the Public Improvements, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special assessments, any increase in the cost of labor and materials over the estimated cost, the passage of the assessing ordinance, and the right to apply for deferment of the special assessments pursuant to Section 727.251 of the Revised Code, and including but not limited to notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code;
- e. any limitation on the addition of interest to the special assessments specified by Section 727.301 of the Revised Code;
- f. any limitation or restriction on the levy and collection of special assessments against the Property for the Public Improvements as specified in Section 929.03 of the Revised Code; and
- g. any and all irregularities and defects in the proceedings.

8. **Consent of Property Owner.** The consent of the Property Owner to the levy and collection of the special assessments as contemplated herein is expressly contingent upon the City's compliance with the provisions of this Petition. Nothing herein shall be construed as a waiver of the rights of the Property Owner to insist upon compliance of the City with the provisions of this Petition or any other right of the Property Owner with respect to the special assessments or their levy and collection except as expressly stated in Section 7.

IN WITNESS WHEREOF, the Authorized Representative has duly executed this Petition on behalf of the Property Owner as of the date hereinbefore written.

Yankee Trace Woods, LLC

By: _____

Printed: Brian Barnard

Title: Member

STATE OF GEORGIA)
) SS:
COUNTY OF Gwinnett)

On this 15 day of August, 2013, before me a Notary Public personally appeared Brian Barnard, the member of Yankee Trace Woods, LLC, an Ohio limited liability company, and acknowledged the execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of Yankee Trace Woods, LLC

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.

René Griffis
Notary Public



MY COMMISSION EXPIRES 12-10-13

This instrument prepared by:

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