



ORDINANCE 2020-11

OF THE VILLAGE OF ASHVILLE



AN ORDINANCE AUTHORIZING THE VILLAGE ADMINISTRATOR AND FISCAL OFFICER TO EXECUTE A PRE-ANNEXATION AGREEMENT FOR A PROPERTY AT PARCEL NUMBER D1200020011300 PROPERTY THAT IS BEING DESIRED TO BE ANNEXED, AND DECLARING AN EMERGENCY

WHEREAS, Jeffrey J. Runkle and Victor W. Runkle and Trudy Ann Craig, landowners (hereinafter referred to as "Landowner") and D.R. Horton – Indiana, LLC, a Delaware limited liability company (hereinafter the "Developer") is desirous of annexing seventy-six point five-four (76.54) acres more or less into the Village of Ashville, Exhibit A, and

WHEREAS, the Landowner, Developer, and the Village of Ashville wish to complete a Pre-annexation Agreement.

NOW, AND HEREAFTER BE IT ORDAINED BY THE VILLAGE COUNCIL, VILLAGE OF ASHVILLE, PICKAWAY COUNTY, STATE OF OHIO THAT:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ASHVILLE, PICKAWAY COUNTY, OHIO THAT:

SECTION ONE

The Village Administrator and Fiscal Officer are hereby authorized and directed to enter into an Agreement for with the Landowner and Developer, in substantially the same form and content as the document attached hereto as Exhibit "A" and incorporated herein by reference, on behalf of the Village of Ashville.

SECTION TWO

It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council and that all deliberations of Council and any of the decision making bodies of the Village of Ashville which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

SECTION THREE

All prior legislation, or any parts thereof, which is/are inconsistent with this Ordinance is/are hereby repealed as to the inconsistent parts thereof.

SECTION FOUR

Council declares this to be an emergency measure immediately necessary for the preservation of the public peace, health, and safety of this municipality and the further reason that Village Council needs to approve and enter into this Agreement in order to continue the annexation and development process. Wherefore, provided this Ordinance receives the required affirmative votes of Council, this Ordinance shall take effect and be in force immediately upon passage by Council and approval by the Mayor.

Motion Offered by: Darryl E. Ward

Seconded to the Motion Offered by: Tracie N. Sorvillo

Upon roll call on the adoption of the ordinance, the vote was as follow:

Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No
Roger L. Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nelson R. Embrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Randy S. Loveless	<input type="checkbox"/>	<input type="checkbox"/>	R. David Rainey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tracie N. Sorvillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Darryl E. Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Excused

PASSED THIS 4th DAY OF JANUARY, 2021

ATTEST:

April D. Grube, Clerk-Fiscal Officer

DATE: 1/11/2021

APPROVED:

Charles K. Wise, Mayor

DATE: 06 Jan 2021

Prepared: 12/02/2020

Revised Date:

Review Date:

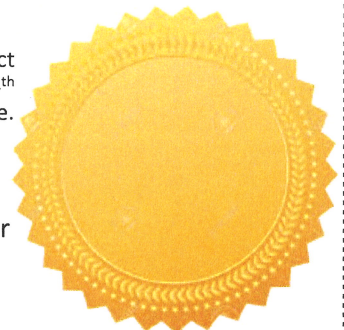
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CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify, that the foregoing is a true and correct copy of the ordinance adopted by the Village of Ashville Council held on 4th day of January 2021, and that I am duly authorized to execute this certificate.

(Original signature of April D. Grube)

Clerk-Fiscal Officer
(TITLE)



PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement (hereinafter the “Agreement”) is entered into, by and among the Village of Ashville, Ohio, an Ohio municipal corporation (hereinafter the “Village”), and Jeffrey J. Runkle and Victor W. Runkle and Trudy Ann Craig, landowners (hereinafter referred to as “Landowner”) and D.R. Horton – Indiana, LLC, a Delaware limited liability company (hereinafter the “Developer”).

PURPOSE

Landowner is the owner of certain tracts of land consisting of approximately 76.54 +/- acres located in Harrison Township, Pickaway County, Ohio, consisting of one parcel known as Pickaway County Auditor Tax Parcel Id. No. D1200020011300 and more fully described in **Exhibit “A”** attached hereto and incorporated herein (the “Property”), which Property is contiguous with the boundaries of the Village.

Landowner has contracted with Developer for the sale of the Property in order for the Developer to develop and build a single-family housing development, together with related improvements, including, but not limited to, streets, drainage facilities, sewer lines, entry features, open spaces, community amenities, model homes and signage (collectively, the “Improvements”) on the Property. Developer intends to file for approval of its proposed development plan through a re-zoning application with the Village. Developer and Landowner intend that the Property be rezoned to a P.U.D. Zoning District, as defined herein, under Village zoning ordinances, and via contract Landowner has named the Developer its agent for the purpose of filing a separate re-zoning and development plan application to aid the Village in its consideration same. In general, the Property would benefit from Village services including, but not limited to, sanitary sewer,

water, police protection, refuse service, and planning and zoning services. As described in more detail in the following sections of this Agreement, the Village can offer its municipal services to the Property if the Property is annexed to the Village. The mutual purposes of the Village, Developer and Landowner can be accomplished through the annexation of the Property to the Village, and appropriate re-zoning and development under the Village's zoning ordinances.

Therefore, in order to gain mutual benefits, the Village and Landowner agree as follows:

1. Annexation Petition. The Landowner and Developer will prepare an annexation petition for the purpose of seeking annexation of the Property into the Village of Ashville, Ohio. Landowner will sign the annexation petition agreeing to request annexation of the Property into the Village of Ashville pursuant to Ohio Revised Code Section 709.023 and appointing Molly R. Gwin as the petitioners' agent in connection with the annexation petition. The annexation petition may be filed only for the Property or may be filed as a joint annexation petition with other parcels so long as all other parcels so joined are supported by one hundred percent (100%) of the owners of each parcel, and the joinder of any such additional parcels will in no way affect the agreements of the parties memorialized in this Agreement. The petition shall be filed with the Pickaway County Commissioners ("Commissioners"). The Landowner and Developer agree that all costs and expenses in petitioning for the annexation of shall be borne by Developer. Should Village desire for its attorney to represent its interests with regard to the annexation petitions, those costs will be borne by Village. As evidenced by a previously executed conflict of interest waiver, the Village and the Developer are both independently represented by the law firm of Isaac, Wiles, Burkholder & Teetor, LLC, ("Isaac Wiles") and

may seek advice and guidance from Isaac Wiles regarding the Village's interest in the annexation and re-zoning process. Once the Agreement is signed and accepted by the Village, Landowner agrees that it will not remove its name(s) from the petitions and will continue to support the annexation to the Village throughout the entire annexation process, including any appeal or court action; provided however, Landowner's continued cooperation in the annexation of the Property shall be subject to and conditioned upon the Village's performance of its duties and obligations as memorialized in this Agreement. Landowner and Developer will provide statutorily required affidavits to the Village for presentation to the Commissioners in support of annexation of the Property and, if necessary, Landowner, Developer, or Village, and/or their respective agents or assigns, will testify at the request of each other regarding the merits of the annexation at a hearing held before the Commissioners or subsequent court hearings.

2. Service Resolution. Pursuant to R.C. Section 709.03(D), the Village agrees to enact the appropriate Service Resolutions for the annexation stating the municipal services that will be provided to the area sought to be annexed, including the Property. The Village agrees if required to provide witnesses for the hearing before the Commissioners and to provide affidavits in support of its Service Resolution, if necessary.

3. Zoning. The Property is currently zoned A-Agricultural Vacant Land District under the Harrison Township Zoning Resolution. Contemporaneously with, or shortly after, the filing of the annexation petition, the Parties agree the Property will annex into the Village to be zoned under Village of Ashville Codified Ordinance Chapter 1165, P.U.D. – Planned Unit Developments ("P.U.D. Zoning District"), which shall, among other things, permit the Developer's intended use as a single-family housing community and allow for

the Improvements to support such use on the Property as principal permitted uses and will permit installation on the Property of road access, streets, drainage facilities, model homes, signage and other improvements. The Developer agrees it has to follow the process, procedure, and requirements set forth in Chapter 1165 in order to receive approval of the P.U.D. Zoning District. And, the Village agrees it will process the application as expeditiously as possible to re-zone the Property to a P.U.D. Zoning District.

4. Acceptance of Annexation/Detachment of Property. The Village shall have one hundred twenty (120) days to accept the annexation after the annexation petition has been approved by the Commissioners and a copy of the record is filed with the Clerk of Village Council (“Council”) and laid before Council for a waiting period of a minimum of sixty (60) days pursuant to ORC Section 709.04. At the request of Developer, the Village agrees to delay acceptance of the annexation until legislative approval of the re-zoning can be accomplished contemporaneously with the acceptance of the annexation. If, for any reason, the re-zoning ordinance, Development Plan, and/or development standards cannot be approved in a form or substance acceptable to Developer, in its sole discretion, the Village agrees, at the request of Developer and/or Landowner, to permit Landowner to withdraw its request for Council to accept the annexations and annex the Property to the Village and/or to forbear from acceptance of the annexation by allowing the one hundred twenty (120) day period to expire, thus effectively rejecting the annexation of the Property.

If the annexation approval occurs prior to or other than concurrently with the legislative approval of the re-zoning, Development Plan, and/or development standards, and the re-zoning, Development Plan, and/or development standards are subsequently not approved to Developer’s satisfaction or is referred to the electorate or a building or

other moratorium or restriction is enacted which would limit Developer's use of the Property, Village agrees, at Developer's request to do one of the following: (1) to reconsider the ordinance accepting the annexation, and to rescind, repeal and reject the annexation approval within fourteen (14) days of the date of the disapproval or unacceptable action on the re-zoning, Development Plan, and/or development standards or referral to a vote of the electorate or the enactment of the building or other moratorium or restriction, at the request of Developer and/or Landowner; or (2) to cooperate with Developer and Landowner to have the property detached/de-annexed the Property from the Village, and to consent to and not oppose any Landowner's petition to detach/de-annex its Property from the Village and take any other action provided by law to detach or de-annex the Property.

5. Off-Site Sanitary Sewer Force Main Improvements and Oversizing of Sanitary Sewers. The Village acknowledges that the existing sanitary sewer infrastructure is not adequate to serve the Property as proposed by the Development Plan, but Developer will provide a new force main to provide sanitary sewer service for the Property and for future growth areas in the Village, as agreed to in writing in a development agreement between the Parties. The development agreement shall set forth that the gravity sewer that will be extended through the proposed development will be oversized for future growth and the Developer will be reimbursed for oversizing costs and the oversizing of the off-site force main, based upon Codified Ordinance Chapter 1181. The Developer will reimburse the Village for Developer's proportionate share of the existing lift station and sewer lines that were oversized to service the Property. Such agreement shall be documented in

a development agreement, to be executed and approved between the Parties as part of the re-zoning application.

6. Standard of Conduct by The Village. In all matters related to the (1) adoption of the statutorily required Service Resolution, (2) the acceptance of the Property into the corporate boundaries of the Village, and (3) the re-zoning of the Property to the PUD Zoning District in accordance with the terms of Section 3 of this Agreement, the Village will act in good faith with all reasonable dispatch, concurrent with the timing and requirements of the annexation process.

7. Condition Precedent. Landowner, Developer and the Village acknowledge and agree that this Agreement is not effective until authorized to be executed by formal action of Council and shall take effect upon such approval and execution. Landowner, Developer and the Village also acknowledge that any action on a re-zoning or annexation matter must be finally approved by Council to become effective.

8. Miscellaneous.

(a) **Intent of Parties.** This Agreement shall be binding upon the parties hereto and their respective successors and/or assigns, and by execution hereof, all parties represent that they are duly authorized to sign it.

(b) **Cancellation or Termination.** This Agreement may be cancelled or otherwise terminated by mutual written agreement of the parties hereto.

(c) **Remedies.** Except as otherwise limited by ORC Chapter 2744 as to action for or against the Village, the parties hereto shall be afforded and do possess the right to seek every remedy available at law or in equity provided for under the laws of the State of Ohio as pertains to the terms and conditions, duties, obligations, privileges, and rights

of this Agreement and the enforcement thereof.

(d) **Enforcement.** Unless this Agreement is cancelled or otherwise terminated, this Agreement will be enforceable against any party hereto per the laws, ordinances, resolutions, regulations or policies in effect at the time of the execution of this Agreement.

(e) **Assignment of Agreement.** By the execution of this Agreement, Landowner expressly consents to the assignment of the Agreement by the Developer, in its sole discretion. Developer shall not assign this Agreement, or any part thereof, or any duty, obligation, privilege or right granted under this Agreement to any other developer without the express written consent of the Village, which shall not be unreasonably withheld. The parties agree that Developer may transfer all or any portion of the Property and assign this Agreement (as it relates to that portion of the Property) to any individual, corporation, limited liability company, partnership, limited partnership, trust or any other person that is related to, owned by or affiliated in any way with Developer in Developer's discretion without the consent of the Village or Landowner.

(f) **Addresses for Notices.** Notice to the parties as required or provided for herein shall be in writing and shall be deemed if given or sent in typed memo or e-mail form to all parties of this Agreement, or such other method as mutually agreeable:

- If to Landowner:
1. Jeffery J. Runkle
3388 South Bank Road, Millersport, Ohio 43046
 2. Victor W. Runkle
3354 South Bank Road, Millersport, Ohio 43046
 3. Trudy Ann Craig
3400 South Bank Road, Millersport, Ohio 43064

With a copy to:

[Landowner attorney if applicable]

If to Developer: Mr. Jack Mautino, Division President
Mr. Terry E. Andrews, Vice President of Land Acquisition and
Development

507 Executive Campus Dr., #100
Westerville, Ohio 43082
614-891-8545

and

Mr. Steven M. Dunn
D.R. Horton – Indiana, LLC,
9210 North Meridian Street
Indianapolis, IN 46260
317-844-0433

With copy to:

Molly R. Gwin, Esq.
2 Miranova Place, Suite 700
Columbus, Ohio 43215

If to Village: Franklin Christman,
Village Administrator
200 Station Street East
Ashville, Ohio 43103

(g) **Relative Rights.** The rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof, and will inure to the benefit of, and be binding on, the respective successors and assigns.

(h) **Entire Agreement Merger Clause; Statement of Incorporation.** It is agreed that the Agreement merges all of the oral negotiations, representations, discussions and understandings between the Developer and the Village, their legal counsel, agents and representatives. This Agreement contains the entire agreement of the parties with respect to its subject matter. All documents related to this Agreement and/or attached hereto as exhibits or addendums shall be incorporated into this Agreement by reference as if fully set out at length herein.

(i) **Severability.** If any clause, sentence, paragraph or part of this Agreement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement and the remainder of said Agreement shall continue in full force or effect.

(j) **Cooperation.** The Village agrees to cooperate and work expeditiously and in good faith with the Developer to obtain any required and/or necessary permit from any government or governmental agency not a party to this agreement upon Council's approval of the re-zoning and development plans.

(k) **Modifications or Amendment of Agreement.** No modifications, amendments, alterations, or additions shall be made to this Agreement except in a writing signed by all parties hereto.

(l) **Recitals.** The parties acknowledge and agree that the facts and circumstances as described in the recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

(m) **Executed Counterparts.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(n) **Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this Agreement.

(o) **Survival of Representations and Warranties.** All representations and warranties of the parties in this Agreement shall survive the execution and delivery of this Agreement.

(p) **Effective Date.** This Agreement shall be effective when signed by all the parties hereto.

(q) **Time.** Time shall be of the essence in doing and performing all things to be done under the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the date set forth below. This Agreement shall be effective on the date last executed.

Signed as of the ____ day of _____, 2020.

The Village of Ashville

By: _____
Franklin Christman, Village Administrator

By: _____
April Grube, Fiscal Officer
Per authority granted in Ordinance No.: 2020-11
passed by Village Council on the 4th of January, 2021.

Landowner:

Jeffrey J Runkle

Victor W. Runkle

Trudy Ann Craig

D.R. HORTON – INDIANA, LLC, a Delaware limited liability company d/b/a WESTPORT HOMES

By: D.R. Horton, Inc. – Midwest, a California corporation, its sole member

By: _____

Name: _____

As Its: _____

EXHIBIT "A"

(Description of the Property)

Data For Parcel D1200020011300

Print | Email | Property Card | Comparables

Base | Land | Valuation | Sales | Sketch | Tax | Improvements | Permit | Residential | Agricultural | Commercial

Base Data

Parcel: D1200020011300
 Owner: RUNKLE JEFFREY J & VICTOR W RUNKLE & TRUDY ANNI CRAIG
 Address: 0 ASHVILLE PK

View in ArcGIS Online | Advance One-Stop Parcel Map | View in ArcGIS School District Map | View in ArcGIS Flood Map | View in ArcGIS Soils & Wetland Map | View on Google Maps | View Property in Google Earth | View on Bing Maps

Mailing Address		Geographic	
Mailing Name:	RUNKLE JEFFREY J & VICTOR W RUNKLE & TRUDY ANNI CRAIG	City:	UNINCORPORATED
Address:	C/O JEFF RUNKLE 3388 SOUTH BANK RD	Township:	HARRISON TOWNSHIP
City/State/Zip:	HILLERSPORT OH 43046	School District:	TEAYS VALLEY LSD

Legal		Legal Acres:	
Neighborhood:	00100000		76.54
Legal Description:	N 1/2 SE 1/4	Land Use:	(100) A - AGRICULTURAL VACANT LAND
Map Number:	0-0-0-0	Property Class:	AGRICULTURAL
		Range Township Section:	22-02-01

Valuation (Tax Year 2019 Payable 2020)			
Land Value:		Appraised	\$425,000.00
Building Value:		Assessed (35%)	\$148,750.00
Total Value:			\$0.00
CATV Value:			\$425,000.00
Taxable Value:			\$148,750.00
			\$181,850.00
			\$63,650.00

Tax Credits

2.5% Homestead Rollback: NO
 Homestead Reduction: NO

Notes

Notes:

Copyright © 2020 Digital Data Technologies, Inc.
 GIS parcel shapefile last updated 11/20/2020 5:10:59 AM.
 The CAMA data presented on this website is current as of 11/27/2020 10:05:27 PM.

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