

RESOLUTION NO. 04-2024

**A RESOLUTION AUTHORIZING AND DIRECTING THE VILLAGE
ADMINISTRATOR TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH
PARAGON BUILDING GROUP LTD.**

WHEREAS, the owner of certain real properties, parcel ID 02-00029.000, 02-00029.001, and 02-00029.002, desires to annex said properties into the Village of Plain City; and

WHEREAS, the owner of the subject properties to be annexed also desires to seek a rezoning of the properties in order to facilitate its future development; and

WHEREAS, the owner desires to seek said rezoning concurrently with the processing of the annexation petition related to the properties; and

WHEREAS, the owner and the Village have agreed it is in the best interest of both parties to enter into a pre-annexation agreement pertaining to the pending submittal of an annexation petition for the properties.

NOW THEREFORE BE IT RESOLVED by the Council of the Village of Plain City, Ohio, a majority of the members elected or appointed thereto concurring, as follows:

Section 1. The Village Council hereby authorizes and directs the Village Administrator to enter into a pre-annexation agreement with the property owner in general accordance with the draft agreement identified as Exhibit A, attached hereto and made a part hereto.

Section 2. The Village Administrator is further authorized and directed to take subsequent action, upon execution of said agreement, to fulfill the Village's requirements under said agreement.

Section 3. This Resolution shall be effective from and after the earliest period provided by law.

Passed: January 22, 2024

Attest: Austin Rhoads
Clerk of Council

Mayor Joely Carney

First reading: January 8, 2024

Vote: ___ yea ___ nay ___ abstain

Second reading: January 22, 2024

Vote: 4 yea ___ nay 1 abstain

Certificate of Publication

The undersigned, being Clerk of Council of the Village of Plain City, hereby certifies that the foregoing was published by posting for 15 days as required by law and in accordance with Section 4.15 of the Codified Ordinances. The posting was done from January 23, 2024 to February 8, 2024 at the Office of the Clerk of Council located at 800 Village Boulevard; being in the Village of Plain City, Ohio, and the Village of Plain City Website at www.plain-city.com.

Date: January 23, 2024

Austin Rucier
Clerk of Council

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement ("Agreement") is made this _____ day of January 20__ by and between Paragon Building Group Ltd., an Ohio Limited Liability Company ("Company"), whose mailing address is 485 Metro Place South, Suite 350, Dublin, Ohio 43017 and the Village of Plain City ("Plain City"), an Ohio municipal corporation, whose mailing address is 800 Village Boulevard, P.O. Box 167, Plain City, Ohio 43064 (referred to collectively as "Parties").

RECITALS

1. WHEREAS, the Company is in contract to purchase certain real property, 136.95 +/- acres located in Darby Township, Madison County, Ohio (the "Property"), being more fully described in the Annexation Plat Map attached as Exhibit "A" and incorporated herein; and
2. WHEREAS, the Property is located beyond the present corporate boundaries of the Village of Plain City; and
3. WHEREAS, the Company desires to annex the Property to Plain City in order to obtain various municipal services to support the Property and its future development; and
4. WHEREAS, Plain City desires to annex the Property, upon terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound, the Parties hereby agree as follows:

1. **Annexation:**

- a. Company has, at its own expense, prepared the necessary annexation petition with accompanying map or plat and file same in coordination with Plain City for timing purposes. The annexation petition has been filed as a "Type-2" expedited annexation as provided in Section 709.023 of the Ohio Revised Code. Attached hereto as Exhibit A is a copy the Annexation Plat.
- b. The Parties agree to cooperate and provide information necessary for the county commissioners to review the annexation as required by Section 709.023 of the Ohio Revised Code.

- c. The Parties agree to process the annexation as provided by law subject to the terms of this Agreement.

2. Municipal Services:

- a. Plain City agrees to enact, within twenty (20) days after the date of the filing of the annexation petition with the board of county commissioners, the appropriate service and zoning buffer resolutions as required by Chapter 709 of the Ohio Revised Code. The resolutions, once adopted, shall be immediately certified and filed with the Clerk of the Commissioners by Plain City.
- b. The Parties acknowledge that centralized water and sanitary sewer services will be provided by the newly formed Mid-Ohio Regional Water and Sewer District ("MOWSD"); Such services are projected to come on line at some point in the future, the Company's development plans and plats shall be planned and approved to have extended validity to allow necessary infrastructure and capacity to be constructed.

3. Zoning:

- a. The Property sought to be annexed is currently zoned AG, Agricultural District in Darby Township. The Parties acknowledge that Company desires to rezone the Property to PUD, Planned Unit District under the Village of Plain City Zoning Code. The pending rezoning request will be reviewed and decided upon by Plain City utilizing the regular procedure for processing an application to rezone in the village and there is no guarantee that any particular zoning will be granted. Plain City acknowledges and agrees that the PUD Plan dated _____ and attached hereto as Exhibit B is consistent with Plain City's Comprehensive Plan for future land use and development, and further, the PUD Plan facilitates other Plain City objectives including neighborhood center development along the US 42 corridor.
- b. Plain City agrees to promptly cooperate and assist the Company, its successors or assignees, to facilitate the annexation, zoning, and development, including, but not limited to, required meetings or hearing.
- c. Plain City agrees that once the annexation is placed before the Plain City Council (i.e., after the expiration of 60 days from the date when the transcript of the proceedings of the Madison

County Board of Commissioners has been delivered to Plain City) Plain City shall accept the annexation of the Property, as upon written request by Company. It is the intention of the Company and Plain City to process contemporaneously rezoning of the Property such that acceptance of the annexation and final rezoning approval occur at the same time. Plain City agrees to schedule and order the rezoning ordinance ahead of the annexation acceptance ordinance in order to assure that the zoning acceptable to Company is in fact approved by Plain City. Plain City agrees it shall not accept the property unless such written request has been made by Company. If acceptance of annexation occurs without such written consent or if the Property is annexed but the Property is then not rezoned in a manner that is satisfactory to Company, or if Company exhausts its appeals of Plain City's zoning determination, or the proposed rezoning is rejected by the voters, Plain City consents without objection and agrees to take all steps necessary and upon request of Company (including but not limited to the passage and execution a petition) to detach the Property from its jurisdiction upon the request of Company. Plain City acknowledges and agrees that it has rendered no services to the Property and detachment is a proper and appropriate process and remedy/result, in the event Company's application for rezoning and development is not ultimately approved and/or effective.

- d. Upon annexation, the Property shall receive fire protection, police protection, recreation services, street maintenance, and related street services when the streets are properly installed and dedicated to public service.

4. Representations and Warranties of Plain City:

- a. Plain City hereby represents and warrants to Company:
 - i. Plain City is a duly established and validly existing municipal corporation within the State of Ohio, with all requisite power and authority to enter into this Agreement, pursuant to law, and to perform its obligations hereunder;
 - ii. Plain City, acting by and through its agents, has taken all such actions which are necessary or appropriate to authorize the execution of this Agreement by the person executing the same; and
 - iii. This Agreement is the valid and binding act of Plain City, enforceable against the Village in

accordance with its terms.

5. Representations and Warranties of Company:

- a. Company hereby represents and warrants to Plain City that:
 - i. Company is in contract to purchase the Property to be included in the annexation petition; and
 - ii. Company, acting by and through the undersigned signatory, has taken all such actions which are necessary to appropriate to authorize the execution of this Agreement by the person executing the same.

6. Waiver:

- a. The failure of any party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of any right hereunder, nor shall it deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. Any waiver must be made in writing. This Section 6 shall not apply to the expressed written consent required by Section 3c above.

7. Execution:

- a. Neither this Agreement nor any subsequent agreement amending or supplementing this Agreement shall be binding on the parties unless and until it has been signed on their behalf by a duly authorized representative. Commencement of performance hereunder or under any subsequent agreement shall not constitute a waiver of this requirement.
- b. As used herein, the term "Agreement" shall mean this Agreement and any Exhibits hereto. This Agreement may be executed in one or more counterparts by either party hereto and by all parties hereto in separate counterparts, each of which, when so executed and delivered to the other party, shall be deemed an original. All such counterparts together shall constitute one and the same instrument.

8. Severability:

- a. If any provision of this Agreement should be or become fully or partly invalid or unenforceable for any reason whatsoever or violate any applicable law, this Agreement may only be considered

divisible if the general and specific purposes and intent of this Agreement are met, as determined by Company in its sole discretion. In that event, this Agreement shall be deemed valid and binding as if such provision were not included herein.

9. Governing Law:

- a. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. The parties hereto further agree that any action, suit or proceeding in respect of or arising out of this Agreement, its validity or performance shall be initiated and prosecuted as to all parties and their heirs, successors and assigns and consent to and submit to the exercise of jurisdiction over its person by any court situated therein having jurisdiction over the subject matter.

10. Relationship of the Parties:

- a. Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association between any of the parties to this Agreement.

11. No Third Party Beneficiary:

- a. Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association between any of the parties to this Agreement.

12. Time is of the Essence:

- a. Time is of the essence for all matters in this Agreement and each party shall diligently pursue and complete its obligations hereunder.

13. Force Majeure:

- a. Neither party shall be in default in the performance of any obligation on such party's part to be performed under this Agreement, other than an obligation requiring payment of a sum of money, if and so long as the non-performance of such obligation shall be directly caused by labor disputes, lockouts, acts of God, enemy action, civil commotion, riot, and conditions that could not have been reasonably foreseen by the claiming party.

14. Approvals:

- a. Unless otherwise stated herein, whenever a party to this Agreement is required to consent to, or approve an action by the other party or to approve any such action taken by another party, such

approval or consent shall be given or withheld within the earliest time allowed by law and the process that is utilized in performing the function.

15. Binding Effect:

- a. This Agreement and all of the provisions herein shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

16. Entire Agreement/Merger:

- a. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter set forth herein and supersedes any and all agreements, oral or written.

17. Survival:

- a. The representations, warranties, and covenants contained in this Agreement shall not terminate for a period of twenty (20) years.

18. Notice:

- a. All required notices, requests, consents, approvals, demands, and other communications required or permitted to be given or made under this Agreement shall be in writing and shall be deemed to have been duly given when (a) delivered personally or (b) three (3) business days after deposit in the United States Mail, postage prepaid, by certified mail, return receipt requested, or (c) by e-mail or facsimile telephone transmission, if given below, or later provided, addresses as follows or to such other person or address as either party shall designate by notice to the other party given in accordance herewith:

Company:

Paragon Building Group Ltd.,
485 Metro Place South
Suite 350
Dublin, Ohio 43017

Attention: Charles E. Ruma

With copy to:

Laura MacGregor Comek, Esq.
17 S High St., Ste 700
Columbus, Ohio 43215

Village:

Village of Plain City

800 Village Boulevard
P.O. Box 167
Plain City, OH 43064
Attn: Haley Lupton, Village Administrator

COMPANY:

PLAIN CITY:

By: _____

Name:

Title:

By: _____

Haley Lupton

Village Administrator

Approved as to form:

Law Director

Village of Plain City

Exhibit A
Annexation Legal Description and Survey

**Proposed 136.95± Acre Annexation
From Darby Township
to the Village of Plain City**

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Situated in the State of Ohio, County of Madison, Township of Darby, being part of Survey Nos. 7389, 7432, 7929 & 8305 of the Virginia Military Survey and containing 136.95± acres, said 136.95± acres being part of that 1.770 acre tract of land as conveyed to Ada Beachy, Trustee or successor Trustees of the Ada Beachy Family Trust of record in Official Record 267, Page 1124, part of that 3.243 acre tract of land as conveyed to Steven and Loretta Beachy of record in Official Record 214, Page 2563, part of that 77 acre tract and 22 acre and 115 pole tract and all of that 15 acre and 91 square rod tract and 23 acre tract, all as conveyed to Pleasant Valley Oak Meadows, LLC of record in Official Record 213, Page 1205, said 136.95± being more particularly described as follows;

Beginning, at the northeasterly corner of said 15 acre and 91 square rod tract, said corner also being the northwesterly corner of Reserve "F" of Darby Fields Section 2 of record in Plat Book B, Page 398, being southeasterly corner of Lot 84 and the southwesterly corner of Lot 85 as numbered and delineated upon the record plat for Carriage Estates Section 4 of record in Plat Book Slide B13 and being at a southwesterly corner of an existing Village of Plain City Corporation Line;

Thence S 01°39'46" W, with an easterly line of said 15 acre and 91 square rod tract, a westerly line of said Reserve "F" and along said existing Corporation Line, 595.10'± feet a common corner thereof, said corner also being a northeasterly corner of said 77 acre tract and northwesterly corner of said 23 acre tract;

Thence S 88°28'57" E, with a northerly line of said 23 acre tract, a southerly line of said Reserve "F" and along said existing Corporation Line, 542.79'± feet to a common corner thereof;

Thence S 01°25'40" W, with an easterly line of said 23 acre tract, westerly line of said Reserve "F" and along said existing Corporation Line, 520.96'± feet to a common corner thereof, said corner also being a northwesterly corner of that 81.14 acre tract of land as conveyed to Joanne Lewis of record in Deed Book 279, Page 1718 and Instrument No. 201200003932;

Thence S 01°29'38" W, with an easterly line of said 23 acre tract, westerly line of said 81.14 acre tract and leaving said existing Corporation Line, 1323.47'± feet to a common corner thereof;

Thence N 89°32'40" W, with a northerly line of said 81.14 acre tract, a southerly line of said 23 acre tract and a southerly line of said 77 acre tract, 1752.15'± feet to a common corner thereof, said corner also being in the easterly line of that Original 34.025 acre tract of land described as Parcel Two, First Tract as conveyed to Eli and Lauren Karn of record in Official Record 358, Page 2303 (Instrument No. 201900005398);

Thence with common lines of said 77 acre tract and said 34.025 acre tract, the following two (2) courses and distances:

N 14°38'20" E, 434.32'± feet to a common corner thereof;

N 75°55'57" W, 1208.08'± feet to the easterly right-of-way line of U.S. 42 (60')(MAD. 42 (S.H. 241 SEC. A));

Thence across said 77 acre, said 3.243 acre, said 22 acre 115 pole and said 1.770 acre tracts and along said easterly right-of-way line, the following three (3) courses and distances:

N 14°49'50" E, 1237.36'± feet to an angle point;

N 13°54'50" E, 828.12'± feet to a point of curvature in said right-of-way line;

**Proposed 136.95± Acre Annexation
From Darby Township
to the Village of Plain City**

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With a curve to the left having a central angle of $1^{\circ}46'20'' \pm$ and a radius of $3849.72' \pm$ feet, an arc length of $119.08' \pm$ and a chord bearing and distance of $N 13^{\circ}01'40'' E$, $119.08' \pm$ feet to a northerly line of said 1.770 acre tract and to an existing Village of Plain City Corporation Line;

Thence with a northerly line of said 1.770 acre tract, a northerly line of said 22 acre 115 pole tract, a northerly line of said 15 acre 91 square rod tract, a southerly line of that 3.4980 acre tract of land as conveyed to Moore Real Estate Group, LLC of record in Official Record 395, Page 2293 (Instrument No. 202200000114), a southerly line of Copperfield Section 3, Phase 2 of record in Plat Book B, Page 372, a southerly line of Copperfield Section 2 of record in Plat Book B, Page 259 and partially with a southerly line of said Carriage Estates Section 4, the following two (2) courses and distances:

$S 77^{\circ}47'13'' E$, $1674.94' \pm$ feet to an angle point;

$S 76^{\circ}54'43'' E$, $160.78' \pm$ feet to the True Point of Beginning, containing $136.95 \pm$ acres more or less.

The above description was prepared by Advanced Civil Design Inc. on September 25, 2023 and is based on existing Madison County Auditor records, Madison County Recorder records and an actual field survey conducted in June 2023.

The total length of annexation perimeter is $10,397.2 \pm$ feet, of which $3,494.6 \pm$ feet are contiguous with existing Village of Plain City Corporation Lines, being $33.6 \pm \%$ contiguous.

All references used in this description can be found at the Recorder's Office Madison County Ohio.

This is not to be used for the transfer of land and is for annexation purposes only.

ADVANCED CIVIL DESIGN INC.

Douglas R. Hock, P.S. 7661

Date: 10/4/23

z:\23-0006-836\23-0006-836 136.95 ac annex desc.doc

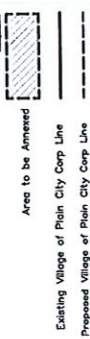


**136.95± ACRE ANNEXATION FROM THE TOWNSHIP OF
DARBY TO THE VILLAGE OF PLAIN CITY**
Darby Township, Madison County, Ohio
Virginia Military Survey No. 7388, 7432, 7929 & 8305



- Copperfield Section 1, Phase 2, Concessions**
 Lot 71 - Tyler and Kathryn Harrison - P.I.D. 04-00815.086
 Lot 70 - Donald E. & Melissa A. Seymour - P.I.D. 04-00815.085
 Lot 69 - Christopher and Mary Ann Seymour - P.I.D. 04-00815.084
 Lot 68 - Stephen R. Linn & Kay-Su Coleman - P.I.D. 04-00815.083
 Lot 67 - Nicholas W. & Carrie A. McCullough - P.I.D. 04-00815.082
 Lot 66 - Joseph Ann & Donald Taylor Smith - P.I.D. 04-00815.081
 Lot 65 - Sherry Lesare & Brian Michael Green - P.I.D. 04-00815.080
- Copperfield Section 2, Concessions**
 Lot 82 - Timothy M. & Elizabeth A. Brown - P.I.D. 04-00815.082
 Lot 81 - Timothy M. & Elizabeth A. Brown - P.I.D. 04-00815.081
 Lot 80 - Thomas William Jaskiewicz - P.I.D. 04-00815.080
 Lot 79 - Michelle L. & Shawn R. Hoy - P.I.D. 04-00815.079
 Lot 78 - Scott Thomas & Jennifer L. Smith - P.I.D. 04-00815.078
 Lot 77 - Kellyn McGinnis & Zachary Sykes - P.I.D. 04-00815.077
 Lot 76 - Kellyn McGinnis & Zachary Sykes - P.I.D. 04-00815.076
- Copperfield Section 4, Concessions**
 Lot 83 - Richard E. Izard & Betty L. Izard - P.I.D. 04-00803.013
 Lot 82 - Richard E. Izard & Betty L. Izard - P.I.D. 04-00803.012
 Lot 81 - Emmanuel O. & Wanda K. Crawford - P.I.D. 04-00803.011
 Lot 80 - Emmanuel O. & Wanda K. Crawford - P.I.D. 04-00803.010

Length of Contiguity: ±3,494.6 feet
 Total Length of Perimeter: ±10,397.2 feet
 Percentage of Contiguity: ±33.6%
 No islands of township property are created by this annexation.



**PREAPPROVED
ANNEXATION
PLAT**

DESCRIPTION: ACCEPTABLE MADISON COUNTY TOWNSHIP



Date: 10/15/23
 Douglas R. Hook, P.E. 7661
 Advanced Civil Design, Inc.
 681 Science Boulevard, Suite 100
 Plain City, Ohio 45326
 Phone 614-428-7750