

AMENDED ORDINANCE NO. 2021 – 17

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH JOSEPH FOUCHE TO SELL VILLAGE LAND DESIGNATED ON THE RECORDS OF THE CUYAHOGA COUNTY FISCAL OFFICER AS PERMANENT PARCEL NOS. 795-07-104 AND 795-07-105**

**WHEREAS**, the Village Oakwood owns certain real property designated on the records of the Cuyahoga County Fiscal Officer as Permanent Parcel Nos. 795-07-104 and 795-07-105 adjacent to a platted but unconstructed portion of Northam Drive and consisting of approximately .239 acres each (hereinafter the "Property"), which Property is presently undeveloped and for which the Village has no foreseeable development plans; and

**WHEREAS**, Oakwood and Purchaser deem it advantageous to each of them to sell the Property to Purchaser for consolidation with other property owned by Purchaser to be developed and maintained as a single family residence; and,

**WHEREAS**, Oakwood and Purchaser have reached an agreement in principle, as set forth in Exhibit "1" attached hereto and incorporated herein, for the sale of said Property to Purchaser;

**NOW THEREFORE, BE IT RESOLVED** by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

**SECTION 1.** The Mayor be and is hereby authorized to enter into the Purchase Agreement with Purchaser, a copy of which is attached hereto and expressly made a part hereof by reference and marked Exhibit "A".

**SECTION 2.** This Ordinance shall take effect from and after the earliest period allowed by law.

PASSED: February 17, 2021

Debra L. Hladky  
Debra L. Hladky, Clerk of Council

Johnnie A. Warren  
Johnnie A. Warren, President of Council

Presented to the  
Mayor February 18, 2021

Approved: February 18, 2021

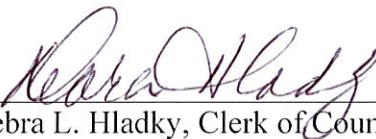
  
\_\_\_\_\_  
Mayor, Gary V. Gottschalk

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2021 - was duly and regularly passed by this Council at the meeting held on the 17 day of February, 2021.

  
\_\_\_\_\_  
Debra L. Hladky, Clerk of Council

### POSTING CERTIFICATE

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2021 - was duly posted on the 18 day of February, 2021, and will remain posted for a period of fifteen (15) days thereafter as provided by the Oakwood Village Charter.

  
\_\_\_\_\_  
Debra L. Hladky, Clerk of Council

DATED: February 18, 2021

PP#79507122

PP#79507112

# PROPOSED FOUCHE FAMILY HOME NORTHAM DRIVE

- Lots of concern: 795-07-104 & 105 (in Red)
- To be combined with 795-07-106,107,108,&109
- Lots 795-07-104 & 105 **ARE NOT** being used for a separate structure.
- The combined lots would only be used for a single family home new construction.
- Access easement from Blackburn will be provided across 795-07-131 (in Yellow).

PP#79507111

Gully - Not Buildable

PP#79507110

Gully - Not Buildable

PP#79507109

HOUSE

PP#79507108

PP#79507107

Mobile Home-Garage

PP#79507106

PP#79507105

PP#79507104

PP#79507103

PP#79507102

PP#79507101

PP#79507100

PP#79507099

PP#79507098

PP#79507097

PP#79507096

PP#79507095

PP#79506041

PP#7950

PP#79507130

BLACKBURN RD

PP#79507131

PP#79507132

PP#79507133

PP#79507134

PP#79507135

PP#79507136

PP#79507137

PP#79507138

PP#79507139

PP#79507140

PP#79506007

PP#79506008

PP#79506072

NORTHAM DR



## PURCHASE AGREEMENT

**THIS AGREEMENT** is made and entered as of the last date of execution specified below, by and between The Village of Oakwood, Ohio hereinafter referred to as SELLER, and Joseph Fouche, hereinafter referred to as PURCHASER.

1. SELLER agrees to sell and PURCHASER agrees to purchase the following described real estate with appurtenances, located in the Village of Oakwood, County of Cuyahoga and State of Ohio: two vacant parcels of property designated by the Cuyahoga County Fiscal Officer as Permanent Parcel Nos. 795-07-104 and 795-07-105 adjacent to a platted but unconstructed portion of Northam Drive and consisting of approximately .239 acres each (hereinafter the "Property"). The Property shall include the land, all appurtenant rights, privileges and easements in their present condition "as is".

2. PURCHASER agrees to pay for said Property the sum of Four thousand and 00/100 Dollars (\$4,000.00).

3. SELLER shall furnish a Warranty Deed conveying to PURCHASER, or nominee, a marketable title to the Property, with dower rights, if any, released, free and clear of all liens and encumbrances whatsoever, except: (a) restrictions of record and any reservations and easements created in conjunction with such restrictions that do not materially adversely affect the use or value of the property; (b) zoning ordinances, if any; (c) taxes and assessments, both general and special, not yet due and payable, for the current half of the taxable year and thereafter.

4. The closing of the sale and Seller's obligation to deliver title the Property shall

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be subject to the following conditions:

- a. Within ten (10) days of the execution of this Purchase Agreement, Purchaser shall deliver the purchase price to the escrow agent.
- b. Within six (6) months of the execution of this Agreement, Purchaser shall present plans for the construction of a single-family dwelling of at least 2,500 square feet on the Property and obtain approval and permits from all necessary regulatory bodies for said plans.
- c. Within six (6) months of the execution of this Agreement, Purchaser shall obtain approval for the consolidation of the Property with Permanent Parcel Numbers 795-07-106, 795-07-107, 795-07-108 and 795-07-109 (hereinafter the "Consolidated Property") which shall be held for filing with the Cuyahoga County Recorder following closing. After the closing, PURCHASER shall cause to be recorded the foregoing consolidation plat and accompanying documents along with a deed restriction, covenant or other appropriate instrument to be agreed upon by the parties limiting the entirety of the Consolidated Property to use solely for a single family residence in perpetuity and prohibiting PURCHASER or his successors in interest from seeking to split any portion of the Consolidated Property or seeking the rezoning of the Consolidated Property to permit any use other than a single family residence.

5. At the time of closing, SELLER shall grant to PURCHASER an easement, upon terms to be negotiated by the parties, from the dead end circle of Blackburn Road across Permanent Parcel No. 795-07-131 as well as the right of way for Northam Drive to



serve the Consolidated Property. PURCHASER shall complete construction of said driveway within one (1) year of the closing of the sale. In the event PURCHASER fails to comply with this paragraph the Property shall revert to SELLER without compensation to PURCHASER. If Northam Drive is extended at a future date to or beyond the Property, the said easement shall be extinguished and the driveway and appurtenances on it shall be removed at PURCHASER'S cost in a fashion which permits the construction of the foregoing extension.

6. Within six (6) months of closing, PURCHASER shall commence and within one year of closing, shall complete construction of the approved single-family dwelling of at least 2,500 square feet on the PROPERTY and, in the event PURCHASER fails to comply with this paragraph, the Property shall revert, to SELLER without compensation to PURCHASER.

7. SELLER shall furnish a Title Guaranty in the amount of the purchase price, as evidence of assurance that there has been conveyed to PURCHASER, or nominee, the title required to be conveyed hereunder. Should PURCHASER desire, he may obtain a Fee Policy of Title Insurance, so long as he pays the increased premium due because of such additional coverage.

8. All general and special taxes, and all annual maintenance charges, if any, shall be prorated as of the date of filing the deed for record, on the basis of the latest available tax duplicate, provided, however, that the full amount of all installments on any special assessments, whenever payable, shall be prorated and assumed by PURCHASER.

9. All documents and funds necessary to the completion of this transaction shall be placed in escrow with Guardian Title, 1120 Chester Ave, Cleveland, OH 44114,

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on or about February 26, 2021, subject to their standard conditions of escrow acceptance. If a defect in title appears, SELLER shall have thirty (30) days after notice to remove said defect.

10. The Escrow Agent shall charge to SELLER and pay out of the purchase price the following: (a) the cost of the title exam and Title Guaranty required hereunder; (b) amount due to discharge any lien encumbering the property and the cost of recording the cancellation thereof; (c) any amount due PURCHASER by reason of prorations; and (d) the amount of any special assessments payable by SELLER. SELLER shall also pay directly all utility charges to the date of filing the deed for record. PURCHASER shall pay the following: (a) any real estate transfer tax; (b) attorney fees incurred to prepare the Warranty Deed; (c) the escrow fee; (d) all fees and costs incident to filing the deed; (e) costs of any inspections requested by PURCHASER; and (f) the additional premium cost for the Owner's Fee Title Insurance Policy, if desired;

11. SELLER shall deliver possession of the property to PURCHASER upon filing the deed for record.

12. The obligations of SELLER to consummate at the Closing of the transaction herein contemplated are subject to the following conditions:

- (a) PURCHASER shall have performed all agreements on their part required to be performed under this Agreement and shall not be in default under any of the provisions of this Agreement; and
- (b) PURCHASER shall have delivered the Purchase Price to the Escrow Agent as set forth in paragraph 2 hereof.

13. SELLER agrees that PURCHASER shall be permitted access to the Property at all reasonable times to inspect same.

14. PURCHASER stipulates that there have been no express or implied

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representations, warranties or statements concerning the condition of said premises, the value of same, the improvements thereon, the use that can be made of said premises, or anything concerning same other than what is included in this written Purchase Agreement.

15. Neither SELLER nor PURCHASER has retained any broker in connection with this transaction, and each party hereto agrees to defend, indemnify and hold the other harmless against any claim or claims of any broker or any other representative for commission, or finder's fee or expenses alleged by any third parties to be incurred by or on behalf of the indemnifying party.

16. This Agreement shall not be assigned by either party hereto without the express written consent of the other.

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

18. Any notices provided for herein to SELLER or PURCHASER shall be in writing and deemed to have been given when mailed, postage paid, by registered or certified mail, return receipt requested, as follows:

**TO SELLER:**

Oakwood Village  
c/o James A. Climer  
Mazanec, Raskin & Ryder Co., LPA  
34305 Solon Rd., Ste. 100  
Cleveland, OH 44139  
jclimer@mrrlaw.com

**TO PURCHASER:**

Joseph Fouche  
26232 Milburn Dr.  
Oakwood Village, OH 44146

19. Upon execution of this Agreement, it shall become binding upon and accrue to the benefit of SELLER and PURCHASER and their respective heirs, executors,





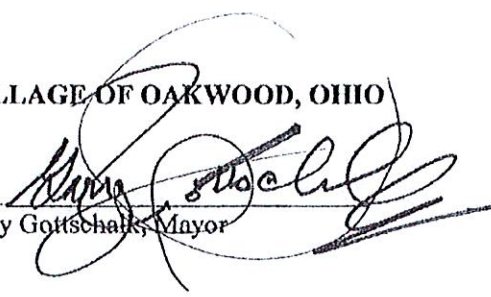
administrators and assigns.

*IN WITNESS WHEREOF*, the parties hereto have executed this Agreement as of the date and year first above written.

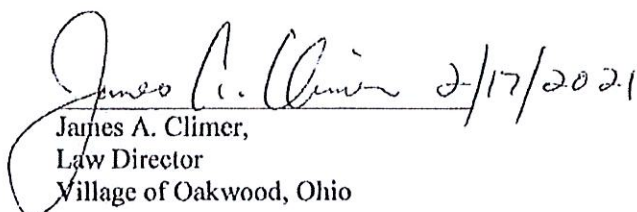
**SELLER**

2/18/21  
DATE

**VILLAGE OF OAKWOOD, OHIO**

by:   
Gary Gottschalk, Mayor

APPROVED AS TO LEGAL FORM

  
James A. Climer,  
Law Director  
Village of Oakwood, Ohio

**PURCHASER**

02/22/2021  
DATE

  
Joseph Fouche

## PLANNING COMMISSION

## VOTING RECORD

DATE: , WEDNESDAY FEBRUARY 10, 2021

MEETING STARTED AT: 7:15 P.M.NEW BUSINESS:

CASE # PC21-101 ORDINANCE 2021-11

RAND BROADSTREET

MARY DAVIS

PETER DUFFY

TRACY MOORE

MOTION TO APPROVE PC21-101 : MADE BY \_\_\_\_\_, SECONDED

BY \_\_\_\_\_, AND UPON ROLL CALL THE MOTION WAS UNANIMOUS.

Withdrawn

CASE # PC21-102 ORDINANCE 2021-12

RAND BROADSTREET

MARY DAVIS

PETER DUFFY

TRACY MOORE

MOTION TO APPROVE PC21-102 : MADE BY \_\_\_\_\_, SECONDED

BY \_\_\_\_\_, AND UPON ROLL CALL THE MOTION WAS UNANIMOUS.

Withdrawn

✓ CASE # PC21-103 RESOLUTION 2021-13

RAND BROADSTREET

MARY DAVIS

PETER DUFFY

TRACY MOORE

MOTION TO APPROVE PC21-103 : MADE BY Tracy Moore, SECONDEDBY Mary Davis, AND UPON ROLL CALL THE MOTION WAS UNANIMOUS.Motion Passed  
Contingent on HRA of Village  
Engl 2/10/21

✓ CASE # PC21-104 RESOLUTION 2021-14

RAND BROADSTREET

MARY DAVIS

PETER DUFFY

TRACY MOORE

MOTION TO APPROVE PC21-104 : MADE BY Mary Davis, SECONDEDBY Tracy Moore, AND UPON ROLL CALL THE MOTION WAS UNANIMOUS.Contingent on Engl HRA 2/10/21  
2 Pass Circumstances commad  
Motion Passed

✓ CASE # PC21-105 RESOLUTION 2021-15

RAND BROADSTREET

MARY DAVIS

PETER DUFFY

TRACY MOORE

MOTION TO APPROVE PC21-105 : MADE BY Mary Davis, SECONDEDBY Peter Duffy, AND UPON ROLL CALL THE MOTION WAS UNANIMOUS.

Motion Passed

MOTION TO AJOURN AT 8:11 P.M.MOTION MADE BY Peter DuffySECONDED BY Tracy Moore, AND UPON ROLL CALL THE MOTION WAS UNANIMOUS.

February 10, 2021

Village of Oakwood  
24800 Broadway Avenue  
Oakwood Village, Ohio 44146

Re: OAK PC 21-104  
Sale of Permanent Parcel Nos. 795-07-104 and 795-07-105  
Northam Drive

Dear Commissioners,

At the request of Mayor Gottschalk please accept this letter offering a brief explanation to supplement the information already provided with Oakwood Council Res 2021-14, a Resolution Referring to the Planning Commission for Report and Recommendation a Proposed Ordinance Authorizing the Mayor to Enter Into a Contract to Sell Village Land Designated On the Records of the Cuyahoga County Fiscal Officer as Permanent Parcel Nos. 795-07-104 and 795-07-105.

To be succinct the two parcels located on an unpaved section of Northam Drive, each at 40 feet wide by 225 feet deep, or 0.24 acres, do not meet the current zoning requirements for a single family residential lot even if consolidated. Even if variances were granted to allow for the development of the site, approximately 320 feet of roadway improvements meeting Village standards would need to be constructed to access the property. Such an improvement, approaching \$400/lineal foot would certainly be deemed cost prohibitive. The Mayor and Council have proposed a purchase agreement that would allow for the parcels to be put into productive use with the owner of the adjoining properties.

If you should have any questions regarding this matter please feel free to contact me at your convenience.

Respectfully,



Edward J. Hren, P.E.  
Oakwood Village Engineer

cc: Mayor Gary Gottschalk  
Dan Marrinucci  
Ross Cerincione



## DEBRA HLADKY

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**From:** Ross Cirincione <RCirincione@oakwoodpolice.org>  
**Sent:** Thursday, February 11, 2021 1:48 PM  
**To:** Cynthia Hines ; Debbie Stoffl; DEBRA HLADKY; James A Climer (jclimer@mrllaw.com)  
**Subject:** Fouche - conditions of approval as adopted by Planning Commission at 2-10-2021 meeting.

Hello All. The planning Commission approved the Fouche application last night subject to the following conditions:

1. Delivery of Purchase Price to escrow within 10 days of Executing the Agreement; 2. Obtain all necessary approvals and permits for a minimum 2500 square foot single family dwelling within 6 months of executing the agreement; 3. Complete the consolidation of the lots being sold (PPNs 795-07-104 and 795-07-105) with PPNs 795-07-106 thru 795-07-109 within 6 months of executing the agreement; 4. Prohibition on seeking future re-splits of the consolidated property as well as prohibition on seeking re-zoning (to be contained in deed restrictions); Begin construction within 6 months of closing. Thank you, Ross S. Cirincione, Asst. Law Director

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