

ORDINANCE NO. 23-17

AN ORDINANCE DECLARING THE NECESSITY TO APPROPRIATE A FEE SIMPLE INTEREST ON PROPERTY AS SET FORTH IN EXHIBIT "A" FOR THE MUNICIPAL PURPOSE OF REPLACING A CULVERT ALONG WEST SMITH ROAD OVER CHAMPION CREEK WITHIN THE CITY OF MEDINA, AND DECLARING AN EMERGENCY.

WHEREAS: It has been determined that it is necessary for the City of Medina to acquire a fee simple interest from a property owner whose property is listed by permanent parcel number on Exhibit "A," attached hereto and incorporated herein, for the purpose of replacing a culvert along West Smith Road over Champion Creek within the City of Medina;

WHEREAS: The Ohio Department of Transportation, acting on behalf of the City of Medina, has been unable to satisfactorily negotiate the acquisition of a fee simple interest with the property owner listed on Exhibit "A";

WHEREAS: In order that the culvert replacement be completed within a reasonable time and for the avoidance of inconvenience to the residents of the City of Medina, it is necessary to obtain the fee simple interest in the most expeditious manner possible.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That a fee simple interest in and to the property known as Permanent Parcel Number 028-19C-05-120, more fully described in Exhibit "B," attached hereto and incorporated herein, is hereby appropriated pursuant to the State of Ohio Constitution, laws of the State of Ohio, and the ordinances of the City of Medina, Ohio.

SEC. 2: The Medina City Council finds that the appropriation is necessary for the replacement of a culvert along West Smith Road over Champion Creek within the City of Medina, and further finds that the City of Medina has been unable to agree with the aforementioned property owner as to the value of the fee simple interest.

SEC. 3: The Medina City Council hereby approves the appropriation of the fee simple interest pursuant to chapter 163 of the Ohio Revised Code; the City Law Director is hereby authorized to take all steps permitted pursuant to chapter 163 so that the City of Medina may obtain immediate possession of the property for the public purpose stated herein.

SEC. 4: The Law Director is hereby authorized and directed to file a petition for appropriation in a court of competent jurisdiction, and have a jury impaneled to assess the compensation to be paid for the fee simple interest taken upon the described real estate.

SEC. 5: The Medina City Council hereby authorizes and directs the Mayor and the City Law Director to establish the value for the fee simple interest to be taken on the individual property according to the appraisal of the parcel and to deposit said amount with the Medina County Court of Common Pleas for the use and benefit of the owner of the described properties and that upon that deposit, the City of Medina shall take possession of and enter upon the properties pursuant to law.

SEC. 6: That the funds necessary to cover this appropriation are available from the State of Ohio Department of Transportation, that the State of Ohio Department of Transportation is instructed and authorized to appropriate the amounts to be deposited with the Medina County Court of Common Pleas pursuant to this Ordinance and make disbursements of such funds as necessary.

SEC. 7: That it is found and determined that all formal actions of the Medina City Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of the Council and any of its committees resulting in formal actions have taken place in compliance with Medina City Ordinances and § 121.22 of the Ohio Revised Code.

SEC. 8: That this legislation is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety, and welfare, and for the further reason that it is immediately necessary to acquire the fee simple interest to ensure the satisfactory completion of the culver replacement project within the City of Medina, and further provided that this legislation receives the affirmative vote of two-thirds (2/3) of all members elected to Council, it shall take effect and be enforced immediately upon its passage and approval by the Mayor.

PASSED: February 13, 2017

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: February 14, 2017

SIGNED: Dennis Hanwell
Mayor

Ord. 23-11
Exh. A

MEDINA COUNTY RECORDER
NANCY ABBOTT

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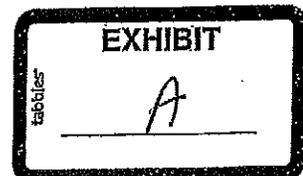
RECORDING FEE: 14.00

DOCUMENT TYPE: W

PAGES: 2

MEDINA COUNTY RECORDER
NANCY L. ABBOTT

(DO NOT REMOVE THIS COVER SHEET. THIS IS THE FIRST
PAGE OF THIS DOCUMENT.)



This Conveyance has been examined and the Grantor has complied with Section 919.202 of the Revised Code
FEE \$ 15.00
EXEMPT
Michael E Kovack, Medina Co. Auditor

GENERAL WARRANTY DEED
Ohio Revised Code Section 5302.05

WE, ROBERT HOLLINGSWORTH AND ELIZABETH HOLLINGSWORTH (Husband and Wife), the Grantors, who claim title by or through instrument, recorded as Document No. 2000 027 244, Medina County Recorder's Office, for the consideration of Fourteen and No/100 Dollars (\$14.00) received to our full satisfaction of CHRISTOPHER KALINA (Married), the Grantee, whose TAX MAILING ADDRESS will be 328 West Smith Street, Medina, Ohio 44256, do GIVE, GRANT, BARGAIN, SELL AND CONVEY unto the said Grantee, his heirs and assigns, the following described premises:

Situated in the City of Medina, County of Medina and State of Ohio, and known as being part of the middle part of Outlot No. 1002 in the plat of said City on the Montville Township side thereof, and bounded and described as follows:

Commencing in the North line of said Outlot 1002 at a point 132 feet West of the Northeast corner of said Outlot;

Thence South in line running parallel with the East line of Outlot, 82 feet to the center of the creek;

Thence in a Northwest direction along the center of the creek 158 feet to a point in the North line of said Outlot No. 1002, which is 120 feet west from the place of beginning; **ERLY

Thence East on the said North line of said Outlot 120 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Also known as 328 West Smith Street, Medina, Ohio 44256
Permanent Parcel No.: 028-19C-05-120

To have and to hold the above granted and bargained premises, with the appurtenances thereunto belonging, unto the said Grantee, his heirs and assigns forever.

And we, Robert Hollingsworth and Elizabeth Hollingsworth, the said Grantors, do for ourselves and our heirs, executors and administrators, covenant with the said Grantee, his heirs and assigns, that at and until the ensealing of these presents, we are well seized of the above described premises, as a good and Indefeasible estate in FEE SIMPLE, and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all encumbrances whatsoever, excepting from said covenants any restrictions of record and any conditions, reservations and easements created in conjunction with

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such restrictions, zoning ordinances, if any, and assessments and taxes both general and special, for the current half of the taxable year and thereafter, and that we will Warrant and Defend said premises, with the appurtenances thereunto belonging, to the said Grantee, his heirs and assigns, against all lawful claims and demands whatsoever.

And for valuable consideration we do hereby remise, release and forever quit-claim unto the said Grantee, his heirs and assigns, all our right and expectancy of Dower in the above described premises.

Executed this 26TH day of FEBRUARY, 2002.
(day) (month)

X *Robert Hollingsworth*
ROBERT HOLLINGSWORTH

X *Elizabeth Hollingsworth*
ELIZABETH HOLLINGSWORTH

THE STATE OF OHIO
COUNTY OF MEDINA
(County)

} ss.

Before me, a Notary Public in and for said County and State personally appeared Robert Hollingsworth and Elizabeth Hollingsworth who under penalty of perjury in violation of Section 2921.11 of the Revised Code represented to me to be said individuals and who signed the foregoing Instrument and acknowledged the same as their voluntary act and deed.

In testimony whereof, I have hereunto set my hand and official notary seal, at MEDINA, Ohio, this 26TH day of FEBRUARY, 2002.
(city) (day) (month)

[Signature]
NOTARY PUBLIC

THIS INSTRUMENT WAS PREPARED BY:
COSTANZO & LAZZARO, P.L.L.
ATTORNEYS AND COUNSELORS AT LAW
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LAKEWOOD, OHIO 44107-4814
(216) 226-8241
Fax (216) 226-471



RECEIVED BY: [Signature]
DATE: [Signature]

Legal Approved

Date 9-22-15

BY Cornelia S. Garrison CM

RX 251 WDV

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Ver. Date 09/09/2015

PID 97553

PARCEL 3-WDV
MED-M.R. 4-0.00
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE
IN THE FOLLOWING DESCRIBED PROPERTY
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF MEDINA, MEDINA COUNTY, OHIO

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the City of Medina, County of Medina, and State of Ohio, and being part of Outlot 1002, as conveyed to Christopher Kalina (hereinafter known as the "Grantor"), by deed dated March 18, 2002 and recorded in Document Number 2002OR010986, of the Medina County Recorder's Office, Medina County, Ohio, and being bounded and more particularly described as follows:

Being a parcel of land lying on the south side of the centerline of existing right-of-way of West Smith Road, (a 60' Right-of-Way), as shown and delineated upon the right-of-way plans designated as MED-M.R. 4-0.00 prepared for the State of Ohio, Department of Transportation by Carpenter Marty Transportation Inc., and being more particularly described as follows:

Beginning at a point at the Grantor's northwesterly corner, also being the northwesterly corner of Outlot 1002, said point being in the existing southerly right-of-way line of said West Smith Road, said point being 30.00 feet right of Station 89+76.50 in said centerline;

Thence along the Grantor's northerly line, and northerly line of Outlot 1002, also being the existing southerly right-of-way line of said West Smith Road, North 89 degrees 2 minutes 22

EXHIBIT

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B

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seconds East a distance of 38.50 feet to an iron pin set 30.00 feet right of Station 90+15.00 in said centerline;

Thence through said Outlot 1002 the following two courses:

- 1) South 0 degrees 57 minutes 38 seconds East a distance of 17.00 feet to an iron pin set 47.00 feet right of Station 90+15.00 in said centerline;
- 2) South 89 degrees 2 minutes 22 seconds West a distance of 19.14 feet to a point in Grantor's westerly line, and westerly line of Outlot 1002, said point being 47.00 feet right of Station 89+95.86 in said centerline;

Thence along said westerly line and the westerly line of Outlot 1002, North 49 degrees 40 minutes 59 seconds West a distance of 25.77 feet to the TRUE POINT OF BEGINNING, containing 0.0112 acres, of which the present road occupies 0.000 acres.

The above described Parcel of land is located in Auditor's Parcel Number 028-19C-05-120.

Iron pins set are $\frac{3}{4}$ inch diameter rebar, 30 inches long with a 2 inch diameter aluminum cap marked "MEDINA CITY R/W, P.S. 8124".

This description is based on a survey performed for the Ohio Department of Transportation in April of 2015 by Carpenter Marty Transportation Inc. This description was prepared and reviewed on September 9, 2015 by Kevin P. Carpenter, Registered Surveyor Number 8124.

The bearings found herein are based on Grid North of the Ohio State Plane Coordinate System, North Zone, NAD 83 (2011) with a project adjustment scale factor of 1.00010561.

