

North Canton City Council
Street and Alley Committee

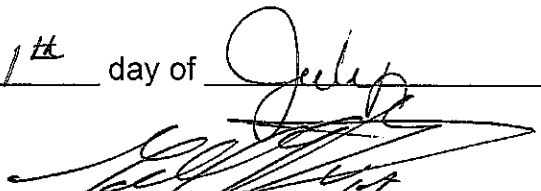
Ordinance No. 43 - 2016

An ordinance approving, confirming and accepting a perpetual public utility easement, known as Parcel No. 9202359, and being part of Lot No. 2470, by and between the City of North Canton, an Ohio charter municipal corporation ("City"), and Patricia D. Fuller, Grantor, and declaring the same to be an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

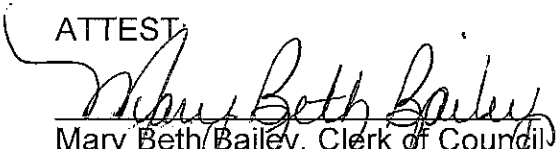
- Section 1. That a perpetual public utility easement, known as Parcel No. 9202359, by and between the City and Patricia D. Fuller, be, and the same is hereby approved, confirmed and accepted.
- Section 2. That attachments regarding this easement are attached hereto and incorporated herein as if fully rewritten herein.
- Section 3. That if a provision of this ordinance is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 4. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and peace of the City of North Canton and further necessary for the City to have prompt access to the utility as well as sanitary sewer pipes and lines; wherefore, provided it receives the affirmative vote of six or more members of Council elected thereto, this ordinance shall take effect and be in full force immediately upon its adoption by Council and approval by the Mayor.

Passed in Council this 11th day of July 2016


Mike Grimes, Director of Administration*

SIGNED: 7/11, 2016

ATTEST


Mary Beth Bailey, Clerk of Council

*Pursuant to Section 3.01 of the North Canton Charter

PERPETUAL UTILITY EASEMENT
Parcel No.: 9202359

For and in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Patricia D. Fuller, GRANTOR, does hereby give and grant unto THE CITY OF NORTH CANTON, an Ohio municipal corporation, GRANTEE, a perpetual utility easement to lay, re-lay, construct, install, maintain, operate, alter, inspect, repair, remove, replace, and renew at will a public storm sewer, and to perform any other tasks GRANTEE deems necessary or advisable in order to operate or maintain said storm sewer conduit, connections, pipes and appurtenances in accordance with the ordinances, rules, and regulates of Grantee, which are now in effect or may be adopted hereafter, including the right of ingress and egress at any time to and from such utility and all appurtenances thereto on, under and through the following property, a/k/a the "Easement Area":

SEE ATTACHED EXHIBITS "A and B"

It is agreed by and between Grantor and Grantee as follows:

1. That the Grantee shall have the right to remove fences, shrubbery, plants, trees, landscaping, lawns, driveways, walkways, and paving within the Easement Area during initial construction or future maintenance of the utility and all appurtenances thereto. The Grantee shall be responsible to restore the surface area of the easement, disturbed by Grantee, to as closely as possible to its condition at the time of construction or maintenance. The Grantee will pay reasonable damages for items which cannot be restored or repaired. If the amount of said damages cannot be mutually agreed upon, the same shall be ascertained and determined by three disinterested persons; one appointed by the Grantor, one by the Grantee, and the third by the two so appointed. The award of such three persons shall be final and conclusive.
2. That no building or structure of any kind shall or will be erected within the easement area by Grantor, nor shall anything be placed in the vicinity of the easement which might be injurious to the utility. However, nothing herein shall interfere with the right of Grantor to place driveways, parking areas, or walkways in said easement. Grantor shall not change the ground elevation, within the easement area, without approval of Grantee.
3. That the Grantor may extend across, or grant easements to others to extend across said easement area to minimum acceptable clearances as determined by the Grantee.
4. That Grantor shall indemnify, defend and hold harmless Grantee from any and all claims, liabilities, damages, actions, costs and expenses or complaints, including reasonable attorney fees, arising out of Grantor's use of the Easement Area.
5. That upon removal of said utility and all appurtenances thereto, the Easement Area shall be restored as closely as possible to its then condition at the time of removal.
6. That this grant shall be binding upon the Grantor and Grantee and shall inure to the benefit of their respective heirs, executors, administrators, successors, and assigns forever.

7. That Grantor covenants with Grantee that it is well seized of the Easement Area as a good and indefeasible estate in fee simple and has the right to grant and convey the Easement Area in the manner and form described above. Grantor further covenants that it will warrant and defend the premises with the appurtenances thereunto belonging to Grantee against all lawful claims and demands whatsoever for the purposes described herein.
8. That this easement is subject to all matters of record.

IN WITNESS WHEREOF, the undersigned grantor(s) have caused their name to be subscribed to this Perpetual Utility Easement this 9 day of May, 2016.

GRANTOR(S):

Patricia D. Fuller

Patricia D. Fuller

(Signed Name)

NOTARY:

STATE OF OHIO)
) SS:
 COUNTY OF STARK)

Before me, a Notary Public in and for said County, personally appeared Patricia D. Fuller, owner of Lot 2470 in the City of North Canton, who acknowledged that they did sign the foregoing instrument and that it is their free act and deed.

IN THE TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal a this 9 Day of May, 2016.

Linda J Tols
 Notary Public



Linda J Tols
 Notary Public, State of Ohio
 My Commission Expires 10-31-2017

Seal

This instrument prepared by: City of North Canton
 145 North Main Street
 North Canton, OH 4720

EXHIBIT A
DESCRIPTION OF A 0.0336 ACRE UTILITY EASEMENT

Situated in the City of North Canton, County of Stark, State of Ohio, and being part of North Canton City Lot 2470 as conveyed to Patricia D. Fuller (hereinafter known as the "Grantor") by Inst. No. 201111150046011 of the records of said county and being more fully described as follows:

Beginning at the northwest corner of City Lot 2465 as conveyed to Christine M. Schoenberg (Inst. No. 201002230006474), the southwest corner of City Lot 2469 as conveyed to Linda L. Miday (Inst. No. 201105270020406), and on the east line of City Lot 2464 as conveyed to Anthony R. McLaughlin & Jennifer M. McLaughlin (Inst. No. 201210190048181), said corner being witnessed by a 1 inch rebar found bearing South 11 Degrees 34 Minutes 19 Seconds West, a distance of 0.15 feet; thence North 01 Degrees 31 Minutes 40 Seconds East along the division line of City Lots 2464 and 2469 and partially along the Grantor's west line, a distance of 87.53 feet to the **TRUE PLACE OF BEGINNING** for the parcel hereinafter described, thence in a clockwise direction along the following three (3) courses and distances;

1. Thence **North 01 Degrees 31 Minutes 40 Seconds East** along the Grantor's west line and partially along the east line of City Lot 2464 and a parcel conveyed to the City of North Canton, Ohio (Vol. 2721, Pg. 421), a distance of **72.47 feet** to the Grantor's northwest corner and the southwest corner of City Lot 2471 as conveyed to the City of North Canton (Vol. 4164, Pg. 425);
2. Thence **South 88 Degrees 19 Minutes 59 Seconds East** along the Grantor's north line and the south line of said City Lot 2471, a distance of **40.40 feet** to a point;
3. Thence **South 30 Degrees 42 Minutes 06 Seconds West**, a distance of **82.89 feet** to the **TRUE PLACE OF BEGINNING**.

The above described parcel contains 0.0336 acres, more or less, and subject to all easements, restrictions and covenants of record.

The above described area is contained within Stark County Parcel Number 9202359.

The Basis of Bearing is Grid North of the Ohio State Plane Coordinate System, North Zone, NAD83(2011).

This description was prepared and reviewed under the supervision of Steven L. Mullaney, Professional Surveyor No. 7900 from a survey completed in September 2015.



Glaus, Pyle, Schomer, Burns, & DeHaven, Inc.
dba GPD Group

Steven L. Mullaney 03/16/16
Steven L. Mullaney, P.S.
Professional Surveyor No. 7900

BASIS FOR BEARINGS:

ALL BEARINGS SHOWN ARE FOR PROJECT USE ONLY.
 GRID NORTH OF THE OHIO STATE PLANE COORDINATE
 SYSTEM, NORTH ZONE, NAD83 (2011)

NOTE: THE EXISTING R/W WIDTH AND PROPERTY
 LINE LOCATION WERE DETERMINED USING
 DEEDS, ROAD RECORDS, AND PLATS ON
 FILE AT THE STARK COUNTY RECORDER'S
 OFFICE.

I, Steven L. Mullaney, P. S., have conducted a survey of the existing conditions for the City of North Canton in
 September, 2015. The results of that survey are contained herein. The horizontal coordinates expressed herein
 are in grid values and based on the Ohio State Plane Coordinate System, North Zone on NAD 83 (2011) datum. As a part
 of this project I have reestablished the locations of the existing property lines for the property takes contained
 herein. All of my work contained herein was conducted in accordance with Ohio Administrative Code 4733-37 commonly
 known as "A Minimum Standards for Boundary Surveys in the State of Ohio" unless noted. The words "I and my as used
 herein are to mean either myself or someone working under my direct supervision.

Steven L. Mullaney
 Steven L. Mullaney, Professional Land Surveyor No. 7900
 Date: 03/16/16

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 7° 37' 40" E	72.47'
L2	S 88° 19' 59" E	40.40'
L3	S 30° 42' 6" W	82.89'



CITY OF NORTH CANTON
 COUNTY OF STARK
 STATE OF OHIO
 PART OF NORTH CANTON CITY LOT 2470

THE CITY OF NORTH CANTON, OHIO
 VOL. 2721, PG. 421
 PN: 9280118
 PART OF O.L. 108 & 127

CITY OF NORTH CANTON
 VOL. 4164, PG. 425
 PN: 9280197
 PT. LOT #2471

PN: 9280176
 PT. LOT #2472

PN: 9201862
 PT. LOT #2472

CHARLES CRAMER
 INST. NO. 20070110002162
 PN: 9206384
 LOT #2471

PATRICIA D. FULLER
 INST. NO. 2011150046011
 PN: 9202359
 LOT #2470

LINDA L. MIDAY
 INST. NO. 201105270020406
 PN: 9204097
 LOT #2469

CHRISTINE M.
 SCHOENBERG
 INST. NO.
 201002230006474
 PN: 9204251
 LOT #2465

ANTHONY R. McLAUGHLIN &
 JENNIFER M. McLAUGHLIN
 INST. NO. 201210190048181
 PN: 9204679
 LOT #2464

1" Rebar (found)
 S11°34'19" W
 0.15'

S 25° 25' 40" W
 1464 Sq. Ft.
 T.P.O.B.

L1

L2

L3

S 88° 19' 59" E

1" Rebar (found)
 N38°59'10" E
 0.13'

S 33° 47' 41" W

1" Rebar (found)

WALTER J. & RITA M. MAURER - TRUSTEES
 PN: 9203540
 PT. LOT #2472 & PT. O.L. 107

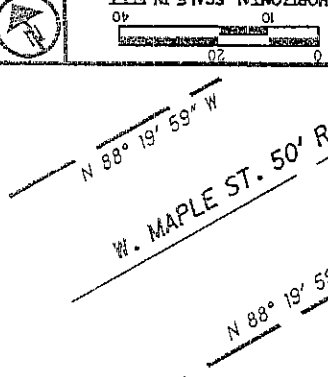


EXHIBIT B
 0.0336 ACRE UTILITY EASEMENT

PRICE PARK STORM
 SEWER REPLACEMENT