

North Canton City Council
Street and Alley Committee

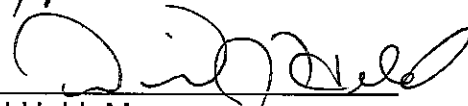
Ordinance No. 58 - 2016

An ordinance approving, confirming and accepting a perpetual water main easement known as Parcel No. 10006130, and being part of a 4.70 acre tract of land, by and between the City of North Canton, an Ohio charter municipal corporation ("City"), Grantee, and Kings Creek Associates, L.P., 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:

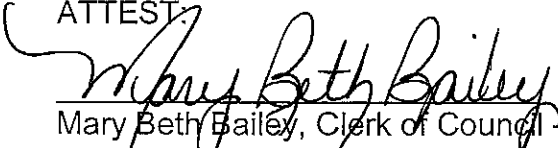
- Section 1. That a perpetual water main utility easement known as Parcel No. 10006130, by and between the City, and Kings Creek Associates, L.P., be, and the same is hereby approved, confirmed and accepted.
- Section 2. That attachments regarding this easement more fully describing the parcel and easement are attached hereto and incorporated herein as 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 12th day of September 2016



David Held, Mayor

Signed: 9/12, 2016

ATTEST:


Mary Beth Bailey, Clerk of Council

COPY

PERPETUAL WATER MAIN EASEMENT
Parcel No.: 10006130

For and in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Kings Creek Associates, L.P., GRANTORS, do hereby give and grant unto THE CITY OF NORTH CANTON, an Ohio municipal corporation, GRANTEE, a perpetual easement to lay, re-lay, construct, install, maintain, operate, alter, inspect, repair, remove, replace, and renew at will a water main and to perform any other tasks GRANTEE deems necessary or advisable in order to operate or maintain the water system 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 EXHIBIT "A"

It is agreed by and between Grantors 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 Grantors, 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 Grantors, 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 Grantors to place driveways, parking areas, or walkways in said easement. Grantors shall not change the ground elevation, within the easement area, without approval of Grantee.
3. That the Grantors 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 Grantors 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 Grantors and Grantee and shall inure to the benefit of their respective heirs, executors, administrators, successors, and assigns forever.

7. That the Grantors 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. Grantors 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 Kings Creek Associates, L.P. grantor(s) have caused their name to be subscribed by Westgate Management, Inc. the General Partner of Kings Creek Associates, L.P. to this Perpetual Water Main Easement this 4th day of August, 2016.

GRANTOR(S):

Kings Creek Associates, L.P.
By: Westgate Management, Inc., General Partner

Gary W. Wheeler
 Gary W. Wheeler, President

COPY

NOTARY:

STATE OF Ohio)
) SS:
 COUNTY OF Frank)

Before me, a Notary Public in and for said State and County, personally appeared Gary W. Wheeler, President of Westgate Management, Inc., General Partner of Kings Creek Associates, L.P., 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 4th Day of August, 2016.

Paula J. Demich
 Notary Public Frank County
PAULA J. DEMICH
Notary Public, State of Ohio
My Commission Expires 09-17-2020

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

EXHIBIT 'A'

DESCRIPTION OF A 0.0197 ACRE
20' WIDE WATER MAIN EASEMENT

PART OF PARCEL NO. 100-06130

COPY

Known as and being part of a 4.70 acre tract of land, as situated in part of the Southwest Quarter of Section 15, Plain Township, Stark County, Ohio which is presently owned by Kings Creek Associates LP and recorded in Stark County Recorders Instrument Number 1991/10150038926 and being more particularly bounded and described as follows.

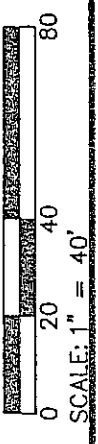
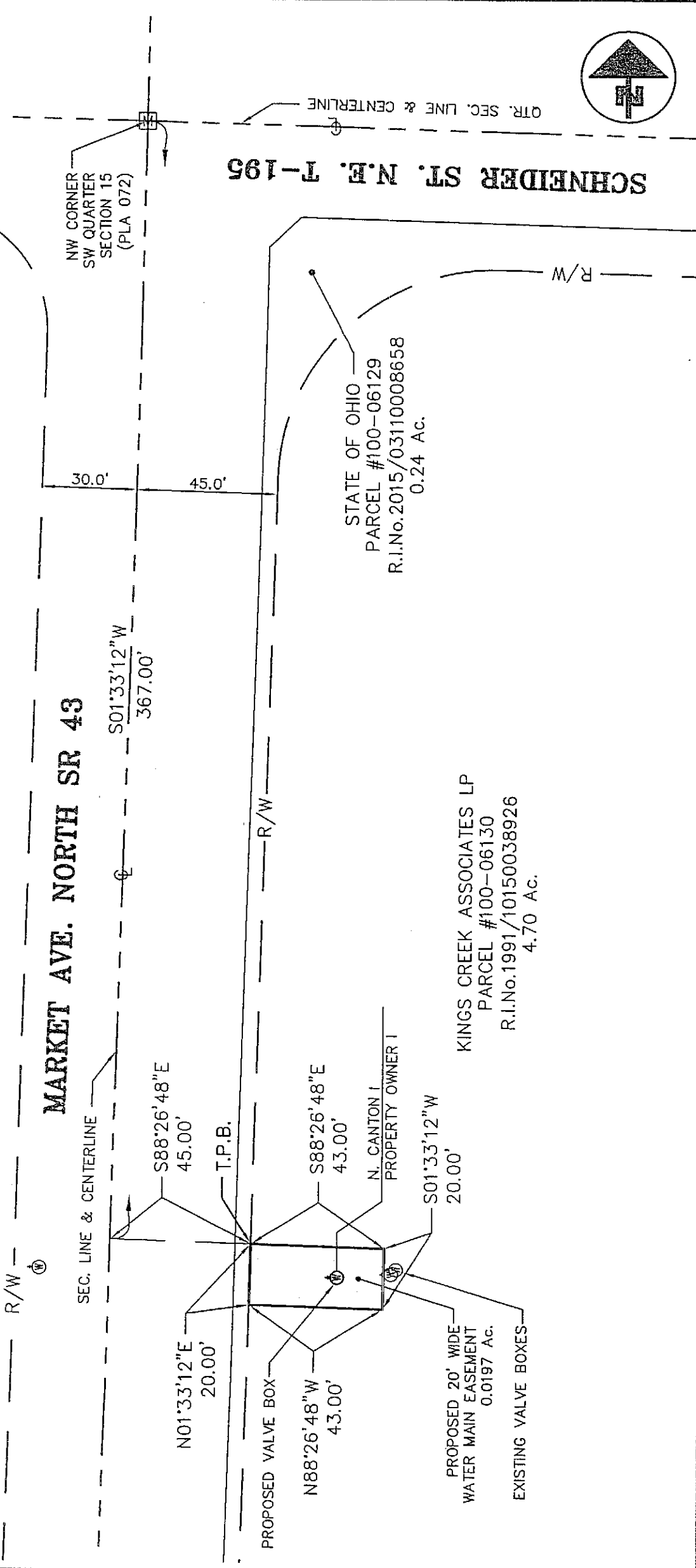
Beginning for the same at a point, at the Northwest Corner of said Southwest Quarter of Section 15, said point also being the intersection of the centerline of Market Avenue North (SR 43), a public roadway of variable widths with the centerline of Schneider Street (T - 195). Thence S01°33'12"W, along a portion of the west line of said Section 15 and centerline of Market Avenue North, a distance of 367.00 feet to a point.

1. Thence S88°26'48"E, perpendicular to said Section Line and centerline, a distance of 45.00 feet, to a point on the east Right-of-Way line of said Market Avenue North and being the **True Point of Beginning** for the Water Main Easement herein to be described;
2. Thence continuing S88°26'48"E, along the north line of the proposed Water Main Easement, a distance of 43.00 feet to a point;
3. Thence S01°33'12"W, along the east line of the proposed Water Main Easement, a distance of 20.00 feet to a point;
4. Thence N88°26'48"W, along the south line of the proposed Water Main Easement, a distance of 43.00 feet, to a point on the said east Right-of-Way line of Market Avenue North;
5. Thence N01°33'12"E, along a portion of said east Right-of-Way line, a distance of 20.00 feet to a point, terminating at the true place of beginning for the Water Main Easement herein described.

The above defined Water Main Easement contains 0.197 acre of land more or less (860.0 SF).

As determined by Jerold E. Geib, PS #6725 of Cooper & Associates, a Partners Company, in July of 2016.

Subject to any and all easements, reservations, or restrictions that may be of record pertaining to the above described tract of land.



DRAWN BY: BEB
 CHECKED BY: JEG

COOPER & ASSOCIATES
 A PARTNERS COMPANY
 1359 MARKET AVE. NORTH
 CANTON, OHIO 44714
 PHONE: (330) 452-5731

WATER MAIN EASEMENT
 LOCATED IN THE S.W. QTR. SEC. 15; PLAIN TOWNSHIP
 STARK COUNTY, OHIO
FOR: CITY OF NORTH CANTON

EXHIBIT A
PROJECT 1478.02