ORDINANCE NO. 2017-139

AN ORDINANCE VACATING A STANDARD HIGHWAY EASEMENT ORIGINALLY GRANTED TO THE CITY OF KENT, OHIO BY KENT DOWNTOWN COMMUNITY URBAN REDEVELOPMENT CORPORATION IN JUNE 27, 2008 CONDITIONED UPON THE FILING OF A NEW EASEMENT FROM 315 RFK, LLC, AND DECLARING AN EMERGENCY.

WHEREAS, Kent Downtown Community Urban Redevelopment Corporation had granted the City of Kent, Ohio a standard highway easement on June 27, 2008, recorded on Document #200811789 of the Portage County, Ohio Recorder's Office, said easement being attached hereto as Exhibit 'A', and made a part hereof; and

WHEREAS, 315 RFK, LLC is granting a new hike and bike trail easement to the City of Kent which will replace the current easement from Kent Downtown Community Urban Redevelopment Corporation, and is granting new storm water easements to the City of Kent, Ohio; and

WHEREAS, the easement from Kent Downtown Community Urban Redevelopment Corporation can and will be vacated by the City of Kent, Ohio upon the filing of record of the new hike and bike trail easement from 315 RFK, LLC; and

WHEREAS, time is of the essence in order for the City of Kent, Ohio and 315 RFK, LLC to complete improvements to the area and the hike and bike trail in a timely fashion.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto:

SECTION 1. That Council does hereby vacate the easement for a standard highway easement from Kent Downtown Community Urban Redevelopment Corporation, filed for record in June 27, 2008 on Document #200811789 of the Portage County, Ohio Recorder's Office, a copy of which is attached hereto and made a part hereof, effective on the date the City files its new easement for a permanent hike and bike trail in the same area from 315 RFK, LLC, and the new storm water management easements from 315 RFK, LLC.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents of this City, for which reason and other reasons manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: November 15, 2017

Date

Jerry T. Fiala
Mayor and President of Council

ATTEST: Tara Grimm, CMC
Clerk of Council

________________________
TARA GRIMM, CMC
CLERK OF COUNCIL
(SEAL)
STANDARD HIGHWAY EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS THAT: Kent Downtown Community Urban Redevelopment Corporation, the Grantor(s) herein, in consideration of the sum of $16,824.00, to be paid by City of Kent, the Grantee herein, does hereby grant, bargain, sell, convey and release to said Grantee, its successors and assigns forever, an easement, which is more particularly described in Exhibit A attached hereto, within the following described real estate:

PARCEL(S): 84 SHV
POR-Crain Avenue

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF


And the said Grantor(s), for themselves and their successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that they are the true and lawful owner(s) of said premises, and is lawfully seized of the same in fee simple, and have good right and full power to grant, bargain, sell, convey and release the same in the manner aforesaid, and that the same are free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions, and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules, and regulations; and (d) any and all taxes and assessments not yet due and payable; and that Grantor(s) will warrant and defend the same against all claims of all persons whomsoever.
IN WITNESS WHEREOF Kent Downtown Community Urban Redevelopment Corporation has caused its name to be subscribed by Howard Boyle, its duly authorized agent on the 14th day of March, 2007.

KENT DOWNTOWN COMMUNITY URBAN REDEVELOPMENT CORPORATION

By: Howard Boyle, President

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the 14th day of March, 2007, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Howard Boyle, who acknowledged being the President, and duly authorized agent of Kent Downtown Community Urban Redevelopment Corporation, and who signed or acknowledged the signing of the foregoing instrument to be the voluntary act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

NOTARY PUBLIC

VINCENT ALBRIGHT

My Commission expires: 2/2/10

This document was prepared by or for the State of Ohio, Department of Transportation, on forms approved by the Attorney General of Ohio.

BONNIE M. HOWE
PORTAGE CO. RECORDER

20 0811789 0 27 8
RECEIVED FOR RECORD AT 8:39:11
FEE $14.00

INDEXED
EXHIBIT "A"

PARCEL 84-SHV
POR-CRAIN_AVENUE
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF KENT, PORTAGE COUNTY, OHIO

An exclusive perpetual easement for public highway and road purposes, including, but not limited to
any utility construction, relocation and/or utility maintenance work deemed appropriate by the City Of
Kent, Portage County, Ohio, its successors and assigns forever.

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 Kent, County of Portage and State of Ohio, being part of Lot 25 of Original
Franklin Township, T-3-N, R-9-W, being a parcel of land lying on the right side of the centerline of right-of-
way of S.R. 43 (Gaugler Avenue) (60 feet), as shown on the POR-CRAIN AVENUE plans made for the
City of Kent, Ohio by ARCADIS G & M of Ohio, Inc. and as recorded in Reception Number
of the records of Portage County, Ohio and being located within the following described
points in the boundary thereof:

Commencing at a 1” bar in a monument box found at the intersection of the centerline of right-of-way
of Rockwell Street (49.5 feet) and the centerline of right-of-way of S.R. 43 (Gaugler Avenue) (60 feet),
said monument box at Station 634+26.46 on the centerline of right-of-way of S.R. 43 (Gaugler Avenue);

Thence South 78° 05' 42" East 31.44' along the centerline extension of Rockwell Street to the
easterly right-of-way line of S.R. 43 (Gaugler Avenue) at Station 634+17.06, 30.00’ right of the
centerline of right-of-way of said S.R. 43 (Gaugler Avenue);

Thence South 05° 28' 50" East 148.98' along the easterly right-of-way line of S.R. 43 (Gaugler Avenue)
to the northwesterly corner of a parcel of land now or formerly owned by Kent Downtown Community
Urban Redevelopment Corporation (Grantor) recorded in Instrument Number 200337512, at Station
632+68.09, 30.00’ right of the centerline of right-of-way of said S.R. 43 (Gaugler Avenue);

Thence North 84° 31' 10" East 85.53’ along the northerly property line of said Kent D.C.U.R.C.
parcel to Station 632+68.08, 115.53' right of the centerline of right-of-way of said S.R. 43 (Gaugler
Avenue);

Thence South 34° 34' 54" East 1.97’ along the easterly property line of said Kent D.C.U.R.C. parcel to the Intersection with the westerly line of the proposed Public Access easement at Station 632+66.36, 116.49’ right of the centerline of right-of-way of said S.R. 43 (Gaugler Avenue); also being the TRUE
PLACE OF BEGINNING of the easement herein described:

1. Thence South 34° 34' 54" East 43.06’ continuing along the easterly property line of said Kent
D.C.U.R.C. parcel to Station 632+28.74, 137.43’ right of the centerline of S.R. 43 (Gaugler
Avenue);

2. Thence South 07° 09’ 52” East 161.42’ continuing along the easterly property line of said
Kent D.C.U.R.C. parcel to the southerly property line at Station 630+91.46, 153.29’ right of the
centerline of S.R. 43 (Gaugler Avenue);
EXHIBIT A

3. Thence North 86° 42' 48" West 9.84' along the southerly property line of said Kent D.C.U.R.C. parcel to the westerly line of the proposed Public Access easement parallel with and 12.00' left of the Bike Path centerline, at Station 630+91.37, 143.46' right of the centerline of S.R. 43 (Gougler Avenue);

4. Thence along the arc of a curve to the right, said curve having a delta of 20° 02' 07", a radius of 92.00', a tangent of 16.25' and a chord of 32.01' with a chord bearing of North 18° 30' 32" East, an arc distance of 32.17' to a point of tangency, said point being at Station 631+20.64, 131.36' right of the centerline of right-of-way of S.R. 43 (Gougler Avenue);

5. Thence North 08° 29' 28" West 166.52' through said Kent D.C.U.R.C. parcel to the northerly property line of said parcel to the TRUE PLACE OF BEGINNING.

The above described parcel contains 3042 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 1979 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Number 170253000002, 395 square feet of land of which is contained within Permanent Parcel Number 170253000003, and 468 square feet of land of which is contained within Permanent Parcel Number 170253000004 and subject to all legal highways and easements of record.

Grantor herein retains the right to use said lands for any and all other purposes provided that such does not interfere with nor impair the exercise of the easement herein granted.

This description was prepared by Angela M. Metz, E.I. in December 2006 under the direct supervision of Charles A. Hauber, Registered Surveyor Number 8034 and is based on a field survey performed by Finkbeiner, Pettis & Strout, Inc. (now known as ARCADIS G & M of Ohio, Inc.) in 2004 under the direction and supervision of Michael E. Durbin, Registered Surveyor Number 7528.

Bearings in this description are based on the Ohio Coordinate System, NAD83(86), North Zone.

Grantor claims title by instrument(s) of record in Instrument Number 200337512 of the records of Portage County.

The stations referred to herein are from the centerline of right-of-way of S.R. 43 (Gougler Avenue) as found on the City of Kent Right-of-Way Plan POR-CRAIN AVENUE.

Iron pins set in the above description are 5/8 inch diameter by 30 inch long rebars with a plastic cap stamped “HAUBER 8034” or a drill hole depending upon the nature of the material that is present at each corner after construction.

Grantor conveys all of the property described above, except they reserve the right of ingress and egress to and from S.R. 43 (Gougler Avenue) for himself and his heirs, executors, administrators and assigns.

Grantor, for himself and his heirs, executors, administrators and assigns, reserves the right of ingress and egress to and from any residual area.

This instrument prepared by ARCADIS G & M of Ohio, Inc. for the City of Kent, Ohio.

20 Dec 2006