

SPONSORED BY: Administration  
REFERRED TO: Committee of the Whole  
INTRODUCED BY: Dennis Pierson-Property Vice Chair

## CITY OF NORTON ORDINANCE NO. 31-2017

**AN ORDINANCE APPROPRIATING PROPERTY INTEREST DESCRIBED AS PARCELS 14-S, 14-SH, AND 14-SH1, NOW OWNED BY AKRON BARBERTON CLUSTER RAILWAY COMPANY, AN OHIO CORPORATION, FOR THE PURPOSE OF MAKING OR REPAIRING ROADS WHICH ARE OPEN TO THE PUBLIC WITHOUT CHARGE, AUTHORIZING THE APPROPRIATION OF FUNDS FOR DEPOSIT WITH THE CLERK OF COURTS, AND AUTHORIZING THE CITY SOLICITOR AND/OR HIS DESIGNEE TO FILE A PETITION FOR APPROPRIATION IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, SUMMIT COUNTY, OHIO; AND DECLARING AN EMERGENCY.**

WHEREAS, the City, in cooperation with the Ohio Department of Transportation (“ODOT”), is undertaking the widening of Cleveland-Massillon Road in the City described as SUM-CR17 (Cleve-Mass Road) (the “Project”), and it is necessary for the City, on behalf of ODOT, to acquire certain property within the City necessary to provide right-of-way access for the Project;

WHEREAS, the City previously passed Ordinance No. 51-2014 on April 21, 2014 to hire TranSystems Real Estate Consulting, Inc. (“TranSystems”) to assist the City with the negotiation and acquisition of the property necessary to provide right-of-way access for the Project; and

WHEREAS, in connection with the Project, it is necessary for the City to acquire the property described as Parcels 14-S, 14-SH and 14-SH1 on Exhibit A attached hereto (the “Property”); and

WHEREAS, TranSystems, on behalf of the City, delivered a Notice of Intent to Acquire and Good Faith Offer, a copy of which is on file with the City Engineer (the “Notice and Offer”), declaring the City’s intent to acquire the Property to the owner of such Property (the “Owner”) on January 19, 2016; and

WHEREAS, the Notice and Offer satisfies the City’s requirements pursuant to Sections 163.04 and 163.041 of the Ohio Revised Code to provide written notice of the City’s intent to acquire the Property and to provide the Owner with a written good faith offer to purchase the Property at an appraised fair market value at least 30 days prior to filing a petition for appropriation; and

WHEREAS, following the delivery of the Notice and Offer, the City and the Owner were unable to agree on the terms of a conveyance of the Property, as required by Ohio Revised Code, Section 163.04; and

WHEREAS, the Project is necessary for (a) making or repairing roads which shall be open to the public in accordance with Section 163.06 of the Ohio Revised Code and (b) the opening, widening, straightening, changing the grade of and extension of Cleveland-Massillon Road in accordance with Section 719.01(A) of the Ohio Revised Code; and

WHEREAS, this Council has determined to authorize the City to proceed with the appropriation of the Property pursuant to Chapter 163 of the Ohio Revised Code and Section 719.05 of the Ohio Revised Code; and

WHEREAS, pursuant to Section 163.06 of the Ohio Revised Code, the City may deposit with the court at the time of filing the petition to appropriate the value of the Property appropriated together with the damages, if any, to the residue, as determined by the City, and stated in the Notice and Offer and thereupon take possession of and enter upon the Property appropriated.

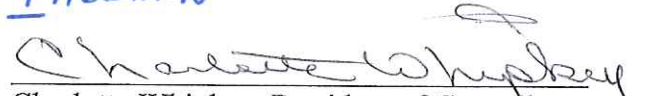
NOW THEREFORE, BE IT ORDAINED by the Council of the City of Norton, Counties of Summit and Wayne, State of Ohio that:

- Section 1. This Council finds that the City and the owner of the Property have been unable to agree on the terms of a conveyance of the Property necessary for the Project.
- Section 2. This Council determines it necessary to appropriate the Property for the purposes of (a) making or repairing roads which shall be open to the public in accordance with Section 163.06 of the Ohio Revised Code and (b) the opening, widening, straightening, changing the grade of and extension of Cleveland-Massillon Road in accordance with Section 719.01(A) of the Ohio Revised Code; and hereby directs the appropriation of the Property to proceed in accordance with Chapters 163 and 719 of the Ohio Revised Code.
- Section 3. The City Solicitor and/or his designee is hereby directed to file a petition for appropriation in the Summit County Court of Common Pleas – Probate Division in accordance with the procedures set forth in Chapters 163 and 719 of the Ohio Revised Code.
- Section 4. The Director of Finance is authorized to deposit the value of the Property, as determined in the Notice and Offer, with the Court at the time to appropriation petition is filed to permit the City to immediately obtain possession of the Property in furtherance of the Project.
- Section 5. All formal actions of this Council related to this Ordinance and all deliberations of the Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.
- Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this ordinance must be immediately effective to timely proceed with the Project to enhance the flow of vehicular traffic within the City thereby enhancing the safety of pedestrian and vehicular traffic; wherefore, this ordinance shall be in

full force and effect immediately upon its passage and approval by the Mayor; otherwise, it shall take effect at the earliest time permitted by law.


Emergency Vote: 4 Yeas 0 Nays 1 ABSTAIN

Date passed: 2-27-17

  
Charlotte Whipkey, President of Council

Date submitted to the Mayor 2-27-17

Attest:   
Karla Richards, CMC-Clerk of Council

  
Mike Zita, Mayor

Date approved by the Mayor 2-27-17

I, Karla Richards, CMC, Clerk of Council for the City of Norton, Summit and Wayne Counties, Ohio do hereby certify that the foregoing **Ordinance No. 31-2017** was duly and regularly passed by the Council of the City of Norton, Summit and Wayne Counties, Ohio at a meeting held on February 27th 2017.

That this legislation was posted according to law on March 3rd, 2017 and will become effective on February 27th, 2017.

  
Karla Richards, CMC- Clerk of Council

Prepared and approved as to legal form by Justin P. Markey, Solicitor, City of Norton, on February 23, 2017



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Ver. Date 5/21/14

PID 97638

**PARCEL 14-S  
CTY-RTE-SEC  
PERPETUAL EASEMENT TO CONSTRUCT AND MAINTAIN A SEWER  
IN THE NAME AND FOR THE USE OF THE  
CITY OF NORTON, SUMMIT COUNTY, OHIO**

A perpetual easement for the construction and maintenance of a sewer in, upon and over the within described real estate. Grantor/Owner herein retains the right to use said real estate for any and all other purposes provided that such use does not interfere with nor impair the exercise of the easement herein granted (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 Norton, County of Summit, State of Ohio and being a part of lands in Original Norton Township Lot 55, as conveyed to Akron Barberton Cluster Railway Company, an Ohio Corporation (hereinafter known as the "Grantor") by O.R. 1821, Pg. 508 of said county records:

Being a parcel of land lying on the left side of the centerline of right of way of C.R. 17 (Cleveland Massillon Rd.) as part of the SUM-C.R. 17 Centerline Plat recorded in Reception No. \_\_\_\_\_ of the records of Summit County and being bounded and described as follows:

Beginning at the southwest corner of Lot 38 in Twinbrook Allotment (Plat Book 41, Page 60) as conveyed to Grace Property Investments, LTD, an Ohio Limited Liability Corporation (Reception #55085345) and a point on the north line of a parcel conveyed to Sara M. Smith (Reception #55910211) and the east right of way line of said C.R. 17; said corner being witnessed by an iron pin with cap "GLP 7189" found bearing South 81 Degrees 21 Minutes 25 Seconds East, a distance of 0.19 feet; thence North 89 Degrees 32 Minutes 40 Seconds West along the north line of said Smith parcel, a distance of 30.00 feet to a point on the centerline of right of way of said C.R. 17; thence South 00 Degrees 27 Minutes 34 Seconds West along said centerline of right of way, a distance of 542.97 feet to a point on the Grantor's south line, the northeast corner of a parcel conveyed to Timothy S. Crawford (O.R. 1890, Pg. 232) and the northwest corner of a parcel conveyed to RT 80 Leasing, LLC. (Reception #54831788); thence North 87 Degrees 26 Minutes 02 Seconds West along the Grantor's south line and north line of said Crawford parcel, a distance of 30.02 feet to a point on the west right of way line of said C.R. 17; said point being 30.00 feet left of Sta. 58+24.33 of the centerline of right of way of C.R. 177

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and being the **TRUE PLACE OF BEGINNING** for the parcel hereinafter described, thence in a clockwise direction along the following seven (7) courses and distances;

1. Thence **North 87 Degrees 26 Minutes 02 Seconds West**, a distance of **309.98 feet** to a point;
2. Thence **South 88 Degrees 33 Minutes 58 Seconds West** along said line, a distance of **161.32 feet** to a point;
3. Thence **North 01 Degrees 26 Minutes 02 Seconds West**, a distance of **25.00 feet** to a point;
4. Thence **North 88 Degrees 33 Minutes 58 Seconds East**, a distance of **162.19 feet** to a point;
5. Thence **South 87 Degrees 26 Minutes 02 Seconds East**, a distance of **305.54 feet** to a point;
6. Thence **South 12 Degrees 13 Minutes 16 Seconds East**, a distance of **20.00 feet** to a point;
7. Thence **South 00 Degrees 27 Minutes 34 Seconds West** along the west right of way line of said C.R. 17, a distance of **5.67 feet** to the **TRUE PLACE OF BEGINNING**.

The above described tract contains 0.2697 acres, more or less, and subject to all easements, restrictions and covenants of record.

The above described area is contained within Summit County Parcel Number 46-06690.

The Basis of Bearing is Grid North of the Ohio State Plane Coordinate System, North Zone, NAD83(CORS96).

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This description was prepared and reviewed under the supervision of Steven L. Mullaney, Professional Surveyor No. 7900 from a survey completed in May 2010.



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

*Steven L. Mullaney* 10/15/19  
Steven L. Mullaney, P.S.  
Professional Surveyor No. 7900

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PID 97638

**PARCEL 14-SH  
SUM-C.R. 17  
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES  
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS  
IN THE NAME AND FOR THE USE OF THE  
CITY OF NORTON, SUMMIT 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 Norton, Summit 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 Norton, County of Summit, State of Ohio and being a part of lands in Original Norton Township Lot 55, as conveyed to Akron Barberton Cluster Railway Company, an Ohio Corporation (hereinafter known as the "Grantor") by O.R. 1821, Pg. 508 of said county records:

Being a parcel of land lying on the left side of the centerline of right of way of C.R. 17 (Cleveland Massillon Rd.) as part of the SUM-C.R. 17 Centerline Plat recorded in Reception No. \_\_\_\_\_ of the records of Summit County and being bounded and described as follows:

Beginning at the southwest corner of Lot 38 in Twinbrook Allotment (Plat Book 41, Page 60) as conveyed to Grace Property Investments, LTD, an Ohio Limited Liability Corporation (Reception #55085345) and a point on the north line of a parcel conveyed to Sara M. Smith (Reception #55910211) and the east right of way line of said C.R. 17; said corner being witnessed by an iron pin with cap "GLP 7189" found bearing South 81 Degrees 21 Minutes 25 Seconds East, a distance of 0.19 feet; thence North 89 Degrees 32 Minutes 40 Seconds West along the north line of said Smith parcel, a distance of 30.00 feet to a point on the centerline of right of way of said C.R. 17; thence South 00 Degrees 27 Minutes 34 Seconds West along said centerline of right of way, a distance of 442.90 feet to a point on the Grantor's north line and the south line of a parcel conveyed to Ohio Edison Company, an Ohio Corporation (Vol. 2827, Pg. 513 & Vol. 2824, Pg. 95); thence North 87 Degrees 26 Minutes 02 Seconds West along said line,



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a distance of 30.02 feet to a point on the west right of way line of said C.R. 17; said point being 30.00 feet left of Sta. 59+24.40 of the centerline of right of way of C.R. 17 and being the **TRUE PLACE OF BEGINNING** for the parcel hereinafter described, thence in a clockwise direction along the following four (4) courses and distances;

1. Thence **South 00 Degrees 27 Minutes 34 Seconds West** along the west right of way line of said C.R. 17, a distance of **94.40 feet** to a point;
2. Thence **North 12 Degrees 13 Minutes 16 Seconds West**, a distance of **20.50 feet** to a point;
3. Thence **North 00 Degrees 27 Minutes 34 Seconds East**, a distance of **74.57 feet** to a point on the Grantor's north line and the south line of said Ohio Edison Company parcel;
4. Thence **South 87 Degrees 26 Minutes 02 Seconds East** along said line, a distance of **4.50 feet** to the **TRUE PLACE OF BEGINNING**.

The above described tract contains 0.0087 acres, more or less, and subject to all easements, restrictions and covenants of record.

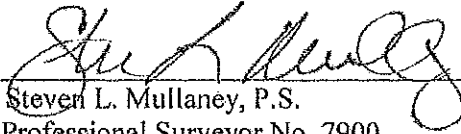
The above described area is contained within Summit County Parcel Number 46-06690.

The Basis of Bearing is Grid North of the Ohio State Plane Coordinate System, North Zone, NAD83(CORS96).

This description was prepared and reviewed under the supervision of Steven L. Mullaney, Professional Surveyor No. 7900 from a survey completed in May 2010.



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

 10/15/14  
Steven L. Mullaney, P.S.  
Professional Surveyor No. 7900

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Rev. 06/09

Ver. Date 5/8/14

PID 97638

**PARCEL 14-SH1  
SUM-C.R. 17  
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES  
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS  
IN THE NAME AND FOR THE USE OF THE  
CITY OF NORTON, SUMMIT 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 Norton, Summit 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).

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a distance of 30.02 feet to a point on the east right of way line of said C.R. 17; said point being 30.00 feet right of Sta. 59+22.19 of the centerline of right of way of C.R. 17 and being the **TRUE PLACE OF BEGINNING** for the parcel hereinafter described, thence in a clockwise direction along the following four (4) courses and distances;

1. Thence **South 87 Degrees 26 Minutes 02 Seconds East** along said line, a distance of **4.50 feet** to a point;
2. Thence **South 00 Degrees 27 Minutes 34 Seconds West**, a distance of **72.03 feet** to a point;
3. Thence **South 09 Degrees 37 Minutes 50 Seconds West**, a distance of **28.23 feet** to a point on the Grantor's south line, the north line of a parcel conveyed to RT 80 Leasing, LLC. (Reception #54831788), and the west right of way line of said C.R. 17;
4. Thence **North 00 Degrees 27 Minutes 34 Seconds East** along said west right of way line, a distance of **100.07 feet** to the **TRUE PLACE OF BEGINNING**.

The above described tract contains 0.0089 acres, more or less, and subject to all easements, restrictions and covenants of record.

The above described area is contained within Summit County Parcel Number 46-06689.

The Basis of Bearing is Grid North of the Ohio State Plane Coordinate System, North Zone, NAD83(CORS96).

This description was prepared and reviewed under the supervision of Steven L. Mullaney, Professional Surveyor No. 7900 from a survey completed in May 2010.



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