

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2017 – 078

By: Mayor Perciak and Mr. Daymut

**AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT AN EASEMENT FOR STORM SEWER SYSTEM PURPOSES AND A TEMPORARY EASEMENT FOR CONSTRUCTION PURPOSES, FOR REAL PROPERTY LOCATED ON WALNUT DRIVE, IN CONNECTION WITH THE WALNUT DRIVE DETENTION BASIN PROJECT, AND DECLARING AN EMERGENCY.
[Cudnik]**

WHEREAS, the City of Strongsville is in the process of making improvements to the City's storm water system for the Walnut Drive Detention Basin; and

WHEREAS, in order to construct a storm water system, including a storm water detention basin and appurtenances for the Walnut Drive Detention Basin Project, it is necessary to accept an Easement for storm sewer system purposes and a Temporary Easement for construction purposes, for property located at 18004 Walnut Drive, which is owned by Jeffrey Alan Cudnik, and further identified as being part of Permanent Parcel No. 394-23-056 (Parcel 30 S, T), for the purposes of constructing, reconstructing, maintaining, operating and repairing a storm sewer system and appurtenances and for temporary construction purposes; and

WHEREAS, the City has had the subject property interests appraised, and the proposed purchase price does not exceed the appraised value.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA, AND STATE OF OHIO:

Section 1. That the Mayor be and is hereby authorized and directed to enter into and accept an Easement for storm sewer system purposes and a Temporary Easement for construction purposes, across and upon portions of property owned by Jeffrey Alan Cudnik, located at 18004 Walnut Drive, and further known as being part of Permanent Parcel No. 394-23-056 (Parcel 30 S, T), and all as more fully set forth in Exhibits 1 and 2 respectively, attached hereto and incorporated herein by reference, in connection with the Walnut Drive Detention Basin Project.

Section 2. That upon acceptance of said Easement for storm sewer system purposes and an executed Temporary Easement by the City, and evidence of title satisfactory to the Law Director, the Clerk of Council is hereby directed to cause the said Easement and Temporary Easement documents to be recorded in the office of the Cuyahoga County Fiscal Officer.

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Section 3. That the Director of Finance be and is hereby authorized and directed to pay to Jeffrey Alan Cudnik, single, the total amount of \$9,978.00 upon recordation of the aforesaid documents, representing the sum of \$7,348.00 for the Easement for storm sewer system purposes, and \$2,630.00 for the Temporary Easement for construction purposes. Said funds have been appropriated and shall be paid from the Drainage Levy Fund.

Section 4. 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 any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City, and for the further reason that it is necessary to obtain the aforesaid easements in order to make improvements to the City's storm water system in connection with the Walnut Drive Detention Basin Project, for the proper development of lots and lands within the City, and to conserve public funds. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

Kenneth M. Dooner
President of Council

Approved: Thomas S. Bellier
Mayor

Date Passed: May 15, 2017.

Date Approved: May 16, 2017.

	<u>Yea</u>	<u>Nay</u>
Carbone	<u>✓</u>	<u>_____</u>
Daymut	<u>✓</u>	<u>_____</u>
DeMio	<u>✓</u>	<u>_____</u>
Dooner	<u>✓</u>	<u>_____</u>
Schonhut	<u>✓</u>	<u>_____</u>
Short	<u>✓</u>	<u>_____</u>
Southworth	<u>✓</u>	<u>_____</u>

Attest: Ashley Menele
Assistant Clerk of Council

ORD. No. 2017-078 Amended: _____
1st Rdg. 05/15/17 Ref: _____
2nd Rdg. suspended Ref: _____
3rd Rdg. suspended Ref: _____

Pub Hrg. _____ Ref: _____
Adopted: 05/15/17 Defeated: _____

EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Jeffrey Alan Cudnik, Single, the Grantor(s) herein, in consideration of the sum of \$7,348.00, to be paid by the City of Strongsville, 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): 30 S

City of Strongsville-Walnut Drive Detention Basin

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

Cuyahoga County Current Tax Parcel No. 394-23-056

Prior Instrument Reference: Warranty Deed, Instrument No. 200601131090, Cuyahoga County Recorder's Office.

And the said Grantor(s), for himself and his successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that he is the true and lawful owner(s) of said premises, and lawfully seized of the same in fee simple, and has 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.

The property conveyed herein is being acquired by Grantee for a public purpose, namely the establishment, construction, repair or maintenance of a storm sewer system.

In the event that the Grantee decides not to use the property conveyed herein for the above-stated purpose, the Grantor(s) has a right under Section 163.211 of the Revised Code to repurchase the property for its fair market value as determined by an independent appraisal made by an appraiser chosen by agreement of the parties or, if the parties cannot agree, an appraiser chosen by an appropriate court. However, this right to repurchase will be extinguished if any of the following occur: (A) Grantor(s) declines to repurchase the property; (B) Grantor(s) fails to repurchase the property within sixty days after Grantee offers the property for repurchase; (C) Grantee grants or transfers the property to any other person or agency; or (D) Five years have passed since the property was appropriated or acquired by Grantee.

IN WITNESS WHEREOF Jeffrey Alan Cudnik, Single has hereunto set his hand on the 7th day of MAY, 2017.

[Signature]
JEFFREY ALAN CUDNIK,
SINGLE

STATE OF OHIO, COUNTY OF CUYAHOGA ss:

BE IT REMEMBERED that on the 7th day of May, 2017, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Jeffrey Alan Cudnik, Single, who acknowledged the foregoing instrument to be his voluntary act and deed.

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

[Signature]
NOTARY PUBLIC
My Commission expires: 8/17/20



Lauren K Falvey
Notary Public
State of Ohio
Recorded in
Lake County
My Commission Expires 8/17/20

CITY OF STRONGSVILLE

Thomas P. Perciak

Mayor Thomas P. Perciak

Date: May 16, 2017

STATE OF OHIO, COUNTY OF CUYAHOGA ss:

BE IT REMEMBERED, that on the 16th day of May, 2017,
before me the subscriber, a Notary Public in and for said state and county, personally came the above
named Mayor Thomas P. Perciak, who signed or acknowledged the signing of the foregoing instrument to
be his voluntary act and deed.

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



NANCY M SIKORSKI
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES
03-14-2019

Nancy M. Sikorski

NOTARY PUBLIC
My Commission expires: _____

This document was prepared by: the City of Strongsville

EXHIBIT A
LEGAL DESCRIPTION
Storm Sewer Easement - Parcel 30-S

LKF

Situate in the City of Strongsville, Cuyahoga County, State of Ohio, and being part of Sublot No. 30 in Drake Development Inc. Drake Estates Subdivision No. 4 of part of Strongsville Township Lot No. 62 as shown on the plat recorded in Map Volume 220 page 86 and re-recorded in Map Volume 227 page 91 of the map records of said County, said Sublot as conveyed to Jeffrey Alan Cudnik by instrument as recorded in Instrument Number 200601131090 of the records of said county, and being more particularly bounded and described as follows:

Beginning for reference at the southeast corner of said Sublot, being in the west right of way line of Walnut Drive, (60'), said corner being the TRUE POINT OF BEGINNING;

PARCEL 30 - S

Thence with the south line of said Sublot North 78° 29' 07" West 184.58 feet to the southwest corner of said Sublot;

Thence with the west line of said Sublot North 24° 45' 23" East 10.27 feet to a point;

Thence parallel with and 10.00 feet north of the south line of said Sublot South 78° 29' 07" East 182.16 feet to a point in the east line of said Sublot and said west right of way line;

Thence with said lines along the arc of a curve to the right 10.00 feet, said arc having a radius of 795.87 feet, a central angle of 00° 43' 12" and a chord bearing South 11° 09' 20" West 10.00 feet to the TRUE POINT OF BEGINNING, containing 0.042 acres, (1834 SF), more or less, subject to all legal easements and restrictions of record.

This description is based upon a field survey performed by Atwell, LLC in May, 2016 for LJB Inc.

This description was prepared by LJB Inc. under the direction of Harry G. Herbst III, Registered Surveyor Number 6596.

Evidence of occupation supports the monumentation found in the field and the property lines recited in this description.

PARCEL 30 – S cont'd

Grantor claims title through instrument of record Instrument Number 200601131090, Cuyahoga County records.

0.042 acres of the above described area is contained within Cuyahoga County Auditor's Permanent Parcel Number (PPN) 394-23-056.

Prepared by
LJB Inc.



By: Harry G. Herbst III 10/13/2016
Harry G. Herbst III, Ohio PS No. 6596 Date

TEMPORARY EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Jeffrey Alan Cudnik, Single, the Grantor(s) herein, in consideration of the sum of \$2,630.00, to be paid by the City of Strongsville, the Grantee herein, does hereby grant, bargain, sell, convey and release to said Grantee, its successors and assigns, a temporary easement to exclusively occupy and use for the purposes mentioned in Exhibit A the following described real estate:

PARCEL(S): 30 T

City of Strongsville-Walnut Drive Detention Basin

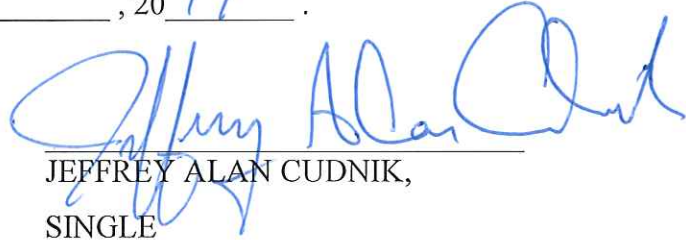
SEE EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Cuyahoga County Current Tax Parcel No. 394-23-056
Prior Instrument Reference: Warranty Deed, Instrument No. 200601131090, Cuyahoga County Recorder's Office.

To have and to hold said temporary easement, for the aforesaid purposes and for the anticipated period of time described below, unto the Grantee, its successors and assigns.

The duration of the temporary easement herein granted to the Grantee is 12 months immediately following the date on which the work described above is first commenced by the Grantee, or its duly authorized employees, agents, and contractors.

The temporary easement interest granted herein is being acquired by Grantee for a public purpose, namely the establishment, construction, repair or maintenance of a storm sewer system.

IN WITNESS WHEREOF Jeffrey Alan Cudnik, Single has hereunto set his hand on the
7th day of MAY, 20 17.


JEFFREY ALAN CUDNIK,
SINGLE


STATE OF OHIO, COUNTY OF CUYAHOGA ss:

BE IT REMEMBERED that on the 7th day of May,
20 17, before me the subscriber, a Notary Public in and for said state and county,
personally came the above named Jeffrey Alan Cudnik, Single, who acknowledged the foregoing
instrument to be his voluntary act and deed.

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



Lauren K Falvey
Notary Public
State of Ohio
Recorded in:
Lake County
My Commission Expires 8/17/20


NOTARY PUBLIC
My Commission expires: 8/17/20

CITY OF STRONGSVILLE

Thomas P. Perciak
Mayor Thomas P. Perciak

Date: May 16, 2017

STATE OF OHIO, COUNTY OF CUYAHOGA ss:

BE IT REMEMBERED, that on the 16th day of May, 2017,
before me the subscriber, a Notary Public in and for said state and county, personally came the above
named Mayor Thomas P. Perciak, who signed or acknowledged the signing of the foregoing instrument to
be his voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on
the day of May, 2017 last aforesaid.



NANCY M SIKORSKI
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES
03-14-2019

Nancy M. Sikorski
NOTARY PUBLIC
My Commission expires: _____

This document was prepared by: the City of Strongsville

EXHIBIT A
LEGAL DESCRIPTION
Storm Sewer Easement - Parcel 30-T

LKF

Situate in the City of Strongsville, Cuyahoga County, State of Ohio, and being part of Sublot No. 30 in Drake Development Inc. Drake Estates Subdivision No. 4 of part of Strongsville Township Lot No. 62 as shown on the plat recorded in Map Volume 220 page 86 and re-recorded in Map Volume 227 page 91 of the map records of said County, said Sublot as conveyed to Jeffrey Alan Cudnik by instrument as recorded in Instrument Number 200601131090 of the records of said county, and being more particularly bounded and described as follows:

Beginning for reference at the southeast corner of said Sublot, being in the west right of way line of Walnut Drive, (60'),

Thence along the arc of a curve to the left 10.00 feet, said arc having a radius of 795.87 feet, a central angle of $00^{\circ} 43' 12''$ and a chord bearing North $11^{\circ} 09' 20''$ East 10.00 feet to the northeast corner of a permanent sewer easement, said corner being the TRUE POINT OF BEGINNING;

PARCEL 30 - T

Thence with the north line of said easement North $78^{\circ} 29' 07''$ West 182.16 feet to a point in the west line of said Sublot;

Thence with said west line North $24^{\circ} 45' 23''$ East 10.27 feet to a point;

Thence through said Sublot for the following five courses:

1. South $78^{\circ} 29' 07''$ East 80.46 feet to a point;
2. South $14^{\circ} 12' 37''$ West 5.42 feet to a point;
3. South $75^{\circ} 47' 23''$ East 57.62 feet to a point;
4. North $14^{\circ} 12' 37''$ East 8.14 feet to a point;
5. South $78^{\circ} 29' 07''$ East 41.48 feet to a point in the east line of said Sublot and said west right of way line;

PARCEL 30 – T cont'd

Thence with said lines along the arc of a curve to the right 10.00 feet, said arc having a radius of 795.87 feet, a central angle of 00° 43' 12" and a chord bearing South 10° 26' 08" West 10.00 feet to the TRUE POINT containing 0.033 acres, (1418 SF), more or less, subject to all legal easements and restrictions of record.

This description is based upon a field survey performed by Atwell, LLC in May, 2016 for LJB Inc.

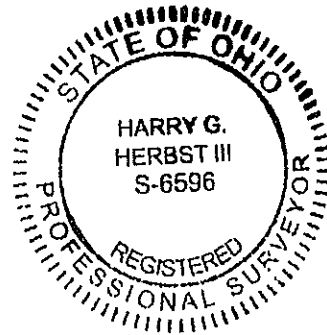
This description was prepared by LJB Inc. under the direction of Harry G. Herbst III, Registered Surveyor Number 6596.

Evidence of occupation supports the monumentation found in the field and the property lines recited in this description.

Grantor claims title through instrument of record Instrument Number 200601131090, Cuyahoga County records.

0.033 acres of the above described area is contained within Cuyahoga County Auditor's Permanent Parcel Number (PPN) 394-23-056.

Prepared by
LJB Inc.



By: Harry G. Herbst III 10/13/2016
Harry G. Herbst III, Ohio PS No. 6596 Date

Note: This easement will be in effect for a duration of 12 months from the date the city's contractor first enters the property.