CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2017 - 218

By: Mr. Daymut

AN ORDINANCE ACCEPTING FOR RECORDING PURPOSES THE LOT SPLIT PLAT FOR KATHERINE HOSTERMAN AND KARL HOSTERMAN, FOR PERMANENT PARCEL NO. 397-31-006, LOCATED AT 19074 HOWE ROAD, AND DECLARING AN EMERGENCY.

WHEREAS, the lot split plat of Permanent Parcel No. 397-31-006, located at 19074 Howe Road, is being submitted to this Council for review pursuant to Title Four of Part Twelve of the Codified Ordinances of the City of Strongsville; and

WHEREAS, the Codified Ordinances of the City and the minimum standards for improvements required for the subdivision of land adopted therein require the installation of sanitary sewers to certain specifications unless a deviation from those standards is approved by the Planning Commission pursuant to C.O. Section 1228.01(i); and

WHEREAS, Katherine Hosterman and Karl Hosterman, owners of Permanent Parcel No. 397-31-006, located at 19074 Howe Road, and zoned R1-75, submitted the lot split plat to the Planning Commission of the City of Strongsville, a copy of which is attached hereto as Exhibit A, and requested a deviation to permit the lot split without sanitary sewers; and the Planning Commission approved the lot split and the requested deviation on December 7, 2017, subject to certain conditions; said owners also submitted an Affidavit Reciting Facts Relating to Title to Real Property and Relating to a Preservation of Interest to the City of Strongsville, together with a Septic System Easement, both attached hereto as Exhibits B and C, respectively; and

WHEREAS, the Engineer of the City of Strongsville has reviewed the plat and documents, and finds them in good order and has approved them, and, therefore, has recommended to the Planning Commission and this Council that this lot split be approved for recording purposes, and that the deviation from minimum standards requested be given favorable consideration; and

WHEREAS, this Council desires to approve the deviation and the aforesaid lot split plat for recording purposes.

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

Section 1. That this Council hereby finds and determines that the lot split of Permanent Parcel No. 397-31-006, located at 19074 Howe Road, and owned by Katherine Hosterman and Karl Hosterman, without sanitary sewers, as shown on Exhibit A attached hereto and incorporated herein as if fully rewritten, will be equally as effective, safe, adequate and desirable as the improvement would be under such standards, and that the improvement under the proposed deviation will perform the same function as and have a life of usefulness equal to the improvement made pursuant to such standards; the strict application of the minimum standards to improvements which are under construction or which have been fully planned and contracted for at the time this section became effective would cause extreme undue hardship or

CITY OF STRONGSVILLE, OHIO ORDINANCE NO. 2017 - 218 Page 2

practical difficulty; and that such deviation will be in harmony with the general purpose and intent of the minimum standards and will not interfere with the public health, safety or general welfare.

- **Section 2.** That a deviation in minimum standards for the purposes of subdividing Permanent Parcel No. 397-31-006, without sanitary sewers, as shown on Exhibit A, be and is hereby approved.
- **Section 3.** That, pursuant to the provisions of C.O. Section 1228.01(i), this Council hereby confirms the deviation from the minimum standards for improvements required for the subdivision of these lands approved by the Planning Commission on December 7, 2017, subject to certain conditions ordered by the Planning Commission.
- **Section 4.** That the Council of the City of Strongsville does hereby approve the lot split plat submitted by Katherine Hosterman and Karl Hosterman, owners of the property, for Permanent Parcel No. 397-31-006, as set out in attached Exhibit A, for recording purposes.
- **Section 5.** 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 the 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 6.** 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 immediately necessary to assure proper development of all lots and land within the City of Strongsville. 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.

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EXHIBIT A

| STATE OF OHIO |) | AFFIDAVIT, Pursuant to Ohio Revised Code |
|------------------|-------|--|
| |) SS: | §5301.252 Reciting Facts Relating to Title to Real |
| COUNTY OF CUYAHO | OGA Ĵ | Property, and Pursuant to Ohio Revised Code |
| | , | §5301.51 and §5301.52 Relating to a Preservation |
| | | of Interest to the City of Strongsville |

The Affiants, KATHERINE HOSTERMAN and KARL HOSTERMAN, having first been duly sworn, depose and state as follows:

- 1. This Affidavit is made pursuant to the provisions of Ohio Revised Code §5301.252, §5301.51 and §5301.52.
- 2. The Affiants, KATHERINE HOSTERMAN and KARL HOSTERMAN, are the record owners of the real property affected by this Affidavit at the time of the recording of this Affidavit, which real property the Affiants acquired pursuant to a deed filed with the Cuyahoga County Recorder on November 27, 2000 as Instrument No. 200011270657 and on March 29, 2013 as Instrument No. 201303290080.
- 3. The real property affected by this Affidavit is known as 19074 Howe Road, Strongsville, Ohio, 44136, Permanent Parcel Number 397-31-006 and is more fully described in the attached Exhibit A.
- 4. The Affiants have presented a plat to the City of Strongsville proposing a lot split of the subject property. The Affiants acknowledge that the City of Strongsville has future plans to construct and install, and/or to have constructed and installed on the City's behalf, sanitary sewer lines and/or storm sewer lines (hereinafter collectively referred to as the "Improvements") immediately abutting and contiguous to and/or across the subject real property.
- 5. In the event and at the time that the Improvement are constructed, the Affiants or their heirs, successors and assigns, have agreed with the City of Strongsville that the Affiants will install, at Affiant's sole cost, such connections to the Improvement from the Affiants' property to the specifications of the City.
- 6. This affidavit acknowledges that in order to proceed with the subject lot split, the Affiants, on behalf of all owners and on behalf of their successors, heirs and assigns, have further agreed with the City of Strongsville that when the Improvements are installed by the City of Strongsville or installed on the City's behalf, the Affiants herein agree to pay their proportionate share of any assessment imposed by the City of Strongsville in relations to these Improvements.
- 7. The Affiants further agree to pay their proportionate share of any such assessment in the amount assessed by the City of Strongsville at the then current assessment rate being imposed by the City of Strongsville at the time of the placement of such assessment in the same rate as is being assessed upon property owners in general.



- Affiants, all current owners of the property, and on behalf of their heirs, successors, and assigns any and all objections to such Improvement assessments as set out herein that the owners of the property may have a right to raise before the Board of Equalization on the basis that the subject property is already serviced by certain improvements including a septic system and further agree to pay their proportionate share of such Improvement assessments as set out in this Affidavit.
- 9. If the Affiants are no longer the owners of this parcel at the time of such assessments, then this Affidavit shall bind the Affiants' heirs, successors, and assigns.
- 10. The nature of the City of Strongsville's claim on the property is as set out in this Affidavit and the name and address of the person (the Claimant) for whose benefit this notice is being filed is the City of Strongsville, 18688 Royalton Road, Strongsville, Ohio, 44136.
- 11. The Affiants further acknowledge that this Affidavit and Agreement made with the City of Strongsville relates to the Affiants' rights to continued possession of the real property as residential property.

| , | |
|--|---|
| FURTHER AFFIANTS SAYETH NAUGHT. KATHERINE HOSTERMAN KARL HOSTERMAN | Approved as to legal form only by the Law Department of the City of Strongsville by, Assistant Director of Law. |
| | |

STATE OF OHIO) SS: COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared the above named, KATHERINE HOSTERMAN and KARL HOSTERMAN, who acknowledged that they did sign the foregoing instrument and that it was of their own free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Ovimber , 2017.

VENUS M. RHODES

NOTARY PUBLIC

STATE OF OHIO

Recorded in

Cuyahoga County

My Comm. Exp. 7/30/2019

EXHIBIT "A"

SITUATED IN THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO: AND BEING KNOWN AS PART OF ORIGINAL STRONGSVILLE TOWNSHIP LOT NO. 40 BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING IN THE CENTER LINE OF HOWE ROAD (60 FEET WIDE) AT THE SOUTHEASTERLY CORNER OF A PARCEL OF LAND CONVEYED TO WILLIAM FIEDLER AND HELEN T. FIEDLER BY DEED DATED NOVEMBER 13, 1959 AND RECORDED IN VOLUME 9780, PAGE 107 OF CUYAHOGA COUNTY RECORDS; THENCE NORTHERLY ALONG THE CENTER LINE HOWE ROAD, 164.70 FEET TO A POINT DISTANT SOUTHERLY MEASURED ALONG SAID CENTER LINE 90 FEET FROM THE NORTHEASTERLY CORNER THEREOF; THENCE WESTERLY AND PARALLEL WITH THE NORTHERLY LINE OF SAID PARCEL SO CONVEYED TO WILLIAM FIEDLER AND HELEN T. FIEDLER ABOUT 1403 FEET TO THE WESTERLY LINE OF SAID PARCEL SO CONVEYED; THENCE SOUTHERLY ALONG SAID WESTERLY LINE ABOUT 164.70 FEET TO THE SOUTHWESTERLY CORNER THEREOF; THENCE BASTERLY ALONG THE SOUTHERLY LINE OF SAID PARCEL SO CONVEYED ABOUT 1403 FEET TO THE PLACE OF BEGINNING, BE THE SAME MORE OR LESS, BUT SUBJECT TO ALL LEGAL HIGHWAYS.

LESS THE FOLLOWING EXCEPTIONS:

EXCEPTING THEREFROM THE PART OF THE ABOVE DESCRIBED PREMISES CONVEYED TO NOVA DEVELOPMENT COMPANY, INC., BY DEED DATED JUNE 8, 1989, AND RECORDED IN VOLUME 89-2793, PAGE 24 OF CUYAHOGA COUNTY RECORDS AND DESCRIBED AS FOLLOWS:

SITUATED IN THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO, AND KNOWN AS BEING PART OF ORIGINAL STRONGSVILLE TOWNSHIP LOT NO. 40 AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF A PARCEL OF LAND CONVEYED TO JOHN LACY AND DONNA LACY BY DEED RECORDED IN VOLUME 15468, PAGE 473 OF CUYAHOGA COUNTY RECORDS; THENCE NORTH 88 DEG. 57' 40", ALONG THE NORTHERLY LINE OF LAND SO CONVEYED TO JOHN AND DONNA LACY, A DISTANCE OF 400.01 FEET; THENCE SOUTH 0 DEG. 07' 00" WEST, PARALLEL WITH THE WESTERLY LINE OF LAND SO CONVEYED TO JOHN AND DONNA LACY, A DISTANCE OF 170.11 FEET TO THE SOUTHERLY LINE THEREOF; THENCE SOUTH 89 DEG 04' 40" WEST, ALONG THE SOUTHERLY LINE OF LAND SO CONVEYED TO JOHN AND DONNA LACY, A DISTANCE OF 400 FEET TO THE SOUTHWESTERLY CORNER THEREOF; THENCE NORTH 0 DEG. 07' 00" EAST, ALONG THE WESTERLY LINE OF LAND SO CONVEYED TO JOHN AND DONNA LACY, A DISTANCE OF 169.30 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THE PART OF THE ABOVE DESCRIBED PREMISES CONVEYED TO JOHN M. WHITE AND MARY JANE WHITE, BE DEED DATED JULY 27, 1983, FILED FOR RECORD FEBRUARY 9, 1984 AND RECORDED IN VOLUME 84-0584, PAGE 27 OF CUYAHOGA COUNTY RECORDS AND DESCRIBED AS FOLLOWS:

SITUATED IN THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO, AND KNOWN AS BEING A PART OF ORIGINAL STRONGSVILLE TOWNSHIP LOT NO. 40 AND BOUNDED AND DESCRIBED AS FOLLOWS:



COMMENCING AT AN IRON PIN AT THE INTERSECTION OF THE CENTER LINE OF HOWE ROAD, 60 FEET WIDE, WITH THE CENTER LINE OF BOSTON ROAD, 60 FEET WIDE; THENCE NORTH 0 DEG. 02' 40" WEST ALONG THE CENTER LINE OF HOWE ROAD A DISTANCE OF 2048.72 FEET TO THE PRINCIPAL PLACE OF BEGINNING OF THE LAND HEREIN DESCRIBE, SAID POINT BEING DISTANT SOUTH 0 DEG. 04' 40" EAST 668.03 FEET AS MEASURED ALONG THE CENTER LINE OF HOWE ROAD FROM AN IRON PIN AT ITS INTERSECTION WITH THE NORTHERLY LINE OF ORIGINAL

STRONGSVILLE TOWNSHIP LOT NO. 40; THENCE SOUTH 88 DEG 53' 14" WEST A DISTANCE OF 1406.95 FEET TO THE EASTERLY LINE OF THENCE SOUTH 88 DEG 53' 14" WEST A DISTANCE OF 1406.95 FEET TO THE RECORDED PLAT IN VOLUME DEERFIELD LAKE SUBDIVISION NO. 4, PHASE I, AS SHOWN BY THE RECORDED PLAT IN VOLUME 223 OF MAPS, PAGE 13 OF CUYAHOGA COUNTY RECORDS; THENCE NORTH 0 DEG 07' 00" EAST ALONG SAID EASTERLY LINE A DISTANCE OF 4.93 FEET TO THE SOUTHERLY LINE OF A PARCEL OF LAND CONVEYED TO JOHN M. AND M.J. WHITE BY DEED RECORDED IN VOLUME 13134, PAGE 413 OF CUYAHOGA COUNTY RECORDS; THENCE NORTH 88 DEG. 47' 08" EAST ALONG SAID SOUTHERLY LINE A DISTANCE OF 1406.98 FEET TO THE CENTER LINE OF HOWE ROAD; THENCE SOUTH 0 DEG. 02' 40" EAST ALONG THE CENTER LINE OF HOWE ROAD A DISTANCE OF 7.42 FEET TO THE PRINCIPAL PLACE OF BEGINNING, ACCORDING TO A SURVEY BY CARL S. ANDREANO AND ASSOC. DATED JUNE, 1981.

Assessor's Parcel No: 39731006

SEPTIC SYSTEM EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT, New Century Builders, Inc. the Grantor, herein, for valuable consideration received to its full satisfaction hereby gives, grants, bargains, and conveys to Katherine and Karl Hosterman, Grantees, of 19074 Howe Road, Strongsville, Ohio, 44136, owners of Sublot 1, an Easement for the Septic System located on S/L 2, for the purpose hereinafter mentioned, in the following described premises, to-wit:

Situated in the City of Strongsville, County of Cuyahoga and State of Ohio, and known as being part of Original Strongsville Township Lot No. 40 and bounded and described as follows:

Beginning at an iron monument in the centerline of Howe Rd., 60 feet wide, which bears North 00 degrees 02 minutes 27 seconds West measured along said centerline a distance of 2027.30 feet from an iron monument at it's intersection with the centerline of Boston Rd., 60 feet wide;

Thence South 00 degrees 02 minutes 27 seconds East along the centerline a distance of 151.48 feet to a point and the Southeasterly corner of a parcel of land conveyed to New Century Builders, Inc., by deed recorded in Instrument No. 20005300435 of Cuyahoga County Records, said point also being the Northeasterly corner of a parcel of land conveyed to Robert H. & Nancy M. Martel by deed recorded in Vol. 98-10421, Pg. 31 of Cuyahoga County Records;

Thence South 89 degrees 01 minutes 13 seconds West a distance of 30.00 feet to a point in the Westerly line of Howe Rd., and the Principal Place of Beginning of the Easement herein described, said point marked by an iron pin found 1.00 feet Southerly;

Thence continuing Sough 89 degrees 01 minutes 13 seconds West along the Northerly line of said parcel of land conveyed to Robert H. & Nancy Martel, a distance of 60.00 feet to a point therein;

Thence North 15 degrees 01 minutes 58 seconds West a distance of 77.31 feet to a point in the Northerly line of Sublot No. 2 in the Proposed Indian Alley Subdivision;

Thence North 89 degrees 01 minutes 13 seconds East along the Northerly line of Subot No. 2, a distance of 15.17 feet to a point therein;

Thence South 15 degrees 01 minutes 58 seconds East a distance of 67.00 feet to a point;

Thence North 89 degrees 01 minutes 13 seconds East a distance of 47.50 feet to a point in the Westerly line of Howe Rd.

Thence South 00 degrees 02 minutes 27 seconds East along the Westerly line of Howe Rd. a distance of 10.00 feet to the Principal Place of Beginning and contained 0.0367 acres of land according to the survey of James B. Root, Registered Surveyor No. 5045.

The course given in this description are to an assumed meridian and are used to indicate angles only.

Legal description Septic System Easement, Howe Rd., S/L 2, prepared by James B. Root & Associates, Civil Engineers & Surveyors, James B. Root, Registered Surveyor No. 5045.

New Century Builders, Inc., the owner of the within described land (part of Sublot 2), does hereby grant unto the Grantees and Owners of Sublot 1, Howe Rd., Strongsville, Ohio, and/or their successors and assigns (hereinafter referred to as the Grantees), a sixty foot wide easement in order to use the septic system located on Sublot 2, Howe Rd., Strongsville, Ohio, until such time city and public sewer is made available to the owners of Sublot 1.

The Grantees agree to be responsible for the maintenance, repair, and upkeep of the septic system located within the easement premises, and pursuant to said easement have the right to reconstruct, relocate, operate, repair, and maintain service of the septic system and with the right of access ingress and egress to and from any of the within described premises for exercising any of the purposes of this Easement. Grantees shall also indemnify, defend, and hold harmless the Granter from and against any liability, loss, damage, injury claim, claim and expense, including reasonable attorneys' fees, which may have resulted and/or relocate and service such septic system within and across the easement premises for said septic system.

The Grantor hereby reserves the right to use said premises within the limits of the above described easement for the passage of personnel, materials or equipment over or across the described easement as are not herein expressly prohibited by and are not inconsistent with the rights and easement hereby granted.

The Grantor does for itself, its successors and assigns covenant with Grantees, and their successors, heirs and assigns, that at and until the sealing of these presents, it is well seized of the above described premises as a good and indefeasible estate in FEE SIMPLE and has good right to bargain and grant the same in manner and forms as above written, and that it will WARRANT AND DEFEND SAID PREMISES with the appurtenances thereunto belonging to the Grantees, their successors, heirs and assigns, against all lawful claims and demands whatsoever for the purpose herein described.

The foregoing restrictions and covenants of this easement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns; and each such restriction and condition shall be deemed to run with the land until said Septic System easement shall not be used due to tie in with the City Sewer being made available to the owners of Sublot 1, Howe Rd., Strongsville, Ohio, at which time said Easement for the use of the Septic System located on Sublot 2, Howe Rd., Strongsville, Ohio, herein set forth will be deemed null and void.

It is agreed that whatever party is named in this instrument there shall be intended and included, in each case, that party, his or her heirs, administrators, its successors, and/or assigns.

| IN WITNESS WHEREOF, this instru | ament is executed on this day of |
|---------------------------------|--|
| | GRANTOR: |
| , | NEW CENTURY BUILDERS, INC. |
| | By:Patricia Lim, Vice President |
| | GRANTEES: |
| | Katherine Hosterman |
| | Karl Hosterman |
| STATE OF OHIO)) SS: | |
| COUNTY OF CUYAHOGA) | |
| 1 THAT CHART IDV BIIII DE | for said County and State, personally appeared the RS, INC. by Patricial Lim, Vice President, who g instrument and that it was of its own free act and |
| IN TESTIMONY WHEREOF, I ha | ave hereunto set my hand and official seal at |
| | Notary Public |

| STATE OF OHIO) | | | | |
|--|--|--|--|--|
| COUNTY OF CUYAHOGA) | , | | | |
| Before me, a Notary Public in and for said County and State, personally appeared the above named, KATHERINE HOSTERMAN and KARL HOSTERMAN, who acknowledged that they did sign the foregoing instrument and that it was of their own free act and deed. | | | | |
| IN TESTIMONY WHEREOF, I have I | nereunto set my hand and official seal at, 2017. | | | |
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| | Notary Public | | | |
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| | Approved as to legal form only | | | |
| | by the Law Department of the | | | |
| | Sal J. Klis | | | |
| | assistant Director of Law. | | | |
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MEMORANDUM

TO:

Aimee Pientka, Council Clerk

Neal Jamison, Law Director

FROM:

Carol Oprea, Administrative Assistant, Boards & Commissions

SUBJECT: Referrals to Council

DATE:

December 8, 2017

Please be advised that at its meeting of December 7, 2017, the Strongsville Planning Commission gave Favorable Recommendation to the following;

NEW CENTURY BUILDERS, INC./ Beth Scebbi, Principal

Parcel split of PPN 397-31-006 located at 19074 Howe Road, zoned R1-75, subject to City Councils acceptance of the plat with a deviation for sanitary sewers.

CITY OF STRONGSVILLE/ Lori Daley, Agent

Site Plan approval for a parking lot to provide 21 parking spaces at City Hall located at 18688 Royalton Road, PPN 396-10-009 zoned Public Facility.

D & K DEVELOPMENT LLC/ Bob Kalfas Principal

Parcel split of PPN 393-36-027 located at 19988 Drake Road, zoned R1-75 subject to City Councils acceptance of the sanitary sewer easement.