

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2015 – 109

By: Mayor Perciak and Mr. Maloney

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A GRANT OF EASEMENT FOR THE PURPOSES OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, OPERATING, USING, REPAIRING AND REPLACING A SANITARY SEWER SYSTEM WITH A PUMP STATION AND APPURTENANCES, FROM SPYGLASS HILL HOMEOWNERS' ASSOCIATION, IN CONNECTION WITH THE WEST 130TH PUMP STATION PROJECT, AND DECLARING AN EMERGENCY, **AS AMENDED**.

WHEREAS, the City finds it necessary to expand the current West 130th Street Pump Station; and

WHEREAS, in order to expand the Pump Station, it is necessary to obtain an additional Grant of Easement from the Spyglass Hill Homeowners' Association, on property known as being Permanent Parcel No. 399-32-010; and

WHEREAS, pursuant to Article IV, Section 5(g) of the City Charter, at its meeting of **June 11, 2015**, the Planning Commission of the City of Strongsville gave a **favorable** recommendation on obtaining the easement.

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

Section 1. That the Council hereby authorizes the Mayor to accept a Grant of Easement from Spyglass Hill Homeowners' Association for the purposes of constructing, reconstructing, maintaining, operating, using, repairing and replacing a sanitary sewer system with a pump station and appurtenances on property located in the Spyglass Hill Subdivision and further known as Permanent Parcel No. 399-32-010, as more fully set forth in Exhibit 1, attached hereto and made a part hereof by reference.

Section 2. That the Clerk of Council is hereby directed to cause the aforesaid easement to be recorded in the office of the Cuyahoga County Fiscal Officer after its execution and upon receipt of evidence of title satisfactory to the Law Director.

Section 3. 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.

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Section 4. 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 easement in order to improve the sanitary sewer system of 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.

First reading: June 1, 2015.
 (orig.)

Referred to Planning Commission

Second reading: June 15, 2015

June 2, 2015.

Favorable recommendation by PC

Third reading: Suspended

Approved: 06/11/15.

Public Hearing: _____

Michael J. Daymut
 President of Council

Approved: Thomas S. Buriak
 Mayor

Date Passed: June 15, 2015

Date Approved: June 16, 2015

	<u>Yea</u>	<u>Nay</u>
Carbone	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Daymut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DeMio	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dooner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schonhut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Southworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attest: Aimee Pientka
 Clerk of Council

ORD. No. 2015-109. Amended: _____

1st Rdg. 06/01/15. Ref: PC/PZE

2nd Rdg. 6/15/15 Ref: _____

3rd Rdg. Suspended Ref: _____

Amended by Delegation
6/15/15

Pub Hrg. _____ Ref: _____

Adopted: 06/15/15 Defeated: _____

**GRANT OF EASEMENT
FOR
SANITARY SEWER SYSTEM PURPOSES**

This Easement Grant is made between **SPYGLASS HILL HOMEOWNERS' ASSOCIATION**, a non-profit corporation, along with its successors and assigns (hereinafter referred to as the "Grantor"), located at P.O. Box 360183, Strongsville, Ohio 44136, and the **CITY OF STRONGSVILLE**, a municipal corporation, located at 16099 Foltz Parkway, Strongsville, Ohio 44149, with its successors and assigns (hereinafter referred to as the "Grantee" or "City").

WHEREAS, the Grantor is the owner in fee simple of certain real estate located in the City of Strongsville, Ohio and known as Permanent Parcel No. 399-32-010; and

WHEREAS, the Grantee-City is proposing to construct or cause to be constructed, a sanitary sewer system and appurtenances which will include on the subject property approximately ten (10) linear feet of 10" forcemain, sanitary sewer pipe, a pump station and various other appurtenances, on land to be dedicated to public use as an easement; and

WHEREAS, the Grantor wishes to grant and the Grantee wishes to accept a permanent and perpetual easement for the purposes of constructing, reconstructing, maintaining, operating, using, repairing and replacing a sanitary sewer system and appurtenances within, across, through and under Grantor's property and within the Easement area;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and for other good and valuable consideration, the receipt of which is hereby acknowledged, the following grants, agreements, and covenants are made:

The Grantor hereby gives, grants, bargains and conveys to the Grantee, its successors and assigns a perpetual easement and right to enter upon the premises described in Exhibit "A", and reflected in the map marked as Exhibit "B", attached hereto and incorporated herein by reference, and to remove and/or replace trees and

other items where necessary for the purposes of constructing, reconstructing, maintaining, operating, using, repairing and replacing a sanitary sewer system, and to make all repairs to such sanitary sewer system connected therewith, in, into, upon, over, across and under the Easement area, that in the opinion of the proper local authorities of the City of Strongsville, its successors or assigns, may be necessary or advisable, in order to maintain or operate said sanitary sewer system in accordance with the ordinances, rules and regulations for the management and protection of such systems of said City of Strongsville, now in force or that may hereafter be adopted.

The Grantor and Grantee further, in consideration of the acceptance of the easement by the City of Strongsville above mentioned, do hereby agree that Grantee shall construct and install said sanitary sewer system in accordance with the plans and specifications to be approved by the City Engineer and in accordance with the provisions, rules, regulations and requirements of the City of Strongsville; and further agree that Grantee shall pay the entire cost of said construction and installation of said sanitary sewer system. Said sanitary sewer system shall be and become the property of the City of Strongsville, its successors or assigns upon completion and approval by the City of Strongsville, its successors or assigns.

Grantor acknowledges and agrees that Grantee shall not be obligated to maintain landscaping and/or lawn areas within the easement area.

The Grantor hereby restricts said premises within the limits of the above-described easement against the construction thereon of any temporary or permanent structures.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantee's access to or maintenance of the sanitary sewer system. Grantor further agrees to make no alterations to the premises which would increase or reduce the depth of the sanitary sewer system.

If the Grantor, its successors or assigns desires to alter the premises in any way other than as expressly permitted herein, it must obtain the prior written approval of the Grantee. Upon receipt of such approval, the Grantor shall, at its own expense, relocate or reconstruct all or any portion of the sanitary sewer system which is affected by such alteration and, where necessary, grant a new easement of not less than the width of this easement under the same terms and conditions as herein provided. The relocated or reconstructed sanitary sewer system, upon completion and approval by the Grantee, shall become the property of the City of Strongsville.

Grantor hereby indemnifies and guarantees to save harmless the City of Strongsville against any expense or damage to said sanitary sewer system that said Grantor and its successors or assigns may at any time cause by the installation, construction, reconstruction, maintenance, repair, or other use of Premises within the limits of the above-described easement.

If the Grantor violates any of the provisions of this easement, the Grantee, at the expense of the Grantor, may enter upon the premises and make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

The Grantor hereby reserves the right to use the premises for such use as is not expressly prohibited by or inconsistent with the terms of this easement.

The Grantor covenants with the Grantee that it is well-seized of the premises as a good and indefeasible estate in fee simple, and has the right to grant and convey the premises in the manner and form above written. The Grantor further covenants that it will warrant and defend the premises with the appurtenances thereunto belonging to the City of Strongsville against all lawful claims and demands whatsoever for the purposes described herein, including all liens and encumbrances whatsoever.

This easement shall inure to the benefit of any person, firm or corporation who the City of Strongsville, its successors and assigns, shall authorize to undertake the performance of work within the purpose of this easement.

The parties hereto agree that this Grant of Easement embodies the complete understanding of the parties, and that no changes in this Agreement shall be made unless such changes are in writing, approved and subscribed by the parties hereto or their appropriate legal representatives, successors and assigns in accordance with law..

This Grant of Easement shall be binding upon and inure to the benefit of the parties, their respective heirs, legal representatives, successors and assigns.

TO HAVE AND TO HOLD the above granted easement, rights of way and sanitary sewer system and appurtenances for the purposes above mentioned unto the City of Strongsville, its successors and assigns forever.

IN WITNESS WHEREOF, this instrument is executed this 18th day of May, 2015.

Signed and acknowledged in the presence:

Loe Deery

"GRANTOR"
SPYGLASS HILL HOMEOWNERS'
ASSOCIATION
(an Ohio non-profit corporation)

By: Danny F. Esler

Its: PRESIDENT SPYGLASS Hill HOA

**"GRANTEE"
CITY OF STRONGSVILLE**

Nancy M. Sikorski

By: Thomas P. Perciak
Thomas P. Perciak
Its: Mayor

STATE OF OHIO)
) ss.
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared the above-named **SPYGLASS HILL HOMEOWNERS' ASSOCIATION**, an Ohio non-profit corporation, by Danny Easa its President - HOA, who acknowledged that he/she did sign the foregoing instrument, and that the same is his/her free and voluntary act and deed as such officer and the free and voluntary act and deed of said non-profit corporation.

IN TESTIMONY WHEREOF, I hereunto set my hand and official seal at Strongsville, Ohio, this 18th day of May, 2015.

Carol M. Oprea
Notary Public
CAROL M. OPREA
Notary Public - State of Ohio
Recorded in Cuyahoga County
My Comm. Expires July 15, 2016



STATE OF OHIO)
) ss.
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared the above-named **CITY OF STRONGSVILLE**, by Thomas P. Perciak, its Mayor, who acknowledged that he did sign the foregoing instrument, and that the same is the free and voluntary act and deed of said municipal corporation, and his free and voluntary act and deed as such officer.

IN TESTIMONY WHEREOF, I hereunto set my hand and official seal at Strongsville, Ohio, this 16th day of June, 2015.



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

Nancy M. Sikorski
Notary Public

HOFMANN - METZKER, INC.

REGISTERED PROFESSIONAL SURVEYORS
P. O. BOX 343 - 24 BEECH STREET
BEREA, OH 44017 (440) 234-7350
FAX: (440) 234-7351

George A. Hofmann, P.S., President
Richard D. Metzker, P.S., Vice President

City Of Strongsville

DESCRIPTION
Easement Spyglass Hill HOA Property
EXHIBIT "A"

2-09-2015

Situated in the City of Strongsville, County of Cuyahoga, State of Ohio and known as being part of Block "H" in the Spyglass Hill Subdivision as shown by the recorded plat in Vol. 232, Page 58 of Cuyahoga County Records, of part of Original Strongsville Township Lot No.2, and further bounded and described as follows:

Beginning at the Southeast corner of said O.L. No. 2, said point being on the centerline of West 130th Street (80');

Thence South 88 degrees 11 minutes 49 seconds West, a distance of 40.00 feet to a point on the Westerly right of way line of W. 130th Street and also the Southeasterly corner of said Block "H";

Thence North 00 degrees 01 minutes 19 seconds East along said Westerly Right of way line, a distance of 20.01 feet to the northerly line of an existing 20 feet wide sewer easement as shown on said plat of Spyglass Hill Subdivision and the principal place of beginning;

Thence South 88 degrees 11 minutes 49 seconds West along said Northerly line of the existing sewer easement, a distance of 46.02 feet to a point;

Thence North 00 degrees 01 minute 19 seconds East and parallel with said Westerly right of way line, a distance of 22.01' to a point;

Thence North 88 degrees 11 minutes 49 seconds East and parallel with said Northerly line of the existing easement, a distance of 46.02 feet to a point on said Westerly right of way line;

Thence South 00 degrees 01 minute 19 seconds West along said westerly right of way line, a distance of 22.01 feet to the principal place of beginning .

The basis of bearings is the centerline of West 130th Street in O.L. No. 2, bearing North 00 degrees 01 minutes 19 seconds East. The courses used in this description are used to indicate angles only.

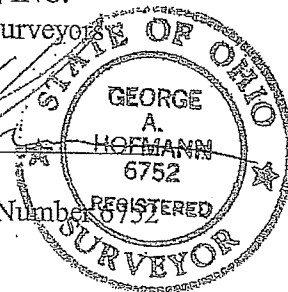
Distances are given in feet and decimal parts thereof.

HOFMANN-METZKER, INC.

Registered Professional Surveyors

By:

George A. Hofmann
George A. Hofmann
Registered Surveyor Number 6752



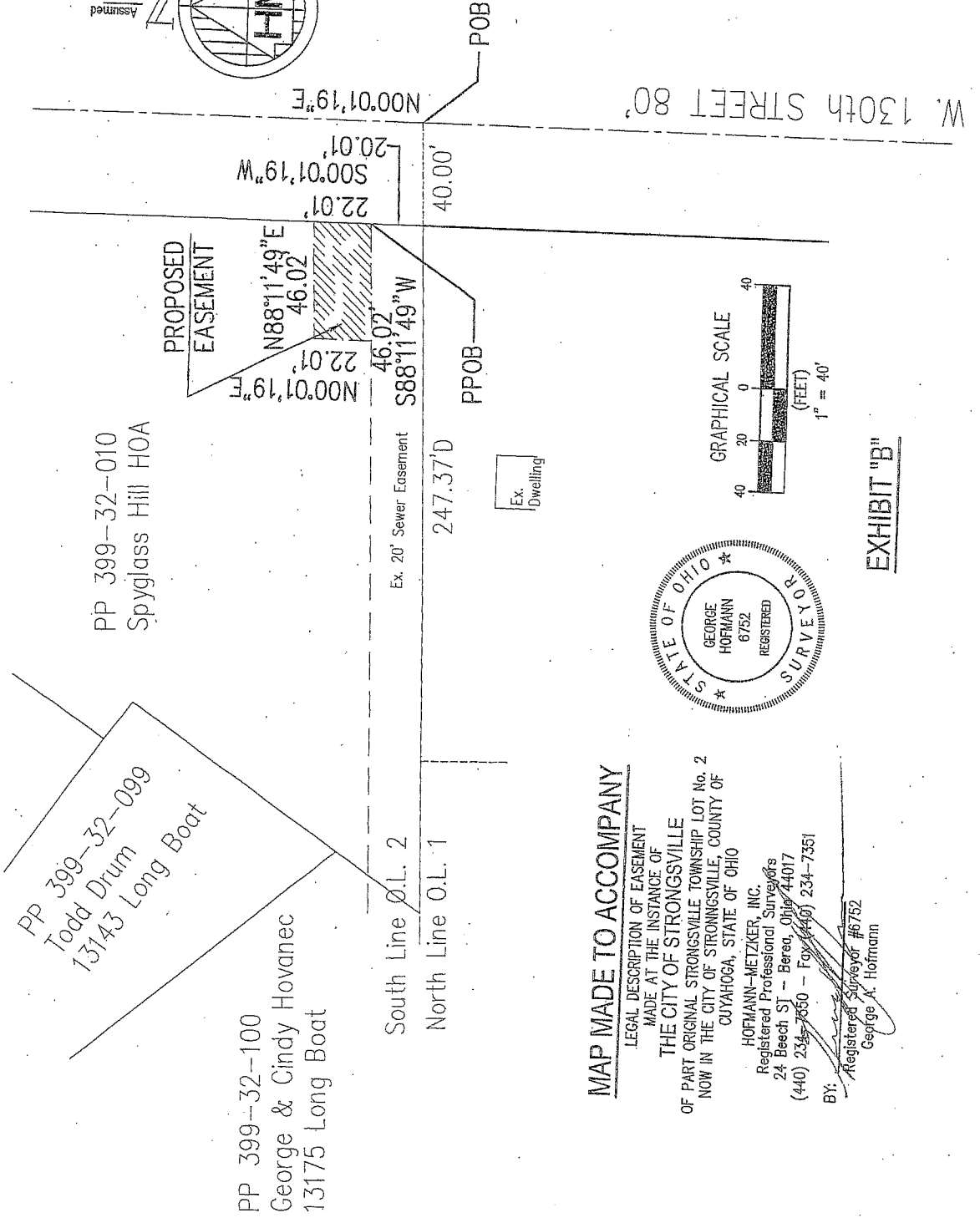
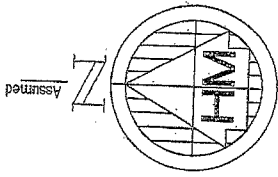


EXHIBIT "B"

MAP MADE TO ACCOMPANY

LEGAL DESCRIPTION OF EASEMENT
MADE AT THE INSTANCE OF
THE CITY OF STRONGSVILLE
OF PART ORIGINAL STRONGSVILLE TOWNSHIP LOT No. 2
NOW IN THE CITY OF STRONGSVILLE, COUNTY OF
CUYAHOGA, STATE OF OHIO

HOFMANN-METZKER, INC.
Registered Professional Surveyors
24 Beech ST - Berea, Ohio 44017
(440) 234-7550 - Fax (440) 234-7351

BY:
Registered Surveyor #6752
George A. Hofmann

CITY OF STRONGSVILLE
OFFICE OF THE COUNCIL

MEMORANDUM

TO: Planning Commission
FROM: Tiffany Mekeel, Assistant Clerk of Council
DATE: June 2, 2015
SUBJECT: Referral from Council: Ordinance No. 2015-109

At its regular meeting of June 1, 2015, City Council referred the following Ordinance to the Planning Commission for its report and recommendation thereon:

Ordinance No. 2015-109 by Mayor Perciak and Mr. Maloney. AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A GRANT OF EASEMENT FOR THE PURPOSES OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, OPERATING, USING, REPAIRING AND REPLACING A SANITARY SEWER SYSTEM WITH A PUMP STATION AND APPURTENANCES, FROM SPYGLASS HILL HOMEOWNERS' ASSOCIATION, IN CONNECTION WITH THE WEST 130TH PUMP STATION PROJECT, AND DECLARING AN EMERGENCY.

A copy of the ordinance is attached for Planning Commission review.

TAM
Attachment

MEMORANDUM

TO: Aimee Pientka, Council Clerk
Ken Kraus, Law Director

FROM: Carol Oprea, Administrative Assistant, Boards & Commissions

SUBJECT: Referrals to Council

DATE: June 12, 2015

Please be advised that at its meeting of June 11, 2015, the Strongsville Planning Commission gave Favorable Recommendation to the following;

ARMELLI-HARLEY/ Joseph Armelli/Principal

- a) Modification pursuant to Codified Ordinance Section 1228.01(i), to permit a Subdivision without Sanitary Sewers.
- b) Subdivision of PPN's 394-07-002 and 003 located at 18179 Marks Road zoned General Industrial.

FIBER TECHNOLOGIES NETWORKS/ Kate Smith, Agent

Site Plan approval for the installation of a Dual Band Omni Antenna, a Universal Broadband Enclosure, two Radio Heads, a Coyote, for the co-location on an existing AT & T power pole located near 15650 Pearl Road in the public right-of-way, PPN 393-27-017 zoned Public Facility. *ARB Favorable Recommendation 6-9-15.

FIBER TECHNOLOGIES NETWORKS/ Kate Smith, Agent

Site Plan approval for the installation of a Dual Band Omni Antenna, a Universal Broadband Enclosure, two Radio Heads, a Coyote, for the co-location on an existing AT & T power pole located near 15906 Pearl Road in the public right-of-way, PPN 397-09-006 zoned General Business. *ARB Favorable Recommendation 6-9-15.

SOUTHPARK MALL/ Bill Aftoora, Agent

Amendment to the Master Sign Program for SouthPark Mall adding (4) signs (B57, B58, B59 and B60) for the Brew Garden, property located at 16555 SouthPark Center, PPN 396-25-001 zoned Shopping Center. ARB Favorable Recommendation 5/19/15.

Council Memo
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June 12, 2015

ORDINANCE NO. 2015-109:

An Ordinance authorizing the Mayor to accept a Grant of Easement for the purposes of constructing, reconstructing, maintaining, operating, using, repairing and replacing a Sanitary Sewer System with a Pump Station and Appurtenances, from Spyglass Hill Homeowner's Association, in connection with the West 130th Pump Station Project and Declaring an Emergency.

ORDINANCE NO. 2015-114:

An Ordinance enacting New Sections 1242.07(B)(4) and 1258.03(A)(3)(A)(10), of Title Six of Part Twelve-Planning and Zoning Code of the Codified Ordinances of the City of Strongsville in order to establish regulations for Brew Pubs and Microbreweries, and Declaring an Emergency.