

# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2019-63

By Nick Haschka Sponsored By Mayor Cyril M. Kleem

## AN ORDINANCE

**AUTHORIZING THE MAYOR TO ENTER INTO ANY AND ALL AGREEMENTS WITH HINCKLEY RESERVE REALTY, LLC., FOR THE PURPOSE OF GRANTING A PARKING EASEMENT ON PERMANENT PARCEL NUMBER 362-02-003, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City is the owner of two adjacent parcels of real property located in the City of Berea, Cuyahoga County, Ohio, and as further identified as Permanent Parcel Numbers 362-02-017 and 362-02-003; and

**WHEREAS**, the City intends to transfer both parcels to separate development companies for future development; and

**WHEREAS**, the City and Hinckley Reserve Realty, LLC. have a signed Real Estate Transfer Agreement for Permanent Parcel No. 362-02-017; and

**WHEREAS**, at this time, there is neither a Real Estate Transfer Agreement nor Purchase Agreement in place for Permanent Parcel No. 362-02-003; and

**WHEREAS**, because these are adjacent parcels and both will be developed, the City desires to establish a parking easement on Permanent Parcel No. 362-02-003 for the convenience of the public.


**NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:**

**SECTION 1.** That the Mayor is authorized to enter into any and all agreements necessary to grant a parking easement to Hinckley Reserve Realty, LLC., on Permanent Parcel No. 362-02-003, as specified in Exhibit "A", which is attached and incorporated herein by reference.

**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 actions were in meetings open to the public, in compliance with all legal requirements, including 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, property, health, safety and welfare, or providing for the usual daily operation of a municipal department and for the further reason that construction will soon begin on Permanent Parcel No. 362-02-017, and the public would be best served by granting an easement. 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.

PASSED: June 17, 2019

  
President of Council

ATTEST: Alyce E.  
Clerk of Council

APPROVED: June 18, 2019  
Cyril M. Kleem  
Mayor

Approved as to Form:

  
Director of Law

Exhibit  
"A"

**PARKING EASEMENT**

**KNOW ALL MEN BY THESE PRESENTS:**

THAT CITY OF BEREA, an Ohio municipal corporation and political subdivision duly organized and existing under the laws of the State of Ohio, the "GRANTOR" herein, for valuable consideration received and to be received to its full satisfaction, does hereby give, grant, bargain and convey to Hinckley Reserve Realty, LLC., ("HRR") a limited liability company, the "GRANTEE" herein, the perpetual easement, for the purposes hereinafter set forth in, over and subjacent to property more fully described in the legal description contained in Exhibit 1 and the site plan contained in Exhibit 2, (hereinafter referred to as the "Easement Premises").

GRANTEE shall have the right, at its sole expense, to construct, maintain and use parking spaces and landscaping located on the Easement Premises. GRANTEE agrees that its construction, maintenance and use of the parking spaces and landscaping will comply with all applicable laws and will hold GRANTOR harmless from any cost or damage associated with such construction, maintenance and use.

Said parking easement is granted for the further purposes and upon the further covenants and conditions hereafter set forth:

1. TO HAVE AND TO HOLD the above granted easement, in, over and subjacent to the Easement Premises, for the purposes above mentioned unto said GRANTEE, HRR, forever.
2. And the GRANTOR does for itself, its successors and assigns, covenant with the said GRANTEE, and its successors and assigns that at and until the sealing of these presents, it is well seized of the above described Easement Premises as a good and indefeasible estate in FEE SIMPLE and has a good right to bargain and grant the same in manner and forms as above written.
3. It is agreed that this instrument shall be for the benefit of and binding upon the GRANTOR and GRANTEE and their respective successors, assigns, heirs, administrators and personal representatives.

IN WITNESS WHEREOF, the GRANTOR has hereunto set her hand at Berea, Ohio this \_\_\_ day of \_\_\_\_\_ 2019.

Signed and acknowledged in the presence of: GRANTOR:

CITY OF BEREA

By: \_\_\_\_\_  
MAYOR

STATE OF OHIO            )  
                                  )  
CUYAHOGA COUNTY        )        ss:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named, CYRIL KLEEM, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said person.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Berea, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
NOTARY PUBLIC

IN WITNESS WHEREOF, the GRANTEE has hereunto set its hand at \_\_\_\_\_, Ohio this \_\_\_ day of \_\_\_\_\_ 2019.

Signed and acknowledged in the presence of: GRANTEE:  
HINCKLEY RESERVE  
REALTY, LLC.

\_\_\_\_\_  
By: \_\_\_\_\_  
KEN BLUM,  
PRESIDENT

STATE OF OHIO            )  
                                  )  
CUYAHOGA COUNTY        )        ss:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named limited liability company, HINCKLEY RESERVE REALTY, LLC. by KEN BLUM, its President who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said person.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2019.

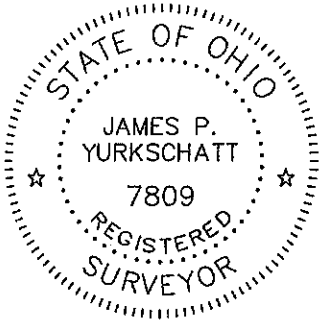
\_\_\_\_\_  
NOTARY PUBLIC

**BASIS OF BEARINGS**

THE BASIS FOR BEARINGS FOR THIS SURVEY IS GRID NORTH OF THE OHIO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NAD83(2011).

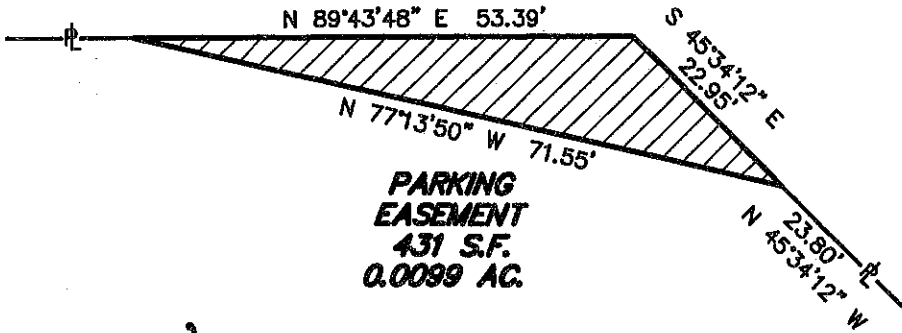


SCALE: 1"=50'



**EASEMENT  
DETAIL**

Scale: 1"=20'



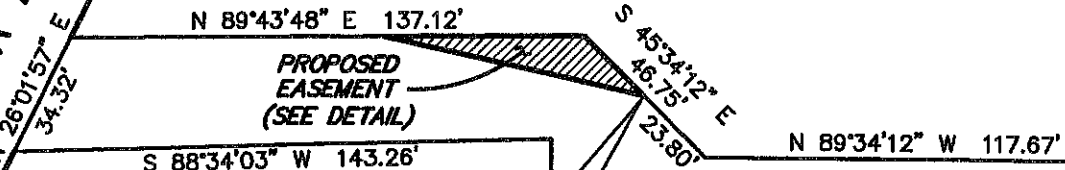
**PARKING  
EASEMENT  
431 S.F.  
0.0099 AC.**

ROCKY RIVER DR. 100'  
---R/W---

P.O.B.  
R/W  
S 00°24'01" E 614.19'  
FRONT STREET 80' (S.R. 237)  
S 00°24'01" E 100.28'

ROCKY RIVER DR. 100'  
---R/W---  
N 26°01'57" E 34.32'

CITY OF BEREA  
AFN 201305080175



T.P.O.B.

RICHARD H. LANE JR.,  
TRUSTEE  
AFN 201807180326

CITY OF BEREA  
AFN 201104150164  
PPN 362-02-003

CITY OF BEREA  
AFN 201501300579

S 88°33'47" W 160.00'



CAMPBELL &  
ASSOCIATES, INC.  
Land Surveying

**PARKING EASEMENT EXHIBIT**

STATE OF OHIO, COUNTY OF CUYAHOGA, CITY OF BEREA  
BEING PART OF ORIGINAL MIDDLEBURG TOWNSHIP  
LOT NO. 6, SECTION NO. 18

3485 Fortuna Drive  
Suite 100  
Akron, Ohio 44312  
(330) 945-4117  
www.campbellsurvey.com

DATE: 02/27/19

BY: RJH

JOB NO. 20180307

**PARKING EASEMENT  
CITY OF BEREA**

Situated in the State of Ohio, County of Cuyahoga, City of Berea, being part of Original Middleburg Township Lot 6, Section 18, being part of the land conveyed to the City of Berea as recorded in AFN 201104150164 of Cuyahoga County Recorder's records, and being further bounded and described as follows:

Beginning at the intersection of the southeast right-of-way line of Rocky River Drive (100' wide) with the west right-of-way line of Front Street (S.R. 237 – 80' wide).

Thence S 00°24'01" E, along the west right-of-way line of Front Street, a distance of 614.19' to a point thereon being the northeast corner of said City of Berea land;

Thence N 89°34'12" W, along a north line of said City of Berea land, a distance of 117.67' to a corner thereof;

Thence N 45°34'12" W, along a north line of said City of Berea land, a distance of 23.80' to a point thereon being the **TRUE PLACE OF BEGINNING** for the easement area described herein;

1. Thence N 77°13'50" W, a distance of 71.55' to a point on a north line of said City of Berea land;
2. Thence N 89°43'48" E, along a north line of said City of Berea land, a distance of 53.39' to a corner thereof;
3. Thence S 45°34'12" E, along a north line of said City of Berea land, a distance of 22.95' to the **TRUE PLACE OF BEGINNING** and containing 0.0099 acres (431 square feet) of land as surveyed by James P. Yurkschatt, PS 7809 of Campbell & Associates, Inc. on February 27, 2019.

The basis of bearings for this description is Grid North of the Ohio State Plane Coordinate System, North Zone, NAD83(2011).

