# ORDINANCE NO. 22-17 CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Policier ON THE 18th DAY OF September 2017.

AN ORDINANCE TO VACATE CERTAIN EASEMENTS OVER PROPERTY LOCATED WITHIN THE GRACEWORKS LUTHERAN SERVICES - BETHANY LUTHERAN VILLAGE PROJECT AT 6451 FAR HILLS AVENUE IN THE CITY OF CENTERVILLE.

WHEREAS, the City of Centerville ("City") is the owner of property occupied and leased by Graceworks Lutheran Services ("Graceworks") located at 6451 Far Hills Avenue ("Property"); and

WHEREAS, Graceworks has requested the City of Centerville to vacate certain easements located on the Property it leases from the City within the Bethany Luthern Village development project ("Project") located at 6451 Far Hills Avenue within the City of Centerville, which easements are no longer needed; and

WHEREAS, the ingress/egress easement of Gem City Savings Association, the gas easement of Dayton Power and Light company, the sanitary easement of the Board of County Commissions of Montgomery County, Ohio, and the sanitary and water easement of the Board of County Commissions of Montgomery County, Ohio, as shown on Exhibit A and more particularly described in Exhibits B, C, D and E attached to this ordinance and made a part herein (collectively "Easements"), will no longer be needed by the general public or the City once the Project is developed; and

WHEREAS, the City of Centerville Unified Development Code ("UDO"), Section 5.11(I) provides a procedure for the vacation of easements; and

WHEREAS, all abutting landowners have consented to this action; and

WHEREAS, the City finds that the request to vacate the Easements is for good cause, and will not be detrimental to the general interest, and is allowed pursuant to the UDO; and

WHEREAS, the City agrees to vacate the easements contingent upon written confirmation of the Easements holder's consent to vacate their easement.

# NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

- Section 1. That the City of Centerville hereby vacates the ingress/egress easement of Gem City Savings Association, the gas easement of Dayton Power and Light company, the sanitary easement of the Board of County Commissions of Montgomery County, Ohio, and the sanitary and water easement of the Board of County Commissions of Montgomery County, Ohio, at 6451 Far Hills Avenue as shown on Exhibit A and identified in Exhibits B, C, D and E.
- Section 2. That this vacation is contingent upon written confirmation from each easement holder's consent to vacate their easement.
- Section 3. That Graceworks will take such other actions as may be needed to record the vacations and to reflect these changes.
- Section 4. This Ordinance shall go into effect at the earliest date allowed by law.

PASSED THIS 18th day of September, 2017.

Mayor of the City of Centerville, Ohio

ATTEST:

Clerk of Council

City of Centerville, Ohio

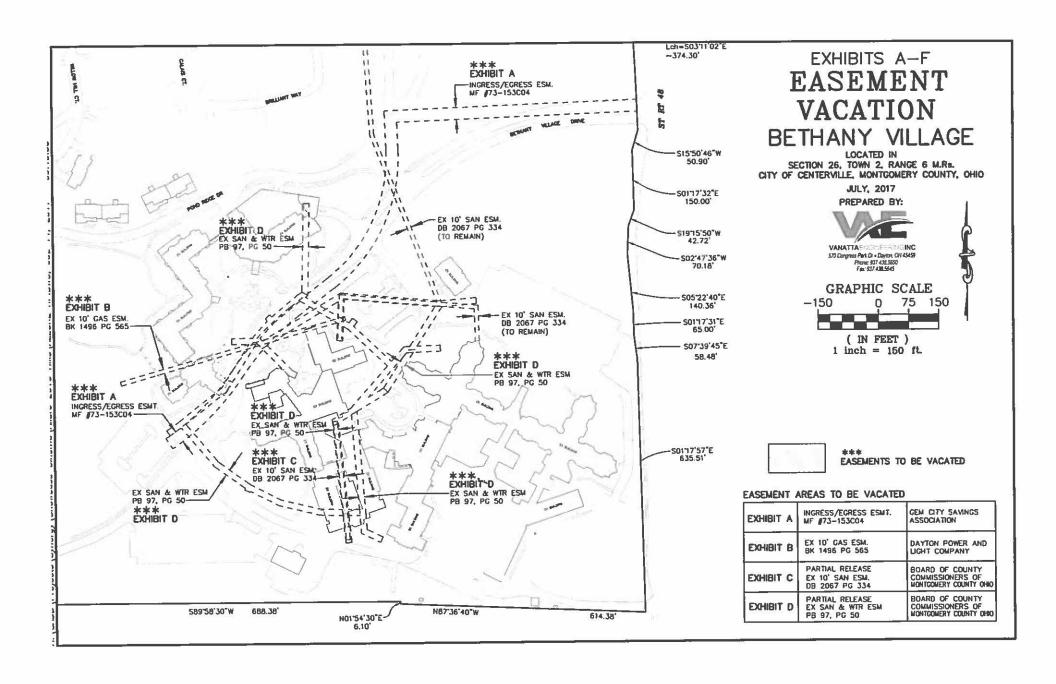
Parin B. andrews

### **CERTIFICATE**

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby	
certifies the foregoing to be a true and correct copy of Ordinance No.	
22-17 , passed by the Council of the City of Centerville, Ohio on the	
22-17, passed by the Council of the City of Centerville, Ohio on the day of September, 2017.	
Clerk of the Council	_

Approved as to form, consistency with the Charter and Constitutional Provisions.

Department of Law
Scott A. Liberman
Municipal Attorney



Form Wil

aforesaid County, Ohio.

## 1496 mai 6

#### Know All Men By These Presents:

That The Lutheran Inner Vission League	of the Miami Valley, Inc.
in consideration of One Dollar to 10 paid by The I acknowledged, do 25 bereby grant and convey unto The Dayton is a right of two and casement for a pipe line for the transmission and from gas therein, for any and all purposes for which gas is now, or regulators and pits and all other usual and proper devices for the critical to construct, re-construct, repair, maintain, use, remove or replaced for contained, upon, under and through the following premi	Power and Light Company, its successors and assigns forever d distribution of natural, mixed natural and artificial, and arti- r may hereafter be used, with all appurtenant valves, drips efficient and economical operation of said pipe line, and the place said pipe line and appurtenances subject to the conditions
Vir situated in Washington Township,	- Montgomery County, Chia
and being a tract of land containing 102,166 a No. 26, Township 2, Range 6 MRs., and being a Warranty Deed recorded in Deed Book No. 1160,	part of the same premises conveyed in a

Said pipe line and apportenances shall be located on said premises and within a strip of land. 10 feet in width, the center-line of said attinuof land shall be approximately along the following course, viz.

Beginning at a point in an existing gas line easement as described in a right-of-way grant

Beginning at a point in an existing gas line easement as described in a right-of-way grant from the grantor to the grantee herein and recorded in Deed Book No. 1211, page 300 of Montgomery County Deed Records, said point being 552.50 feet distant northwardly measured along the aforesaid gas line easement, from the grantor's south property line (said south property line also being the north line of a tract now or formerly belonging to Max J. Comisar), thence eastwardly for a distance of 587 feet to a point 713 feet distant north from said grantor's south property line.

Also, beginning at a point on said grantor's south property line (said south property line here being the north line of a tract now or formerly owned by Rudolph Platzer)
282 feet distant west, measured on said south line, from the centerline of Lebanon Pike State Route No. 18, thence northwardly (normal) for a distance of 12.50 feet to a point, thence eastwardly for a distance of 283 feet to a point 23 feet distant north from said grantor's south property line, thence northwardly along the west side of said Lebanon Pike for a distance of 235 feet to a point 10 feet distant west from the centerline of said Lebanon Pike, thence eastwardly for a distance of 10 feet to a point on the centerline of said Lebanon Pike 258 feet distant north, measured on said centerline, from said grantor's south property line.

It is further agreed that in consideration of the signing of the right of way easement the grantee will furnish gas to the new buildings contemplated in accordance with the rates, rules and regulations existing at the time the service is requested.

The acceptance of this conveyance by The Dayton Power and Li its successory and assigns to all the terms and conditions hereof, and it	ght Company shall operate as an agreement by it for itself, and they shall probound thereby.
IN WITNESS WHEREOF, the said The Lutheran Tinner	Mission League of the Miami Valley, Inc.
And - Edia B. Hub	er, secretary
has hereunto subscribed its & their names this	. 7th
Size of and acknowledged in the presence of:	
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Forest:Ra Sympleourner	By Milvin Olletinga
	And Edna B. Hiler Sug
STATE OF OHIO COUNTY OF MONTO	
TO M PERSONNESS ALL. AL. 7th	I I - I - I - I - I - I - I - I - I
One Thousand Nine Hundred and Fifty-two before me, the in and for said County, personally came. The Lutheran Inner B	subscriber, a <u>Notary Public</u> ission <u>League of the Miami Valley, Tric.</u>
And Edia B. Hiter	, secretary
the grantor in the foregoing instrument, and acknowledged the sign deed for the uses and purposes therein mentioned.	
IN TESTIMONY WHEREOF, I have hereunto subscribed my on the day and year last aforesaid.	Prof Ris
	AND DEED
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## Deed BOOK 2067 PAGE 334

EASEMENT DEED

KNOW ALL MEN BY THESE PRESENT:

That THE LUTHERAN INNER MISSION LEAGUE OF THE MIAMI VALLEY, INCORPORATED, a non-profit organization, duly authorized under the Laws of the State of Ohio, in consideration of the sum of One Dollar (\$1.00) and other valuable considerations to them paid by the Board of County Commissioners of Montgomery County, Ohio, does breby grant and release to said Board of County Commissioners of Montgomery County, Ohio, and their successors in office, forever, the right, privilege and essement to construct, maintain, tap into and repair the stated utility; a sanitary sewer through the following described real estate:

Located in Section 26, Town 2, Range 6 MRs., Washington Township, County of Montgomery, State of Ohio, and being essements for the operation, maintenance, repair, replacement or removal of sanitary sewers and appurtenances, being an easement ten and 00/100 (10.00) feet wide five and 00/100 (5/00) feet on each side of a centerline described as follows: beginning at a point in the north line of land conveyed to The Lutheran Inner Mission League of the Hismi Valley, Incorporated, by deed recorded in Book 1160, Page h61, in the Deed Records of Montgomery County, Ohio, said point of beginning being located in the south line of Lot No. 54 of Washington Brook Subdivision as recorded in Book RR, Page 73, in the Plat Records of Montgomery County, Ohio, said point of beginning being located, South eighty-five degrees sixteen minutes (850 161) West and twenty-aix and 95/100 (26.95) feet from the southeast corner of said Lot No. 54; thence South three degrees forty-nine minutes thirty seconds (30 kg1 30") East for four hundred eightynine and 27/100 (489.27) feet; thence South twenty-one degrees twenty minutes ten seconds (21° 20° 10") East for four hundred fifty-seven and 75/100 (457.75) feet to a point in the centerline of a sanitary manhole, hereinafter referred to as Point "A"; thence South eighty-five degrees eight minutes no seconds (85° 08° 00") East for minety and 65/100 (90.65) feet; thence South one degree twenty-two minutes (1° 221) East for two hundred seventy-six and 65/100 (276.65) feet; thence South fifty-five degrees thirty-four minutes no seconds (55° 3h' 00") East for two hundred seventy-four and 30/100 (27h.30) feet.

Also being an easement ten and 00/100 (10.00) feet wide five and 00/100

#### BOOK 2067 PAGE 335

feet on each side of a centerline described as follows: beginning at Point
"A" in the above-described casement; thence North eighty-five degrees eight
minutes no seconds (85° 08° 00°) West for two hundred forty-seven and 35/100
(217.35) feet; thence South two degrees fifty-one minutes (2° 51°) West for
one hundred ten and 60/100 (110.60) feet to a point hereinafter referred to
as Point "B"; thence South three degrees forty-eight minutes (3° 18°) West
for two hundred one and 10/100 (201.10) feet; thence South five degrees forty
minutes thirty seconds (5° 10° 30°) East for two hundred minety-eight and 60/100
(298.60) feet.

Also being an easement ten and 00/100 (10.00) feet wide five and 00/100 (5.00) feet on each side of a centerline described as follows: beginning at Point "B" in the above-described easement; thence South eighty-nine degrees fifty-nine minutes thirty seconds (89° 59° 30") West for two hundred seventy one and 15/100 (271.15) feet.

Note: The above-described easements are across that land conveyed to The Lutheran Inner Mission League of the Mami Valley, Inc. by deed recorded in Book 1160, Page 461, in the Deed Records of Montgomery County, Ohio.

Said property now is owned by THE LUTHERAN INNER MISSION LEAGUE OF THE MIAMI VALLEY, INCORPORATED.

Said grantees are to have the right and privilege of entering upon the above described premises through themselves, agents, employees, and contractors to construct, maintain, and repair a sanitary sewer along the line above set forth.

As further consideration for this easement grantees agree to restore the said premises to its original condition, as near as possible, after construction, repairs or replacement of said sanitary sever.

The Grantor(s) shall have full right to use the land within said right of way and essement for any spurposes consistent with the rights herein granted to the Grantee its successors and assigns; provided, however, that no buildings or other structures shall be erected within the limits of said right of way and essement by the Grantor(s) or any other party claiming title or possession under said Grantor(s).

IN WITNESS WHEREOF, the said LUTHERAN INNER MISSION LEAGUE OF THE MIAMI VALLEY, INCORPORATED, a non-profit organization, duly authorized under the laws of the State of Ohio, by

# BOOK 2067 PAGE 336

	1
	duly authorized members of the Executive Committee for the Lutheran Inner
0.74	Mission League of the Miami Valley, Incorporated, have hereunto subscribed
	their names on this 24th day of October, 1961
	Executed in the presence of us:
	Della Succession Paul Munfol
	Killia. & Siche Donath, K. Walliele Secretary
1	STATE OF CHID)SS:
١	Before me, the undersigned, a Notary Public for and in the State of Ohio,
	Montgomery County, personally appeared Caul Mumferd and
	Sorothy K. Wallick , duly mithorized members of the Executive
	Committee for the Lutheran Inner Mission League of the Miami Valley, Incor-
	porated, a non-profit organization, duly authorized under the laws of the
	State of Ohio, the grantors in the foregoing easement deed, and acknowledged
	the execution thereof to be their free and voluntary act for the uses and
	purposes therein set forth.
i	IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my
	notarial seal on this 24th day of October , 1961.
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-	Milded D. Swarp Ohio.
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	My Council rien Existes April 6; 19 62.
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	File No. 1725
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1	Time 7. M. M.
1	Recorded 12-11-61
1	PROSECUTING ATTORNEY CHARLES S. HECK
	Montgomery County Recorded
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#### EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT, THE LUTHERAN SOCIAL SERVICE OF THE MIAMI VALLEY, an Ohio corporation not for profit, hereinafter referred to as "GRANTOR", in consideration of One (\$1.00) Dollar and other good and valuable considerations, paid by GEM CITY SAVINGS ASSOCIATION of 4 North Main Street, Dayton, Ohio, hereinafter referred to as "GRANTEE", receipt of which is hereby acknowledged, does hereby grant to Gem City Savings Association, Dayton, Ohio, its successors and assigns, a certain non-exclusive easement and right of way to be used as an unobstructed driveway for vehicle and/or pedestrian use over and upon the land described as follows:

Located in Section 26, Town 2, Range 6 M. R. S., Washington Township, Montgomery County, State of Ohio and being an easement for purposes of ingress and egress, described as follows: beginning at the southeast corner of Lot 59 in Washington Brook Subdivision, Section Two as recorded in Book "R-R", Page 73 in the Plat Records of Montgomery County, Ohio, said point of beginning being on the western line of a perpetual easement for highway purposes granted to the State of Ohio by deed recorded in Book 2002, Page 428 in the Deed Records of Montgomery County, Ohio; thence South eight degrees nine minutes twenty-five seconds (8° 09' 25") east along the western line of said perpetual easement for one hundred ninety-eight and 40/100 (198, 40) feet; thence on a curve to the right continuing along the western line of said perpetual easement for three hundred ten and 75/100 (310, 75) feet, said curve having a radius of five thousand six hundred sixty-nine and 58/100 (5,669,58) feet and an internal angle of three degrees eight minutes twenty-five seconds (3° 08' 25"), tangent to said curve at its point of beginning bearing South five degrees eight minutes no seconds (5° 08' 00") East to the true point of beginning of said easement, said easement being thirty and 00/100 (30,00) feet in width and fifteen and 00/100 (15.00) feet on each side of the following described centerline; thence South eighty-eight degrees fifteen minutes three seconds (88° 15' 03") West for six hundred fifteen and 90/100 (615.90) feet; thence South one degree forty-four minutes fifty-seven seconds (1° 44' 57") East for eighty-four and 36/100 (84, 36) feet; thence on a curve to the right for three hundred eighty-one and 06/100 (381.06) feet, said curve having a radius of four hundred and 00/100 (400,00) feet and an internal angle of fifty-four degrees thirty-four minutes fifty-seven seconds (54° 34' 57"), tangent to said curve at its point of beginning bearing South one degree forty-four minutes fifty-seven seconds (1° 44' 57") East; thence South fifty-two degrees fifty minutes no seconds (52°, 50' 00") West for one hundred twenty and 00/100 (120,00) feet; thence on a curve to the left for two hundred seven and 76/100 (207. 76) feet, said curve having a radius of six hundred forty and 00/100 (640,00) feet and an internal angle of eighteen degrees thirty-six minutes no seconds (18° 36' 00") tangent to said curve at its point of beginning bearing South fifty-two degrees fifty minutes no seconds (52° 50' 00") West; thence on a curve to the right for two hundred forty-eight and 47/100 (248.47) feet, said curve having a radius of six hundred forty and 00/100 (640, 00) feet and an internal angle of twenty-two degrees fourteen minutes forty seconds (22° 14' 40"), tangent to said curve at its point of beginning bearing South thirty-four degrees fourteen minutes no seconds (34° 14' 00") West, and there terminate. Curved distances are measured on the arc.

SOUNTY AUDITOR

TO HAVE AND TO HOLD said easement unto Gem City Savings Association, Dayton, Ohio, its successors and assigns, until the obligation secured by a certain mortgage dated , 1973 and recorded in Mortgage Book 2836, Page 634, of the Mortgage Records in the Office of the Recorder of Montgomery County, Ohio, has been fully paid and satisfied and in the event of foreclosure of said mortgage, the right of ingress and egress herein granted shall survive said foreclosure and sale to the benefit of a purchaser at such sale and the heirs, executors, administrators, successors and assigns of such purchaser.

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IN WIT. SS WHEREOF, the LUTHERAN SOCIAL SERVICE OF THE MIAMI VALLEY, has caused its corporate name to be hereunto subscribed and its corporate seal hereunto affixed by its duly authorized officers, each acting by and pursuant to authority and resolution of its respective Boards of Trustees, this 30 day of march , 1973. Executed in the presence of: THE LUTHERAN SOCIAL SERVICE

OF THE MAMI VALLEY

its President

STATE OF OHIO

SS:

COUNTY OF MONTGOMERY )

BE IT REMEMBERED, that on this 30 day of march me, the subscriber, a Notary Public in and for said County and State, personally appeared RAYMOND MANNIER Provident and County and State, personally appeared RAYMOND MANNIER, President and CAROL FASICK, Secretary of The Lutheran Social Service of the Miami Valley the corporation whose name is subscribed to and which executed the said easement of right of way of ingress and egress, and for themselves and as such Officers respectively, and for and on behalf of said corporation, acknowledged the signing and execution of said instrument; and acknowledged that the seal affixed to said instrument is the corporation seal of said corporation; that they affixed such corporate seal to, and otherwise executed, said instrument by authority of the Board of Trustees, and on behalf of said corporation, and that the signing and execution of said instrument is their free and wollantary act and deed, their free act and deed as such Officers, respectively and the free and voluntary act and deed of said corporation, for the uses and purpose in said instrument mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and in my Notarial Seal, on the day and year last aforesaid.

JOE D. PEGG

HAR 30 3 36 PH '73

HONTGOHERY CO., OHIO

at for Montgon

Commission Expires Sept. 25, 1977

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ET" DE RAM

This instrument prepared by: Frank M. Root, Esq. 2700 Winters Bank Tower Dayton, Ohio 45402

NO TRANSFER NEEDED A.L. DSWALD COUNTY AUDITOR

#### EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT, THE LUTHERAN SOCIAL SERVICE OF THE MIAMI VALLEY, an Ohio corporation not for profit, hereinafter referred to as "GRANTOR", in consideration of One (\$1.00) Dollar and other good and valuable considerations, paid by GEM CITY SAVINGS ASSOCIATION of 4 North Main Street, Dayton, Ohio, hereinafter referred to as "GRANTEE", receipt of which is hereby acknowledged, does hereby grant to Gem City Savings Association, Dayton, Ohio, its successors and assigns, a certain non-exclusive easement and right of way to be used as an unobstructed driveway for vehicle and/or pedestrian use over and upon the land described as follows:

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SOUNTY AUBITIER

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IN WIT. SS WHEREOF, the LUTHERAN SOCIAL SERVICE OF THE MIAMI VALLEY, has caused its corporate name to be hereunto subscribed and its corporate seal hereunto affixed by its duly authorized officers, each acting by and pursuant to authority and resolution of its respective Boards of Trustees, this 30 day of mack, 1973.

Executed in the presence of:

THE LUTHERAN SOCIAL SERVICE

OF THE MAMI VALLEY

By Kaymond S. Mars

its President

Lerry Kright

By Caral Fascel its Secreta

STATE OF OHIO

SS:

COUNTY OF MONTGOMERY )

BE IT REMEMBERED, that on this 30 day of mach, 1973, before me, the subscriber, a Notary Public in and for said County and State, personally appeared RAYMOND MANNIER, President and CAROL FASICK, Secretary of The Lutheran Social Service of the Miami Valley the corporation whose name is subscribed to and which executed the said easement of right of way of ingress and egress, and for themselves and as such Officers respectively, and for and on behalf of said corporation, acknowledged the signing and execution of said instrument, and acknowledged that the seal affixed to said instrument is the corporation seal of said corporation; that they affixed such corporate seal to, and otherwise executed, said instrument by authority of the Board of Trustees, and on behalf of said corporation, and that the signing and execution of said instrument is their free and voluntary act and deed, their free act and deed as such Officers, respectively and the free and voluntary act and deed of said corporation, for the uses and purpose in said instrument mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my Notarial Seal, on the day and year last aforesaid.

JOE D. PEGG RECORDER

HAR 30 3 36 PH '73

HONTGONERY CO., OHIO

Notary Public

JERRY L WRIGHT, Notary Public

My Commission Expires Sept. 25, 1977

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ET. DE AMM

This instrument prepared by: Frank M. Root, Esq. 2700 Winters Bank Tower Dayton, Ohio 45402 NO TRANSFER NEEDED A.L. OSWALD FOTICUA YTKUOO

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Notory Public in and for Montgomary County, Onio

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tabuments shown are for the construction, operation, maintenance, report, replacement or removal of water and contrary sewer with these and for the everys privilege

SECTION TWO

EASEMENT

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LUTHERAN

SECTION 26, TZ, R.G, MR WASHINGTON COUNTY, CO.

PALPH L WOOLPEAT COMPAINT STEULTING ENGINEERS & PLANNE: DATTON, OHIO 45404, JULY 1975 SCALE 17 - 50

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APPROVAL

COMMISSIONERS

COUNTY SANITARY ENGINEER

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