

ORDINANCE NO. 09-16

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Belinda Kenly ON THE 18th DAY OF April, 2016.

AN EMERGENCY ORDINANCE BY THE COUNCIL OF THE CITY OF CENTERVILLE, MONTGOMERY COUNTY, STATE OF OHIO TO APPROPRIATE ALL RIGHT TITLE AND INTEREST IN A CERTAIN PARCEL OF REAL PROPERTY LOCATED AT 5525 WILMINGTON PIKE, CENTERVILLE, OHIO FOR THE PURPOSE OF PUBLIC RIGHT-OF-WAY, WATER MAIN EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT PURPOSES; AND DECLARING AN EMERGENCY.

Whereas, the City Council of Centerville, Ohio by Resolution No. 12-16, passed on March 14, 2016, declared its intention to appropriate a certain parcel of real property hereinafter described for the purpose of making a road improvement which shall be open to the public without charge and for road purposes; and

Whereas, the City been unable to agree with the owner of the said real property as to the compensation to be paid for said real property; and

Whereas, notice of the passage of the above referenced resolution of intent to appropriate was served upon the owners of, person in possession of or person having a record interest in said property according to law, and a return of service has been made to the City.

NOW THEREFORE THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. The City Council of Centerville, Ohio, by Resolution No. 12-16 passed March 14, 2016, declared its intention to appropriate certain real property hereinafter described as a permanent standard highway easement, water main easement and a temporary easement for construction purposes for the purpose of the widening and improving Wilmington Pike to incorporate additional turn lanes which shall be open to the public without charge and for road purposes. Notice of the passage of the above-referenced resolution of intent to appropriate has been served upon the owner of, person in possession of, or person having a record interest in the said property according to law, and a return of service has been made to the City. A copy of the portion of the plan showing the effect of the acquisition upon the owner's real property has been provided to the owner or owner's agent, and a description of the nature of the improvement or use which requires the appropriation has been made available to the owner. The City has been unable to agree with the

owner of the said real property as to compensation to be paid for said interest in real property.

SECTION 2. The City's acquisition of the real property described in Section 3 here below is necessary for public right-of-way, the construction of public improvements, and that the property is hereby appropriated for a public use. Council finds that the acquisition of property for these purposes is in the public interest and a proper public purpose.

SECTION 3. That the property to be appropriated include the following described real property being necessary for a public right-of-way and road improvement:

Standard Highway Easement as identified in Exhibit "A" and depicted in Exhibit "D", both exhibits hereby attached and incorporated by reference.

Water Main Easement as identified in Exhibit "B" and depicted in Exhibit "D", both exhibits hereby attached and incorporated by reference.

Temporary Construction Easement as identified in Exhibit "C" and depicted in Exhibit "D", both exhibits hereby attached and incorporated by reference.

SECTION 4. The City of Centerville, Ohio does hereby declare that the total value of the said easement appropriated is the sum of \$5,384.00. The Municipal Attorney or his designee is hereby authorized to deposit with the Clerk of the Common Pleas Court in said appropriation case the sum of \$5,384.00, the value of the real property appropriated.

SECTION 5. The Municipal Attorney or his designee is hereby authorized and directed to apply to the Court of Common Pleas, Montgomery County, Ohio, for the purpose of assessing the compensation to be paid for said real property.


SECTION 6. The costs and expenses of such appropriation are to be paid out of the appropriate fund or funds.

SECTION 7. This ordinance is hereby declared to be an emergency measure and shall become effective immediately upon passage. An emergency affecting public safety and welfare is hereby declared to exist by virtue of the fact of the immediate necessity to assemble properties necessary to construct public improvements. Therefore, this ordinance shall become effective immediately upon passage.

PASSED this 18<sup>th</sup> day of April, 2016.

  
Mayor of the City of Centerville, Ohio

ATTEST:

  
Clerk of Council  
City of Centerville, Ohio

#### 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. 09-16, passed by the Council of the City of Centerville, Ohio on the 18<sup>th</sup> day of April, 2016.

  
Clerk of Council

Approved as to form,  
consistency with existing  
ordinances, the charter and  
constitutional provisions.  
Department of Law  
Scott A. Liberman  
Municipal Attorney





CINCINNATI  
COLUMBUS  
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**LEGAL DESCRIPTION  
BEF REIT INC.  
STANDARD HIGHWAY EASEMENT**

Situated in Section 15, Town 2, Range 6, M.Rs, City of Centerville, Montgomery County, Ohio being part of Lot 2 of Archon Plaza as recorded in P.B. 162 Pg. 42 as conveyed to Bef Reit Inc. in Deed M.F. #97-682B006 of the Montgomery County Recorder's Office the boundary of a standard highway easement being more particularly described as follows:

Beginning at a point in the west right of way line of Wilmington Pike being N04°49'20"E a distance of 135.00 feet from the southeast corner of said Lot 2;

Thence through said Lot 2 the following three (3) courses:

1. N85°10'40"W a distance of 15.00 feet;
2. N04°49'20"E a distance of 10.00 feet;
3. S85°10'40"E a distance of 15.00 feet to a point in the aforesaid west right of way line of Wilmington Pike;

Thence along said west right of way line, S04°49'20"W a distance of 10.00 feet to the Point of Beginning;

Containing 0.003 acres of land more or less and being subject to easements and rights of way of record.

Bearings are based on the Ohio State Plane Coordinate System (OSPC) – South Zone. The project coordinates are based on OSPC and has been scaled to ground by using a project adjustment factor of 1.0000942433 applied at a base point of N: 608674.24 E: 1515391.69. Grid and ground coordinates area identical at the base point.

All as shown on attached Exhibit "A"

**MATTHEW D. HABEDANK, P.S.**  
OHIO PROFESIONAL SURVEYOR NO. 8611

DATE



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6305 Centre Park Drive  
West Chester, OH 45069  
phone ▶ 513.779.7851  
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**LEGAL DESCRIPTION  
BEF REIT INC.  
WATER MAIN EASEMENT**

Situated in Section 15, Town 2, Range 6, M.Rs, City of Centerville, Montgomery County, Ohio being part of Lot 2 of Archon Plaza as recorded in P.B. 162 Pg. 42 as conveyed to Bef Reit Inc. in Deed M.F. #97-682B006 of the Montgomery County Recorder's Office, the boundary of a water main easement being more particularly described as follows:

Beginning at a point in the west right of way line of Wilmington Pike being N04°49'20"E a distance of 25.00 feet from the southeast corner of said Lot 2;

Thence through said Lot 2 the following three (3) courses:

1. N85°10'40"W a distance of 5.00 feet;
2. N04°49'20"E a distance of 55.00 feet;
3. S85°10'40"E a distance of 5.00 feet to a point in the aforesaid west right of way line of Wilmington Pike;

Thence along said west right of way line, S04°49'20"W a distance of 55.00 feet to the Point of Beginning;

Containing 0.006 acres of land more or less and being subject to easements and rights of way of record.

Bearings are based on the Ohio State Plane Coordinate System (OSPC) – South Zone. The project coordinates are based on OSPC and has been scaled to ground by using a project adjustment factor of 1.0000942433 applied at a base point of N: 608674.24 E: 1515391.69. Grid and ground coordinates area identical at the base point.

All as shown on attached Exhibit "A"

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**LEGAL DESCRIPTION  
BEF REIT INC.  
TEMPORARY CONSTRUCTION EASEMENT**

Situated in Section 15, Town 2, Range 6, M.Rs, City of Centerville, Montgomery County, Ohio being part of Lot 2 of Archon Plaza as recorded in P.B. 162 Pg. 42 as conveyed to Bef Reit Inc. in Deed M.F. #97-682B006 of the Montgomery County Recorder's Office, the boundary of a temporary construction easement being more particularly described as follows:

Beginning at the southeast corner of said Lot 2, also being in the west right of way line of Wilmington Pike;

Thence along the south line of said Lot 2, N85°11'11"W a distance of 35.00 feet;

Thence through said Lot 2 the following three (3) courses:

1. N04°49'20"E a distance of 30.00 feet;
2. S85°10'40"E a distance of 18.00 feet;
3. N04°49'20"E a distance of 170.93 feet to a point in the north line of the aforesaid Lot 2;

Thence along said north line, S85°11'11"E a distance of 17.00 feet to a point in the aforesaid west right of way line of Wilmington Pike;

Thence along said west right of way line, S04°49'20"W a distance of 55.92 feet;

Thence along the lines of a proposed standard highway easement the following three (3) courses:

1. N85°10'40"W a distance of 15.00 feet;
2. S04°49'20"W a distance of 10.00 feet;
3. S85°10'40"E a distance of 15.00 feet to a point in the aforesaid west right of way line of Wilmington Pike;

Thence along said west right of way line, S04°49'20"W a distance of 55.00 feet;

Thence along a proposed water main easement the following three (3) courses:

1. N85°10'40"W a distance of 5.00 feet;
2. S04°49'20"W a distance of 55.00 feet;



**THE  
KLEINGERS  
GROUP**



3. **S85°10'40"E a distance of 5.00 feet to a point in the aforesaid west right of way line of Wilmington Pike;**

**Thence along said west right of way line, S04°49'20"W a distance of 25.00 feet to the Point of Beginning;**

**Containing 0.081 acres of land more or less and being subject to easements and rights of way of record.**

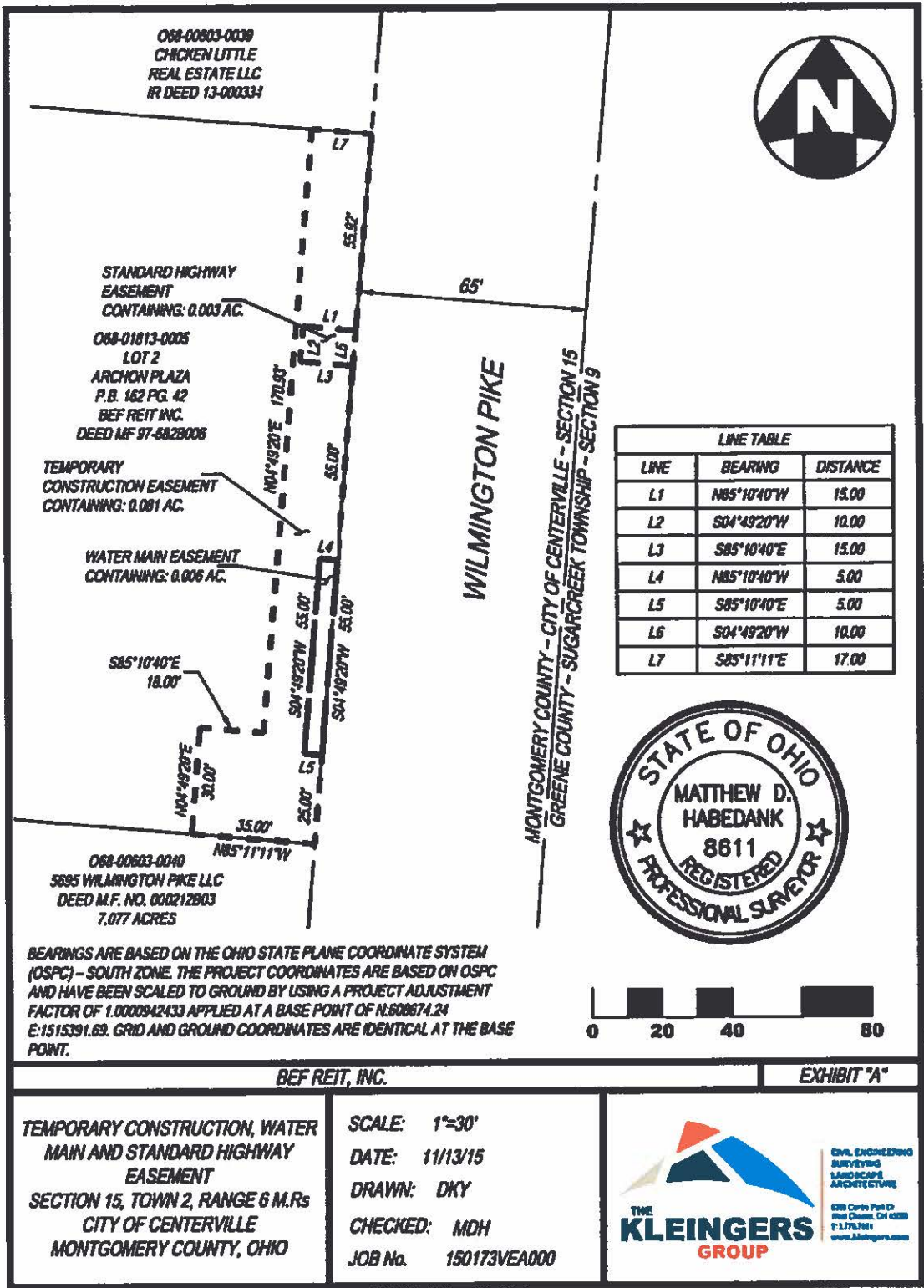
**Bearings are based on the Ohio State Plane Coordinate System (OSPC) – South Zone. The project coordinates are based on OSPC and has been scaled to ground by using a project adjustment factor of 1.0000942433 applied at a base point of N: 608674.24 E: 1515391.69. Grid and ground coordinates area identical at the base point.**

**All as shown on attached Exhibit "A".**

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**MATTHEW D. HABEDANK, P.S.  
OHIO PROFESIONAL SURVEYOR NO. 8611**

**DATE**



068-00803-0039  
CHICKEN LITTLE  
REAL ESTATE LLC  
IR DEED 13-000334

STANDARD HIGHWAY  
EASEMENT  
CONTAINING: 0.003 AC.

068-01813-0005  
LOT 2  
ARCHON PLAZA  
P.B. 162 PG. 42  
BEF REIT INC.  
DEED MF 97-8828008

TEMPORARY  
CONSTRUCTION EASEMENT  
CONTAINING: 0.081 AC.

WATER MAIN EASEMENT  
CONTAINING: 0.006 AC.

S85°10'40"E 18.00'  
N04°49'20"E 30.00'  
S04°49'20"W 55.00'  
S04°49'20"W 55.00'  
N04°49'20"E 170.93'  
S04°49'20"W 55.00'  
S04°49'20"W 55.00'  
N85°11'11"W 35.00'

068-00803-0040  
5695 WILMINGTON PIKE LLC  
DEED M.F. NO. 000212803  
7.077 ACRES

BEARINGS ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM (OSPC) - SOUTH ZONE. THE PROJECT COORDINATES ARE BASED ON OSPC AND HAVE BEEN SCALED TO GROUND BY USING A PROJECT ADJUSTMENT FACTOR OF 1.0000942433 APPLIED AT A BASE POINT OF N.600674.24 E:1515391.69. GRID AND GROUND COORDINATES ARE IDENTICAL AT THE BASE POINT.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N85°10'40"W	15.00
L2	S04°49'20"W	10.00
L3	S85°10'40"E	15.00
L4	N85°10'40"W	5.00
L5	S85°10'40"E	5.00
L6	S04°49'20"W	10.00
L7	S85°11'11"E	17.00



BEF REIT, INC.

EXHIBIT "A"

TEMPORARY CONSTRUCTION, WATER  
MAIN AND STANDARD HIGHWAY  
EASEMENT  
SECTION 15, TOWN 2, RANGE 6 M.R.s  
CITY OF CENTERVILLE  
MONTGOMERY COUNTY, OHIO

SCALE: 1"=30'  
DATE: 11/13/15  
DRAWN: DKY  
CHECKED: MDH  
JOB No. 150173VEA000

THE KLEINGERS GROUP  
CIVIL ENGINEERING  
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