

ORDINANCE NO. 10-16

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Jamne Ray 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 5495 WHIPP ROAD, 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. 23-16, passed on March 28, 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. 23-16 passed March 28, 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:

Permanent Take Parcel 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 \$61,529.00. 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 \$61,529.00, 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 18th day of April, 2016.

Brook A. Compton
Mayor of the City of Centerville, Ohio

ATTEST:

Carin R. Andrews
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. 10-16, passed by the Council of the City of Centerville, Ohio on the 18th day of April, 2016.

Carin R. Andrews
Clerk of Council

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



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**LEGAL DESCRIPTION
SPEEDWAY SUPERAMERICA
0.112 ACRES**

Situated in Section 15, Town 2, Range 6, MRs, City of Centerville, Montgomery County, Ohio being part of a 1.993 acre (deed) tract of land conveyed to Speedway Super America, LLC in Deed M.F. #1998-0076E03 of the Montgomery County, Ohio Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a 5/8" iron pin set in the west right of way line of Wilmington Pike, said point being S04°49'20"W a distance of 96.71 feet from the northeast corner of Lot 3 of Whipp Road Plat as recorded in P.B. 145 Pg 37;

Thence along said west right of way line, S04°49'20"W a distance of 96.55 feet to a 5/8" iron pin found;

Thence continuing, along a curve to the right an arc distance of 23.56 feet to a 5/8" iron pin set in the north right of way line of Whipp Road, said curve having a radius of 15.00 feet, a delta of 89°59'31" and a chord bearing S49°49'05"W a distance of 21.21 feet;

Thence along said north right of way line N85°11'09"W a distance of 2.11 feet to a point, said point being witnessed by a 5/8" iron pin found lying 0.3 feet West;

Thence continuing, along a curve to the right an arc distance of 349.47 feet to a 5/8" iron pin found at the southwest corner of the aforementioned Lot 3, said curve having a radius of 735.25 feet, a delta of 27°13'59" and a chord bearing N71°34'09"W a distance of 346.19 feet;

Thence along the west line of said Lot 3, N25°50'02"E a distance of 6.03 feet to a 5/8" iron pin set;

Thence along new division lines, the following six (6) courses:

1. Along a curve to the left an arc distance of 293.80 feet to a 5/8" iron pin set, said curve having a radius of 782.00 feet, a delta of 21°31'35" and a chord bearing S71°02'32"E a distance of 292.08 feet;
2. N89°40'56"E a distance of 25.31 feet to a 5/8" iron pin set;
3. N00°19'04"W a distance of 3.00 feet to a 5/8" iron pin set;
4. N89°40'56"E a distance of 7.94 feet to a 5/8" iron pin set;

**THE
KLEINGERS
GROUP**



5. Along a curve to the left an arc distance of 51.77 feet to a 5/8" iron pin set, said curve having a radius of 36.00 feet, a delta of 82°23'16" and a chord bearing N48°29'18"E a distance of 47.42 feet;
6. Along a curve to the right an arc distance of 55.59 feet to the point of beginning, said curve having a radius of 7877.00 feet, a delta of 0°24'16" and a chord bearing N07°29'47"E a distance of 55.59 feet.

Containing 0.112 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 are identical at the base point.

The above description is based upon a field survey made by The Kleingers Group under the direction of Matthew D. Habedank, Ohio Professional Surveyor No. 8611. A plat of survey is recorded in Volume _____ Page _____ of the Montgomery County Engineers Record of Land Surveys.

MATTHEW D. HABEDANK, P.S.
OHIO PROFESSIONAL SURVEYOR NO. 8611

DATE

EXHIBIT "B"



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**LEGAL DESCRIPTION
SPEEDWAY SUPERAMERICA
WATER MAIN EASEMENT**

Situated in Section 15, Town 2, Range 6, MRs, City of Centerville, Montgomery County, Ohio being part of a 1.993 acre (deed) tract of land conveyed to Speedway Super America, LLC in Deed M.F. #1998-0078E03 of the Montgomery County, Ohio 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, said point being S04°49'20"W a distance of 61.00 feet from the northeast corner of Lot 3 of Whipp Road Plat as recorded in P.B. 145 Pg 37;

Thence along said west right of way line, S04°49'20"W a distance of 35.71 feet;

Thence the following four (4) courses:

1. Along a curve to the left an arc distance of 55.59 feet, said curve having a radius of 7877.00 feet, a delta of 0°24'16" and a chord bearing S07°29'47"W a distance of 55.59 feet;
2. Along a curve to the right an arc distance of 8.66 feet, said curve having a radius of 36.00 feet, a delta of 13°47'17" and a chord bearing S14°11'18"W a distance of 8.64 feet;
3. N04°49'20"E a distance of 99.77 feet;
4. S85°10'40"E a distance of 4.00 feet to the point of beginning.

Containing 0.007 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.

MATTHEW D. HABEDANK, P.S.
OHIO PROFESSIONAL SURVEYOR NO. 8611

DATE



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**LEGAL DESCRIPTION
SPEEDWAY SUPER AMERICA
TEMPORARY CONSTRUCTION EASEMENT**

Situated in Section 15, Town 2, Range 6, MRs, City of Centerville, Montgomery County, Ohio being part of a 1.993 acre (deed) tract of land conveyed to Speedway Super America, LLC in Deed M.F. #1998-0076E03 of the Montgomery County, Ohio Recorder's Office, the boundary of a temporary construction easement being more particularly described as follows:

Beginning at the northeast corner of Lot 3 of Whipp Road Plat as recorded in P.B. 145 Pg 37;

Thence along the west right of way line of Wilmington Pike, S04°49'20"W a distance of 61.00 feet;

Thence the following seven (7) courses:

1. N85°10'40"W a distance of 4.00 feet;
2. S04°49'20"W a distance of 99.77 feet;
3. Along a curve to the right an arc distance of 43.11 feet, said curve having a radius of 36.00, a delta of 68°35'59" and a chord bearing S55°22'56"W a distance of 40.57 feet;
4. S89°40'56"W a distance of 7.94 feet;
5. S00°19'04"E a distance of 3.00 feet;
6. S89°40'56"W a distance of 25.31 feet;
7. Along a curve to the right an arc distance of 293.80 feet to a point in the west line of the aforementioned Lot 3, said curve having a radius of 782.00 feet, a delta of 21°31'35" and a chord bearing N71°02'32"W a distance of 292.08 feet;

Thence along said west line, N25°50'02"E a distance of 10.02 feet;

Thence the following five (5) courses:

1. Along a curve to the left an arc distance of 226.20 feet, said curve having a radius of 772.00 feet, a delta of 16°47'16" and a chord bearing S68°37'21"E a distance of 225.39 feet;
2. N14°29'55"E a distance of 12.47 feet;
3. S78°17'54"E a distance of 71.91 feet;
4. N29°30'43"E a distance of 91.07 feet;
5. N04°51'32"E a distance of 89.61 feet to a point in the north line of the aforementioned Lot 3;



Thence along said north line, S85°11'11"E a distance of 20.19 feet to the point of beginning.

Containing 0.209 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.

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

DATE

INSPIRED PEOPLE CREATIVE DESIGN TRANSFORMING COMMUNITIES



BEARINGS ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM (OSPCS) - SOUTH ZONE. THE PROJECT COORDINATES ARE BASED ON OSPCS AND HAVE BEEN SCALING TO GROUND BY USING A PROJECT ADJUSTMENT FACTOR OF 1.000000000 APPLIED AT A BASE POINT OF N 6250124.1 E 1155591.00 CHD AND GROUND COORDINATES ARE IDENTICAL AT THE BASE POINT.

018-01183-0001
PT. LOT 4
WHIPP ROAD PLAT
P.R. 143 PG. 37
NEARLAND FEDERAL CREDIT UNION
IN DEED 84-08780
1.157 ACRES (DEED)
S.R. 2008-0001

018-01183-0002
LOT 2
WHIPP ROAD PLAT
P.R. 143 PG. 37
SPEEDWAY SUPER AMERICA LLC
IN DEED 84-08780
1.150 ACRES (DEED)

018-01183-0003
PT. LOT 4
WHIPP ROAD PLAT
P.R. 143 PG. 37
SPEEDWAY SUPER AMERICA LLC
IN DEED 84-08780
1.150 ACRES (DEED)

018-01183-0007
PT. LOT 2
ANCHOR PLAZA
P.R. 152 PG. 42
HOWARD S. CARPER
IN DEED 84-08780
1.091 ACRES (DEED)
S.R. 2008-0001

018-0082-0003
CHICKEN LITTLE
REAL ESTATE LLC
IN DEED 13-00001

SUNSHINE & CROSSING
PERMANENT, LLC
O.R. 248 PG. 130

LOT 7
1.80 AC. (PLAT)
SUNSHINE & CROSSING
P.C. 34 PG. 288-292

LOT 10
CONCRETE, SECTION ONE
REPLAT OF LOT 1A
P.C. 35 PG. 288 & 284

LINE	BEARING	DISTANCE
L1	N85°11'00"W	2.11
L2	N85°30'00"E	8.60
L3	N85°40'00"E	25.31
L4	N85°17'00"W	3.00
L5	N85°40'00"E	7.04
L6	S85°40'00"E	4.60
L7	N85°30'00"E	10.60
L8	RN 20°30"E	12.42

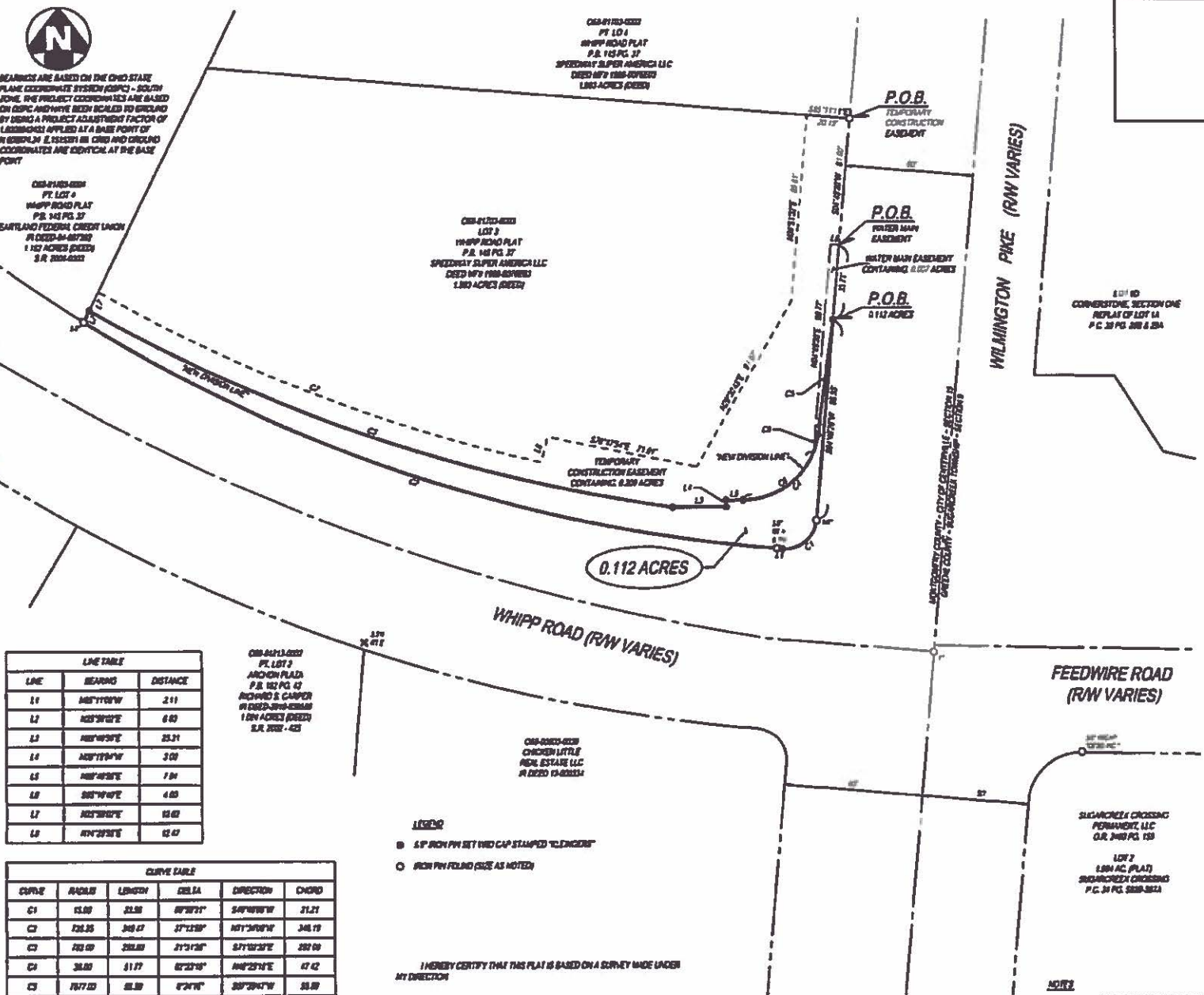
CURVE	RADIUS	LENGTH	CHORD	DIRECTION	CHORD
C1	15.00	23.50	19.7021	S49°48'00"W	31.21
C2	720.25	340.17	37°12'50"	N71°30'00"W	346.19
C3	700.00	290.00	31°21'30"	S71°00'00"E	280.00
C4	30.00	51.77	62°23'30"	N46°25'00"E	47.42
C5	107.00	61.30	7°24'16"	S67°30'00"W	58.80
C6	30.00	8.80	15°47'17"	S44°11'00"W	8.61
C7	712.00	226.20	18°44'40"	S80°37'00"E	226.20
C8	30.00	43.11	67°30'30"	N81°23'00"E	40.57

- LEGEND**
- 5/8" IRON PIN SET WITH CAP STAMPED "E.L.C." (ELECTRIC LOCATOR)
 - IRON PIN FOUND (SIZE AS NOTED)

I HEREBY CERTIFY THAT THIS PLAT IS BASED ON A SURVEY MADE UNDER MY DIRECTION.

SEYMOUR B. HANCOCK, P.E.
OHIO PROFESSIONAL SURVEYOR NO. 8811

DATE



THE KLEINGERS GROUP

CHE, ENGINEERING www.kleingers.com
SURVEYING
LANDSCAPE ARCHITECTURE

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913.770.7001

SEAL

NO.	DATE	DESCRIPTION
1	10/16/18	INITIAL SURVEY - DTY
2	2/22/24	REVISE R/W - WDM

BOUNDARY SURVEY
0.112 ACRES
SECTION 10, TOWN 2, RANGE 2, MERIDIAN
CITY OF CENTERVILLE
MONTGOMERY COUNTY, OHIO

PROJECT NO: 10017260000
DATE: 10/16/18



SHEET NAME:
SPEEDWAY SUPER AMERICA

SHEET NO:
1 OF 1

- NOTES**
1. ALL MONUMENTS FOUND IN GOOD CONDITION
 2. SOURCE DOCUMENTS ARE AS NOTED
 3. OCCUPATION IS AS SHOWN