

**ORDINANCE NO. O-15-20**

**AN AMENDED ORDINANCE VACATING A PORTION OF WESTLAKE DRIVE AND RETAINING A UTILITY EASEMENT ON A PORTION OF THE AREA VACATED; AND DECLARING AN EMERGENCY.**

WHEREAS, Amherst Manor Company, Ltd., an Ohio Limited Liability Company, filed a petition pursuant to R.C. 723.04 to vacate a portion of Westlake Drive, created by the subdivision known as Westlake Allotment No. 2, the plat of which is filed with the Lorain County Recorder in Volume 20, Page 25 of Plats; and

WHEREAS, the petitioner, Amherst Manor Company, Ltd., was the owner of all property adjoining and contiguous to the parcel to be vacated pursuant to the ordinance granting such petition; and

WHEREAS, the Building and Lands Committee of the Amherst City Council considered this matter at its regular meeting on June 1, 2015 and recommended that the petition be brought before the Amherst City Council on emergency; and

WHEREAS, the council for the City of Amherst, Ohio, entered into findings and approved the petition at its regular meeting on June 8, 2015, adopting ordinance O-15-18; and

WHEREAS, the petitioner has informed the City of Amherst that the petitioner was incorrectly identified on the survey provided as Amherst Manor, Ltd. when in fact the owner of the adjacent land and the petitioner should have been identified as Amherst Manor Company, Ltd., and desires that the ordinance approving the vacation of a portion of Westlake Drive be amended to reflect that the contiguous owner is Amherst Manor Company, Ltd., and that the vacation of that portion of Westlake Drive, Amherst, Ohio pursuant to such petition should cause title to the vest in Amherst Manor Company, Ltd., and not in Amherst Manor, Ltd; and

WHEREAS, the Building and Lands Committee of the Amherst City Council considered this matter at its regular meeting on July 6, 2015 and recommended that the petition again be brought before the Amherst City Council on emergency to amend the previous ordinance passed as O-15-18.

NOW, THEREFORE, be it ordained by the Council of the City of Amherst, County of Lorain, and State of Ohio:

SECTION 1: That the Council for the City of Amherst enters into the following Findings:

- A. The it has received a petition pursuant to R.C. 723.04 to vacate a portion of Westlake Drive as described in Exhibit A-1 and shown in Exhibit A-2 attached hereto;
- B. The petition was submitted by Amherst Manor Company, Ltd., an Ohio Limited Liability Company, which company is the owner of all of the land adjoining and contiguous to the parcel to be vacated;
- C. There is good cause to vacate the portion of the street for the reason that Amherst Manor Company, Ltd. needs the vacated portion of the street in order to expand its facilities and for the further reason that the City of Amherst no longer has an interest in the parcel to be vacated serving as a dedicated public street;
- D. It will not be detrimental to the public interest to vacate the portion of the public street for the reason set forth in Finding C above.

SECTION 2: That notice of the pending petition pursuant to R.C. 723.07 is not required for the reason that the petitioner, Amherst Manor Company, Ltd., is the owner of all land adjoining

and contiguous to the parcel to be vacated and has entered its written consent to the vacation pursuant to R.C. 723.06.

SECTION 3: That the City of Amherst, Ohio, hereby vacates that portion of the public street known as Westlake Drive described in Exhibit A-1 as shown in Exhibit A-2 attached hereto. The vacation of that portion of the street shall cause title to vest in the petitioner, Amherst Manor Company, Ltd., subject to the retained easement of the City of Amherst as described in Section 4 below.

SECTION 4: That the City of Amherst, Ohio, shall retain a permanent easement in the portion of the street vacated as described in Exhibit B-1 as shown in Exhibit B-2 attached hereto for the purpose of maintaining, operating, renewing, reconstructing, and removing of public utility facilities pursuant to R.C. 723.041.

SECTION 5: That petitioner, Amherst Manor Company, Ltd., shall cause a certified copy of this Ordinance to be filed with the Lorain County Recorder to evidence the vacation of the portion of Westlake Drive as described in Exhibit A-1 and to evidence the retained easement of the City of Amherst in that portion of the vacated street as described in Exhibit B-1.

SECTION 6: 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 action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7: That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of Amherst, Ohio, for emergency being the need to facilitate the expansion of the facilities of Amherst Manor Company, Ltd., which expansion is in the interest of the City of Amherst and its citizens; and provided it receives the majority vote of two-thirds or more of those elected to City Council, it shall go into full force and effect from and immediately after its passage and its approval by the Mayor; otherwise it shall take effect at the earliest period allowed by law.

1<sup>st</sup> reading  
2<sup>nd</sup> reading  
3<sup>rd</sup> reading

July 13, 2015

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PASSED

July 13, 2015

APPROVED

7-14-15

ATTEST



David A. Taylor, Mayor



John S. Dietrich, President of Council

Approved as to form by:



Anthony R. Pecora, Director of Law

Filed with the Mayor: July 14, 2015

Certified as a True and Exact Copy of the Original



Clerk of Council



SCALE: 1" = 30'

NOTE: BEARINGS ARE BASED ON AN ASSUMED MERIDIAN AND ARE USED TO DENOTE ANGLES ONLY.



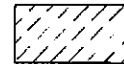
## EXHIBIT "A-1" SKETCH OF VACATION

### CREATING A VACATION OF A PART OF WESTLAKE DRIVE

SITUATED IN THE CITY OF AMHERST, COUNTY OF LORAIN AND KNOWN AS BEING PART OF ORIGINAL AMHERST TOWNSHIP LOT No. 18.

WESTLAKE  
DRIVE 60' RW

#### HATCH LEGEND:



RIGHT-OF-WAY VACATION AREA  
(2117 S.F. - 0.0486 ACRES)

S/L 35  
WESTLAKE ALLOTMENT No.2  
Vol. 20, Page 25 T.P.O.B.

N.88°47'36"E.  
98.07'

P.O.B.  
S/W CORNER  
S/L 35



6-19-2015

P.P. No.  
05-00-018-106-052

AMHERST MANOR COMPANY, LTD.  
O.R. Vol. 1235, Pg. 328  
03/19/1996

P.P. No.  
05-00-018-106-016

S/L 22  
WESTLAKE ALLOTMENT No.2  
Vol. 20, Page 25

P.P. No.  
05-00-018-106-017

Curve Table

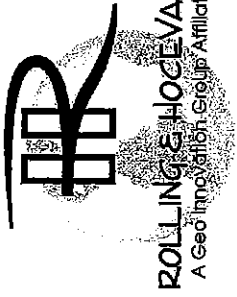
Curve #	Length	Radius	Delta	Tangent	Chord Direction	Chord Length
C1	40.87'	110.00'	21°11'05"	20.57'	N66° 18' 37"E	40.44'
C2	34.05'	50.00'	39°01'01"	17.71'	S69° 42' 16"W	33.40'

MAY 2015



CIVIL ENGINEERING & SURVEYING  
257 SOUTH COURT STREET  
SUITE 8  
MEDINA, OHIO 44256  
PHONE: (330)723-1828  
FAX: (330)723-6637

RHS Proj No. 22536



Engineering and Surveying  
257 S. Court St. • Suite 6  
Medina, Ohio 44256  
Phone: 330-723-1828 • 800-723-1870  
Fax: 330-723-6637  
E-mail: info@rh-inc.com

Legal Description for  
Vacation of a part of Westlake Drive  
Project No. 22,536  
June 19, 2015

Situated in the City of Amherst, County of Lorain and State of Ohio, also known as being part of Original Amherst Township Lot No. 18 and being part of Westlake Drive, having a 60-foot width, further bounded and described as follows:

Commencing at the Southwest corner of Sublot No. 35 of Westlake Allotment No. 2 as shown by the plat recorded in Plat Volume 20, Page 25 of Lorain County Recorder's Records;

Thence along the Southern line of said Sublot No. 35, bearing North 88°47'36" East for a distance of 98.07 feet to a point of curvature thereon, also being a Northeast corner of lands conveyed to Amherst Manor Company, Ltd. by deed dated March 19, 1996 as recorded in Official Record Volume 1235, Page 328 of Lorain County Recorder's Records and the **TRUE PLACE OF BEGINNING** of the Vacation Area herein described;

Thence continuing along the Southern line of said Sublot No. 35 and along a curve to the left having a delta of 39°01'01", a radius of 50.00 feet, a tangent of 17.71 feet, and the long chord of which bears North 69°42'16" East for a distance of 33.40 feet for an arc length of 34.05 feet to a point;

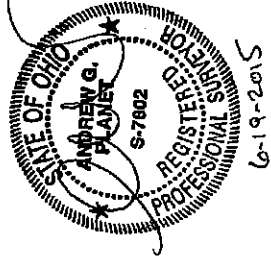
Thence, bearing South 39°48'14" East, a distance of 59.45 feet to a point on a Northern line of aforesaid lands of Amherst Manor Company, Ltd.;

Thence along a Northern line of aforesaid lands of Amherst Manor Company, Ltd. and along a non-tangent curve to the right having a delta of 21°11'05", a radius of 110.00 feet, a tangent of 20.57 feet, and the long chord of which bears South 66°19'37" West for a distance of 40.44 feet for an arc length of 40.67 feet to an interior corner of said lands of Amherst Manor Company, Ltd.;

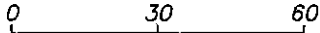
Thence continuing along a Northern line of aforesaid lands of Amherst Manor Company, Ltd., bearing North 32°43'36" West, a distance of 59.82 feet to a point and the **TRUE PLACE OF BEGINNING**, containing 0.0486 Acres (2,117 Square Feet) of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey under the supervision of Andrew G. Planet, P.S. No. S-7802 by Rolling & Hoyer, Inc. in May 2015.



Legal description reviewed by TS  
on 1/3/16 per ORC, Section 5713.00



SCALE: 1" = 30'

NOTE: BEARINGS ARE BASED ON AN ASSUMED MERIDIAN AND ARE USED TO DENOTE ANGLES ONLY.



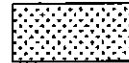
## EXHIBIT "A-2" SKETCH OF EASEMENT

CREATING A VARIED WIDTH  
NON-EXCLUSIVE ACCESS & UTILITY EASEMENT

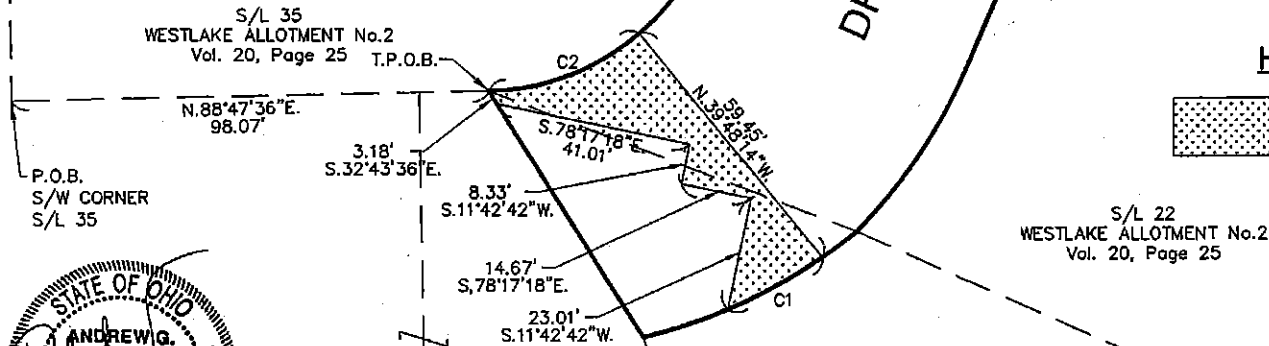
SITUATED IN THE CITY OF AMHERST, COUNTY OF LORAIN AND KNOWN AS BEING PART OF ORIGINAL AMHERST TOWNSHIP LOT No. 18.

WESTLAKE DRIVE 60' RW

### HATCH LEGEND:



UTILITY EASEMENT AREA  
(857 S.F. - 0.0197 ACRES)



P.P. No. 05-00-018-106-052

AMHERST MANOR COMPANY, LTD.  
O.R. Vol. 1235, Pg. 328  
03/19/1996

P.P. No. 05-00-018-106-016

P.P. No. 05-00-018-106-017

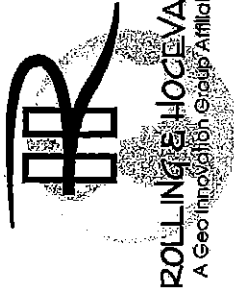
Curve Table						
Curve #	Length	Radius	Delta	Tangent	Chord Direction	Chord Length
C1	22.23'	110.00'	11°34'37"	11.15'	N61° 31' 23"E	22.19'
C2	34.05'	50.00'	39°01'01"	17.71'	S69° 42' 16"W	33.40'

MAY 2015



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Legal Description for a Varied Width  
Non-Exclusive Access & Utility Easement  
Project No. 22,536  
June 19, 2015

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Thence continuing along the Southern line of said Sublot No. 35 and along a curve to the left having a delta of 39°01'01", a radius of 50.00 feet, a tangent of 17.71 feet, and the long chord of which bears North 69°42'16" East for a distance of 33.40 feet for an arc length of 34.05 feet to a point;

Thence, bearing South 39°48'14" East, a distance of 59.45 feet to a point on a Northern line of aforesaid lands of Amherst Manor Company, Ltd.;

Thence along a Northern line of aforesaid lands of Amherst Manor Company, Ltd. and, along a non-tangent curve to the right having a delta of 11°34'37", a radius of 110.00 feet, a tangent of 11.15', and the long chord of which bears South 61°31'23" West for a distance of 22.19 feet for an arc length of 22.23 feet to a point;

Thence, bearing North 11°42'42" East, a distance of 23.01 feet to a point;

Thence at a right angle, bearing North 78°17'18" West, a distance of 14.67 feet to a point;

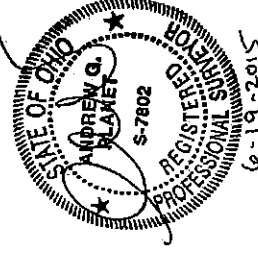
Thence at a right angle, bearing North 11°42'42" East, a distance of 8.33 feet to a point;

Thence at a right angle, bearing North 78°17'18" West, a distance of 41.01 feet to a point on a Northern line of aforesaid lands of Amherst Manor Company, Ltd.;

Thence along a Northern line of said lands of Amherst Manor Company, Ltd., bearing North 32°43'36" West, a distance of 3.18 feet to a point on the Southern line of aforesaid Sublot No. 35 and the **TRUE PLACE OF BEGINNING**, containing 0.0197 Acres (857 Square Feet) of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey under the supervision of Andrew G. Planet, P.S. No. S-7802 by Rolling & Hocevar, Inc. in May 2015.



Legal description reviewed by VS  
on 11/3/16 per ORC, Section 5713.09