

North Canton City Council  
Street and Alley Committee

Ordinance No. 40 - 2016

An ordinance approving, confirming, and accepting a perpetual public fire hydrant and waterline easement for the real property known as part of Parcel No. 9208743, and being part of Out Lot No. 200, by and between the City of North Canton, an Ohio charter municipal corporation ("City"), Grantee, and Jan D Walther Irrevocable Trust, Grantor, and declaring the same to be an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

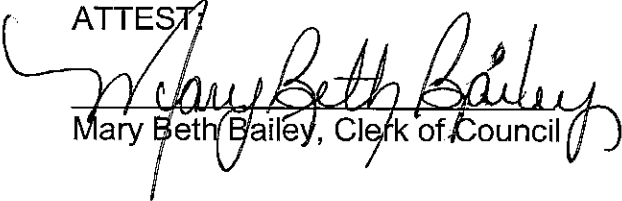
- Section 1. That a perpetual public fire hydrant and waterline easement for the real property known as Parcel No. 9208743, by and between the City, Grantee, and Jan D Walther Irrevocable Trust, Grantor, be, and the same is hereby approved, confirmed and accepted.
- Section 2. That the easement is more fully described in documents attached hereto, which are incorporated herein as if fully rewritten herein.
- Section 3. That if a provision of this ordinance is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 4. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and peace of the City of North Canton and further necessary for the timely completion hydrant and waterlines to be installed, wherefore, provided it receives the affirmative vote of six or more members of Council elected thereto, this ordinance shall take effect and be in full force immediately upon its adoption by Council and approval by the Mayor.

Passed in Council this 23<sup>rd</sup> day of May 2016

  
David Held, Mayor

Signed: 5/23, 2016

ATTEST

  
Mary Beth Bailey, Clerk of Council

**PERPETUAL PUBLIC FIRE HYDRANT  
And WATER LINE EASEMENT  
Parcel No.: 9208743**

For and in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the **Jan D. Walther Irrevocable Trust**, GRANTOR, does hereby give and grant unto **THE CITY OF NORTH CANTON**, an Ohio municipal corporation, GRANTEE, a perpetual easement to lay, re-lay, construct, install, maintain, operate, alter, inspect, repair, remove, replace, and renew at will a potable water main, and to perform any other tasks GRANTEE deems necessary or advisable in order to operate or maintain water mains, connections, pipes and appurtenances in accordance with the ordinances, rules, and regulates of Grantee, which are now in effect or may be adopted hereafter, including the right of ingress and egress at any time to and from such utility and all appurtenances thereto on, under and through the following property, a/k/a the "Easement Area":

**SEE ATTACHED EXHIBIT "A"**

It is agreed by and between Grantor and Grantee as follows:

1. That the Grantee shall have the right to remove fences, shrubbery, plants, trees, landscaping, lawns, driveways, walkways, and paving within the Easement Area during initial construction or future maintenance of the utility and all appurtenances thereto. The Grantee shall be responsible to restore the surface area of the easement, disturbed by Grantee, to as closely as possible to its condition at the time of construction or maintenance. The Grantee will pay reasonable damages for items which cannot be restored or repaired. If the amount of said damages cannot be mutually agreed upon, the same shall be ascertained and determined by three disinterested persons; one appointed by the Grantor, one by the Grantee, and the third by the two so appointed. The award of such three persons shall be final and conclusive.
2. That no building or structure of any kind shall or will be erected within the easement area by Grantor, nor shall anything be placed in the vicinity of the easement which might be injurious to the utility. However, nothing herein shall interfere with the right of Grantor to place driveways, parking areas, or walkways in said easement. Grantor shall not change the ground elevation, within the easement area, without approval of Grantee.
3. That the Grantor may extend across, or grant easements to others to extend across said easement area to minimum acceptable clearances as determined by the Grantee.
4. That Grantor shall indemnify, defend and hold harmless Grantee from any and all claims, liabilities, damages, actions, costs and expenses or complaints, including reasonable attorney fees, arising out of Grantor's use of the Easement Area.
5. That upon removal of said utility and all appurtenances thereto, the Easement Area shall be restored as closely as possible to its then condition at the time of removal.

6. That this grant shall be binding upon the Grantor and Grantee and shall inure to the benefit of their respective heirs, executors, administrators, successors, and assigns forever.
7. That Grantor covenants with Grantee that it is well seized of the Easement Area as a good and indefeasible estate in fee simple and has the right to grant and convey the Easement Area in the manner and form described above. Grantor further covenants that it will warrant and defend the premises with the appurtenances thereunto belonging to Grantee against all lawful claims and demands whatsoever for the purposes described herein.
8. That this easement is subject to all matters of record.

IN WITNESS WHEREOF, the undersigned grantor(s) have caused their name to be subscribed to this Perpetual Public Fire Hydrant and Water Line Easement this 2<sup>nd</sup> day of May, 2016.

**GRANTOR(S):**

Jan D. Walther Irrevocable Trust

By: Jan D. Walther, Trustee

*Jan D. Walther*, Trustee  
(Signed Name)

**NOTARY:**

STATE OF OHIO )  
 ) SS:  
 COUNTY OF Stark )

Before me, a Notary Public in and for said County, personally appeared Jan D. Walther, Trustee for the Jan D. Walther Irrevocable Trust who acknowledged that they did sign the foregoing instrument and that it is their free act and deed.

IN THE TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal a this 2<sup>nd</sup> Day of May, 2016.

*Jill Fitch*  
 \_\_\_\_\_  
 Notary Public

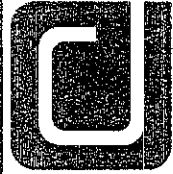


Jill Fitch  
 Notary Public, State of Ohio  
 My Commission Expires 11-19-2017

This instrument prepared by: City of North Canton  
 145 North Main Street  
 North Canton, OH 4720

EXHIBIT 'A'  
PAGE 1 OF 3  
PROJECT 14193

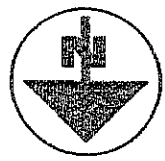
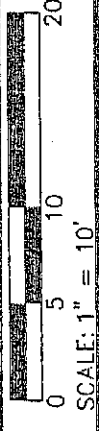
PROP. PUBLIC FIRE HYDRANT & WATERLINE EASE.  
LOCATED IN THE CITY OF NORTH CANTON



**COOPER & ASSOCIATES, LLP**  
ENGINEERS AND SURVEYORS  
1359 MARKET AVE. NORTH  
CANTON, OHIO 44714

PHONE: (330) 452-5731

SCALE: 1" = 10'  
DRAWN BY: JMG  
CHECKED BY: JEG

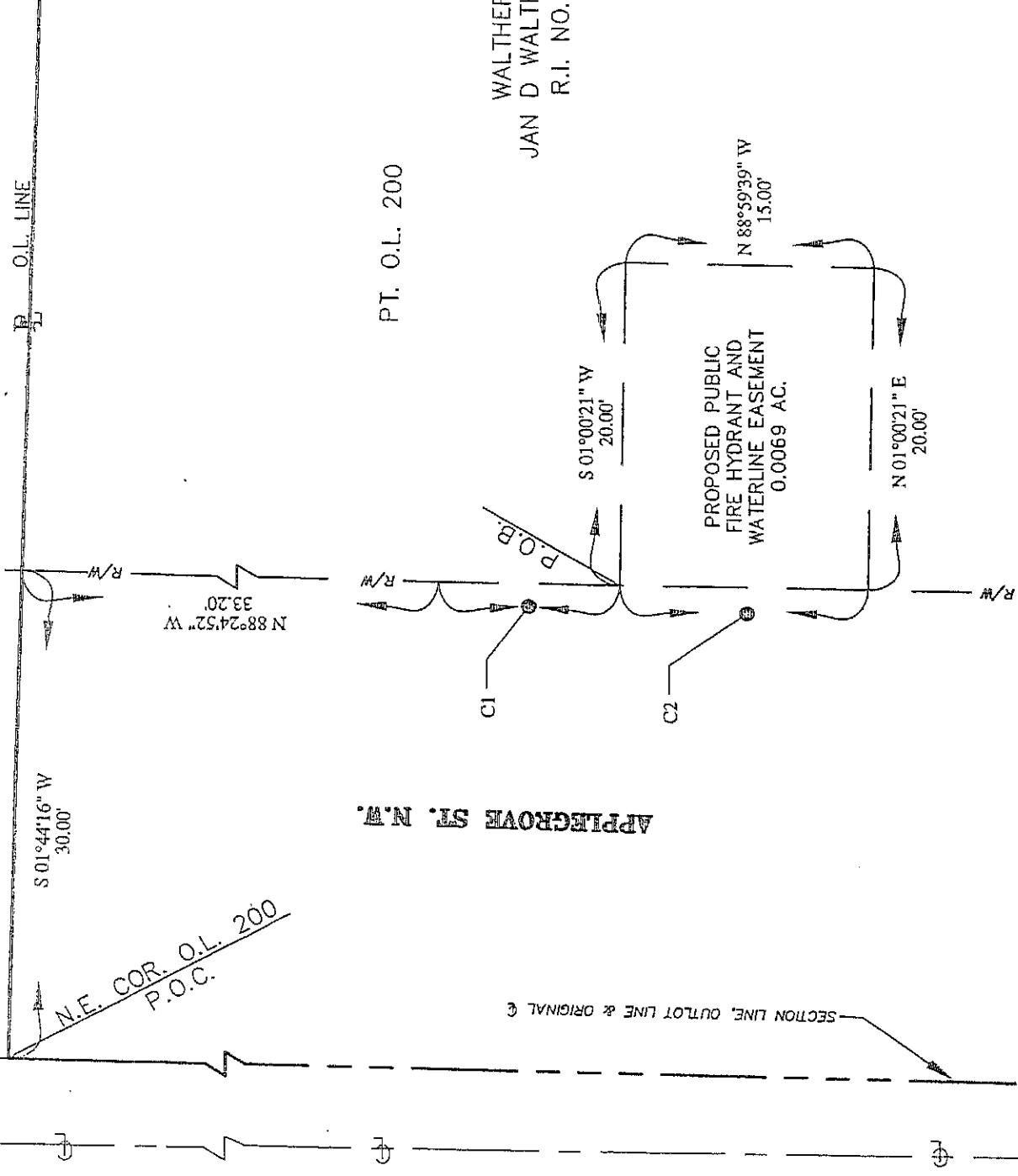


PN 9208743  
WALTHER, JAN D. TRUSTEE/  
JAN D WALTHER IRREVOCABLE TRUST  
R.I. NO. 2012/12280059701  
4.99 AC

PT. O.L. 200

APPLEGROVE ST. N.W.

PROPOSED PUBLIC  
FIRE HYDRANT AND  
WATERLINE EASEMENT  
0.0069 AC.



CURVE 'C1' DATA:	
L = 10.90'	
R = 22883.31	
Δ = 00°01'38"	
T = 5.45'	
Ch = 10.90'	
ChBrg = N88°57'42"W	

CURVE 'C2' DATA:	
L = 15.00'	
R = 22883.31	
Δ = 00°02'15"	
T = 7.50'	
Ch = 15.00'	
ChBrg = S88°59'39"E	

SECTION LINE, OUTLOT LINE & ORIGINAL

N.E. COR. O.L. 200  
P.O.C.

S 01°44'16" W  
30.00'

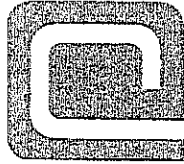
N 88°24'52" W  
33.20'

S 01°00'21" W  
20.00'

N 88°59'39" W  
15.00'

N 01°00'21" E  
20.00'

P O.L. LINE



Cooper & Associates, LLP / ENGINEERS & SURVEYORS  
Phone 330-452-5731 Fax: 330-452-9110 www.Cooperllp.com

1359 Market  
Avenue North  
Canton, Ohio 44714  
Bryan J. Ashman P.E.  
Jerold E. Geib P.S.

October 29, 2015

EXHIBIT 'A'

DESCRIPTION OF A 0.0069 ACRE  
FIRE HYDRANT & WATERLINE EASEMENT

PART OF PARCEL NO. 92-08743

Known as and being part of Out Lot 200 (Parcel #92-08743), a 4.99 acre tract of land, as situated in part of the City of North Canton, Stark County, Ohio and presently owned by Jan D. Walther, Trustee/Jan D. Walther Irrevocable Trust and recorded in Stark County Recorders Instrument Number 2012/12280059701 and being more particularly bounded and described as follows.

Beginning for the same, at a point on the original centerline of Applegrove Street NW, a public roadway of variable widths, at the northeast corner of said Out Lot 200. Thence  $S01^{\circ}44'16''W$ , along a portion of the east line of said Out Lot 200, a distance of 30.00 feet to a point on the south right-of-way line of said Applegrove Street NW.

1. Thence  $N88^{\circ}24'52''W$ , along a portion of the south line of said Applegrove Street NW, a distance of 33.20 feet, to a point of curvature;
2. Thence continuing along a portion of said right-of-way line, on an arc of a curve to the right, in a westerly direction with said curve having a central angle of  $00^{\circ}01'38''$ , a radius of 22,883.31 feet, a tangent distance of 5.45 feet and an arc length of 10.90 feet, a distance of 10.90 feet, to a point and being the **true place of beginning** for the Hydrant & Waterline Easement herein to be described (last stated curved course has a chord bearing and distance of  $N88^{\circ}57'42''W - 10.90$  feet);
3. Thence  $S01^{\circ}00'21''W$ , along a portion of the east line of the proposed Hydrant & Waterline Easement, a distance of 20.00 feet to a point;
4. Thence  $N88^{\circ}59'39''W$ , along the south line of the proposed Hydrant & Waterline Easement, a distance of 15.00 feet to a point;

5. Thence  $N01^{\circ}00'21''E$ , along the west line of the proposed Hydrant & Waterline Easement, a distance of 20.00 feet, to a point on the said south right-of-way line of Applegrove Street NW;
6. Thence along a portion of said right-of-way line, on an arc of a curve to the left, in an easterly direction with said curve having a central angle of  $00^{\circ}02'15''$ , a radius of 22,883.31 feet, a tangent distance of 7.50 feet and an arc length of 15.00 feet, a distance of 15.00 feet to a point and being the **true place of beginning** for the Hydrant & Waterline Easement herein described (last stated curved course has a chord bearing and distance of  $S88^{\circ}59'39''E - 15.00$  feet);

The above defined Hydrant & Waterline Easement contains 0.0069 acre of land more or less (300 SF).

As determined by Jerold E. Geib, PS #6725 of Cooper & Associates, LLP in November of 2015.

Subject to any and all easements, reservations, or restrictions that may be of record pertaining to the above described tract of land.