

## ORDINANCE NO. 2008-155

**AN ORDINANCE DIRECTING THE NECESSITY AND INTENT OF THE CITY OF KENT TO APPROPRIATE ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE IN 7,133 SQUARE FEET OF CERTAIN REAL PROPERTY OWNED BY TERRY MORMILE (PANCHO VILLA, INC.) FOR THE PURPOSE OF CONSTRUCTING THE NEW FAIRCHILD/CRAIN AVENUE BRIDGE, STREET WIDENING, CHANGING THE GRADE, DRIVEWAY, WALK CONSTRUCTION, AND GRADING IN FURTHERANCE OF PUBLIC ROADWAY RECONSTRUCTION OF SR 43, FAIRCHLD AVENUE, CRAIN AVENUE AND NORTH WATER STREET WHICH IS SITUATED ON BOTH SIDES OF THE CUYAHOGA RIVER, NEAR THE INTERSECTIONS OF FAIRCHILD AVENUE AND SR 43; CRAIN AVENUE AND SR 43; AND THE NEW INTERSECTION NEAR NORTH WATER STREET AND CRAIN AVENUE, IN THE CITY OF KENT, OHIO AND DECLARING AN EMERGENCY.**

**WHEREAS**, on the 20th day of August, 2008, the Council of the City of Kent adopted Resolution No. 2008-128 declaring the necessity and intent to appropriate all right, title and interest in fee simple in 7,133 square feet of certain real property hereinafter described, notice of adoption of which Resolution has been served on each owner of, each person in possession of, and each person having an interest of record in this real property, referred to as being premises located and known as 626-628 North Water Street, Terry Mormile (Pancho Villa, Inc.) being the owner of record in the premises.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of The City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1.** That Council hereby determines and directs the appropriation of all right, title and interest in fee simple in 7,133 square feet of certain real property owned by Terry Mormile (Pancho Villa, Inc.), for the purpose of making, repairing, opening, widening, straightening, changing the grade of, and extending streets or roads and building the new Fairchild/Crain Avenue Bridge or other public places. The parcel to be appropriated is situated at 626-628 North Water Street and is more fully described as follows:

**PARCEL 58-WDV**

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

Situated in the City of Kent, County of Portage and State of Ohio, being part of Lot 30 of Original Franklin Township, T-3-N, R-9-W, being a parcel of land lying on the left side of the centerline of right-of-way of N. Water Street (80 feet), as shown on the POR-CRAIN AVENUE plans made for the City of Kent, Ohio by ARCADIS G & M of Ohio, Inc. and as recorded in Reception Number \_\_\_\_\_ of the records of Portage County, Ohio and being located within the following described points in the boundary thereof:

Commencing at a 3/8" iron pin in a monument box found at the intersection of the westerly line of Original Lot 31 and the centerline of right-of-way of Lake Street (60 feet) at Station 60+27.16 on the centerline of right-of-way of Lake Street, also being Station 60+58.51, 10.00' left of the centerline of right-of-way of N. Water Street;

Thence **South 00° 13' 42" East 72.02'** along the westerly line of Original Lot 31, parallel with and 10.00' from the centerline of right-of-way of N. Water Street (passing over a bolt found 8.25' from said 3/8" iron pin) to Station 59+86.49, 10.00' left of the centerline of right-of-way of said N. Water Street;

Thence **South 89° 46' 18" West 30.00'** perpendicular from the centerline of right-of-way line of N. Water Street to an iron pin set at the northeast corner of a parcel of land now or formerly owned by Pancho Villa, Inc. (Grantor) recorded in Volume 937, Page 252, at Station 59+86.49, 40.00' left of the centerline of right-of-way of said N. Water Street; also being the TRUE PLACE OF BEGINNING of the parcel herein described:

1. Thence **South 00° 13' 42" East 163.22'** along the westerly right-of-way line of N. Water Street to Station 58+23.27, 40.00' left of the centerline of right-of-way of said N. Water Street;
2. Thence **North 89° 53' 59" West 50.32'** along the southerly property line of said parcel to the southwest corner of said parcel at Station 58+23.56, 90.32' left of the centerline of right-of-way of N. Water Street;
3. Thence **North 03° 42' 15" East 22.21'** along the westerly property line of said parcel, also being the existing easterly right-of-way line of ABC Railway Company, to an iron pin set at a point of curvature at Station 58+45.72, 88.80' left of the centerline of N. Water Street;
4. Thence continuing along the westerly property line of said Pancho Villa, Inc. parcel along the arc of a curve to the right, said curve having a delta of 01° 25' 04", a radius of 5716.00', a tangent of 70.73' and a chord of 141.45' with a chord bearing of North 04° 24' 47" East, an **arc distance of 141.45'** to an iron pin set at the northwest corner of said parcel at Station 59+86.71, 77.35' left of the centerline of right-of-way of S.R. 43 (N. Mantua Street);
5. Thence **South 89° 53' 59" East 37.35'** along the northerly property line of said parcel to the TRUE PLACE OF BEGINNING.

The above described parcel contains 7133 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 7133 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Number 170302000002-001 and subject to all legal highways and easements of record.

This description was prepared by Angela M. Metz, E.I. in December 2006 under the direct supervision of Charles A. Hauber, Registered Surveyor Number 8034 and is based on a field survey performed by Finkbeiner, Pettis & Strout, Inc. (now known as ARCADIS G & M of Ohio, Inc.) in 2004 under the direction and supervision of Michael E. Durbin, Registered Surveyor Number 7528.

Bearings in this description are based on the Ohio Coordinate System, NAD83(86), North Zone.

Grantor claims title by instrument(s) of record in Volume 937, Page 252 of the records of Portage County.

The stations referred to herein are from the centerline of right-of-way of N. Water Street and Lake Street as found on the City of Kent Right-of-Way Plan POR-CRAIN AVENUE.

Iron pins set in the above description are 5/8 inch diameter by 30 inch long rebars with a plastic cap stamped "HAUBER 8034" or a drill hole depending upon the nature of the material that is present at each corner after construction.

Grantor conveys all of the property described above, except they reserve the right of ingress and egress to and from N. Water Street for himself and his heirs, executors, administrators and assigns.

Grantor, for himself and his heirs, executors, administrators and assigns, reserves the right of ingress and egress to and from any residual area.

**SECTION 2.** That the Director of Law, or his designee, be and he is hereby authorized and directed to make application to a Court of competent jurisdiction by filing therewith a petition for

appropriation to have the above described real property appropriated and to have a jury impaneled to make inquiry into and assess the compensation to be paid for the real property so described.

**SECTION 3.** That the Director of Law, or his designee, be and is hereby authorized to make application to a Court of competent jurisdiction and file with said Court a declaration of intent dealing with the acquisition of the real property and further deposit with the Clerk of the Common Pleas Court of Portage County, Ohio, the value of the property interest to be appropriated as determined by the City of Kent.

**SECTION 4.** That the Council of the City of Kent hereby fixes the value of the real property as follows:

Purchase Price: Two Hundred Ninety Eight Thousand Dollars 00/100 (\$298,000.00)

**SECTION 5.** 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 of Section 121.22 of the Ohio Revised Code.

**SECTION 6.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council this ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 09/17/08  
DATE

\_\_\_\_\_  
MAYOR AND PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

I hereby certify that Resolution No. 2008- 155 was duly enacted this 17th day of September, 2008, by the Council of the City of Kent, Ohio.

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CLERK OF COUNCIL