

ORDINANCE 15-2019

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A TEMPORARY ACCESS EASEMENT AGREEMENT WITH M/I HOMES OF CENTRAL OHIO, LLC TO PROVIDE FOR INGRESS AND EGRESS TO AND FROM CERTAIN VILLAGE PROPERTY, AND DECLARING AN EMERGENCY.

WHEREAS, M/I Homes of Central Ohio, LLC is the owner of certain real property located in the Village of Minerva Park, County of Franklin and State of Ohio, known as Reserve “D” of Minerva Park Phase 3 and as designated and delineated in Plat Book 123, Page 35, Recorder’s Office, Franklin County, Ohio; and

WHEREAS, the Village of Minerva Park is the owner of certain real property located in the Village of Minerva Park, County of Franklin and State of Ohio, known as parcel number 113-002108-00, which property The Village of Minerva Park acquired by virtue of a deed of record as Deed Book 2352, Page 211, Recorder’s Office, Franklin County, Ohio; and

WHEREAS, the Village of Minerva Park desires to temporarily use a portion of the M/I Homes of Central Ohio, LLC Property for purposes of ingress and egress to and from the Village Property;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MINERVA PARK, OHIO, THAT:

- Section 1.** That the Mayor is hereby authorized to execute a Temporary Access Easement with M/I Homes of Central Ohio, LLC, which easement shall be in a form substantially similar to easement attached hereto as Exhibit A and incorporated herein by reference, to provide ingress and egress to and from Village Property.
- Section 2.** It is hereby found and determined that all formal actions of this Council concerning and relating to passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the Village of Minerva Park, Franklin County, Ohio.
- Section 3.** This Ordinance is hereby declared to be an emergency measure, necessary for the preservation of the public health, safety and welfare, such emergency arising from the Village needing access to otherwise landlocked parcels; wherefore this ordinance shall take effect and be in force from and after its passage.

First Reading: July 8, 2019
Second Reading: Waived
Third Reading: Waived
Passed: July 8, 2019

ATTESTS

/S/ Kim Pulley
Kim Pulley, Fiscal Officer

/S/ Lynn Eisentrout
Lynn Eisentrout, Mayor

APPROVED AS TO FORM

/S/ Eugene Hollins
Eugene Hollins, Solicitor

TEMPORARY ACCESS EASEMENT

This Temporary Access Easement ("Easement") is made and entered into as of the last date of signature below (the "Effective Date") by and between **M/I HOMES OF CENTRAL OHIO, LLC**, an Ohio limited liability company ("Grantor") and **THE VILLAGE OF MINERVA PARK, OHIO**, an Ohio municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of certain real property located in the Village of Minerva Park, County of Franklin and State of Ohio, known as Reserve "D" of Minerva Park Phase 3 and as designated and delineated in Plat Book 123, Page 35, Recorder's Office, Franklin County, Ohio ("Grantor Property").

B. Grantee is the owner of certain real property located in the Village of Minerva Park, County of Franklin and State of Ohio, known as parcel number 113-002108-00, which property Grantee acquired by virtue of a deed of record as Deed Book 2352, Page 211, Recorder's Office, Franklin County, Ohio ("Village Property").

C. Grantee desires to temporarily use a portion of the Grantor Property for purposes of ingress and egress to and from the Village Property, which portion is described and depicted as the "Easement Area" on **Exhibit A** attached hereto and made a part hereof.

D. Grantor has agreed to permit Grantee to enter the Easement Area for the purposes of ingress and egress to and from the Village Property, subject to the terms and conditions hereof.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the foregoing, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive temporary easement in, over, across and through the Easement Area for the purposes of ingress and egress to and from the Village Property.

2. Use of the Easement Area. Grantee and its representatives, employees and agents shall have the right to use the Easement Area as reasonably necessary for the purpose described in Section 1 above. Grantee shall not be permitted to store or place any materials or equipment within the Easement Area.

3. Easement Period. This Easement shall begin on the Effective Date and shall terminate upon the earlier of (i) the date upon which the Village Property (or the Village Property combined with other real property owned by Grantee) has legal frontage along a publicly dedicated right of way, or (ii) the date that is 5 years following the Effective Date (the “Easement Period”). Upon termination of this Easement, and if requested by Grantor, Grantee shall execute and deliver to Grantor an instrument in recordable form to evidence the termination of all rights under this Easement.

4. Damage and Restoration. Grantee agrees that Grantee shall restore any real property that is damaged by the exercise of any rights being provided in Grantee’s favor under this Easement. Such restoration shall occur within a reasonable amount of time after such damage occurs and shall be undertaken so as to return the damaged real property to the same or substantially similar condition as existed prior to the occurrence of the damage.

5. Insurance. Grantee shall obtain, and keep in full force and effect during the Easement Period, general liability insurance covering all acts and omissions of Grantee or those acting for or through Grantee. Such general liability insurance shall be in amounts that are customary for Grantee to obtain and retain for other similar easement rights that it enjoys. Grantee agrees to hold Grantor harmless up to the extent of Grantee’s liability insurance coverage in the event that Grantee and/or its representatives, employees or agents are found to be liable in connection with their acts or omissions under this Easement. It is expressly acknowledged by Grantor that Grantee is not pledging any funds other than available insurance proceeds with respect to Grantee’s obligation to hold Grantor harmless.

6. Covenants Run with Land. The rights and obligations created in this Easement shall run with the land and shall be binding upon and inure to the benefit of the respective successors, assigns and transferees of Grantor and Grantee.

7. Entire Agreement. This Easement constitutes the entire agreement and understanding between the parties relating to the subject matter hereof. There are no statements, promises, representations or understandings, either oral or written, not herein expressed.

8. Counterparts. This Easement may be executed in two or more counterparts, which together shall be deemed to constitute but one and the same instrument.

9. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of Ohio.

[Remainder of page intentionally left blank; Signature pages to follow]

IN WITNESS WHEREOF, this Temporary Access Easement has been executed by the parties as of the dates specified below, but is effective as of the Effective Date.

GRANTOR:

M/I HOMES OF CENTRAL OHIO, LLC,
an Ohio limited liability company

By: _____

Print Name: _____

Title: _____

STATE OF OHIO)
)
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____, the _____ of M/I HOMES OF CENTRAL OHIO, LLC, an Ohio limited liability company, on behalf of said limited liability company.

Notary Public

[Remainder of page intentionally left blank; Signature pages continue on following page]

GRANTEE:

THE VILLAGE OF MINERVA PARK, OHIO,
an Ohio municipal corporation

By: _____

Print Name: _____

Title: _____

STATE OF OHIO)
)
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____, the _____ of THE VILLAGE OF MINERVA PARK, OHIO, an Ohio municipal corporation, on behalf of said municipal corporation.

Notary Public

This instrument prepared by:
Underhill & Hodge LLC
8000 Walton Parkway, Suite 260
New Albany, Ohio 43054

Exhibit A
Easement Area

TEMPORARY ACCESS EASEMENT
0.266 ACRE

Situated in the State of Ohio, County of Franklin, Village of Minerva Park, in Quarter Township 3, Township 2, Range 17, United States Military Lands, being part of Reserve "D" of the subdivision entitled "Minerva Park Phase 3", of record in Plat Book 123, Page 35, (all references are to the records of the Recorder's Office, Franklin County, Ohio) and more particularly bounded and described as follows:

BEGINNING at the southeasterly corner of that tract conveyed to The Village of Minerva Park, Ohio, by deed of record in Deed Book 2352, Page 211, in the northerly line of the subdivision entitled "Waltham Place Section V", of record in Plat Book 97, Page 24;

Thence North 03° 31' 48" East, with the easterly line of said The Village of Minerva Park, Ohio tract, a distance of 30.00 feet to a point;

Thence South 86° 27' 57" East, crossing said Reserve "D", a distance of 246.63 feet to a point;

Thence North 03° 30' 36" East, crossing said Reserve "D", a distance of 115.93 feet to a point in the southerly right-of-way line of Black Sycamore Drive;

Thence with said southerly right-of-way line and with the arc of a curve to the left, having a central angle of 10° 36' 21", a radius of 175.00 feet, an arc length of 32.39 feet, a chord bearing of South 64° 31' 43" East and chord distance of 32.35 feet to the northwesterly corner of Lot 146 of said Phase 3;

Thence South 03° 30' 36" West, with the westerly line of said Lot 146, a distance of 133.85 feet to a point in the northerly line of Lot 334 of said Section V;

Thence North 86° 27' 57" West, with said northerly line, a distance of 276.64 feet to the POINT OF BEGINNING, containing 0.266 acre of land, more or less.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Matthew A. Kirk

27 MARCH 19

Matthew A. Kirk
Professional Surveyor No. 7865

Date

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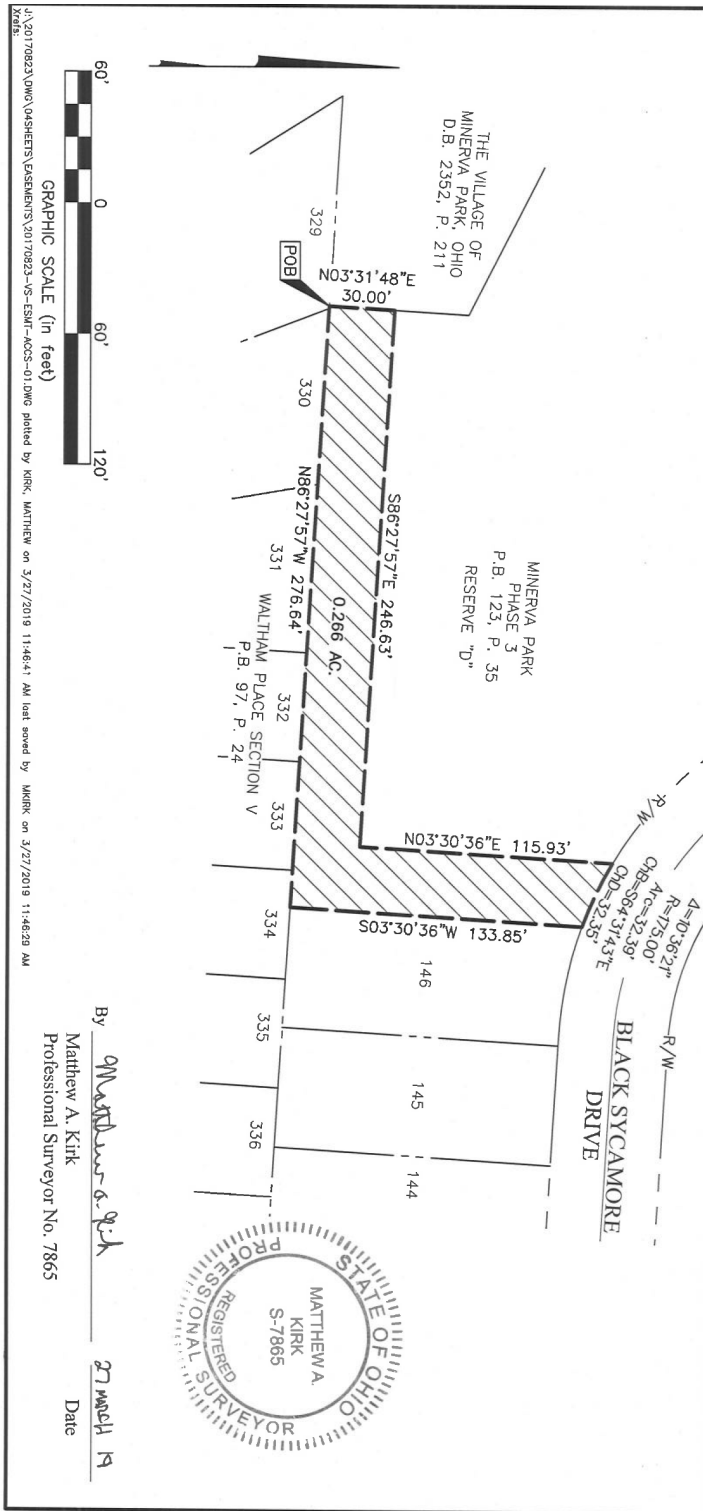


Exhibit A
Easement Area
(continued)

EMH&T
Evans, Mechtworl, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5300 New Albany Road, Columbus, OH 43234
Phone: 614/751-4500 Fax: 614/751-4501
emht.com

TEMPORARY ACCESS EASEMENT
QUARTER TOWNSHIP 3, TOWNSHIP 2, RANGE 17
UNITED STATES MILITARY LANDS
VILLAGE OF MINERVA PARK, COUNTY OF FRANKLIN, STATE OF OHIO

Date: March 27, 2019
Scale: 1" = 60'
Job No: 2017-0823



By Matthew A. Kirk 27 March 19
Matthew A. Kirk
Professional Surveyor No. 7865
Date