

**ORDINANCE NO. O-18-47**

**AUTHORIZING THE ACCEPTANCE OF AN EASEMENT FOR DRAINAGE PURPOSES FROM XENIA PIKE FARM, LLC, AS PART OF THE NELSON AVENUE CULVERT PROJECT**

WHEREAS, the City of Wilmington plans to replace a certain culvert located on N. Nelson Avenue; and

WHEREAS, Xenia Pike Farm, LLC., hereinafter referred to as the GRANTOR, is the current owner of certain real estate that the city desires to use for the purpose of stormwater and surface water runoff drainage and for the construction, maintenance, use, operation, repair, replacement, detention and removal of said drainage together with attachments and appurtenances as may be necessary for proper use of the same as part of the Nelson Avenue Culvert Replacement Project; and

WHEREAS, the GRANTOR has expressed intent to donate the real estate to the City of Wilmington and thereby has agreed to waive the right to receive compensation for the property; and

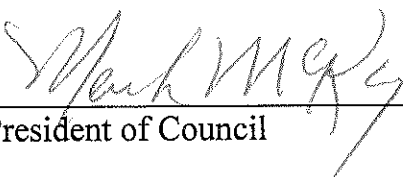
WHEREAS, the City Council of Wilmington has determined it is in the best interest of the City to accept the easement for drainage purposes from the GRANTOR.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

Section 1. That the City Council hereby accepts the drainage easement from the GRANTOR, described in the Easement for Drainage Purposes document, attached hereto and incorporated herein in a substantially similar form as "**Exhibit A.**"

Section 2. That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

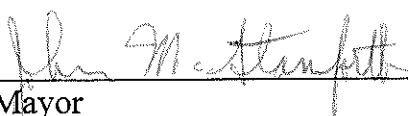
Passed this 6th day of September, 2018.

  
\_\_\_\_\_  
President of Council

ATTEST:

  
\_\_\_\_\_  
Clerk of Council

Approved by me this 6th day of September, 2018.

  
\_\_\_\_\_  
Mayor

## EASEMENT FOR DRAINAGE PURPOSES

KNOW ALL MEN BY THESE PRESENTS, that **Xenia Pike Farm, LLC**, an Ohio limited liability company, hereinafter, the Grantor, for valuable consideration, grant to the **City of Wilmington, Ohio**, an Ohio municipal corporation, hereinafter the Grantee, its successors and assigns, a permanent and perpetual drainage easement over, under and through the following described real property:

See "Exhibit A" attached hereto and incorporated herein by reference.

The above described easement is for general drainage purposes; including, but not limited to stormwater and surface water runoff drainage and for the construction, maintenance, use, operation, repair, replacement, detention, and removal of said drainage together with such attachments and appurtenances as may be necessary for the proper use of the same. This easement includes the right of ingress and egress over and through said property to the Grantee, its employees, agents, representatives, and contractors, and their respective employees, agents, representatives and subcontractors, as the Grantee deems necessary. It further includes the right to maintain temporary construction facilities thereon during the course of construction, reconstruction, repair or improvement thereof.

The Grantee hereby agrees to restore the aforesaid easement area to as near the original condition as possible at the conclusion of any construction, repair or improvement. Grantor hereby waives and releases Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the real estate described for the purposes described herein, other than its responsibility of restoration set forth above.

0-18-47  
Exhibit A

Grantor reserves the right to use the easement area for such purposes that are not inconsistent with, or unreasonably interfere with, the Grantee's permitted uses herein; however, in no event shall Grantor be permitted to construct any type of structure above or below ground within the limits of this drainage easement unless said structure is approved in writing by Grantee.

This agreement shall be binding upon the Grantor and the Grantee, and their respective heirs, executors, administrators, successors and assigns. The terms hereof cannot be changed or altered in any way except by written agreement executed by the Grantor and the Grantee.

IN WITNESS WHEREOF, the Grantor has hereunto executed this easement this \_\_\_\_ day of \_\_\_\_\_, 2018.

**XENIA PIKE FARM, LLC,**  
an Ohio limited liability company

By \_\_\_\_\_  
**Donald J. Rauch, Member**

And \_\_\_\_\_  
**Susan Douglass, Member**

STATE OF OHIO, CLINTON COUNTY, SS:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Donald J. Rauch and Susan Douglass, being members of Xenia Pike Farm, LLC, an Ohio limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public

APPROVED

By \_\_\_\_\_  
Brett W. Rudduck, Law Director

This instrument prepared by Lauren E. Raizk of Buckley, Miller, Wright & Raizk, Attorneys at Law,  
Wilmington, Ohio (City of Wilmington (Xenia Pike Farm, drainage easement) 7-24-2018)



EXHIBIT A

CINCINNATI  
COLUMBUS  
DAYTON  
LOUISVILLE

6305 Centre Park Driv  
West Chester, OH 450  
phone > 513.779.78  
fax > 513.779.78  
www.kleingers.com

Ma:

Legal Description  
Drainage Easement  
Xenia Pike Farm, LLC

Situated in Military Survey No. 1556, City of Wilmington, Clinton County, Ohio, being part of a tract of lar conveyed to Xenia Pike Farm, LLC in D.B. 824 Pg 611 of the Clinton County, Ohio Recorder's Office, the boundary of which being more particularly described as follows:

Beginning at a point in the east right of way line of Nelson Avenue, said point being N87°49'37"E a dista 30.00 feet and N02°10'23"W a distance of 44.40 feet from the northwest corner of Preston Woods Secti Phase 1 as recorded in P.B. 28 Pg 214;

Thence along said east right of way line, N02°10'23"W a distance of 48.14 feet;

Thence through the aforementioned Xenia Pike Farm, LLC tract of land, the following three (3) courses:

1. N87°49'37"E a distance of 11.17 feet;
2. S02°22'58"E a distance of 38.38 feet;
3. S47°03'38"W a distance of 14.94 feet to the point of beginning.

Containing 0.011 acres, more or less.

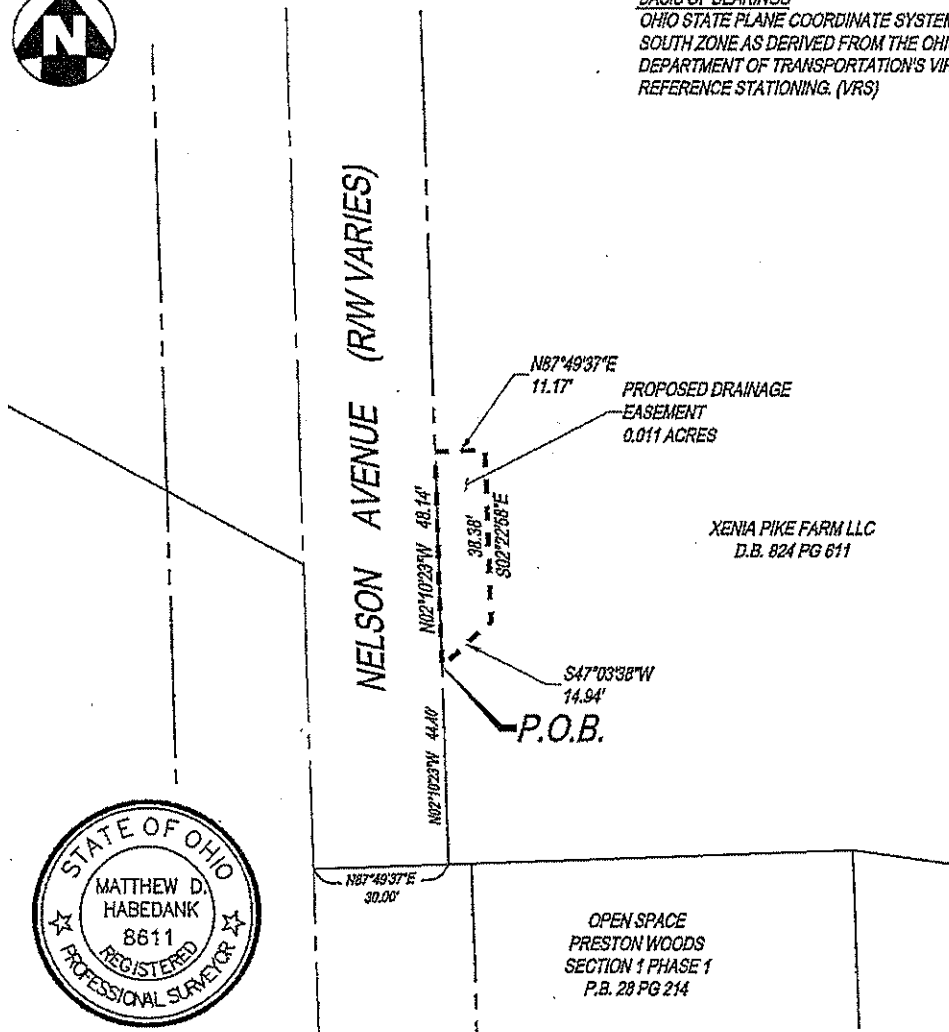
Bearings are based on the Ohio State Plane Coordinate System -- South Zone, as derived from the Ohio Department of Transportation's Virtual Reference Stationing (VRS)

All as shown on attached Exhibit "A"

INSPIRED PEOPLE > CREATIVE DESIGN > TRANSFORMING COMMUNIT



BASIS OF BEARINGS  
OHIO STATE PLANE COORDINATE SYSTEM  
SOUTH ZONE AS DERIVED FROM THE OHIO  
DEPARTMENT OF TRANSPORTATION'S VIR  
REFERENCE STATIONING. (VRS)



<p><b>THE KLEINGERS GROUP</b></p> <p>CIVIL ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE www.kleingers.com</p> <p>5305 Carfax Park Ct. West Chester, OH 45380 513.770.7651</p>	<p align="center"><b>DRAINAGE EASEMENT</b></p> <p>MILITARY SURVEY NO. 1556 CITY OF WILMINGTON CLINTON COUNTY, OHIO</p>	PROJECT NO: 180571VEA0
		DATE: 5/29/2018
		SCALE: 0 15 30
		SHEET NO: <b>1 OF 1</b>