

**RESOLUTION NO. 2024-24**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH D & L PROPERTIES OF ANTWERP, OHIO, LLC REGARDING A GRAVEL DRIVEWAY WHICH ENCROACHES UPON VILLAGE PROPERTY KNOWN AS PAULDING COUNTY AUDITOR'S PARCEL NO. 12-17S-018-00 AND DECLARING THE SAME AN EMERGENCY**

**WHEREAS**, D & L Properties of Antwerp, Ohio, LLC ("D & L") is the owner of real property in the Village of Antwerp, Ohio known as Paulding County Auditor's Parcel No. 12-17S-020-07 ("D & L Parcel"); and

**WHEREAS**, the Village of Antwerp ("Village") is the owner of real property in the Village of Antwerp, Ohio known as Paulding County Auditor's Parcel No. 12-17S-018-00 ("Village Parcel"); and

**WHEREAS**, D & L has previously constructed, without being granted an easement or license to do so by the Village, a 75-foot-wide gravel driveway on the D & L Parcel which encroaches upon and crosses through the Village Parcel in order to connect to Waterplant Drive; and

**WHEREAS**, D & L and the Village have negotiated a Memorandum of Understanding ("MOU"), attached hereto as "**Exhibit A**", which satisfactorily sets forth the terms upon which the Village agrees to allow D & L to continue to maintain the 75-foot-wide gravel driveway in its current state, subject to restrictions set forth in said MOU; and

**WHEREAS**, D & L has approved of and signed said MOU and the Village now wishes to authorize the Mayor of the Village of Antwerp, Ohio to do the same in order to effectuate the agreement; and

**WHEREAS**, execution of the MOU is necessary for the preservation of the public health, safety and welfare of the residents of the Village and therefore this Resolution is deemed to be an emergency for the reason that it brings both the Village and D & L into compliance with applicable provisions of the Ohio Revised Code and eliminates any ambiguity in the relationship between the D & L Parcel and the Village Parcel.

**NOW, THEREFORE, BE IT RESOLVED BY A MINIMUM OF A THREE-FOURTHS VOTE** by the Council of the Village of Antwerp, Paulding County, Ohio:

**Section 1.** That the rules requiring three readings of any ordinance or resolution prior to its passage by a minimum of the majority of the council are hereby suspended pursuant to Ohio Revised Code Section 705.15.

**Section 2.** That the Mayor of the Village of Antwerp, Ohio is authorized to enter into the MOU with D & L to sanction the continued use and maintenance of the 75-foot-wide gravel driveway beginning on the D & L Parcel and encroaching upon and crossing through the Village Parcel, subject to conditions and restrictions contained in said MOU.

**Section 3.** That it is hereby found and determined that all formal actions of the Council concerning or relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

**Section 4.** This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety, and welfare of the Village of Antwerp, Ohio and for the further reason that the MOU clarifies any ambiguity in the relationship between the D & L Parcel and the Village Parcel and ensures that both D & L and the Village are fully aware of their rights and responsibilities with regard to these parcels, and provided it receives the affirmative vote of at least three-fourths of the members of this Council, the Resolution shall take effect and be in force immediately upon its adoption by this Council or otherwise it shall take effect and be in force after the earliest period allow by law.

Date: 12/11/2024

Bryan A. Smith  
~~Jan Reeb~~  
Acting Mayor of the Village of Antwerp  
Bryan A. Smith

ATTEST:

Kevin Hornish  
Kevin Hornish, Fiscal Officer

O.R.C. 731.10

**MEMORANDUM OF UNDERSTANDING**  
**by and between**  
**Village of Antwerp, Ohio**  
**and**  
**D & L Properties of Antwerp, Ohio, LLC**

1. Purpose. To establish a Memorandum of Understanding (“MOU”) by and between the Village of Antwerp (“Village”) and D & L Properties of Antwerp, Ohio, LLC, an Ohio Limited Liability Company (“D & L”) regarding the gravel driveway which begins on Parcel No. 12-17S-020-07, which parcel is owned by D & L (“D & L Parcel”), and which crosses through and ends upon Parcel No. 12-17S-018-00, which parcel is owned by the Village (“Village Parcel”).
2. Background. D & L alleges that its predecessor in interest to the D & L Parcel received verbal permission from the former Village Administrator to place the original 25-foot-wide driveway across the Village Parcel. D & L does not allege that it had further permission to widen the 25-foot-wide driveway to its current width of 75-feet. The Village acknowledges that verbal permission to place the original 25-foot-wide driveway across the Village Parcel was given by the former Village Administrator but denies that any permission was given for the current 75-foot-wide driveway.

Attached hereto and marked “**Exhibit A**” is a survey plat and GIS map from the County Auditor representing the locations of the D & L Parcel, the Village Parcel, and the 25-foot-wide gravel driveway as it existed prior to D & L widening it. After purchasing the D & L Parcel, D & L widened the gravel driveway to its current width of 75-feet. On March 22, 2023, the Village provided written notice to D & L to return the gravel driveway to its prior state of 25-feet in width, and if it failed to do so, the Village advised that it would make those repairs itself and bill the cost to D & L (“March 22<sup>nd</sup> Notice”).

3. Agreement. The Village and D & L desire to resolve any dispute as to D & L widening the gravel driveway that crosses the Village Parcel. The Village agrees that it will not pursue its rights as stated in the March 22<sup>nd</sup> notice, most significantly, that it will not pursue returning the driveway to its original 25-foot width. In exchange, D & L agrees that it will not construct any permanent improvements in, on, over or under the gravel driveway in the area which crosses the Village Parcel. D & L also agrees that if the Villages desires to access the Village Parcel where the gravel driveway crosses the Village Parcel, the Village may do so without D & L’s permission and the Village is not responsible for replacing any gravel that may be removed or displaced as a result of said access.
4. Responsibilities of the Village. If the Village must access the area where the gravel driveway crosses the Village Parcel, including to access utilities underneath the gravel driveway, it agrees to make reasonable efforts to provide D & L notice of such work prior to its commencement. In no event shall the Village be obligated to give such notice, neither is the Village obligated to seek the consent or permission of D & L prior to any such access. Failure by the Village to provide such notice shall not represent redressable harm.

5. Responsibilities of D & L. D & L shall maintain the gravel driveway in its current condition and shall not change the dimensions of said gravel driveway unless it seeks the consent of the Village and a written modification to this MOU. D & L shall provide the Village with unlimited access to that part of the gravel driveway which is situated on the Village parcel.
6. Duration of the MOU and Limited Assignability. This MOU shall remain in effect as long as D & L, Robert Bragg, or any other entity in which Robert Bragg owns a controlling interest owns the D & L Parcel. If D & L sells, transfers or gifts the D & L parcel to Robert Bragg or any other entity in which Robert Bragg owns a controlling interest, the Village agrees that D & L may assign its rights under this MOU to Robert Bragg or any such entity in which Robert Bragg owns a controlling interest. If D & L or any other limited assignee identified herein sells this parcel to any other third-party, then the 75-foot-wide gravel driveway must be returned to its original width of 25-feet prior to the transfer of title of the D & L parcel to the purchaser, or the purchaser must seek pre-approval from the Village to maintain the driveway at a width of 75-feet across the Village Parcel prior to the transfer of title.
7. Entire agreement; Amendments. This MOU contains the entire agreement between the parties regarding the gravel driveway for the purpose expressed herein and supersedes any other alleged oral or written understanding they may have had prior to the execution of this MOU for that purpose. This MOU may only be amended by written agreement if approved in advance by all parties.
8. Notice. Any notice required by this MOU must be provided to the Village in care of the Village Administrator at 122 S. Main Street, Antwerp, Ohio 45813; and to D & L in care of Douglas A. Bragg at 4379 County Road 220, Antwerp, Ohio 45813.
9. Authority to enter into MOU. The persons executing this MOU on behalf of their respective entities hereby represent and warrant that they have the right, power, legal capacity, and appropriate authority to enter into this MOU on behalf of the entity for which they sign.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Brandon M. Grigsby, Village Solicitor

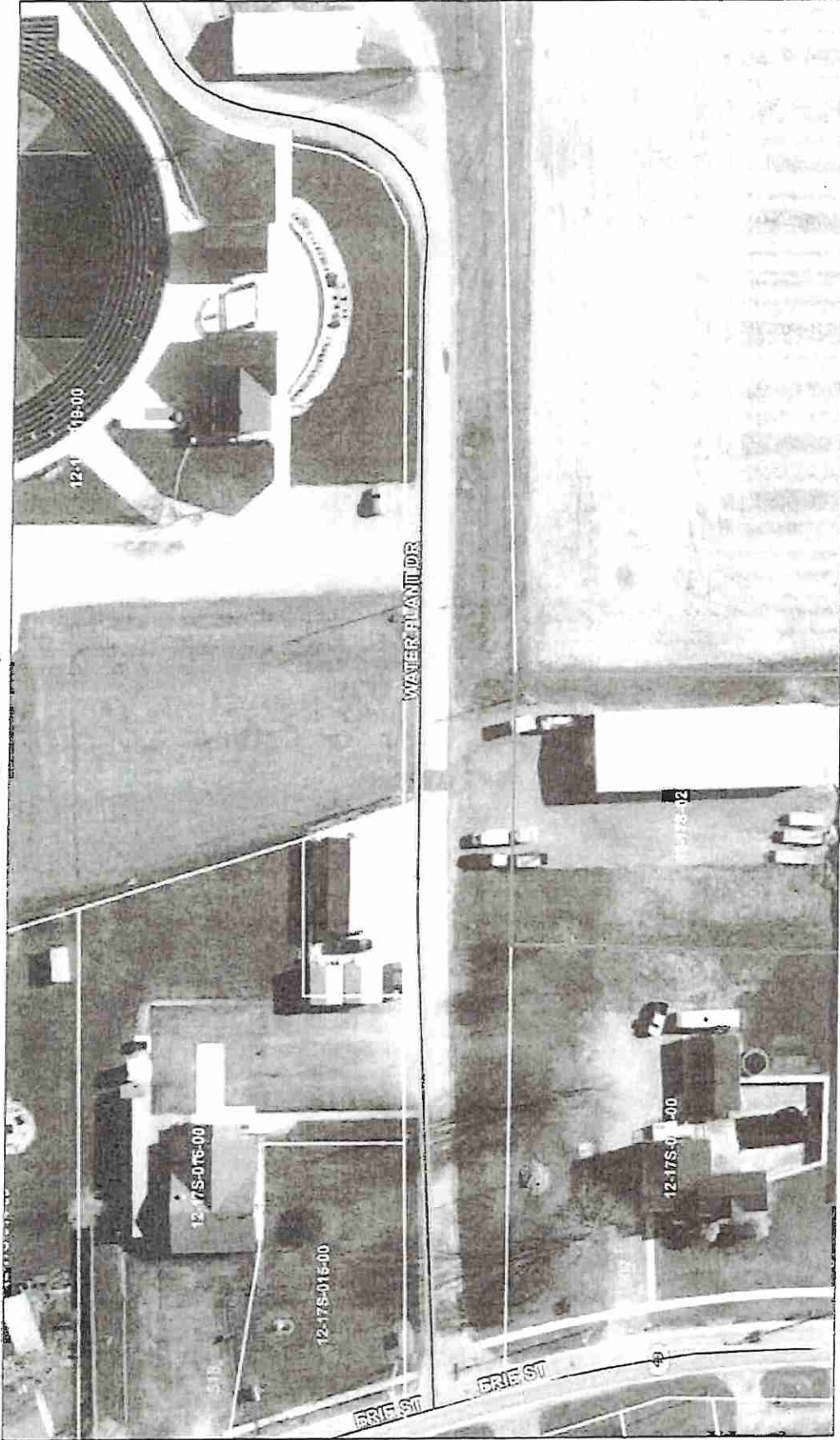
D & L PROPERTIES OF ANTWERP,  
OHIO, LLC

By:   
\_\_\_\_\_  
Douglas A. Bragg, its Managing Member

By:   
\_\_\_\_\_  
Jan Reeb, Mayor of the Village  
of Antwerp



# Paulding County Ohio



11/26/2024, 10:16:51 AM

Parcels  
Road Names  
PLSS\_Section  
Townships

1:1,128  
0 0.01 0.01 0.02 0.02 mi  
0 0.01 0.02 0.04 km

Sources: Esri, Airmap, OS, USGS, NSA, NGA, MSA, CGAR, N Robinson, NCEAS, NLS, OS, NINA, Coodesystems, Nj-Switzerland, GSA, Geotiff, FEIM, Intermap and the GIS user community

Aerial maps for reference only

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