

ORDINANCE NO. 71-13

**AN ORDINANCE TO ACCEPT EASEMENTS OVER PROPERTY LOCATED
BETWEEN 35682 AND 35514 DETROIT ROAD (The MarketPlace in Avon)
AND DECLARING AN EMERGENCY**

WHEREAS, Avon 83, LLC, is the developer of a shopping center known as “The MarketPlace of Avon” located between 35682 and 35514 Detroit Road; and

WHEREAS, the previous owner had installed sanitary sewer lines and waterlines within the site sometime between 2009 and 2011 and prior to splitting off individual lots within the development; and

WHEREAS, these improvements were installed as private utilities but were nevertheless inspected by the City’s Consulting Engineer, who certified that these utilities were installed per the City’s Design Standards; and

WHEREAS, as the development continues to expand, Ohio EPA regulations make it prudent for the property owner to dedicate these utilities to the City as public improvements; and

WHEREAS, pursuant to the goal of dedicating these utilities to the City as public improvements, certain property owners within the MarketPlace development executed and recorded easements granting the City of Avon access to existing underground sanitary sewers, waterlines and appurtenances thereto (See Ordinance No. 73-13); and

WHEREAS, Planning Commission twice reviewed these easements and considered the issue of whether or not to recommend their acceptance to Council at its meeting on January 16, 2013 and again on May 15, 2013 (slightly modified acceptance recommended) and in each case by vote of Five (5) in favor and Zero (0) opposed voted to recommend acceptance; and

WHEREAS, Council, after considering the May 15th, 2013 recommendation of Planning Commission and after discussion, review and further consideration, deems it acceptable, appropriate and in the best interests of the health, safety and welfare of the citizens of Avon to accept dedication of these easements to facilitate continued growth and development in the community.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That the City of Avon hereby accepts dedication of the easements over the existing waterlines from Avon 83 LLC (Permanent Parcel Nos. 04-0-015-103-090, 04-00-015-103-091 and 04-00-015-103-096, all of which are now 04-0-015-103-099, and 04-00-015-103-089), JPE I, LLC (Permanent Parcel No. 04-00-015-103-077), Heritage Village of Avon IV, LLC (Permanent Parcel No. 04-00-015-103-078) and 35676 Detroit, LLC (Permanent Parcel No. 04-0-015-103-082). The City also accepts dedication of the easements over the existing sanitary sewer lines from Avon 83 LLC (Permanent Parcel No. 04-00-015-103-089) and from P & M Avon, LLC (Permanent Parcel No. 04-00-015-103-095). Said sewer and water lines are located within the site known as “The MarketPlace in Avon” located between 35682 and 35514

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Detroit Road. Said easements and survey map are identified, attached hereto and incorporated herein by this reference.

Section 2 - That it is found and determined that all formal actions of this Council concerning and relating to the passage 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 actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, Ohio; the immediate emergency being the necessity to accept sanitary sewer and waterline easements at the site known as "The MarketPlace in Avon" located between 35682 and 35514 Detroit Road; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

BY: _____
Daniel S. Zegarac, President of Council

DATE APPROVED BY THE MAYOR _____

James A. Smith, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Ellen R. Young
Clerk of Council

POSTED: _____

In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director