City of Dublin

Office of the City Manager
5200 Emerald Parkway • Dublin, OH 43017-1090
Phone: 614-410-4400 • Fax: 614-410-4490

Memo

To: Members of Dublin City Council

From: Marsha I. Grigsby, City Manager

Date: June 19, 2014

Initiated By: Paul A. Hammersmith, PE, Director of Engineering
Jean-Ellen M. Willis, PE, Engineering Manager – Transportation
Philip K. Hartmann, Assistant Law Director

Re: Ordinance 49-14 - Authorizing the City Manager to Execute Necessary Conveyance Documents to Acquire 0.054 Acre, More or Less, Temporary Easement from Quezada Real Estate Investments, Ltd. for the Construction of Improvements at the Intersection of Dublin Road and Glick Road.

Background

The City of Dublin ("City"), the Village of Shawnee Hills, the Ohio Department of Transportation, and the Delaware County Engineer's Office (collectively, the "Project Partners") are working together to construct improvements at the intersection of Dublin Road and Glick Road (the "Project"). The Project includes construction of left turn lanes on each approach, and will improve the sight distance on the north leg of the intersection by cutting down the hill by the El Vaquero restaurant. Pedestrian facilities will be added to the north side of Glick Road, west of Dublin Road, and the traffic signal will be upgraded to include such items as new mast arms, pedestrian push buttons in all four quadrants, and LED signal heads. The City is obtaining property interests from various landowners to construct the improvements, including acquiring temporary easements to perform minor grading and construction.

Quezada Real Estate Investments, LTD. (the "Grantor") owns property from which the City desires a temporary easement. This property is identified as Delaware County Parcel No. 600-432-21-027-000.

After engaging in amicable negotiations, the City has come to an agreement with the Grantor to acquire the necessary property interest pursuant to the terms outlined in this memorandum. This Ordinance authorizes the settlement of the matter for Five Thousand Fifty Dollars ($5,050.00) and authorizes the City Manager to execute all necessary conveyance documentation to formally acquire the necessary property interest described above.

Acquisition

The City will be acquiring from the Grantor only the property interest necessary for the construction of the Project as depicted in the legal description and maps attached to this memorandum. The City will be acquiring this property interest for its appraised value. The acquisition is detailed below:

Delaware County Parcel No. 600-432-21-027-000

Property Interest Acquiring	**Description**	**Appraised Value**
Temporary Easement	0.054 acre ±	$5,050.00
Total		**$5,050.00**

Recommendation

The Law Department recommends approval of Ordinance No. 49-14 by emergency at the second reading/public hearing on June 23, 2014 in order to finalize settlement with Quezada Real Estate Investments, LTD. and continue moving forward with the Project.

RECORD OF ORDINANCES

Dayton Legal Blank, Inc. Form No. 30043

Ordinance No. 49-14 *Passed* _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY CONVEYANCE DOCUMENTS TO ACQUIRE A 0.054 ACRE, MORE OR LESS, TEMPORARY EASEMENT FROM QUEZADA REAL ESTATE INVESTMENTS, LTD. FOR THE CONSTRUCTION OF IMPROVEMENTS AT THE INTERSECTION OF DUBLIN AND GLICK ROADS, AND DECLARING AN EMERGENCY

WHEREAS, the City of Dublin (the "City"), the Village of Shawnee Hills, the Ohio Department of Transportation, and the Delaware County Engineer's Office are working together to construct improvements at the intersection of Dublin Road and Glick Road (the "Project"); and

WHEREAS, said Project requires that the City obtain certain property interest within Delaware County Parcel No. 600-432-21-027-000 owned by Quezada Real Estate Investments, LTD. (the "Grantor"), said property interest more fully described in the Exhibit labeled "A," attached hereto; and

WHEREAS, the City and the Grantor participated in good faith discussions and have come to mutually agreeable terms for the acquisition of the necessary property interest for the sum of Five Thousand Fifty Dollars ($5,050.00); and

WHEREAS, the City desires to execute necessary conveyance documentation to complete the transaction between the City and the Grantor.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, State of Ohio, _____ of the elected members concurring that:

Section 1. The City Manager is hereby authorized to execute all necessary conveyance documentation to acquire a 0.054 acre, more or less, temporary easement for eighteen (18) months, commencing on the date construction begins, from Quezada Real Estate Investments, LTD., for the sum of Five Thousand Fifty Dollars ($5,050.00), said property interest located within Delaware County Parcel No. 600-432-21-027-000, and as more fully described in the attached Exhibit "A."

Section 2. This Ordinance is declared to be an emergency necessary for the immediate preservation of the public peace, health, safety or welfare, and for the further reason that obtaining the property interests is necessary for the advancement of this project. The ordinance shall therefore take effect immediately upon passage.

Passed this _____day of _____, 2014.

_____
Mayor – Presiding Officer

ATTEST:

_____
Clerk of Council

CONTRACT FOR SALE AND PURCHASE OF REAL PROPERTY

This Contract For Sale and Purchase of Real Property (this "Agreement") is by and between the between the City of Dublin, Ohio, an Ohio municipal corporation (hereinafter referred to as the "Purchaser"), having an office at 5200 Emerald Parkway, Dublin, Ohio 43017-1006, and Quezada Real Estate Investments, LTD., an Ohio limited liability company (hereinafter referred to as the "Seller"), whose mailing address is 9215 Dublin Road, Powell, Ohio. Purchaser and Seller are referred to individually herein as "Party" and collectively as "Parties."

Recitals

WHEREAS, Purchaser is constructing improvements at the intersection of Dublin Road and Glick Road, which necessitate the acquisition of certain property from Seller to be held by Purchaser in temporary easement for eighteen (18) months, commencing on the date construction begins, said property described in the attached Exhibit A; and

WHEREAS, Purchaser agrees to purchase the temporary easement for eighteen (18) months, commencing on the date construction begins, to perform minor grading and construction for the intersection improvements, described in Exhibit A, and Seller agrees to sell the same property interest to Purchaser pursuant to the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, agreements, and covenants herein contained, the Parties agree as follows:

Provisions

1. Price and Consideration

Purchaser shall pay to Seller the sum of Five Thousand Fifty Dollars ($5,050.00), which sum shall constitute the entire amount of compensation due to Seller for: (a) the real property described in the attached Exhibit A; (b) any and all damages to any residual lands of Seller; and (c) Seller's covenants set forth herein.

Seller shall be exclusively responsible for all delinquent taxes and assessments, including penalties and interest, and for all other real estate taxes and assessments that are a lien as of the date on which this Agreement closes. The taxes and assessments for the current calendar year shall be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever is earlier in time.

2. Deed to Transfer

Seller, upon fulfillment of all the obligations and terms of this Agreement, shall sell and convey to Purchaser, its successors and assigns, the property which is more particularly described in Exhibit A, for a period of eighteen (18) months, commencing on the date construction begins. The rights, titles, and estates described in Exhibit A constitute a Temporary Easement of the real property; therefore, such sale and conveyance by Seller shall be by a good

and sufficient easement instrument regularly and ordinarily used to transfer such rights, titles, and estates, with, if applicable, full release of dower.

3. Supplemental Instruments

Seller agrees to execute any and all supplemental instruments or documents necessary to vest Purchaser with the rights, titles, and interests described in Exhibit A.

4. Warranty of Title

Seller shall, and hereby does, warrant that the property described in Exhibit A is free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions, and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules, and regulations; and (d) any and all taxes and assessments not yet due and payable.

5. Elimination of Others' Interests

Seller shall assist, in whatever manner reasonably possible under the circumstances, to procure and deliver to Purchaser releases and cancellations of any and all other rights, titles, and interests in the property described in Exhibit A, such as, but not limited to, those belonging to tenants, lessees, mortgagees, or others now in possession or otherwise occupying the subject premises, and all assessment claims against said property.

Seller and Purchaser agree that if a mortgagee of Seller or if a predecessor in title fails to cooperate with the efforts to obtain a release of that mortgagee's mortgage lien secured by the property described in Exhibit A, then and in that event this Agreement shall become null and void and the Parties to this Agreement shall be discharged and released from any and all obligations created by this Agreement; for the purposes of this provision, the term "fails to cooperate" shall include a demand or request by any such mortgagee for a fee to process such a release of that mortgagee's mortgage lien that Purchaser, in its sole discretion, deems to be excessive.

6. No Change in Character of Property

Seller shall not change the existing character of the land or alter, remove, destroy, or change any improvement located on the property described in Exhibit A. If, prior to the date on which possession of the subject property is surrendered to Purchaser, the subject property suffers any damage, change, alteration, or destruction then, and without regard to the cause thereof, Seller shall restore the subject property to the condition it was in at the time Seller executed this Agreement; in the alternative, Seller may agree to accept the abovementioned purchase price less the costs associated with such restoration. If the Seller refuses to either restore the premises or accept the decreased consideration as aforementioned, then Purchaser, at its option after discovery or notification of such damage, change, alteration, or destruction, may terminate and cancel this Agreement upon written notice to Seller.

7. Offer to Sell

If Seller executes this Agreement prior to Purchaser, then this Agreement shall constitute and be an offer to sell by Seller that shall remain open for acceptance by Purchaser for a period of sixty (60) days immediately subsequent to the date on which Seller delivers such executed Agreement to Purchaser. Upon Purchaser's acceptance and execution of this Agreement within said period of sixty (60) days, this Agreement shall constitute and be a valid Contract For Sale and Purchase of Real Property that is binding upon the Parties.

8. Closing Date

The consummation and closing of this Agreement shall occur at such time and place as the Parties may agree, but no later than thirty (30) days after Purchaser notifies Seller in writing that Purchaser is ready to consummate and close this Agreement. Provided, however, in no event shall such consummation and closing occur more than one hundred twenty (120) days after the last date on which one of the Parties executes this Agreement.

9. Condition Precedent

Purchaser shall not be obligated to close under this Agreement until it receives the approval of the Dublin City Council for all obligations under this Agreement.

10. Binding Agreement

Any and all of the terms, conditions, and provisions of this Agreement shall be binding upon and shall inure to the benefit of Seller and Purchaser and their respective heirs, executors, administrators, successors, and assigns.

11. Multiple Originals

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument.

12. Entire Agreement

This instrument contains the entire agreement between the Parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions, or obligations whatsoever, either expressed or implied, other than herein set forth, shall be binding upon either Seller or Purchaser.

13. Amendments and Modifications

No amendment or modification of this Agreement shall be valid or binding upon the Parties unless it is made in writing, cites this Agreement and is signed by Seller and Purchaser.

14. Governing Law

This Agreement shall be governed by the laws of the State of Ohio, and the venue for any claim relating to said Agreement shall be an applicable Court in Delaware County, Ohio.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date(s) indicated immediately below their respective signatures.

PURCHASER

THE CITY OF DUBLIN, OHIO

_____
Marsha I. Grigsby, City Manager

_____
Date

STATE OF OHIO)
COUNTY OF DELAWARE) SS:

BE IT REMEMBER, that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public in and for said county and state, personally came Marsha I. Grigsby, City Manager of the CITY OF DUBLIN, OHIO, an Ohio municipal corporation, who acknowledged the signing thereof to be her free act and deed for and on behalf of the municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

_____
Notary Public

{SELLER'S SIGNATURE & ACKNOWLEDGEMENTS ON THE FOLLOWING PAGE}

SELLER

Quezada Real Estate Investments, LTD.

By: David Medina

Its: General Manager

Date: 5/30/14

STATE OF OHIO)
COUNTY OF DELAWARE) SS:

BE IT REMEMBER, that on this 30th day of May, 2014, before me, the subscriber, a Notary Public in and for said county and state, personally came David Medina, General Mgr of the QUEZADA REAL ESTATE INVESTMENTS, LTD., an Ohio limited liability company, who acknowledged the signing thereof to be his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Deborah Lyn Cheney-Mazey
Notary Public

NOTARIAL SEAL STATE OF OHIO

Deborah Lyn Cheney Mazey
Notary Public, State of Ohio
My Commission Expires 02-17-2019

4844-5477-5067, v. 1

EXHIBIT A

PARCEL 9-T
DESCRIPTION OF A TEMPORARY
CONSTRUCTION AND GRADING EASEMENT

Situated in the State of Ohio, County of Delaware, Village of Shawnee Hills, Township of Concord, Virginia Military Survey Number 2545, being part of a 1.188 acre tract, in the name of Quezada Real Estate Investements, Ltd. (the grantor), as recorded in Deed Volume 655, Page 1943, all references being to those of record in the Recorder's Office, Delaware County, Ohio, and being more particular described as follows:

Commencing, for reference, at the intersection of the existing centerline of right of way of Glick Road (width varies) and the existing centerline of right of way of Dublin Road (width varies), said intersection point being Glick Road station 50+00.00 and Dublin Road station 20+00.00;

Thence, along the existing centerline of said Dublin Road, North 15 degrees 33 minutes 44 seconds West, a distance of 447.76 feet to a point at Dublin Road station 24+47.90;

Thence, leaving said centerline, North 74 degrees 26 minutes 16 seconds East, a distance of 30.00 feet, to a point on the easterly existing right of way line of said Dublin Road, 30.00 feet right of Dublin Road station 24+47.90, and **The Point of Beginning** of the parcel herein described:

Thence, along said existing right of way line, North 15 degrees 33 minutes 44 seconds West, a distance of 339.99 feet to a point, 30.00 feet right of Dublin Road station 27+87.89;

Thence, leaving said existing right of way, through grantor's tract, for the following six (6) calls:

1. North 75 degrees 58 minutes 04 seconds East, a distance of 5.00 feet to a point, 35.00 feet right of Dublin Road station 27+87.75;
2. South 15 degrees 33 minutes 44 seconds East, a distance of 81.75 feet to a point, 35.00 feet right of Dublin Road station 27+06.00;
3. North 74 degrees 26 minutes 16 seconds East, a distance of 15.00 feet to a point, 50.00 feet right of Dublin Road station 27+06.00;
4. South 15 degrees 33 minutes 44 seconds East, a distance of 43.00 feet to a point, 50.00 feet right of Dublin Road station 26+63.00;
5. South 74 degrees 26 minutes 16 seconds West, a distance of 15.00 feet to a point, 35.00 feet right of Dublin Road station 26+63.00;
6. South 15 degrees 33 minutes 44 seconds East, a distance of 215.24 feet to a point on the northerly existing right of way line of East Waterview Drive (40' right of way), 35.00 feet right of Dublin Road station 24+47.76;

Thence, along said existing right of way line, South 75 degrees 58 minutes 04 seconds West, a distance of 5.00 feet to the **The Point of Beginning** and containing 0.054 acres, more or less.

The bearings in the above description are based on the bearing between Delaware County Engineer's Monuments "97-006" & "97-142" being North 72 degrees 52 minutes 25 seconds East, as measured on the Ohio State Plane Coordinate System, South Zone, 2007 adjustment.

All references being to those of record in the Recorder's Office, Delaware County, Ohio.

Subject to any and all easements, rights of way, conditions and restrictions of record, all legal highways, zoning ordinances, rules and regulations.

This description was prepared based on an actual field survey by GPD Group dba Glaus, Pyle, Schomer, Burns, & DeHaven, Inc. performed under the direct supervision of Steven L. Mullaney, Registered Surveyor #7900, in December, 2013.

STATE OF OHIO
STEVEN L MULLANEY 7900 REGISTERED SURVEYOR

Glaus, Pyle, Schomer, Burns, & DeHaven, Inc.
dba GPD Group

1/31/2014

Steven L. Mullaney, P.S.
Professional Surveyor No. 7900

January 21, 2014
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GPD Group
Glaus, Pyle, Schomer, Burns, &
DeHaven, Inc.

1801 Watermark Drive, Suite 150
Columbus, Ohio 43215
Phone: 614-210-0751 / Fax: 614-210-0752

Portion above reserved for County Recorder, Engineer and Auditor's Offices Use

TEMPORARY EASEMENT
TO PERFORM CONSTRUCTION AND MINOR GRADING

THIS TEMPORARY EASEMENT TO PERFORM CONSTRUCTION AND MINOR GRADING (the "Temporary Easement") is made and entered into this ____ day of _____ 2014, by and between **QUEZADA REAL ESTATE INVESTMENTS, LTD**, an Ohio limited liability company ("Grantor"), whose mailing address is 9215 Dublin Road, Powell, Ohio, and the **CITY OF DUBLIN, OHIO**, an Ohio municipal corporation ("Grantee"), whose mailing address is 5200 Emerald Parkway, Dublin, Ohio 43017.

BACKGROUND INFORMATION

WHEREAS, Grantor owns the real property known as Delaware County Auditor's Parcel No. 600-432-21-027-000 (the "Grantor's Property"), known by the common address 9130 Dublin Road, Powell, Ohio 43065;

WHEREAS, Grantee desires a temporary easement over those portions of the Grantor's Property legally described on the attached Exhibit A (the "Temporary Easement Area") for a period of eighteen (18) months, commencing on the date construction begins, for the purpose of performing minor grading and reconstructing a drive; and

WHEREAS, Grantor desires to grant a temporary easement over the Temporary Easement Area for the benefit of Grantee for a period of eighteen (18) months, commencing on the date construction begins, upon the terms and conditions set forth in this Temporary Easement.

STATEMENT OF AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the foregoing Background Information and as follows:

1. Grant of Temporary Easement. Grantor grants to Grantee, its agents, employees, independent contractors, and successors and assigns, a temporary, non-exclusive easement in, through, over and under the Temporary Easement Area for a period of eighteen (18) months, commencing on the date construction begins. Grantee shall have the right to enter on and use the Temporary Easement Area in connection with the performance of certain work on the Grantor's Property, including grading work and for any other purpose reasonably necessary in connection with the same. Upon termination of the aforementioned activities, Grantee shall, at its sole cost and expense, restore the Temporary Easement Area as nearly as reasonably practicable to the condition which existed prior to the entry thereon by Grantee.

2. Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties or by any third party as creating the relationship of principal and agent, of partnership or of joint venture between the parties, it being understood and agreed that no provision contained herein or any act of the parties hereto shall be deemed to create any relationship other than grantor and grantee of the rights and easements set forth herein.

3. Waiver. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach of the other party of any of its obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

4. Severability. In the event any provision of this Temporary Easement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

5. Captions and Pronoun Usage. The captions and section numbers in this Temporary Easement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number, and gender appropriate under the circumstances at any given time.

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

7. Modification. This Temporary Easement, or any easement or covenant set forth herein, may not be amended, terminated, rescinded, or otherwise modified, in whole or in part, except by a written instrument executed by the parties hereto and recorded with the Recorder's Office, Delaware County, Ohio with reference made to this Temporary Easement.

8. Benefit. This Temporary Easement shall run with the land and inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors, and assigns.

9. Authority. Grantor represents and warrants that it has the full right and authority to enter into this Temporary Easement and grant the rights hereby conveyed to Grantee.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date set forth above.

GRANTOR:

QUEZADA REAL ESTATE INVESTMENTS, LTD., AN OHIO LIMITED LIABILITY COMPANY

BY: David Medina

ITS: General manager

GRANTEE:

CITY OF DUBLIN, OHIO, AN OHIO MUNICIPAL CORPORATION

MARSHA I. GRIGSBY, CITY MANAGER

{ACKNOWLEDGEMENTS ON THE FOLLOWING PAGE}

STATE OF OHIO)
COUNTY OF DELAWARE) SS:

BE IT REMEMBER, that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public in and for said county and state, personally came Marsha I. Grigsby, City Manager of the CITY OF DUBLIN, OHIO, an Ohio municipal corporation, who acknowledged the signing thereof to be her free act and deed for and on behalf of the municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

_____
Notary Public

STATE OF OHIO)
COUNTY OF DELAWARE) SS:

BE IT REMEMBER that on this 30th day of May, 2014, before me, the subscriber, a Notary Public in and for said County, personally came the above-named David Medina, HM, on behalf of QUEZADA REAL ESTATE INVESTMENTS, LTD., an Ohio limited liability company, Grantor in the foregoing Temporary Easement, and acknowledged the signing of the same to be his/her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.

Deborah Lyn Cheney-Mazey
Notary Public

NOTARIAL SEAL STATE OF OHIO

Deborah Lyn Cheney Mazey
Notary Public, State of Ohio
My Commission Expires 02-17-2019

This Instrument Prepared By:
Philip K. Hartmann
Frost Brown Todd LLC
One Columbus
10 West Broad Street
Columbus, Ohio 43215

COLLibrary 0127206.0607928 533257v1

4822-3906-7675, v. 1

EXHIBIT A

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Thence, along the existing centerline of said Dublin Road, North 15 degrees 33 minutes 44 seconds West, a distance of 447.76 feet to a point at Dublin Road station 24+47.90;

Thence, leaving said centerline, North 74 degrees 26 minutes 16 seconds East, a distance of 30.00 feet, to a point on the easterly existing right of way line of said Dublin Road, 30.00 feet right of Dublin Road station 24+47.90, and **The Point of Beginning** of the parcel herein described:

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All references being to those of record in the Recorder's Office, Delaware County, Ohio.

Subject to any and all easements, rights of way, conditions and restrictions of record, all legal highways, zoning ordinances, rules and regulations.

This description was prepared based on an actual field survey by GPD Group dba Glaus, Pyle, Schomer, Burns, & DeHaven, Inc. performed under the direct supervision of Steven L. Mullaney, Registered Surveyor #7900, in December, 2013.

STATE OF OHIO
STEVEN L MULLANEY 7900 REGISTERED
SURVEYOR

Glaus, Pyle, Schomer, Burns, & DeHaven, Inc.
dba GPD Group

1/31/2014

Steven L. Mullaney, P.S.
Professional Surveyor No. 7900

January 21, 2014
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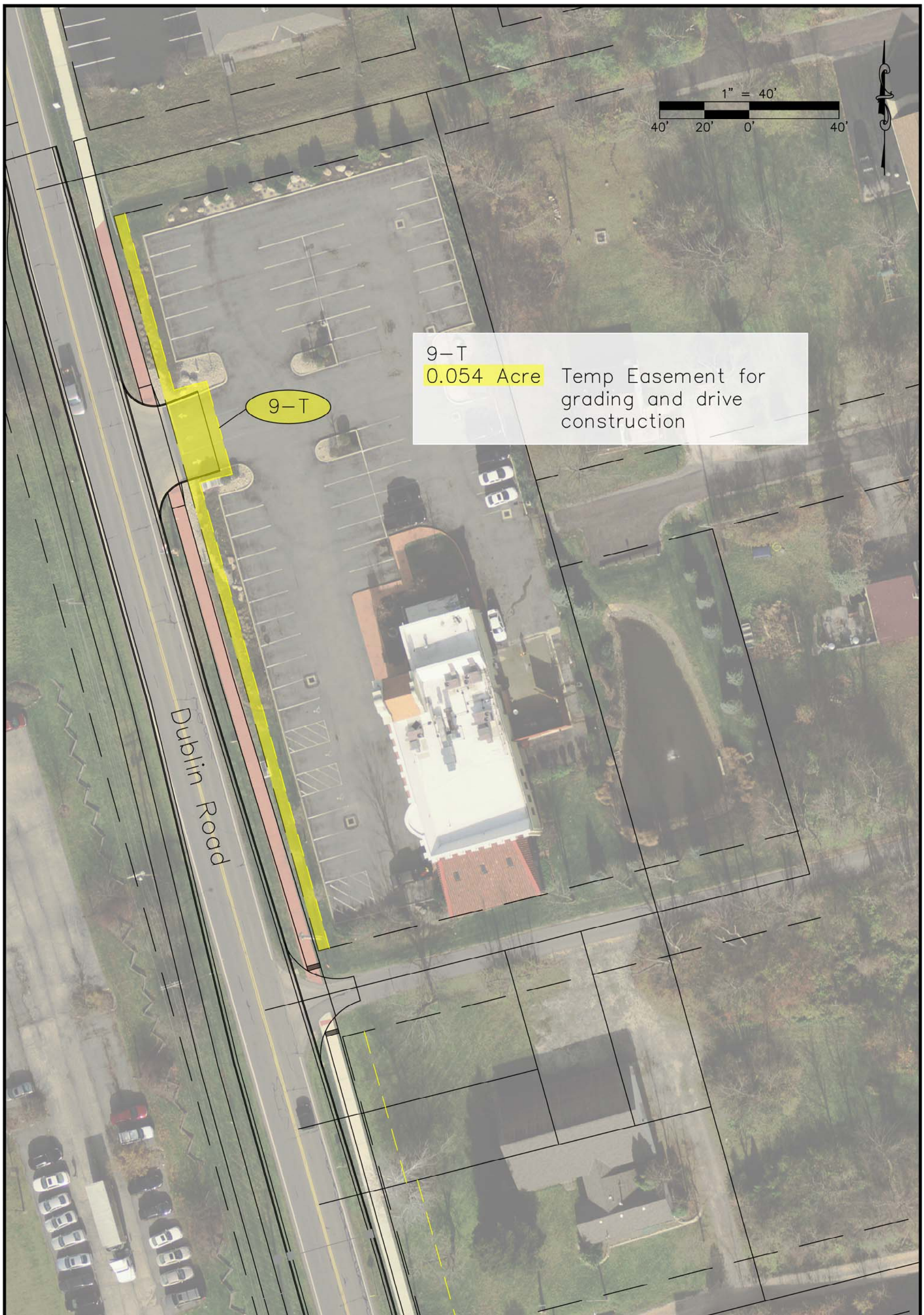
GPD Group
Glaus, Pyle, Schomer, Burns, & DeHaven, Inc.

1801 Watermark Drive, Suite 150
Columbus, Ohio 43215
Phone: 614-210-0751 / Fax: 614-210-0752



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DUBLIN ROAD AND GLICK ROAD

INTERSECTION IMPROVEMENTS

QUEZADA

City of Dublin

SHEET 1 OF 1