

ORDINANCE NO. 053-2023(MSES), *First
Reading*

By: Mayor Seren

An Ordinance authorizing the vacation of a portion of the public Right-of-Way for Andrews Road; authorizing an agreement with the adjoining property owners related thereto; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, pursuant to Ohio Revised Code Section 723.05, where in the opinion of the legislative authority, there is good cause for vacating a public road, and such vacation will not be detrimental to the general interest, the legislative authority may by ordinance and without petition therefor, vacate such road; and

WHEREAS, the Mayor, with the approval of the Director of Public Works, has determined that the portion of Andrews Road north of Severn Road, depicted on the attached "Exhibit A" (hereafter referred to as "the Road Portion") and described on the attached "Exhibit B," which functions as the driveway for Permanent Parcel No. 683-35-003, commonly referred to as 1737 Andrews Road, no longer serves a municipal purpose; and

WHEREAS, the Mayor has recommended to this Council that the Road Portion be vacated; and

WHEREAS, this Council has determined that there is good cause for vacating this portion of the road and such vacation will not be detrimental to the general interest; and

WHEREAS, the City has obtained written waivers of notice and consents to vacating the Road Portion from all adjoining landowners to the Road Portion, as required by Ohio Revised Code 723.06;

WHEREAS, the adjoining landowners to the Road Portion have requested that the resulting split and consolidations of the vacated Road Portion be effectuated in a manner that will result in one owner, Garie Waltzer, Trustee of the Waltzer Family Trust, not obtaining title to a vacated one-half of the Road Portion, as would otherwise occur by operation of law; rather, title to the entire vacated Road Portion will vest in the Parkwood Trust Company, Trustee of the Timothy C. Beyer 2006 Restatement Of Living Trust Agreement dated February 6, 1991 ("Parkwood Trustee"), and the City desires a written agreement among both adjoining owners to the Road Portion and the City to accomplish this non-standard split and consolidations.

BE IT ORDAINED by the Council of the City of Cleveland Heights, State of Ohio:

SECTION 1. Pursuant to Ohio Revised Code 723.05, this Council declares that the Road Portion (being the portion of Andrews Road as more fully described in the attached Exhibits "A" and "B") shall be and is hereby vacated.

SECTION 2. This Council finds that there is good cause for such vacation, that it will not be detrimental to the general interest, and that it should be done.

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SECTION 3. The Mayor be, and he is hereby, authorized to enter into any and all agreements, and to sign any related documents, necessary or recommended for vacation of the Road Portion, including an agreement with the adjoining property owners to the Road Portion to accomplish the request of the adjoining property owners as set forth in the recitals to this Ordinance and at the expense of the Parkwood Trustee, as set forth in the aforementioned agreement. The City, from and after the effective date of this Ordinance, waives any right, title, or interest in, to, under, over, or through the Road Portion, and disclaims any ability to grant future easements on, under, over, or through the vacated portion of the Road; provided, however, that all easements for existing utilities, whether recorded or unrecorded, that currently are in force and effect shall continue in full force and effect subject to each easement's applicable terms and conditions. All agreements and documents authorized hereunder shall be approved as to form by and subject to the final approval of the Director of Law.

SECTION 4. The Clerk of Council is hereby directed to cause a certified copy of this Ordinance and a proper vacation plat to be recorded in the official records of the Fiscal Officer of Cuyahoga County.

SECTION 5. It is necessary that this Ordinance become immediately effective as an emergency measure for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to transfer public risk of maintaining the Road Portion to the Parkwood Trustee, as set forth in the aforementioned agreement. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.



MELODY JOY HART
President of the Council



ADDIE BALESTER
Clerk of Council

ORDINANCE NO. 053-202(MSES)

PASSED: 04/03/2023

Presented to Mayor: 04/04/2023

Approved: 0410/2023



KAHLIL SEREN
Mayor

ORDINANCE NO. 053-202(MSES)

EXHIBIT B

The Western Reserve Surveying Co.

4705 STATE ROAD
CLEVELAND, OHIO 44109
PHONE: 216/741-0110 741-3243
FAX: 216/741-3926

A-4909
August 27, 2020

**LEGAL DESCRIPTION
OF PARCEL "A" TO BE VACATED**

Situated in the City of Cleveland Heights, County of Cuyahoga and State of Ohio and known as being Parcel "A" in the VACATION PLAT OF PART OF ANDREWS ROAD, as recorded in AFN _____ of Cuyahoga County Map Records, of part of Original Euclid Township Lot No. 23, and having a frontage of 40.17 feet on the Northerly side of Severn Road, an Easterly sideline of 211.95 feet, a broken Westerly sideline of 223.70 feet and a rear line of 20.00 feet and an area of 0.0994 Acres, be the same more or less but subject to all legal highways.

ON BEHALF OF WESTERN RESERVE PROFESSIONALS, INC.

ORDINANCE NO. 053-202(MSES)

Clerk of Council Certification

I, Addie Balester, Clerk of Council for the City of Cleveland Heights, do hereby certify that the foregoing is a true and accurate copy of Ordinance No. 053-2023 as adopted by the Council of the City of Cleveland Heights on 04/03/2023.



ADDIE BALESTER
Clerk of Council