

Ordinance No. 33-2023

By Council Members Griffin, Bishop and Hairston (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects to issue a permit to the Cleveland Clinic to encroach into the public rights-of-way of East 89th Street and Carnegie Avenue by installing, using and maintaining tie backs and a shoring wall.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of Capital Projects is authorized to issue a permit, revocable at the will of Council, to the Cleveland Clinic, 9500 Euclid Avenue, Mailstop HS1, Cleveland, OH 44195 (“Permittee”), to encroach into the public right-of-way of East 89th Street and Carnegie Avenue at street level and below grade by installing, using and maintaining tie backs and a shoring wall at the following locations:

East 89th Street Shoring Wall Encroachment

Situated in the City of Cleveland, County of Cuyahoga and the State of Ohio and being a part of Original 100 Acre Lot Number 400 and being a part of Carnegie Avenue as shown by the Dedication Plat in Volume 114, Page 9 of Cuyahoga County Map Records and being more fully bounded and described as follows:

Beginning at a point at the centerline intersection of said Carnegie Avenue, 80 feet wide, and East 89th Street, 60 feet wide; thence North 00°24’08” West along the said East 89th Street, a distance of 63.60 feet to a point; thence North 89°35’52” East and at right angles, a distance of 30.00 feet to a point on the Easterly line of said East 89th Street; thence North 00°24’08” West along the said Easterly line of East 89th Street, a distance of 26.96 feet to a point and being the Principal Place of Beginning of Encroachment herein described;

Course No. 1: Thence South 89°35’52” West and at right angles, a distance of 10.50 feet to a point;

Course No. 2: Thence North 00°24’08” West and parallel to the said Easterly line of East 89th Street, a distance of 40.00 feet to a point;

Course No. 3: Thence South 89°35’52” West and at right angles, a distance of 10.50 feet to a point on the Easterly line of said East 89th Street;

Course No. 4: Thence South 00°24’08” East and along the said Easterly line of East 89th Street, a distance of 40.00 feet to the place of beginning and containing 0.113 acres, 492 square feet, of land and being the same more or less but subject to all legal highways and easements.

East 89th Street Tie Back Encroachment

Situated in the City of Cleveland, County of Cuyahoga and the State of Ohio and being a part of Original 100 Acre Lot Number 400 and being a part of Carnegie Avenue as shown by the Dedication Plat in Volume 114, Page 9 of Cuyahoga County Map Records and being more fully bounded and described as follows:

Beginning at a point at the centerline intersection of said Carnegie Avenue, 80 feet wide, and East 89th Street, 60 feet wide; thence North 00°24’08” West along the said East 89th Street, a distance of 63.60 feet to a point and being the Principal Place of Beginning of Encroachment herein described;

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Course No. 1: Thence South $89^{\circ}35'52''$ West and at right angles, a distance of 5.00 feet to a point;

Course No. 2: Thence North $00^{\circ}24'08''$ West and parallel to the said centerline of East 89th Street, a distance of 31.35 feet to a point;

Course No. 3: Thence South $89^{\circ}35'52''$ West and at right angles, a distance of 25.00 feet to a point on the Westerly line of said East 89th Street;

Course No. 4: Thence North $00^{\circ}24'08''$ West and along the said Westerly line of East 89th Street, a distance of 31.11 feet to a point;

Course No. 5: Thence North $89^{\circ}35'52''$ East and at right angles, a distance of 25.00 feet to a point;

Course No. 6: Thence North $00^{\circ}24'08''$ West and parallel to the said centerline of East 89th Street, a distance of 172.03 feet to a point;

Course No. 7: Thence North $89^{\circ}35'52''$ East and at right angles, a distance of 35.00 feet to a point on the Easterly line of said East 89th Street;

Course No. 8: Thence South $00^{\circ}24'08''$ East along the said Easterly line of East 89th Street, a distance of 234.49 feet to a point;

Course No. 9: Thence South $89^{\circ}35'52''$ West and at right angles, a distance of 30.00 feet to the place of beginning and containing 0.206 acres, 8,985 square feet, of land and being the same more or less but subject to all legal highways and easements.

Carnegie Avenue Tie Back Encroachment

Situated in the City of Cleveland, County of Cuyahoga and the State of Ohio and being a part of Original 100 Acre Lot Number 400 and being a part of Carnegie Avenue as shown by the Dedication Plat in Volume 114, Page 9 of Cuyahoga County Map Records and being more fully bounded and described as follows:

Beginning at a point at the centerline intersection of said Carnegie Avenue, 80 feet wide, and East 89th Street, 60 feet wide; said point being the Principal Place of Beginning of Encroachment herein described;

Course No. 1: Thence North $00^{\circ}24'08''$ West along the said centerline of East 89th Street, a distance of 45.51 feet to a point;

Course No. 2: Thence North $89^{\circ}35'52''$ East and at right angles, a distance of 30.00 feet to the Easterly line of said East 89th Street;

Course No. 3: Thence South $45^{\circ}53'00''$ East along the angled right of way line between the Easterly line of East 89th Street and the Northerly line of said Carnegie Avenue, a distance of 7.01 feet to a point on the Northerly line of said Carnegie Avenue;

Course No. 4: Thence North $88^{\circ}38'07''$ East along the said Northerly line of Carnegie Avenue, a distance of 408.52 feet to a point on the centerline of former East 90th Street by Vacation Ordinance Number 319-97;

Course No. 5: Thence South $01^{\circ}04'15''$ East along the said original centerline of East 90th Street, a distance of 40.04 feet to the said centerline of Carnegie Avenue;

Course No. 6: Thence South $88^{\circ}38'07''$ West along the said centerline of Carnegie Avenue, a distance of 191.39 feet to a point;

Course No. 7: Thence South $01^{\circ}21'32''$ West, a distance of 10.00 feet to a point;

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Course No. 8: Thence South 88°38'07" West and parallel with the said centerline of Carnegie Avenue, a distance of 35.08 feet to a point;

Course No. 9: Thence North 01 °21 '32" East, a distance of 10.00 feet to point on the said centerline of Carnegie Avenue;

Course No. 10: Thence South 88°38'07" West and along he said centerline of Carnegie Avenue, a distance of 217.52 feet to the place of beginning and containing 0.420 acres, 18,281 square feet, of land and being the same more or less but subject to all legal highways and easements.

The bearings described herein are based on Grid North (North 00°00'00" East) from GPS observations utilizing the Ohio State Plane South American Datum 1983 (2011 adj, North Zone) coordinate system. All distances expressed herein are in US Survey Feet.

Legal Descriptions approved by Eric B. Westfall, Section Chief, Plats, Surveys and House Numbering Section.

Section 2. That the Director of Law shall prepare the permit authorized by this ordinance and shall incorporate such additional provisions as the Director of Law determines necessary to protect and benefit the public interest. The permit shall be issued only when, in the opinion of the Director of Law, the prospective Permittee has properly indemnified the City against any loss that may result from the encroachments permitted.

Section 3. That Permittee may assign the permit only with the prior written consent of the Director of Capital Projects. That the encroaching structures permitted by this ordinance shall conform to plans and specifications first approved by the Manager of the City's Division of Engineering and Construction. That Permittee shall obtain all other required permits, including but not limited to Building Permits, before installing the encroachments.

Section 4. That the permit shall reserve to the City reasonable right of entry to the encroachment locations.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

JBM:nl
1-9-2023
FOR: Director DeRosa

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REPORT
after second Reading

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(by departmental request)**

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READ FIRST TIME on JANUARY 9, 2023 **REPORTS**
and referred to DIRECTORS of Capital Projects, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
**DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

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