

# Ordinance No. 896-2023

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

## AN EMERGENCY ORDINANCE

Authorizing the Director of Community Development and the Commissioner of Purchases and Supplies to enter into an agreement with The Cleveland Public Theatre, Inc., or its designee, providing for the exchange of real properties.

WHEREAS, the Department of Community Development desires to enter into an agreement with The Cleveland Public Theatre, Inc., or its designee, (the “Theatre”) providing for the exchange of certain real properties; and

WHEREAS, the City property to be transferred to the Theatre has an appraised value of \$460,000 and the Theatre property to be transferred to the City has an appraised value of \$580,000, leaving a difference in the fair market value of \$120,000 which the City will remit to the Theatre; and

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 notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Community Development and the Commissioner of Purchases and Supplies are authorized to enter into an agreement for and on behalf of the City of Cleveland with the Theatre providing for the exchange of real property necessary for parking.

Section 2. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that the following described property is no longer needed for the City’s public use:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 2 in Levi Johnson’s Heirs Allotment of part of Original Brooklyn Township Lot No. 32, and Reallotment of part of Sublot No. 33 in Rhodes and Coffinberry’s Allotment of part of Original Brooklyn Township Lot No. 32, as shown by the recorded plat of said allotment and reallotment in Volume 9 of Maps, Page 27 of Cuyahoga County Records, and bounded and described as follows:

Beginning in the southerly line of Detroit Avenue, N.W., at the northwesterly corner of land conveyed to Sarah E. Beach by deed dated May 18, 1893 and recorded in Volume 550, Page 181 of Cuyahoga County Records; then southerly along the westerly line of land so conveyed to Sarah E. Beach about 174 feet 5 ½ inches to the southerly line of said Sublot No. 2, thence westerly along the southerly line of Sublot No. 2, 25 feet 6 inches to the southerly corner of land conveyed to Florence S. Wickham by deed dated June 14, 1917 and recorded in Volume 1930, Page 202 of Cuyahoga County Records, thence northerly along the easterly line of land so conveyed to Florence S. Wickham about 174 feet 4 ¼ inches to the southerly line of Detroit Avenue, N.W. thence easterly along said southerly line of Detroit Avenue, N.W., 25 feet 6 inches to the place of beginning, as appears by said plat; subject to an easement of four feet for a driveway used in

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common with the adjoining lot and with the easement rights in said adjoining lot for said driveway; and subject to existing City restrictions and restriction of record if any.

The above is 6211 Detroit Avenue, Permanent Parcel Number 002-16-015

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 1 in Johnson Sacket and Waterbury Subdivision of part of Original Brooklyn Township Lot Number 32 as shown by the recorded plat in Volume 9 of Maps Page 27 of Cuyahoga County Records and being 51 feet front on the southerly side of Detroit Avenue and extending back 174.35 feet on the westerly line, 174.06 feet on the easterly line, and having a rear line of 51 feet, as appears on said plat.

The above is Permanent Parcel Number 002-16-017

Situated in the State of Ohio, County of Cuyahoga; City of Cleveland, being part of Original Brooklyn Township Lot No. 32 and known as being part of Sublot No 2 in the Johnson, Sacket and Waterbury Allotment as recorded in Plat Volume 9, Page 27 of Cuyahoga County Records and being more fully described as follows:

Beginning on the southerly line of Detroit Avenue at the northeasterly corner of said Sublot No. 2, said point being S 70°30'30" W, 450.34 feet from a monument found 0.74 feet north of the southerly line of Detroit Avenue on the centerline of Waverly Court;

Thence S 70°30'30" W along the southerly line of said Detroit Avenue, 0.20 feet to a capped 5/8" rebar set at the True place of beginning for the parcel intended to be described herein;

Thence S 19°31'28" E parallel with and 0.20 feet westerly by rectangular measurement from the east line of said Sublot No. 2, 173.94 feet to a capped 5/8" rebar set on the south line of said Sublot No. 2;

Thence S 70°41'35" W along the southerly line of said Sublot No. 2, 12.30 feet to a point on the easterly line of lands described in Deed to the City of Cleveland as recorded in Instrument Number 200903270962 of Cuyahoga County Records;

Thence N 19°31'28" W along the said east line of the City of Cleveland land, 173.90 feet to a 5/8" rebar found on the Southerly line of Detroit Avenue;

Thence N 70°30'30" E along the southerly line of Detroit Avenue, 12.30 feet to the true place of beginning and containing 2139 square feet of land as surveyed by Robert J Warner, P.S. No. 6931 for Floyd Browne Group in July; 2009.

Bearing are to an assumed meridian and are used to indicate angles only.

Capped pins are 5/8" x 30" rebar with a cap stamped "Floyd Browne Group, Akron, Ohio".

The above described parcel shall be attached to the lands directly to the west (PPN 002-16-015) and shall not be transferred separately without the approval of the City of Cleveland Planning Department, their successors or assigns.

Property Address: Vacant land, Detroit Avenue

Last Transfer: AFN200309101564

Part of PPN 002-16-014 (SPLIT-NEW PLAT)

**Section 3.** That by and at the direction of the Board of Control, the Mayor and the Commissioner of Purchases and Supplies are authorized to sell the above-described

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property to the Theatre at a price not less than the appraised value of \$460,000, which is determined to be fair market value.

Section 4. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies and the Mayor are authorized to purchase the following described property from the Theatre for purposes of parking:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No. 86 and parts of Sublots Nos. 162 and 163 in Jacobs B Perkins Subdivision of part of Original Brooklyn Township Lots Nos. 31, 32 and 50 as shown by the recorded plat in Volume 25 of Maps, Page 19 of Cuyahoga County Records and bounded and described as follows:

Beginning on the Northerly line of Detroit Avenue, N.W. (formerly Detroit Avenue) at the Southwesterly corner of Sublot No. 86 in the aforesaid Jacob B. Perkins Subdivision;

Course I: Thence North  $70^{\circ}-52'-22''$  East, along the Northerly line of Detroit Avenue, N W., being also the southerly lines of Sublots Nos. 86, 162 and 163, a distance of 166.705 feet to the Southeasterly corner of Sublot No. 163, said corner being in the Westerly line of West 61<sup>st</sup> Street;

Course II: Thence North  $0^{\circ}-00'-38''$  West, along the Easterly line of Sublot No. 163, and the Westerly line of West 61<sup>st</sup> Street, a distance of 86.90 feet to the Southerly line of land conveyed to Randy L. Hayne and Hellen C. Morgan by deed dated June 27, 1990 and recorded in Volume 90-3727, Page 44 of Cuyahoga County Records;

Course III: Thence North  $89^{\circ}-59'-22''$  West, along the Southerly line of land conveyed to Randy L. Hayne and Hellen C. Morgan and the Northerly line of Parcel No. 1 of land conveyed to John J. Craciun, Jr. and C. Yolanda Craciun by deed dated June 5, 1984, and recorded in Volume 84-2437, Page 38 Cuyahoga County Records, a distance of 84.50 feet to a point in the Easterly line of Parcel No. 2 as conveyed to John J. Craciun, Jr. and C. Yolanda Craciun by deed dated June 5, 1994 and recorded in Volume 84-2437, Page 38 of Cuyahoga County Records;

Course IV: Thence North  $0^{\circ}-00'-38''$  West, along the Easterly line of the aforesaid Parcel No. 2, a distance of 20.00 feet to the Southeasterly corner of land conveyed to Florin L. Dragan and Cerasella Ana Dragan by deed dated November 1, 1993 and recorded in Volume 93-11894, Page 31 of Cuyahoga County Records;

Course V: Thence North  $89^{\circ}-59'-22''$  West, along the southerly line of land so conveyed to Florin L. Dragan and Cerasella Ana Dragan and along the Northerly line of the aforesaid Sublot No. 86, a distance of 73.01 feet to the Northwesterly corner of said Sublot No. 86;

Course VI: Thence South  $0^{\circ}-00'-38''$  East along the Westerly line of Sublot No. 86, a distance of 161.57 feet to the place of beginning and containing 19,459.6 square feet or 0.447 acres of land according to a survey performed by Thomas J. Neff, Jr., Registered Ohio Surveyor No. 7065, in February of 1995, be the same more or less but subject to all legal highways.

Section 5. That the conveyance shall be made by official deed prepared by the Director of Law and executed by the Mayor and the Commissioner of Purchases and Supplies on behalf of the City of Cleveland.

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Section 6. That the consideration to be paid for this property shall not exceed the appraised value of \$580,000, which is determined to be fair market value.

Section 7. That the agreement authorized shall be prepared by the Director of Law.

Section 8. That the conveyance referred to in Section 1 shall be made by official quitclaim deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain provisions necessary to protect the parties and their respective interests, including restrictive covenants deemed necessary by the Directors of Community Development and Law, and shall specifically contain a provision against the erection of any advertising signs or billboards, excepting permitted identification signs.

Section 9. That the Director of Community Development is authorized to execute on behalf of the City of Cleveland all necessary documents to exchange the properties and to employ and pay all fees for title companies, surveys, escrows, appraisers, environmental audits and all other costs necessary for the transfer of the properties.

Section 10. That the cost of this ordinance shall not exceed \$120,000, plus the costs of acquiring, accepting, and recording the land and shall be paid from Fund No. 11 SF 006 and other funds approved by the Director of Finance. (RQS 0103, RL 2023-81)

Section 11. 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.

GP:nl  
8-16-2023  
FOR: Director Hernandez

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**REPORT  
after second Reading**

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

**AN EMERGENCY ORDINANCE**  
Authorizing the Director of Community Development and the Commissioner of Purchases and Supplies to enter into an agreement with The Cleveland Public Theatre, Inc., or its designee, providing for the exchange of real properties.

**READ FIRST TIME on AUGUST 16, 2023**  
**and referred to DIRECTORS of Community Development,  
City Planning Commission, Finance, Law;  
COMMITTEES on Development Planning and Sustainability,  
Finance Diversity Equity and Inclusion**

**REPORTS**

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**CITY CLERK**

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**READ SECOND TIME**

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**CITY CLERK**

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**READ THIRD TIME**

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**PRESIDENT**

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**CITY CLERK**

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**APPROVED**

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**MAYOR**

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

FILED WITH COMMITTEE


**PASSAGE RECOMMENDED BY  
COMMITTEE ON  
FINANCE, DIVERSITY, EQUITY  
and INCLUSION**

FILED WITH COMMITTEE
