

LEGISLATIVE SUMMARY
Mayor's Office of Capital Projects
Division of Engineering and Construction

Request Legislation to amend Ordinance No. 442-2020

Ordinance Number: 897-2021

Description: Typical encroachment legislation notes that the duration is at the will of Council. Metroparks has requested that River Avenue Encroachment be non-revocable for 15 years which a condition of a grant they are receiving from ODNR.

Purpose: Legislation to amend Section 1 of Ordinance No. 442-2020, passed December 9, 2020, so that the encroachment permit will only be revocable, at the will of Council, 15 years after the completion of the installation of the all-purpose trail.

A consent form acknowledging approval of this request will be forthcoming from the Council Member

Ward: Ward 3 Council Member Kerry McCormack



City of Cleveland Memorandum
Frank G. Jackson, Mayor

Date: August 11, 2021

To: Barbara Langhenry, Director
Department of Law

From: Matthew L. Spronz, Director *MS*
Mayor's Office of Capital Projects

Re: Request for amending Legislation

We are requesting legislation to amend Ordinance No. 442-2020, passed December 9, 2020 so that the encroachment permit will only be revocable, at the will of Council, 15 years after the completion of the installation of the all-purpose trail.

An electronic draft copy will be emailed to your Department to facilitate the processing of this request.

If you have any questions please contact Eric Westfall, Survey Department 664-3780,
Thank you.

MS/ebw

Cc: Valarie McCall, Chief of Government Affairs
Richard Switalski, Administration Bureau Manager, Division of Engineering & Const.
Eric Westfall, Plats and Surveys Section
Marcia Johnson, Legislative Liaison
Nancy Lanzola, Department of Law

Ordinance No. 442-2020

By Council Members: McCormack, Johnson and Brancatelli (by departmental request)

An emergency ordinance authorizing the Director of Capital Projects to issue a permit to The Board of Park Commissioners of the Cleveland Metropolitan Park District to encroach into the public right-of-way of River Avenue by installing, using and maintaining an asphalt all-purpose trail.

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 Board of Park Commissioners of the Cleveland Metropolitan Park District, 1410 Fulton Parkway, Cleveland, OH 44144 ("Permittee"), to encroach into the public right-of-way of River Avenue by installing, using and maintaining an asphalt all-purpose trail at the following described location:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of River Avenue (66 feet wide):

Commencing at the intersection of the southeasterly line of said River Avenue and the northeasterly line of Mulberry Street (66 feet wide); thence N 18° 40' 05" E, 5.54 feet along the southeasterly line of said River Avenue to the Point of Beginning;

Thence N 71° 19' 55" W, 66.00 feet to the northwesterly line of said River Avenue;

Thence N 18° 40' 05" E, 258.86 feet along the northwesterly line of said River Avenue;

Thence N 18° 31' 25" E, 389.69 feet along the northwesterly line of said River Avenue;

Thence S 04° 23' 15" W, 71.66 feet to the proposed back of curb;

Thence S 18° 31' 25" W, 543.50 feet along said proposed back of curb and the prolongation of said back of curb;

Thence S 71° 19' 55" E, 47.94 feet to the southeasterly line of said River Avenue;

Thence S 18° 40' 05" W, 35.61 feet along the southeasterly line of said River Avenue to the Point of Beginning and containing 12,532 square feet. This legal description was written for Cleveland Metroparks by Gary J. Tata, P.S. #7723. Bearings are based on Grid North derived from GPS observations.

Legal Description approved by Eric Westfall, Section Chief (Acting), 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.

Passed December 9, 2020.

Effective December 15, 2020.

CONSENT TO INTRODUCE LEGISLATION
BY REQUEST

I hereby consent to introduction of legislation in my name by request for the following:

An Emergency Ordinance

Legislation to amend Section 1 of Ordinance No. 442-2020, passed December 9, 2020, so that the encroachment permit will only be revocable, at the will of Council, 15 years after the completion of the installation of the all-purpose trail.

Dated:

The Honorable Kerry McCormack
Councilmember – Ward 3

Encroachment Permit River Avenue

City of Cleveland
Vol.643 Pg.314

Situated in the City of Cleveland,
County of Cuyahoga, State of Ohio

12,532 square feet

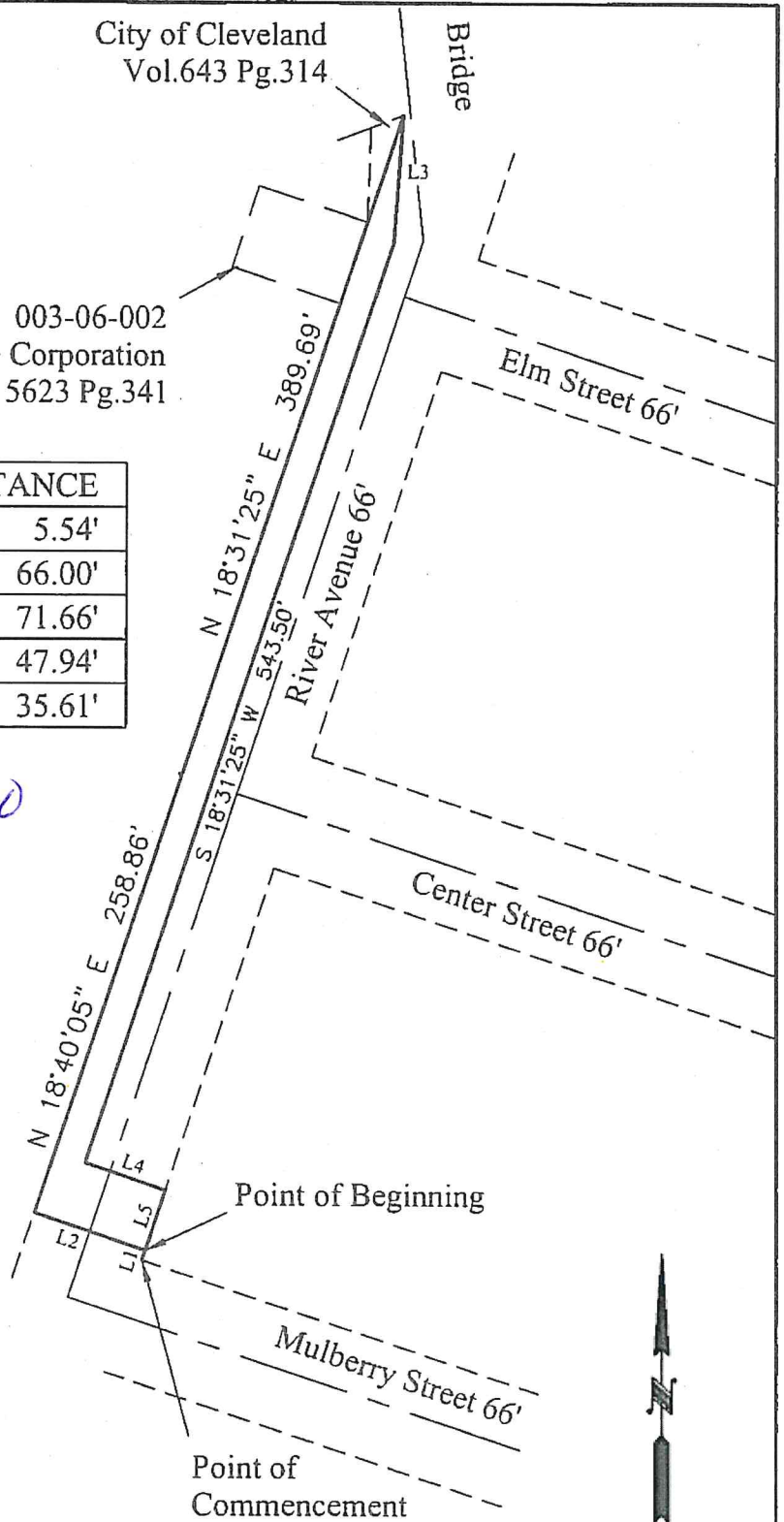
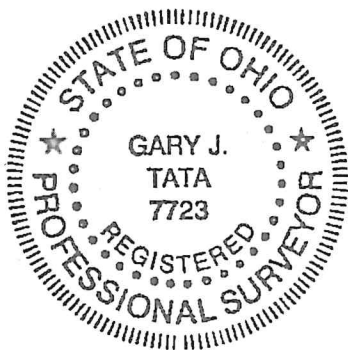
003-06-002
Ontario Stone Corporation
Vol.15623 Pg.341

LINE	BEARING	DISTANCE
L1	N 18°40'05" E	5.54'
L2	N 71°19'55" W	66.00'
L3	S 04°23'15" W	71.66'
L4	S 71°19'55" E	47.94'
L5	S 18°40'05" W	35.61'

Ordinance No. 442-2020

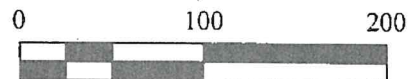
Amend

003-06-001
Ontario Stone Corporation
Vol.15623 Pg.341



Gary J. Tata 11/13/20

Gary J. Tata P.S. #7723
4101 Fulton Parkway
Cleveland, Ohio 44144



scale: 1 inch = 100 feet