

Ordinance No. 1304-17

Council Members K. Johnson and Brancatelli
(by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects to issue a permit to the Playhouse Square Foundation to encroach into the public rights-of-way of Euclid Avenue, East 17th Street, and Brownell Court by installing, using, and maintaining an entry canopy, apartment balconies, a building overhang at the northeast corner, and an earth retention system with tiebacks.

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 Playhouse Square Foundation, 1501 Euclid Avenue, Cleveland Ohio, 44115 ("Permittee"), to encroach into the public rights-of-way of Euclid Avenue, East 17th Street, and Brownell Court, by installing, using, and maintaining an entry canopy, apartment balconies, a building overhang at the northeast corner, and an earth retention system with tiebacks, at the following locations:

Encroachment #1 - Euclid Avenue Earth Retention

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South 79°11'56" West measured along said centerline 23.06 feet from its intersection with the centerline of East 14th Street, (86 feet wide);

(L1) Thence North 81°02'24" East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

(L2) Thence South 34°43'03" East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North 81°02'24" East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records, also known as the principal place of beginning;

Course 1. (L4) Thence North 08°53'30" West a distance of 6.50 feet to a point;

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Course 2. (L5) Thence North $81^{\circ}02'24''$ East a distance of 237.67 feet to a point;

Course 3. (L6) Thence South $08^{\circ}56'48''$ East a distance of 156.95 feet to a point on the westerly right of way of East 17th Street;

Course 4. (C1) Thence along the westerly line of said East 17th Street along a curve to the right having a Chord Bearing of North $14^{\circ}26'14''$ West, Chord Length of 67.93 feet and a Radius of 355.00 feet to a point;

Course 5. (L7) Thence North $08^{\circ}56'48''$ West continuing along the westerly line of East 17th Street a distance of 67.82 feet to a point;

Course 6. (C2) Thence continuing along the westerly line of East 17th Street along a curve to the left having a Chord Bearing of North $53^{\circ}57'09''$ West, Chord Length of 21.22 feet, and a Radius of 15.00 feet to a point on the southerly line of Euclid Avenue;

Course 7. (L8) Thence South $81^{\circ}02'24''$ West a distance of 216.17 feet to the Point of Beginning and containing 0.0556 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: At to below existing grade.

Basis of bearing: Bearings are based on the centerline of Euclid Avenue as shown in the Euclid Corridor Centerline Survey produced by the City of Cleveland Division of Engineering & Construction.

Encroachment #2 - Brownell Court Earth Retention

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South $79^{\circ}11'56''$ West measured along said centerline 23.06 feet from its intersection with the centerline of East 14th Street, (86 feet wide);

(L1) Thence North $81^{\circ}02'24''$ East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

(L2) Thence South $34^{\circ}43'03''$ East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North $81^{\circ}02'24''$ East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records;

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(L4) Thence South 08°53'30" East along the easterly line of said T.W. Grogan Parcel a distance of 190.29 feet to a point on the northerly line of Brownell Court, also known as the principal place of beginning;

Course 1. (L5) Thence North 81°02'37" East along the northerly line of Brownell Court a distance of 237.86 feet to a point;

Course 2. (L6) Thence South 08°53'30" East a distance of 6.50 feet to a point;

Course 3. (L7) Thence South 81°02'37" West a distance of 237.86 feet to a point;

Course 4. (L8) Thence North 08°53'30" West a distance of 6.50 feet to the Point of Beginning and containing 0.0354 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: At to below existing grade.

Basis of bearing: Bearings are based on the centerline of Euclid Avenue as shown in the Euclid Corridor Centerline Survey produced by the City of Cleveland Division of Engineering & Construction.

Encroachment #3 - Euclid Garage Canopy

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South 78°31'38" West measured along said centerline 23.06 feet from its intersection with the centerline of East 14th Street, (86 feet wide);

(L1) Thence North 81°02'24" East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

(L2) Thence South 34°43'03" East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North 81°02'24" East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records, also known as the principal place of beginning;

Course 1. (L4) Thence North 08°53'30" West a distance of 3.00 feet to a point;

Course 2. (L5) Thence North 81°02'24" East a distance of 155.25 feet to a point;

Course 3. (L6) Thence South 08°53'30" East a distance of 3.00 feet to a point on the southerly line of Euclid Avenue (99' wide);

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Course 4. (L7) Thence South 81°02'24" West a distance of 155.25 feet to the Point of Beginning and containing 0.0106 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: Beginning at elevation 670.25.

Basis of bearing: Bearings are based on the centerline of Euclid Avenue as shown in the Euclid Corridor Centerline Survey produced by the City of Cleveland Division of Engineering & Construction.

Encroachment #4 - Euclid Building Projection #01

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South 79°11'56" West measured along said centerline 23.06 feet from its intersection with the centerline of East 14th Street, (86 feet wide);

(L1) Thence North 81°02'24" East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

(L2) Thence South 34°43'03" East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North 81°02'24" East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records;

(L4) Thence North 81°02'24" East continuing along the southerly line of said Euclid Avenue a distance of 164.15 feet to a point also known as the principal place of beginning;

Course 1. (L5) Thence North 08°56'48" West a distance of 18.00 feet to a point;

Course 2. (L6) Thence North 81°02'24" East a distance of 61.23 feet to a point;

Course 3. (L7) Thence South 08°56'48" East a distance of 18.00 feet to a point;

Course 4. (L8) Thence South 81°02'24" West a distance of 61.23 feet to the Point of Beginning and containing 0.0253 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: Beginning at elevation 668.75

Basis of bearing: Bearings are based on the centerline of Euclid Avenue as shown in the Euclid Corridor Centerline Survey produced by the City of Cleveland, Division of Engineering & Construction.

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Encroachment #5 - East 17th Street Canopy Projection

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South 79°11'56" West measured along said centerline 23.06 feet from its intersection with the centerline of East 14th Street, (86 feet wide);

(L1) Thence North 81°02'24" East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

(L2) Thence South 34°43'03" East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North 81°02'24" East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records;

(L4) Thence North 81°02'24" East continuing along the southerly line of said Euclid Avenue a distance of 216.17 feet to a point;

(C1) Thence along a curve to the right having a Chord Bearing of South 53°57'09" East, Chord Length of 21.22 feet and a Radius of 15.00 feet to a point on the westerly right of way of East 17th Street;

(L5) Thence S08°56'48" East along the westerly line of said East 17th Street a distance of 30.34 feet to a point also known as the principal place of beginning;

Course 1. (L6) Thence North 81°03'12" East a distance of 3.00 feet to a point;

Course 2. (L7) Thence South 08°56'48" East a distance of 83.56 feet to a point on the westerly line of said East 17th Street;

Course 3. (C2) Thence along the westerly line of East 17th Street a curve to the right having a Chord Bearing of North 12°40'26" West, Chord Length of 46.15 feet and a Radius of 355.00 feet to a point on the westerly right of way of East 17th Street

Course 4. (L8) Thence North 08°56'48" West a distance of 37.51 feet to the Point of Beginning and containing 0.0469 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: Beginning at elevation 666.75.

Basis of bearing: Bearings are based on the centerline of Euclid Avenue as shown in the Euclid Corridor Centerline Survey produced by the City of Cleveland Division of Engineering & Construction.

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Encroachment #6 - Euclid Building Projection #02

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South $79^{\circ}11'56''$ West measured along said centerline 23.06 feet from its intersection with the centerline of East 14th Street, (86 feet wide);

(L1) Thence North $81^{\circ}02'24''$ East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

(L2) Thence South $34^{\circ}43'03''$ East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North $81^{\circ}02'24''$ East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records;

(L4) Thence North $81^{\circ}02'24''$ East continuing along the southerly line of said Euclid Avenue a distance of 163.93 feet to a point also known as the principal place of beginning;

Course 1.(L5) Thence North $08^{\circ}56'48''$ West a distance of 10.12 feet to a point;

Course 2.(L6) Thence North $81^{\circ}02'24''$ East a distance of 56.32 feet to a point;

Course 3.(L7) Thence South $08^{\circ}56'48''$ East a distance of 10.12 feet to a point;

Course 4.(L8) Thence South $81^{\circ}02'24''$ West a distance of 56.32 feet to the Point of Beginning and containing 0.0130 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: Beginning at elevation 676.66 through elevation 865.66

Encroachment #7 - East 17th Street Balcony Projection

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South $79^{\circ}11'56''$ West measured along said centerline 23.06 feet from its intersection with the centerline of East 14th Street, (86 feet wide);

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(L1) Thence North 81°02'24" East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

(L2) Thence South 34°43'03" East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North 81°02'24" East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records;

(L4) Thence North 81°02'24" East continuing along the southerly line of said Euclid Avenue a distance of 216.17 feet to a point;

(C1) Thence along a curve to the right having a Chord Bearing of South 62°07'28" East, Chord Length of 17.98 feet and a Radius of 15.00 feet to a point on the westerly right of way of East 17th Street also known as the principal place of beginning;

Course 1.(L5) Thence North 81°02'24" East a distance of 8.61 feet to a point;

Course 2.(L6) Thence South 08°56'48" East a distance of 15.72 feet to a point;

Course 3.(L7) Thence South 81°02'24" West a distance of 8.00 feet to a point on the westerly line of East 17th Street;

Course 4.(L8) Thence North 08°56'48" West along the westerly line of said East 17th Street a distance of 11.49 feet to a point of curvature;

Course 5.(C2) Thence continuing along the westerly line of East 17th Street a curve to the left having a Chord Bearing of North 17°07'01" West, Chord Length of 4.27 feet and a Radius of 15.00 feet to the Point of Beginning and containing 0.0029 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: Encroachment begins at Building Floor 6 and ends at Building Floor 33.

Encroachment #8 - Construction Tiebacks

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Sublots 17 and 18 in Block 4 of Seymour & Baldwin's Allotment of part of Original 10 Acre Lots 51 and 52 as shown by the plat recorded in Volume "U", Page 616 of Cuyahoga County Deed Records, and bounded and described as follows:

Commencing at a stone monument found at an angle point in the centerline of Euclid Avenue (99 feet wide), said point being distant South 79°11'56" West measured along said centerline 23.06 feet from intersection with the centerline of East 14th Street, (86 feet wide);

(L1) Thence North 81°02'24" East along the centerline of Euclid Avenue a distance of 13.23 feet to a point;

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(L2) Thence South $34^{\circ}43'03''$ East a distance of 54.96 feet to a drill hole set in the Southerly line of Euclid Avenue at its intersection with the Northeasterly line of East 14th Street;

(L3) Thence North $81^{\circ}02'24''$ East along the Southerly line of Euclid Avenue a distance of 199.08 feet to its intersection with the Easterly line of a parcel of land conveyed to The T. W. Grogan Company by deed recorded in Volume 14489, Page 175 of Cuyahoga County Records, also known as the principal place of beginning;

Course 1.(L4) Thence North $08^{\circ}57'54''$ West a distance of 60.00 feet to a point;

Course 2.(L5)Thence North $81^{\circ}02'24''$ East a distance of 299.02 feet to a point;

Course 3.(L6) Thence South $08^{\circ}56'48''$ East a distance of 270.31 feet to a point on the Southerly right of way of Brownell Court;

Course 4.(L7) Thence South $81^{\circ}02'37''$ West a distance of 299.18 feet to a point on said Easterly line of The T.W. Grogan Company parcel;

Course 5.(L8) Thence with said Easterly line North $08^{\circ}57'23''$ West a distance of 20.00 feet to a point on the Northerly right of way of said Brownell Court;

Course 6.(L9) Thence with said Northerly right of way line North $81^{\circ}02'37''$ East a distance of 244.68 feet to a point of curvature on the Westerly right of way of East 17th Street;

Course 7.(C1) Thence along said westerly line of said East 17th street along a curve to the left having a Chord Bearing of North $18^{\circ}08'59''$ West, Chord Length of 32.12 feet and a Radius of 294.98 feet to a point of reverse curvature;

Course 8.(C2) Thence continuing with said Westerly right of way line along a curve to the right having a Chord Bearing of North $15^{\circ}06'31''$ West, Chord Length of 76.21 feet and a Radius of 354.98 feet to a point;

Course 9.(L10) Thence North $08^{\circ}56'48''$ West continuing along the westerly line of East 17th Street a distance of 67.82 feet to a point;

Course 10.(C3) Thence continuing along the westerly line of East 17th Street along a curve to the left having a Chord Bearing of North $53^{\circ}57'10''$ West, Chord Length of 21.22 feet, and a Radius of 15.00 feet to a point on the southerly line of Euclid Avenue;

Course 11.(L11) Thence South $81^{\circ}02'24''$ West a distance of 216.17 feet to the Point of Beginning and containing 0.8339 acres be the same more or less but subject to all legal highways and easements of record.

Elevation: At to below existing grade.

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The exact location of each tieback to be installed and its depth shall be first approved by the Director of Capital Projects and shown on approved plan sheets on file in the Survey and House Numbering Section of the Office of Capital Projects.

Basis of bearing: Bearings are based on the centerline of Euclid Avenue as shown in the Euclid Corridor Centerline Survey produced by the City of Cleveland Division of Engineering & Construction.

Legal Description approved by Greg Esber, 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 encroachment(s) permitted.

Section 3. That Permittee may assign the permit only with the prior written consent of the Director of Capital Projects. That the encroaching structure(s) 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 encroachment(s).

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
10-30-17

FOR: Director Spronz

Ord. No. 1304-17

REPORT
after second Reading

Council Members K. Johnson and Brancatelli (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects to issue a permit to the Playhouse Square Foundation to encroach into the public rights-of-way of Euclid Avenue, East 17th Street, and Brownell Court by installing, using, and maintaining an entry canopy, apartment balconies, a building overhang at the northeast corner, and an earth retention system with tiebacks.

READ FIRST TIME on OCTOBER 30, 2017
and referred to **DIRECTORS** of Capital Projects,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. _____ Page _____

Published in the City Record _____

**PASSAGE RECOMMENDED BY
COMMITTEE ON
MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

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

FILED WITH COMMITTEE

