

CITY OF CLAYTON, OHIO

ORDINANCE NO. O – 11 – 22 - 34

AN ORDINANCE VACATING A SPECIFIED 50.00 FOOT SECTION OF AN EXISTING PUBLIC RIGHT OF WAY LOCATED ON OBISPE STREET WITHIN THE CITY OF CLAYTON, OHIO

WHEREAS, the City of Clayton as owner of the property described on the attached **Exhibit A** and further delineated as: *That 50-foot section of an existing public right of way on Obispe Street and further located to the east of Harrington Avenue between Parcel Id. No. M60 16311 0001 and Parcel Id. No. M60 16310 0019 within the City of Clayton, Ohio*, desires to vacate said 50-foot section to the three (3) abutting property owners at: 7700 Harrington Avenue, 7620 Harrington Avenue, and 6029 Dog Leg Road all pursuant to the division thereof further delineated on the attached **Exhibit A**; and

WHEREAS, pursuant to O.R.C. 723.07, notice of the intent to vacate was published in the Brookville Star, a newspaper of general circulation within the City of Clayton, for six consecutive weeks; and

WHEREAS, although not required by the Ohio Revised Code, notice of the November 3, 2022 public hearing on this proposed vacation was sent via U.S. Regular Mail to the three (3) abutting property owners at: 7700 Harrington Avenue, 7620 Harrington Avenue, and 6029 Dog Leg Road, as evidenced by **Exhibit B**; and

WHEREAS, by operation of O.R.C. 723.041, the vacating of said 50-foot section of Obispe Street shall not affect existing utility line easements and each public utility affected by said vacation shall be deemed to have and retain a permanent easement in such vacated premises for the purpose of maintaining, operating, renewing, reconstructing and removing said utility facilities and for purposes of access to said facilities; and

WHEREAS, Council of the City of Clayton finds that, upon recommendation of City staff, the aforementioned and described 50-foot section of Obispe Street, as delineated on the attached **Exhibit A**, is of no further use or benefit to the City of Clayton; and

WHEREAS, Council of the City of Clayton finds that in accordance with O.R.C. 723.05 there exists good cause for vacating *That 50-foot section of an existing public right of way on Obispe Street and further located to the east of Harrington Avenue between Parcel Id. No. M60 16311 0001 and Parcel Id. No. M60 16310 0019 within the City of Clayton, Ohio as delineated on the attached and incorporated Exhibit A* and that such vacation will not be detrimental to the general interest, nor detrimental to the public health, safety, and welfare to dispose of said 50-foot section of Obispe Street as delineated on the attached **Exhibit A**, to the three (3) abutting property owners at: 7700 Harrington Avenue, 7620 Harrington Avenue, and 6029 Dog Leg Road; and

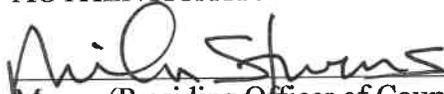
WHEREAS, on November 3, 2022, Council did hold a public hearing on the proposed vacation of the aforementioned 50-foot section of Obispe Street, at which time all persons were provided an opportunity to be heard.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

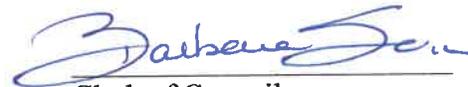
1. That *50-foot section of an existing public right of way on Obispe Street and further located to the east of Harrington Avenue between Parcel Id. No. M60 16311 0001 and Parcel Id. No. M60 16310 0019 within the City of Clayton, Ohio as delineated on the attached and incorporated Exhibit A* be and hereby *is vacated as shown on the attached Exhibit A*, subject to the continued existence of permanent easements to any public or private utility located on, over or under the portion of Obipse Street affected by such vacation for the purpose of maintaining, operating, renewing, reconstructing and removing said utility facilities and for purposes of access to said facilities in accordance with O.R.C. 723.041.
2. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
3. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on November 3, 2022 and November 17, 2022.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.
5. *That the Clerk of Council is hereby authorized and directed to forward a Certified Copy of this Ordinance No. O-11-22-34 to the Montgomery County Office of the Recorder immediately following the second reading and adoption thereof.*
6. *That the City Manager is authorized to take such actions as are necessary to complete the above referenced vacation.*

ADOPTED BY COUNCIL ON NOVEMBER 17, 2022.

AUTHENTICATION:



Mayor (Presiding Officer of Council)



Clerk of Council

APPROVED AS TO FORM:



Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Brookville Star

Date of publication

Nov. 23, 2022

Barbara Seis
CLERK

Ref. Ohio Revised Code Chapter 723

LAW OFFICE OF MARTINA M. DILLON, ESQ.

7501 Paragon Road, Suite A

Dayton, Ohio 45459

Phone: 937-434-1908

martina@mdillonlaw.com

October 6, 2022

John and Janell Reffitt
7700 Harrington Avenue
Dayton, Ohio 45415

Samuel and Katelyn Studebaker
7620 Harrington Avenue
Dayton, Ohio 45415

Michael and Stephanie Birdsall
6029 Dog Leg Rd.
Dayton, Ohio 45415

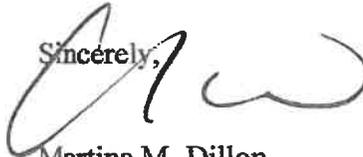
Re: Notice of Public Hearing on Potential Vacation of Specified Portion of Obispo Street

Dear Mr. and Mrs. Reffitt, Mr. and Mrs. Studebaker, and Mr. and Mrs. Birdsall:

In follow up to my July 21, 2022 letter, please be advised the City is currently advertising by publication in the Brookville Star a public hearing with respect to the above to occur on Thursday, November 3, 2022 at 7:30 p.m. to be held before City Council at the City Building located at 6996 Taywood Road.

A copy of the publication is attached.

Sincerely,



Martina M. Dillon,
Clayton Law Director

cc: Amanda Zimmerlin, City Manager
Seth Dorman, City Planner/Zoning Administrator
Randy Sanders, Public Service Director

Exhibit B

PUBLIC HEARING NOTICE

In accordance with Ohio Revised Code Sections 723.06 and 723.07, notice is hereby given that the Clayton City Council will hold a public hearing on Thursday, November 3, 2022 at 7:30 p.m. at the Clayton Government Center, 6996 Taywood Road. The topic of the public hearing will be the intention of the City to vacate a specified portion of a designated 50-foot section of public right-of-way on Obispo Street located to the east of Harrington Avenue and further located between Parcel Id. No. M60 16311 0001 and Parcel Id. No. M60 16310 0019 within the City of Clayton. Clayton City Council may take action at that time regarding said vacation. Documents are available for public inspection relative to said public hearing, 6996 Taywood Road, Monday-Friday 7:30 a.m. to 4:30 p.m. The meeting is open to the public.

September 21, 28
October 5, 12, 18, 26
90158503 bkv

LAW OFFICE OF MARTINA M. DILLON, ESQ.

7501 Paragon Road, Suite A

Dayton, Ohio 45459

Phone: 937-434-1908

martina@mdillonlaw.com

October 18, 2022

Current Resident
7620 Harrington Avenue
Dayton, Ohio 45415

Re: Notice of Public Hearing on Potential Vacation of Specified Portion of Obispe Street

Dear Current Resident:

This correspondence is to advise the City is currently advertising by publication in the Brookville Star a public hearing with respect to the above to occur on Thursday, November 3, 2022 at 7:30 p.m. to be held before City Council at the City Building located at 6996 Taywood Road.

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Sincerely,



Martina M. Dillon,
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cc: Amanda Zimmerlin, City Manager
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