

City of Cincinnati

CHM

An Ordinance No. 319

- 2023

EEW

AUTHORIZING the City Manager to execute a Property Sale Agreement with The Sawyer Place Company, pursuant to which the City will vacate and convey a portion of an unnamed alley designated as public right-of-way in the East End neighborhood of Cincinnati.

WHEREAS, the City owns approximately 0.1125 acres of real property designated as an unnamed public right-of-way in the East End neighborhood, as more particularly depicted and described in the Property Sale Agreement attached to this ordinance as Attachment A and incorporated herein by reference (“Property”), which Property is under the management of the City’s Department of Transportation and Engineering (“DOTe”); and

WHEREAS, The Sawyer Place Company, an Ohio limited liability company (“Petitioner”), owns certain real property adjoining the Property and has petitioned the City to vacate and sell the Property to facilitate the development of a residential housing development (“Project”); and

WHEREAS, John E. Stillpass, Esq., a reputable attorney practicing in Hamilton County, Ohio, has certified that the owners of all the real property abutting the Property are as follows: (i) Petitioner; (ii) Riverside Lots LLC, an Ohio limited liability company; (iii) Jeffrey R. Stewart, Trustee of the Jeffrey R. Stewart Trust U/A/D December 16, 2016, as amended; and (iv) Frontier East Corporation, a Wyoming corporation; and provided abutter’s consent quitclaim deeds from all aforementioned abutting property owners in connection with the City’s vacation and sale of the Property to Petitioner; and

WHEREAS, pursuant to Ohio Revised Code Sec. 723.04, the City may, upon petition, vacate a street or alley if it has determined that there is good cause for the vacation and that the vacation will not be detrimental to the general interest; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-1, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City Manager, in consultation with DOTe, has determined that: (i) the Property is not needed for transportation purposes or any other municipal purpose; (ii) there is good cause to vacate the Property; and (iii) the vacation of the Property will not be detrimental to the general interest; and

WHEREAS, the City’s Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Property is approximately \$19,588, which Petitioner has agreed to pay; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-5, Council may authorize the sale of City-owned real property without competitive bidding in those cases in which it determines that it is in the best interest of the City and eliminating competitive bidding in connection with the City's sale of the Property is appropriate because Petitioner owns several properties abutting the Property, all necessary abutters have consented to the vacation and sale of the Property to Petitioner in the form of abutter's consent quitclaim deeds, and as a practical matter, no one other than an abutting property owner would have any use for it; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to acquire, construct, enlarge, improve, or equip and to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; and

WHEREAS, Section 16 of Article VIII of the Ohio Constitution provides that it is in the public interest and a proper public purpose for the City to enhance the availability of adequate housing and to improve the economic and general well-being of the people of the City by providing or assisting in providing housing; and

WHEREAS, in furtherance of the foregoing public purposes, the City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents and is in accordance with applicable state and local laws; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation and sale of the Property at its regularly scheduled meeting on January 20, 2023; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a Property Sale Agreement ("Agreement") with The Sawyer Place Company, an Ohio corporation ("Petitioner"), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati ("City") will vacate and convey to Petitioner an approximately 0.1125-acre tract of an unnamed alley in the East End neighborhood, as more particularly depicted and described in the Agreement ("Property"), which Property is more particularly described below and on the legal description attached to this ordinance as Attachment B and incorporated herein by reference:

SITUATE IN SECTIONS 25 AND 31, TOWN 4, FRACTIONAL RANGE 2, COLUMBIA TOWNSHIP, MIAMI PURCHASE, CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND BEING A PORTION OF AN UNNAMED ALLEY MORE PARTICULARLY DEPICTED ON THE PLAT OF PARTITION AMONG THE HEIRS OF N.G. PENDLETON AND J. STRADER DEC'D AS RECORDED IN PLAT BOOK 2, PAGES 166-167 AND FURTHER DEPICTED IN DEED BOOK 137, PAGES 523-525, HAMILTON COUNTY, OHIO RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET IRON PIN AT THE NORTHWESTERLY CORNER OF LOT 10 OF SAID PLAT OF PARTITION AS RECORDED IN PLAT BOOK 2, PAGES 166 & 167;

THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID UNNAMED ALLEY, SOUTH 31°15'54" WEST, A DISTANCE OF 275.00 FEET TO A SET IRON PIN AT THE SOUTHWESTERLY CORNER OF LOT 23 OF SAID PLAT OF PARTITION;

THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE AND THROUGH THE RIGHT-OF-WAY OF SAID UNNAMED ALLEY, THE FOLLOWING THREE (3) COURSES:

1. NORTH 56°49'11" WEST, A DISTANCE OF 10.01 FEET TO A SET IRON PIN,

2. NORTH 31°15'54" EAST, A DISTANCE OF 60.00 FEET TO A SET IRON PIN, AND

3. NORTH 56°49'11" WEST, A DISTANCE OF 10.01 FEET TO A SET IRON PIN WITHIN THE WEST RIGHT-OF-WAY LINE OF SAID UNNAMED ALLEY, ALSO BEING THE SOUTHEASTERLY CORNER OF LOT 16 OF SAID PLAT OF PARTITION;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF SAID UNNAMED ALLEY, NORTH 31°15'54" EAST, A DISTANCE OF 215.00 FEET TO A SET IRON PIN;

THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE AND THROUGH THE RIGHT-OF-WAY OF SAID UNNAMED ALLEY, SOUTH 56°49'11" EAST, A DISTANCE OF 20.01 FEET TO THE POINT OF BEGINNING, CONTAINING - 0.1125 ACRES OF LAND.

NORTH AND BEARING SYSTEM BASED UPON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83.

Section 2. That the Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and sell the Property, and that such vacation and sale will not be detrimental to the general interest.

Section 3. That the City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Property is approximately \$19,588, which Petitioner has agreed to pay.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Petitioner owns several properties abutting the Property, all necessary abutters have consented to the vacation and sale of the Property to Petitioner in the form of abutter's consent quitclaim deeds, and as a practical matter, no one other than an abutting property owner would have any use for it.

Section 5. That the proceeds from the sale of the Property, if any, shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the sale, and that the City's Finance Director is hereby authorized to deposit amounts in the excess amount thereof into Miscellaneous Permanent Improvement Fund 757.

Section 6. That the City's Finance Director is hereby authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, "Street Improvements," in which "YY" represents the last two digits of the fiscal year in which the closing occurs, and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

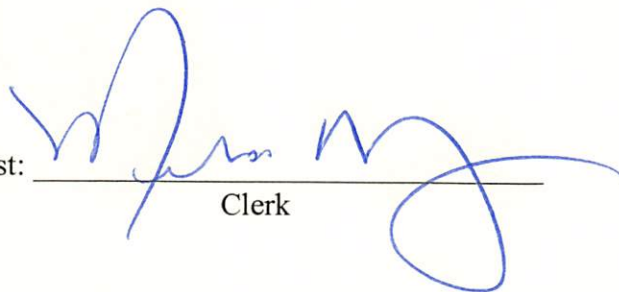
Section 7. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Property to maintain, operate, renew, reconstruct, and remove its utility facilities and to access said utility facilities.

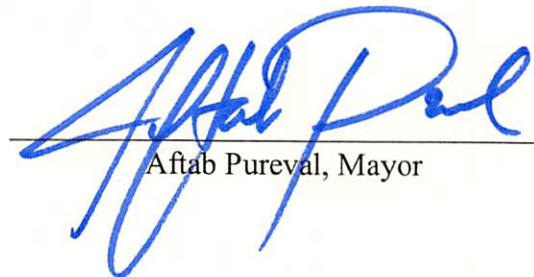
Section 8. That the City Manager is hereby authorized to vacate the Property as public right-of-way, and the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance and the Agreement, including, without limitation, executing any and all ancillary agreements, deeds, plats, or other documents described in or contemplated by the Agreement to facilitate the vacation and sale of the Property to Petitioner.

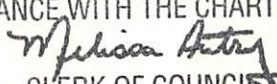
Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the Hamilton County, Ohio Recorder's Office.

Section 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: September 27, 2023

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 319-2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 10/10/2023

CLERK OF COUNCIL