

Sponsored By:
COMMUNITY DEVELOPMENT

T. Callahan
A. Lipian
C. Schneider
D. Mitchell
K. Oswald

ORDINANCE NO. 2022-203

AN ORDINANCE, PURSUANT TO CHAPTER 913, CODIFIED ORDINANCES OF THE CITY OF ELYRIA, OHIO, VACATING A PORTION OF MERCHANTS ALLEY, LOCATED BETWEEN KERSTETTER WAY AND WASHINGTON AVENUE IN THE CITY OF ELYRIA, OHIO.

WHEREAS, Merchants Alley in the City of Elyria, Ohio, is a dedicated street; and

WHEREAS, Elyria Block Development LLC is the owner of real property in the City of Elyria in the immediate vicinity of Merchants Alley; and

WHEREAS, Elyria Block Development LLC requested that a portion of Merchants Alley bounded and described in Section 1, be vacated pursuant to Chapter 913 of the Codified Ordinances of the City of Elyria, Ohio; and

WHEREAS, in the opinion of the Council, it would be conducive to the public welfare and safety, there is good cause for such vacation, and it will not be detrimental to the general interest and to the community to have said street vacated.

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

SECTION 1: That the portion of the dedicated street known as Merchants Alley located in the City of Elyria, State of Ohio and described on the attached Exhibit "A" be and the same is hereby vacated.

SECTION 2: That, notwithstanding this Ordinance, the vacated portion of Merchants Alley as described in Section 1 (the "Vacated Real Property") shall be subject to the following terms and conditions:

A. The reservation of a non-exclusive easement to the City of Elyria ("Elyria") upon, over and in said Vacated Real Property for sanitary and storm sewer, water mains and any other utilities purposes, as determined by Elyria, upon, over and in said Vacated Real Property; and

B. The right of Elyria to continue to maintain and operate any and all existing sanitary and storm sewers, water mains and any other utilities (the "Facilities") upon, over and in said Vacated Real Property; and

C. The continuing right of Elyria to install, inspect, alter, repair, replace, relocate, operate, remove, restore and maintain said Facilities over and in said Vacated Real Property and to enter upon, over and in said Vacated Real Property whenever Elyria determines that it is necessary for the purpose of installing, inspecting, altering, repairing, replacing, relocating, operating, removing and restoring and maintaining said Facilities; and

D. The easement rights granted herein are subject to all existing rights of any other utilities, public or private, existing upon, over and in said Vacated Real Property; and

E. The right of Elyria to enter upon and over said Vacated Real Property for any safety and emergency purposes as determined by Elyria; and

F. No person shall unreasonably restrict nor impede Elyria's right of access or any other right as provided in Section 2 hereof upon, over and in said Vacated Real Property.

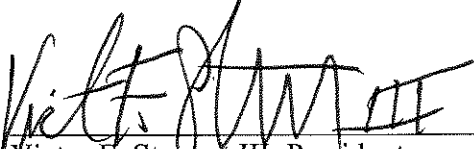
SECTION 3: The Vacated Real Property shall revert entirely to the abutting property owners (the "Owners"), as shown on Exhibit "B". The Owners shall have the right to use the Vacated Real Property for any and all purposes that do not unreasonably interfere with the exercise of Elyria's easement rights within the Vacated Real Property.

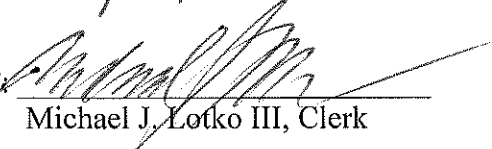
SECTION 4: That upon taking effect of this Ordinance, the Clerk of Council shall cause the property described herein to be transferred in the office of the County Auditor and recorded in the office of the County Recorder. The Mayor, Safety Service Director, Law Director, and/or their designees are hereby authorized to take any further actions reasonably necessary to accomplish the foregoing.

SECTION 5: This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in meetings open to the public in compliance with Ohio Law.

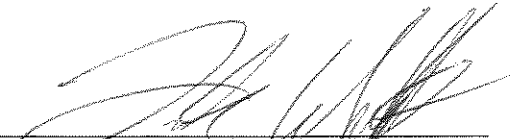
SECTION 6: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 12/19/2022


Victor F. Stewart III, President

ATTEST: 
Michael J. Lotko III, Clerk

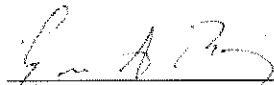
APPROVED: 12/19/2022



Frank Whitfield, Mayor

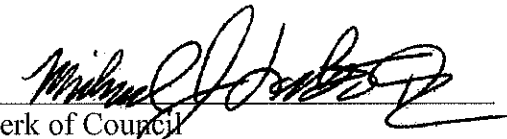
Dated: 12/19/22

Approved as to form:

 12-16-22
Amanda R. Deery, Law Director

CERTIFICATE OF PUBLICATION

I, THE UNDERSIGNED, CLERK OF COUNCIL OF THE CITY OF ELYRIA, OHIO, HEREBY CERTIFY THAT THE FULL TEXT OF THIS FOREGOING ORDINANCE NO. 2022- 203 WAS POSTED IN THREE PLACES WITHIN THE CITY AS DETERMINED BY COUNCIL, AND THAT SUCH PLACES WERE AS FOLLOWS: CITY HALL, CENTRAL FIRE STATION, AND THE POLICE STATION.

Dated: 12/20/2022 

Clerk of Council
City of Elyria, Ohio

Date Presented to Mayor: 12/19/2022

September 2022

**Legal Description
0.0957 of an Acre**

Situated in the City of Elyria, County of Lorain, State of Ohio, known as being part of Original Elyria Township Lot No. 77 between the branches of the Black River and being further known as part of Lots 75-81 and 194-200 (now known as Merchants Alley) of Heman Ely's Town Plat of Elyria as recorded in Volume 3, Page 14 of the Lorain County Plat Records, and further described as follows:

Commencing at the intersection of the centerline of Kerstetter Way (66 feet) with the centerline of Broad Street (99 feet);

Thence North $00^{\circ} 45' 33''$ East, along the said centerline of Kerstetter Way, a distance of 142.90 feet to a point in the westerly projection of the northerly right-of-way of Merchants Alley;

Thence South $89^{\circ} 03' 57''$ East, passing through a drillhole set at 30.00 feet, an overall distance of 33.00 feet to a point in the easterly right-of-way line of Kerstetter Way and the northerly right-of-way of said Merchants Alley and being the **True Place of Beginning** of land herein described;

Course 1: Thence **South $89^{\circ} 03' 57''$ East**, along the northerly right-of-way line of said Merchants Alley, a distance of **226.67 feet** to a point in the westerly right-of-way line of Washington Avenue; Said point witnessed by a drillhole set South $89^{\circ} 03' 57''$ East at 3.00 feet

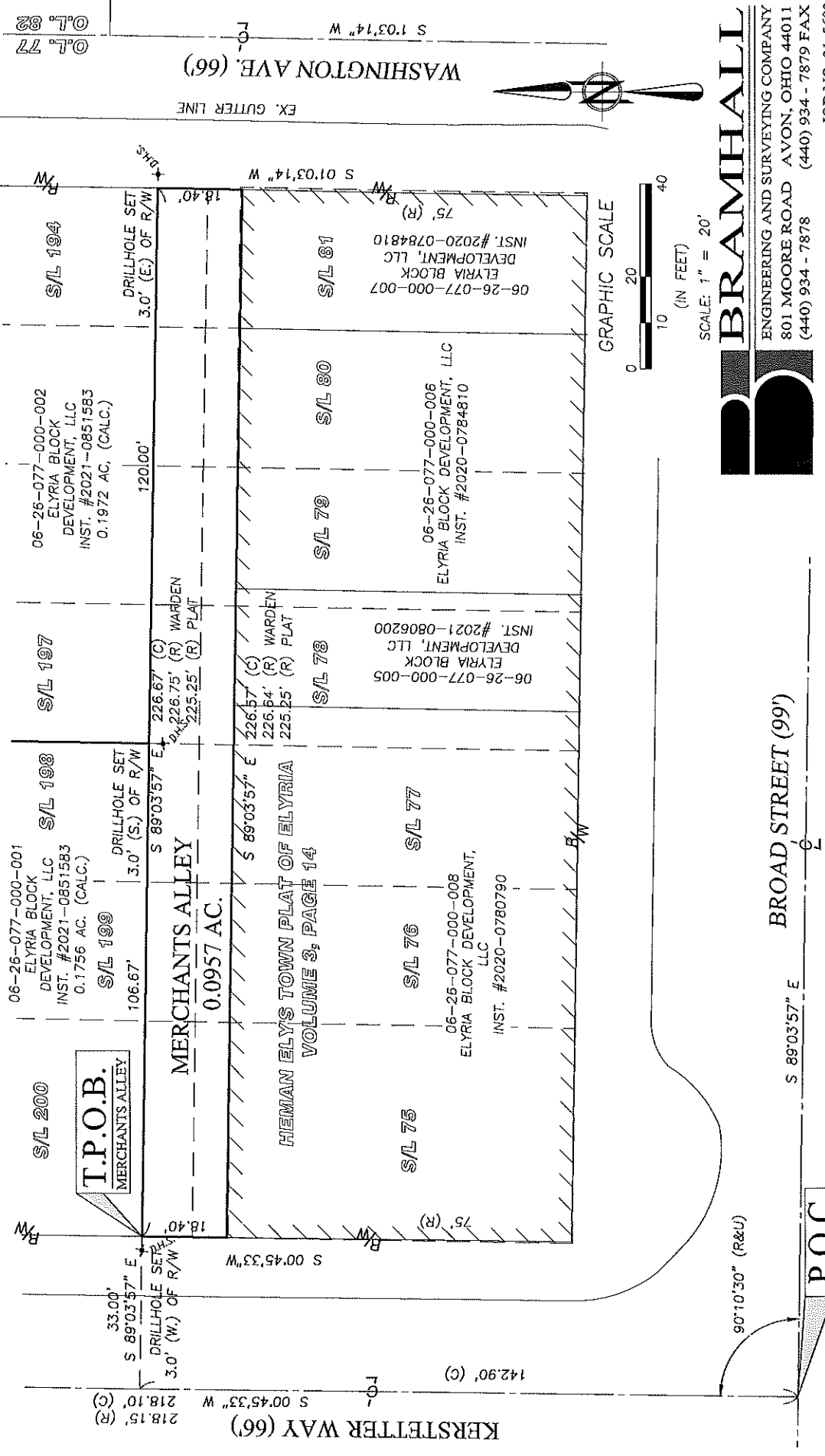
Course 2: Thence **South $01^{\circ} 03' 14''$ West**, a distance of **18.40 feet** to a point in the southerly right-of-way line of said Merchants Alley;

Course 3: Thence **North $89^{\circ} 03' 57''$ West**, along the southerly right-of-way line of said Merchants Alley, a distance of **226.57 feet** to a point in the easterly right-of-way line of said Kerstetter Way;

Course 4: Thence **North $00^{\circ} 45' 33''$ East**, a distance of **18.40 feet** to a point in the easterly right-of-way line of said Kerstetter Way and the northerly right-of-way line of said Merchants Alley; Said point witnessed by a drillhole set North $89^{\circ} 03' 57''$ West at 3.00 feet and being the **True Place of Beginning**.

EXHIBIT 'A'

SURVEY EXHIBIT



BRAMHALL
 ENGINEERING AND SURVEYING COMPANY
 801 MOORE ROAD AVON, OHIO 44011
 (440) 934 - 7878 (440) 934 - 7879 FAX
 JOB NO. 21-5683