

ORDINANCE NO 103-04

By: Mr. Weber

ORDINANCE NO. 103-04

An Ordinance authorizing the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Bexley with the property owners at 30 North Columbia Ave. (Lot Nos. 1 and 2; Bullitt Park Amended) regarding improvements made upon and within the City owned street right-of-way adjacent to Columbia.

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:**

Section 1. That the property owners at 30 North Columbia Ave. (Lot Nos. 1 and 25; Bullitt Park Amended) have requested approval to allow two asphalt driveway approaches to remain in the City right-of-way.

Section 2. That the Mayor and Auditor be, and they hereby are, authorized to enter into a Consent and Hold Harmless Agreement with the property owners, in form and substance satisfactory to the City Attorney, authorizing the encroachment as proposed in accordance with the submitted request on the condition that the property owners assume all responsibility for damage, loss and injury arising out of the use of asphalt in the driveway approaches including any additional cost to the City of Bexley incurred in connection with its use of right-of-way occasioned by the location of the structure.

Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 200\_

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_, 200\_

\_\_\_\_\_  
David H. Madison, Mayor

*12-14-04 First Reading'*  
*12-21-04 Second Reading*  
*01-11-05 Third Reading. Tabled*  
*1-25-05 Removed from Table*  
*Failed*

**CONSENT AND HOLD HARMLESS AGREEMENT**

The undersigned property owner and the City of Bexley, Ohio agree as follows:

The property owner has sought and obtained permission from the City of Bexley to allow two asphalt driveway approaches as indicated below on the property described below and in the easement/right-of-way as described to remain in place. Approval of the driveway approaches and use of an easement/right-of-way area which is public property is conditioned upon this Agreement.

The property owner, his successors and assigns (collectively the "Owner") shall save the City harmless from any and all damages which may arise from, or grow out of the construction, installation, maintenance, repair, relocation, removal or replacement of the driveway approaches for any reason and shall defend, at his own cost, every suit in which the City of Bexley, Ohio shall be made a party, brought and prosecuted for the recovery of any such damages; that the occupancy of public property is hereby permitted merely as an accommodation to the said grantee abridged in any way thereby; that the Owner, upon notice from the City of Bexley, Ohio duly authorized by the Council of Bexley, Ohio, shall forthwith remove said driveway approaches from the public property occupied by it and shall yield to said City all rights to occupy the public property used for such driveway approaches whenever said City shall determine the same to be necessary or desirable; that the Owner releases the City, its employers and agents, from any liability for whatsoever; that said driveway approaches shall be so constructed as to not interfere with or damage any utility facilities or to impede nor interfere within any way the use of the easement/right-of-way area, streets, alleys, sidewalks, and curbs by the City and the public; and in the event that the City determines changes to the driveway approaches to be necessary or desirable, the Owner shall promptly make any such changes, relocations, or rearrangements solely at his expense.

This Agreement shall not be construed as in any way limiting the rights presently held by the City in the easement/right-of-way areas, or the use thereof for public purposes, except to promote the construction and maintenance of the driveway approaches in the easement/right-of-way area.

30 North Columbia Ave.  
Address of Property

Street  
Type of Easement/Right-of-Way

Lot Nos. 1 and 2  
Bullitt Park Amended

Two Driveway Approaches  
Building or Structure

80'  
Easement/Right-of-Way Width  
Property Location

13'  
Maximum Encroachment Into  
Easement Right-of-Way

Storm, Sewer, Sidewalks, Street  
Services Existing in Easement/  
Right-of-Way

Ordinance No.            - 04  
Approving Authority (Council)

\_\_\_\_\_  
Date of Agreement

\_\_\_\_\_  
Date of Agreement

This Agreement shall be binding on and for the benefit of the parties hereto and their respective successors and assigns.

STATE OF OHIO, COUNCIL OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_,  
Mayor of the City of Bexley, Ohio, and \_\_\_\_\_, Auditor  
of the City of Bexley, Ohio.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Auditor

\_\_\_\_\_  
Notary Public

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### NOTICE OF PUBLIC MEETING

This is to inform you that a public meeting will be held by the Zoning and Development Committee of the Council of the City of Bexley, Ohio, at 5:00 p.m., Tuesday, January 25, 2005, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 103-04. This Ordinance, if approved, will allow two asphalt driveway approaches to remain in place at 30 North Columbia Avenue.

All interested persons are invited to attend.

Mailed January 20, 2005

