**ORDINANCE 4-21-O**

**AN ORDINANCE VACATING A PORTION OF THE ALLEY DESCRIBED AS “THE EAST/WEST ALLEY BETWEEN STELLA STREET AND ZILLAH STREET THAT IS NORTH OF 725 WEST LOGAN STREET AND SOUTH OF 314 STELLA STREET, STARTING AT THE RIGHT OF WAY ON THE WEST SIDE OF THE ALLEY AND HEADING IN AN EAST DIRECTION ONE HUNDRED THIRTY-ONE AND ONE-HALF (131.5) FEET”, AND DECLARING AN EMERGENCY.**

WHEREAS, David G. Giesige and Isabel Giesige in their individual capacity and as husband and wife, and David G. Giesige in his corporate capacity as owner of Friendly Markets of Celina, LLC, and Ohio Limited Liability Company, have petitioned the City of Celina, Ohio for the vacation of a portion of the alley located at and described as “the east/west alley between Stella Street and Zillah Street that is north of 725 W. Logan Street and south of 314 Stella Street, starting at the right of way on the west side of the alley and heading in an east direction one hundred thirty-one and one-half (131.5) feet” (hereinafter the “portion of the alley proposed to be vacated”), as shown on the aerial map attached hereto and labeled as **Exhibit “A”** which is fully-incorporated herein by reference, as well as the Engineer’s Description packet attached hereto and labeled as **Exhibit “B”** which is fully-incorporated herein by reference; and

WHEREAS, the Celina Planning Commission at its August 20, 2020 meeting voted to recommend to Council to vacate the above-described “portion of the alley proposed to be vacated”, the minutes of which are attached hereto and labeled as **Exhibit “C”** which is fully-incorporated herein by reference; and

WHEREAS, pursuant to Ohio Revised Code Section 723.06, no notice is required because written consent to such vacation has been filed with the legislative authority by 100% of the owners of the property abutting the part of the above-described “portion of the alley proposed to be vacated” as reflected in the attached **Exhibit “D”** which is attached hereto and fully-incorporated herein by reference, and acknowledgment of the City’s retention of a permanent easement in the vacated portion of said alley for the purpose of accessing, constructing, maintaining, operating, renewing, reconstructing, and removing utility facilities pursuant to Ohio Revised Code Section 723.041.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Celina, County of Mercer, and State of Ohio.

SECTION ONE

THAT, it being found upon hearing, and the Council, upon being satisfied that there is good cause for such partial vacation is not detrimental to the general interest, herein declares the portion of the alley Situated in the City of Celina, County of Mercer, State of Ohio and described above as the “portion of the alley proposed to be vacated” and as more particularly shown in **Exhibit “A”** which is incorporated herein and made a part of this Ordinance, be and is hereby vacated as a public way and acceptance of its prior dedication is hereby rescinded.

SECTION TWO

THAT, the title to the real estate represented by this vacated public right of way hereby vests in the adjoining property owners as provided by law.

SECTION THREE

THAT, the City of Celina further retains a permanent easement in the vacated “portion of the alley proposed to be vacated” as-described above for the purpose of accessing, constructing, maintaining, operating, renewing, reconstructing, and removing utility facilities pursuant to Ohio Revised Code Section 723.041.

SECTION FOUR

THAT, the adjoining property owners shall each bear their own costs associated with the recording of this ordinance and related documents with the Recorder of Mercer County and any other agency where recording is necessary including but not limited to the cost of any new survey, if required. Further, the adjoining property owners shall be responsible for drawing new deeds to divide the vacated street between the parcels of property to its north and to its south if required to do so by any agency.

SECTION FIVE

THAT, it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION SIX

NOW, THEREFORE, this Ordinance shall take effect and be in force immediately upon its passage and approval by the Mayor at the earliest period allowed by law.

PASSED this day of , 2021

Jason D. King, President of Council

ATTEST:

Joan S. Wurster, Clerk of Council

APPROVED , 2021

DRAFTED BY:

George E. Moore, Esq., City Law Director