

TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

One Government Center, Suite 1620, Toledo, OH 43604 P: 419 245-1200 F: 419 936-3730

DATE: August 9, 2024

REF: V-307-24

TO: President Carrie Hartman and Members of Council, City of Toledo

FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT: Vacation of Right-of-Way west of Deline Drive, north of Dulton Drive, and east of 5751 Nebraska Avenue

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, August 8, 2024 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Vacation of Right-of-Way west of Deline Drive, north of Dulton Drive, and east of 5751 Nebraska
Applicant	-	Brandon Rinebold 5751 Nebraska Ave. Toledo, OH 43615

Site Description

Zoning	-	RS6 / Single-dwelling residential
Area	-	± 0.13 acres (5,753.31 square feet)
Frontage	-	± 93' along Deline Drive ± 115' along Dulton Drive
Existing Use	-	Open space
Proposed Use	-	Expanding personal yard

Area Description

North	-	RS6 / Single-family Homes
South	-	RS6 / Single-family Homes
East	-	RS6 / Single-family Homes
West	-	RS6 / Single-family Homes

Parcel History

None on file

GENERAL INFORMATION (cont'd)

Applicable Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning
- Toledo 20/20 Comprehensive Plan

STAFF ANALYSIS

The requested vacation of Right-of-Way (R.O.W) is located west of Deline Drive, north of Dulton Drive, and east of 5751 Nebraska (parcel #2013705). The applicant wishes to expand his property for personal use and intends to fence in his expanded yard if this request is granted. The subject area is adjacent to the former pathway of the Toledo & Indiana Railroad, which was decommissioned in the early 1900s. Surrounding land uses are exclusively single-family homes.

On June 18, 2024, City Council approved a declaration of intent (*Res.307-24*) to vacate the subject portion of R.O.W. Note that this resolution contains an error in the area description under the "Summary & Background" section, which will be corrected in the forthcoming ordinance if the vacation request is approved.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan future land use designates this area as Single-family Residential. The proposed vacation conforms with the Toledo 20/20 Comprehensive Plan as the proposed vacation will expand the applicant's residential property. Staff recommends approval of the requested vacation because the proposal conforms to the Toledo 20/20 Comprehensive Plan.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of V-307-24, a request for the vacation of Right-of-Way west of Deline Drive, north of Dulton Drive, and east of 5751 Nebraska, to Toledo City Council for the following two (2) reasons:

1. The proposed Vacation conforms to the Toledo 20/20 Comprehensive Plan.
2. The proposed vacation will not impede access to any neighboring properties.

The Toledo City Plan Commission recommends approval of V-307-24, a request for the vacation of Right-of-Way west of Deline Drive, north of Dulton Drive, and east of 5751 Nebraska subject to the following **four (4)** conditions.

The following conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

PLAN COMMISSION RECOMMENDATION (cont'd)

Law Department

1. Within the limits allowed by law, the applicant shall indemnify the City of Toledo, its officials, agents or employees, from any and all claims, demands, causes of action, suits or liability in connection with the performance of any and all acts authorized or permitted under this vacation. Said indemnification language shall be contained within and evidenced by the endorsement on a certified copy of the final vacating legislation by the owner which indemnification shall be kept in the permanent file of the Clerk of Council.

2. That a full width easement in favor of the City of Toledo is retained across, under and through said vacated area as described in Section 1 herein for the purpose of the City of Toledo's maintaining, operating, renewing, reconstructing, and removing utility facilities. All City of Toledo facilities located within said vacated area are hereby dedicated to the City of Toledo for exclusive City of Toledo utility use only and shall not be combined with easements or rights for other utilities. The easement retained by the City of Toledo shall be primary to any other utilities located therein, and any easement retained by any other utility shall be subordinate to and subject to the easement rights of the City of Toledo. Said easement shall be permanent in nature for each utility and shall run with the land. Said easement also includes reasonable rights of egress and ingress over and through the vacated area. No building foundation, roof overhang, or other barrier which would impede access to the easement shall be constructed or maintained. If no utilities are present, then an easement will not be required and a fence will be permitted. Driveways, parking lots, walkways and other similar improvements are permitted subject to the prior written consent of the City of Toledo. The City of Toledo shall be released and held harmless for any liability, responsibility costs, or damages resulting from the City of Toledo's removal of any barriers which impede the City of Toledo ingress or egress from the easement or which obstruct access to the utilities located within the vacated area. The City of Toledo shall have no obligation or duty to restore or compensate the barrier owner for any barrier removed in whole or in part by the City of Toledo. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained separately from each utility, as to their interest(s) only, by separate recordable instrument or the Owner's' of the vacated area shall be responsible for the relocation of any utility facilities or equipment, whether owned by a public or private utility within the vacated area or preserving access to such utility facilities. Utility facilities include conduits, cables, wires, towers, poles, sewer lines, pipelines, gas and water lines, or other equipment of any railroad or public utility, located on, over or under the portion of the vacated area. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance and operation of Ohio law shall be obtained separately from each utility, as to their interest(s) only. The City of Toledo shall

TO: President Hartman and Members of Council
August 9, 2024
Page 4

REF: V-307-24

PLAN COMMISSION RECOMMENDATION (cont'd)

Law Department (cont'd)

be released and held harmless for any liability, responsibility, costs, or damages resulting from Owner's construction or activities in the vacated area, that interferes with any utility easement retained as a matter of law in accord with Section 723.041 of the Ohio Revised Code.

Plan Commission

3. Any future fence shall adhere to the standards of TMC§1105.0301 – Fences (Residential Districts).
4. Applicant shall obtain a Certificate of Zoning Compliance from the Division of Building Inspection before proceeding with fence installation.

Respectfully Submitted,



Thomas C. Gibbons
Secretary

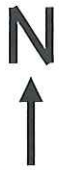
MJM

Three (3) sketches follow

Cc: Brandon Rinebold, 5751 Nebraska Avenue, Toledo, OH 43615
Lisa Cottrell, Deputy Director
Mara Momenee, Planner

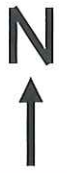
GENERAL LOCATION

V-307-24
ID 119



ZONING & LAND USE

V-307-24
ID 119



SURVEY

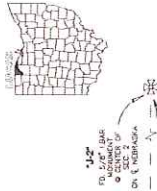
V-307-24
ID 119



LE PROJECT : 53822
CONTRACT : I-11

SITE SURVEY & ROAD VACATION OF: TOWN 2, UNITED STATES RESERVE PART OF THE W. 1/2 OF THE E. 1/4 OF THE SOUTHWEST 1/4 OF SECTION 2 CITY OF TOLEDO, LUCAS COUNTY, OHIO

NAD83, GRID 1815
STATE PLANE COORDS
OHIO N. 3407 GRID
SCALE FACTOR: 1.0000340440
ELLIPTICOID: SGA-36
ARC GIS: 10.3



TO B.R. SPENCER
127 1/2' S. 120' E. 120'
OF CORNER OF
D. E. NEBRASKA

TO B.R. SPENCER
127 1/2' S. 120' E. 120'
OF CORNER OF
D. E. NEBRASKA

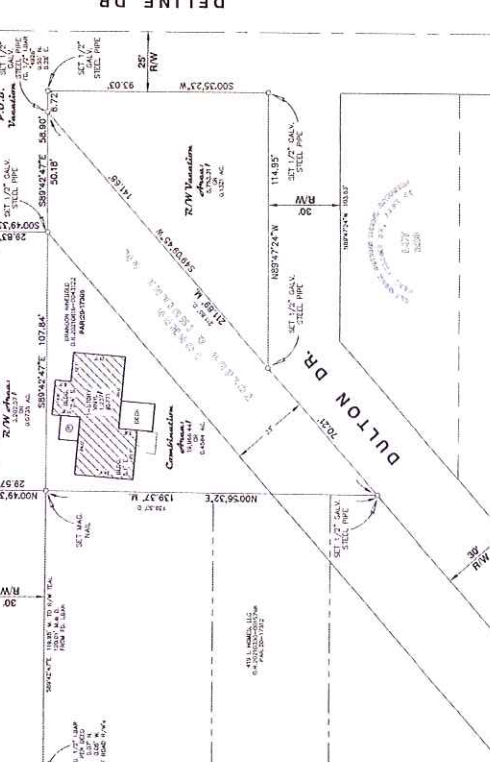
TO B.R. SPENCER
127 1/2' S. 120' E. 120'
OF CORNER OF
D. E. NEBRASKA

TO B.R. SPENCER
127 1/2' S. 120' E. 120'
OF CORNER OF
D. E. NEBRASKA

TO B.R. SPENCER
127 1/2' S. 120' E. 120'
OF CORNER OF
D. E. NEBRASKA

TO B.R. SPENCER
127 1/2' S. 120' E. 120'
OF CORNER OF
D. E. NEBRASKA

TO B.R. SPENCER
127 1/2' S. 120' E. 120'
OF CORNER OF
D. E. NEBRASKA



WARNING
THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACTS OF 1896 AND 1907 AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING ENGINEERS OF THE STATE OF OHIO. IT IS HEREBY CERTIFIED THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE ABOVE MENTIONED LAWS AND REGULATIONS AND THAT THE INSTRUMENTS AND METHODS EMPLOYED WERE OF THE MOST ACCURATE KIND AND THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE BEST PRACTICES OF THE SURVEYING PROFESSION.

VACATION AREA
AREA: 0.021 AC
DATE: 05/20/2024

COMBINATION AREA
AREA: 0.021 AC
DATE: 05/20/2024

TITLE
VACATION AREA
DATE: 05/20/2024

DETAIL "A"
NOT TO SCALE

DETAIL "B"
NOT TO SCALE



CERTIFICATION
I, the undersigned, being a duly qualified and licensed Surveyor in the State of Ohio, do hereby certify that the foregoing is a true and correct copy of the original field notes and computations of the survey, and that the same were made by me or under my direct supervision and in my presence, and that the instruments and methods employed were of the most accurate kind and that the survey was conducted in accordance with the best practices of the surveying profession.

LEWANDOWSKI ENGINEERS
A VERDANTAS COMPANY

3000 LEXINGTON BLVD. SUITE 200
TOLEDO, OHIO 43623
TEL: 419.248.4112
WWW.LEWANDOWSKIENGINEERS.COM

SITE SURVEY & ROAD VACATION OF TOWN 2, U.S.R. CITY OF TOLEDO, LUCAS COUNTY, OHIO

DATE: 05/20/2024
DRAWN BY: J. [Name]
CHECKED BY: [Name]
PROJECT NO.: [Number]
JOB NO.: [Number]

ENVIRONMENTAL STUDIES
An environmental study was conducted in accordance with the requirements of the Ohio Environmental Code, Chapter 3745. The study was conducted on the proposed road vacation area and the results are as follows:
1. No wetlands were identified on the site.
2. No wetlands were identified on the site.
3. No wetlands were identified on the site.

Pt. W. 1/2 E. 1/2 SW. 1/4 Sec. 2, T. 2, U.S.R.