

## GENERAL INFORMATION

### Subject

- Request - Vacation of a portion of Maxwell Road, between Thoman Place and Troxell Place
- Applicant - John A. Agosti  
4148 Woodmont Road  
Toledo, OH 43613

### Site Description

- Zoning - RS6 Single Family Residential
- Area - ± 0.0177 acres
- Frontage - ± 30' along Maxwell Road
- Dimensions - ± 30' x 25.67'
- Existing Use - *De facto* rear yard
- Proposed Use - Rear yard

### Area Description

- North - Single family homes and duplexes / RS6
- South - Single family homes and duplexes / RS6
- East - Deveaux Elementary / RS6
- West - Single family homes and duplexes / RS6

### Parcel History

None on file.

### Applicable Regulations

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

## STAFF ANALYSIS

The applicant is requesting the Vacation of a portion of Maxwell Road, between Thoman Place and Troxell Place. The applicant owns the adjoining duplex at 4148 Woodmont Road. Surrounding land uses include single family homes and duplexes to the north, west and south, and Deveaux Elementary School to the east.

**STAFF ANALYSIS (cont'd)**

The portion of Maxwell Road that the applicant is requesting the Vacation of is unimproved right-of-way that abuts his property. The road was dedicated in the early 20<sup>th</sup> Century and was intended to serve as a residential street. Instead of constructing residential homes, the land adjacent to Maxwell Road was developed as grounds for Deveaux Elementary School. On 05/16/2023, City Council approved a declaration of intent (*Res. 284-23*) to Vacate the requested portion of Maxwell Road.

The applicant has been using the unimproved portion of Maxwell Road as rear yard and has been maintaining the land. The vacation will not cause any abutting property to lose frontage. However, the remainder of Maxwell Road right-of-way has been used by the neighborhood as a cut-through for children to walk to school. Access to Deveaux Elementary School shall be maintained and any future Vacation requests must not impede pedestrians. Lastly, a condition of approval from Engineering and Construction Management requires a water easement to be maintained on the vacated portion of right-of-way.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan future land use designation targets the proposed Vacation for Single Family Residential land uses. This district is intended to accommodate the development of single dwelling units on individual lots. May also include libraries, schools, churches, and community centers. The district is intended to create, maintain and promote housing opportunities for individual households, although it may include nonresidential uses, duplexes, and planned unit developments that are typically compatible with residential neighborhoods. The proposed Vacation is appropriate for the intended land use.

Staff recommends approval of the proposed Vacation since it will not impede or restrict access to any adjoining property owners abutting the site. Additionally, the request conforms to the 20/20 Comprehensive Plan.

**STAFF RECOMMENDATION**

The staff recommends that the Toledo City Plan Commission recommend approval of V-284-23, the request for the Vacation of a portion of Maxwell Road, between Thoman Place and Troxell Place to Toledo City Council for the following reason:

1. The proposed Vacation conforms to the Toledo 20/20 Comprehensive Plan (TMC§1111.0606(A) – *Review & Decision-Making Criteria*).

The staff further recommends that the Toledo City Plan Commission recommend approval of V-284-23, the request to Vacate a portion of Maxwell Road between Thoman Place and Troxell Place to Toledo City Council subject to the following **three (3)** conditions:

**STAFF RECOMMENDATION (cont'd)**

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

Division of Engineering Services

1. A 20-foot easement shall be retained by the City of Toledo over vacated right of way. The following language shall appear in the authorizing vacation ordinance which shall be recorded and a notation placed in the remarks section of the County's real estate records:

"That a 20-foot easement is hereby retained over, across, under and through said vacated area for the existing water main in said vacated right of way. All City of Toledo facilities located within said easement are hereby dedicated to the City of Toledo, for City utility use only, to allow for future maintenance, repairs, replacements, etc. and shall not be combined with easements for other utilities. The easement hereby retained by the City of Toledo herein shall be primary in nature to any other utilities located therein, and any easement retained by any other utility as a result of this Ordinance shall be subject first to the easement rights of the City of Toledo. Said easement herein shall be permanent in nature for each utility currently located thereon and shall run with the land. Said easement also includes reasonable rights of ingress and egress over and through the utility easement area for the purpose of operating, maintaining, replacing, repairing and/or constructing any utilities located within the easement. The property owner shall not construct fences, walls or other barriers, nor plant trees or other large vegetation which would impede access onto the easement. No temporary or permanent structure including building foundations, roof overhangs or other barriers denying access, may be constructed on or within the easement. Driveways, parking lots, walkways and other similar improvements are acceptable. The property owner hereby releases the City of Toledo, only, from any liability, responsibility or costs resulting from the City's removal of any barriers which deny ingress or egress from the easement or which obstruct access to the public utilities located on said property, and the City of Toledo shall have no obligation or duty to restore or compensate the property owner for the removed facilities."

Toledo Edison

No comments received at time of print.

Columbia Gas

No comments received at time of print.

**STAFF RECOMMENDATION (cont'd)**

Buckeye Telesystems

No objections to vacation.

Fire Prevention

No objections to vacation.

AT&T

No comments received at time of print.

Republic Services

No comments received at time of print.

Division of Streets, Bridges and Harbors

No objections to vacation.

Lucas County Solid Waste Management District

No objections to vacation.

Toledo Area Regional Transit Authority

No comments received at time of print.

Division of Transportation

2. Transportation does not have any issues provided all owners of property abutting said section of alley agree to the vacation of said alley.
3. 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.

**STAFF RECOMMENDATION (cont'd)**

Plan Commission

4. Any future right-of-way Vacations of Maxwell Road south of Thoman Place must not impede pedestrian access to Deveaux Elementary school.

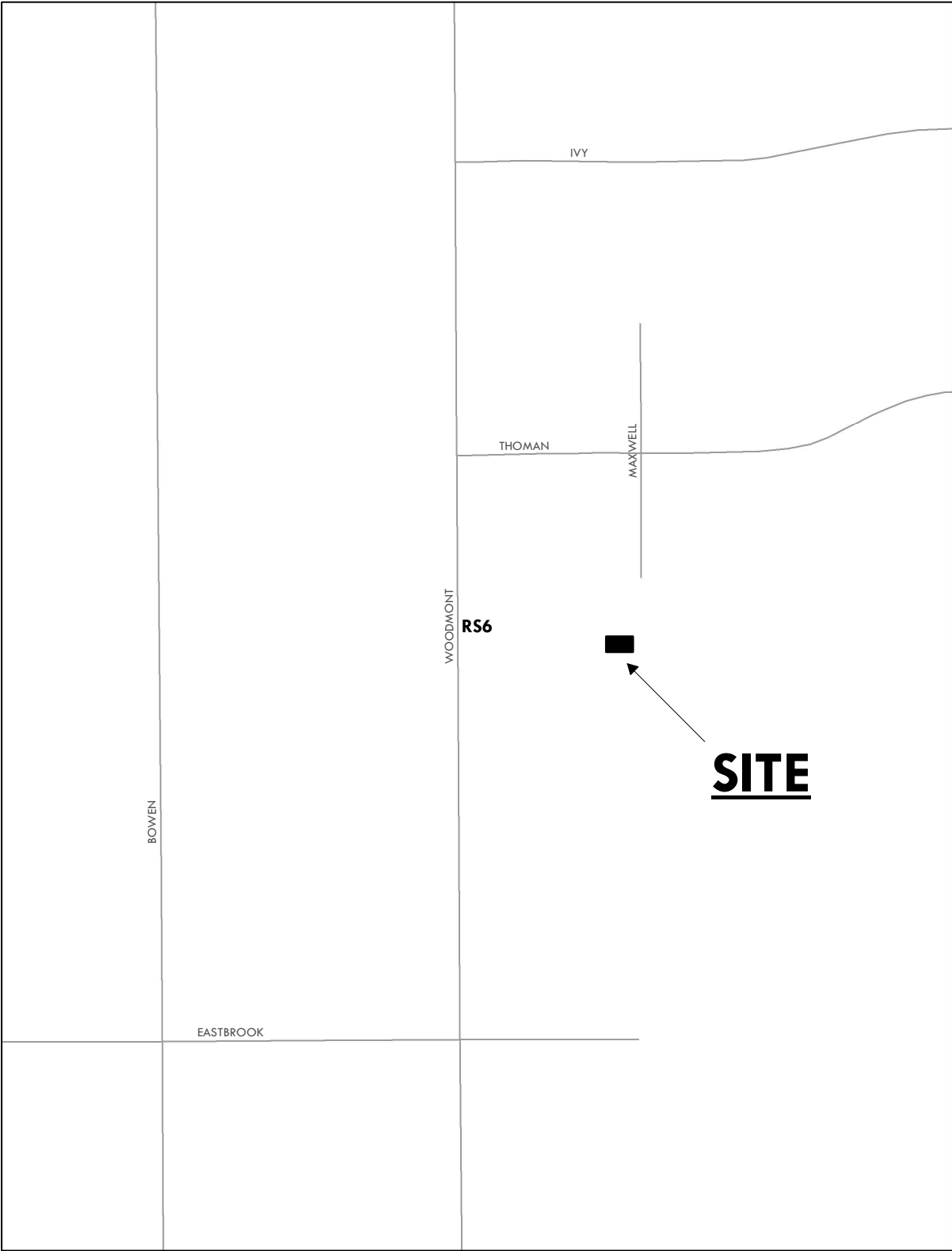
RIGHT OF WAY VACATION  
TOLEDO CITY PLAN COMMISSION  
REF: V-284-23  
DATE: September 14, 2023  
TIME: 2:00 PM

CITY COUNCIL  
ZONING AND PLANNING COMMITTEE  
DATE: October 18, 2023  
TIME: 4:00 P.M.

DR  
Two (2) sketches follow

**GENERAL LOCATION**

**V-284-23**



**ZONING & LAND USE**

**V-284-23**

