

TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

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

REF: V-282-23
DATE: July 13, 2023

TO: President Matt Cherry and Members of Council, City of Toledo
FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary
SUBJECT: Vacation of 15' Wide Alley Between Elm Street and Chestnut Street

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday 13, 2023 at 2:00 P.M.

GENERAL INFORMATION

Subject

- Request - Vacation of 15' Wide Alley between Elm Street and Chestnut Street.
- Applicant - Josh Murnen
Lucas County Land Reutilization Corporation
(Land Bank)
One Government Center, Suite 580
Toledo, OH 43604

Site Description

- Zoning - RD6/Duplex Residential & IL/Limited Industrial
- Area - ± 0.14 acres
- Frontage - ± 15' along Elm Street
- Dimensions - ± 406.83' x 16'
- Existing Use - Public Alley
- Proposed Use - Green Space

Area Description

- North - RD6, RM36 / Single-family Homes, Duplexes, Apartments, Vacant Lots
- South - IG / Warehouses, Vacant Lots, Manufacturing
- East - RD6, IL / Single-family Homes, Vacant Lots
- West - RD6 / Single-family Homes, Vacant Lots

Parcel History

Z-125-41 - Zone Change from B to C-D at East Bancroft between Elm Street and Chestnut Street. PC Denied 05-15-1941.

Applicable Regulations

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

STAFF ANALYSIS

The applicant is requesting the vacation of an unimproved east-west alley bounded by Elm Street and Chestnut Street. The applicant owns the lots located at 1502 Elm Street and 1098 Utica Street abutting the alley requesting to be vacated. To the north of the alley are single-family homes, apartments, vacant lots and a duplex, to the east is a vacant lot, to the west are single-family homes and vacant lots and to the south are warehouses, an alley and vacant lots.

The applicant is requesting the vacation in order to create a clean and safe space for the community. The Land bank acquired 1502 Elm Street and 1098 Utica Street through tax foreclosure. The site currently holds a 100,000 square feet commercial warehouse that has been abandoned since the early 2000s. The property is in a dilapidated state and has been a nuisance for the surrounding properties since then. The applicant intends to demolish the abandoned warehouse and maintain the site as a green space. The green space will be fenced to prevent dumping and trespassing. The existing alley and a portion of Utica Street will create a gap in the fencing. Hence the applicant is requesting the vacation of this alley and the associated right-of-way (V-283-23).

This vacation request will provide a fresh start for the community and provide a positive use of the property.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan designates this area for Light Industrial and Open Space land uses. Light Industrial land uses is intended to accommodate uses such as research, wholesale activities, warehouses and industrial/manufacturing operations that are not employment-intensive and are compatible with commercial and residential land uses. The Parks and Open Space land use is intended to preserve and enhance major open space and recreational areas. It may also be applied to privately-owned open space areas within residential developments. The proposed use of the vacated alley conforms to the recommendations of the Toledo 20/20 Comprehensive Plan.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of V-282-23, the request for the vacation of 15' wide alley between Elm Street and Chestnut Street 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 Toledo City Plan Commission further recommends approval of V-282-23, the request for Vacation of 15' Wide alley between Elm Street and Chestnut Street subject to the following **six (6)** conditions:

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.

Law Department

1. Within the allowed limits 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 the indemnification shall be kept in the permanent file of the Clerk of Council.

PLAN COMMISSION RECOMMENDATION (cont'd)

Law Department (cont'd)

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 fence, wall, building foundation, roof overhang, or other barrier which would impede access to the easement shall be constructed or maintained. 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.

3. Further, 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 be released and held harmless for any liability, responsibility, costs, or damages resulting from Owners' 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.

TO: President Cherry and Members of Council
July 13, 2023
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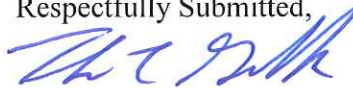
REF: V-282-23

PLAN COMMISSION RECOMMENDATION (cont'd)

Plan Commission

4. The proposed vacation cannot result in the loss of access for any abutting properties.
5. A Site Plan Review shall be required for any future developments within the vacated area in accordance with the provisions of the Toledo Municipal Code.
6. Applicant shall obtain the appropriate building permits to demolish the existing structure.

Respectfully Submitted,



Thomas C. Gibbons

Secretary.

ET
Three (3) sketches follow

ZONING & LAND USE

V-282-23





V-282-23

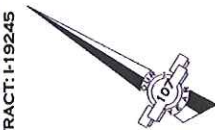
ALLEY LOCATION

SURVEY #52838

CONTRACT: 1-19245

EXHIBIT MADE FOR: JOSH MURNEK

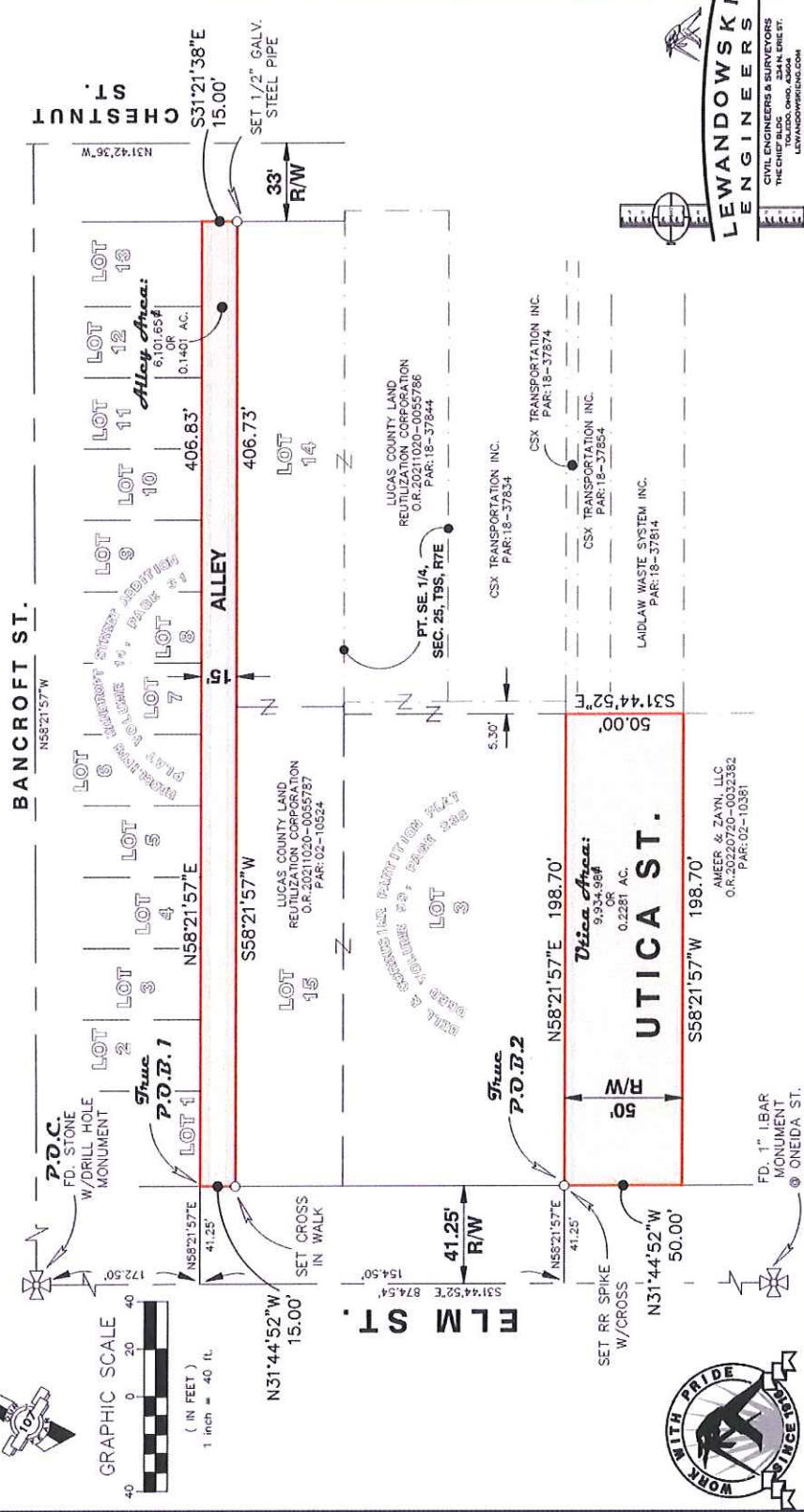
FEBRUARY 09, 2023



PROPOSED 15' WIDE ALLEY AND UTICA STREET VACATION

15' WIDE ALLEY IN RADCLIFFS BANCROFT STREET ADDITION,
AND PART OF UTICA STREET IN BELL & CORBUSIER PARTITION PLAT
CITY OF TOLEDO, LUCAS COUNTY, OHIO

NAD-83, GEOID 18US
STATE PLANE COORDS
OHIO N. 3401 GRID,
SCALE FACTOR: 1.0000298224
ELLIPSOID: 482.09
ARC GIS: 10.3



PROPOSED 15' WIDE ALLEY & UTICA STREET VACATION



V-282-23

PLAT

SURVEY #52838

CONTRACT: 119223

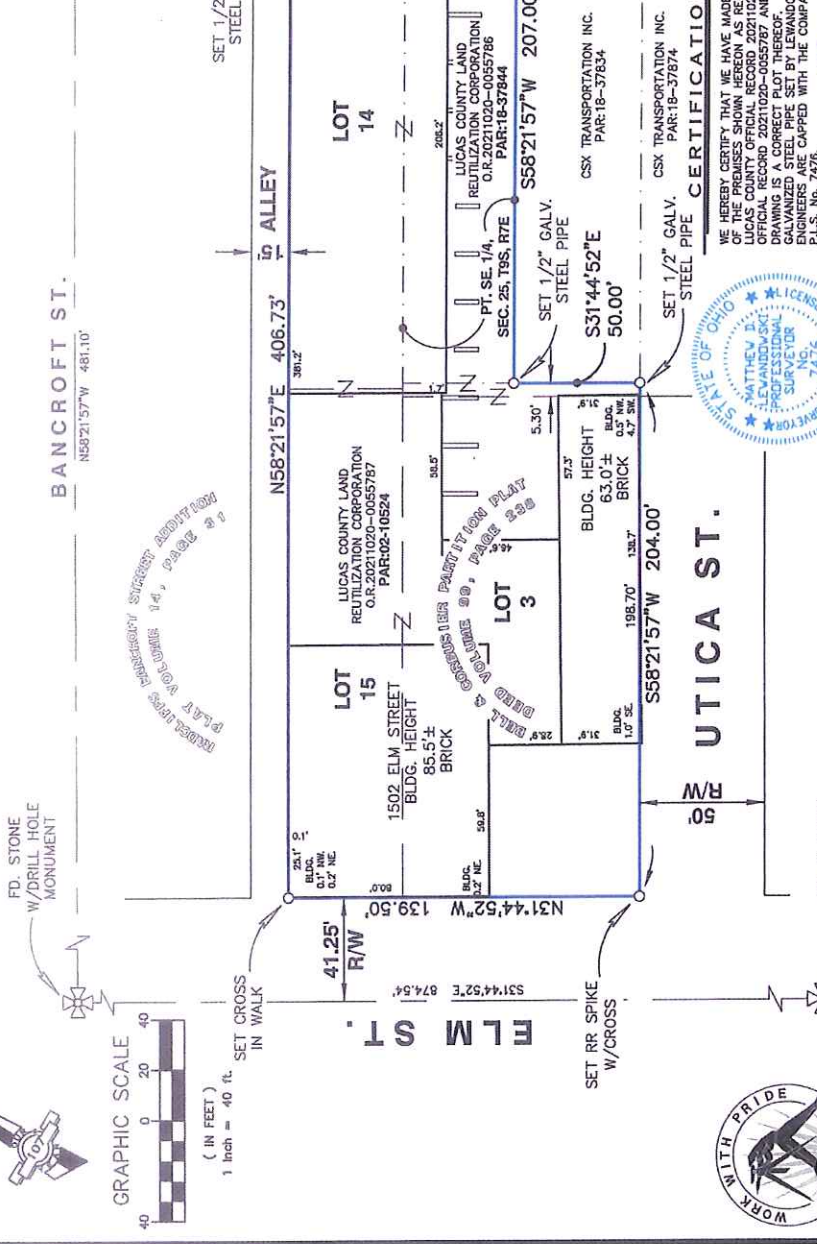
SURVEY MADE FOR: JOSH MUEHNER

JANUARY 31, 2023

NAD-83, GEOID 18US
STATE PLANE COORDS
OHIO N. 3401
SCALE FACTOR 1.0000298224
ELLIPSOID 482.09
ARC GIS: 10.3

BELL & CORBUSIER PARTITION PLAT
LOT 3, LOTS 14 & 15 IN RADCLIFFS BANCROFT STREET ADDITION,
TOGETHER WITH PART OF THE SOUTHEAST 1/4 OF SECTION 25, TOWN 9 SOUTH, RANGE 7 EAST
CITY OF TOLEDO, LUCAS COUNTY, OHIO

CERTIFICATE OF SURVEY:



GRAPHIC SCALE
(IN FEET)
1 inch = 40 ft.



LEWANDOWSKI ENGINEERS
CIVIL ENGINEERS & SURVEYORS
10500 OHIO AVE. SUITE 100
TOLEDO, OHIO 43624
PHONE: 419-252-5111
FAX: 419-252-5111

REGISTERED SURVEYOR, STATE OF OHIO #7476

CERTIFICATION
WE HEREBY CERTIFY THAT WE HAVE MADE A SURVEY OF THE PREMISES SHOWN HEREON AS RECORDED IN LUCAS COUNTY OFFICIAL RECORD 20211020-0055786 & LUCAS COUNTY OFFICIAL RECORD 20211020-0055787 AND THAT THIS SURVEY IS IN ACCORDANCE WITH THE OHIO SURVEYING ACT, PUBLIC LAW 103-437, AS AMENDED. ALL SURVEYING ENGINEERS ARE CAPPED WITH THE COMPANY NAME AND P.L.S. No. 7476.

LOT 3 IN BELL & CORBUSIER PARTITION PLAT, LOTS 14 & 15 IN RADCLIFFS BANCROFT STREET ADDITION & PT. SE. 1/4, SEC. 25, T. 9S, R. 7E

GENERAL LOCATION

V-282-23

