

## GENERAL INFORMATION

### Subject

- |           |   |  |
|-----------|---|--|
| Request   | - | Vacation of the 16' wide alley lying between lots 4-9 within the Plat of Morris & Dorsey's Subdivision |
| Applicant | - | Simone Myers<br>2503 Auburn Avenue<br>Toledo, OH 43608   |

### Site Description

- |              |   |  |
|--------------|---|--|
| Zoning       | - | RS6 & RD6 / Single-Dwelling Residential & Duplex Residential |
| Area         | - | ± 1,760  |
| Dimensions   | - | ± 16 x 110 Feet  |
| Existing Use | - | Alley  |
| Proposed Use | - | Rear yard  |

### Area Description

- |       |   |   |
|-------|---|---|
| North | - | Duplexes and single-family homes / RD6          |
| South | - | Single-family homes and vacant land / RS6 & RD6 |
| East  | - | Duplexes and single-family homes/ RD6 & RS6     |
| West  | - | Single-family homes and vacant land / RS6       |

### Parcel History

- |          |   |  |
|----------|---|--|
| Z-251-82 | - | Zone Change from R-4 to R-3 at Auburn Avenue and Delaware Avenue. PC approved 12/07/82. CC approved 02/02/83. Ord. 108-83. |
|----------|---|--|

### Applicable Plans and Regulations

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

## STAFF ANALYSIS

The request is a Vacation of a 16' wide alley lying between lots 4-9 within the Plat of Morris & Dorsey's Subdivision. Surrounding land uses include duplexes and single-family residential to the north and east, and single-family residential and vacant land to the south and west. On 09/28/23, City Council approved a declaration of intent (*Res. 533-23*) to Vacate the alley.

The applicant owns one of the six parcels along the alley and is requesting a vacation to consolidate the land behind her home into her existing yard. The alley is currently accessible by a driveway off of Gasser Street to the west. During the field visit, staff observed that the alley is overgrown, unimproved, and is not being used by property owners on either side of the alley. The parcels to the east have fences separating their yards from the alley, and the parcels to the west are vacant. The applicant says she tries to maintain the alley space behind her fence from time to time by cutting back weeds. She wishes to vacate the alley with no intention to build on the space in the future. It should be noted that a sanitary line runs through the alley, and that the applicant is aware the City may need access to the space in the future.

### 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. It 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 as 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. The Division of Engineering Services objects the Vacation due to a sanitary line running through the area, however, the Law Department's condition of an easement for the City of Toledo to access utilities in the future addresses this concern.

## STAFF RECOMMENDATION

The staff recommends that the Toledo City Plan Commission recommend approval of V-533-23, a **Vacation of the 16' wide alley lying between lots 4-9 within the Plat of Morris & Dorsey's Subdivision**, to Toledo City Council for the following **two (2)** reasons:

1. The Vacation will not impede or restrict access to any adjoining property owners.
2. The proposed Vacation conforms to the Toledo 20/20 Comprehensive Plan (TMC§1111.0606(A) – *Review & Decision-Making Criteria*).

**STAFF RECOMMENDATION (cont'd)**

Staff further recommends that the Toledo City Plan Commission recommend approval of V-533-23, a **Vacation of the 16' wide alley lying between lots 4-9 within the Plat of Morris & Dorsey's Subdivision**, to Toledo City Council subject to the following **three (3)** conditions:

The conditions of approval are as follows and are 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 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 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. 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

**STAFF RECOMMENDATION (cont'd)**

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 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.

Division of Transportation

3. Traffic Management does not have any issues provided all owners of property abutting said alley agree to the vacation of said alley.

STREET VACATION  
TOLEDO PLAN COMMISSION  
REF: V-533-23  
DATE: December 7, 2023  
TIME: 2:00 P.M.

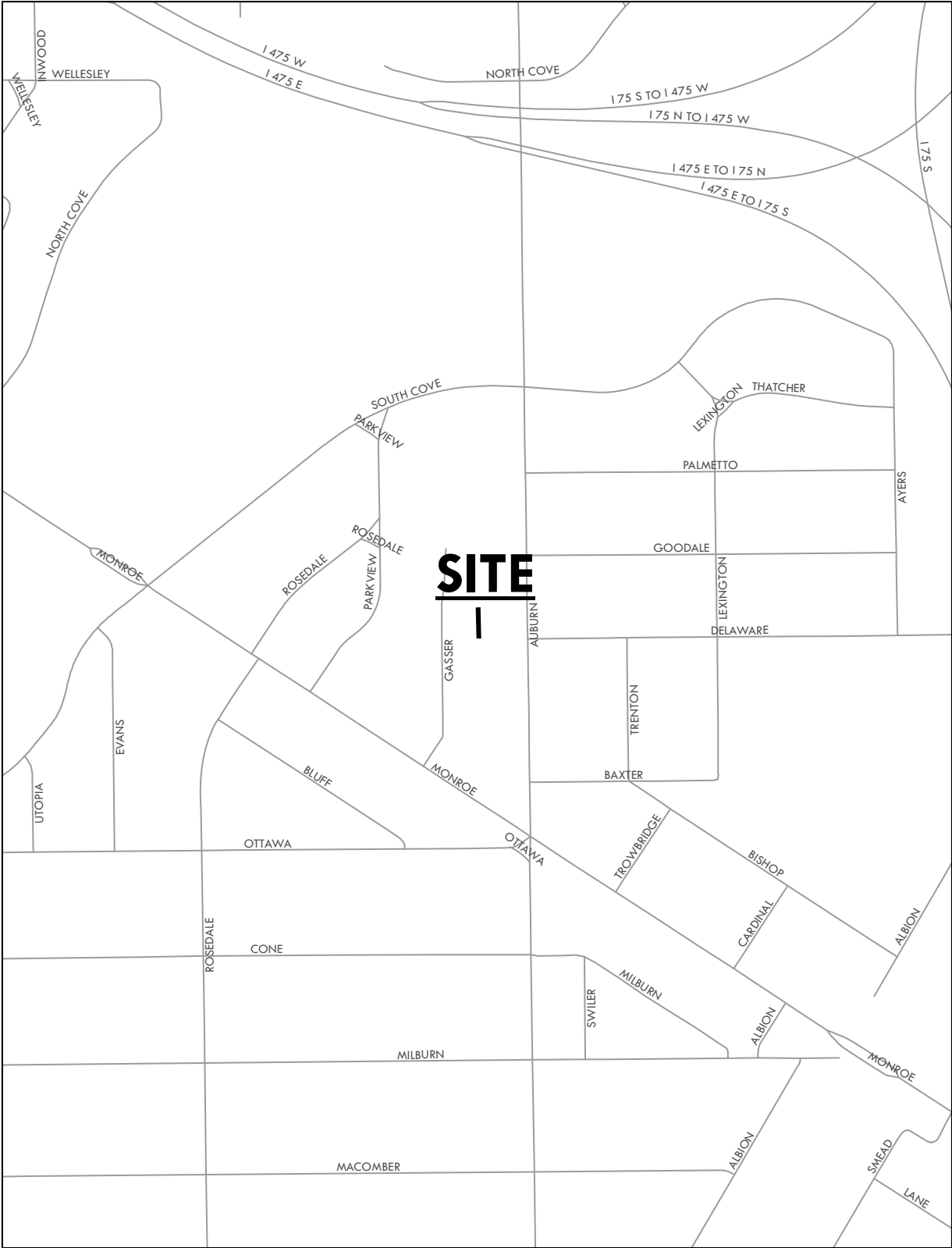
CITY COUNCIL COMMITTEE OF  
ZONING AND PLANNING  
DATE: January 9, 2023  
TIME: 4:00 P.M.

MJM

Two (2) sketches follow

# GENERAL LOCATION

V-533-23  
ID 17



**ZONING & LAND USE**

**V-533-23**  
ID 17

