

GENERAL INFORMATION

Subject

- | | | |
|--------------|---|---|
| Request | - | Vacation of the 12' alley running north to south lying adjacent to Lot 12 for a distance of 35 feet in the A.J. Brown Addition. |
| Applicant(s) | - | Randy Fowler
352 Milford Street
Toledo, OH 43605 |

Site Description

- | | | |
|--------------|---|---|
| Zoning | - | RD6 & CR / Duplex Residential and Regional Commercial |
| Area | - | ± 420SF (0.01 acres) |
| Dimensions | - | ± 12' x 35' |
| Existing Use | - | Residential Yard / Shed |
| Proposed Use | - | Residential Yard / Shed |

Area Description

- | | | |
|-------|---|------------------------------|
| North | - | CR / Retail |
| South | - | RD6 / Single Family & Duplex |
| East | - | CR / Vacant Commercial |
| West | - | RD6 / Single Family |

Surrounding Parcel History

- | | | |
|--------|---|--|
| Z-6-79 | - | Zoning change from M-1 Restricted Industrial District to C-3 Commercial District for property located in the 2200 block of Consaul Street. |
| Z-7-79 | - | Zoning change from M-1 Restricted Industrial District to R-3 Two-Family Residence District for property located in the 2200 block of Consaul Street, 300 Block of Milford Avenue, 2000 block of Woodford Street, and the 2300 block of Consaul Street. |

GENERAL INFORMATION (cont'd)

Applicable Plans and Regulations

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

STAFF ANALYSIS

The applicant is requesting the vacation of the 12' alley running north to south lying adjacent to Lot 12 for a distance of 35 feet in the A.J. Brown Addition. The applicant owns the property directly west of the alley (Lot 12) and currently uses it as an extension of their yard. The applicant has also constructed a shed in the alley right-of-way. To the north of the alley is retail. To the south are single-family dwellings and a duplex. To the east is vacant commercial land. On November 21, 2023, City Council approved a declaration of intent (*Res. 628-23*) to vacate the requested portion of the alley.

The vacation is intended allow the applicant to keep using the unused alley as a part of their yard and to allow them to keep their shed where it currently sits. The applicant intends to keep using the alley as an extension of their back yard.

The proposed vacation is at the very end of the alley and does not continue northward. The Division of Traffic Management objects to the vacation and wants the applicant to vacate the entire alley even though their property is not adjacent to that portion of the alley. Staff respectfully disagrees with this objection since these portions of the alley are unimproved and not used by its neighbors to access their properties. Instead, the neighbors use the alley as part of their back yard and maintain it as such. It would be unfair for the applicant to pay for the vacation of what is effectively their neighbor's back yards. It would also be unfair to deny the applicant use of this land that they maintain for no reason other than hypothetical access to an alley that will likely never be used as an alley.

Staff recommends that the city examine the possibility of vacating the remaining portion of the alley running north and south from the southern line of this vacation to the centerline of the railroad right-of-way. Vacating this portion of the alley will benefit the owners of 342-348 Milford Avenue and have no negative impact on access or utilities - the alley does not currently contain any city utilities.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan targets the properties abutting the alley for Neighborhood Commercial and Single-Family Residential land uses. Neighborhood Commercial is intended to serve predominantly small and medium scale commercial uses that serve neighborhoods. Single-Family Residential is intended to accommodate single-family dwelling units on individual lots, and may also include libraries, schools, churches, and community centers. The western portion of the alley is intended for single-family residential while the eastern portion of the alley is intended for neighborhood commercial. As the eastern portion is currently vacant – and will therefore be required to put in a landscaping buffer when it is eventually developed – the proposed vacation complies with the Toledo 20/20 Comprehensive Plan.

STAFF RECOMMENDATION

The staff recommends that the Toledo City Plan Commission recommend approval of V-628-23, a **Vacation of the 12' alley running north to south lying adjacent to Lot 12 for a distance of 35 feet in the A.J. Brown Addition** to Toledo City Council for the following reason:

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

Staff further recommends that the Toledo City Plan Commission recommend approval of 629-604-23, a **Vacation of the 12' alley running north to south lying adjacent to Lot 12 for a distance of 35 feet in the A.J. Brown Addition**, to Toledo City Council subject to the following **two (2)** 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

STAFF RECOMMENDATION (cont'd)

2. (cont'd)

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 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.

Fire Prevention

No comments.

Division of Streets, Bridges and Harbor

No comments received at time of publication.

Engineering Services

No comments.

Columbia Gas Company

No comments received at time of publication.

Toledo Edison Company

No comments received at time of publication.

TARTA

No comments received at time of publication.

STAFF RECOMMENDATION (cont'd)

Lucas County Solid Waste Management District

No comments received at time of publication.

Republic Services

No comments received at time of publication.

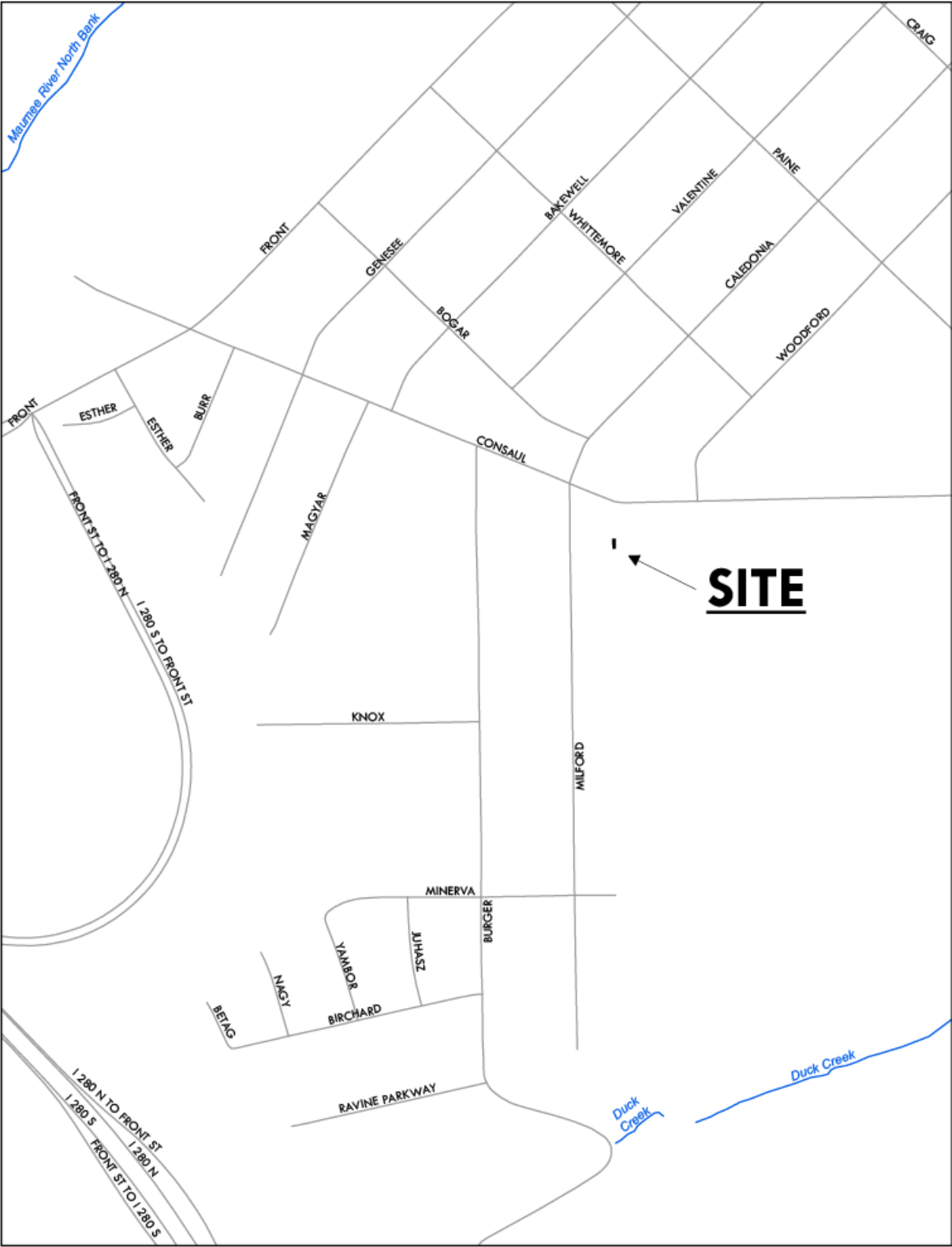
STREET VACATION
TOLEDO PLAN COMMISSION
REF: V-628-23
DATE: January 11, 2024
TIME: 1:00 P.M.

CITY COUNCIL COMMITTEE OF
ZONING AND PLANNING
DATE: February 13, 2024
TIME: 4:00 P.M.

AS
Two (2) sketches follow

GENERAL LOCATION

V-628-23
ID 76



ZONING & LAND USE

V-628-23
ID 76

