



TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

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

REF: V-455-23

DATE: October 12, 2023

TO: President Matt Cherry and Members of Council, City of Toledo

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

SUBJECT: Vacation of the 16' wide alley running NW to SE from Bancroft Street to Utica Street in the Braun's Addition

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, October 12, 2023 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Vacation of the 16' wide alley running NW to SE from Bancroft Street to Utica Street in the Braun's Addition
Applicant	-	Toledo Masjid Al-Islam 722 E Bancroft Street Toledo, OH 43608
Attorney	-	Ahmad Kassem P.O. Box 350672 Toledo, OH 43635

Site Description

Zoning	-	RD6 Duplex Residential – 6,000 sq. ft.
Area	-	± 4,824 Feet
Dimensions	-	± 16 x 295 Feet
Existing Use	-	Parking Lot Drive Aisle & Grass Driveway
Proposed Use	-	Parking Lot Drive Aisle & Grass Driveway

GENERAL INFORMATION (cont'd)

Area Description

North	-	Vacant Land, Single-Dwelling Residential / RM36
South	-	Vacant Land, Single Dwelling Residential / RD6 & IL
East	-	Parking Lot, Vacant Land, Single Dwelling Residential / RD6
West	-	Commercial, Mosque / RD6 & CR

Parcel History

None on File

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 running NW to SE from Bancroft Street to Utica Street. Surrounding land uses include a mosque and commercial to the west, vacant land and single family to the south, a parking lot, vacant land and single family to the east, and vacant land, single family to the north.

The alley was part of an "H" shape alley configuration within the Braum's Addition plat. The alleys were used by the adjacent mosque, constructed in 1953, to access the parking at the rear of the property. The parking lot was expanded to the east after the majority of the alleys were vacated for the McDonald's along Cherry Street in 1988. The remaining alley includes a portion of the drive aisle for the mosque parking lot to the north and gravel section with older paved areas to the south.

The applicant owns the majority of land adjacent to the alley with the exception of a single family house on the south east side. They are requesting the vacation to consolidate the land and secure it for larger community events. It should be noted that improvements such as fencing or parking require review and approval by the City prior to work being completed. Additional improvements may be verified by contacting the Plan Commission office.

Staff is supportive of the Vacation for three reasons. First, the majority of the land is occupied by a single owner limiting the overall neighborhood impact. Second, the request activates an underutilized space consolidating the land for larger community purposes. Third, the remaining single family home will be minimally affected due to the lack of a rear garage or parking area.

STAFF ANALYSIS (cont'd)

During the field visit staff observed box trucks and a shipping container stored on the property. These uses are not permitted in the residential district and will need to be removed to conform with zoning regulations.

STAFF RECOMMENDATION

The staff recommends that the Toledo City Plan Commission recommend approval of V-455-23, a **Vacation of the 16' wide alley running NW to SE from Bancroft Street to Utica Street in the Braun's Addition**, to Toledo City Council for the following **three (3)** reasons:

1. The majority of land is occupied by a single owner limiting the overall impact; and
2. The request activates and secures an underutilized space; and.
3. The remaining single family home will be minimally affected due to the lack of a rear garage or parking area.

Staff further recommends that the Toledo City Plan Commission recommend approval of V-455-23, a **Vacation of the 16' wide alley running NW to SE from Bancroft Street to Utica Street in the Braun's 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.

STAFF RECOMMENDATION (cont'd)

Law Department (cont'd)

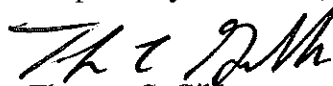
2. That a full width easement in favor of the City of Toledo is retained across, under and through said vacated area as described in Section 1 herein for the purpose of the City of Toledo's maintaining, operating, renewing, reconstructing, and removing utility facilities. All City of Toledo facilities 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.

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.

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Respectfully Submitted,



Thomas C. Gibbons
Secretary

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Law Department
Lisa Cottrell, Administrator
Josh Lewandowski, Principal Planner

ZONING AND LAND USE

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