



TOLEDO-LUCAS COUNTY PLAN COMMISSIONS

ONE GOVERNMENT CENTER, SUITE 1620, TOLEDO, OHIO 43604

PHONE 419-245-1200 FAX 419-936-3730

THOMAS C. GIBBONS, DIRECTOR



DATE: May 10, 2019

REF: V-134-19

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

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

SUBJECT: Request to Vacate a portion of N. Michigan Street lying between Lot 28, (within Block 148) and Lot 34 (within Block 30) of the North Toledo Plat, and the 13' alley lying adjacent to Lots 28 & 29 (within Block 148).

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, May 9, 2019 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Vacate a portion of N. Michigan Street lying between Lot 28, (within Block 148) and Lot 34 (within Block 30) of the North Toledo Plat, and the 13' alley lying adjacent to Lots 28 & 29 (within Block 148)
Applicant	-	James Fisher III 3507 Wallace Boulevard Toledo, OH 43611
Owner	-	Hope Lohmeyer 606 New York Avenue Toledo, OH 43604

Site Description

Zoning	-	RS6 & IG / Single-Dwelling Residential & General Industrial
Area (Total)	-	± 0.21 acres
Frontage	-	± 60' along New York Avenue
Dimensions	-	± 160' x 133' x 60' x 120' x 100' x 13'
Existing Use	-	Unimproved dedicated right-of-way
Proposed Use	-	Consolidated land
Neighborhood Org.	-	None
Overlay	-	Monroe Street Corridor UNO District

GENERAL INFORMATION (cont'd)

Area Description

North	-	Single-dwelling residential / RS6
South	-	Open storage / IG
East	-	Single-dwelling residential / RS6
West	-	Vacant industrial building / IG

Parcel History

None on record.

Applicable Regulations

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

STAFF ANALYSIS

The applicant is requesting to Vacate a portion of N. Michigan Street lying between Lot 28, (within Block 148) and Lot 34 (within Block 30) of the North Toledo Plat, and the 13' alley lying adjacent to Lots 28 & 29 (within Block 148). This portion of N. Michigan Street is currently unimproved and dead ends into a remnant alley. Surrounding land uses include single-family houses across the alley to the north and east, open storage to the south, and a vacant industrial building to the west.

The applicant is requesting the Vacation in order to consolidate the land with the adjacent property at 606 New York Avenue. On 3/19/2019, City Council approved a declaration of intent (*Res. 134-19*) to Vacate the portion of right-of-way and remaining alley. Staff typically has concerns with vacating streets and alleys. However, this portion of N. Michigan Street is unimproved and the alley has no other access. If approved, the alley will be split between adjoining property owners and the applicant will be entitled to half of the thirteen-foot (13') alley. As a condition of approval, the Division of Engineering Services is requiring an easement be recorded with the property in order to access the existing sewer in the vacated alley.

The applicant has stated that the site at 606 New York Avenue is used for personal storage. Should the land use change to include storage for others, a Special Use Permit will be required in accordance to TMC§1111.0700 and listed as a condition of approval. Furthermore, a Site Plan Review shall be required for any future developments on the Vacation area in accordance with the provisions of TMC§1111.0800.

STAFF ANALYSIS (cont'd)

Staff recommends approval of the proposed Vacation because this portion of N. Michigan Street with the alley is a dead end and will eliminate unnecessary right-of-way. Additionally, staff recommends approval of the proposed Vacation since it will not impede or restrict access to any adjoining property owners abutting the site.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommend approval of V-134-19, the request to Vacate a portion of N. Michigan Street lying between Lot 28, (within Block 148) and Lot 34 (within Block 30) of the North Toledo Plat, and the 13' alley lying adjacent to Lots 28 & 29 (within Block 148, to Toledo City Council for the following two (2) reasons:

1. The proposed Vacation will not impede or restrict access to any property owners abutting the site; and
2. The proposed Vacation will eliminate unnecessary dedicated right-of-way.

The Toledo City Plan Commission further recommends recommend approval of V-134-19, the request to Vacate a portion of portion of N. Michigan Street lying between Lot 28, (within Block 148) and Lot 34 (within Block 30) of the North Toledo Plat, and the 13' alley lying adjacent to Lots 28 & 29 (within Block 148), to Toledo City Council subject to the following **eight (8)** 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.

Division of Engineering Services

1. A pre-submittal meeting is not required, however one may be requested. Contact information is as follows:
Division of Engineering Services: ph. 419-245-1315, fax 419-936-2850
Right-of-Way and Inspection: Joe Warnka 419-245-1341
Roadway: Tim Grosjean, ph. 419-245-1344
Water: Andrea Kroma, ph. 419-936-2163
Stormwater Drainage: Lorie Haslinger, 419-245-3221; Andy Stepnick, 419-245-1338
Sanitary Sewers: Mike Elling, ph. 419-936-2276

PLAN COMMISSION RECOMMENDATION (cont'd)

Division of Engineering Services (cont'd)

2. The authorizing ordinance shall contain the following language which shall be recorded and a notation placed in the remarks section of the County's real estate records:

"That a full width easement is hereby retained over, across, under and through said vacated area in the alley, for the existing sewer facilities located in said vacated alley, together with any other utilities located therein, as they exist at the time of passage of this Ordinance. 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. Further, any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained by the owner separately from each utility, as to their interest(s) only, by separate, recordable instrument."

3. The paper street area shall retain a 20-foot-wide easement along and parallel to lot 28, to allow access to the sewer in the vacated alley.

PLAN COMMISSION RECOMMENDATION (cont'd)

Buckeye Telesystems

4. O.R.C. 5553.043 Railroad or public utility company deemed to have permanent easement in vacated portion of road. When any street, highway, or road, or a portion of any street, highway, or road, is vacated pursuant to any section of this chapter or Chapter 5571. of the Revised Code, and the relocation of any conduits, cables, wires, towers, poles, sewer lines, steam lines, pipelines, gas and water lines, tracks, or other equipment or appliances of any electric cooperative, railroad, or public utility, whether owned privately or by any governmental authority, located on, over, or under the portion of the street, highway, or road affected by the vacation, are not required for purposes of the vacating authority, any affected electric cooperative, railroad, or public utility company shall be deemed to have a permanent easement in the vacated portion of the street, highway, or road for the purpose of accessing, maintaining, operating, renewing, reconstructing, and removing those utility facilities . The permanent easement also confers a right of ingress and egress to service and maintain those utility facilities and a right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the permanent easement that may affect the operation, use, or access to those utility facilities. Nothing in this section shall be construed to relieve an owner of the right to mine coal who petitions for a proposed improvement from the obligation to pay the relocation costs and expenses of public utility or electric cooperative facilities as provided in this chapter or Chapter 5571. of the Revised Code.

As used in this section, "electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.

Effective Date: 10-16-1961; 06-10-2004.

Division of Transportation

5. 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.

Plan Commission

6. A Site Plan Review shall be required for any future developments on the Vacation area in accordance with the provisions of the Toledo Municipal Code Part Eleven, Planning and Zoning, Sec. 1111.0800, *Site Plan Review*.

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PLAN COMMISSION RECOMMENDATION (cont'd)

Plan Commission (cont'd)

7. The applicant has stated that the site at 606 New York Avenue is used for personal storage. Should this be changed to include storage for others, a Special Use Permit will be required.
8. The existing site shall be properly screened with a board-on-board privacy fence that meets the requirements of TMC§1105.0300.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Thomas C. Gibbons".

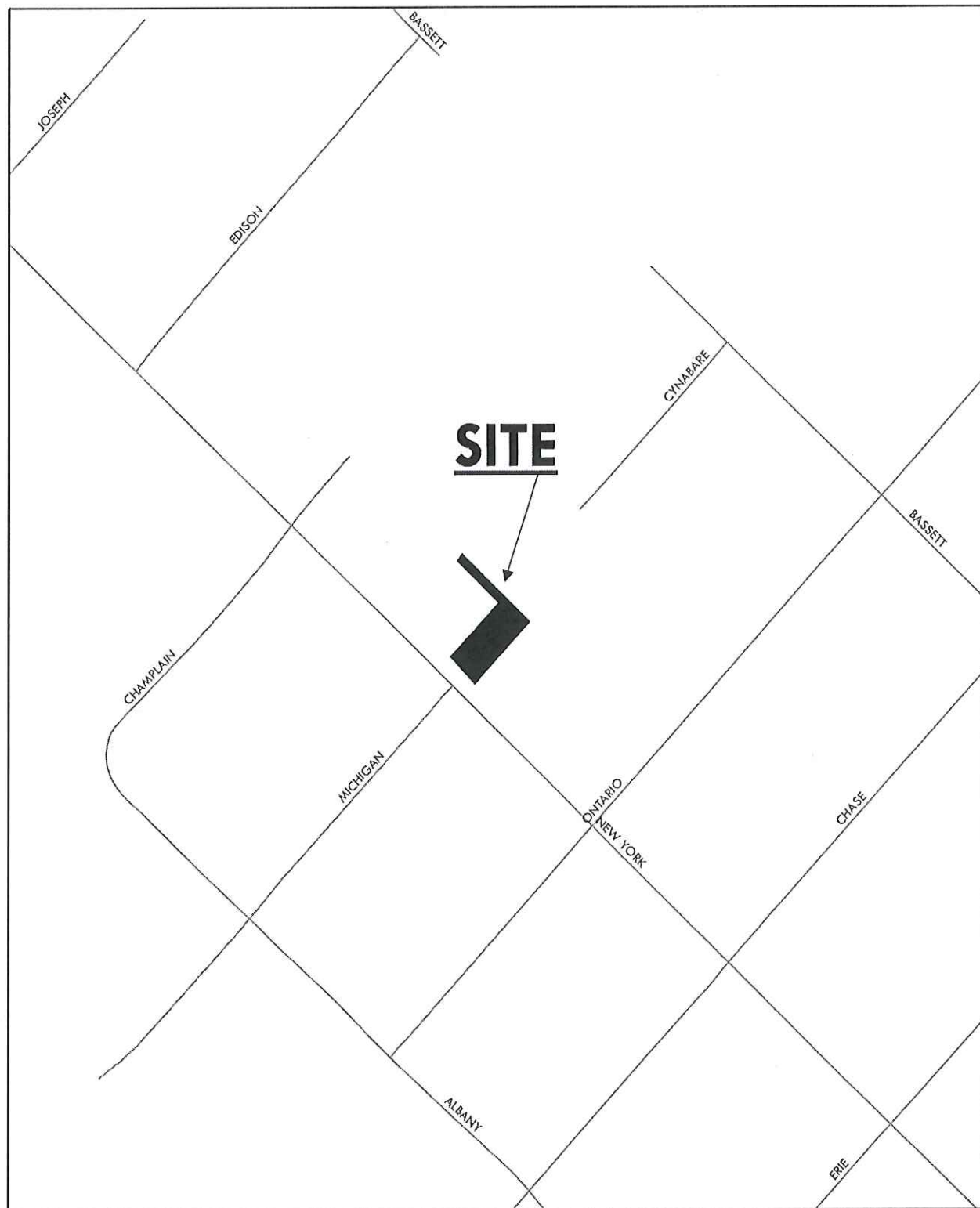
Thomas C. Gibbons
Secretary

Two (2) sketches follow

Cc: James Fisher III; 3507 Wallace Boulevard, Toledo, OH 43611
Hope Lohmeyer; 606 New York Avenue, Toledo, OH 43604
Lisa Cottrell, Administrator
Ryne Sundvold, Associate Planner

GENERAL LOCATION

V-134-19
ID 2



ZONING AND LAND USE

V-134-19
ID 2

