

TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

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

DATE: June 10, 2021 REF: V-200-21

TO:

President Matt Cherry and Members of Council, City of Toledo

FROM:

Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT:

Request for the Vacation of a portion of Constitution Avenue between Erie Street and

Spielbusch Avenue

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, June 10, 2021 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request - Vacation of a portion of Constitution Avenue

between Erie Street and Spielbusch Avenue

Applicant

U.S. General Services Administration

230 S. Dearborn St, Ste 3600

Chicago, IL 60604

Site Description

Zoning - CO Office Commercial

Area - \pm 0.45 acres

Frontage \pm 97.86' along Constitution Avenue (west)

± 66' along Constitution Avenue (east)

Dimensions ± 97.86 ' x 296.54' x 66' x 259.73'

Existing Use - Public right-of-way

Proposed Use - Open space

Neighborhood Org. - Downtown Toledo Improvement District

Overlay - Downtown Overlay District

Area Description

North - Parking lot / CO

South - Open space, federal courthouse, municipal

courthouse / CO

East - Parking lot, Toledo Lucas County Health

Department / CO

West - Open space, public right-of-way / CO

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GENERAL INFORMATION (cont'd)

Parcel History

None on file.

Applicable Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning
- Toledo 20/20 Comprehensive Plan
- 2017 Downtown Toledo Master Plan

STAFF ANALYSIS

The applicant is requesting the Vacation of a portion of Constitution Avenue between Erie Street and Spielbusch Avenue. The applicant, the United States General Services Administration (GSA) owns the adjacent courthouse to the south. The GSA plans on updating the existing courthouse, constructing an adjoining annex, and expanding the Civic Center Mall, and the Vacation request is one element of their overall plans. Surrounding land uses include a parking lot to the north; a parking lot and the Toledo Lucas County Health Department to the east; the Civic Center Mall, federal courthouse, and municipal courthouse to the south; and the Civic Center Mall and public right-of-way to the west.

The applicant is requesting the Vacation in order to facilitate the expansion of the Civic Center Mall, and the Vacated portion will become green space. Staff and other commenting agencies had initial concerns about this portion of Constitution Avenue being vacated, as it is preferential that Vacation requests not result in dead ends. However, GSA selected the Vacation area in order to provide access to the existing parking lots to the Lucas County Court of Appeals and to the Toledo Lucas County Health Department, and the portions of Constitution Avenue that will remain will flow into these parking lots. On 04/13/2021, City Council approved a declaration of intent (*Res. 199-21*) to Vacate the requested portion of Constitution Avenue.

Downtown Toledo Master Plan

The 2017 Downtown Toledo Master Plan lists the Civic Center Mall as one of Downtown Toledo's assets, and states that developments such as this have motivated revitalization in the urban core. The Plan encourages open space for Downtown visitors and regulars to gather at and enjoy. Furthermore, it encourages the activation of existing buildings and connecting and integrating existing assets to enhance this part of the Downtown. GSA's proposed project will increase greenspace acreage in the Downtown, which a scarce asset in urban settings.

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STAFF ANALYSIS (cont'd)

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan future land use designation targets the proposed Vacation for office commercial uses. This land use category is for the large concentration of office uses. The district is also intended to serve as a land use buffer between major streets and residential neighborhoods and between higher intensity commercial areas and residential neighborhoods. The proposed Vacation area will be added to the Civic Center Mall and will provide an expanded amenity to the surrounding offices and courthouses.

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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 goals of the Downtown Toledo Master Plan.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of V-200-21, the request for the Vacation of a portion of Constitution Avenue between Erie Street and Spielbusch Avenue 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 conforms to the Toledo 20/20 Comprehensive Plan and the 2017 Downtown Toledo Master Plan (TMC§1111.0606(A) *Review & Decision-Making Criteria*).

The Toledo City Plan Commission further recommends approval of V-200-21, the request to Vacate a portion of Constitution Avenue between Erie Street and Spielbusch Avenue to Toledo City Council 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.

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 419-245-1344 Water: Andrea Kroma 419-936-2163

Stormwater Drainage: Lorie Haslinger 419-245-3221; Andy Stepnick 419-245-1338

Sanitary Sewers: Mike Elling 419-936-2276

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PLAN COMMISSION RECOMMENDATION (cont'd)

Division of Engineering Services (cont'd)

2. A full width easement shall be retained by the City of Toledo over the vacated right-of-way, to maintain a 6-inch diameter public water main. The following language shall appear in the authorizing vacation ordinance which shall be recorded and a notation placed in the remarks section of the County's real estate records:

"That a full width (60 foot) easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing water main, located in said vacated right of way. 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, 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. If the petitioner wishes to reduce the size of the water main easement, the water main shall be located by survey and a twenty-foot (20') easement centered on the water main will be acceptable. The survey shall be conducted by and paid for by the petitioner.

Fire Prevention

4. A public fire hydrant, serving as the nearest water supply, located near the SW corner of the proposed vacation needs to remain for protection of the large parking area between the Lucas County Health Dept. and the District Court House.

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PLAN COMMISSION RECOMMENDATION (cont'd)

Division of Transportation

5. A turnaround at the end of the Constitution vacate on the southerly section is required.

6. 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.

Respectfully Submitted,

How C. Silfa

Thomas C. Gibbons

Secretary

Three (3) sketches follow

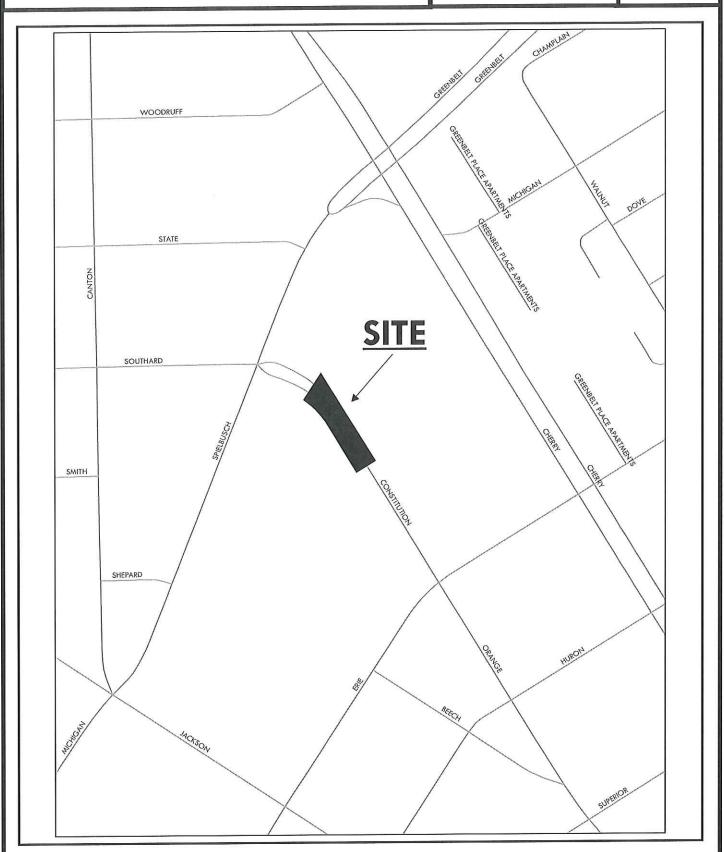
Cc: Michael Krueger, US General Services Administration, 230 S Dearborn Street, Suite 3600, Chicago IL 60604

Lisa Cottrell, Administrator Dana Reising, Planner

GENERAL LOCATION

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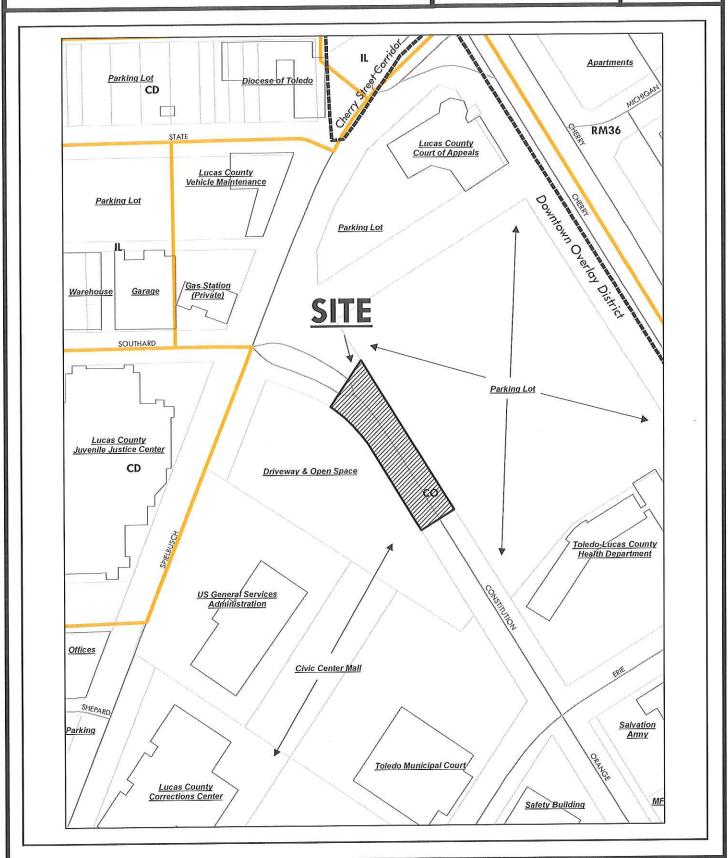


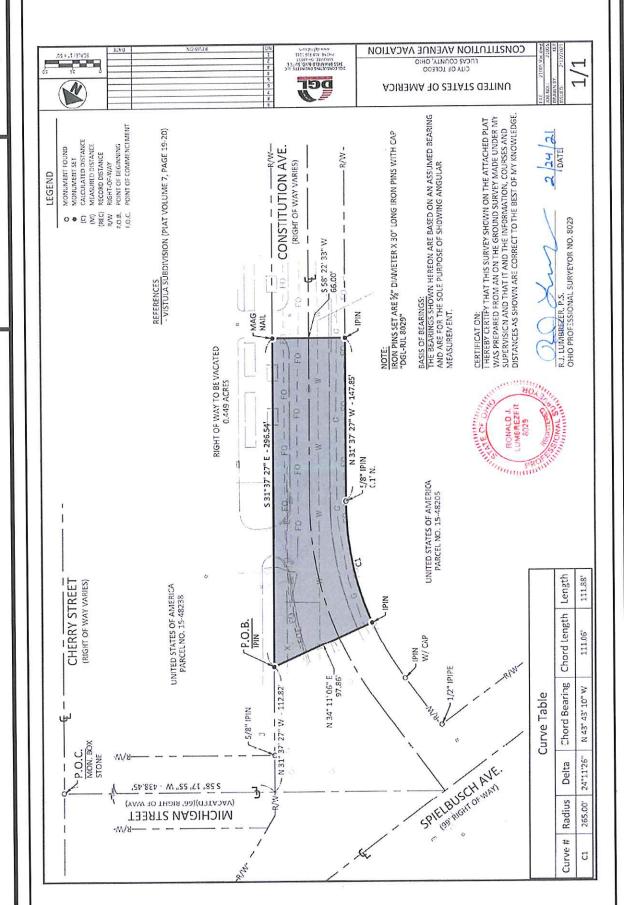


ZONING & LAND USE

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ASHLEY U.S. COURTHOUSE

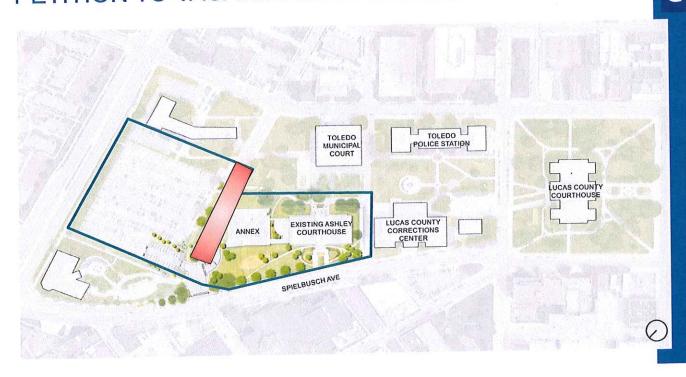
GSA



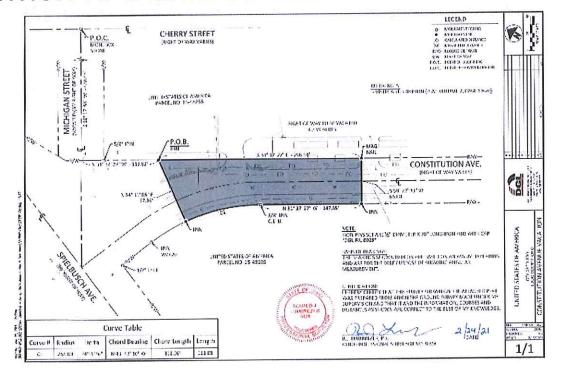
PETITION TO VACATE CONSTITUTION AVE.

June 2021

PETITION TO VACATE CONSTITUTION AVE.



PETITION TO VACATE CONSTITUTION AVE.





LAND EXCHANGE AGREEMENT (2001)

- In exchange for former government building on 234 Summit St.
- "Due to differences in fair market value of the City owned parcel and the Government owned parcel, the City and the Government agree to be bound by the additional covenants and agreements..."
- Includes:
 - Vacation of Constitution Avenue
 - All associated costs including the removal of asphalt and/or utilities.



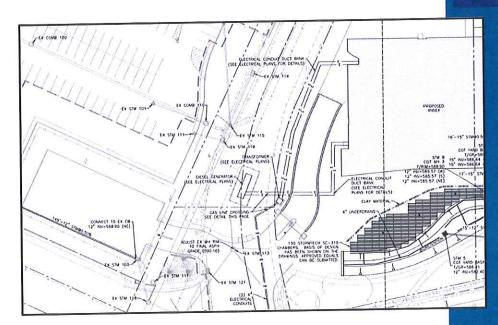
PURPOSE

- US Courts 30 Year space needs
- Limit the building over or across constitution avenue utilities
- Security set back from the building

SITE COORDINATION & VACATION RESPONSE

GSA

- Buckeye Cablevision Inc.
- Engineering Services
- Division of Transportation
- Fire Prevention Bureau



Buckeye Cablevision Inc.

- Requires easement for fiber optic services.
- Resolved: Easement language in the proposed ordinance language drafted by GSA was approved by Buckeye 05/24/2021



- Require 20ft easement to access and maintain water mains.
- Resolved: Easement included in ordinance language.
- Concerned with emergency generator location
- Pending: GSA preparing document to show emergency generator location centered between water and gas mains.

Toledo Division of Transportation

- Require turn arounds for each end of vacation to ensure no dead end roads.
- Pending: Spielbusch side entry can accommodate turning radius. Erie side currently showing access into parking lot. Final plans for remaining portion of Constitution to be determined based on future site use.

General Easement

GSA

 GSA has proposed a permanent easement to all utilities under constitution avenue.

