



Legislation Details (With Text)

File #: O-349-20 **Version:** 1 **Name:**
Type: Ordinance **Status:** Second Reading
File created: 8/14/2020 **In control:** City Council
On agenda: 9/1/2020 **Final action:** 9/1/2020
Title: Vacating that portion Kelly St. (60 feet wide) and all that part of a 15 foot wide alley that starts at the east right of way line of Kelly St. and extends easterly, that lie north of Central Ave. and south of Interstate 475, being in part of the extension of Fairfax Subdivision, within the City of Toledo, Lucas County, Ohio; waiving all land costs; and declaring an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Audio: 8/25/2020 City Council Meeting

Date	Ver.	Action By	Action	Result
9/1/2020	1	City Council		
9/1/2020	1	City Council		
8/25/2020	1	City Council		

Zoning & Planning Committee

Vacating that portion Kelly St. (60 feet wide) and all that part of a 15 foot wide alley that starts at the east right of way line of Kelly St. and extends easterly, that lie north of Central Ave. and south of Interstate 475, being in part of the extension of Fairfax Subdivision, within the City of Toledo, Lucas County, Ohio; waiving all land costs; and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 333-15 adopted on June 23, 2015, declaring its intent to vacate that portion Kelly St. (60 feet wide) and all that part of a 15 foot wide alley that starts at the east right of way line of Kelly St. and extends easterly, that lie north of Central Ave. and south of Interstate 475, being in part of the extension of Fairfax Subdivision, within the City of Toledo, Lucas County, Ohio, as more fully described in Section 1 hereof.

All of the preliminary steps have been taken as required by law, the Charter of the City of Toledo, and the Toledo Plan Commission has made reports regarding the proposed vacations; and all things required by law to be done, have been done. During the vacation process it was determined the City of Toledo has received all fees for this vacation.

On August 13, 2015, the Toledo City Plan Commission recommended approval of the request for the vacation of that portion Kelly St. (60 feet wide) and all that part of a 15 foot wide alley that starts at the east right of way line of Kelly St. and extends easterly, that lie north of Central Ave. and south of Interstate 475, being in part of the extension of Fairfax Subdivision within the City of Toledo, Lucas County, Ohio

On September 23, 2015, City Council Zoning and Planning Committee sent as approved the request for the

vacation of that portion Kelly St. (60 feet wide) and all that part of a 15 foot wide alley that starts at the east right of way line of Kelly St. and extends easterly, that lie north of Central Ave. and south of Interstate 475, being in part of the extension of Fairfax Subdivision, the in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on January 8, 2016 and recommended to Council approval of the request for the vacation of that portion Kelly St. (60 feet wide) and all that part of a 15foot wide alley that starts at the east right of way line of Kelly St. and extends easterly, that lie north of Central Ave. and south of Interstate 475, being in part of the extension of Fairfax Subdivision, in the City of Toledo, Lucas County, Ohio.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Council of the City of Toledo does hereby vacate that portion of Kelly St. (60 feet wide) and all that part of a 15 foot wide alley that starts at the east right of way line of Kelly St. and extends easterly, that lie north of Central Ave. and south of Interstate 475, being in part of the extension of Fairfax Subdivision, and located all within the City of Toledo, Lucas County, Ohio bounded and described as follows:

All Of Kelly Street (60 Feet Wide) That Lies North Of Central Ave. And South Of Interstate 475, Being In Part Of The Extension Of Fairfax Subdivision City Of Toledo, Lucas County, Ohio Bounded And Described As Follows:

Beginning At The Intersection Of The North Right Of Way Line Of Central Ave. And The West Right Of Way Line Of Said Kelly St. Also Being On The East Line Of Lot 21 Of Extension Of Fairfax Subdivision:

Thence North 00°53'38" West 279.89 Feet Along The West Line Of Said Kelly Street To A Point On The South Line Of The Limited Access Right Of Way Line Of Interstate 475;

Thence North 89°50'47" East 60.00 Feet Along The South Line Of Said Limited Access Right Of Way Line Of Interstate 475 To A Point On The East Right Of Way Line Of Said Kelly Street;

Thence South 00°53'38" East 279.87 Feet Along The East Right Of Way Line Of Said Kelly Street To A Point On The North Right Of Way Line Of Said Central Ave.;

Thence South 89°50'06" West 60.00 Feet Along The North Right Of Way Line Of Said Central Ave. To The Point Of Beginning, Containing 0.386 Acres More Or Less.

Subject To All Highways, Easements And Restrictions Of Record. This Description Was Prepared By Mannik Smith Group And Is Based On A Survey Of The Premises. Bearing Control Is Based On Ohio State Plane Coordinates, North Zone, Nad 83.

And

All That Part Of A 15.00 Foot Wide Alley That Starts At The East Right Of Way Line Of Kelly Street (60 Feet Wide) And Extends Easterly, Said Alley Lies North Of Central Ave. And South Of Interstate 475, Being In Part Of The Extension Of Fairfax Subdivision City Of Toledo, Lucas County, Ohio Bounded And Described As Follows:

Beginning At The Southwest Corner Of Lot 51 Of Extension Of Fairfax Subdivision, Also Being The Intersection Of The East Line Of Said Kelly Street And The North Right Of Way Line Of Said 15 Foot Alley:

Thence North 89°50'05" East 235.26 Feet Along The North Right Of Way Line Of Said Alley To A Point;

Thence South 00°51'18" East 15.00 Feet To A Point On The South Right Of Way Line Of Said 15 Foot Alley;

Thence South 89°50'05" West 235.25 Feet Along The South Right Of Way Line Of Said Alley To A Point At The Intersection Of The East Line Of Said Kelly Street;

Thence North 00°53'38" West 15.00 Feet Along The East Line Of Said Kelly Street To The Point Of Beginning, Containing 0.081 Acres More Or Less.

Subject To All Highways, Easements And Restrictions Of Record. This Description Was Prepared By Mannik

Smith Group And Is Based On A Survey Of The Premises. Bearing Control Is Based On Ohio State Plane Coordinates, North Zone, Nad 83.

the full right of way width of Doris Ave. that lies south of Central Ave. and north of Monroe St. in Schramm's Addition and Kenwood Stores Subdivision, within the City of Toledo, Lucas County, Ohio, more fully described as follows;

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following condition(s):

The following seven (7) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Engineering Services

1. Eliminate access of Kelly Street by installing new curb and sidewalk through existing right-of-way. The curb height should match the exiting curb on Central Avenue.
2. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from One Stop Shop, (419) 245-1220.

Contact (419) 245-1341 for inspection of above-mentioned items.

3. There is an existing 6-inch-diameter water main in Kelly Street from Central Avenue to a hydrant approximately 320 feet north of Central Avenue. This water main shall be abandoned and hydrant removed; or the petitioner shall accept ownership of this water main, including valves and hydrants.
4. There is an existing storm line on Kelly Street. This storm main shall be abandoned; or the petitioner shall accept ownership of this storm main, including all catch basins and manholes. The storm lines, catch basins, and manholes within the right of way of Central Ave. shall remain in service.
5. There is an existing 8-inch sanitary line in Kelly Street. This sanitary main shall be abandoned; or the petitioner shall accept ownership of this sanitary main, including all manholes. Developer shall verify any sewers to be abandoned are no longer in service.

Fire Prevention

6. The fire hydrant located at the end of Kelly Street, closest to the expressway, needs to remain in service and available for the protection of buildings and structures located to the east of Kelly Street until a plan for area development and the relocation / addition of hydrants is approved.

Buckeye Cablevision

7. Buckeye Cablesystem and Buckeye Telesystem needs to maintain full access to existing utilities and Kelly Street.

SECTION 3. That a full width easement in favor of the City is retained across, under and through said

vacated area as described in Section 1 herein for the City’s future maintenance, repair, and replacement of the existing sewer, water and/or storm water facilities located in the vacated area. All City facilities located within said vacated area are hereby dedicated to the City for exclusive City utility use only and shall not be combined with easements or rights for other utilities. The easement retained by the City 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. The City shall be released and held harmless for any liability, responsibility costs, or damages resulting from the City’s removal of any barriers which impede the City ingress or egress from the easement or which obstruct access to the utilities located within the vacated area. The City 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. 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.

SECTION 4. That the fees for this vacation are waived in the amount of \$12,073.65 consistent with the development agreement authorized by Ordinance 188-19.

SECTION 5. That, within the limits allowed by law, the applicant/owner shall indemnify and hold harmless 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. Prior to the passage of this Ordinance, said owner/petitioner has provided their written endorsement and acknowledgement as to said indemnification language, a copy of which in the permanent files or records of the Clerk of Council.

SECTION 6. That the Real Estate Section of the Department of Development is hereby directed to cause a copy of this Ordinance to be recorded in the records of the office of Lucas County Recorder.

SECTION 7. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council, and that all deliberations of Council and any of its committees that result in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 8. That this Ordinance is hereby declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that this Ordinance must be immediately effective so that the vacations can be expeditiously completed to enable the property owner(s) to obtain the resulting benefits at the earliest time.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____
_____ Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council
_____.

Attest: _____
Clerk of Council