



Legislation Details (With Text)

File #: O-248-24 **Version:** 1 **Name:**
Type: Ordinance **Status:** Approved
File created: 5/9/2024 **In control:** City Council
On agenda: 5/22/2024 **Final action:** 5/22/2024

Title: Declaring the vacation of a 16 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110 feet together with a portion of a 14 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160 feet, all within a plat recorded as "Swan Creek Addition" within the City of Toledo, Lucas County, Ohio; and declaring an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Video: City Council May 22, 2024

Date	Ver.	Action By	Action	Result
5/22/2024	1	City Council	Suspension	Pass
5/22/2024	1	City Council	Emergency	Pass
5/22/2024	1	City Council	Passage	Pass

Zoning & Planning Committee

Declaring the vacation of a 16 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110 feet together with a portion of a 14 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160 feet, all within a plat recorded as "Swan Creek Addition" within the City of Toledo, Lucas County, Ohio; and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 150-22 adopted on March 29, 2022, declaring its intent to vacate the 16 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110 feet together with a portion of a 14 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160 feet all within a plat recorded as "Swan Creek Addition" within the City of Toledo, County of Lucas, State of Ohio; and declaring an emergency.

On May 12, 2022, the Toledo City Plan Commission recommended approval of the request for the vacation of the 16 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110 feet together with a portion of a 14 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160 feet, all within a plat recorded as "Swan Creek Addition" within the City of Toledo, Lucas County, Ohio, and declaring an emergency.

The City Council Zoning and Planning Committee on June 15, 2022, sent as approved the request for the vacation of the 16 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110 feet together with a portion of a 14 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160 feet, all within a plat recorded as "Swan Creek Addition" within the City of Toledo, Lucas County, Ohio; and declaring an emergency.

The Board of Revision met on October 6, 2022 and approved the request for the vacation of the 16 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110 feet together with a portion of a 14 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160 feet, all within a plat recorded as "Swan Creek Addition" within the City of Toledo, Lucas County, Ohio; and declaring an emergency.

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.

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 the 16 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110 feet together with a portion of a 14 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160 feet, all within a plat recorded as "Swan Creek Addition" within the City of Toledo, Lucas County, Ohio; and more fully described as follows:

Vacating all of a 16.00 foot alley lying south of Western Avenue and along the easterly lot line of Lot 17 for a distance of 110.00 feet together with a portion of a 14.00 foot alley running east and west along the northerly lot lines of Lots 40 and 41 for a distance of 160.00 feet all within a plat recorded as "Swan Creek Addition" within the City of Toledo, County of Lucas, State of Ohio.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following 5 conditions:

The following conditions are listed by agency of origin. Applicants are encouraged to contact the agency to address compliance with their conditions.

Division of Engineering Services

1. 12" sewer in alley. Easement shall be provided in Ordinance.

Division of Transportation

2. This vacation will create a dead-end alley coming from Edna Street. For this vacation to happen, a turnaround must be created at the end of the alley.

Plan Commission

3. Parcels 07-18617, 14-37864, 14-37857, and 14-37717 shall be combined.
4. An access easement shall be included in the final Ordinance giving 1451 Western Avenue unimpeded access to the existing garage.
5. An access easement shall be included in the final Ordinance giving the City of Toledo access to the sewer line and access structure.

SECTION 3. That the Real Estate Section of the Department of Economic 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. 4 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 5. That Land Fees have been paid in the amount of \$668.00. The engineering fee, recording fee and cost of two private alley signs have been paid for total amount of \$1,068.00.

SECTION 6. 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 7. 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 11, nays 0.

Passed: May 22, 2024, as an emergency measure: yeas 11, nays 0.

Attest:

Julie A. Gibbons
Clerk of Council

Carrie Hartman
President of Council

Approved:

May 22, 2024
Wade Kapszukiewicz
Mayor

