



Legislation Details (With Text)

File #: 612-21 **Version:** 1 **Name:**
Type: Ordinance **Status:** Approved
File created: 6/16/2023 **In control:** City Council
On agenda: 6/27/2023 **Final action:** 6/27/2023
Title: Declaring the vacation of a 20 foot by 240-foot alley in the Reynolds Place Subdivision bounded by Montain Road and Westhaven Road, abutting lots 4-10 and 53 and 66, in the City of Toledo, Lucas County Ohio; and declaring an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Plan Commission Report, 2. Video: City Council 6/27/2023, 3. Video: Agenda Review 6/20/2023

Date	Ver.	Action By	Action	Result
6/27/2023	1	City Council	Suspension	Pass
6/27/2023	1	City Council	Emergency	Pass
6/27/2023	1	City Council	Passage	Pass

Zoning & Planning Committee

Declaring the vacation of a 20 foot by 240-foot alley in the Reynolds Place Subdivision bounded by Montain Road and Westhaven Road, abutting lots 4-10 and 53 and 66, in the City of Toledo, Lucas County Ohio; and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 616-22 adopted on November 22, 2022, declaring its intent to vacate a 20 foot by 240-foot alley in the Reynolds Place Subdivision bounded by Montain Road and Westhaven Road, abutting lots 4-10 and 53 and 66, in the City of Toledo, Lucas County Ohio; and declaring an emergency.

On January 12, 2023, the Toledo City Plan Commission recommended approval of the request for the vacation of 20 foot by 240-foot alley in the Reynolds Place Subdivision bounded by Montain Road and Westhaven Road, abutting lots 4-10 and 53 and 66, in the City of Toledo, Lucas County Ohio; and declaring an emergency.

The City Council Zoning and Planning Committee on February 15, 2023, sent as approved the request for the vacation of a 20 foot by 240-foot alley in the Reynolds Place Subdivision bounded by Montain Road and Westhaven Road, abutting lots 4-10 and 53 and 66, in the City of Toledo, Lucas County Ohio; and declaring an emergency.

The Board of Revision met on May 25, 2023 and approved the request for the vacation of a portion of a 20 foot by 240-foot alley in the Reynolds Place Subdivision bounded by Montain Road and Westhaven Road, abutting lots 4-10 and 53 and 66, in 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 portion of right of way located west of the relocated Angola Road and Airport Highway in the City of Toledo, Lucas County Ohio; and more fully described as follows:

DESCRIPTION OF 20' WIDE ALLEY

A 20' WIDE ALLEY, 240' IN LENGTH, LOCATED IN THE CITY OF TOLEDO IN REYNOLDS PLACE SUBDIVISION (PV 43, PAGE 53) AND BOUNDED ON THE WEST BY MOUNTAIN ROAD (60' R/W), ON THE EAST BY WESTHAVEN ROAD (60' R/W), ON THE NORTH BY LOTS #4-#10 IN SAID SUBDIVISION, AND ON THE SOUTH BY LOTS #66 & #53 IN SAID SUBDIVISION.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following 3 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 Transportation

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.

Plan Commission

2. A minor Site Plan Review is required for any nonresidential development. Applicant shall submit a site plan to the Plan Commission for review prior to the issuance of building permits.
3. A Zone change to CR -Regional Commercial is required for the southern portion of the alley.

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 \$3,729.60. The engineering fee and the Recording fee have been paid for total amount of \$3,904.60

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 10, nays 0.

Passed: June 27, 2023, as an emergency measure: yeas 10, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

June 27, 2023
Wade Kapszukiewicz
Mayor