



Legislation Details (With Text)

File #: O-247-24 **Version:** 1 **Name:**
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File created: 5/9/2024 **In control:** Clerk's Office
On agenda: 5/22/2024 **Final action:** 5/22/2024
Title: Declaring the vacation of a 14 foot by 120 foot alley lying adjacent to Lots 384 through 387 and Lot 802 within the "Extension of Norwood Plat" 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 14 foot by 120 foot alley lying adjacent to Lots 384 through 387 and Lot 802 within the "Extension of Norwood Plat" within the City of Toledo, Lucas County, Ohio; and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 590-22 adopted on November 9, 2022, declaring its intent to vacate a 14 foot by 120 foot alley lying adjacent to Lots 384 through 387 and Lot 802 within the "Extension of Norwood Plat" within the City of Toledo, County of Lucas, State of Ohio; and declaring an emergency.

On January 12, 2023, the Toledo City Plan Commission recommended approval of the request for the vacation of a 14 foot by 120 foot alley lying adjacent to Lots 384 through 387 and Lot 802 within the "Extension of Norwood Plat" within 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 14 foot by 120 foot alley lying adjacent to Lots 384 through 387 and Lot 802 within the "Extension of Norwood Plat" within the City of Toledo, Lucas County, Ohio; and declaring an emergency.

The Board of Revision met on March 24, 2023 and approved the request for the vacation of a 14 foot by 120 foot alley lying adjacent to Lots 384 through 387 and Lot 802 within the "Extension of "Norwood Plat" 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 a 14 foot by 120 foot alley lying adjacent to Lots 384 through 387 and Lot 802 within the “Extension of Norwood Plat” within the City of Toledo, Lucas County, Ohio; and more fully described as follows:

That Alley being 14.0 feet wide and 120.0 feet in length lying adjacent to lots 384 thru 387 and 802 all within the Plat of “Extension of Norwood”

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following 6 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 and Construction Management

1. Eliminate access on Warwick Avenue by removing existing apron and installing new curb and walk through existing right-of-way. The curb height should match the exiting curb on said Street.
2. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from 419-245-1347. The application can be obtained online at Toledo.oh.gov search: right-of-way opening permit.
3. A utility easement equal to the fourteen-foot-wide alley is hereby dedicated to the City of Toledo for public drainage facilities. The easement shall be primary in nature to any other easements located therein, and any easement retained by any other entity shall be subject first to the easement rights of the City of Toledo. Said easement herein shall be permanent in nature for each utility facility 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 utility facilities 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 structures, 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.

Division of Traffic Management

4. 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

5. A Minor Site Plan Review is required for any proposed off -street parking developments with between 5 and 59 spaces. Applicant shall submit a site plan to the Plan Commission for review prior to the issuance of building permits.
6. A Special Use Permit or Zone Change is required for the southern portion of the alley, which is Zoned RD6-Duplex Residential. Daycare Center require a Special Use Permit when located in the RD6-Duplex Residential Zoning District. Alternatively, the applicant may apply for a Zone Change to CR-Regional Commercial, as Daycare Centers require a Site Plan Review in Commercial Districts.

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 \$262.08. The engineering fee, recording fee and required work have been paid for total amount of \$687.08.

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