



## Legislation Text

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**File #: O-588-23, Version: 1**

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Zoning & Planning Committee

**Declaring the vacation of a portion of Utica Street, adjacent to Lot 3, within the Bell and Corbusier Partition Plat, all within the City of Toledo, Lucas County Ohio; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

The Council of the City of Toledo, by Resolution No. 283-23 adopted on May 16, 2023, declaring its intent to vacate a portion of Utica Street, adjacent to Lot 3, within the Bell and Corbusier Partition Plat, all within the City of Toledo, Lucas County Ohio.

On July 13, 2023, the Toledo City Plan Commission recommended approval of the request for the vacation of a portion of Utica Street, adjacent to Lot 3, within the Bell and Corbusier Partition Plat, all within the City of Toledo, Lucas County Ohio.

The City Council Zoning and Planning Committee on August 16, 2023, sent as approved the request for the vacation of a portion of Utica Street, adjacent to Lot 3, within the Bell and Corbusier Partition Plat, all within the City of Toledo, Lucas County Ohio.

The Board of Revision met on September 29, 2023 and approved the request for the vacation of a portion of Utica Street, adjacent to Lot 3, within the Bell and Corbusier Partition Plat, all within the City of Toledo, Lucas County Ohio.

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. Fees totaling \$1,283.57 have been paid.

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 portion of Utica Street, adjacent to Lot 3, within the Bell and Corbusier Partition Plat, all within the City of Toledo, Lucas County Ohio and more fully described as follows:

Being part of Utica Street in Bell and Corbusier Partition Plat, as recorded in Lucas County Deed Volume 99, Page 238 in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at a stone with drill hole monument found at the centerline intersection of Bancroft Street and Elm Street.

Thence South 31 degrees, 44 minutes, 52 seconds East, along the centerline of Elm Street, a distance of 327.00 feet to a point on the Southwesterly prolongation of Lot 3 in Bell and Corbusier Partition Plat.

Thence North 58 degrees, 21 minutes, 57 seconds East, along the Southwesterly prolongation of Lot 3, a distance of 41.25 feet to a railroad spike with cross set at the intersection of the Northeasterly Right-of-way of Elm Street and the Northwesterly Right-of-way of Utica Street, said point also being the Southerly most corner of Lot 3, said point also being the Southerly most corner of a parcel of land as conveyed to Lucas County Land Reutilization Corporation, as recorded in Lucas County Official Record 20211020-0055787, said point also being the True Point of Beginning.

Course 1: Thence continuing North 58 degrees, 21 minutes, 57 seconds East, along the Southeasterly line of Lot 3 and a parcel of land as conveyed to Lucas County Land Reutilization Corporation, a distance of 198.70 feet to the Easterly most corner of Lot 3, said point also being on the Northeasterly end of Utica Street.

Course 2: Thence South 31 degrees, 44 minutes, 52 seconds East, along the Northeasterly end of Utica Street, a distance of 50.00 feet to the Northerly most corner of a parcel of land as conveyed to Ameer and Zayn, LLC, as recorded in Lucas County Official Record 20220720-0032382.

Course 3: Thence South 58 degrees, 21 minutes, 57 seconds West, along the Northwesterly line of Ameer and Zayn, LLC, a distance of 198.70 feet to a point on the Northeasterly Right-of-way of Elm Street.

Course 4: Thence North 31 degrees, 44 minutes, 52 seconds West, along the Northeasterly Right-of-way of Elm Street, a distance of 50.00 feet to the True Point of Beginning.

Containing 9,934.98 square feet or 0.2281 acres of land. Bearings used herein are based upon an assumed meridian and are intended to indicate angular measurement only. All 1/2-inch galvanized steel pipe set are capped with the company name and PLS No. 7476. This legal description is based upon a field survey prepared by Lewandowski Engineers between January 24, 2023 and January 27, 2023.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following 6 (six) condition(s):

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

Law Department

1. Within the allowed limits 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 the indemnification shall be kept in the permanent file of the Clerk of Council.
2. That a full width easement in favor of the City of Toledo is retained across, under and through said vacated area as described in Section 1 herein for the purpose of the City of Toledo's maintaining, operating, renewing, reconstructing, and removing utility facilities. All City of Toledo facilities located within said vacated area are hereby dedicated to the City of Toledo for exclusive City of Toledo utility use only and shall not be combined with easements or rights for other utilities. The easement

retained by the City of Toledo 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 of Toledo. The City of Toledo shall be released and held harmless for any liability, responsibility costs, or damages resulting from the City of Toledo's removal of any barriers which impede the City of Toledo ingress or egress from the easement or which obstruct access to the utilities located within the vacated area. The City of Toledo 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 of Toledo. 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.

3. Further, the Owner's' of the vacated area shall be responsible for the relocation of any utility facilities or equipment, whether owned by a public or private utility within the vacated area or preserving access to such utility facilities. Utility facilities include conduits, cables, wires, towers, poles, sewer lines, pipelines, gas and water lines, or other equipment of any railroad or public utility, located on, over or under the portion of the vacated area. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance and operation of Ohio law shall be obtained separately from each utility, as to their interest(s) only. The City of Toledo shall be released and held harmless for any liability, responsibility, costs, or damages resulting from Owners' construction or activities in the vacated area, that interferes with any utility easement retained as a matter of law in accord with Section 723.041 of the Ohio Revised Code.

#### Plan Commission

4. The proposed vacation cannot result in the loss of access for any abutting properties.
5. A Site Plan Review shall be required for any future developments within the vacated area in accordance with the provisions of the Toledo Municipal Code.
6. Applicant shall obtain the appropriate building permits to demolish the existing 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 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 5. 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 12, nays 0.

Passed: October 24, 2023, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

October 24, 2023  
Wade Kapszukiewicz  
Mayor