



## Legislation Text

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**File #:** O-316-21, **Version:** 1

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Zoning & Planning Committee

**Declaring the vacation of Marina Drive East, in the City of Toledo, Lucas County, Ohio; waiving all fees; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

The Council of the City of Toledo, by Resolution No. 445-20 adopted on November 4, 2020, declared its intent to vacate Marina Drive East in the City of Toledo, Lucas County, Ohio; as more fully described in Section 1 hereof.

On December 3, 2020, the Toledo City Plan Commission recommended to Council of the City of Toledo approval of the application for the vacation of Marina Drive East in the City of Toledo, Lucas County, Ohio.

The Council Zoning and Planning Committee of the Council of the City of Toledo on January 6, 2021, sent without recommendation to the Council of the City of Toledo the application for the vacation of Marina Drive East in the City of Toledo, Lucas County, Ohio.

The Board of Revision of the City of Toledo convened a public hearing on May 27, 2021 and reported to the Council of the City of Toledo with a recommendation of approval on the application for the vacation of Marina Drive East, in the City of Toledo, Lucas County, Ohio.

On April 21, 2020 the Council of the City of Toledo passed ordinance 147-20 authorizing a development agreement with the applicant which development agreement waived all fees associated with the vacation.

All of the procedural requirements of the Charter of the City of Toledo, and applicable law have been satisfied.

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 Marina Drive East in the City of Toledo, Lucas County, Ohio and legally described to wit:

Being part of the Roadway Dedication of Marina Drive, as recorded in Lucas County Official 20071120-0068599, in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at a 1-inch iron bolt in concrete monument found at the intersection of the centerlines of Marina Drive South and Front Street.

Thence North 38 degrees, 24 minutes, 48 seconds West, along the centerline of Marina Drive South, a distance of 194.03 feet to a 2 inch iron bolt in concrete monument found on the intersection of the centerlines of Marina Drive South and Marina Drive East.

Thence North 57 degrees, 34 minutes, 57 seconds East, along the centerline of Marina Drive East, a distance of 46.00 feet to a point on the Northeasterly Right-of-way of Marina Drive South, said point being the True Point of Beginning.

Thence North 43 degrees, 44 minutes, 01 second West, along the Northeasterly Right-of-way of Marina Drive South, a distance of 45.89 feet to a point on the Northwesterly 45 foot Right-of-way of Marina Drive East.

The following three courses are along the Northwesterly 45 foot Right-of-way of Marina Drive East.

Thence North 57 degrees, 32 minutes, 39 seconds East, a distance of 191.24 feet to a point of curvature.

Thence traversing an arc to the left, having a radius of 1,228.24 feet, a tangent length of 127.42 feet, a central angle of 11 degrees, 50 minutes, 44 seconds, a chord bearing of North 51 degrees, 41 minutes, 43 seconds East, a chord distance of 253.48 feet and an arc length of 253.93 feet to a point.

Thence North 45 degrees, 46 minutes, 21 seconds East, a distance of 144.09 feet to a point.

Thence South 27 degrees, 22 minutes, 27 seconds East, a distance of 94.04 feet to a cross set in concrete pad on the Southeasterly 45 foot Right-of-way of Marina Drive East.

The following three courses are along the Southeasterly 45 foot Right-of-way of Marina Drive East.

Thence South 45 degrees, 46 minutes, 21 seconds West, a distance of 116.82 feet to a 1/2 inch galvanized steel pipe set on a point of curvature.

Thence traversing an arc to the right, having a radius of 1,318.24 feet, a tangent length of 136.73 feet, a central angle of 11 degrees, 50 minutes, 35 seconds, a chord bearing of South 51 degrees, 41 minutes, 38 seconds West, a chord distance of 271.99 feet and an arc length of 272.48 feet to a cross set in stone.

Thence South 57 degrees, 32 minutes, 39 seconds West, a distance of 173.23 feet to a magnetic nail set on the Northeasterly Right-of-way of Marina Drive South.

Thence North 43 degrees, 44 minutes, 01 second West, along the Northeasterly Right-of-way of Marina Drive South, a distance of 45.89 feet to the True Point of Beginning.

Containing 51,830.18 square feet or 1.1898 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 on September 29, 2020.

SECTION 2. That this vacation(s) 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.

#### Division of Engineering Services

1. Department of Public Utilities, Division of Engineering Services contact information is as

follows:

Division of Engineering Services: ph. 419-245-1315, fax 419-936-2850

Right-of-Way and Inspection: 419-245-1341

Roadway: 419-245-1344

Water: 419-936-2163

Stormwater Drainage: 419-245-3221; 419-245-1338

Sanitary Sewers: 419-936-2276

2. There are public water, storm, and sanitary mains in East Marina Drive, West Marina Drive, and South Marina Drive.

A full width (60 foot) easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing water main, sanitary sewer and storm sewer located in said vacated right of way. All City of Toledo facilities located within said easement are hereby dedicated to the City of Toledo, for City utility use only, to allow for future operation, maintenance, repair, replacement. and shall not be combined with easements for other utilities.

The easement hereby retained by the City of Toledo herein shall be primary in nature to any other utilities located therein, and any easement retained by any other utility as a result of this

Ordinance shall be subject to and subordinate to the easement rights of the City of Toledo. Said easement herein shall be permanent in nature for each utility currently located thereon and shall run with the land. Said easement 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 utilities located within the easement. The property owner shall not construct fences, walls or overhead structures other barriers, which would impede access onto the easement. No temporary or permanent structure 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 permitted. 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.

Further, any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained by the owner separately from each utility, as to their interest(s) only, by separate, recordable instrument.

3. Tthe applicant or property owner may, subject to the approval of the Director of Public Service reduce the size of the water main easements subject to the utility mains shall be located by survey and twenty-foot (20') easements centered on the mains. The survey shall be conducted by and paid for by the applicant or property owner.

#### Division of Transportation

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 by the applicant on a certified copy of this ordinance which indemnification shall be kept in the permanent file of the Clerk of Council.

Fire Prevention

5. The proposed vacation includes seven (7) fire hydrants. Unobstructed public access to all hydrants on existing drives shall be maintained at all times. Any changes to the road and/or modifications of existing hydrants are subject to approval of Fire Prevention and may be accomplished through a future Site Plan Review.

6. Plan Commission

A Site Plan Review shall be required for any future developments on the Vacation area in accordance with the provisions of the Toledo Municipal Code Part Eleven, Planning and Zoning, Sec. 1111.0800, *Site Plan Review*.

7. Department of Economic Development

Marina Drive East

The City shall retain a full width easement over the vacated Marina Drive East right-of-way for purposes of access to all adjacent property.

SECTION 3. 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 4. That the cost of land and all fees are hereby waived per the Development Agreement pursuant to Ord. 147-20.

SECTION 5. 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 6. 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: June 8, 2021, as an emergency measure: yeas 11, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Cerssandra McPherson  
President Pro Tempore of Council

Approved:

June 8, 2021  
Wade Kapszukiewicz  
Mayor