



Legislation Text

File #: O-236-18, **Version:** 1

Zoning & Planning Committee

Declaring the vacation of that portion of Smith Street, running west of Canton Street and abutting lots 226, 227, 228, 241, 242 and 243; and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 443-17 adopted on October 17, 2017, declaring its intent to vacate that portion of Smith Street abutting lots 226, 227, 228, 241, 242 and 243 in the City of Toledo, Lucas County, Ohio, as more fully described in Section 1 hereof.

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. During the vacation process it was determined the City of Toledo has received all fees for this vacation.

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 that portion of Smith Street, running west of Canton Street and abutting lots 226, 227, 228, 241, 242 and 243, in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

PROPOSED VACATION OF PART OF SMITH STREET

A parcel of land being part of the right-of-way of Smith Street as shown in Woodruff's Addition, as recorded in Volume 1, Page 71, Lucas County Plat Records, in the City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Beginning at the intersection of the West right-of-way line of Canton Street with the North line of Lot 243 in said Woodruff's Addition, as recorded in Volume 1, Page 71, Lucas County Plat Records, said North line of Lot 243 in said Woodruff's Addition, as recorded in Volume 1, Page 71, Lucas County Plat Records also being the South right-of-way line of Smith Street;

thence South eighty-eight (88) degrees, fifty (50) minutes, forty-six (46) seconds West along said North line of Lot 243 and also the North line of Lots 242 and 241 in said Woodruff's Addition, as recorded in Volume 1, Page 71, Lucas County Plat Records, a distance of two hundred and three hundredths (200.03') feet to a point;

thence North one (01) degrees, nine (09) minutes, fourteen (14) seconds West along a line, a distance of fifty-nine and fifty hundredths (59.50') feet to the intersection of the South Line of Lot 228 in said Woodruff's Addition, as recorded in Volume 1, Page 71, Lucas County Plat Records;

thence North eighty-eight (88) degrees, fifty (50) minutes, forty-six (46) seconds East along said South line of Lot 228 and also along the South line of Lot 227 and 226 in said Woodruff's Addition, as recorded in Volume 1, Page 71, Lucas County Plat Records, a distance of two hundred and twenty-six hundredths (200.26') feet to the intersection of said West right-of-way line of Canton Street;

thence South zero (00) degrees, fifty-six (56) minutes, ten (10) seconds East along a line, a distance of fifty-nine and fifty hundredths (59.50') feet to the Point of Beginning.

Said parcel of land having an area of 11,909 square feet or 0.273 acres of land, more or less

The above described parcel of land is subject to any and all leases, easements and restrictions of record.

The bearings used hereon are based on an assumed meridian and are for the express purpose of calculating angular measurement.

The above description is based on a survey performed under my supervision during January 2016.

Prior Plat Reference is Volume 1, Page 71, Lucas County Plat Records.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following condition(s), if any:

The following five (5) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Engineering Services

1. A pre-submittal meeting is not required; however, one may be requested. Contact information is as follows:

Division of Engineering Services: ph. 419-245-1315, fax 419-936-2850
Right-of-Way and Inspection: Joe Warnka 419-245-1341
Roadway: Tim Grosjean, ph. 419-245-1344
Water: Andrea Kroma, ph. 419-936-2163
Stormwater Drainage: Lorie Haslinger, ph. 419-245-3221;
Andy Stepnick 419-245-1338
Sanitary Sewers: Mike Elling, ph. 419-936-2276
2. A full-width easement will be required to maintain the existing water main. The easement shall be dedicated to the City of Toledo, for City utility use only, to allow for future maintenance and shall not be combined with easements for other utilities. The following language shall appear in the authorizing vacation ordinance which shall be recorded and a notation placed in the remarks section of the County's real estate records:

Engineering Services

That a full-width 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 maintenance, repairs, replacements, etc. 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 first 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 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 utilities located within the easement. The property owner shall not construct fences, walls, or other barriers that 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 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 that deny ingress or egress from the easement or that 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.

Division of Transportation

3. The alley to the north of historical lot 225 shall be the primary access to the parking lot located on historical lots 225 and 226. Alleyway access shall be improved to provide not less than 25' of two-way ingress/egress.
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. The applicant must submit plans for a Minor Site Plan Review for the proposed development.

SECTION 3. Payment of fees have been made equaling \$23,667.70 was paid.

SECTION 4. 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 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 _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council _____.

Attest: _____
Clerk of Council