



## Legislation Text

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**File #: O-347-20, Version: 1**

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Zoning & Planning Committee

**Vacating all of Jermain Dr. (60 Feet Wide) that lies northeasterly of Monroe St. and southwesterly of Wellesley Dr. in Kingston Subdivision, within the City of Toledo, Lucas County, Ohio; waiving all land costs; and declaring an emergency.**

### SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 331-15 adopted on June 23, 2015, declaring its intent to vacate all of Jermain Dr. ( 60 Feet Wide) that lies northeasterly of Monroe St. and southwesterly of Wellesley Dr. in Kingston Subdivision, within 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.

On August 13, 2015, the Toledo City Plan Commission recommended approval of the request for the vacation of all of Jermain Dr. (60 Feet Wide) that lies northeasterly of Monroe St. and southwesterly of Wellesley Dr. in Kingston Subdivision, in the City of Toledo, Lucas County, Ohio.

On September 23, 2015, City Council Zoning and Planning Committee sent as approved the request for the vacation of all of Jermain Dr. (60 Feet Wide) that lies northeasterly of Monroe St. and southwesterly of Wellesley Dr. in Kingston Subdivision, in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on January 8, 2016 and recommended to Council approval of the request for the vacation of all of Jermain Dr. (60 Feet Wide) that lies northeasterly of Monroe St. and southwesterly of Wellesley Dr. in Kingston Subdivision, in the City of Toledo, Lucas County, Ohio.

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 all of Jermain Dr. (60 Feet Wide) that lies northeasterly of Monroe St. and southwesterly of Wellesley Dr. in Kingston Subdivision, within the City of Toledo, Lucas County, Ohio, more fully described as follows:

All Of Jermain Drive (60 Feet Wide) That Lies Northeasterly Of Monroe Street And Southwesterly Of Wellesley Drive In Kingston Subdivision, City Of Toledo, Lucas County, Ohio Bounded And Described As Follows:

BEGINNING At The Intersection Of The Northeasterly Right Of Way Line Of Monroe Street (40.00 Feet Northeasterly Of The Centerline) And The Southeasterly Right Of Way Line Of Said Jermain Drive, On The Northwesterly Line Of Lot 161 Of Said Kingston Subdivision;

Thence North 56 Degrees 50 Minutes 13 Seconds West A Distance Of 60.00 Feet, Along Said Northeasterly Right Of Way Line Of Monroe Street, To The Northwesterly Right Of Way Line Of Said Jermain Drive On The Southeasterly Line Of Lot 170;

Thence North 33 Degrees 12 Minutes 46 Seconds East A Distance Of 110.36 Feet, Along Said Northwesterly Right Of Way Line Of Jermain Drive, Being The Southeasterly Line Of Lots 170 And 171, To A Point Of Curve;

Thence Along A Curve To The Right Having A Radius Of 352.36 Feet Through A Central Angle Of 22 Degrees 39 Minutes 48 Seconds For An Arc Length Of 139.38 Feet, Said Curve Having A Chord Bearing North 44 Degrees 32 Minutes 40 Seconds East For A Distance Of 138.47 Feet, Continuing Along Said Northwesterly Right Of Way Line Of Jermain Drive, Being The Southeasterly Line Of Lots 171 Thru 176, To A Point Of Tangency;

Thence North 55 Degrees 52 Minutes 34 Seconds East A Distance Of 161.00 Feet, Continuing Along Said Northwesterly Right Of Way Line Of Jermain Drive, Being The Southeasterly Line Of Lots 176 Thru 179, To A Point On The Southwesterly Right Of Way Line Of Wellesley Drive;

Thence South 34 Degrees 07 Minutes 26 Seconds East A Distance Of 60.00 Feet Along Said Southwesterly Right Of Way Line Of Wellesley Drive, To The Northwesterly Corner Of Lot 169 On The Southeasterly Right Of Way Line Of Jermain Drive;

Thence South 55 Degrees 52 Minutes 34 Seconds West A Distance Of 161.00 Feet, Along Said Southeasterly Right Of Way Line Of Jermain Drive Being The Northwesterly Line Of Lots 169 And 167, To Point Of Curve;

Thence Along A Curve To The Left Having A Radius Of 292.36 Feet Through A Central Angle Of 22 Degrees 39 Minutes 48 Seconds For An Arc Length Of 115.64 Feet, Said Curve Having A Chord Bearing South 44 Degrees 32 Minutes 40 Seconds West For A Distance Of 114.89 Feet, Continuing Along Said Southeasterly Right Of Way Line Being The Northwesterly Line Of Lots 166 Thru 163, To A Point Of Tangency;

Thence South 33 Degrees 12 Minutes 46 Seconds West A Distance Of 110.30 Feet, Continuing Along Said Southeasterly Right Of Way Line Being The Northwesterly Line Of Lots 163 Thru 161, To The POINT OF BEGINNING, Containing 0.549 Acres More Or Less.

Subject To All Highways, Easements And Restrictions Of Record. This Description Was Prepared By Mannik Smith Group And Is Based On A Survey Of The Premises. Bearing Control Is Based On Ohio State Plane Coordinates, North Zone, Nad 83.

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

The following ten (10) 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. There is an existing 6-inch-diameter water main in Jermain Drive between Wellesley Drive and Monroe Street. This water main shall be abandoned.
2. There are no records of existing storm sewers on this section of Jermain Drive.
3. There is an existing 8-inch sanitary line in Jermain Street. This sanitary main shall be abandoned; or the petitioner shall accept ownership of this sanitary main, including all manholes. Developer shall verify any sewers to be abandoned are no longer in service. New sanitary line shall be run to connect existing houses to remain, east of vacated area.

### Fire Prevention

4. Water mains feeding hydrants in the demolition area shall remain in service until all structures are demolished and the area is free of combustible debris.
5. All proposed vacated streets shall be accessible for use by the Fire Department until demolition is complete and the area is free of combustible debris.
6. Fire service mains feeding hydrants that are broken or damaged during demolition shall be repaired and put back into service to maintain coverage until the demolition is complete.
7. Before final disconnection of existing water main(s) feeding the hydrants, an evaluation of the remaining in service hydrants near the construction area shall be performed. If required for effective fire protection, new hydrants that area part of the completed project shall be installed immediately or a temporary hydrant shall be installed and put in service.
8. As the construction site will be fenced / gated for security and safety reasons, the Fire Department shall be permitted access thru-gates, if required, for response to emergencies in neighborhoods bordering the construction the construction area. This indicates the gates must be wide enough for fire apparatus (min. 16') and Fire Department locks should be included at the gates.
9. The Fire Department shall be informed of changing access to neighborhoods around the site as construction progresses.

### Plan Commission

10. A Type A landscape buffer shall be installed along the eastern edge of ProMedica Parkway as a buffer for the adjacent residential neighborhood.

SECTION 3. That the fees for this vacation are waived in the amount of \$16,287.68 consistent with the development agreement authorized by Ordinance 188-19.

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, within the limits allowed by law, the applicant/owner shall indemnify and hold harmless 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. Prior to the passage of this Ordinance, said owner/petitioner has provided their written endorsement and acknowledgement as to said indemnification language, a copy of which in the permanent files or records of the Clerk of Council.

SECTION 6. 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 7. 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 8. 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