



Legislation Text

File #: O-348-20, **Version:** 1

Zoning & Planning Committee

Vacating the full right of way width of Doris Ave. that lies south of Central Ave. and north of Monroe St. in Schramm's Addition and Kenwood Stores 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. 332-15 adopted on June 23, 2015, declaring its intent to vacate the full right of way width of Doris Ave. that lies south of Central Ave. and north of Monroe St. in Schramm's Addition and Kenwood Stores 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 the full right of way width of Doris Ave. that lies south of Central Ave. and north of Monroe St. in Schramm's Addition and Kenwood Stores 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 the full right of way width of Doris Ave. that lies south of Central Ave. and north of Monroe St. in Schramm's Addition and Kenwood Stores 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 the full right of way width of Doris Ave. that lies south of Central Ave. and north of Monroe St. in Schramm's Addition and Kenwood Stores, 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 the full right of way width of Doris Ave. that lies south of Central Ave. and north of Monroe St. in Schramm's Addition and Kenwood Stores Subdivision, within the City of Toledo, Lucas County, Ohio, more fully described as follows:

All Of Doris Avenue (Variable Width) That Lies South Of Central Avenue And North Of Monroe Street In Schramm's Addition And Kenwood Stores Subdivision, City Of Toledo, Lucas County, Ohio Bounded And Described As Follows:

BEGINNING At The Intersection Of The East Right Of Way Line Of Doris Avenue And The South Right Of Way Line Of Central Avenue Being The Northwest Corner Of Lot 6 Of Said Schramm's Addition;
Thence South 00 Degrees 35 Minutes 40 Seconds East A Distance Of 159.96 Feet, Along The Easterly Right Of

Way Line Of Doris Avenue Being The Westerly Line Of Lot 6 Of Schramm's Addition And Lot 35 Of Kenwood Store Subdivision, To The Southwesterly Corner Of Said Lot 35;
Thence North 89 Degrees 50 Minutes 36 Seconds East A Distance Of 10.00 Feet Continuing Along Said Easterly Right Of Way Line Being The Southerly Line Of Said Lot 35 To The Northwesterly Corner Of Lot 32 Of Kenwood Stores Subdivision;
Thence South 00 Degrees 35 Minutes 40 Seconds East A Distance Of 130.70 Feet, Continuing Along Said Easterly Right Of Way Line Being The Westerly Line Of Said Lot 32 And Said Line Extended To The Northeasterly Corner Of Lot 29;
Thence South 34 Degrees 11 Minutes 43 Seconds West A Distance Of 66.86 Feet, Continuing Along Said Easterly Right Of Way Line Being The Northwesterly Line Of Said Lot 29 To A Point Of Curve;
Thence Along A Curve To The Left Having A Radius Of 5.00 Feet Through A Central Angle Of 91 Degrees 01 Minutes 55 Seconds For An Arc Length Of 7.94 Feet, Said Curve Having A Chord Bearing South 11 Degrees 19 Minutes 15 Seconds East For A Distance Of 7.13 Feet, Continuing Along Said Easterly Right Of Way Line To A Point On The Northeasterly Right Of Way Line Of Monroe Street (40.00 Feet Northeasterly Of Centerline);
Thence North 56 Degrees 50 Minutes 13 Seconds West A Distance Of 90.01 Feet, Along Said Northeasterly Right Of Way Line Of Monroe Street To A Point On The Westerly Right Of Way Line Of Doris Avenue;
Thence Along A Curve To The Left Having A Radius Of 5.00 Feet Through A Central Angle Of 88 Degrees 58 Minutes 05 Seconds For An Arc Length Of 7.76 Feet, Said Curve Having A Chord Bearing North 78 Degrees 40 Minutes 45 Seconds East For A Distance Of 7.01 Feet, Along Said Westerly Right Of Way Line Of Doris Avenue To A Point Of Tangency On The Easterly Line Of Lot 34 Of Kenwood Stores Subdivision;
Thence North 34 Degrees 11 Minutes 43 Seconds East A Distance Of 60.94 Feet, Continuing Along Said Westerly Right Of Way Line Being The Easterly Line Of Said Lot 34 To A Point;
Thence North 00 Degrees 35 Minutes 40 Seconds West A Distance Of 91.78 Feet, Continuing Along Said Westerly Right Of Way Line Being The Easterly Line Of Lots 34 And 33 To The Northeasterly Corner Of Said Lot 33;
Thence North 89 Degrees 50 Minutes 36 Seconds East A Distance Of 10.00 Feet, Continuing Along Said Westerly Right Of Way Line Being The Southerly Line Of Lot 44 To The Southeast Corner Of Said Lot 44;
Thence North 00 Degrees 35 Minutes 40 Seconds West A Distance Of 149.97 Feet Continuing Along Said Westerly Right Of Way Line Being The Easterly Line Of Said Lot 44 Of Kenwood Stores And The Easterly Line Of Lot 5 Of Schramm's Addition To A Point;
Thence North 56 Degrees 35 Minutes 41 Seconds West A Distance Of 18.09 Feet, Continuing Along Said Westerly Right Of Way Line To A Point On The Southerly Right Of Way Line Of Central Avenue;
Thence North 89 Degrees 51 Minutes 07 Seconds East A Distance Of 65.00 Feet, Along Said Southerly Right Of Way Line Of Central Avenue, To The POINT OF BEGINNING, Containing 0.491 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 nine (9) 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 Doris Avenue from Central Avenue to a hydrant

approximately 160 feet south of Central Avenue. This water main shall be abandoned and hydrant removed; or the petitioner shall accept ownership of this water main, including valves and hydrants.

2. There is an existing 48-inch storm sewer that runs across Doris near Monroe Street, continues east, crosses ProMedica Parkway, and continues northeast to Central Ave. This storm sewer must remain in service. The storm sewer may be relocated at the full expense of the petitioner; or an 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 on the easement:

The City of Toledo shall have a permanent easement, with rights of ingress and egress, over the utility easement areas for the purpose of operating, maintaining, and constructing any public utilities located within the easement. The property owner shall not construct fences, walls, or other barriers, that would impede the City of Toledo's access onto the easement. No temporary or permanent structure, including building foundations, roof overhangs, or other barriers denying access, may be constructed on the easement. Driveways and parking lots are acceptable. The property owner releases the City of Toledo 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.

Fire Prevention

3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. The Fire Department shall be informed of changing access to neighborhoods around the site as construction progresses.

Plan Commission

9. 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 \$12,651.54 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