



Legislation Text

File #: O-336-21, **Version:** 1

Zoning & Planning Committee

Declaring the vacation of Marina Drive South, 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. 447-20 adopted on November 4, 2020, declared its intent to vacate Marina Drive South 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 South 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 South 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 South, 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 South in the City of Toledo, Lucas County, Ohio and legally described to wit:

**Prior Deed:
Parcel: Right-of-way
LE Survey #50068**

Legal Description of Proposed Marina Drive South Vacation: 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 50.00 feet to a point on the Northwesterly 50 foot Right-of-way of Front Street, said point being the True Point of Beginning.

Thence South 51 degrees, 38 minutes, 07 seconds West, along the Northwesterly 50 foot Right-of-way of Front Street, a distance of 68.22 feet to a point on the Southwesterly Right-of-way of Marina Drive South, said point also being on the Northeasterly line of Lot 7 in the Plat of Marina District, as recorded in Lucas County Official Record 20081008-0049841.

Thence North 32 degrees, 32 minutes, 41 seconds West, along the Southwesterly Right-of-way of Marina Drive South, said line also being the Northeasterly line of Lot 7, a distance of 385.28 feet to an aluminum plate monument found at a point of deflection of the Southwesterly Right-of-way of Marina Drive South, said line also being the Northeast line of Lot 7.

Thence South 55 degrees, 52 minutes, 03 seconds West, along the Southwesterly Right-of-way of Marina Drive South, said line also being the Northeast line of Lot 7, a distance of 17.24 feet to a record iron bar found and accepted on the Southwesterly 46 foot Right-of-way of Marina Drive South, said line also being the Northeast line of Lot 7.

Thence North 38 degrees, 26 minutes, 43 seconds West, along the Southwesterly 46 foot Right-of-way of Marina Drive South, said line also being the Northeast line of Lot 7, a distance of 256.44 feet to an aluminum plat monument found at the North corner of Lot 7.

Thence North 49 degrees, 46 minutes, 36 seconds East, a distance of 87.59 feet to a point on the Northeasterly 41.5 foot Right-of-way of Marina Drive South.

Thence South 38 degrees, 25 minutes, 35 seconds East, along the Northeasterly 41.5 foot Right-of-way of Marina Drive South, a distance of 458.89 feet to a point of intersection of the Northeasterly 41.5 foot Right-of-way of Marina Drive South and the Northwesterly 45 foot Right-of-way of Marina Drive East.

Thence South 43 degrees, 44 minutes, 01 second East, along the Northeasterly Right-of-way of Marina Drive South, a distance of 91.77 feet to a magnetic nail set at the intersection of the Northeasterly 50 foot Right-of-way of Marina Drive South and the Southeasterly 45 foot Right-of-way of Marina Drive East.

Thence South 38 degrees, 24 minutes, 48 seconds East, along the Northeasterly 50 foot Right-of-way of Marina Drive South, a distance of 55.86 feet to a record 5/8 inch iron bar found at a point of deflection of the Northeasterly Right-of-way of Marina Drive South.

Thence North 87 degrees, 52 minutes, 21 seconds East, along the Northeasterly Right-of-way of Marina Drive South, a distance of 63.10 feet to a point on the Northwesterly 50 foot Right-of-way of Front Street.

Thence South 51 degrees, 23 minutes, 33 seconds West, along the Northwesterly 50 foot Right-of-way of Front

Street, a distance of 100.86 feet to the True Point of Beginning.

Containing 59,295.13 square feet or 1.3612 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. The 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 South

The City shall retain a full width easement over the vacated Marina Drive South right-of-way for purposes of providing vehicular and pedestrian access to city-owned property that is utilized by the National Museum of the Great Lakes. The Metroparks will be solely responsible for construction of a new private roadway that will connect to the vacated Marina Drive West and Marina Drive East. This new private roadway will be the new primary access road to the National Museum of the Great Lakes. The existing roadway shall not be demolished until the new private roadway is complete. Metroparks shall maintain vehicular and pedestrian access to the existing Marina Drive S, Marina Drive W and Marina Drive E until which time a new private roadway is constructed and opened. The new private roadway and connection to vacated Marina Drive W and Marina Drive E shall be approved and completed to the satisfaction of the City's Departments of Public Service and Public Utilities. Metroparks shall grant the City a permanent non-exclusive easement over a portion the new private roadway that is required for vehicular and pedestrian access to and from the National Museum of the Great Lakes and Front Street. Upon the

completion of the new private roadway and recording of a permanent non-exclusive access easement at the Lucas County Recorder's Office, the City shall release the access easement over the full width of the existing Marina Drive S and demolition of the existing Marina Drive S roadway may commence.

The Metroparks shall acquire the entire width of the vacated Marina Drive South right-of-way. The City does not wish to acquire the portion of vacated right-of-way it is entitled to as part of the right-of-way vacation process.

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 22, 2021, as an emergency measure: yeas 11, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

June 22, 2021
Wade Kapszukiewicz
Mayor