



Legislation Text

File #: O-173-21, **Version:** 1

Zoning & Planning Committee

Declaring the vacation of portions of Liberty Street and Freedom Street, along with adjacent alley in the Plat of Myrtle Addition, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 181-20 adopted on May 20, 2020, declaring its intent to vacate portions of Liberty Street and Freedom Street, along with adjacent alley in the Plat of Myrtle Addition, in the City of Toledo, Lucas County, Ohio; as more fully described in Section 1 hereof.

On July 9, 2020, the Toledo City Plan Commission recommended approval of the request for the vacation of portions of Liberty Street and Freedom Street, along with adjacent alley in the Plat of Myrtle Addition, in the City of Toledo, Lucas County, Ohio.

The City Council Zoning and Planning Committee on August 12, 2020, sent without recommendation the request for the vacation of portions of Liberty Street and Freedom Street, along with adjacent alley in the Plat of Myrtle Addition, in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on **January 7, 2021** and approved the request for the vacation of portions of Liberty Street and Freedom Street, along with adjacent alley in the Plat of Myrtle Addition, in the City of Toledo, Lucas County, Ohio portions of Liberty Street and Freedom Street, along with adjacent alley in the Plat of Myrtle Addition, in the City of Toledo, Lucas County, Ohio.

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 waived 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 portions of Liberty Street and Freedom Street, along with adjacent alley in the Plat of Myrtle Addition, in the City of Toledo, Lucas County, Ohio.

“Vacating a portion of Liberty Street, having a Westerly Limit from the most southerly corner of Lot 90 to the most westerly corner of Lot 85 and an Easterly Limit from the southeasterly corner of Lot 88 to the northeasterly corner of Lot 73, all within the Plat of Myrtle Addition to the City of Toledo, State of Ohio. together with

Vacating a portion of Freedom Street, having a Westerly Limit from the intersection of the northerly right-of-way of a 16 foot alley and the southwesterly right-of-way of Freedom Street at the northwesterly limits of a Plat

in the name of Myrtle Addition to the City of Toledo to the most westerly corner of Lot 90 and an Easterly Limit from the southeasterly corner of Lot 52 to the middle of a 13 foot wide vacated alley lying west of Lot 35, all within the Plat of Myrtle Addition to the City of Toledo, State of Ohio.

together with

Vacating a portion of a 16 foot wide alley, having a Westerly Limit from the most southerly corner of Lot 85 to the most westerly corner of Lot 52 and an Easterly Limit from the most easterly corner of Lot 79 to the northeasterly corner of Lot 55, all within the Plat of Myrtle Addition to the City of Toledo, State of Ohio.

Having a Total Area of 56,125.12 Sq. Ft. or 1.2885 Ac. Of Land”

SECTION 2. That the vacation(s) herein 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. 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: 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. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from One Stop Shop, (419)-245-1220.
3. Parcels must be combined such that some portion of each combined parcel abuts right-of-way and can therefore be provided with water service.
4. 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, nor plant trees or other large vegetation 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 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 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.

Division of Transportation

5. Four lots on south side of Freedom, three lots on north side of Liberty and all remaining lots abutting Freedom and Liberty must be combined.
6. 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

7. All properties abutting the Vacation must have street access. Properties with the same ownership shall be combined to maintain access to public right-of-way.

SECTION 3. 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 4. That a payment of \$2,579.11 has been made to the Clerk of Council.

SECTION 5. 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 6. 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 7. 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