



Legislation Text

File #: O-315-20, **Version:** 1

Zoning & Planning Committee

Declaring the vacation of that 50 foot strip adjacent to Lots 108-109 & 157-158 in the Plat of Kingston, AKA Rathbun Drive Street, 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. 447-19 adopted on September 17, 2019, declaring its intent to vacate that 50 foot strip adjacent to Lots 108-109 & 157-158 in the Plat of Kingston, AKA Rathbun Drive Street, in the City of Toledo, Lucas County, Ohio.

On February 13, 2020, the Toledo City Plan Commission recommended approval of the request for the vacation of that 50 foot strip adjacent to Lots 108-109 & 157-158 in the Plat of Kingston, AKA Rathbun Drive Street, in the City of Toledo, Lucas County, Ohio.

On May 13, 2020, City Council Zoning and Planning Committee sent without recommendation the request for the vacation of a vacation of that 50 foot strip adjacent to Lots 108-109 & 157-158 in the Plat of Kingston, AKA Rathbun Drive Street, in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on July 8, 2020 and recommended to Council approval of the request for the vacation of a vacation of that 50 foot strip adjacent to Lots 108-109 & 157-158 in the Plat of Kingston, AKA Rathbun Drive Street, in the City of Toledo, Lucas County, Ohio; and the waiver of all land costs.

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.

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 a portion of a vacation of that 50 foot strip adjacent to Lots 108-109 & 157-158 in the Plat of Kingston, AKA Rathbun Drive Street, in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

Legal Description of Proposed Rathbun Vacation: in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at a 1 inch iron bar monument found at the intersection of Monroe Street and Upton Avenue.

Thence North 56 degrees, 50 minutes, 12 seconds West, along the centerline of Monroe Street, a distance of 1,273.06 feet to a point on the centerline intersection of Monroe Street and Rathbun Drive.

Thence North 33 degrees, 09 minutes, 48 seconds East, along the centerline of Rathbun Drive, a distance of 40.00 feet to a point on the North 40 foot Right-of-way of Monroe Street, said point also being the True Point of Beginning.

Thence North 56 degrees, 50 minutes, 12 seconds West, along the North 40 foot Right-of-way of Monroe Street, a distance of 23.19 feet to a point of curvature of the Northwesterly Right-of-way of Rathbun Drive.

Thence traversing a non-tangent arc to the right, along the Northwesterly Right-of-way of Rathbun Drive, having a radius of 560.29 feet, a tangent length of 45.15 feet, a central angle of 09 degrees, 12 minutes, 48 seconds, a chord bearing of North 33 degrees, 09 minutes, 48 seconds East, a chord distance of 90.00 feet and an arc length of 90.10 feet to a point on the Northwesterly prolongation of the Northeasterly line of Lot 109 in the plat of Kingston as Recorded in Lucas County Plat Volume 35 Page 27.

Thence South 56 degrees, 50 minutes, 12 seconds East, along the Northwesterly prolongation of the Northeasterly line of Lot 109, a distance of 50.18 feet to the Northerly corner of Lot 109, said point also being a point of curvature of the Southeasterly Right-of-way of Rathbun Drive.

Thence traversing a non-tangent arc to the left, along the Southeasterly Right-of-way of Rathbun Drive, having a radius of 510.29 feet, a tangent length of 22.54 feet, a central angle of 05 degrees, 03 minutes, 33 seconds, a chord bearing of South 35 degrees, 41 minutes, 35 seconds West, a chord distance of 45.04 feet and an arc length of 45.06 feet to a point on the Southeasterly Right-of-way of Rathbun Drive.

Thence South 33 degrees, 09 minutes, 48 seconds West, along the Southeasterly Right-of-way of Rathbun Drive, a distance of 45.00 feet to a point on the North 40 foot Right-of-way of Monroe Street.

Thence North 56 degrees, 50 minutes, 12 seconds West, along the North 40 foot Right-of-way of Monroe Street, a distance of 25.00 feet to the True Point of Beginning.

Containing 4,475.53 square feet or 0.1027 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 4, 2019.

SECTION 2. That the vacation(s) herein shall be subject to compliance with the following condition (s):

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.

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. We object to the vacation. Right-of-way is needed to maintain the public water and sanitary main in Rathbun Drive right-of-way.

Applicant shall relocate existing public water main and sanitary sewer from the proposed vacated right-of-way. Alternatively, a full width easement shall be retained by the City of Toledo over vacated right-of-way. 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:

“That 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 and sanitary 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, 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.”

3. If the petitioner wishes to reduce the size of the easement, the water main and sanitary main shall be located by survey and a twenty-foot (20') easement centered on the water main and sewer main will be acceptable. The survey shall be conducted by and paid for by the petitioner.

Fire Prevention

4. There are two fire hydrants along this portion of Rathbun, which need to remain or be relocated.

Plan Commission

5. All companion right-of-way Vacations and Roadway dedications (i.e. ProMedica Parkway) shall be recorded with the Lucas County Recorder's Office before building plan approval is granted.

SECTION 3. That the fees for this vacation are waived in the amount of \$338.35 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 the Real Estate Section of the Department of Neighborhoods and Business 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