



## Legislation Text

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**File #:** O-086-20, **Version:** 1

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### Zoning & Planning Committee

**Declaring the vacation of the 30 Foot Right-of-Way Strip adjacent to Lot 3 in the “Plat made by Commissioners in Partition” along Front 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. 375-19 adopted on August 6, 2019, declaring its intent to vacate a 30-foot right-of-way strip within the “Plat made by Commissioners in Partition”, in the City of Toledo, Lucas County, Ohio.

On October 10, 2019, the Toledo City Plan Commission recommended approval of the request for the vacation of a 30-foot right-of-way strip within the, Plat made by Commissioners in Partition” in the City of Toledo, Lucas County, Ohio.

On July 18, 2018, City Council Zoning and Planning Committee approved the request for the vacation of a 30-foot right-of-way strip within the Plat made by Commissioners in Partition” in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on January 31, 2020 and recommended to Council approval of the request for the vacation of a 30 foot right-of-way strip within the Plat made by Commissioners in Partition” in the City of Toledo, Lucas County, Ohio, and the waiver of all fees.

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 30-foot right-of-way strip within the Plat made by Commissioners in Partition the City of Toledo, Lucas County, Ohio, in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

Legal Description of a 30’ Strip: Being part of Lot 3 in the Plat made by the Commissioners in Partition, in Cause Number 38019 in Common Pleas Court of Lucas County, Ohio, as recorded in Volume 203 of Deeds, Page 544, part of the Southeast fraction of Section 31, Town 9 South, Range 8 East, in the City of Toledo,

Lucas County, Ohio, bounded and described as follows:

Commencing at the Easterly most corner of Lot 1 of New Waterfront Metropark, as record in Official Record 20180725-0032017.

Thence South 51 degrees, 38 minutes, 01 second West, along a line that is parallel with and 70.00 feet distant from the centerline of Front Street, said line being the North line of a 30.00 foot Right-of-way acquisition, as recorded in Lucas County Official Record 20190515-0017727, a distance of 557.90 feet to a point on the Northerly parcel line of land as owned by the Toledo-Lucas County Port Authority, parcel number 18-63507, said point also being the True Point of Beginning.

Thence South 26 degrees, 36 minutes, 59 seconds East, along the prolongation of the Northerly parcel line of land as owned by the Toledo-Lucas County Port Authority, a distance of 30.64 feet to a point on a line that is 40.00 feet distant and parallel to the centerline of Front Street.

Thence South 51 degrees, 38 minutes, 01 second West, along a line that is 40.00 feet distant and parallel to the centerline of Front Street, a distance of 107.72 feet to a point on the prolongation of the Southerly parcel line of land as owned by the Toledo-Lucas County Port Authority, parcel number 18-63507.

Thence North 38 degrees, 28 minutes, 12 seconds West, along the prolongation of the Southerly parcel line of land as owned by the Toledo-Lucas County Port Authority, parcel number 18-63507, a distance of 30.00 feet to a point on the Easterly parcel line of land as owned by the Toledo-Lucas County Port Authority, parcel number 18-63507.

Thence North 51 degrees, 38 minutes, 01 second East, along the Easterly parcel line of land as owned by the Toledo-Lucas County Port Authority, parcel number 18-63507, a distance of 114.02 feet to the True Point of Beginning.

Containing 3,326.13 square feet or 0.0764 acres of land. Bearings used herein are based upon an assumed meridian and are intended to indicate angular measurement only. This legal description is based upon a field survey prepared by Lewandowski Engineers on July 18, 2019.

Parcel 18-63507 is vested in the name of Metropolitan Park District of the Toledo Area by Official Record 20181022-0047786, commonly known as 1021 Front Street, Toledo, Ohio.

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

The following three (3) 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. A pre-submittal meeting is not required, however one may be requested. Contact information is as follows:

Division of Engineering Services: 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. Applicant shall relocate existing public 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 (40 foot) easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing sewer and/or water facilities located in said vacated right-of-way, together with any other utilities located therein, as they exist at the time of passage of this Ordinance. 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

3. 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.

SECTION 3. That the fees for this vacation are waived in the amount of \$1,324.12 consistent with the development agreement authorized by Ordinance 41-19.

SECTION 4. This property is to be split with all requested vacated property going to the applicant. This is per the request of the adjacent property owner who has relinquished his rights to the vacated property.

SECTION 5. 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 6. 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 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 12, nays 0.

Passed: February 25, 2020, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

March 2, 2020  
Wade Kapszukiewicz  
Mayor