



## Legislation Text

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**File #:** O-313-20, **Version:** 1

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### Zoning & Planning Committee

**Declaring the vacation of the 60-foot strip adjacent to Lots 7 and 8 in the Plat of West Central Stores and the 60 foot strip adjacent to Lots 181-184, 201 202 in the Plat of Kingston, AKA Briar Cliff Street Vacation, 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. 446-19 adopted on September 17, 2019, declaring its intent to vacate a vacation of the 60-foot strip adjacent to Lots 7 and 8 in the Plat of West Central Stores and the 60 foot strip adjacent to Lots 181-184, 201 202 in the Plat of Kingston, AKA Briar Cliff Street Vacation, 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 a vacation of the 60-foot strip adjacent to Lots 7 and 8 in the Plat of West Central Stores and the 60 foot strip adjacent to Lots 181-184, 201 202 in the Plat of Kingston, AKA Briar Cliff Street Vacation, in the City of Toledo, Lucas County, Ohio.

On May 13, 2020, City Council Zoning and Planning Committee approved the request for the vacation of a vacation of the 60-foot strip adjacent to Lots 7 and 8 in the Plat of West Central Stores and the 60 foot strip adjacent to Lots 181-184, 201 202 in the Plat of Kingston, AKA Briar Cliff Street Vacation, 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 the 60-foot strip adjacent to Lots 7 and 8 in the Plat of West Central Stores and the 60 foot strip adjacent to Lots 181-184, 201 202 in the Plat of Kingston, AKA Briar Cliff Street Vacation, in the City of Toledo, Lucas County, Ohio; and the waiver of all acquisition 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 the 60-foot strip adjacent to Lots 7 and 8 in the Plat of West Central Stores and the 60 foot strip adjacent to Lots 181-184, 201 202 in the Plat of Kingston, AKA Briar Cliff Street Vacation, in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

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

Commencing at a 1 inch iron bar found at the intersection of Central Avenue and Briar Cliff Road.

Thence South 00 degrees, 09 minutes, 10 seconds East, along the centerline of Briar Cliff Road, a distance of 40.00 feet to a point, said point being the True Point of Beginning.

Thence continuing South 00 degrees, 09 minutes, 10 seconds East, along the centerline of Briar Cliff Road, a distance of 15.00 feet to a point.

Thence North 89 degrees, 49 minutes, 00 seconds East, a distance of 30.00 feet to a point on the East Right-of-way of Briar Cliff Road.

The following four courses are along the East Right-of-way of Briar Cliff Road.

Thence South 00 degrees, 09 minutes, 10 seconds East, a distance of 80.79 feet to a point of curvature.

Thence traversing a non-tangent arc to the left having a radius of 150.00 feet, a tangent length of 61.49 feet, a central angle of 44 degrees, 34 minutes, 56 seconds, a chord bearing of South 21 degrees, 40 minutes, 17 seconds East, a chord distance of 113.79 feet and an arc length of 116.72 feet to a point of curvature.

Thence traversing a non-tangent arc to the left having a radius of 84.70 feet, a tangent length of 34.43 feet, a central angle of 44 degrees, 14 minutes, 54 seconds, a chord bearing of South 64 degrees, 56 minutes, 52 seconds East, a chord distance of 63.80 feet and an arc length of 65.41 feet to a point.

Thence South 87 degrees, 23 minutes, 31 seconds East, a distance of 61.65 feet to a point of curvature on the North Right-of-way of Jermain Drive.

The following two courses are along the North Right-of-way of Jermain Drive.

Thence traversing a non-tangent arc to the left having a radius of 181.41 feet, a tangent length of 60.10 feet, a central angle of 36 degrees, 39 minutes, 40 seconds, a chord bearing of South 74 degrees, 16 minutes, 39 seconds West, a chord distance of 114.11 feet and an arc length of 116.08 feet to a point.

Thence South 55 degrees, 56 minutes, 49 seconds West, a distance of 54.78 feet to a point of curvature on the West Right-of-way of Briar Cliff Road.

The following three courses are along the West Right-of-way of Briar Cliff Road.

Thence traversing a non-tangent arc to the left having a radius of 25.42 feet, a tangent length of 32.41 feet, a central angle of 103 degrees, 46 minutes, 39 seconds, a chord bearing of North 04 degrees, 03 minutes, 30 seconds East, a chord distance of 40.00 feet and an arc length of 46.04 feet to a point curvature.

Thence traversing a non-tangent arc to the right having a radius of 210.00 feet, a tangent length of 94.23 feet, a central angle of 48 degrees, 19 minutes, 53 seconds, a chord bearing of North 23 degrees, 39 minutes, 53 seconds West, a chord distance of 171.94 feet and an arc length of 177.14 feet to a point.

Thence North 00 degrees, 09 minutes, 10 seconds West, a distance of 95.40 feet to a point on the Easterly prolongation of the Southerly existing 40 foot Right-of-way of Central Avenue.

Thence North 89 degrees, 50 minutes, 33 seconds East, along the Easterly prolongation of the Southerly existing 40 foot Right-of-way of Central Avenue, a distance of 30.00 feet to the True Point of Beginning.

Containing 17,702.58 square feet or 0.4064 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 six (6) 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. There is an existing 6-inch diameter public water main in the Briar Cliff Road right-of-way. This water main shall be relocated at the Developer's expense. After the new water main is in service, the existing water main shall be removed by the Developer or it will be abandoned by the City of Toledo at the Developer's expense.
3. We object to the vacation. Right-of-way is needed to maintain the storm infrastructure in Briar Cliff Road right-of-way.

Applicant shall relocate existing storm infrastructure 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 (or recorded through the final plat at the discretion of the plan commission):

"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 utilities 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."

4. Sanitary sewer in right-of-way shall be abandoned and filled or removed, between manholes, at the developers cost.

#### Buckeye Cablevision

5. In order for buckeye to approve this vacate, Buckeye needs to be granted an easement to ensure it has access & rights to its facilities.

#### Plan Commissions

6. 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 \$12,885.05 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