**File #:** O-568-21, **Version:** 1

Zoning & Planning Committee

**Declaring the vacation of the alley bounded by Madison Avenue and Jefferson Avenue between 18th Street and 19th Street, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.**

SUMMARY & BACKGROUND:
The Council of the City of Toledo, by Resolution No. 256-21 adopted on May 11, 2021, declaring its intent to vacate the alley bounded by Madison Avenue and Jefferson Avenue between 18th Street and 19th Street, in the City of Toledo, Lucas County, Ohio; as more fully described in Section 1 hereof.

On June 10, 2021, the Toledo City Plan Commission recommended approval of the request for the vacation of the alley bounded by Madison Avenue and Jefferson Avenue between 18th Street and 19th Street, in the City of Toledo, Lucas County, Ohio.

The City Council Zoning and Planning Committee on July 14, 2021, sent as approved the request for the vacation of the alley bounded by Madison Avenue and Jefferson Avenue between 18th Street and 19th Street, in the City of Toledo, Lucas County, Ohio.

The Board of Revision met on October 21, 2021 and approved the request for the vacation of the alley bounded by Madison Avenue and Jefferson Avenue between 18th Street and 19th Street, 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.

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 the alley bounded by Madison Avenue and Jefferson Avenue between 18th Street and 19th Street, in the City of Toledo, Lucas County, Ohio. Vacating the 10-foot alley between 18th Street and 19th Street.

Legal Description of Proposed 10-Foot Wide Alley Vacation Between 18th Street and 19th Street: Being in the City of Toledo, Lucas County, Ohio, bounded and described as follows:
Commencing at a stone with cross found at the centerline intersection of Madison Avenue and 19th Street.

Thence South 32 degrees, 27 minutes, 27 seconds West, along the centerline of 19th Street, a distance of 33.00 feet to a point on the Southwesterly 33.00 foot Right-of-way of Madison Avenue.
Thence South 57 degrees, 32 minutes, 17 seconds East, along the Southwesterly 33.00 foot Right-of-way of Madison Avenue, a distance of 33.00 feet to a point on the Southeasterly 33.00 foot Right-of-way of 19th Street.
Thence South 32 degrees, 27 minutes, 27 seconds West, along the Southeasterly 33.00 foot Right-of-way of 19th Street, a distance of 350.60 feet to a point on the Northeasterly Right-of-way of a 10 foot wide Alley, said point being the True Point of Beginning.
Course 1: Thence South 57 degrees, 32 minutes, 38 seconds East, along the Northeasterly Right-of-way of a 10 foot wide Alley, a distance of 200.51 feet to a point on the Northwesterly 33.00 foot Right-of-way of 18th Street.
Course 2: Thence South 32 degrees, 27 minutes, 34 seconds West, along the Northwesterly 33.00 foot Right-of-way of 18th Street, a distance of 10.00 feet to a point on the Southwesterly Right-of-way of a 10 foot wide Alley.
Course 3: Thence North 57 degrees, 32 minutes, 38 seconds West, along the Southwesterly Right-of-way of a 10 foot wide Alley, a distance of 200.51 feet to a point on the Southeasterly 33.00 foot Right-of-way of 19th Street.
Course 4: Thence North 32 degrees, 27 minutes, 27 seconds East, along the Southeasterly 33.00 foot Right-of-way of 19th Street, a distance of 10.00 feet to the True Point of Beginning.
Containing 2,005.07 square feet or 0.0460 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 April 23, 2021.

SECTION 2. That the vacation(s) herein shall be subject to compliance of 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. Private sewer located in alley.

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.

Buckeye Telesystems

4. There is a pole line with aerial cable which Buckeye will need to maintain unless utility is relocated.

Plan Commission

5. The proposed vacation cannot result in the loss of access for any abutting properties without consent of the abutting property owners.

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. Payment of fees for costs was paid at the rate of $1,343.17

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



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