

GENERAL INFORMATION

Subject

- Request - Vacation of 40' x 130' of Right-of-Way located between Lots 11 and 10 in the Bayview Addition, also known as 3061 and 3067 123rd Street
- Applicant - Tiffany Painter
3061 123rd Street
Toledo, OH 43611

Site Description

- Zoning - RS6 / Single-dwelling residential
Area - ± 0.12 acres (5,200 square feet)
Frontage - ± 40' along 123rd Street
Existing Use - Open space
Proposed Use - Expanding personal yard

Area Description

- North - RD6 / Single-family Homes
South - RS6 / Single-family Homes
East - RS6 / Single-family Homes
West - RS6 / Single-family Homes

Parcel History

- V-700-07 - Vacation of portion of 308th Street at 125th Street (withdrawn)

Applicable Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning
- Forward Toledo Comprehensive Land Use Plan

STAFF ANALYSIS

The requested vacation of Right-of-Way (R.O.W) is between lots 11 and 10 in the Bayview Addition, also known as 3061 123rd Street and 3067 123rd Street. The applicant wishes to expand her property for personal use and intends to construct a fence and build a carport on her existing driveway, which may extend into the vacated area if this case is approved. The subject area is designated as public land and the applicant learned upon purchasing her home that the previous

STAFF ANALYSIS (cont'd)

owners have traditionally maintained this land without ownership. The applicant wishes to vacate the subject area as she too has been caring for this land. Surrounding land uses are exclusively single-family homes. On August 14, 2024, City Council approved a declaration of intent (*Res. 402-24*) to vacate the subject portion of R.O.W.

Comments from Engineering Services point out that there is a public waterline running through the proposed vacated area (see Exhibit "A"), which will require that a 20-foot easement be retained on the eastern portion of the site. Staff notified the applicant of this information and shared that any future fence will not be able to extend into the easement area. Given this information, the applicant would like to proceed with the vacation request.

Forward Toledo Comprehensive Land Use Plan

The Forward Toledo Plan targets this site for Neighborhood Residential uses. The Neighborhood Residential designation is intended to promote low- and medium-density housing opportunities and pedestrian-oriented development. Staff recommends approval of the proposed vacation, as it conforms to the Forward Toledo Plan.

STAFF RECOMMENDATION

The staff recommends that the Toledo City Plan Commission recommend approval of V-402-24, vacation of Right-of-Way between lots 11 and 10 in the Bayview Addition, also known as 3061 123rd Street and 3067 123rd Street, to Toledo City Council for the following two (2) reasons:

1. The proposed Vacation conforms to the Forward Toledo Comprehensive Land Use Plan.
2. The proposed vacation will not impede access to any neighboring properties.

The staff further recommends that the Toledo City Plan Commission recommend approval of V-402-24, vacation of Right-of-Way between lots 11 and 10 in the Bayview Addition, also known as 3061 123rd Street and 3067 123rd Street, subject to the following five (5) conditions:

The conditions of approval are as follows and listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Engineering Services

1. An easement is needed to maintain a 6-inch diameter public waterline. A 20-foot 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:

STAFF RECOMMENDATION (cont'd)

Engineering Services (cont'd)

"That a 20-foot easement is hereby retained over, across, under and through said vacated area for the existing water main 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, 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.

Law Department

2. 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.
3. That a full width easement in favor of the City of Toledo is retained across, under and through said vacated area as described in Section 1 herein for the purpose of the City of Toledo's maintaining, operating, renewing, reconstructing, and removing utility facilities. All City of Toledo facilities located within said vacated area are hereby dedicated to the City of Toledo for exclusive City of Toledo utility use only and shall not be combined with easements or rights for other utilities. The easement retained by the City of Toledo 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

STAFF RECOMMENDATION (cont'd)Law Department (cont'd)

easement also includes reasonable rights of egress and ingress over and through the vacated area. No building foundation, roof overhang, or other barrier which would impede access to the easement shall be constructed or maintained. If no utilities are present, then an easement will not be required and a fence will be permitted. Driveways, parking lots, walkways and other similar improvements are permitted subject to the prior written consent of the City of Toledo. The City of Toledo shall be released and held harmless for any liability, responsibility costs, or damages resulting from the City of Toledo's removal of any barriers which impede the City of Toledo ingress or egress from the easement or which obstruct access to the utilities located within the vacated area. The City of Toledo 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 of Toledo. 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 or the Owner's' of the vacated area shall be responsible for the relocation of any utility facilities or equipment, whether owned by a public or private utility within the vacated area or preserving access to such utility facilities. Utility facilities include conduits, cables, wires, towers, poles, sewer lines, pipelines, gas and water lines, or other equipment of any railroad or public utility, located on, over or under the portion of the vacated area. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance and operation of Ohio law shall be obtained separately from each utility, as to their interest(s) only. The City of Toledo shall be released and held harmless for any liability, responsibility, costs, or damages resulting from Owner's' construction or activities in the vacated area, that interferes with any utility easement retained as a matter of law in accord with Section 723.041 of the Ohio Revised Code.

Division of Streets, Bridges and Harbor

Recommends approval.

Plan Commission

4. Any future fence shall adhere to the standards of TMC§1105.0301 – Fences (Residential Districts).
5. Applicant shall obtain a Certificate of Zoning Compliance from the Division of Building Inspection before proceeding with fence installation.

REF: V-402-24. . . October 10, 2024

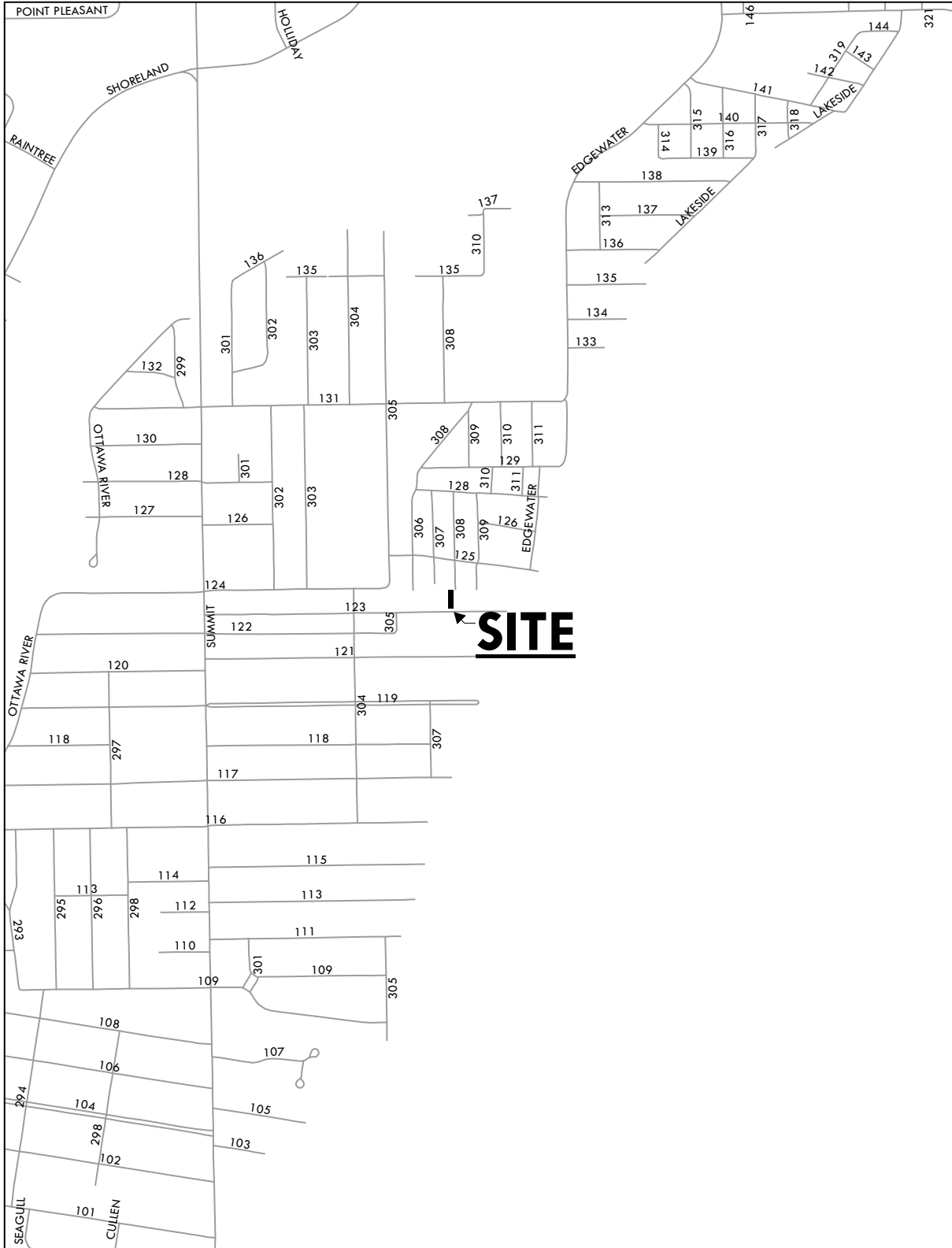
RIGHT OF WAY VACATION
TOLEDO CITY PLAN COMMISSION
REF: V-402-24
DATE: October 10, 2024
TIME: 2:00 PM

CITY COUNCIL
ZONING AND PLANNING COMMITTEE
DATE: November 12, 2024
TIME: 4:00 P.M.

MJM
Two (2) sketches follow
Exhibit "A" follows

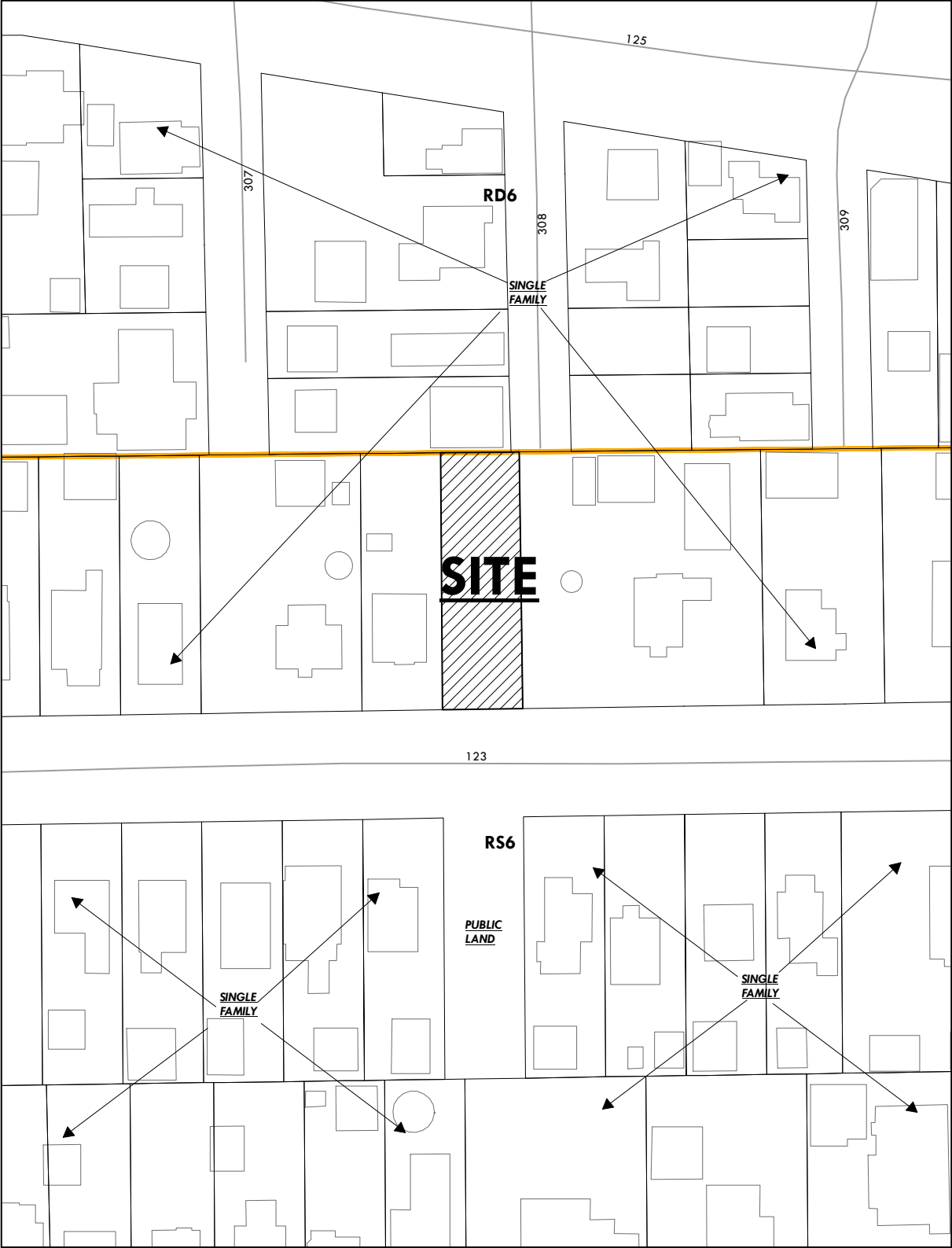
GENERAL LOCATION

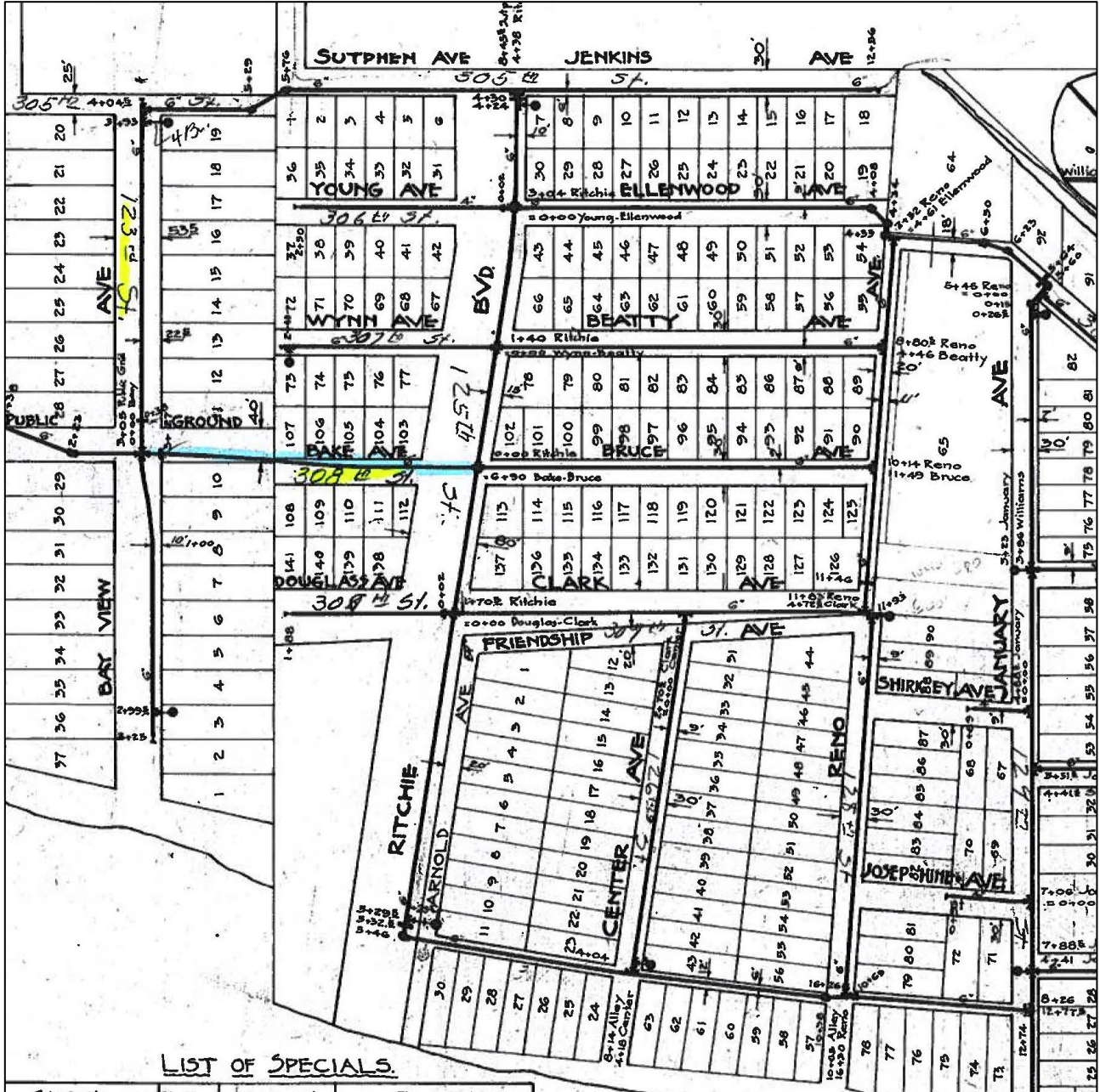
V-402-24
ID 65



ZONING & LAND USE

V-402-24
ID 65





LIST OF SPECIALS.

Street	Station	Special	Remarks
Bay View Ave. E of Public Grd.	2+29	6" x 6" T Hydrant	5' North
	3+28	6" Plug	
Bay Ave. W of Public Grd.	0+38	6" Gate Valve	
Sutphens Ave	3+23	6" x 6" T Hydrant	4' North
	4+04	6" x 6" T	
	5+29	6" Plug	Left
	5+76	6" "	Right
	8+43	6" x 6" T	Connects Ritchie Blvd
Young Ave	12+98	6" Plug	
	0+02	6" to 4" Reducer	
	2+90	4" Plug	
Ellenwood Ave	4+08	6" 1/2 bend	Right
	4+34	6" 1/2 "	Right
	4+55	6" 1/2 "	Left
Wynn Ave	2+40	6" x 6" T Hydrant	3' East
		6" Plug	
Public Ground, Data Ave.	1+38	6" 1/2 Bend	
Bruce Ave	2+23	6" "	Left
	3+05	6" x 6" Cross	Connects Bay View Ave
	3+27	6" Gate Valve	
	6+90	6" x 6" Cross	Connects Ritchie Blvd
Douglas Ave	0+02	6" to 4" Reducer	

LIST OF SPECIALS

Street	Station	Special	Remarks
Center Ave	4+04	6" x 6" T Hydrant	5' East
		6" 1/2 Bend	Right
Reno	0+02	6" 1/2 Bend	
	0+17	6" Gate Valve	
	0+24	6" x 6" T	Connects Williams Ave
	0+87	6" 1/2 Bend	Right
	3+45	6" x 6" T	Connects January Ave
	3+60	6" 1/2 Bend	Left
	5+24	6" Gate Valve	
	6+23	6" 1/2 Bend	Left
	6+50	6" "	
	7+32	6" x 6" T	Connects Ellenwood Ave
	8+88	6" x 6" T	Beatty
	10+14	6" x 6" T	Bruce
	11+46	6" Gate Valve	
	11+83	6" x 6" T	Connects Clark Ave