



TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

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DATE: June 14, 2024

REF: V-254-23

TO: President Carrie Hartman and Members of Council, City of Toledo

FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT: Vacation of a 12' wide alley, located between the 100 blocks of Eastern Avenue and Western Avenue, ending at I-75.

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, June 13, 2023 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Vacation of a 12' wide alley, located between the 100 blocks of Eastern Avenue and Western Avenue, ending at I-75
Applicant	-	Diana Vasquez 131 Eastern Avenue Toledo, OH 43609

Site Description

Zoning	-	RD6 / Duplex Residential
Area	-	± 0.06 acres
Dimensions	-	± 12' x 230'
Existing Use	-	Alley
Proposed Use	-	Consolidated land

Area Description

North	-	Single-family Homes / RD6
South	-	Single-family Homes / RD6
East	-	Interstate-75 / RD6
West	-	Single-family Homes / RD6

Parcel History

None on record.

GENERAL INFORMATION (cont'd)

Applicable Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning
- Toledo 20/20 Comprehensive Plan

STAFF ANALYSIS

The applicant is requesting the vacation of a 12' wide alley, located between the 100 blocks of Eastern Avenue and Western Avenue. The proposed vacation begins at the westerly lot line of Lots 40 & 41 within the Plat of the Railroad Addition and ends at the western boundary of Interstate-75. To the north of the alley along Eastern Avenue are four (4) single-family homes and multiple vacant lots. The alley terminates into Interstate-75 to the east with single-family homes to the west along Sumner Street and south along Western Avenue. On May 2, 2023, City Council approved a declaration of intent (*Res.254-23*) to vacate the requested portion of the alley.

The applicant owns the property at 131 Eastern Avenue and intends to consolidate a portion of land for the development of a detached garage on a vacant lot directly across the alley, to the south of their residence. As stated in TMC§1105.0602, residential garages must be located on the same lot as the principal building. Therefore, the applicant is requesting this portion of alley be vacated in order to meet the requirements of TMC§1105.0602.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan targets this site and the surrounding area for Single Family Residential land uses. Single Family land uses typically include the development of single-dwelling units on individual lots and may also include libraries, schools, churches, and community centers that serve neighborhoods. The Single-Family Residential district is intended to create, maintain and promote housing opportunities for individual households, although it may include nonresidential uses, duplexes, and planned unit developments that are typically compatible with residential neighborhoods.

Staff recommends approval of the requested vacation because the proposed vacation conforms to the Toledo 20/20 Comprehensive Plan. Additionally, the Division of Transportation did not object to the proposed alley vacation. However, the Division of Engineering has objected to the vacation due to a twenty-four-inch (24") sewer line located in the alley. In order to allow the vacation of the alley, an access easement shall be recorded for the sewer line and listed as a condition of approval.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of V-254-23, the request for the vacation of a 12' wide alley, located between the 100 blocks of Eastern Avenue and Western Avenue, to Toledo City Council for the following two (2) reasons:

1. The proposed Vacation conforms to the Toledo 20/20 Comprehensive Plan; and
2. The Division of Transportation does not object to the proposed alley vacation.

The Toledo City Plan Commission further recommends approval of V-254-23, the request for the vacation of a 12' wide alley, located between the 100 blocks of Eastern Avenue and Western Avenue, to Toledo City Council subject to the following **five (5)** conditions:

Law Department

1. 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.

PLAN COMMISSION RECOMMENDATION (cont'd)

Law Department (cont'd)

2. 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 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 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.

Further, 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.

PLAN COMMISSION RECOMMENDATION (cont'd)

Traffic Management

3. Transportation does not have any issues provided all owners of property abutting said alley agree to the vacation of said alley.

Plan Commission

4. The proposed vacation cannot result in the loss of access for any abutting properties.
5. A full width access easement shall be recorded for the twenty-four-inch (24") sewer located in the alley.

Respectfully Submitted,



Thomas C. Gibbons
Secretary

Two (2) sketches follow

Cc: Diana Vasquez; 131 Eastern Avenue, Toledo, OH 43609
Lisa Cottrell, Administrator
Ryne Sundvold, Senior Planner

GENERAL LOCATION

V-254-23
ID 126



ZONING & LAND USE

V-254-23
ID 126

