

## TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

One Government Center, Suite 1620, Toledo, OH 43604 P: 419 245-1200 F: 419 936-3730

DATE: October 11, 2024

REF: V-402-24

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

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

SUBJECT: 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 123<sup>rd</sup> Street

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, October 10, 2024 at 2:00 P.M.

### 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 123<sup>rd</sup> Street

Applicant - Tiffany Painter  
3061 123<sup>rd</sup> Street  
Toledo, OH 43611

#### Site Description

Zoning - RS6 / Single-dwelling residential

Area - ± 0.12 acres (5,200 square feet)

Frontage - ± 40' along 123<sup>rd</sup> 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 308<sup>th</sup> Street at 125<sup>th</sup> Street (withdrawn)

## **GENERAL INFORMATION (cont'd)**

### 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 123<sup>rd</sup> Street and 3067 123<sup>rd</sup> 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 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.

## **PLAN COMMISSION RECOMMENDATION**

The Toledo City Plan Commission recommends approval of V-402-24, vacation of Right-of-Way between lots 11 and 10 in the Bayview Addition, also known as 3061 123<sup>rd</sup> Street and 3067 123<sup>rd</sup> 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.

**PLAN COMMISSION RECOMMENDATION (cont'd)**

The Toledo City Plan Commission recommends approval of V-402-24, vacation of Right-of-Way between lots 11 and 10 in the Bayview Addition, also known as 3061 123<sup>rd</sup> Street and 3067 123<sup>rd</sup> Street, subject to the following **five (5)** conditions.

The following 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. 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:

"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.

**STAFF RECOMMENDATION (cont'd)**

Law Department (cont'd)

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 20-foot easement in favor of the City of Toledo is retained across, under and through said vacated area for the purpose of the City of Toledo's maintaining, operating, renewing, reconstructing, and removing utility facilities related to the existing 6-inch diameter public waterline running through the eastern edge of the vacated area. 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 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

TO: President Hartman and Members of Council  
October 11, 2024  
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REF: V-402-24

**STAFF RECOMMENDATION (cont'd)**

Law Department (cont'd)

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.

Respectfully Submitted,



Thomas C. Gibbons  
Secretary

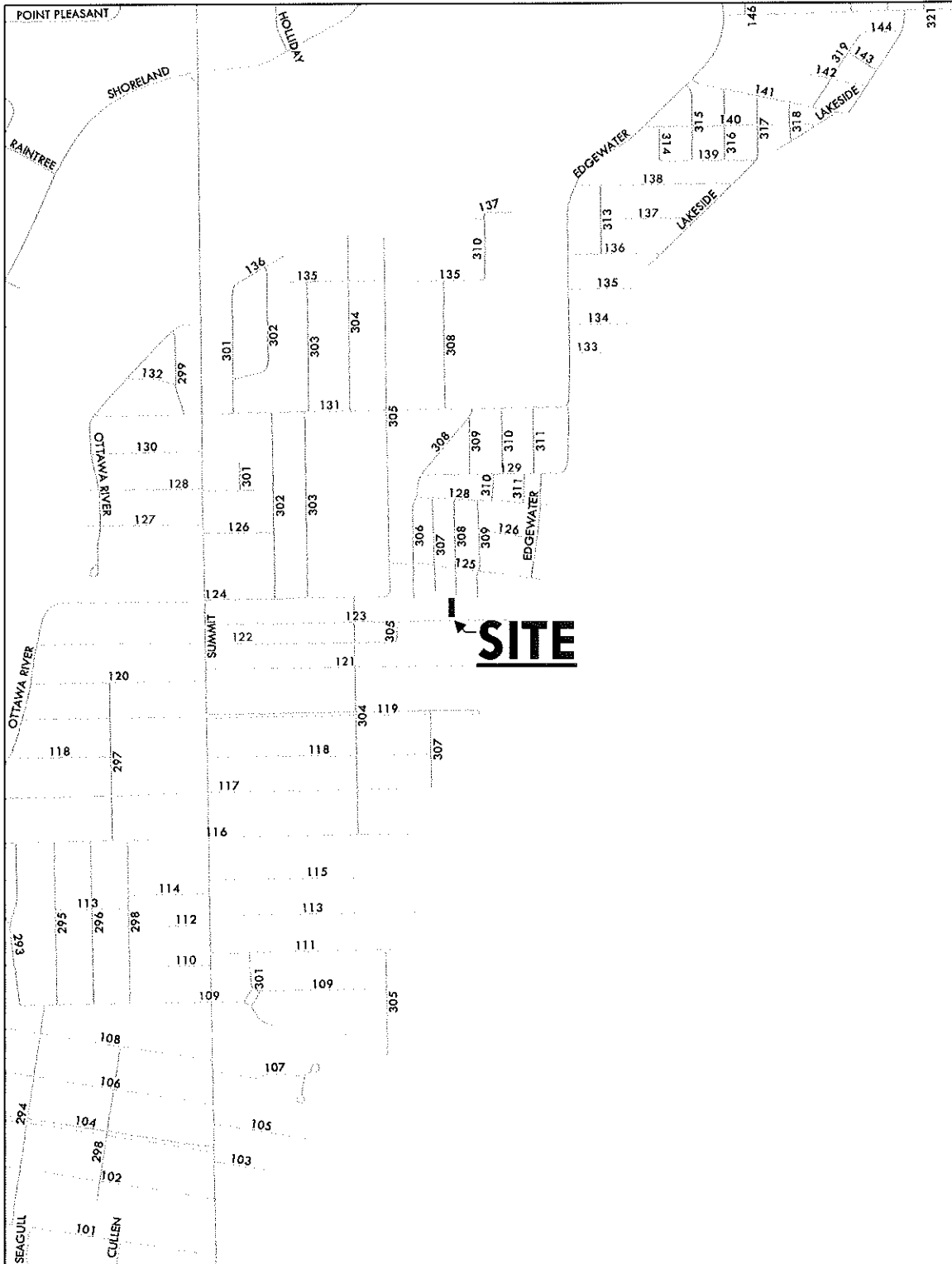
MJM

Two (2) sketches and Exhibit "A" follow

Cc: Tiffany Painter, 3061 123<sup>rd</sup> Street, Toledo, OH 43611  
Lisa Cottrell, Deputy Director  
Mara Momenee, Planner

# GENERAL LOCATION

V-402-24  
ID 65



# ZONING & LAND USE

V-402-24  
ID 65

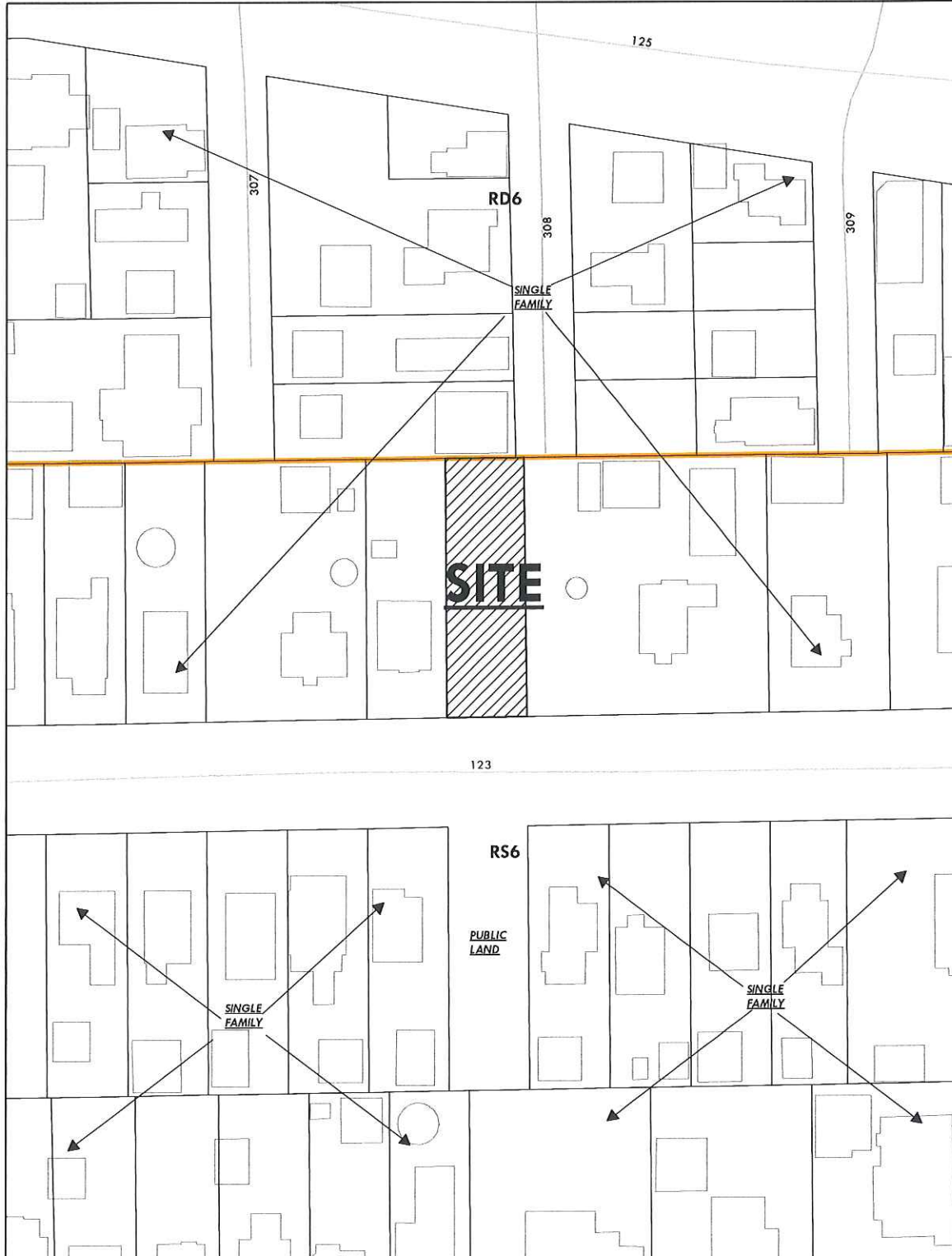
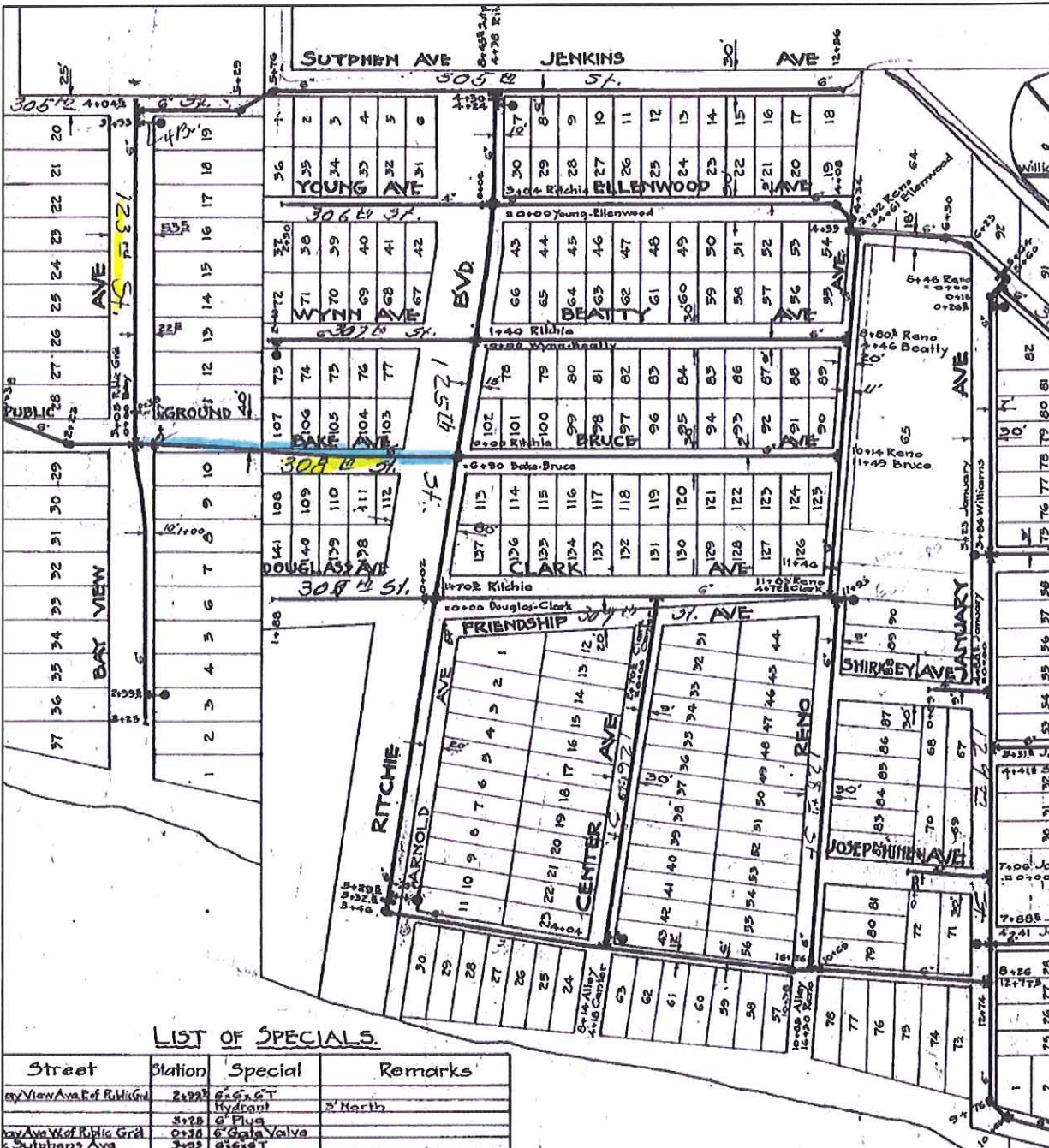




Exhibit "A"



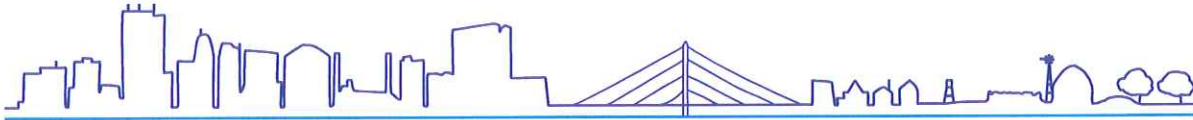
LIST OF SPECIALS

Street	Station	Special	Remarks
Bay View Ave. Ref. Public Grid	2+22	6" x 6" T Hydrant	3' North
	3+25	6" Plug	
Bay Ave. W of Public Grid	0+38	6" Gate Valve	
Sutphen Ave	2+03	6" x 6" T Hydrant	4' North
	4+04	6" Plug	
	5+29	6" 1/2 Bend	Left
	6+16	6" "	Right
	8+43	6" x 6" T Hydrant	Connects Ritchie BVD
Young Ave	12+26	6" Plug	
	0+02	6" to 4" Reducer	
Ellenwood Ave	2+20	6" Plug	
	4+08	6" 1/2 Bend	Right
	4+24	6" 1/2 "	Right
	4+25	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	Right
Bruce Ave	2+23	6" "	Left
	3+03	6" x 6" Cross	Connects Bay View Ave
	3+27	6" Gate Valve	
	6+20	6" x 6" Cross	Connects Ritchie BVD
Douglas Ave	0+02	6" to 4" Reducer	

LIST OF SPECIALS

Street	Station	Special	Remarks
Center Ave	4+04	6" x 6" T Hydrant	8' East
Reno	0+02	6" 1/2 Bend	Right
	0+17	6" Gate Valve	
	0+24	6" x 6" T	Connects Williams Ave
	0+27	6" 1/2 Bend	Right
	3+25	6" x 6" T	Connects January Ave
	3+60	6" 1/2 Bend	Left
	4+24	6" Gate Valve	
	4+22	6" 1/2 Bend	Left
	6+50	6" "	
	7+32	6" x 6" T Hydrant	Connects Ellenwood Ave
	8+08	6" x 6" T	Beatty
	10+14	6" x 6" T	Bruce
	11+48	6" Gate Valve	
	11+83	6" x 6" T	Connects Clark Ave





## TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

One Government Center, Suite 1620, Toledo, OH 43604 P: 419 245-1200 F: 419 936-3730

DATE: September 27, 2024

REF: V-402-24

PLANNER: Momenee

Tiffany Painter  
3061 123<sup>rd</sup> Street  
Toledo, OH 43611

### **PUBLIC HEARING DATE**

**Thursday, October 10, 2024**

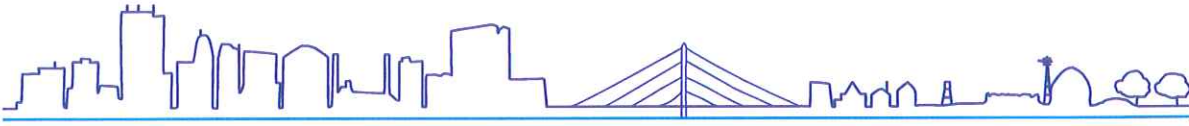
Please be advised that your request for a vacation of Right-of-Way between lots 11 and 10 in the Bayview Addition, also known as 3061 123<sup>rd</sup> Street and 3067 123<sup>rd</sup> Street, has been scheduled for public hearing before the Toledo City Plan Commission. This hearing will be held in the **City Council Chambers, One Government Center**, Jackson and Erie Streets, Toledo, Ohio on **Thursday, October 10, 2024 at 2:00 p.m.**

The purpose of the public hearing is to enable the Plan Commissions to consider your request in an open and public forum. This allows you and the surrounding property owners an opportunity to offer any and all opinions and comments regarding the request.

You or your representative should make every attempt to attend this hearing in order to respond to any questions or concerns which may arise. In the event you are unable to attend the public hearing, it is suggested that you notify the Plan Commission staff at 419-936-2130 prior to the meeting.

Please Note: **Failure to attend or be represented could result in the Plan Commission deferring action on your request.**

**TOLEDO CITY PLAN COMMISSION**



## TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

One Government Center, Suite 1620, Toledo, OH 43604 P: 419 245-1200 F: 419 936-3730

DATE: September 27, 2024

REF: V-402-24

PLANNER: Momenee

### **NOTICE OF PUBLIC HEARING**

on

**Date: Thursday, October 10, 2024**

Request: Vacation of Right-of-Way

Location: Between lots 11 and 10 in the Bayview Addition, also known as 3061 123<sup>rd</sup> Street and 3067 123<sup>rd</sup> Street

The complete legal description of the land in question is on file at the office of the Toledo City Plan Commission, located at One Government Center, Suite 1620, Toledo, Ohio 43604.

Notice of this hearing is mailed to the owners of property within and contiguous to and directly across the street from subject parcel or parcels at the addresses of such owners appearing on the County Auditor's current tax list. Please share this notice with neighbors that may lie beyond the range of this mailing. They may attend the public hearing and/or otherwise make their feelings known about this case.

The Toledo City Plan Commission will hold a hearing to consider this request at **2:00 p.m.** on **Thursday, October 10, 2024** at the *Council Chambers, First Floor, One Government Center*, Jackson and Erie Streets, Toledo, Ohio, and would appreciate any information you or your neighbors can give to aid their decision. **It is not necessary for you to attend the meeting but you are welcome to do so if you wish.** You may write or phone before the meeting to give us information or to inquire about this request. The Planner handling this case is Mara Momenee; she may be contacted at 419-936-2130 or [mara.momenee@toledo.oh.gov](mailto:mara.momenee@toledo.oh.gov)

**TOLEDO CITY PLAN COMMISSION**

Clerk of Council  
One Government Center  
Toledo, Ohio 43604

Date: September 27, 2024

Julie Gibbons  
Clerk of Council  
Tel: 419-245-1060

Ref: V-402-24

**NOTICE OF PUBLIC HEARING**

Tuesday, November 12, 2024

The Zoning and Planning Committee of Council, at a meeting to be held in the Council Chambers, First Floor, One Government Center, Jackson & Erie Streets, Toledo, Ohio, on Tuesday, November 12, 2024 at 4:00 p.m., will consider the following request:

**Vacation of Right-of-Way (R.O.W) between lots 11 and 10 in the Bayview Addition, also known as 3061 123<sup>rd</sup> Street and 3067 123<sup>rd</sup> Street**

Julie Gibbons  
Clerk of Council

**\*\*Failure of applicant to appear may result in a deferral or denial of your request.**

NOTICE PUBLISHED IN TOLEDO CITY JOURNAL

BROOKS MATTHEW S & REGINAR  
124 N COY RD  
OREGON OH 43616

CHICAGO TITLE COMPANY TRUSTEE  
3070 123RD ST  
TOLEDO OH 43611

DRAKE ALAN INVESTMENTS LLC  
3185 MOROCCO  
IDA MI 48140

EBY COLE J  
5225 308TH ST  
TOLEDO OH 43611

FERRARI MICHAEL D & MEGAN  
3054 123RD ST  
TOLEDO OH 43611 2729

GREATER METROPOLITAN TITLE  
3070 123RD ST  
TOLEDO OH 43611

HAINES MARILYN ETAL  
3064 123RD ST  
TOLEDO OH 43611 2729

ISTLER JAMES A & JULIANNE M  
3062 123RD ST  
TOLEDO OH 43611 2729

KELLER DAVID & BARBARA  
5235 308TH ST  
TOLEDO OH 43611 2681

LANZENBERGER SCOTT A  
3067 123RD ST  
TOLEDO OH 43611 2730

MCELHENY VIRGINIA L  
3050 123RD ST  
TOLEDO OH 43611 2729

NEWELL CHARLES W & CONSTANCE E  
(ORSURVTC)  
3049 123RD ST  
TOLEDO OH 43611

O BLENIS GERALD L  
5208 308TH ST  
TOLEDO OH 43611 2680

PAINTER TIFFANY N  
3061 123RD ST  
TOLEDO OH 43611

PUSHER ANDREW L & JENNIFER N  
3058 123RD ST  
TOLEDO OH 43611

RAE KYLEE KATHRYN  
5225 309TH ST  
TOLEDO OH 43611

SMITH JOSHUA J & CHRISTIEANNE  
5227 308TH ST  
TOLEDO OH 43611

WILBUR ADAM G & CAROLE J WILBUR  
3075 123RD ST  
TOLEDO OH 43611

COUNCIL MEMBER THERERA MORRIS  
ONE GOVT CENTER STE 2100





Q 3061 123

- Selection Selected [19] Available [19]
- 0208504
  - 0520807
  - 0208437
  - 0208441
  - 0208477
  - 0520881
  - 0520802
  - 0208427
  - 0208464
  - 0208501

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Report complete.  
Click to open

125 ST

309 ST

308 ST

307 ST

306 ST

305 ST

123 ST

BAYVIEW ADD / 001

305 ST

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