

VILLAGE OF LOMBARD  
REQUEST FOR BOARD OF TRUSTEES ACTION  
For Inclusion on Board Agenda


  X   Resolution or Ordinance (Blue) \_\_\_\_\_ *Waiver of First Requested*  
\_\_\_\_\_ Recommendations of Boards, Commissions & Committees (Green)  
\_\_\_\_\_ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: March 29, 2017 (B of T) Date: April 6, 2017

TITLE: Vacation of Elizabeth Street Right-of-Way North of Roosevelt Road,  
relative to PC 17-11, Carriage Animal Clinic, 244 W. Roosevelt Road

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a Plat of Vacation of the Elizabeth Street right-of-way, abutting the 244 W. Roosevelt Road property. This vacation would enable Carriage Animal Clinic to expand their existing building and parking lot.

Staff recommends approval of this request.

As this request requires a 3/4 vote of the Trustees (5 of 6) for the Village Board to approve, please place this item under "Items for Separate Action".

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_

Finance Director X \_\_\_\_\_ Date \_\_\_\_\_


Village Manager X  \_\_\_\_\_ Date 3/30/17

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development 

**MEETING DATE:** April 6, 2017

**SUBJECT:** **Elizabeth Street Right-of-Way North of Roosevelt Road, relative to PC 17-11, Carriage Animal Clinic, 244 W. Roosevelt Road**

The owner representatives of Carriage Animal Hospital at 244 W. Roosevelt Road has made a formal request to the Village to vacate the unimproved Elizabeth Street right-of-way located immediately to the east of their property. This vacation would enable Carriage Animal Clinic to expand their existing building and parking lot. Zoning relief for the project was heard by the Plan Commission as PC 17-11 and will be heard by the Board of Trustees under separate cover.

Elizabeth Street immediately north of Roosevelt Road is an unimproved right-of-way owned and controlled by the Village. The area requested to be vacated is 10,050 sq. ft. (0.227 acres) in area. The Village purchased the property and it was publically dedicated as a 66 foot right-of-way in 1975. While the Village constructed watermain, sanitary sewer and storm sewer lines within the right-of-way, roadway improvements were never made and the property essentially remained a grass field at the surface grade. The roadway immediately north of the proposed vacated area is within a wetland area.

Attached is the proposed plat of vacation of the Elizabeth Street right-of-way, abutting the 244 W. Roosevelt Road property. The portion of the Elizabeth Street right-of-way north of the proposed vacation will remain dedicated for right-of-way purposes.

Staff supports the sale of the property under the following conditions:

1. Compliance with the Village's Administrative Policy and State Statutes relative to the vacation of public rights-of-way;
2. Pay for the appraisal and the market value; (Polach Appraisals completed an appraisal in December, 2016 and determined a market value of \$75,000 for the tract.)
3. The entire vacated right-of-way would be encumbered with a new Public Utilities and Drainage Easement; and
4. The proposed parking lot must be designed in a way that meets all code provisions, including protection of the existing utilities.

**ACTION REQUESTED**

Please place this item on the April 6, 2017 Village Board agenda under Items for Separate Action. This ordinance requires passage by a three-fourths (3/4ths) vote (i.e. at least 5 of 6 Trustees) of the Trustees holding office.

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE VACATING A PORTION OF  
ELIZABETH STREET, IMMEDIATELY NORTH OF ROOSEVELT ROAD**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That the President and Board of Trustees of the Village of Lombard (hereinafter the "Village") find as follows:

- A. Pursuant to 65 ILCS 5/11-91-1, an ordinance vacating a right-of-way can provide that it shall not become effective until the owner(s) of the property abutting the right-of-way, or the owner(s) of a particular parcel of property abutting the right-of-way, to be vacated, pay(s) compensation to the municipality in an amount which, in the judgment of the corporate authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to said owner(s) by reason of the vacation.
- B. Pursuant to 65 ILCS 5/11-91-1, if the ordinance vacating a street provides that only the owner of a particular parcel abutting upon the street to be vacated shall make the aforementioned compensation payment, then said owner of said particular parcel shall acquire title to the entire vacated street.
- C. That the fair market value of the dedicated, but unimproved, right-of-way, as described in Section 3 below (hereinafter, the "Vacated Street") is Seventy-Five Thousand and No/100 Dollars (\$75,000.00).
- D. That Seventy-Five Thousand and No/100 Dollars (\$75,000.00) is only the fair market value of the Vacated Street when the vacation of said Vacated Street is made subject to the conditions set forth in Section 4 below.
- E. That the owner of the following-described property:

Lot 1 in Hearle's Consolidation Plat, a part of the Southeast 1/4 of Section 18, Township 39 North, Range 11, East of the Third Principal Meridian, in DuPage County, Illinois;

P.I.N.: 06-18-420-027;

Common Address: 244 West Roosevelt Road,  
Lombard, Illinois 60148;

(hereinafter the "Abutting Property Owner") shall make payment to the Village for the entire compensation due relative to the street vacation referenced in Section 3 below, as more specifically set forth in Section 4 below.

**SECTION 2:** It is hereby determined that the public interest will be subserved by vacating the Vacated Street, as hereinafter described, subject to the conditions set forth in Section 4 below.

**SECTION 3:** The following-described right-of-way:

That portion of the sixty-six (66) foot wide Elizabeth Street right-of-way lying East of and adjacent to Lot 1 in Hearle's Consolidation Plat, a part of the Southeast 1/4 of Section 18, Township 39 North, Range 11, East of the Third Principal Meridian, in DuPage County, Illinois;

as shown on the plat of vacation attached hereto as Exhibit A, and made part hereof, [an original thereof to be provided by the Village, in final form, suitable for recording, upon the Abutting Property Owner depositing with the Village the amount estimated by the Village to cover the costs for document and plat preparation, recording costs and all third party fees necessary to complete the vacation], and designated "hereby vacated" on said plat of vacation, be and the same hereby is vacated, subject to the conditions listed in Section 4 below.

**SECTION 4:** That this Ordinance shall be subject to the following:

- A. The Abutting Property Owner making the monetary deposit referenced in Section 3 above, within thirty (30) days of the approval date of this Ordinance.
- B. The payment by the Abutting Property Owner of compensation to the Village in the amount of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) shall be deposited with the Village within thirty (30) days of the approval date of this Ordinance.
- C. The retention of a public utility and drainage easement, in the form

attached hereto as Exhibit B, and made part hereof, in, across, over and under the entire Vacated Street, with said easement language to be set forth on the plat of vacation attached hereto as Exhibit A.

**SECTION 5:** Pursuant to 65 ILCS 5/11-91-1, the Abutting Property Owner shall acquire title to the Vacated Street, upon the recording of a certified copy of this Ordinance and the plat of vacation attached hereto as Exhibit A.

**SECTION 6:** That, in the event that the payments provided for in Sections 4.A. and 4.B. above are not received by the Village within thirty (30) days of the approval date of this Ordinance, this Ordinance shall be null and void and of no further effect, the recording as referenced in Section 7 below shall not take place, and the Corporate Authorities of the Village shall take the appropriate action to formally repeal this Ordinance.

**SECTION 7:** That, upon the Village's receipt of the payments referenced in Sections 4.A. and 4.B. above, the Director of Community Development is hereby directed to record the original signature copy of this Ordinance, along with the original plat of vacation and a certification by the Village Clerk as to the Ordinance being the original Ordinance, with the DuPage County Recorder of Deeds.

**SECTION 8:** That this Ordinance shall be in full force and effect from and after its passage by a three-fourths (3/4ths) vote of the Trustees holding office, and approval, as required by law.

Passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

First reading waived by action of the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_, 2017.

Passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2017, pursuant  
to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** by me this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Keith Giagnorio, Village President

**ATTEST:**

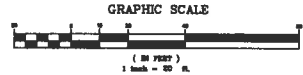
\_\_\_\_\_  
Sharon Kuderna, Village Clerk

**Exhibit A**  
**Plat of Vacation**  
**(attached)**



# PLAT OF VACATION AND EASEMENT GRANT

THE EAST 33.0 FEET OF LOT 11 AND THE WEST 33.0 FEET OF LOT 12 IN BLOCK 5 IN ROOSEVELT CREST, A SUBDIVISION IN THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 36 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 12, 1930, AS DOCUMENT 298865, IN DUPAGE COUNTY, ILLINOIS.



**COUNTY RECORDER'S CERTIFICATE**

STATE OF ILLINOIS )  
COUNTY OF DUPAGE ) SS  
THIS INSTRUMENT NO. \_\_\_\_\_ WAS FILED FOR RECORD IN THE  
RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS ON THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_ 20\_\_\_\_ AT \_\_\_\_\_ O'CLOCK, AND  
WAS RECORDED IN BOOK \_\_\_\_\_ OF PLATS ON PAGE \_\_\_\_\_  
BY: \_\_\_\_\_  
RECORDER OF DEEDS  
DUPAGE COUNTY

**COMMUNITY DEVELOPMENT CERTIFICATE**

STATE OF ILLINOIS )  
COUNTY OF DUPAGE ) SS  
APPROVED BY THE DEPARTMENT OF COMMUNITY DEVELOPMENT OF THE VILLAGE OF  
LOMBARD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_  
BY: \_\_\_\_\_  
DIRECTOR OF COMMUNITY DEVELOPMENT, VILLAGE OF LOMBARD

**VILLAGE BOARD CERTIFICATE**

STATE OF ILLINOIS )  
COUNTY OF DUPAGE ) SS  
APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF  
LOMBARD, ILLINOIS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_  
PRESIDENT \_\_\_\_\_  
VILLAGE CLERK \_\_\_\_\_

**PUBLIC UTILITY EASEMENT PROVISIONS**

"An easement is reserved for the Village of Lombard on the plat for the perpetual right, privilege and authority to construct, reconstruct, repair, inspect, maintain, and operate a public water main, public sanitary sewer, and public storm sewer, together with any and all necessary appurtenances as may be deemed necessary by said Village over, upon, along, under and through said indicated easement, together with right of access across the property for necessary personnel and equipment to do any of the above work. The right is also granted to cut down and trim or remove any fences, temporary structures, trees, shrubs, or other plants without need for providing compensation therefore on the easement that interferes with the operation of the water main, sanitary sewer, and storm sewer. No permanent buildings shall be placed on said easement, but same may be used for pavement, gardens, shrubs, landscaping, and other purposes that do not then or later interfere with the aforesaid uses or rights."  
Easements are hereby reserved for and granted to the Village of Lombard over the public easement area for repairs, upon, and the performance of electrical and other governmental services including water, storm, and sanitary sewer service and maintenance.

**SUBMITTED BY AND RETURN TO:**

VILLAGE OF LOMBARD  
255 EAST WILSON AVENUE  
LOMBARD, ILLINOIS 60148

**SURVEYOR'S STATEMENT**

STATE OF ILLINOIS )  
(SS  
COUNTY OF KANE )  
THIS PLAT WAS PREPARED UNDER MY SUPERVISION FOR THE  
PURPOSES HEREIN SET FORTH.

COMPASS SURVEYING LTD.  
PROFESSIONAL DESIGN FIRM  
LAND SURVEYOR CORPORATION NO. 184-002778  
LICENSE EXPIRES 4/30/2017

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
DAVID P. FILPSKI  
ILLINOIS PROFESSIONAL LAND SURVEYOR No. 3352  
LICENSE EXPIRES 11-30-18

**ABBREVIATIONS**

DO = RECORD DRAWING OR REFERENCE  
P.A.S. = POINT OF BEGINNING  
P.A.L. = PUBLIC UTILITY EASEMENT

 ALTA SURVEYS • TOPOGRAPHY • CONSTRUCTION STAKING 2631 GINGER WOODS PARKWAY, STE. 100 AUBURN, IL 60002 PHONE: (815) 828-9109 FAX: (815) 828-7974 EMAIL: ADMIN@COMPASSSURVEYING.COM	PROJECT CARRIAGE ANIMAL HOSPITAL 241 West Lawrence Road Lombard, Illinois	DATE: 03-14-17 PC N/A DRAWN BY: AH CHECKED BY: DF BOOK N/A PC N/A
	CLIENT Advantage Consulting Engineers, L.L.C. 18 Main Street, Suite 117 Lombard, Illinois 60148	NO. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

## **Exhibit B**

### **Public Utility and Drainage Easement**

A perpetual easement and right-of-way for the full and free right, privilege and authority to clear, trench for, construct, install, reconstruct, replace, remove, repair, alter, inspect, maintain and operate public utilities and drainage improvements including, but not limited to, water, sanitary sewer, storm sewer, overland storm water flows, electricity, telecommunications, natural gas and cable television, and all facilities incidental thereto, is hereby retained by the Village of Lombard, any and all public utility companies, and those cable television companies/video programming providers with a franchise agreement from the Village or a permit issued by the Illinois Commerce Commission (hereinafter collectively the "Easement Recipients") in, on, upon, over, through, across and under the entire portion of vacated Stewart Avenue (hereinafter the "Easement Premises").

The officers, agents or employees of the Easement Recipients, whenever elected, appointed or hired, may at any and all times designated herein, when necessary and convenient to do so, go in, on, upon, over, through, across and under the Easement Premises, and do and perform any and all acts necessary or convenient to the carrying into effect the purposes for which the easements created hereby are retained, and the owners of the Easement Premises shall not disturb, molest, injure or in any manner interfere with, or in any way restrict access to, the aforesaid public utilities and/or drainage improvements, and all facilities and activities incidental thereto.

The owner of the Easement Premises shall have the right to make any use of the Easement Premises, whether on, above or below its surface, for any lawful purpose, except that any use shall not interfere in any manner with the easements and uses by the Easement Recipients hereby retained and authorized.

The right is also granted to the Easement Recipients to trim or remove any trees, shrubs or other plants, or remove any structures on the Easement Premises, that interfere with the operation of the public utilities and/or drainage improvements.

The perpetual easement created hereby in, on, upon, over, through, across and under the Easement Premises shall run with the land.