

ORDINANCE NO. 5365

**AN ORDINANCE VACATING A PORTION OF THE PROGRESS ROAD
RIGHT-OF-WAY EAST OF GARFIELD STREET**

WHEREAS, the Village of Lombard (hereinafter the VILLAGE) maintains a right-of-way of fifty-three feet in width for that portion of Progress Road which is located within the corporate limits of the VILLAGE; and

WHEREAS, the VILLAGE finds that an industrial building is proposed to be developed east of the eastern terminus of the Progress Road right of way at 240 Progress Road, Lombard Illinois; and

WHEREAS, said industrial development is subject to a development agreement for Lot 1 of the Terrace Lakes Subdivision approved by the Corporate Authorities of the Village of Lombard on September 18, 2003; and

WHEREAS, the VILLAGE finds that the Progress Road right-of-way east of Garfield Street (hereinafter referred to as the "SUBJECT RIGHT-OF-WAY") extends for a length of 257.71 feet and terminates without a turn-around cul-de-sac; and

WHEREAS, the VILLAGE finds that no abutting property owners currently take access from the SUBJECT RIGHT-OF-WAY; and

WHEREAS, the VILLAGE finds that the existing lot to the south of the SUBJECT RIGHT-OF-WAY is vacant; and

WHEREAS, the VILLAGE finds that the existing lot north of the SUBJECT RIGHT-OF-WAY is currently improved with a mortuarial service establishment; with the proposed access to be taken from Garfield Street; and

WHEREAS, the VILLAGE has determined that environmental constraints and existing conservation easements preclude the possibility of Progress Road right-of-way from extending beyond its current eastern terminus and makes the construction of a cul-de-sac bulb to Village standards infeasible; and

WHEREAS, the VILLAGE has determined that the SUBJECT RIGHT-OF-WAY would primarily be for the use and benefit of the owner of the parcel at the eastern terminus of the SUBJECT RIGHT-OF-WAY and would not serve the transportation needs of the Village; and

WHEREAS, the VILLAGE would benefit by transferring the future maintenance responsibilities of the SUBJECT RIGHT-OF-WAY from the VILLAGE to the owner of the parcel at the eastern terminus of the Progress Road; and

WHEREAS, the VILLAGE has determined that a portion of the SUBJECT RIGHT-OF-WAY is still needed for public utility purposes; and

WHEREAS, the Corporate Authorities of the VILLAGE have received a Plat of Right of Way Vacation for the SUBJECT RIGHT-OF-WAY, attached hereto as "Exhibit A" and made part hereof; and

WHEREAS, the Corporate Authorities of the VILLAGE deem it to be in the best interest of the Village of Lombard to authorize said right-of-way vacation and easement dedication if, as consideration for such vacation, the owner of the property located at 240 Progress Road, completes to the satisfaction of the VILLAGE those improvements noted below.

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

SECTION 1: The President and Board of Trustees find as follows:

- A. Pursuant to 65 ILCS 5/11-91-1, an ordinance vacating a street can provide that it shall not become effective until the owner of a particular parcel of property abutting upon the street to be vacated pays 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 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 that portion of Progress Road as determined by a MAI appraiser and as described in Section 3 below is \$29,500.00, with a reduction of \$27,500 for a cross-access benefit of the owner of Lot 2 of the Terrace Lakes Subdivision, thereby establishing the total valuation of the right of way as \$2,000.
- D. That the owner of Lot 1 in Terrace Lakes Subdivision, a subdivision of the Southwest Quarter of Section 32, Township 40 North, Range 11 East, of the Third Principal Meridian, DuPage County, Illinois, (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 served by vacating the SUBJECT RIGHT-OF-WAY as hereinafter described:

THAT PART OF PROGRESS ROAD LYING SOUTH OF AND ADJOINING LOT 3 IN PROGRESS BUSINESS CENTER IN THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NO. R88-105071, BETWEEN GARFIELD STREET AND THE EAST LINE OF SAID WEST HALF, IN DU PAGE COUNTY, ILLINOIS.

as shown on the plat attached hereto as Exhibit "B" and designated "hereby vacated" be and the same hereby is vacated subject to the conditions listed in Section 3 below.

SECTION 3: That this Ordinance shall be subject to the payment by the Abutting Property Owner, as set forth in Section 1 above, of compensation in the amount of \$29,500.00 with a reduction of \$27,500 for a cross-access benefit of abutting property owners and the owner of Lot 2 of the Terrace Lakes Subdivision. Said compensation amount shall consist of compliance with the following conditions, in lieu of the remaining \$2,000.00:

- A. A new depressed curb shall be constructed and installed connecting the east side of the Garfield Avenue curb line with the south side of the Progress Road curb line. Said design shall be reviewed and approved by the Village Engineer prior to construction.
- B. A blanket public utility easement shall be provided over the vacated right-of-way and shall comply with the Lombard Subdivision and Development Ordinance.
- C. The SUBJECT RIGHT-OF-WAY to be vacated shall be improved in conformance with a site plan, in full conformance with all applicable Village Codes and Ordinances of the Village and consistent with the terms and conditions as noted in the "Development Agreement for Lot #1 of the Terrace Lakes Subdivision", approved by the Corporate Authorities of the Village of Lombard on September 18, 2003.
- D. A Plat of Consolidation shall be submitted for approval by the Lombard Department of Community Development. The Plat of Consolidation shall consolidate the entire SUBJECT RIGHT-OF-WAY and the adjoining Lot 1 of the Terrace Lakes Subdivision, into a single lot of record.
- E. A Plat granting a Cross-Access easement shall be granted to the owner, and their successors of all lots abutting the SUBJECT RIGHT-OF-WAY.
- F. All public improvements shall be subject to the requirements of the

Subdivision and Development Ordinance (Title 15, Chapter 154 of the Lombard Village Code). The Plats of Vacation and Consolidation shall not be recorded and no building permits for private improvements shall be issued until the Department of Community Development has determined that all required submittals have been made.

- G. Construction of all of the above improvements shall be completed within eighteen months from the date of adoption of this Ordinance.
- H. The Abutting Property Owner shall indemnify and hold harmless the Village with respect to any claim or loss, including but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims or suits of any kind which may arise, either directly or indirectly, as a result of the Village's adoption of this Ordinance.

SECTION 4: That the Abutting Property Owner is in agreement with the terms and conditions of this Ordinance, as evidenced below:

I, the undersigned, being the owner of Lot 1 in Terrace Lakes Subdivision, which abuts the SUBJECT RIGHT-OF-WAY described in Section 2 above, hereby state that I have read this Ordinance and voluntarily agree to the conditions stated herein, and the associated compensation for said street vacation as set forth herein.

SECTION 5: That the Department of Community Development is hereby directed to record a certified copy of this Ordinance, along with the original Plat of Vacation, with the DuPage County Recorder of Deeds, subject to the restriction set forth in Section 3F above.

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this _____ day of _____ 2003.

First reading waived by action of the Board of Trustees this 18th day of September, 2003.

Passed on second reading this 18th day of September, 2003.

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AYES Trustees DeStephano, Tross, Koenig, Sebby, Florey, Soderstro

NAYS None

ABSENT None

Approved this 18th day of September, 2003.



William J. Mueller
Village President

ATTEST:



Barbara A. Johnson
Deputy Village Clerk