

ORDINANCE NO. F-1355

AN ORDINANCE VACATING AVERY AVENUE /WHEATON PARK DISTRICT

WHEREAS, written Petition has been filed with the City of Wheaton, Illinois ("City"), requesting the vacation of the Avery Avenue right-of-way between Williston Street and Kellogg Place legally described herein; and

WHEREAS, the vacation petition has been filed pursuant to the provisions of Chapter 58, Article IV, of the City Code; thereafter, pursuant to notice as required by the City Code, a public hearing was conducted by the City Council on May 12, 2008, to consider the vacation; and

WHEREAS, the City has determined that the vacation of the right-of-way legally described herein will promote the health, safety, and welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The following described Avery Avenue right-of-way, be vacated:

THAT PART OF THE 66.0 FOOT WIDE AVERY AVENUE RIGHT OF WAY LYING WEST OF THE WEST LINE OF WILLISTON STREET, EAST OF THE EAST LINE OF KELLOGG PLACE AND SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF CRESCENT STREET AS SAID AVERY AVENUE WAS DEDICATED BY JONATHAN BLANCHARD SUBDIVISION IN THE NORTHWEST ¼ OF SECTION 15, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID JONATHAN BLANCHARD SUBDIVISION RECORDED NOVEMBER 6, 1896 AS DOCUMENT NUMBER 62738, IN DUPAGE COUNTY, ILLINOIS. (Hereafter referred to as the "Subject Property.")

The Subject Property shall be vacated to the Wheaton Park District PPI 05-15-117-001.

Section 2: The vacation provided for in this ordinance is subject to the following conditions and requirements:

- A. Vacation of the Subject Property legally described herein shall be at no cost to the Petitioner. The determination not to require payment for the vacated right-of-way (in accordance with Section 58-139, Formula exception, Wheaton City Code) is based upon the City Council's recognition of the vacation to another governmental entity and the use of the right-of-way for the public benefit. The determination not to require payment for the vacated right-of-way is also based upon the Subject Property necessitating a permanent easement over the entire area, Section 58-138(3) of the Wheaton City Code providing that no fair and just compensation shall be required for a right-of-way that necessitates a permanent easement over the entire right-of-way,

and the cost benefits derived to the City in the termination of its maintenance/liability obligations with respect to the Subject Property.

B. Petitioner shall also pay all fees associated with the vacation as provided for by Section 58-143, Costs, Wheaton City Code.

Section 3: The Mayor is authorized and directed to execute the plat of vacation prepared by Gentile & Associates, Inc., dated April 14, 2008; and the City Clerk is authorized and directed to attest to the signature of the Mayor. The plat of vacation shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois, along with a certified copy of this ordinance.

Section 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 5: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Mayor

ATTEST:

City Clerk

Roll Call Vote:

Ayes: Councilman Prendiville
Councilman Suess
Councilwoman Corry
Councilman Johnson
Councilman Levine
Mayor Gresk
Councilman Mouhelis

Nays: None
Absent: None

Motion Carried Unanimously

Passed: May 19, 2008
Published: May 20, 2008