



MEMORANDUM

TO: Mayor Laurel Lunt Prussing and Members of the City Council
FROM: William R. Gray, Public Works Director
Bradley M. Bennett, Assistant City Engineer
DATE: October 6, 2016
RE: Barr Avenue Partial Right-of-Way Vacation West of Cunningham Avenue

Action Requested

Approval of "AN ORDINANCE VACATING A CERTAIN PORTION OF RIGHT-OF-WAY (Barr Avenue west of North Cunningham Avenue)."

Background and Facts

William and Michelle Scott, the owners of five single-family residential properties on the north side of Barr Avenue west of Cunningham Avenue (302, 304, 306, 308 and 310 East Barr Avenue), have requested that a portion of the street right-of-way (ROW) be vacated by the City. (Please see Exhibit A.) The location of the proposed ROW vacation is shown in Exhibit B.

The single-family homes along Barr Avenue were built with minimal set-back distance from the City ROW. The vacation will provide (and ensure) additional buffer space for those homes from the street. (Please note these homes were constructed before current set-back distance requirements were adopted into the Zoning Ordinance.) The vacation of the ROW identified in Exhibit B will not impact the City's policing, firefighting, snow plowing and street maintenance services for Barr Avenue. There are no plans for a future public sidewalk on this street.

Public Works Department staff has contacted the utility companies and the City Department heads regarding the proposed ROW vacation. No objections were received. An easement for a fiber optic utility located within a portion of the vacated ROW will be provided as part of the vacation process.

The property owner has also requested and Public Works Department staff supports a similar vacation of the ROW for 312 and 314 Barr Avenue. However, the limits of City ROW on Barr Avenue and IDOT's ROW on Cunningham Avenue need to be determined before that ROW vacation can precede. City ROW vacation policy states that benefitting non-residential properties have to pay the fair market value of the vacated ROW. So the value of the vacated property for 312 and 314 Barr Avenue must be determined and the City compensated before the ROW vacation for those properties is completed.

Financial Impact

There are no costs or revenues associated with vacating the ROW along Barr Avenue. City ROW vacation policy states that benefitting residential properties do not have to pay the value of the vacated ROW. No replatting of the benefitting lots will be performed or is required.

Recommendations

It is recommended that “AN ORDINANCE VACATING A CERTAIN PORTION OF RIGHT-OF-WAY (Barr Avenue west of North Cunningham Avenue)” be approved.

Attachments: An Ordinance Vacating a Certain Portion of Right-Of-Way (Barr Avenue west of North Cunningham Avenue)
 Exhibit A – Vacation Request Letter from William and Michelle Scott
 Exhibit B –Proposed Street ROW Vacation Map

ORDINANCE NO. 2016-09-087

AN ORDINANCE VACATING A CERTAIN PORTION OF RIGHT-OF-WAY

(Barr Avenue west of North Cunningham Avenue)

WHEREAS, Section 11-61-2 of the Illinois Municipal Code (65 ILCS 5/11-61-2) provides that the corporate authorities of a municipality may vacate streets, alleys, avenues, sidewalks, wharves, parks, and public grounds; and

WHEREAS, William R. and Michele Scott and Cunningham Motor Sales, Inc. have requested that the City of Urbana ("City") vacate a portion of unimproved right-of-way abutting their properties, located north of Barr Avenue and west of North Cunningham Avenue, and more particularly described herein; and

WHEREAS, the requirements of Urbana City Code Section 2-160 for a public hearing and for public notice of such hearing do not, pursuant to the terms thereof, apply to an ordinance vacating public grounds other than a public street; and

WHEREAS, said vacation will not materially impair access to any property owner; and

WHEREAS, the City Council finds that the said right-of-way is of no further use to the City and that the vacation of the right-of-way will not materially impair or interfere with the use already existing and will not be detrimental to the public; and

WHEREAS, the City Council finds that the relief to the public from the further burden and responsibility of maintaining the right-of-way herein vacated is just and adequate compensation for the benefits which will accrue to the said owners of the abutting property; and

WHEREAS, certain public service facilities of iTV-3, LLC, a Delaware limited liability company ("iTV-3"), are situated in the right-of-way to be vacated; and

WHEREAS, the City Council further finds that the public interest is best served by granting iTV-3 an exclusive, perpetual easement in the right-of-way to be vacated for the maintenance, renewal, and reconstruction of those facilities; and

WHEREAS, the City Council has determined that the public interest is subserved by the vacation of said right-of-way, other than the reservation of a permanent easement for iTV-3, as provided below.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1. The City Council of the City of Urbana, Illinois, hereby vacates, subject to the terms set forth in this Ordinance, the following-described right-of-way:

A portion of the Barr Avenue right-of-way, being part of the Northeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, being more particularly described as follows:

Beginning at the southwest corner of Lot 7 of Andrew Barr's Subdivision, as shown on a plat recorded in Book "A" at page 257 in the Office of the Recorder of Deeds, Champaign County, Illinois; thence, N89°29'38"E, along the northerly right-of-way line of Barr Avenue also being the southerly line of Lots 7, 6, 5 and 4 of said Andrew Barr's Subdivision, 274.68 feet, to the southeast corner of said Lot 4; thence, S00°33'25"E, along the southerly extension of the easterly line of said Lot 4, 10.76 feet; thence, N89°25'47"W, 274.68 feet, to a point on the southerly extension of the westerly line of said Lot 7; thence, N1°05'25"W, along said southerly extension 5.60 feet, to the point of beginning. Containing 2,247.36 S.F., more or less, all situated in the City of Urbana, Champaign County, Illinois.

Section 2. Upon vacation of the above-described right-of-way, title thereto shall vest in the record owners of the land abutting the north side of the vacated right-of-way for the extent of the common borders of their respective parcels with the said right-of-way.

The owners, permanent index numbers, and addresses of the land abutting the north side of the right-of-way described above are as follows:

William R. and Michele Scott	91-21-08-280-022	302 Barr Avenue
William R. and Michele Scott	91-21-08-280-023	304 Barr Avenue
William R. and Michele Scott	91-21-08-280-024	306 Barr Avenue
Cunningham Motor Sales, Inc.	91-21-08-280-025	308 Barr Avenue
William R. and Michele Scott	91-21-08-280-026	310 Barr Avenue

Section 3. The vacation of the above-described right-of-way shall be subject to the condition that an exclusive, perpetual easement is hereby reserved for and granted to iTV-3, LLC, a Delaware limited liability company, its successors, or assigns to operate, maintain, renew, and reconstruct its facilities as now existing on, over, or under the following-described part of said vacated right-of-way:

A portion of the vacated Barr Avenue right-of-way, being part of the Northeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, being more particularly described as follows:

Commencing at the southwest corner of Lot 7 of Andrew Barr's Subdivision, as shown on a plat recorded in Book "A" at page 257 in the Office of the Recorder of Deeds, Champaign County, Illinois; thence, N89°29'38"E, along the original northerly right-of-way line of Barr Avenue also being the southerly line of said Lot 7, 50.00 feet; thence, S00°51'31"E, along the southerly extension of the easterly line of the westerly 50.00 feet of said Lot 7, 3.00 feet, to the Point of Beginning; thence, N90°00'00"E, 56.00 feet; thence, S88°37'08"E, 168.76 feet, to a point on the southerly extension of the easterly line of Lot 4 of said Andrew Barr's

Subdivision; thence, S00°33'25"E, 1.71 feet, to the proposed north right-of-way line of Barr Avenue; thence, N89°25'47"W, 224.69 feet, along said proposed north right-of-way line, to said southerly extension of the easterly line of the westerly 50.00 feet of said Lot 7; thence, N00°51'31"W, 3.54 feet, to the Point of Beginning. Containing 703.54 S.F., more or less, all situated in the City of Urbana, Champaign County, Illinois.

Section 4. The City Engineer of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver a plat of the vacated right-of-way, in substantially the form of the copy of said plat attached hereto and hereby incorporated by reference, which specifically includes the easement language contained in Section 3 of this Ordinance, as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 5. This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 6. This Ordinance shall be in full force and effect from and after its passage. Upon approval of this Ordinance, the City Clerk is directed to record a certified copy with the Champaign County Office of the Recorder of Deeds.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of three-fourths of all the alderpersons then holding office (6 of 7 votes) of the City of Urbana, Illinois, at a meeting of the City Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor



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306 West Church Street
Champaign, IL 61820

Phone 217-352-1800
Fax 217-352-1083

www.meyercapel.com

MATT C. DEERING
mdeering@meyercapel.com

August 8, 2016

Mr. Brad Bennett, P.E., Assistant City Engineer
City of Urbana, Public Works Department
700 South Glover Avenue
Urbana, IL 61802

Re: Barr Avenue West of Cunningham Avenue

Dear Mr. Bennett:

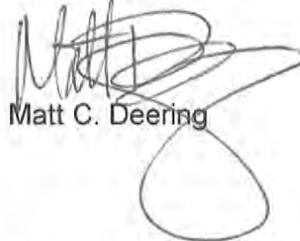
As we discussed on the telephone recently, my firm is now representing Cunningham Motor Sales Inc., which is the owner of property located at 405-407 Kerr Avenue (the "Kerr Avenue Property"), and also Mr. William and Mrs. Michelle Scott, who are the owners of properties located at 302, 304, 306 and 308 Barr Avenue, Urbana (the "Barr Avenue Properties"), in connection Highland Green Development matters. Accordingly, we are currently reviewing and negotiating a proposed easement agreement relating to possible installation of a properly sized storm sewer pipe over/under/through the Kerr Avenue Property.

In connection with this review, an additional lingering matter regarding the City's right-of-way running East-West across the Barr Avenue Properties came to my attention. Pursuant to our telephone discussion, it is my understanding the City is willing to vacate the right-of-way to the extent it is situated upon the Barr Avenue Properties, but in order to initiate such vacation, requires a simple letter requesting the same.

Based upon this understanding, I submit this letter on behalf of Mr. and Mrs. Scott as a formal request that the City of Urbana vacate the portion of its existing right-of-way located on and to the North side of Barr Avenue to the extent is situated upon my clients' Barr Avenue Properties. It is our belief that the South border of the portion to be vacated can be roughly marked by lines connecting the power poles currently set upon the North edge of Barr Avenue.

Thank you for your consideration and attention to this request. Should you need anything else from me or my clients, please do not hesitate to contact me.

Sincerely,



Matt C. Deering

Cc: Mr. Brad Bennett (via e-mail)
Mr. and Mrs. William Scott (via e-mail)

Plat of Public ROW Vacation

A portion of the Barr Avenue right-of-way, being part of the Northeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, being more particularly described as follows:

Beginning at the southwest corner of Lot 7 of Andrew Barr's Subdivision, as shown on a plat recorded in Book "A" at page 257 in the Office of the Recorder of Deeds, Champaign County, Illinois; thence, N89°29'38"E, along the northerly right-of-way line of Barr Avenue also being the southerly line of Lots 7, 6, 5 and 4 of said Andrew Barr's Subdivision, 274.68 feet, to the southeast corner of said Lot 4; thence, S00°33'25"E, along the southerly extension of the easterly line of said Lot 4, 10.76 feet; thence, N89°25'47"W, 274.68 feet, to a point on the southerly extension of the westerly line of said Lot 7; thence, N1°05'25"W, along said southerly extension 5.46 feet, to the point of beginning. Containing 2,247.36 S.F., more or less, all situated in the City of Urbana, Champaign County, Illinois.



PLAT MAP SHOWING PUBLIC RIGHT-OF-WAY VACATED
BY ORDINANCE NO. 2016-09-XXX
CITY OF URBANA, ILLINOIS
DATE: October XX, 2016

William R. Gray
Public Works Director/City Engineer

City of Urbana
Public Works Department
Engineering Division
Date: 10/4/2016 Drawn by: BWF



Plat of Public ROW Vacation

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Exhibit "B"
Proposed Street ROW Vacation

City of Urbana
Public Works Department
Engineering Division
Date: 10/4/2016 Drawn by: BWF

