



## 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:** September 22, 2016  
**RE:** Barr Avenue Partial Right-of-Way Vacation

### 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 for 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 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 existing utilities located within the vacated portion of ROW will be provided as part of the vacation process.

### 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, except as hereinafter provided, 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 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 the City's retention of a permanent 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 public service facilities, 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 5.46 feet, to the point of beginning. Containing 2,212.17 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, subject to the condition that a perpetual easement upon said vacated right-of-way is hereby reserved for and granted to the City of Urbana, Illinois, or others or any public utilities, their successors or assigns, to operate, maintain, renew, and reconstruct their facilities as now existing on, over, or under that part of the 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 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 2 of this Ordinance, as so authorized and approved for and on behalf of the City of Urbana, Illinois.

**Section 4.**

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 5.**

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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CORPORATION

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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)





**Exhibit "B"**  
**Proposed Street ROW Vacation Map**





# 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:

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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: 9/15/2016 Drawn by: BWF

