

RESOLUTION R-37-09

**A RESOLUTION DENYING SUBDIVISION APPLICATION 07-07 (1503, 1509 AND 1515
HILL AVENUE)**

WHEREAS, 1503 Hill Avenue, LLC, has submitted an application for the subdivision of 1503, 1509 and 1515 Hill Avenue, Wheaton, Illinois; and

WHEREAS, the property involved is legally described in the notice of public hearing attached hereto and incorporated herein as fully set forth as Exhibit A; and

WHEREAS, the proposed plat of subdivision is attached hereto and incorporated herein as if fully set forth as Exhibit B; and

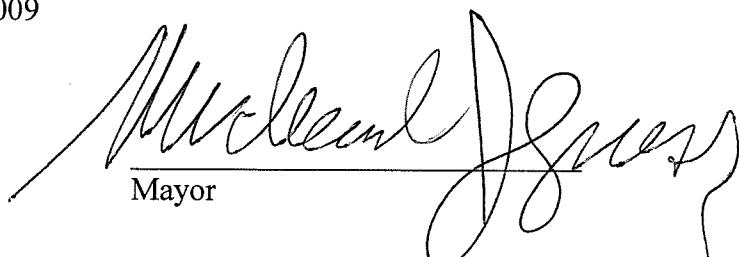
WHEREAS, if granted the subdivision would open and improve a street at an area known as "Lowell Avenue" to serve proposed lots 1, 2, 3; and

WHEREAS, Corporate Counsel for the City of Wheaton, has opined that Lowell Avenue has not been dedicated in conformance with the Illinois Plat Act, 765 ILCS 205/0.01 et seq. and that there is insufficient evidence, at the present time, to establish a common law dedication to the public by clear and unequivocal evidence of donative intent, or acceptance by a public body: *Reiman v. Kale*, 83 Ill.App. 773 Ill.Dec. 671 (1980); and

WHEREAS, in absence of sufficient evidence establishing clear donative intent of public right-of-way and acceptance by a public body, or compliance with the Plat Act, the Corporate Authorities of the City of Wheaton do not currently have authority to open Lowell Avenue.

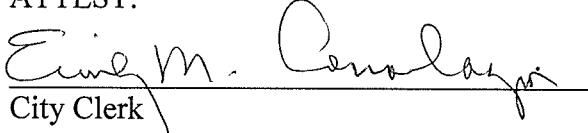
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois that for the reasons stated above proposed Subdivision Application 07-07/College Hill Subdivision/1503, 1509 and 1515 Hill Avenue submitted by 1503 Hill Avenue, LLC, is hereby denied.

ADOPTED this 1st day of June, 2009



Michael J. Gross
Mayor

ATTEST:



Emily M. Conroy
City Clerk

Roll Call Vote:

Ayes: Councilman Levine
Mayor Pro Tem Mouhelis
Councilman Prendiville
Councilman Scalzo
Councilwoman Corry

Nays: None

Absent: Mayor Gresk
Councilman Suess

Motion Carried Unanimously