

ORDINANCE NO. F-1158
AN ORDINANCE VACATING A
PORTION OF LOWDEN AVENUE/McMASTER CUSTOM HOMES

WHEREAS, a written petition has been filed by McMaster Custom Homes, contract purchaser of 1345 Campbell Avenue, Wheaton ("Petitioner"), requesting the vacation of a portion of a certain right-of-way commonly known as Lowden Avenue, located south of and adjacent to property located at 1345 Campbell Avenue; 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 February 27, 2006, 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 right-of-way commonly known as Lowden Avenue lying south of and adjacent to the property located at 1345 Campbell Avenue.

THAT PART OF LOWDEN AVENUE IN GREEN VALLEY ADDITION TO WHEATON, ILLINOIS, BEING A SUBDIVISION IN THE SOUTH HALF OF THE NORTH HALF OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF, RECORDED ON NOVEMBER 5, 1926, IN BOOK 16 OF PLATS ON PAGES 66 AND 67 AS DOCUMENT 224415, IN DUPAGE COUNTY, ILLINOIS, LYING EAST OF THE WEST LINE OF LOT 12 IN BLOCK 12 OF SAID GREEN VALLEY ADDITION EXTENDED SOUTHERLY TO THE SOUTH RIGHT OF WAY OF SAID LOWDEN AVENUE, AND WEST OF THE EAST LINE OF SAID LOT 12 EXTENDED SOUTHERLY TO THE SOUTH RIGHT OF WAY OF SAID LOWDEN AVENUE CONTAINING 4,754.89 SQUARE FEET, MORE OR LESS.

(Hereafter referred to as the "Subject Property".)

The Subject Property shall be vacated to 1345 Campbell Avenue, PPI 05-21-215-011.

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

- A. Petitioner shall pay to the City the sum of Forty Thousand Dollars (\$40,000) which represents the fair market value (without taking into consideration the costs to relocate the water main existing on the Subject Property, from Campbell Avenue to Sumner Street) of that portion of Lowden Avenue which is vacated pursuant to the provisions of this ordinance. Petitioner shall also pay all fees associated with the vacation as provided for by Chapter 58, Article IV Wheaton City Code, including One Thousand Seven Hundred Dollars (\$1,700) for the cost of the appraisal report.

B. Petitioner shall provide letters from all franchised utility companies, including Commonwealth Edison, Northern Illinois Gas, SBC/Ameritech and ComCast Cable indicating they have no interest or objection to the proposed Lowden Avenue right-of-way vacation.

C. The Petitioner shall relocate and abandon the water main existing within the Lowden Avenue right-of-way from Campbell Avenue to Sumner Street ("Water Main Project"), subject to the relocation and abandonment engineering plan prepared by the Petitioner is approved by the Director of Engineering. The Petitioner shall pay any and all costs associated with the relocation and abandonment of the water main, obtain necessary permits, and provide a ten (10) foot utility easement over the relocated water main sufficient to allow the City to maintain said water main within the Subject Property. Any trees, subject to the requirements of the City's Tree Preservation Ordinance, damaged or removed as a result of the water main relocation shall be replaced in accordance with the City's Tree Preservation Ordinance.

D. Prior to commencement of the Water Main Project, the Petitioner shall secure no less than three (3) bids from contractors qualified to complete the specified work. The Petitioner shall provide a copy of said bids to the Director of Engineering. The Petitioner shall contract with the lowest most qualified bidder to complete the Water Main Project. The City shall reimburse the Petitioner for the Water Main Project cost, not to exceed twenty-five thousand dollars (\$25,000), subject to the City receiving any and all documentation deemed appropriate, such as paid receipts, waivers of lien, etc.

Section 3: It shall be a condition precedent to the effectiveness of this ordinance and the recording and filing of the Plat of Vacation as provided for in Section 4 that the conditions contained in Section 2 of this ordinance be satisfied.

Section 4: The Mayor is authorized and directed to execute the Plat of Vacation prepared by Engineering Resource Associates, Inc., Warrenville, Illinois; 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, at the expense of the petitioner, and shall also be filed in the office of the DuPage County Clerk, DuPage County, Illinois.

Section 5: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 6: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Mayor

ATTEST:

Evelyn M. Chvala, a/s/a
City Clerk

Ayes: Roll Call Vote:
Councilman Mouhelis
Councilman Suess
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilman Levine

Nays: None
Absent: None

Motion Carried Unanimously

Passed: April 17, 2006
Published: April 18, 2006