

ORDINANCE NO. F-1261

AN ORDINANCE VACATING THE ALLEY ADJACENT TO 120 E. LIBERTY, 110 E. LIBERTY AND 114 E. WILLOW – WHEATON PROPERTY PARTNERS LLC

WHEREAS, a written petition has been filed by Wheaton Property Partners LLC (“Petitioner”), requesting the vacation of a certain alley right-of-way commonly known as the alley adjacent to 120 E. Liberty, 110 E. Liberty and 114 E. Willow; 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 March 5, 2007, 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 the alley adjacent to 120 E. Liberty, 110 E. Liberty and 114 E. Willow:

THAT PART OF BLOCK 4 IN WARREN L. WHEATON'S ADDITION TO THE TOWN OF WHEATON, BEING A SUBDIVISION IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 1857 AS DOCUMENT 11976 IN DuPAGE COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 10 IN SAID BLOCK 4, SAID CORNER BEING ON THE WEST RIGHT OF WAY LINE OF CROSS STREET; THENCE SOUTH 84 DEGREES 31 MINUTES 51 SECONDS WEST, ALONG THE NORTH LINE OF LOTS 10, 9, 8, AND 7 IN SAID BLOCK 4, A DISTANCE OF 233.72 FEET TO THE INTERSECTION OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF THE WEST 33.00 FEET OF LOT 4 IN SAID BLOCK 4 WITH THE NORTH LINE OF SAID LOT 7 IN BLOCK 4; THENCE NORTH 00 DEGREES 35 MINUTES 33 SECONDS WEST, ALONG SAID SOUTHERLY EXTENSION OF THE EAST LINE OF THE WEST 33.00 FEET OF SAID LOT 4 IN BLOCK 4, A DISTANCE OF 19.87 FEET TO THE SOUTH LINE OF SAID LOT 4 IN BLOCK 4; THENCE NORTH 84 DEGREES 31 MINUTES 51 SECONDS EAST ALONG THE SOUTH LINE OF LOTS 4, 3, 2, AND 1 IN SAID BLOCK 4, A DISTANCE OF 233.76 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1 IN BLOCK 4, SAID CORNER BEING ON THE WEST RIGHT OF WAY LINE OF CROSS STREET; THENCE SOUTH 00 DEGREES 28 MINUTES 16 SECONDS EAST, ALONG SAID WEST RIGHT OF WAY LINE OF CROSS STREET, A DISTANCE OF 19.88 FEET TO THE POINT OF BEGINNING, IN DuPAGE COUNTY, ILLINOIS

CONTAINING 0.106 ACRES MORE OR LESS.

(Hereafter referred to as the “Subject Property”.)

The Subject Property shall be vacated to 120 E. Liberty and 114 E. Willow; PIN 05-16-316-009 & 011.

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

- A. 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 right-of-way vacation.
- B. Petitioner shall comply with all of the terms and conditions of the Development Agreement between the City of Wheaton and Wheaton Property Partners, LLC dated February 20, 2007 ("Development Agreement").
- C. The Plat of vacation shall contain a reversion of title provision providing for the revision of title to any portion of the subject property which is conveyed to petitioner to immediately revert to the City of Wheaton in the event Petitioner does not fully comply with the provisions of the Development Agreement; the revision provision on the Plat shall require Petitioner to re-convey title to the City by warranty deed. The reversion provision shall be subject to the approval of the City Attorney.
- D. By accepting title to any portion of the subject property and the benefits of this Ordinance, Petitioner, its successors, assigns and grantees hereby agrees to all provisions of this Ordinance and further agrees to fully comply with the terms of this Ordinance.
- E. This Ordinance shall be recorded in the office of the DuPage County Recorder of Deeds at the expense of Petitioner and the terms and provisions of this Ordinance shall be considered to be real covenants running with and binding the subject property, in perpetuity.

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 Manhard Consulting, Ltd. dated 1/22/07; 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:

Emily M. Cervalange
City Clerk

Roll Call Vote

Ayes:	Councilman Bolds Councilwoman Corry Councilman Johnson Mayor Carr Councilman Levine Councilman Mouhelis
Nays:	Councilman Suess
Absent:	None

Motion Carried Unanimously

Passed: March 12, 2007
Published: March 13, 2007