

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
JULY 10, 2007 AGENDA

| SUBJECT: | TYPE: | SUBMITTED BY: |
|--|--|--|
| Vacation of Public Alley at 4714 Douglas Road | Resolution ✓ Ordinance Motion Discussion Only | Tom Dabareiner, AICP Community Development Director |

SYNOPSIS

An ordinance has been prepared vacating the public alley immediately west of 4714 Douglas Road.

STRATEGIC PLAN ALIGNMENT

The Five Year Plan and Goals for 2006-2011 identified *Preservation of the Residential and Neighborhood Character*. Supporting these goals are the objectives *Continuing Reinvestment in the Neighborhoods*.

FISCAL IMPACT

Staff is recommending the petitioner compensate the Village for the vacated alley per the Right-of-Way Vacation Policy. The recommended compensation is \$2,493.91. The estimated Equalized Assessed Value for this land is \$7,582. Placing this land on the tax rolls would generate approximately \$373 per year in total taxes to all taxing bodies. The Village portion of the annual real estate taxes is estimated to be \$31.

UPDATE & RECOMMENDATION

The Village Council reviewed the alley vacation for 4714 Douglas Road property three times in January, February and March 2007. The Village Council tabled those vacations to allow staff to work with the petitioners on payment for the property. Staff recommended the Council review this proposal with the other vacation requests.

Staff recommends approval on a future agenda once the plat of vacation and payment is received in the amount of \$2,493.91.

BACKGROUND

The petitioner is requesting the Village vacate the fourteen foot (14') north-south alley that is located immediately north of and adjacent to their property at 4714 Douglas Road. Currently, the alley is used as green space. The adjoining property owners have not requested a portion of the alley and do not object to the proposed vacation.

When this specific alley was platted, the alley was dedicated to the Village at no cost for the construction of public right-of-ways and utility corridors. The Village has not constructed or used this specific alley as a public right-of-way. Utility companies use a portion of the alley for their utilities and for access to the utilities. Based on current use and future plans, the Village's current and future need for the land can be accomplished by securing a public utility and drainage easement.

The recommended easement would enable the Village to provide future utility and drainage improvements to the area. While the easement will limit the ability of the petitioners to construct a structure more significant than a fence on the vacated alley, the petitioners will gain additional buildable area to their properties which will enable them or future property owners to construct larger homes on the parcels. The recommended easement is consistent with current subdivision regulations.

Sections 19.14 and 19.17 of the Village Code require a permit to be issued to improve a public alley. The Code requires that the improvements to the alley meet Village construction specifications and storm water management standards and would have to be constructed along the entire length and width of the alley to the nearest public right-of-way. In this case, any improvements would have to stretch from Austin Street south to Rogers Street.

Per the Village's right-of-way vacation policy (Resolution 2003-58), staff contacted the utility companies and public entities and determined rights to the alley should be retained for utility and drainage purposes. Staff believes the Village should maintain an easement over the entire vacated alley.

The Plan Commission considered the project at their December 4, 2006 meeting and unanimously recommended approval of the proposed right-of-way vacation with the recommended easement language. The Plan Commission did not opine on the recommended compensation.

ATTACHMENTS

Locator Map

Draft Ordinance

Staff Report, with attachments, dated December 4, 2006

Minutes of Plan Commission Public Hearing dated December 4, 2006



CHICAGO AVE

Alley vacated to 513 Chicago Avenue

4714 Douglas

GIERZ ST

DOUGLAS RD



Attachment A - Alley and Property Map
 PC 29-06 Alley Vacation
 PI#: 09-08-212-031

Department of Community Development

Legend

- Alley to be vacated
- Petitioner's property
- Alley vacated to 513 Chicago Ave



CHICAGO AVE

539 537

531

527

513

532

528

522

509

4708

4714

4716

GIERZ ST

DOUGLAS RD

Proposed Alley Vacation
(4714 Douglas Rd)

503

4713

500

4725

ORDINANCE NO. _____

**AN ORDINANCE VACATING A CERTAIN PORTION OF A
PUBLIC ALLEY NORTH OF 4714 DOUGLAS ROAD
IN THE VILLAGE OF DOWNERS GROVE**

WHEREAS, it has been determined by the Council of the Village of Downers Grove in DuPage County, Illinois, that it is in the public interest to vacate a certain portion of an unimproved and un-named public alley right-of-way (the unimproved alley right-of-way located immediately north of the property commonly known as 4714 Douglas Road, Downers Grove, IL) in said Village hereinafter more particularly described; and

WHEREAS, there are certain public service facilities situated in said portion of said right-of-way, and the Village Council has determined that it is necessary and in the public interest to reserve such rights-of-way and easements as are in the judgment of the Council necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof; and

WHEREAS, the required public notice has been given and a public hearing respecting said vacation has been conducted in accordance with applicable law; and

WHEREAS, the Village Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of said portion of said right-of-way.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That the following described property, to wit:

The 14 foot public alley lying immediately North of Lots 6 and 7 in Block 2 in Gostyn, being a subdivision of part of the Northeast Quarter of Section 8, Township 38 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded June 8, 1889 as Document Number 41158, in DuPage County, Illinois.

Adjacent to 4714 Douglas Road, Downers Grove, IL (PIN 09-08-212-031)

(hereinafter referred to as the "Vacated Alley Right-of-Way"), is hereby vacated and closed, and that it is hereby declared that the same is no longer required for public use and that the public interest will be served by such vacation.

SECTION 2. An easement is hereby reserved for and granted to the Village of Downers Grove, County of DuPage, and to utility companies operating under franchise from the said Village including, but not limited to, AT&T, Commonwealth Edison Company, Comcast, the Downers Grove Sanitary District and their respective successors and assigns jointly and severally, over all of the areas marked "Public Utilities Easement Reservation" on the plat of vacation of the Vacated Alley Right-of-Way as described herein for the perpetual right, privilege and authority to construct, reconstruct, repair, inspect, maintain and operate various utility transmission and distribution systems and community antenna televisions systems and all necessary connections, appliances and other structures and appurtenances as may be deemed necessary by said Village and for any and all municipal purposes, over, upon, along, under and through said indicated easements, together with right of access across the property to do any of the above work. The right is also granted to cut down, trim or remove any trees, shrubs or other plants that interfere with the operation of the utilities. No permanent buildings or structures shall be placed on said easements, but same may be used for gardens,

shrubs, landscaping, driveways, fences and other purposes that do not then or later interfere with the aforesaid uses and rights. All installations shall be subject to the ordinances of the Village of Downers Grove. Easements are hereby reserved for and granted to the Village of Downers Grove and other governmental authorities having jurisdiction of the land over the entire easement area for ingress, egress and the performance of any and all municipal and other governmental services.

SECTION 3. This vacation shall be subject to the following conditions:

1. Prior to the petition being considered by the Village Council, the Petitioner must submit a plat of vacation which shall specifically include the easement language contained in Section 2 of this Ordinance.
2. The Petitioner shall pay to the Village of Downers Grove \$2,493.91.
3. The vacation shall substantially conform to the staff report dated December 4, 2006 and with the plat of vacation submitted to the Village of Downers Grove dated _____ prepared by _____.

SECTION 4. That the Mayor and Clerk of the Village of Downers Grove are hereby authorized to sign the plat of vacation of the Vacated Alley Right-of-Way described herein.

SECTION 5. That a certified copy of this ordinance and an accurate Plat of the Vacated Alley Right-of-Way which specifically includes the easement language contained in Section 2 of this ordinance shall be filed for record by the Clerk of the Village of Downers Grove in the Office of the Recorder of Deeds, DuPage County, Illinois, at the Petitioner's expense.

SECTION 6. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. That this ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk



Village of Downers Grove

STAFF REPORT

TO: Plan Commission **HEARING DATE:** December 4, 2006

FROM: Department of Community Development **PREPARED BY:** Stan Popovich, AICP Planner

TITLE

PC-29-06; 4714 Douglas Road – Alley Vacation; The petitioner is requesting that the Village vacate a fourteen foot (14') alley immediately north of 4714 Douglas Road.

APPLICATION/NOTICE: The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

OWNER: Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515

APPLICANTS: Roger and Kim Penninger
4714 Douglas Road
Downers Grove, IL 60515

PROPERTY INFORMATION

EXISTING ZONING: R-4 Single Family Residence (Surrounding properties)
EXISTING LAND USE: Unimproved Alley.
PROPERTY SIZE: Approximately 6,250 square feet (4714 Douglas Road) and 1,750 square feet (14-foot public alley proposed to be vacated).
PIN: 09-08-212-031 (4714 Douglas Road)

SURROUNDING ZONING AND LAND USES:

ZONING

| | |
|---------------|-----------------------------|
| NORTH: | R-4 Single Family Residence |
| SOUTH: | R-4 Single Family Residence |
| EAST: | R-4 Single Family Residence |
| WEST: | R-4 Single Family Residence |

FUTURE LAND USE

| |
|---------------------------|
| Residential (0-6 DU/Acre) |
| Residential (0-6 DU/Acre) |
| Residential (0-6 DU/Acre) |
| Residential (0-6 DU/Acre) |

ANALYSIS

SUBMITTALS

This report is based on the following documents, which are on file with the Department of Community Development:

1. Application/Petition for Public Hearing
2. Proof of Ownership
3. Project Summary Letter
4. Plat of Survey
5. Letters Not Objecting to Vacation from Owner Adjacent to Alley
6. Letters Not Objecting to Vacation from Utility Companies

DESCRIPTION

The applicant is requesting the Village vacate a fourteen foot (14') alley that is immediately north of and adjacent to their property at 4714 Douglas Road. Currently, there is an unimproved east-west alley and an unimproved north-south alley between Chicago Avenue and Gierz Street. The portion of the alley in question is the east-west alley that is parallel to and approximately 250 feet south of Chicago Avenue (see Attachment A). The alley is currently a lawn that is maintained by the petitioner.

The Village recently vacated a portion of the alley that runs north-south along the rear of the petitioner's property. A section of the north-south alley was vacated to the property owner at 513 Chicago Avenue at the September 5, 2006 Village Council meeting. The alley was vacated with drainage and utility easements.

Per the Village's right-of-way vacation policy (Resolution 2003-58), staff contacted the utility companies and public entities (including the Police Department, Fire Department and Public Works Department) to determine if any rights to the alley should be retained. Currently, Commonwealth Edison and AT&T have utility poles, aerial lines, and other equipment located in the alley. Neither entity has an objection to the vacation provided that an easement is retained. The Public Works Department recommended retaining a drainage and utility easement. The retention of an easement will significantly limit the types of structures that can be built on the alley property. A fence is the most significant structure that would likely be built in the vacated alley. The petitioner has been informed of this requirement and does not object to the easement.

COMPLIANCE WITH THE FUTURE LAND USE PLAN

According to the Future Land Use Plan, the property at 4714 Douglas Road is designated as Residential (0-6 DU/Acre). All surrounding properties are similarly designated. Currently, all the properties surrounding the alley are zoned R-4. The use of the alley will not be significantly altered as the Village is requiring that an easement be retained. Staff believes the proposed vacation and use is consistent with the designation on the Future Land Use Map. The proposal is also consistent with other Village planning documents.

COMPLIANCE WITH THE ZONING ORDINANCE

No significant changes will occur in the land use. The uses on the surrounding properties are single family residences. This use will continue to be consistent with zoning requirements. The addition of the alley will increase the size of the 4714 Douglas Road property by 1,750 square feet and fourteen feet (14') in width. The extra land will increase the property's compliance with the zoning requirements. No new buildings or uses are proposed for the portion of the alley to be vacated. The retention of an easement will significantly limit the types of structures that can be built on the alley property. A fence is the most significant structure that would likely be built in the vacated alley.

COMPLIANCE WITH THE SUBDIVISION ORDINANCE

This section is not applicable.

COMPLIANCE WITH THE SIGN ORDINANCE

This section is not applicable.

COMPLIANCE WITH THE OGDEN AVENUE MASTER PLAN

This section is not applicable.

ENGINEERING/PUBLIC IMPROVEMENTS

This section is not applicable.

PUBLIC SAFETY REQUIREMENTS

The Fire Department and the Police Department have reviewed the plans for the vacation and noted no objections to the vacation of the alley.

NEIGHBORHOOD COMMENT

The neighbors immediately north and adjacent to the alley (4708 Douglas Road) have provided a written statement indicating that they do not object to the vacation. Additionally, these neighbors are not requesting a portion of the alley.

STAFF FINDINGS

Compliance with the Procedure to be Followed in the Vacation of Streets, Alleys, and Public Rights-of-Way (Resolution #2003-58)

Staff believes the request complies with the Village policy outlined in Resolution #2003-58. The alley is not used for public traffic and is currently maintained as a yard by the applicant. Staff believes the alley right-of-way does not need to be retained for the general health, safety and welfare of Village residents. The utility providers affected by the vacation have noted that an easement is acceptable to maintain existing utility facilities. Staff believes the existing utilities and public needs can be addressed with an easement and is recommending retaining an easement over the entire portion of the alley to be vacated.

The neighbor immediately north and adjacent to the alley stated that he does not object to the vacation. Additionally, this owner is not requesting any portion of the alley. Staff recommends that the entire fourteen (14) feet be vacated to the owner of 4714 Douglas Road.

At the petitioner's sole expense, the petitioner will be required to provide a Plat of Vacation by a licensed surveyor. The licensed surveyor shall consult with the DuPage County Recorder to determine how the Plat of Vacation shall be prepared to meet the DuPage County requirements. The surveyor shall adequately describe the vacated alley of the Plat of Vacation.

Staff recommends that the petitioner provide the Village with compensation for the vacated alley. Compensation is typically determined by a land value assessment, an appraisal, or a purchase price for redevelopment. The Village Council decided the most recent alley vacation (adjacent to 513 Chicago Avenue) compensation. Originally, \$3,000 was recommended as just compensation by staff, but after review by the Council, it was agreed that the Village would require a \$1 payment for the 1,750 square foot alley. Staff believes that the alley compensation should be determined on the latest assessment of land adjacent to the alley. When land will be encumbered with an easement, land is generally valued at one-third (1/3) of the value of the same property that does not have an easement. The following table provides the estimated value of the petitioner's land.

Table 1. Estimated value of alley

| Property Address | Land Value | Land Value per Acre | Acres of Alley to be vacated | Estimated Value | Encumbered Value |
|-------------------|------------|---------------------|------------------------------|-----------------|------------------|
| 4714 Douglas Road | \$ 26,900 | \$188,111.89 | 0.04017 | \$ 7,557.30 | \$ 2,493.91 |

Staff recommends that the petitioner compensate the Village in the following amounts:

Table 2. Recommended compensation

| Property Address | Encumbered Value |
|-------------------|------------------|
| 4714 Douglas Road | \$ 2,493.91 |

RECOMMENDATIONS

The proposed right-of-way vacation is compatible with the surrounding zoning and land use classifications. Based on the findings listed above, staff recommends that the Plan Commission make a motion recommending approval of a right-of-way vacation for the portion of the fourteen foot (14') public alley immediately north of and adjacent to 4714 Douglas Road to the Village Council subject to the following conditions:

1. The Vacation shall substantially conform to the staff report dated October 16, 2006 and with the Plat of Survey submitted to the Plan Commission dated January 24, 1992 prepared by James J. Keller, Registered Land Surveyor, except such plans may be modified to conform to Village Codes and Ordinances and the following conditions:
 - a. A utility and drainage easement shall be retained by the Village of Downers Grove and other applicable utility companies for the maintenance of the existing utility facilities and future utility needs.
 - b. The construction of future structures on the alley proposed to be vacated shall be limited to fences. Construction of any new buildings on the alley shall not be permitted.
2. Prior to final Village Council consideration, the petitioner shall have a Plat of Vacation prepared by a licensed surveyor.
3. Prior to completion of the Plat of Vacation, the licensed surveyor shall contact and discuss with the DuPage County Recorder as to how the vacated land shall be described on the Plat of Vacation.
4. Prior to final Village Council consideration, the petitioner shall provide the Village with compensation for the alley as shown in Table 2 above.

Staff Report Approved By:

Don Rosenthal
Director of Community Development

DR:sjp
-att

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING, DECEMBER 4, 2006, 7:00 P.M.

FILE NO. PC-29-06 A petition seeking an Alley Right of Way Vacation; Alley immediately North of property commonly known as 4714 Douglas Road, Downers Grove, IL (PIN 09-08-212-031); Roger William Penninger, Petitioner; Village of Downers Grove, Owner

Chairman Jirik swore in those individuals who would be speaking on File No. PC-29-06.

Mr. Stan Popovich, village planner, discussed the property is located on the west side of Douglas and is currently zoned R-4. The 14-foot alley runs east/west and the request is for a vacated alley. Currently, the petitioner maintains the alley as a yard. The utility companies, necessary city departments, and public entities were contacted so that no barriers exist to vacate the alley. ComEd and AT&T have utility poles and utility lines within the vacated area in the alley and allowing them the easement for access would be acceptable. The village's Public Works Department requested a drainage and utility easement. Should the petition be granted, the most significant structure allowed would be a fence. No objections were received from the neighbors. Per staff, the petition does comply with the village's Future Land Use Map. Should the vacation be approved, the petitioner will have to prepare a plat of vacation to be submitted to village staff. Staff recommended that the petitioner compensate the village for the vacation based on the latest land value of properties, or \$2,493.91. Staff recommended approval of the vacation.

A previous vacation was noted for 513 Chicago Avenue and details followed on that vacation, noting the village had to charge the petitioner a fee for the land. To be fair to all petitioners, the village is including as a condition for approval that the Village Council makes the final decision as to compensation. While few alley vacations have occurred, staff was trying to be consistent by following the council's policy with having an appraisal attached to the land being vacated and being fair. Asked if it was appropriate for the commission to support or not support the valuation, staff felt it would be appropriate to discuss the matter at the Village Council level.

Petitioner and owner of the property, Mr. Roger Penninger, stated he moved into the property 18 years ago and trees existed everywhere. Over the years when a new home was constructed kitty-corner from him, the owners removed the trees and paved the area that now floods his back yard. When he asked the village what could be done to protect the easement between the two lots, the village told him nothing. Therefore, he requested to purchase the land. He has no intention to build upon it. He has maintained the easement for the past 18 years. He asked if he was expected to pay the \$2500 when the neighbor kitty-corner from him paid \$1.00 for it. Chairman Jirik said that matter would be addressed at the Village Council level.

Chairman Jirik opened the meeting to public comment. No public comment received. The public comment portion was closed.

Mr. Cozzo confirmed with Mr. Popovich that the restriction would run with the land.

WITH RESPECT TO PC FILE NO. PC-29-06 MR. BEGGS MADE A MOTION TO FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL APPROVING THE VACATION OF A RIGHT-OF-WAY FOR THE PORTION OF THE FOURTEEN FOOT (14') PUBLIC ALLEY IMMEDIATELY NORTH OF AND ADJACENT TO 4714 DOUGLAS ROAD TO THE VILLAGE COUNCIL SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE VACATION SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT DATED OCTOBER 16, 2006 AND WITH THE PLAT OF SURVEY SUBMITTED TO THE PLAN COMMISSION DATED JANUARY 24, 1992 PREPARED BY JAMES J. KELLER, REGISTERED LAND SURVEYOR, EXCEPT SUCH PLANS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES AND ORDINANCES AND THE FOLLOWING CONDITIONS:**
 - a. A UTILITY AND DRAINAGE EASEMENT SHALL BE RETAINED BY THE VILLAGE OF DOWNERS GROVE AND OTHER APPLICABLE UTILITY COMPANIES FOR THE MAINTENANCE OF THE EXISTING UTILITY FACILITIES AND FUTURE UTILITY NEEDS.**
 - b. THE CONSTRUCTION OF FUTURE STRUCTURES ON THE ALLEY PROPOSED TO BE VACATED SHALL BE LIMITED TO FENCES. CONSTRUCTION OF ANY NEW BUILDINGS ON THE ALLEY SHALL NOT BE PERMITTED.**
- 2. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL HAVE A PLAT OF VACATION PREPARED BY A LICENSED SURVEYOR.**
- 3. PRIOR TO COMPLETION OF THE PLAT OF VACATION, THE LICENSED SURVEYOR SHALL CONTACT AND DISCUSS WITH THE DUPAGE COUNTY RECORDER AS TO HOW THE VACATED LAND SHALL BE DESCRIBED ON THE PLAT OF VACATION.**
- 4. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL PROVIDE THE VILLAGE WITH COMPENSATION FOR THE ALLEY AS SHOWN IN TABLE 2 ABOVE.**

SECONDED BY MRS. RABATAH. ROLL CALL:

AYE: MR. BEGGS, MRS. RABATAH, MR. COZZO, MR. MATEJCZYK, MR. QUIRK, MR. WEBSTER, CHAIRMAN JIRIK

NAY: NONE

MOTION PASSED. VOTE: 7-0.