



MEMORANDUM

TO: Mayor Diane Wolfe Marlin and Members of the City Council
FROM: William R. Gray, Public Works Director
Bradley M. Bennett, Assistant City Engineer
DATE: March 22, 2018
RE: Update on West Church Street Right-of-Way Vacation at intersection with North Lincoln Avenue

Update

Section 3, requiring the Tekton Group LLC Series Churchill to construct an eight-foot wide shared-use path, was added to the ordinance vacating a certain portion of right-of-way for Church Street west of Lincoln Avenue.

The City Council approved a resolution on July 6, 1998 stating alleys with abutting properties that are zoned residential may be vacated without any monetary compensation from the abutting property owners. A copy of that resolution is provided in Attachment A for your reference.

Recommendations

It is recommended that “AN ORDINANCE VACATING A CERTAIN PORTION OF RIGHT-OF-WAY (Church Street West of Lincoln Avenue)” be approved.

Attachments: AN ORDINANCE VACATING A CERTAIN PORTION OF RIGHT-OF-WAY
(Church Street West of Lincoln Avenue)

Attachment A – Resolution 9899-R2 – A Resolution Revising A Resolution Regarding Policy on Vacation of Alleys

ORDINANCE NO. 2018-03-021

**AN ORDINANCE VACATING A CERTAIN PORTION OF RIGHT-OF-WAY
(Church Street West of Lincoln 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, Tekton Group LLC Series Churchill and Illinois American Water Company are the owners of all of the land abutting a certain portion of unimproved east-west right-of-way located west of the intersection of North Lincoln Avenue and West Church Street and more particularly described herein; and

WHEREAS, the aforestated owners have petitioned the City of Urbana (“City”) to vacate said portion of right-of-way; 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 owners have agreed to pay all costs to maintain the right-of-way after such vacation, except as otherwise provided in this Ordinance; 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; and

WHEREAS, certain public service facilities are situated in the right-of-way to be vacated; and

WHEREAS, the City Council finds that the public interest is best served by the City's retention of a permanent easement in the right-of-way for the maintenance, renewal, and reconstruction of those facilities; and

WHEREAS, the owners have agreed to construct a concrete eight-foot wide shared-use path upon a portion of the vacated right-of-way to facilitate pedestrian and bicycle travel along the West Church Street corridor between North Harvey Street and North Lincoln Avenue; 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 for the maintenance, renewal, and reconstruction of such shared-use path; 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 the permanent easements, as provided below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, 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 east-west right-of-way located west of the intersection of North Lincoln Avenue and West Church Street:

A part of the Southeast Quarter of Section 7, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, being more particularly described as follows:

Beginning at the southwest corner of Lot 5 of Justus S. Templeton Subdivision, as shown on a plat recorded in Plat Book "G" at page 104 in the Office of the Recorder of Deeds, Champaign County, Illinois, thence, N89°33'30"E, along the southerly line of Lots 5, 4, 3 and 2 of said Justus S. Templeton Subdivision and the northerly right-of-way line of Church Street, 282.24 feet, to the southwesterly corner of a tract dedicated as right-of-way by Document Number 2008R16345, as recorded in the Office of the Recorder of Deeds, Champaign County, Illinois; thence, N25°52'27"E, along the westerly line of said dedication, 22.27 feet, to the existing westerly right-of-way line of Lincoln Avenue; thence, S00°48'25"E, along the southerly extension of said existing westerly right-of-way line of Lincoln Avenue, 96.15 feet, to a point on the westerly line of a tract dedicated as right-of-way by City of Urbana Ordinance Number 2018-02-015; thence, N45°31'01"W, 71.07 feet, along the westerly line of said tract described in City of Urbana Ordinance Number 2018-02-015, to a point on the southerly right-of-way line of Church Street, said line also being the southerly line of said Justus S. Templeton Subdivision; thence, S89°33'30"W, along said southerly right-of-way line, 242.24 feet, to the westerly line of said Justus S. Templeton Subdivision; thence, N00°48'25"W, along said westerly line, 26.00 feet, to the Point of Beginning.

Said vacation containing 8,952.67 Square Feet (0.206 Acres), 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 owner of the land abutting the north side of the vacated right-of-way for the extent of the common borders of the owner's respective parcels with the said right-of-way.

The owner, permanent index numbers, and addresses of the land abutting the north side of the right-of-way described above are as follows:

Tekton Group LLC Series Churchill 91-21-07-429-020 906 West Church Street

Tekton Group LLC Series Churchill 91-21-07-429-019 908 West Church Street

Tekton Group LLC Series Churchill 91-21-07-429-018 910 West Church Street

Tekton Group LLC Series Churchill 91-21-07-429-022 701 North Lincoln Avenue

Section 3.

The vacation of the above-described right-of-way shall be subject to the following conditions:

A. 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; and

B. A perpetual easement upon said vacated right-of-way is hereby reserved for and granted to the City of Urbana, Illinois, to operate, maintain, inspect, repair, reconstruct, remove, or replace a concrete eight-foot wide pedestrian and bicycle shared-use path for the use and enjoyment of the general public.

C. Tekton Group LLC Series Churchill shall construct but not maintain a concrete eight-foot wide pedestrian and bicycle shared-use path upon said vacated right-of-way at a location depicted in a site plan first approved by the City of Urbana, Illinois, and in accordance with all federal and state laws and all City of Urbana, Illinois, codes, rules, regulations, orders, permits, and other requirements. Tekton Group LLC Series Churchill shall complete construction of such shared-use path no later than April 1, 2019, unless the City Engineer of the City of Urbana, Illinois, agrees to extend the completion date in writing. Otherwise, the said vacated right-of-way shall revert to the City of Urbana, Illinois, and the vacation granted pursuant to this Ordinance will become null and void with no further action by the City Council necessary.

Section 4.

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, as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 5.

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 6.

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:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ___ day of _____, _____.

Diane Wolfe Marlin, Mayor

ATTACHMENT A

RESOLUTION NO. 9899-R2

A RESOLUTION REVISING A PRIOR RESOLUTION REGARDING POLICY ON
VACATION OF ALLEYS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA,
ILLINOIS, that Resolution No. 7475-R19 is hereby repealed.

Section 1. Residential Alleys. Alleys upon which all abutting properties are zoned residential may be vacated without any monetary compensation to the City from the abutting owners unless the City Council determines that relieving the City of maintenance responsibilities is not sufficient compensation for such action, in which case the vacation of such alley may be made contingent upon payment to the City of the amount of compensation as determined by the City Council in accordance with the procedures set forth in Section 3 below.

Section 2. Non-Residential Alleys. Alleys which are not abutted upon one hundred percent (100%) by properties which are zoned for residential use, may be vacated upon payment to the City of the compensation calculated and determined as set forth in Section 3 below provided, however, the City Council may waive such compensation or give credit for other consideration flowing to the City.

Section 3. The procedure to be used in determining and calculating the amount of compensation to be paid to the City for the vacation of an alley shall be for the City to obtain at least one appraisal of the subject alley, but if a second appraisal is obtained by the City, then the average of both appraisals shall be used plus the appraisal fee(s) in arriving at the compensation to be paid to the City.


Section 4. No alley, however, shall be vacated if, in the judgment of the City Council, any abutting property owner would be deprived of reasonable access to their property.

PASSED by the City Council this 6th day of July, 1998.




Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 9th day of July, 1998.



Tod Satterthwaite, Mayor