

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) X *Waiver of First Requested*
____ Recommendations of Boards, Commissions & Committees (Green)
____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: David A. Hulseberg, Village Manager
DATE: February 1, 2013 (B of T) Date: March 7, 2013
TITLE: Progress Road ROW Vacation
SUBMITTED BY: Department of Community Development *WJH*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a vacation of a portion of the public right-of-way of Progress Road, east of Garfield Street. This vacation is part of the development agreement, Resolution 31-12, Section 9.

Staff recommends approval of this request. Staff also requests a waiver of first reading as subsequent Village Board actions have already accepted the public improvements and an easement for this property.

As the actions in this agreement would require 5 of 6 favorable votes of the Village Board to approve, please place this item on the March 7, 2013 Board of Trustees agenda under Items for Separate Action.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development *WJH*

DATE: March 7, 2013

SUBJECT: **Motion to Approve a Plat of Vacation/Easement Dedication for E. Progress Road**

Attached is an Ordinance vacating a segment of East Progress Road, east of Garfield Street and also granting a public utility easement and ingress/egress easement over the proposed area to be vacated. This request is being brought forward by the Village of Lombard, per the development agreement approved on September 15, 2011, as Resolution 31-12, for 240 East Progress Road. The street is currently utilized for private driveway access to the 240 East Progress Road property. There are public utilities located within the street right-of-way; as such, staff also suggests that a public utility easement be granted over the area to be vacated.

The attached Plat of Vacation was prepared and signed by the property owner, School of Expressive Arts and Learning. Please request the Board of Trustees to approve the Plat of Vacation by motion at their March 7, 2013 meeting. Please call either Jana Bryant or myself if you have any questions.

WJH/JB:jb

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ORDINANCE NO. _____

**AN ORDINANCE VACATING A PORTION OF THE PROGRESS ROAD
RIGHT-OF-WAY, EAST OF GARFIELD STREET**

WHEREAS, the Village of Lombard (hereinafter the “VILLAGE”) maintains a right-of-way of fifty-three feet (53) in width for that portion of Progress Road which is located within the corporate limits of the VILLAGE; and

WHEREAS, a private educational/institutional building, known as the School for Expressive Arts and Learning (hereinafter the “SCHOOL”), has been developed East of the Eastern terminus of the Progress Road right-of-way, at 240 Progress Road, Lombard Illinois; and

WHEREAS, said SCHOOL is subject to a development agreement for Lot 1 of the Terrace Lakes Subdivision, approved by the President and Board of Trustees (hereinafter the “Corporate Authorities”) of the VILLAGE on September 15, 2011 (Village Resolution No. 31-12) (hereinafter the “Development Agreement”); and

WHEREAS, the Corporate Authorities find that the Progress Road right-of-way, East of Garfield Street (hereinafter referred to as the “SUBJECT RIGHT-OF-WAY”) extends for a length of 257.71 feet, and terminates without a turn-around cul-de-sac; and

WHEREAS, the Corporate Authorities find that no abutting property owners currently take access from the SUBJECT RIGHT-OF-WAY; and

WHEREAS, the Corporate Authorities find that the existing lot, to the South of the SUBJECT RIGHT-OF-WAY, is vacant, and can be accessed from Garfield Street; and

WHEREAS, the Corporate Authorities find that the existing lot, to the North of the SUBJECT RIGHT-OF-WAY, is currently improved with a mortuarial service establishment, with the access thereto from Garfield Street; and

WHEREAS, the Corporate Authorities have determined that environmental constraints, and existing conservation easements, preclude the possibility of Progress Road right-of-way from extending beyond its current Eastern terminus, and make the construction of a cul-de-sac bulb, in compliance with VILLAGE standards, infeasible; and

WHEREAS, the Corporate Authorities have determined that the SUBJECT RIGHT-OF-WAY would primarily be for the use and benefit of the SCHOOL, as owner of the parcel at the Eastern terminus of the SUBJECT RIGHT-OF-WAY, and would not serve the transportation needs of the VILLAGE; and

WHEREAS, the VILLAGE would benefit by transferring the future maintenance responsibilities, relative to the SUBJECT RIGHT-OF-WAY, from the VILLAGE to the SCHOOL; and

WHEREAS, the Corporate Authorities have determined that the SUBJECT RIGHT-OF-WAY is still needed for public utility purposes; and

WHEREAS, the Corporate Authorities of the VILLAGE have received a Plat of Right-of-Way Vacation for the SUBJECT RIGHT-OF-WAY, a copy of which is attached hereto as “Exhibit A” and made part hereof (hereinafter the “Plat of Vacation”); and

WHEREAS, the SCHOOL has completed, to the satisfaction of the VILLAGE, those improvements noted below, as required by the Development Agreement; and

WHEREAS, with the completion of those improvements noted below, the Corporate Authorities of the VILLAGE deem it to be in the best interest of the VILLAGE to authorize that the SUBJECT RIGHT-OF-WAY be vacated, as set forth herein, subject to the retention of a public utility easement over the SUBJECT RIGHT-OF-WAY;

NOW THEREFORE BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: The President and Board of Trustees find as follows:

- A. Pursuant to 65 ILCS 5/11-91-1, an ordinance vacating a street can provide that it shall not become effective until the owner of a particular parcel of property abutting upon the street to be vacated pays compensation to the municipality in an amount which, in the judgment of the corporate authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to said owner by reason of the vacation.
- B. Pursuant to 65 ILCS 5/11-91-1, if the ordinance vacating a street provides that only the owner of a particular parcel abutting upon the street to be vacated shall make the aforementioned compensation payment, then said owner of said particular parcel shall acquire title to the entire vacated street.
- C. That the fair market value of that portion of the SUBJECT RIGHT-OF-WAY, (as determined by an MAI appraiser) as described in Section 2 below, is Thirty-Two Thousand and No/100 Dollars (\$32,000).
- D. That the owner of Lot 1 in Terrace Lakes Subdivision, a subdivision of the Southwest Quarter of Section 32, Township 40 North, Range 11 East, of the Third Principal Meridian, DuPage County, Illinois; permanent tax index number 03-32-301-039 (hereinafter the “ABUTTING PROPERTY OWNER”) shall make payment to the Village for the entire compensation due relative to the street vacation referenced in Section 2 below, as more specifically set forth in Section 3 below.

SECTION 2: It is hereby determined that the public interest will be served by vacating the SUBJECT RIGHT-OF-WAY as hereinafter described:

THAT PART OF PROGRESS ROAD LYING SOUTH OF AND ADJOINING LOT 3 IN PROGRESS BUSINESS CENTER IN THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NO. R88-105071, BETWEEN GARFIELD STREET AND THE EAST LINE OF SAID WEST HALF, IN DU PAGE COUNTY, ILLINOIS;

as shown on the Plat of Vacation attached hereto as Exhibit "A" and designated "hereby vacated" be and the same hereby is vacated, subject to the retention of a public utility easement over the SUBJECT RIGHT-OF-WAY and the conditions listed in Section 3 below.

SECTION 3: That in lieu of the payment of compensation by the SCHOOL, as the ABUTTING PROPERTY OWNER, in the amount of Thirty-Two Thousand and No/100 Dollars (\$32,000), as set forth in Section 1 above, the SCHOOL completed construction of the following public improvements, as set forth within the Development Agreement, and provided for the following:

- A. A new depressed curb was constructed and installed connecting the East side of the Garfield Avenue curb line with the South side of the Progress Road curb line; with said design being approved by the Village Engineer.
- B. A blanket public utility easement is provided over the SUBJECT RIGHT-OF-WAY, in compliance with the VILLAGE'S Subdivision and Development Ordinance (Title 15, Chapter 154 of the Lombard Village Code).
- C. The SUBJECT RIGHT-OF-WAY has been improved in conformance with a site plan, in full conformance with all applicable VILLAGE Codes and Ordinances and consistent with the terms and conditions as noted in the Development Agreement.
- D. A Plat of Consolidation shall be submitted for approval by the Lombard Department of Community Development; with the Plat of Consolidation consolidating the entire SUBJECT RIGHT-OF-WAY and the adjoining Lot 1 of the Terrace Lakes Subdivision, into a single lot of record.

E. All public improvements constructed by the ABUTTING PROPERTY OWNER have met the requirements of the Subdivision and Development Ordinance (Title 15, Chapter 154 of the Lombard Village Code).

SECTION 4: Pursuant to 65 ILCS 5/11-91-1, the following parcel shall acquire title to the SUBJECT RIGHT-OF-WAY upon the vacation thereof: PIN: 03-32-301-039.

SECTION 5: That the Department of Community Development is hereby directed to record a certified copy of this Ordinance, along with the original Plat of Vacation, with the DuPage County Recorder of Deeds.

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this _____ day of _____, 2013.

First reading waived by action of the Board of Trustees this _____ day of _____, 2013.

Passed on second reading this _____ day of _____, 2013.

AYES _____

NAYS _____

ABSENT _____

Approved this _____ day of _____, 2013.

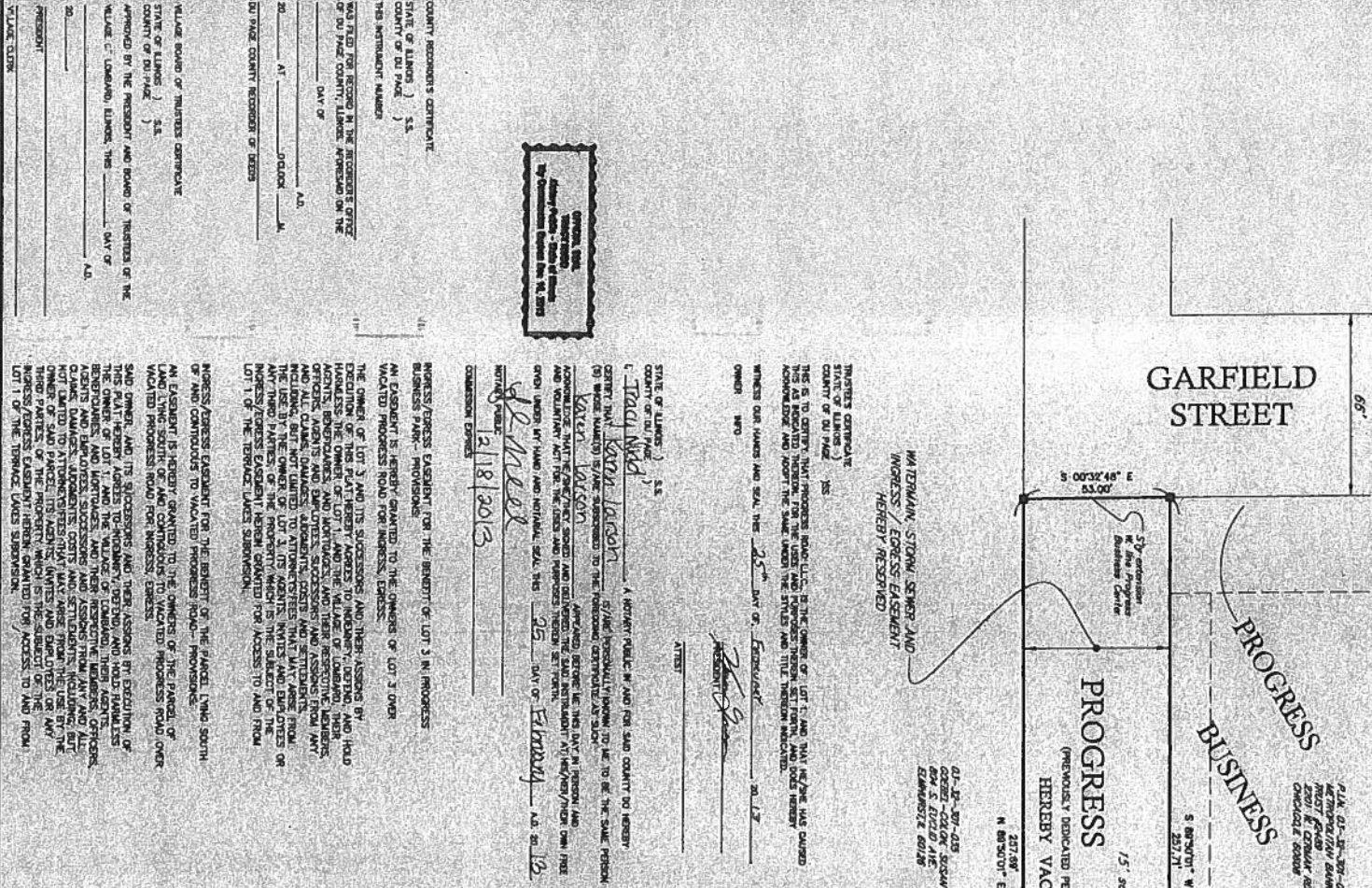
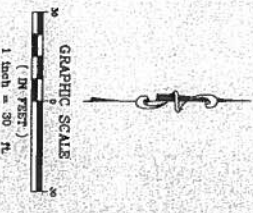
William Ware
Acting Village President

ATTEST:

Brigitte O'Brien
Village Clerk

PLAT OF VACATION

LEGAL DESCRIPTION:
 THAT PART OF PROGRESS ROAD, DEDICATED BY DOCUMENT NO. 124-05848, LIVINGSTON COUNTY, MISSOURI, WHICH LIES WEST OF THE 15' SOUTHWEST CORNER OF THE LAND SUBDIVISION, RECORDED AS DOCUMENT NO. 100-46521, AND LIES EAST OF THE PROGRESS ROAD, LIVINGSTON COUNTY, MISSOURI, AS SHOWN ON THE PLAT OF VACATION, AS DOCUMENT NO. 188-05071, IN GARFIELD COUNTY, MISSOURI, AND CONTAINING 0.314 ACRES MORE OR LESS.



THIS IS TO CERTIFY THAT THE ABOVE DESCRIBED LAND IS THE OWNERSHIP OF LOT 3 AND THAT THE SAID LAND HAS BEEN CONVEYED TO THE STATE OF MISSOURI FOR THE USES AND PURPOSES THEREIN SET FORTH, AND DOES HEREBY CONVEY AND ASSURE THE SAID SUBJECT THE EJECTA AND TITLE THEREON INDICATED.

WITNES OUR HANDS AND SEAL, THIS 25th DAY OF FEBRUARY, 2013.

COMMISSIONER

STATE OF MISSOURI) S.S.
 COUNTY OF GARFIELD)
 I, *Tracy Webb*, Clerk of said County do hereby certify that *SARA LARSON* is the person who has been duly qualified to exercise the powers and duties of the office of the Clerk of said County for the term beginning on the 25th day of February, 2013, and continuing until the 25th day of February, 2014.

COMMISSIONER

NO.	DATE	REVISIONS	DESCRIPTION	BY
1	2-25-2013	AS SHOWN	AS SHOWN	RW
2	2-25-2013	ADDITIONAL PROVISIONS	ADDITIONAL PROVISIONS	RW

DATE: 2-25-2013	SCALE: 1" = 30'	DRAWN BY: ECH	CHECKED BY: RW
PREPARED FOR: THE HIRE GROUP		FIELD BOOK: 210-0731V	
DRAWING TITLE: PLAT OF VACATION		DRAWING NO.: R.O.W.	

PLAT OF VACATION
 Ruediger, Tonelli & Associates, Inc.
 2174 OREGON STREET, SUITE 101, CLANDON, MISSOURI 64115
 PH: (816) 444-0000 FAX: (816) 444-0118