

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**  
**8/9/2016**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
708 & 712 Franklin Street - Alley Vacation	Stan Popovich, AICP Director of Community Development

**SYNOPSIS**

The petitioners are requesting approval of the vacation of a public alley located between their two properties commonly known as 708 and 712 Franklin Street. An ordinance vacating the public alley has been prepared.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2015-2017 include *Exceptional Municipal Services*.

**FISCAL IMPACT**

Per the Village's Right-of-Way Vacation Policy (Resolution #2003-58), the value of the alley is based on the fair market value of land per acre as defined by Section 20.300.d.2 of the Subdivision Ordinance. 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. As such, the fair market value of the entire alley to be vacated will be discounted to reflect the blanket easement.

The table below summarizes the estimated value:

Land Value per Acre	SF of Alley to be vacated	Estimated Value	Encumbered Value	708 Franklin Street	712 Franklin Street
\$ 545,000	2,062.5	\$ 25,805.75	\$ 8,601.92	<b>\$4,300.96</b>	<b>\$4,300.96</b>

**UPDATE & RECOMMENDATION**

This item was discussed at the August 2, 2016 Village Council meeting. Staff recommends approval on the August 9, 2016 Active Agenda.

**BACKGROUND**Property Information and Zoning Request

The applicant is requesting that the Village vacate the 16.5-foot wide by 125-foot long alley adjacent to 708 and 712 Franklin Street. The resulting vacation would be split between the two abutting properties and provide more flexibility for future site development on both lots. Most of the alley which runs from Franklin Street north to Prairie Avenue is unimproved and is not used for through traffic.

The utility providers and the Village do not have an objection to the vacation of the right-of-way as long as a public drainage, utility and access easement is retained along the entire width and length of the alley. The petitioner has submitted a plat of easement that provides the required easement.

#### Compliance with the Zoning Ordinance

No new construction or development is proposed at this time. Only a fence or driveway can be constructed within the vacated alley. The proposed vacation is consistent with the Zoning Ordinance.

#### Compliance with the Comprehensive Plan

The Residential Area Plan notes that the Village should continue to ensure that quality housing stock remains a staple of the community, and modernization of the existing housing stock is one way to achieve this. The vacation of the alley will provide more flexibility for future development. The vacation of this alley would not alter the future uses of the surrounding properties, remaining Single Family Residential. The proposed vacation is consistent with the Comprehensive Plan.

#### Public Comment

There were no public comments.

### **ATTACHMENTS**

Ordinance

Aerial Map

Staff Report with attachments dated July 11, 2016

Draft Minutes of the Plan Commission Hearing dated July 11, 2016



**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE VACATING A  
PORTION OF A PUBLIC ALLEY ADJACENT  
TO AND BETWEEN 708-712 FRANKLIN AVENUE**

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 a 16.5-foot wide by 125-foot deep improved public alley right-of-way located between the properties located at 708 and 712 Franklin Street, Downers Grove, Illinois, in said Village hereinafter more particularly described; and

WHEREAS, the K-7 Builders, Inc. and Mark Allan/B.W. Winters ("Owners") of the Properties have filed with the Plan Commission, a written petition requesting the vacation of said public right-of-way conforming to the requirements of the Village's Right-of-Way Vacation Policy (Resolution No. 2003-58); and

WHEREAS, the required public notice has been given and a public hearing respecting said vacation has been conducted by the Plan Commission on July 11, 2016 in accordance with applicable law; 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 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 all that part of the following described properties, to wit:

THE WEST 50 FEET OF LOTS 11 AND 12 AND THE WEST 50 FEET OF THE SOUTH ½ OF LOT 10 IN BLOCK 2 IN STANLEY'S ADDITION TO THE TOWN OF DOWNERS GROVE, IN THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 19, 1883, AS DOCUMENT NO. 31767, IN DUPAGE COUNTY, ILLINOIS

Commonly known as a vacant public alleyway adjacent to 708 Franklin Street, Downers Grove, IL  
PIN: 09-08-204-023

THE EAST 50 FEET OF LOTS 13 AND 14 AND THE EAST 50 FEET OF THE SOUTH ½ OF LOT 15 IN BLOCK 2 IN STANLEY'S ADDITION TO DOWNERS GROVE, IN THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS

Commonly known as a vacant public alleyway adjacent to 712 Franklin Street, Downers Grove, IL  
PIN: 09-08-204-022

(hereinafter referred to as the "Vacated 708-712 Franklin Street Alley"), 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 and that title shall be vested with the Owners.

SECTION 2. A perpetual non-exclusive easement is hereby reserved for and granted to the Village of Downers Grove, Illinois, the DuPage Water Commission and to those public utility companies operating under franchises from the said Village including, but not limited to, AT&T, Comcast Cable, Northern Illinois Gas Company, Commonwealth Edison Company, and Downers Grove Sanitary District and their respective successors and assigns, over, on, across, under, and through all of the areas on the final plat of vacation marked "Public Utilities and Access Easement Reservation" of the Vacated 708-712 Franklin Street Alley 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, fencing, paved parking, driveways 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. The vacation shall substantially conform to the staff report dated July 11, 2016.
2. Prior to final Village Council consideration, a Mylar copy of the Final Plat of Vacation shall be provided indicating a public drainage, utility and utility access easement along the entire length and width of the alley to be vacated.
3. Prior to execution of the plat, the petitioner and property owners of 708 & 712 Franklin Street shall pay the Village a total of \$8,601.92 (\$4,300.96 each).

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 708-712 Franklin Street Alley described herein.

SECTION 5. That a certified copy of this ordinance and an accurate map of the Vacated 708-712 Franklin Street Alley 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, upon satisfaction of all conditions contained in Section 3 of this ordinance.

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



0 7.5 15 Feet

708 & 712 Franklin Street Location Map





**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE PLAN COMMISSION  
JULY 11, 2016 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
16-PLC-0029 708 & 712 Franklin Street	Alley Vacation	Scott Williams Planner

**REQUEST**

The petitioner is requesting a vacation of a 16.5-foot wide by 125-foot deep alley immediately adjacent to and between the properties at 708 & 712 Franklin Street.

**NOTICE**

The application has been filed in conformance with applicable procedural and public notice requirements.

**GENERAL INFORMATION**

<b>OWNER:</b>	Village of Downers Grove 801 Burlington Avenue Downers Grove, IL 60515	
<b>APPLICANTS:</b>	George J. Arnold, Esq. 9501 W. 144 <sup>th</sup> Place Suite 205 Orland Park, IL 60462	Mark Allan and B.W. Winters 712 Franklin St. Downers Grove, IL 60515

**PROPERTY INFORMATION**

<b>EXISTING ZONING:</b>	R-4, Residential Detached House 4 (adjacent properties)
<b>EXISTING LAND USE:</b>	Unimproved Right-of-Way
<b>PROPERTY SIZE:</b>	2,062.5 square feet
<b>PINS:</b>	09-08-204-023; 022 (adjacent properties)

**SURROUNDING ZONING AND LAND USES**

	<b>ZONING</b>	<b>FUTURE LAND USE</b>
<b>NORTH:</b>	R-4, Residential Detached House 4	Single Family Residential
<b>SOUTH:</b>	R-4, Residential Detached House 4	Single Family Residential
<b>EAST:</b>	R-4, Residential Detached House 4	Single-Family Residential
<b>WEST:</b>	R-4, Residential Detached House 4	Single Family Residential

**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. Location Map
3. Public Hearing
4. Alley Plat of Survey
5. Plat of Easement/Vacation

### **PROJECT DESCRIPTION**

The applicant is requesting that the Village vacate the 16.5-foot wide by 125-foot long alley adjacent to 708 and 712 Franklin Street. The resulting vacation would be split between the two abutting properties and provide more flexibility for future site development on both lots.

Most of the alley which runs from Franklin Street north to Prairie Avenue is unimproved and is not used for through traffic. The alley includes overhead wires and a driveway leading to a detached garage on 708 Franklin Street.

Per the Village's Right-of-Way Vacation Policy (Resolution #2003-58), staff contacted the utility companies, outside public agencies and other village departments to determine if any rights to the public right-of-way should be retained. Comcast has aerial copper and/or fiber cable on utility poles within the alley. The utility providers and the Village do not have an objection to the vacation of the right-of-way as long as a public drainage, utility and access easement is retained along the entire width and length of the alley. The easement will provide adequate space for any future utility needs.

As such, the easement will restrict any construction within the vacated right-of-way except for a driveway or fence. The petitioner has been informed of this requirement and submitted a plat of easement as part of their application.

### **COMPLIANCE WITH THE COMPREHENSIVE PLAN**

According to the Future Land Use Plan, the neighboring properties and all surrounding properties are designated as Single Family Residential. The vacation of this alley would not alter the future uses of the surrounding properties, and the village will retain a permanent easement.

The Residential Area Plan notes that the village should continue to ensure that quality housing stock remains a staple of the community, and modernization of the existing housing stock is one way to achieve this. The vacation of the alley will provide more flexibility for future development. Staff finds the proposed vacation is consistent with the Comprehensive Plan.

### **COMPLIANCE WITH ZONING ORDINANCE**

The surrounding properties are zoned R-4, Residential Detached House 4. The portion of the alley being vacated will be divided between the two adjacent properties (708 and 712 Franklin Street) and zoned R-4, Residential Detached House 4.

Property	Lot Width		Lot Depth		Lot Area	
	Current	Proposed	Current	Proposed	Current	Proposed
708 Franklin St.	50 feet	58.25 feet	125 feet	125 feet	6,250 sq. ft.	7, 281.25 sq. ft.
712 Franklin St.	50 feet	58.25 feet	125 feet	125 feet	6,250 sq. ft.	7, 281.25 sq. ft.



At this time, the petitioner is not proposing any construction on their property. Because an easement is being placed on the entire alley, no new buildings or structures other than a driveway or fence could be constructed on the vacated alley. The proposed vacation is consistent with the Zoning Ordinance.

#### **PUBLIC SAFETY REQUIREMENTS**

The Fire Department has reviewed the plans for the vacation and noted no objections to the vacation of the right-of-way. The alley vacation will have no impact on emergency services.

#### **NEIGHBORHOOD COMMENT**

Notice was provided to all property owners 250 feet or less from the property line in addition to posting the public hearing sign and publishing the legal notice in the *Downers Grove Suburban Life*. Staff received two calls from a neighbor: one was seeking information and the other was verifying that both properties adjacent to the alley received notification.

#### **FINDINGS OF FACT**

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

The Village's alley vacation policy asks the following questions when it comes to determining if an alley can be vacated. These questions and staff's findings are listed below:

1. Is there written consent of at least two property owners who abut the proposed parcel to be vacated?
  - Written consent was received for two abutting property owners. The applicant, representing the owners of 708 Franklin filed the petition. The owners of 712 Franklin have provided written consent subject to purchasing the half of the alley that abuts their property which is their right.
2. Whether the Parcel or portion thereof, is no longer necessary for public use and whether the public interest will be served by such vacation request.
  - As noted above, staff contacted the utility companies and outside public agencies to determine the extent of public interest. Based on their replies, staff has determined the public interests are addressed by placing a public drainage, utility and access easement over the entire vacated alley.
3. Whether the Parcel or portion thereof, should be vacated and whether public utility easements and any ingress-egress easements are to be maintained.
  - A public drainage, utility and utility access easement will be retained over the entire alley length and width. As such, the petitioners will not be able to construct any permanent structure, other than a driveway or fence, within this easement.
4. The amount and type of compensation, if any, to be required as a condition to the effectiveness of the vacation of the parcel.
  - Staff recommends that the petitioners provide the Village with compensation for the alley to be vacated. The fair market value is based on the fair market value of land as defined by Section 20.300.d.2 of the Subdivision Ordinance. 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. As such, the fair market value of the entire alley to be vacated will be discounted to reflect the blanket easement.

The table below summarizes the estimated value:

Land Value per Acre	SF of Alley to be vacated	Estimated Value	Encumbered Value	708 Franklin Street	712 Franklin Street
\$ 545,000	2,062.5	\$ 25,805.75	\$ 8,601.92	\$4,300.96	\$4,300.96

Based on the land value assessment model, the petitioner (708 Franklin Street) and the owner of 712 Franklin Street would be required to pay the Village a total of \$4,300.96 each.

## RECOMMENDATIONS

---

Staff finds the proposed alley vacation is consistent with the Village's alley vacation policy (Resolution #2003-58), Comprehensive Plan, and surrounding zoning and land use classifications. Based on the findings listed above, staff recommends that the Plan Commission make a motion recommending approval of the alley right-of-way vacation associated with 16-PLC-0029 to the Village Council subject to the conditions below:

1. The vacation shall substantially conform to the staff report dated July 11, 2016.
2. Prior to final Village Council consideration, a Mylar copy of the Final Plat of Vacation shall be provided indicating a public drainage, utility and utility access easement along the entire length and width of the alley to be vacated.
3. Prior to execution of the plat, the petitioner and property owner of 712 Franklin Street shall pay the Village a total of \$8,601.92 (\$4,300.96 each).

Staff Report Approved By:




---

Stanley J. Popovich, AICP  
Director of Community Development

SP:sw  
-att

**DRAFT**

**FILE 16-PLC-0029** - A petition seeking approval for the Right-of-Way Vacation of an Alley. The adjacent properties are zoned R-4, Residential Detached House 4. The subject property is located on the north side of Franklin Street and runs north-south between the properties at 708 & 712 Franklin Street, 170 feet west of Stanley Avenue and 170 feet east of Prospect Avenue, Downers Grove, IL (09-08-204-022, -023). George Arnold, Petitioner and K-7 Builders, Inc., Owner.

Village Planner, Rebecca Leitschuh, reviewed the petition, pointing out on the overhead that all of the surrounding properties were zoned R-4 Residential Detached. She pointed out the right-of-way area that was being requested to be vacated – between Stanley Avenue and Prospect Avenue. The petitioner is seeking to split the alley 50/50 between the two neighboring properties. The total square footage being vacated is 2,062.5 feet, with 8.25 feet going to each property. The two properties currently have 50 feet of lot frontage and the frontage would now increase for both properties by 8.25 feet. Total square footage would increase from 6,250 sq. feet to 7,281.25 sq. feet.

A plat of survey was placed on the overhead depicting the existing driveway that travels through the public alley which is accessed by the owners of the 708 address. Per staff, the utility companies had no objections to the request; however, staff was requesting an easement across the subject area, which was standard procedure.

Ms. Leitschuh then displayed the plat of vacation request and proceeded to summarize the goals of the village's Comprehensive Plan, stating the proposal was consistent with the Comprehensive Plan and allowed flexibility for the property owners. The proposed right-of-way vacation also met the four criteria under Resolution No. 2003-58, which criteria were reviewed in more detail by Ms. Leitschuh. Referring to staff's three recommendations, Ms. Leitschuh stated staff supported the petition.

Questions to staff included whether this process was a new standard for the village as compared to going from street to street for vacations; whether a cross-access agreement would need to be entered into; and would a new survey be created reflecting two new lots or could owner A sell his half to owner B (staff confirmed yes). Responding to Mr. Quirk's comment that with previous vacation requests, staff usually provided a plat of survey reflecting the new lot of record. Ms. Leitschuh added that there were no new plans for development on either of the properties. Further clarification followed by staff as to what could be constructed across the alleyway according to the easement language.

Continuing, staff explained that the power line on the eastern lot line of the alley would remain unless the utility company had some reason to relocate it or if the owner wanted to pay for its relocation. Asked who was responsible for the "apron" on the parkway, Dir. Popovich stated that the redeveloper of the 708 address would be financially responsible for removing the "apron" out of the parkway and the verbiage would be inserted into the permit being requested.

Setback requirements to power lines would fall under the purview of the utility company and would depend on the type of utility line being relocated.

Questions followed regarding the value that was ascertained to the property and how it was calculated which Ms. Leitschuh explained to Mr. Quirk. Mr. Quirk recommended reviewing the calculation of the value of land as it pertained to which zoning district it sat in, seeing there were probably different values per acre for the different zoning districts within the village. He shared a couple of examples, but Ms. Leitschuh pointed out that the value calculation was under the direction of the village council as to how it should be calculated.

Mr. Brian Nessbaum with Sus, Arnold & Schoenback, on behalf of petitioner Mr. George Arnold and the owners of 708 and 712 was present. Mr. Nessbaum stated he read staff's report, was in contact with staff, and had no issues with the report. His client did intend to raze the existing home at 708 for future development.

Chairman Rickard opened up the meeting to public comment. No comments followed. Public comment was closed and Mr. Nessbaum had no closing statement.

Mr. Quirk believed the petition was appropriate and was pleased the village was taking the approach to allow property owners to own what is rightfully theirs. Mr. Cozzo also believed the four criteria under Resolution 2003-58 were satisfied; the chairman concurred.

**WITH RESPECT TO FILE 16-PLC-0029, MR. THOMAN MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, TAKING INTO CONSIDERATION STAFF'S THREE (3) FOLLOWING CONDITIONS:**

- 1. THE VACATION SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT DATED JULY 11, 2016;**
- 2. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, A MYLAR COPY OF THE FINAL PLAT OF VACATION SHALL BE PROVIDED INDICATING A PUBLIC DRAINAGE, UTILITY AND UTILITY ACCESS EASEMENT ALONG THE ENTIRE LENGTH AND WIDTH OF THE ALLEY TO BE VACATED; AND**
- 3. PRIOR TO EXECUTION OF THE PLAT, THE PETITIONER AND PROPERTY OWNER OF 712 FRANKLIN STREET SHALL PAY THE VILLAGE A TOTAL OF \$8,601.92 (\$4,300.96 EACH).**

**SECONDED BY MR. QUIRK. ROLL CALL:**

**AYE: MR. THOMAN, MR. QUIRK, MR. COZZO, MR. CRONIN, MS. GASSEN,  
MS. HOGSTROM, CHAIRMAN RICKARD**

**NAY: NONE**

**MOTION CARRIED. VOTE: 7-0**

